

**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 7, "Election Procedures."

The proposed amendments represent changes to the Board's regulations as a result of the "Omnibus Election Reform Amendment Act of 2009," effective February 4, 2010 (D.C. Act 18-238, 56 D.C. Reg. 9169 (Dec. 4, 2009)), and the "Military and Overseas Voter Empowerment Act," amending the Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA"), Pub. L. No. 111-84 (2009). These amendments: (1) establish regulations for early voting locations in the District; (2) establish training and certification requirements for polling place officials; (3) clarify acceptable poll watcher and election observer conduct and the process of petitioning for poll watcher and election observer credentials; (4) clarify the use of special ballots and absentee ballot requesting and casting procedures; (5) establish regulations for records of election day voter registration; and (6) establish procedures for electronic transmission and submission of ballots for qualified overseas electors.

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 700 of Chapter 7 of 3 DCMR, "Types of Ballots," shall be amended to read as follows:

- "700 **BALLOT FORM AND CONTENT**
- 700.1 The Board shall provide official ballots to absentee voters and to voters on election day and at early voting centers to be used by the voter for indicating candidate or measure preference in any contest.
- 700.2 Official primary elections ballots (**PRIMARY BALLOTS**) shall be separate and color-coded for the candidates of each political party qualified to participate in the election.
- 700.3 Official city-wide general election ballots (**GENERAL ELECTION BALLOTS**) shall list the offices to be filled and the candidates for each office to be filled.
- 700.4 Official special election ballots shall list:

- (a) Any offices to be filled and candidates for each office to be filled;
- (b) The short title and summary statement of each proposed initiative, referendum or recall measure, if any; and
- (c) Any proposed Charter amendment.

700.5 Official Federal Ballots (FEDERAL BALLOTS) shall list only the offices of President of the United States, Vice President of the United States, and Delegate to the House of Representatives and the candidates for each office, and shall be provided in any primary, general or special election in which those offices appear on primary, general election, or special election ballots. Federal Ballots shall be restricted to qualified federal electors as defined in § 501.2.

700.6 Initiative, Referendum and Recall measures and proposed Charter amendments may appear on a separate ballot in any election.”

Section 701 of Chapter 7 of 3 DCMR, “Forms of Ballots,” shall be amended to read as follows:

“701 FICTITIOUS AND SAMPLE BALLOTS

701.1 The Board shall publish in the D.C. Register a sample design and layout of the ballot (“fictitious ballot”) to be used in each election not later than forty-five (45) days before the election.

701.2 The Board shall publish a sample ballot to be used in each election (except the official ballot to be used in the Advisory Neighborhood Commissions elections) in one or more newspapers of general circulation in the District not more than seven (7) days before each election.

701.3 The Board shall permit the preparation and distribution of sample ballots, subject to the following requirements:

- (a) Sample ballots shall be printed or reproduced on a white color of paper; and
- (b) Sample ballots shall be prominently marked on the front with the word(s) "Sample" or "Sample Ballot.””

Section 702 of Chapter 7 of 3 DCMR, “Candidates Names on Ballots,” shall be amended to read as follows:

“702 CANDIDATES NAMES ON BALLOTS

- 702.1 The name of a candidate for election shall appear on the ballot in the form designated on the Declaration of Candidacy and Affidavit of Qualifications executed and filed by the candidate in accordance with the provisions of chapter 6 of this title; provided, that the name conforms to the following:
- (a) The use of titles, degrees and prefixes on the ballot is prohibited; and
 - (b) The candidate shall designate the listing of his or her name on the ballot by specifying the given name or names, or the initial letter of a given name, if any, and surname.
- 702.2 The Board may permit a candidate to specify a modified form of his or her given name or names on the ballot if the Board finds that the change shall not confuse or mislead the voters and is legally acceptable.
- 702.3 The Board shall arrange the names of the candidates on each ballot, and for each office, so that a voter may vote for as many candidates as there are offices to be filled.
- 702.4 In any election, the order in which the names and slates of the candidates for office appear on the ballot shall be determined by lot, upon a date and in a manner prescribed by the Board.
- 702.5 If there is a successful petition challenge, the position of the remaining candidates names shall be advanced accordingly.
- 702.6 Except where otherwise specified, the names of candidates nominated as a slate shall be listed on the ballot in the same order in which their names appear on the first page of their nominating petition.”

Section 703 of Chapter 7 of 3 DCMR, “Opening and Closing of Polls,” shall be amended to read as follows:

“703 EARLY VOTING CENTERS

- 703.1 For each primary and general election, qualified electors may choose to cast a full ballot for their precinct at early voting centers according to procedures established by the Board.
- 703.2 The Board shall designate no fewer than four (4) early voting centers.
- 703.3 Early voting centers shall be equitably distributed geographically throughout the District.

- 703.4 Early voting centers shall be open at least seven days prior to election day, from the hours of 8:30 a.m. to 7 p.m., Monday through Saturday.
- 703.5 All persons standing in line at an early voting center at 7 p.m. shall be permitted to vote, if otherwise qualified.
- 703.6 Votes recorded at an early voting center will not be tallied until election day. Election results from early voting shall not be released until the polls close on election day.”

Section 704 of Chapter 7 of 3 DCMR, “Polling Place Officials,” shall be amended to read as follows:

“704 OPENING AND CLOSING OF POLLS ON ELECTION DAY

- 704.1 Polling places in which elections are to be held shall be opened at 7:00 a.m. on the date required by law for the election and shall remain open for voting until 8:00 p.m., except in instances when the time established for closing the polls is extended pursuant to a federal or District of Columbia court order, or Board order.
- 704.2 All persons standing in line at a polling place at the close of polls shall be permitted to vote, if otherwise qualified.
- 704.3 At the close of polls, a polling place official shall take a position at the end of any existing line of prospective voters, and only persons standing in front of the official at that time shall be permitted to vote.
- 704.4 The Board may extend polling hours at a precinct in order to resolve unforeseen emergency situations on election day.”

Section 705 of Chapter 7 of 3 DCMR, “Poll Watchers, Vote Counting Watchers, and Election Observers,” shall be amended to read as follows:

“705 POLLING PLACE OFFICIALS

- 705.1 The operations of polling places and ballot counting places shall be conducted by officials designated by the Board.
- 705.2 The official in charge of each polling place shall be known as the Precinct Captain.
- 705.3 The duties of the Precinct Captain may be delegated by the Board or by the Precinct Captain to another official, who shall be known as the Alternate Precinct Captain.

