

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**NOTICE OF FINAL RULEMAKING**

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in D.C. Official Code §§ 47-2836, 47-2851.03a(o), and 47-2851.20, hereby gives notice of the adoption of amendments to Chapter 12 (to be re-titled “Sightseeing Tour Companies and Guides”) of Title 19 of the District of Columbia Municipal Regulations (DCMR). This rulemaking amends sightseeing tour guide licensing rules and administrative procedures in order to reflect changes in the law and the profession.

These rules were previously published as proposed rulemaking in the *D.C. Register* on May 21, 2010 (57 DCR 4434). One comment was received in response to that notice and the following clarifications were made: section 1201.2 was edited to clarify that licensed sightseeing tour guides shall not engage in business with an unlicensed company, unless that company is required by law to be licensed in the District; section 1205.2 was edited to clarify that a licensee is not responsible for taking a customer to another point of interest on the tour if the customer either fails to meet the licensee at the predetermined time and location or if the customer makes alternative travel arrangements with the licensee; and section 1205.4 was edited to clarify that unless a customer specifically requests additional services from the licensee, the licensee cannot charge additional costs to the customer.

These final rules will be effective upon publication of this notice in the *D.C. Register*.

19 DCMR Chapter 12 is amended to read as follows:

CHAPTER 12 SIGHTSEEING TOUR COMPANIES AND GUIDES

Secs.	
1200	General Definitions
1201	General Licensure Requirements
1202	Application for Sightseeing Tour Company License; Applicable Regulations
1203	Application for Sightseeing Tour Guide License
1204	Requirements for Sightseeing Tour Companies
1205	Requirements for Sightseeing Tour Guides
1206	Complaint and Contact Information
1207	Prohibition on Vending
1208	Denial, Suspension, or Revocation of Licenses
1209	Penalties

1200 GENERAL DEFINITIONS

1200.1 Whenever used in this chapter, the term “tour guide” or “sightseeing tour guide” shall mean any person who engages in the business of guiding or directing people to any place or point of interest in the District, or who, in connection with any sightseeing

trip or tour, describes, explains, or lectures concerning any place or point of interest in the District to any person.

- 1200.2 Whenever used in this chapter, the term “sightseeing tour company” shall mean a business that employs a sightseeing tour guide.

1201 GENERAL LICENSURE REQUIREMENTS

- 1201.1 No person shall offer to act as a sightseeing tour guide on the roads, sidewalks, public spaces, or waterways of the District of Columbia unless the person holds a valid sightseeing tour guide license issued by the Department of Consumer and Regulatory Affairs (Department).
- 1201.2 No sightseeing tour guide shall engage in business or do business with a company or individual not properly licensed by the Department as a sightseeing tour company, if required by District law.
- 1201.3 No business or entity shall offer, for a fee, to conduct walking tours or tours where customers operate self-balancing personal transport vehicles, mopeds, or bicycles unless the business or entity is licensed by the Department as a sightseeing tour company.
- 1201.4 No person other than a licensed sightseeing tour guide shall, by the use of a uniform or part of a uniform, or by the use of insignia, device, word or words, or sign, indicate that he or she is engaged in the business of furnishing a sightseeing tour guide service, either on his or her own behalf or on behalf of another.
- 1201.5 No person, other than a licensed sightseeing tour company or sightseeing tour guide may use the words “sightseeing,” “tours,” “guide,” or any combination of these words, to advertise the availability of sightseeing tour services. This prohibition shall not apply to the use of these words as part of the identifying lettering on vehicles coming into the District or to a tour that is not conducted for profit or compensation.

1202 APPLICATION FOR SIGHTSEEING TOUR COMPANY LICENSE; APPLICABLE REGULATIONS

- 1202.1 An application for a license to engage in business as a sightseeing tour company shall be made to the Director of the Department of Consumer and Regulatory Affairs (Director) on a form prescribed by the Director.
- 1202.2 A sightseeing tour company shall apply for a General Business basic business license and shall be subject to the regulations in section 1203 of this chapter and the regulations in chapter 38 of Title 17 of the District of Columbia Municipal Regulations.

1203 APPLICATION FOR SIGHTSEEING TOUR GUIDE LICENSE

- 1203.1 A person applying for a sightseeing tour guide license shall:
- (a) Be at least eighteen (18) years of age;
 - (b) Be proficient in the English language; and
 - (c) Not have been convicted or have served all or part of a sentence within the past five (5) years for a felony, or an attempt to commit a felony, of the following types:
 - (1) A felony involving violence, the threat of violence, reckless driving, or any other action impacting the safety of others, if the Director determines that the record of such a felony indicates that licensure of the applicant as a sightseeing tour guide may pose a reasonable threat to the safety of others; or
 - (2) A felony involving a breach of trust or dishonesty, unless the Director determines that the applicant is a person of sufficient honesty and integrity to act as a sightseeing tour guide.
- 1203.2 An applicant for a sightseeing tour guide license shall make a sworn statement as to the veracity of the statements contained in his or her application and pay all required fees related to licensure.
- 1203.3 An applicant for a sightseeing tour guide license must pass an examination under the supervision of the Director, or the Director's designated agent, covering the applicant's knowledge of buildings and points of historical and general interest in the District.

1204 REQUIREMENTS FOR SIGHTSEEING TOUR COMPANIES

- 1204.1 A sightseeing tour company licensee engaged in the operation of sightseeing tour vehicles in the District shall obtain the necessary approvals of the District Department of Transportation, the District Department of Motor Vehicles, and the Washington Metropolitan Area Transit Commission.
- 1204.2 The approval of sightseeing tour vehicles required by § 1204.1 shall be evidenced by the display on each vehicle of the applicable license(s) or certificate(s) issued by the relevant government agencies.
- 1204.3 A vehicle operated by a licensed sightseeing tour company shall have at least one (1) licensed sightseeing tour guide on board the vehicle during its sightseeing tours in the District. This requirement shall not apply to a vehicle that utilizes only audio recordings during the sightseeing tour; provided, that a driver of such a sightseeing

tour vehicle who talks, lectures, or otherwise provides sightseeing information to passengers while the vehicle is in motion must be licensed as a sightseeing tour guide.

- 1204.4 Each sightseeing tour company shall ensure that its sightseeing tour vehicles comply with all District parking and traffic regulations.
- 1204.5 A sightseeing tour company licensee shall notify the Department within thirty (30) days after any change to the information provided on the application required by § 1202, including a change to the business address or telephone number of the licensee.
- 1204.6 The Director may, in connection with the consideration of a sightseeing tour company license application and from time to time during the license term, during regular business hours, require an applicant or licensee to make available to the Director, or the Director's agent, such information as the Director considers necessary to determine or verify whether the applicant or licensee has or retains the qualifications necessary for obtaining or retaining a license, or has violated or failed to comply with an applicable statute or regulation.
- 1204.7 Failure to make information available to the Director, failure to furnish to the Director information the Director is authorized to request by this chapter, or failure to furnish to the Director or to permit the Director to make copies of such records maintained by the applicant or licensee as the Director may specify, shall be grounds for denial, suspension, or revocation of a license.

1205 REQUIREMENTS FOR SIGHTSEEING TOUR GUIDES

- 1205.1 A sightseeing tour guide, while engaged in performing services as a sightseeing tour guide, shall conspicuously wear a badge bearing the licensee's license.
- 1205.2 No sightseeing tour guide shall cause a customer to be taken to a point of interest without providing that the customer shall be taken from that location to the next point of interest to be visited in the course of the sightseeing tour. This provision shall not apply if:
- (a) The customer fails to meet the sightseeing guide or vehicle at the predetermined time and location for departure to the next point of interest; or
 - (b) The customer makes other travel arrangements with the sightseeing tour guide
- 1205.3 No licensed sightseeing tour guide shall conduct a sightseeing tour unless the fees for the sightseeing tour have been disclosed in writing prior to the start of the tour.
- 1205.4 No sightseeing tour guide shall charge or attempt to charge a sum greater than the original charge for the tour, whether in payment for unsolicited merchandise, meals, or services, or for any other reason. This provision shall not apply if the customer specifically authorizes additional services from the sightseeing tour guide.

1205.5 A sightseeing tour guide licensee shall notify the Department within thirty (30) days after any change to the information provided on the application required by § 1203, including a change to the business address or telephone number of the licensee.

1206 COMPLAINT AND CONTACT INFORMATION

1206.1 All sightseeing tour companies or sightseeing tour guides shall furnish each person on a sightseeing tour with a card or ticket containing the following:

- (a) The name, address, and telephone number of a person or office authorized to receive complaints relative to the conduct or any part of a sightseeing tour; and
- (b) The name, address, and telephone number of the person, firm, or corporation responsible for the conduct and management of the tour.

1206.2 The authorized person or office specified under § 1206.1(a) shall be available to receive complaints during the regular business hours of each day that sightseeing tours are conducted by the sightseeing tour company.

1207 PROHIBITION ON VENDING

1207.1 No vending of any articles of merchandise shall be allowed by any licensee.

1208 DENIAL, SUSPENSION, OR REVOCATION OF LICENSES

1208.1 The Director may refuse to issue or renew, or may suspend or revoke, a sightseeing tour guide license or a sightseeing tour company license issued under this chapter for any reason set forth in this chapter or D.C. Official Code § 47-2844.