- 705.4 Except as provided in § 705.5, all polling place officials shall be qualified registered electors in the District of Columbia.
- 705.5 The Board may appoint individuals who are not qualified registered electors to serve as polling place officials, if the individual:
- (a) Is at least sixteen (16) years of age on the day that they will be a polling place official;
 - (b) Resides in the District of Columbia; and
 - (c) Is enrolled in or has graduated from a public or private secondary school or an institution of higher education.
- 705.6 All polling place officials shall:
- (a) Complete at least four (4) hours of training;
 - (b) Receive certification by the Board; and
 - (c) Take and sign an oath of office to honestly, faithfully, and promptly perform the duties of office.
- 705.7 A polling place official's past performance shall be considered before appointing him or her as a polling place official in a subsequent election."

Section 706 of Chapter 7 of 3 DCMR, "Election Officials Liaison with Watchers and Observers," shall be amended to read as follows:

"706 POLL WATCHERS AND ELECTION OBSERVERS

- 706.1 Each qualified candidate and the proponents and opponents of proposed initiative, referendum, and recall measures, and Charter amendments, may petition the Board for credentials authorizing poll watchers at any:
- (a) Early voting centers;
 - (b) Polling places; and/or
 - (c) Counting places.
- 706.2 Persons who wish to witness the administration of elections, including nonpartisan or bipartisan, domestic or international organizations, who are not affiliated with a candidate or ballot measure may petition the Board for credentials authorizing election observers at any:

- (a) Early voting centers;
 - (b) Polling places; and/or
 - (c) Counting places.
- 706.3 Each petition shall be filed with the Board, not less than two (2) weeks before each election and shall be on a form furnished by the Board. Less than two (2) weeks before each election, the Board reserves the right to accept additional petitions based upon available space.
- 706.4 At the time of filing, the poll watcher petition form shall contain the following:
- (a) The name, address, telephone number, and signature of the candidate or organization representative, proponent, or opponent with the office for which he or she is a candidate, and a short title, if any, of the measure or proposed Charter amendment which he or she supports or opposes;
 - (b) The name, address, and telephone number of the poll watcher supervisor, if a person is designated by the candidate, organization, proponent, or opponent;
 - (c) The locations where access credentials are sought;
 - (d) The names, addresses and telephone numbers of at least two (2) and not more than three (3) persons, authorized to represent the candidate, organization, proponent, or opponent on election day and receive the badges from the Board; and
 - (e) A certificate from the applicant that each proposed poll watcher selected is a qualified elector, and that each poll watcher selected shall conform to the regulations of the Board with respect to poll watchers and the conduct of the election.
- 706.5 At the time of filing, the election observer petition form shall contain the following:
- (a) The name, address, and telephone number of the organization or individual seeking credentials;
 - (b) The name, address, and telephone number of the election observer supervisor, if a person is designated by an

organization;

(c) The names, addresses, and telephone numbers of all observers who will be receiving badges;

(d) The locations where access credentials are sought;

(e) The names, addresses, and telephone numbers of at least one (1) and not more than three (3) persons, authorized to receive badges from the Board; and

(f) A certificate from the applicant that each election observer selected shall conform to the regulations of the Board with respect to election observers and the conduct of the election.

706.6 The Board may limit the number of poll watchers or election observers to ensure that the conduct of the election will not be obstructed or disrupted.

706.7 The Board shall make a ruling on poll watcher and election observer petitions not less than ten (10) days prior to an election.

706.8 In making a determination of the number of watchers or observers allowed, the Board shall consider the following:

(a) The number of candidates or requesting organizations;

(b) Whether the candidates are running as a slate;

(c) The number of proponents and opponents of measures and proposed Charter amendments;

(d) The physical limitations of the polling places and counting place; and

(e) Any other relevant factors.

706.9 Within twenty-four (24) hours of a denial, the Board shall issue a public notice with respect to any denial of a petition for credentials.

706.10 If a place cannot accommodate all those seeking credentials, the Board may grant preference to poll watchers over election observers, and organizations over individuals.

706.11 The Board shall issue a badge for each authorized poll watcher or election observer, with space for the watcher's or observer's name and the name of the candidate or party represented by the watcher, or any organization being

represented by the observer. Badges shall also be issued for each authorized watcher representing the proponents or opponents of measures or proposed Charter amendments.

- 706.12 Badges shall be numbered consecutively, and consecutive numbers issued to each candidate, organization, proponent, or opponent.
- 706.13 All badges shall be worn by the authorized poll watcher or election observer in plain view at all times when on duty at the polling place or counting place.
- 706.14 An authorized alternate poll watcher or election observer may, in the discretion of the watcher or observer supervisor, be substituted for a watcher or observer at any time; provided, that notice is first given to the designated representative of the Board at the polling place or counting place.
- 706.15 A poll watcher shall be allowed to perform the following acts:
- (a) Observe the count;
 - (b) Unofficially ascertain the identity of persons who have voted;
 - (c) Report alleged discrepancies to the Precinct Captain; and
 - (d) Challenge voters in accordance with the procedures specified in § 708.
- 706.16 An election observer shall be allowed to perform the following acts:
- (a) Observe the count;
 - (b) Unofficially ascertain the identity of persons who have voted; and
 - (c) Report alleged discrepancies to the Precinct Captain.
- 706.17 No poll watcher or election observer shall, at any time, do any of the following:
- (a) Touch any official record, ballot, voting equipment, or counting form;
 - (b) Interfere with the progress of the voting or counting;
 - (c) Assist a voter with the act of voting;

- (d) Talk to any voter while the voter is in the process of voting, or to any counter while the count is underway; provided, that a watcher or observer may request that a ballot be referred for ruling on its validity to a representative of the Board;
 - (e) In any way obstruct the election process; or
 - (f) Use any video or still cameras inside the polling place while the polls are open for voting, or use any video or still camera inside the counting center if such use is disruptive or interferes with the administration of the counting process.
- 706.18 Any poll watcher or election observer who, in the judgment of the Board or its designated representative, has failed to comply with any of the rules contained in this section may be requested to leave the polling place or the counting center.
- 706.19 If a poll watcher or election observer is requested to leave, that watcher's or observer's authorization to use credentials shall be cancelled, and he or she shall leave the polling place or counting place forthwith.
- 706.20 An authorized alternate poll watcher or election observer may be substituted for a watcher or observer who has been removed."

Section 707 of Chapter 7 of 3 DCMR, "Challenge to Voter Qualifications," shall be amended to read as follows:

- "707 POLLING PLACE OFFICIALS LIAISON WITH POLL WATCHERS AND ELECTION OBSERVERS
- 707.1 Polling place officials shall act as liaison with poll watchers or election observers as provided in this section.
- 707.2 The Precinct Captain at each polling place shall be the representative of the Board to whom the poll watchers or election observers shall direct all questions and comments.
- 707.3 Prior to the commencement of counting, the Board shall identify those representatives to whom poll watchers or election observers shall direct all questions and comments.
- 707.4 If a poll watcher or election observer has any question, or claims any discrepancy or error in the voting or the counting of the vote, the watcher or observer shall direct the question or complaint to the election official in charge."

Section 708 of Chapter 7 of 3 DCMR, "Control of Activity at Polling and Counting Places," shall be amended to read as follows:

- “708 CHALLENGE TO VOTER QUALIFICATIONS
- 708.1 Any duly registered voter may challenge the qualifications of a prospective voter in a primary, special, or general election.
- 708.2 Any challenge to the qualifications of a prospective voter shall be in writing on a form provided by the Board, and shall indicate the name of the person challenged, the basis for the challenge, and the evidence provided to support the challenge.
- 708.3 The challenger shall also sign an affidavit declaring under penalty of perjury that the challenge is based upon substantial evidence which he or she believes in good faith shows that the person challenged is not a qualified elector of the District.
- 708.4 After receiving a challenge or making a challenge on his or her own initiative, the Precinct Captain shall give the challenged voter an opportunity to respond.
- 708.5 The Precinct Captain shall review the evidence presented and shall:
- (a) Affirm the challenge upon a finding that it is based on substantial evidence specific to the voter being challenged and probative of the challenged voter’s status as a qualified elector, or;
 - (b) Deny the challenge upon a finding that it is not based on substantial evidence specific to the voter being challenged and probative of the challenged voter’s status as a qualified elector.
- 708.6 The Precinct Captain shall record the decision and the rationale for the decision on a form provided by the Board.
- 708.7 If the Precinct Captain denies the challenge, he or she shall inform the challenger that the challenger may appeal the decision to the Board and shall give the challenger copies of the regarding challenges and appeals to the Board.
- 708.8 Any appeal of the Precinct Captain’s decision to deny the challenge shall be made either before the challenged voter casts a ballot, or before either the challenger or the challenged voter leaves the polling place, whichever is earlier.

- 708.9 If the challenger does not appeal the Precinct Captain's decision to deny the challenge, the challenged voter shall cast a regular ballot.
- 708.10 If the challenger appeals the Precinct Captain's decision to deny the challenge, the Precinct Captain shall state, over the telephone, the facts of the case to a Board hearing officer authorized to rule on the appeal for the Board.
- 708.11 Either a Board member, the Board's Executive Director, or the Board's chief voter registration official may serve as the Board's hearing officer for the appeal.
- 708.12 The hearing shall be recorded and transcribed, and the transcript shall serve as the official case record, along with the written documentation, as specified in §708.6, of the Precinct Captain's initial decision to deny the challenge.
- 708.13 The hearing officer shall take testimony under oath from the challenger, the person challenged, the Precinct Captain, and any witnesses who wish to testify.
- 708.14 Each person who testifies before the hearing officer shall state for the record their name as recorded on the Board's voter registration list, their residence address, mailing address and telephone number, and their role in the challenge.
- 708.15 The hearing officer shall receive evidence and testimony and shall then close the hearing.
- 708.16 After reviewing all evidence pertaining to the challenge and making a decision based upon his or her determination of whether the challenger has presented substantial evidence that is specific to the voter being challenged and probative of the challenged voter's status as a qualified elector, the hearing officer shall either:
- (a) Affirm the Precinct Captain's decision to deny the challenge, in which case the challenged voter shall cast a regular ballot; or
 - (b) Overturn the Precinct Captain's decision to deny the challenge, in which case the challenged voter shall cast a "challenged" special ballot, pursuant to § 714.1(i).
- 708.17 If the Precinct Captain affirms the challenge made at the polling place, or if the Board's hearing officer overturns the decision of the Precinct Captain to deny a challenge, the Precinct Captain shall allow the challenged voter to cast a "challenged" special ballot, pursuant to § 714.1(i)."

Section 709 of Chapter 7 of 3 DCMR, "Assistance to Voters at the Polls," shall be amended to read as follows:

- “709 CONTROL OF ACTIVITY AT EARLY VOTING CENTERS, POLLING PLACES, AND COUNTING PLACES
- 709.1 The Precinct Captain shall have full authority to maintain order, pursuant to the Election Act and the regulations contained in this section, including full authority to request police officials to enforce lawful orders of the Precinct Captain.
- 709.2 The only activity which shall be permitted in the portion of any building used as a polling or vote counting place shall be the conduct of the election.
- 709.3 The only persons who shall be permitted to be present in polling or counting places are the following:
- (a) Designated representatives of the Board;
 - (b) Police officers;
 - (c) Duly qualified poll watchers and election observers;
 - (d) Persons actually engaged in voting; and
 - (e) Other persons authorized by the Board.
- 709.4 No partisan or nonpartisan political activity, or any other activity which, in the judgment of the Precinct Captain, may directly or indirectly interfere with the orderly conduct of the election, shall be permitted in, on, or within a reasonable distance outside the building used as a polling or vote counting place.
- 709.5 The distance deemed "reasonable" shall be approximately fifty feet (50 ft.) from any door used to enter the building for voting.
- 709.6 The exact distance shall be determined by the Precinct Captain, depending on the physical features of the building and surrounding area.
- 709.7 Wherever possible, the limits shall be indicated by a chalk line, or by some other physical marker, at the polling place.
- 709.8 For the purposes of this section, the term "political activity" shall include without limitation, any activity intended to persuade a person to vote for or against any candidate or measure or to desist from voting.

- 709.9 A person shall be warned to cease and desist his or her conduct upon any instance of the following:
- (a) Violation of the Election Act or regulations contained in this section;
 - (b) Failure to obey any reasonable order of the Board, or its representative(s); or
 - (c) Acting in a disorderly manner in, or within a reasonable distance outside the building used as a polling or counting place.

- 709.10 If the person committing the violation(s) fails to cease and desist the conduct specified in § 709.9, a member of the Metropolitan Police Department of the District of Columbia shall be requested to evict the person or take other appropriate action.”

Section 710 of Chapter 7 of 3 DCMR, “Types of Voters,” shall be amended to read as follows:

“710 ASSISTANCE TO VOTERS AT THE POLLS

- 710.1 Any voter who requires assistance in voting may be given assistance by a person of the voter’s choice, other than a poll watcher or election observer, the voter’s employer or agent of that employer, or officer or agent of the voter’s union.
- 710.2 The Board shall ensure that capable assistance shall be made available to any requesting voter at the polls.
- 710.3 The Board shall provide in each precinct one (1) or more polling place officials specifically trained to assist voters upon their request.
- 710.4 Any person giving assistance shall assist only upon the request of the voter and in accordance with the wishes of the voter.
- 710.5 The Precinct Captain shall ensure that a record is made of the provision of such assistance to the voter and the nature of the voter’s need for assistance.
- 710.6 Assistance provided to a voter may include, though not necessarily be limited to, the following:
- (a) Marking the ballot in accordance with the voter’s expressed wishes;

- (b) Reading the ballot to a voter whose vision is impaired or who cannot read;
 - (c) Recording a write-in vote as designated by the voter; and
 - (d) Completing a form for the voter who cannot do so because of disability, advanced age, or illiteracy.
- 710.7 No person or official providing voter assistance shall in any way influence or attempt to influence a voter's choice in voting, nor shall the person or official disclose to anyone how the voter voted. Any person who violates this section may, upon conviction, be subject to a \$10,000 fine or imprisonment up to five years, or both, pursuant to § 1-1001.14 (a).
- 710.8 Written instructions on the operation of the voting process shall be available to all voters. A trained polling place official shall also be available to explain the voting process.
- 710.9 All voters shall have the opportunity, if desired, to mark a demonstration ballot prior to entering the voting booth."

Section 711 of Chapter 7 of 3 DCMR, "Voting Booth," shall be amended to read as follows:

"711 VOTING BOOTH

- 711.1 Except as provided in this chapter, a voter shall enter a voting booth alone to mark his or her ballot.
- 711.2 A voter may take sample ballots and any other materials as he or she may desire into the voting booth.
- 711.3 No voter shall go into a booth that is already occupied, nor shall a voter, poll watcher, election observer, or polling place official communicate with or disturb the occupant of any booth.
- 711.4 Each voter shall mark the ballot promptly and shall leave the booth.
- 711.5 No person may occupy a voting booth except for the purpose of voting or for the purpose of rendering assistance to a voter, pursuant to the D.C. Election Act and the provisions of § 710.
- 711.6 Voting booths shall provide privacy for the voter while voting."

Section 712 of Chapter 7 of 3 DCMR, "Secrecy of the Ballot," shall be amended to read as follows:

“712 SECRECYP OF THE BALLOT

- 712.1 Before any optical scan voting equipment (“OSVE”) is used for deposit of voted ballots, the Precinct Captain shall:
- (a) Inspect the interior of the OSVE to show any voters and/or watchers that all ballot receiving areas are empty;
 - (b) Secure and lock the ballot receiving areas of the OSVE;
 - (c) Produce a zero-printout and, after ascertaining that vote totals opposite all voting positions are set at zero (0000), sign said printout; and
 - (d) Inspect OSVE counter display to insure that it reads zero (0000).
- 712.2 From the time of the procedure specified in § 712.1 until the close of the polls, the polling official attending the OSVE shall ascertain that:
- (a) Only official ballots are deposited in the OSVE;
 - (b) Nothing is removed from the OSVE; and
 - (c) The secrecy of each voter’s ballot is preserved.
- 712.3 Each voter shall pass his or her voted paper ballot through the OSVE before leaving the polling place.
- 712.4 Provision shall be made for maintaining the secrecy of the voted ballot while the voter carries it from voting booth to OSVE.
- 712.5 The OSVE’s shall be attended by a polling place official at all times, from the opening of the polls until the ballots, memory cards, or other electronic media are returned to the counting center.”

Section 713 of Chapter 7 of 3 DCMR, “Vote Casting Procedures: Regular Ballot,” shall be amended to read as follows:

“713 VOTE CASTING PROCEDURES: REGULAR BALLOT

- 713.1 A "duly registered voter" is a “qualified elector” under § 500.2, resides at the residence address as that address appears on the Board’s records, and either:

- (a) Has registered to vote by no later than seven (7) days prior to the election; or
 - (b) Registers within seven days of the election and has had their residence confirmed by the Board. After December 31, 2010, the Board shall recognize presentation of a valid, government-issued identification card showing the individuals address as sufficient confirmation of residence.
- 713.2 Only duly registered voters shall be permitted to cast a regular ballot.
- 713.3 Each duly registered voter shall cast a ballot at the polling place serving the residence address of the registered voter, provided that a duly registered voter may cast a special ballot at a precinct that is not his or her precinct of residence. Such special ballot will be counted as provided in § 714.13.
- 713.4 During the hours of voting, the Board shall place in each polling place an alphabetical list (Master Index) of all persons registered in that precinct and eligible to vote in the election who have not been designated as inactive on the voter roll.
- 713.5 A listing of the registrants contained in the Master Index shall be available for public inspection.
- 713.6 The information printed on the Master Index in each polling place shall include the name, address, party affiliation (where applicable), and ANC Single-Member District (where applicable) of each duly registered voter residing in the precinct.
- 713.7 When a duly registered voter appears at the polling place to vote, the designated election official shall locate and read aloud the voter's name, address, party affiliation, and ANC Single-Member District (where applicable) from the Master Index.
- 713.8 The voter shall confirm the accuracy of the name, address, party affiliation, and ANC Single-Member District where applicable, before signing the Master Index, or other record prescribed by the Board. Such signature shall be deemed confirmation that the voter's information is correct as shown on the Board's records.
- 713.9 After signing, the polling official shall perform the following duties:
 - (a) Issue a Voter Card to the voter;
 - (b) Require that the voter's full name be printed on the Voter Card; and

- (c) Direct the voter to the appropriate polling place official to obtain a ballot.

713.10 The designated polling official shall be responsible for the following:

- (a) Receiving the Voter Card;
- (b) Twice announcing clearly and publicly the name and party on the Voter Card in a primary election, and the name and ANC Single-Member District on the Voter Card in a general election;
- (c) Ascertaining whether the voter will vote using the optical scan voting equipment (“OSVE”) or the direct recording electronic (“DRE”) voting equipment;
- (d) Issuing to voters the ballots to which they are entitled; and
- (e) Depositing the Voter Card in a container provided for that purpose.

713.11 The voter will complete his or her ballot and submit such ballot according to instructions provided at the polling place.

713.12 In the event that the OSVE becomes inoperable for any reason during the election process, voters will place voted ballots into the auxiliary ballot box. All ballots deposited in this auxiliary box will be tabulated after the polls close, either at the polling place if the machine regains operability or at a counting place.

713.13 In the event that the DRE voting equipment becomes inoperable for any reason during the election process, voters will be directed to use the OSVE. The Board shall make reasonable accommodations to voters, who by reason of disability or preference, wish to vote using the DRE equipment.

713.14 Any repairs conducted on either the OSVE or DRE equipment will be performed in the presence and view of:

- (a) An election official who shall note in writing all repair activity; and
- (b) Designated poll watchers and election observers, if any in that precinct, who will be provided with any available information pertaining to system activity.”

Section 714 of Chapter 7 of 3 DCMR, "Spoiled Ballots," shall be amended to read as follows:

"714 VOTE CASTING PROCEDURES: SPECIAL BALLOT

714.1 Uses for a Special Ballot (or Provisional Ballot) include instances where the voter:

- (a) Is employed by the Board or employed by the District performing election duties which prevent the voter from voting the ballot in the voting precinct serving the voter's current residence address;
- (b) Wishes to vote in a precinct other than that serving the voter's address because of age, disability, or limitation of health; provided, that where the vote is to be cast outside the voter ward or single member district, written notice from the voter shall be received by the Board prior to election day, so that the person may be provided with a complete ballot;
- (c) Is listed as an absentee voter on the alphabetical list of registered voters in the precinct but claims that he or she has not voted by absentee ballot;
- (d) Is listed on the alphabetical list of registered voters in the precinct but claims, in a primary election, that the party affiliation indicated on the listing is in error;
- (e) Is listed on the alphabetical list of registered voters in the precinct but claims, in a general election, that the ANC Single-Member District indicated on the listing is in error;
- (f) Alleges that his or her name has been erroneously omitted from the list of registered voters, or alleges that his or her name or address is erroneously printed on the list of registered voters;
- (g) Has moved from the address as listed on the Board's registration records and presents himself or herself to vote at the precinct serving his or her current residence address;
- (h) Has been deemed "inactive" on the voter roll and presents himself or herself to vote at the precinct serving his or her current residence address;

- (i) Has been challenged under § 708, and that challenge is accepted;
- (j) Has been placed on a precinct list of voters deemed “administratively challenged” because his or her voter registration notification card was returned to the Board by the United States Postal Service, indicating that the person does not reside at the address on voter’s registration application;
- (k) Votes in an election for federal office as a result of a federal or District of Columbia court order, or any other order, extending the poll-closing time that had been in effect, pursuant to statute, ten (10) days before the date of the election;
- (l) Has not previously voted in a federal election in the District and who registers to vote by mail and fails to present, either at the time of registration, at the polling place, or when voting by mail, either a copy of a current and valid photo identification, a copy of a current utility bill, bank statement, government check, paycheck, or other document that shows his or her name and address;
- (m) Resides temporarily at a District of Columbia licensed nursing home or assisted living facility, or at a qualified retirement home;
- (n) Has registered to vote less than seven days before the date of an election occurring before December 31, 2010; or
- (o) Has registered to vote within seven (7) days of an election occurring after December 31, 2010, and did not present a valid, government-issued photo identification card showing the individual’s address.

714.2 An individual whose eligibility to vote in the election cannot be determined at the polls on election day because of one or more of the reasons cited in § 714.1 shall vote by Special Ballot.

714.3 A registered voter who files an election day change of address at the precinct of current residence shall, by written affirmation, establish identity and current residence within the precinct at the time of voting.

714.4 The outside of the Special Ballot Envelope shall contain a statement warning the voter of the criminal penalties for making a false representation as to his

or her qualifications for voting and an affirmation signed by the voter attesting to the following:

- (a) That to the best of his or her knowledge and belief, he or she is a registered voter in the District of Columbia;
- (b) If he or she is not registered to vote, that he or she meets the qualifications for voter registration;
- (c) That he or she resides at the residence provided;
- (d) That the information contained on the outside of the Special Ballot Envelope is truthful and complete; and
- (e) Any other information as the Board deems necessary for its chief registration official to determine that the individual is qualified to have the ballot counted.

714.5 Before being permitted to vote, the voter shall sign the affirmation printed on the Special Ballot Envelope.

714.6 The designated polling place official shall witness the voter signing the affirmation printed on the Special Ballot Envelope.

714.7 The Special Ballot Envelope shall also provide space for the following information:

- (a) The name and current residence of the voter;
- (b) The reason for voting the Special Ballot;
- (c) The voter's drivers license number or last four digits of the voter's social security number;
- (d) The voter's date of birth;
- (e) The precinct in which the voter is casting the ballot; and
- (f) Any other information as may be necessary to determine if the person is qualified to vote.

714.8 Designated polling officials shall place the word "SPECIAL" upon each ballot card which the voter will receive, and shall issue the following:

- (a) Ballots;

- (b) An inner envelope to ensure the secrecy of the ballot; and
 - (c) Written notification of appeal rights to the voter if the Board's chief registration official decides not to count the Special Ballot.
- 714.9 If a voter has been challenged and that challenge is accepted, the designated polling place officials shall place the word "challenged" on the Special Ballot Envelope.
- 714.10 For each voter that has been administratively challenged, the designated polling place officials shall place the words "administratively challenged" on the Special Ballot Envelope.
- 714.11 Designated polling officials shall instruct the voter on the following:
 - (a) Designating choices on the ballot;
 - (b) Placing the voted ballot in the inner envelope;
 - (c) Placing the inner envelope containing the voted ballot inside the Special Ballot Envelope; and
 - (d) Depositing the sealed envelope in the Special Ballot Box.
- 714.12 The Board shall review the information provided on the Special Ballot Envelope as well as all other available evidence pertaining to the eligibility of each voter casting a Special Ballot, and shall make a decision about whether to count or reject each special ballot in a manner consistent with the procedures set forth in § 715.
- 714.13 If a duly registered voter casts a Special Ballot in a precinct that does not serve his or her current residence address, the Board shall count that ballot for federal and District-wide election contests.
- 714.14 The tabulation of votes recorded on all Special Ballots approved for counting by the chief registration official or the Board shall be conducted on the tenth (10th) day following the election, along with all remaining absentee ballots approved for counting; provided, that those absentee ballots which are received sufficiently in advance of the election may be counted on election day.
- 714.15 As soon as practicable after the election, the Board shall mail each registered voter who filed a change of address at the polls on election day a non-forwardable address confirmation notice to the address provided in the written affirmation on the Special Ballot Envelope.

714.16 Where the United States Postal Service returns the address confirmation notification as "undeliverable" or indicating that the registrant does not live at the address provided in the written affirmation on the Special Ballot Envelope, the Board shall notify the Attorney General of the District of Columbia."

Section 715 of Chapter 7 of 3 DCMR, "Voting the Absentee Ballot: General Requirements," shall be amended to read as follows:

"715 SPECIAL BALLOT APPEAL RIGHTS

- 715.1 A voter's act of signing a challenged or special ballot envelope shall be deemed the filing of an appeal by the voter of the refusal by the Board's chief voter registration official to permit the voter to vote on election day by regular ballot, and a waiver of personal notice from the Board of any denial or refusal to a later count of the challenged or special ballot.
- 715.2 At the time of voting, the Board shall provide the voter with written notice that indicates the manner by which he or she may learn whether the Board has decided to count or reject the voter's special ballot, and of the dates scheduled for hearings for voters whose special ballots are rejected to contest the Board's preliminary determination if they petition to do so.
- 715.3 Not later than the Tuesday following each election, the Board shall enable any voter who has voted a special ballot to learn of the Board's preliminary decision to count or reject his or her ballot along with the reason(s) for each decision by accessing either a dedicated section of the Board's website or a telephone service which shall be maintained during regular business hours.
- 715.4 Not earlier than eight (8) days and not later than ten (10) days after the date of any election, the Board shall, upon petition of the voter, conduct a hearing for the voter to contest the Board's preliminary determination to reject the voter's special ballot.
- 715.5 At the hearing, the voter may appear and give testimony on the question of the decision to reject the special ballot.
- 715.6 The Board shall make a final determination to either count or reject the voter's special ballot within two (2) days after the date of the hearing.
- 715.7 The voter may appeal an adverse decision of the Board to the Superior Court of the District of Columbia within three (3) days after the date of the Board's decision. The decision of the court shall be final and not appealable."

Section 716 of Chapter 7 of 3 DCMR, "Voting the Absentee Ballot: By Mail," shall be amended to read as follows:

"716 SPOILED BALLOTS

- 716.1 If a voter makes a mistake in marking a ballot or erroneously defaces or tears a ballot, he or she may surrender the spoiled ballot to a polling place official, who shall furnish the voter with another ballot.
- 716.2 The polling place official shall request the voter to place the spoiled ballots into the spoiled ballot envelope.
- 716.3 The voter shall seal the envelope and shall return it to the polling official before an additional ballot can be issued.
- 716.4 A polling place official shall not issue more than three (3) ballots (one original, two replacements) to any voter."

Section 717 of Chapter 7 of 3 DCMR, "Voting the Absentee Ballot: By Fax," shall be amended to read as follows:

"717 ABSENTEE BALLOTS

- 717.1 Except as provided in this chapter, a duly registered voter may make a written request for an absentee ballot electronically, by mail, or in person at the Board's office.
- 717.2 A duly registered voter may request absentee ballots for all elections in the current calendar year.
- 717.3 Except as provided in § 719, no person shall be permitted to obtain an absentee ballot or execute an application for an absentee ballot for another registered voter.
- 717.4 A mailed or electronically received request for an absentee ballot shall be received from the registered voter by no later than the seventh (7th) day preceding the date of the election.
- 717.5 A request for an absentee ballot shall include the following:
- (a) The voter's name;
 - (b) Election(s) for which the absentee ballot is requested;
 - (c) Address from which the voter is registered to vote;

- (d) Voter's current residence address, if different from the address listed on the Board's records;
 - (e) Address to which the absentee ballot shall be delivered, if applicable;
 - (f) Voter's driver's license number or the last four digits of the voter's social security number;
 - (g) Voter's date of birth; and
 - (h) Voter's original signature.
- 717.6 An absentee ballot request sent electronically will be considered to contain an original signature.
- 717.7 A duly registered elector may request an absentee ballot in person not earlier than fifteen (15) days preceding the election, and not later than 4:45 p.m., of the day preceding the election.
- 717.8 If a duly registered voter who requests an absentee ballot provides a residence address that is different from the residence address listed on the Board's records, the application to vote absentee shall be considered a request for a change of address to the Board and the voter shall be issued a ballot for the current residence address.
- 717.9 An absentee ballot may be returned to the Board by any of the following ways:
- (a) Mail;
 - (b) Brought to any polling place for deposit in the special ballot box on election day; or
 - (c) Delivered to the Board's office at any time before the close of the polls on election day.
- 717.10 All postmarked absentee ballots shall be postmarked not later than the day of the election, and all mailed (postmarked and non-postmarked) absentee ballots shall be received not later than ten (10) days after the election
- 717.11 The Board will take steps to reasonably investigate the timely completion of non-postmarked absentee ballots by checking tracking numbers or any other information available.

- 717.12 During the period for absentee voting in person, the Board shall be open Monday through Saturday, except holidays and the day before the election, from 8: 30 a.m. until 7 p.m. The day before the election, the Board shall be open 8:30 a.m. until 4:45 p.m.
- 717.13 A duly registered voter who was mailed an absentee ballot and attempts to vote on election day or at an early voting center shall vote by special ballot.
- 717.14 The absentee ballot shall be counted as being cast in the ward and precinct where the voter resides, provided that the voter signs the absentee ballot envelope to certify that the voter has voted the ballot and has not voted in any other jurisdiction or in any other manner in the election.
- 717.15 Pursuant to D.C. Code § 1-1001.09, no employee of the Board shall reveal the name(s) of the candidate(s) for whom an individual has voted or whether an individual voted for or against any initiative, referendum or recall measure, or Charter amendment. Any employee who violates this section may, upon conviction, be subject to a \$10,000 fine or imprisonment up to five years, or both, pursuant to § 1-1001.14 (a).”

Section 718 of Chapter 7 of 3 DCMR, “Voting the Absentee Ballot: In Person,” shall be amended to read as follows:

- “718 ABSENTEE BALLOTS FOR QUALIFIED OVERSEAS ELECTORS
- 718.1 Qualified overseas electors may request an absentee ballot by using the FPCA as described in § 512, or if already registered, by making a written request to the Board.
- 718.2 A qualified overseas elector’s request for an absentee ballot may be delivered electronically or by mail.
- 718.3 A request for an absentee ballot shall be received by no later than the seventh (7th) day preceding the date of the election.
- 718.4 A request for an absentee ballot from a qualified overseas elector shall include the following:
- (a) The voter’s name;
 - (b) Election(s) for which the absentee ballot is requested;
 - (c) Address from which the voter is registered to vote;
 - (d) Voter’s current residence address, if different from the address listed on the Board’s records;

- (e) Address to which the absentee ballot shall be delivered;
 - (f) Preference of either mail or electronic delivery of ballot;
 - (f) Voter's driver's license number, the last four digits of the voter's social security number, or the voter's passport number or identification number issued by the Secretary of State;
 - (g) Voter's date of birth; and
 - (h) Voter's original signature.
- 718.5 A qualified overseas elector may select to have his or her absentee ballot electronically transmitted or delivered by mail. If no preference is given, the absentee ballot shall be delivered by mail.
- 718.6 The Board shall transmit blank absentee ballots by no later than 45 days before the election if the blank absentee ballot application is received at least 45 days before a general election. If the request is received less than 45 days before an election for federal office, the Board shall transmit the blank absentee ballot in accordance with District law in a manner that expedites the transmission of the ballot.
- 718.7 If, after a request for an absentee ballot is made, the qualified overseas elector does not receive an absentee ballot from the Board, the voter may use the Federal Write-In Absentee Ballot, as defined under the Uniformed and Overseas Absentee Citizens Voting Act, as an official ballot.
- 718.8 A qualified overseas elector may return an absentee ballot to the Board electronically or by mail.
- 718.9 A qualified overseas elector who submits his or her ballot electronically shall provide and sign the following statement on a separate document: "I understand that by electronically submitting my voted ballot I am voluntarily waiving my right to a secret ballot."
- 718.10 All postmarked absentee ballots shall be postmarked not later than the day of the election, and all mailed (postmarked and non-postmarked) absentee ballots shall be received not later than ten (10) days after the election
- 718.11 The Board will take steps to reasonably investigate the timely completion of non-postmarked absentee ballots by checking tracking numbers or any other information available.

718.12 If the voter chooses to use the Federal Write-In Absentee Ballot, the Board will accept the ballot for all races in which the voter is eligible to cast votes.”

Section 719 of Chapter 7 of 3 DCMR, “Voting the Absentee Ballot: In Emergency,” shall be amended to read as follows:

“719 EMERGENCY ABSENTEE BALLOTS

719.1 A duly registered voter may apply for an emergency absentee ballot, through a duly authorized agent, at the office of the Board from the sixth (6th) day prior to any election to the time the polls close on election day, under the following circumstances:

- (a) The voter is physically unable to be present at the polls as the result of an illness or accident occurring after the deadline for requesting to vote absentee by mail;
- (b) The voter, having expected to recover from an illness by election day and vote at the polls, finds that after the deadline for requesting an absentee ballot by mail has passed, he or she is physically unable to vote at the poll on election day; or

(c) The voter is serving on a sequestered jury on election day.

719.2 A duly registered voter shall apply to vote by emergency absentee ballot according to the following procedure:

- (a) The registered voter shall, by signed affidavit on a form provided by the Board, set forth:
 - (1) The reason why he or she is unable to be present at the polls on the day of the election; and
 - (2) Except as provided in § 719.3, a designated voter registered in the District of Columbia to serve as agent for the purpose of delivering the absentee ballot to the voter.
- (b) Upon receipt of the application, the Executive Director, or his or her designee, if satisfied that the person cannot, in fact, be present at the polling place on the day of the election shall issue to the voter, through the voter’s duly authorized agent, an absentee ballot which shall be marked by the voter,

placed in a sealed envelope and returned to the Board before the close of the polls on election day.

(c) The person designated as agent shall, by signed affidavit on a form prescribed by the Board, state the following:

(1) That the ballot will be delivered by the voter who submitted the application for the ballot; and

(2) That the ballot shall be marked by the voter and placed in a sealed envelope in the agent's presence, and returned, under seal to the Board by the agent.

719.3 An officer of the court in charge of a jury sequestered on election day may act as agent for any registered voter sequestered regardless of whether the officer is a registered voter in the District.

719.4 The Board shall advise all agents, in writing, that pursuant to D.C. Code §§ 1-1001.12 and 1-1001.14 (2001 ed.), it is unlawful to do any of the following:

(a) Vote or attempt to vote more than once in any election; or

(b) Purloin or secret any of the votes cast in any election.”

Section 720 of Chapter 7 of 3 DCMR, “Voting the Absentee Ballot: Federal Voter,” shall be amended to read as follows:

“720 ABSENTEE FEDERAL BALLOT

720.1 Any qualified federal elector, as defined in § 501, may make a written request to vote an absentee Federal Ballot, as defined in § 700.5. Such request may be made electronically, by mail, or in person at the Board's office, and shall include the following:

(a) The voter's name;

(b) A statement that the applicant requests a ballot for federal offices;

(c) Address from which the voter was previously registered to vote in the District;

- (d) Address to which the absentee ballot shall be delivered, if applicable;
 - (e) The voter's driver's license number or the last four digits of the voter's social security number;
 - (f) The voter's date of birth; and
 - (g) The voter's original signature.
- 720.2 An absentee Federal Ballot request sent electronically will be considered to contain an original signature.
- 720.3 A mailed or electronically received request for an absentee Federal Ballot shall be received from the registered voter by no later than the seventh (7th) day preceding the date of the election.
- 720.4 A qualified federal elector may request an absentee Federal Ballot in person not earlier than fifteen (15) days preceding the election, and not later than 4:45 p.m., on the day preceding the election.
- 720.5 An absentee Federal Ballot may be returned to the Board by any of the following ways:
- (a) Mail;
 - (b) Brought to any polling place for deposit in the special ballot box on election day; or
 - (c) Delivered to the Board's office at any time before the close of the polls on election day.
- 720.6 All postmarked absentee Federal Ballots shall be postmarked not later than the day of the election, and all mailed (postmarked and non-postmarked) absentee Federal Ballots shall be received not later than ten (10) days after the election.
- 720.7 The Board will take steps to reasonably investigate the timely completion of non-postmarked absentee Federal Ballots by checking tracking numbers or any other information available."

Section 721 of Chapter 7 of 3 DCMR, "Vote Casting Procedures: Special Ballot," shall be amended to read as follows:

"721 CLOSING THE POLLS

- 721.1 Immediately after the last voter has voted, the Precinct Captain or his or her designee(s) shall in the presence and view of designated poll watchers:
- (a) Remove all voted ballots from the OSVE, and secure them in a transfer case for delivery to the Counting Center;
 - (b) Remove any ballots that have been deposited either in the emergency ballot entry slot in the OSVE or in an auxiliary ballot box, enter these ballots into the automatic tabulating system, secure these ballots in the transfer case referred to in § 721.1(a) and seal the transfer case with a signed certificate;
 - (c) Request and confirm the close of polls and produce the total vote count tape for all contests on the ballot in that precinct;
 - (d) Enter the reading from the OSVE's public counter onto the total vote count tape;
 - (e) Remove and sign the total vote count tape, and seal it for delivery to the counting center; and
 - (f) Place the OSVE's memory card, or other electronic media, and the DRE's tabulation cartridge into a transfer case which shall be sealed with a signed certificate for delivery to the Counting Center.
- 721.2 The Precinct Captain shall then prepare a complete accounting of ballots issued to that polling place, in accordance with and on forms provided by the Board.
- 721.3 The accounting of ballots shall include the following numbers of ballots:
- (a) Voted;
 - (b) Spoiled;
 - (c) Not used; and
 - (d) Received.
- 721.4 Upon completion of voting, a summary count of votes (for each contest) at each precinct shall be posted in a conspicuous place that can be seen from the outside of the polling place.

- 721.5 At each precinct, Precinct Captains shall prepare a report which indicates the numbers of:
- (a) Votes cast;
 - (b) Persons who signed in;
 - (c) Voter-verifiable records that arrived at the polling place before the polls opened;
 - (d) Voter-verifiable records that were used; and
 - (e) Unused voter-verifiable records.
- 721.6 The Precinct Captain shall keep a record of the names and addresses of individuals who:
- (a) Attempted to register on election day but could not provide proof of residence; and
 - (b) Successfully registered on election day and voted.
- 721.7 Precinct Captain reports and records shall be made available for public inspection at a reasonable date following an election.
- 721.8 In accordance with directives of the Board, the transfer cases containing the voted ballots, OSVE memory card or other electronic media, and DRE tabulation cartridges shall be returned to the Counting Center promptly following the closing of the polls.
- 721.9 Unvoted ballots and other election materials and paraphernalia shall be returned to the custody of the Board as directed.”

Section 722 of Chapter 7 of 3 DCMR, “Special Ballot Appeal Rights,” shall be amended to read as follows:

- “722 COLLECTION AND TRANSFER OF BALLOTS AND OTHER POLLING PLACE MATERIALS
- 722.1 All ballots cast in any election, as well as the OSVE memory cards or other electronic media, and DRE tabulation cartridges, shall be collected and transferred from precincts to the Counting Center by designated transport teams.
- 722.2 The transport team shall issue a receipt to the Precinct Captain for all items.

- 722.3 The reception team at the Counting Center shall issue to the transport team a receipt for the transfer cases containing voted ballots, OSVE memory cards or other electronic media, and DRE tabulation cartridges.
- 722.4 Other polling place materials shall be transferred from precincts to a place designated by the Board.
- 722.5 Unused or spoiled ballots, the Master Index Lists, and all other materials relating to voting and which are required for the official canvass, shall be placed in secured storage.
- 722.6 The official designated to receive the other polling place materials shall issue a receipt for same to the transport team.
- 722.7 The seal of each transfer case shall be inspected and certified as to its condition.
- 722.8 Inspection and certification of the seal shall be performed twice by the following:
- (a) The first time by the transport team upon receipt of transfer cases at the polling place; and
 - (b) The second time by the reception team upon receipt of transfer cases at the Counting Center.
- 722.9 The certification shall include the following:
- (a) Precinct number;
 - (b) Ballot box number;
 - (c) Condition of seal; and
 - (d) Any defects observed.
- 722.10 The certification shall be signed by members of the team making the certification.
- 722.11 At the Counting Center, each transfer case shall be marked as inspected before being delivered to a ballot inspection team or sorting team.
- 722.12 If there is more than one (1) transfer case for a single polling place, all cases shall be delivered to one (1) inspection or sorting team.”

Section 723 of Chapter 7 of 3 DCMR, "Closing the Polls," shall be amended to read as follows:

"723 RESERVED"

Section 724 of Chapter 7 of 3 DCMR, "Collection and Transfer of Ballots and Other Polling Place Materials," shall be amended to read as follows:

"724 RESERVED"

Section 725 of Chapter 7 of 3 DCMR, "Special Election Procedures: Advisory Neighborhood Commission Members," shall be amended to read as follows:

"725 RESERVED"

All persons desiring to comment on the subject matter of this 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 the General Counsel, Board of Elections and Ethics, 441 4th Street, N.W., Suite 270N, Washington, D.C. 20001. Copies of the proposed rules may be obtained at cost from the above address, Monday through Friday, between the hours of 9:00 a.m. and 4:00 p.m.

**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 11, "Recall of Elected Officials."

The proposed amendments represent changes to the Board's regulations as a result of the "Omnibus Election Reform Amendment Act of 2009," effective February 4, 2010 (D.C. Act 18-238, 56 D.C. Reg. 9169 (Dec. 4, 2009)). These amendments specifically change the date on which the circulation period for a recall petition begins.

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 1103 of Chapter 11 of 3 DCMR, "Circulation of Petitions," shall be amended to read as follows:

"1103 CIRCULATION OF PETITIONS

1103.1 The proposer shall advise all circulators of the petition that pursuant to D.C. Code § 1-1001.14 (2006 Repl.), it is unlawful to do the following:

- (a) Tender any form of compensation to a qualified elector of his or her signature upon any recall petition; or
- (b) Make any false statement to the Board concerning any recall petition or the signatures appended to the petition.

1103.2 The proposer of a recall petition for all elected officers, other than member of an Advisory Neighborhood Commission, shall have one hundred and eighty (180) calendar days to secure the proper number of signatures and file the petition with the Board.

1103.3 The proposer of a recall petition for a member of an Advisory Neighborhood Commission shall have sixty (60) calendar days to secure the proper number of signatures and file the petition with the Board.

1103.4 The circulation period for a recall petition shall begin on the date upon which the proposer of the recall formally adopts the original petition form as his or her own form pursuant to § 1101.4.”

All persons desiring to comment on the subject matter of this 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 the General Counsel, Board of Elections and Ethics, 441 4th Street, N.W., Suite 270N, Washington, D.C. 20001. Copies of the proposed rules may be obtained at cost from the above address, Monday through Friday, between the hours of 9:00 a.m. and 4:00 p.m.