1208.2 The Director also may refuse to issue or renew, or may suspend or revoke, a sightseeing tour guide license or a sightseeing tour company license issued under this chapter on any of the following grounds:

- (a) Conviction of the licensee of a criminal offense involving fraudulent conduct;
- (b) Willful or fraudulent circumvention of a provision of District law or regulation relating to the conduct of the business;
- (c) Employment of a fraudulent or misleading device, method, or practice relating to the conduct of the business; or
- (d) The making of a false statement in the license application.

1208.3 All qualifications set forth in this chapter as a prerequisite to the issuance of a license shall be maintained for the entire license period. Failure to maintain a qualification during the license period shall be cause for suspension or revocation of the license.

1209 PENALTIES

- 1209.1 Each licensee shall be liable for all penalties provided for the violation of a provision of this chapter, whether the violation is committed by the licensee or the licensee's agent or employee.
- 1209.2 Pursuant to D.C. Official Code § 47-2846, a person violating any provision of this chapter shall, upon conviction, be fined not more than three hundred dollars (\$300) or imprisoned for not more than ninety (90) days, or both.
- 1209.3 A person whose license as a sightseeing tour company or sightseeing tour guide has been suspended or revoked, and who, after due notice in writing of the suspension or revocation, fails or refuses to surrender the license and badge as directed, or who violates any provision of this chapter, shall, upon conviction, be fined not more than two thousand dollars (\$2,000) or imprisoned for not more than ninety (90) days, or both.
- 1209.4 Civil fines, penalties, and fees may be imposed as alternative sanctions for an infraction of this chapter pursuant to titles I-III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code §§ 2-1801.01 *et seq.*) ("Civil Infractions Act"). Adjudication of an infraction of this chapter shall be pursuant to titles I-III of the Civil Infractions Act.

**OFFICE OF THE DEPUTY MAYOR FOR PLANNING AND ECONOMIC
DEVELOPMENT**

NOTICE OF FINAL RULEMAKING

The Deputy Mayor for Planning and Economic Development, pursuant to authority set forth in the NoMA Residential Development Tax Abatement Act of 2009, effective July 7, 2009 (D.C. Law 18-10; D.C. Official Code §§ 47-859.01 *et seq.*), and Mayor's Order 2010-61, dated April 6, 2010, hereby gives notice of the adoption of the following amendment to Title 10-B (Planning and Development) of the District of Columbia Municipal Regulations (DCMR). The purpose of the rulemaking is to add a new Chapter 62 to Title 10-B of the DCMR to provide tax abatements as incentives for the production of new housing in the NoMA area of the District of Columbia.

A Notice of Proposed Rulemaking was published in the D.C. Register on May 21, 2010 at 57 DCR 4440. No comments were received, and there have been no substantive changes made to proposed rulemaking.

Title 10-B of the DCMR is amended by adding a new Chapter 62 to read as follows:

**CHAPTER B62 NoMA TAX ABATEMENTS FOR
NEW RESIDENTIAL DEVELOPMENT PROGRAM**

Secs.

- B6200 General Program Description
- B6201 Purposes
- B6202 Requirements for Tax Abatements for New Residential Developments
- B6203 Tax Abatements for All New Housing Projects in NoMA Area
- B6204 Abatement Caps
- B6299 Definitions

B6200 GENERAL PROGRAM DESCRIPTION

- B6200.1 The NoMA Tax Abatements for New Residential Development Program is intended to provide tax abatements as incentives for the production of new housing in the NoMA area of the District of Columbia.

B6201 PURPOSE

B6201.1 The purpose of this chapter is to implement the NoMA Residential Development Tax Abatement Act of 2009 (D.C. Law 18-10; D.C. Official Code §§ 47-859.01 *et seq.*).

B6202 REQUIREMENTS FOR TAX ABATEMENTS FOR NEW RESIDENTIAL DEVELOPMENTS

B6202.1 As a prerequisite to a property receiving a tax abatement under this chapter, the provisions of this section must be satisfied.

B6202.2 A tax abatement under this chapter shall not be allowed for a project which is financed in any part by the Tax Increment Financing program established by the Tax Increment Financing Authorization Act of 1998 (D.C. Law 12-143; D.C. Official Code § 2-1217.01 *et seq.*).

B6202.3 A tax abatement under this chapter shall not be allowed for a property which receives relief as the result of the Distressed Properties Improvement Program under the Rental Housing Act of 1985 (D.C. Law 6-10; D.C. Official Code § 42-3508.02).

B6202.4 A tax abatement under this chapter shall not be allowed for a property owned by the District of Columbia or one of its instrumentalities as of January 1, 2008.

B6202.5 A tax abatement shall not be allowed unless the owner obtains the documents required by sections B6202.7 or B6202.9 of this chapter and submits to DMPED the letter and other documents required by section B6202.10 of this chapter prior to December 31, 2012.

B6202.6 A tax abatement shall only be allowed if the building permit for the project's superstructure was issued after January 1, 2008.

B6202.7 Except as provided in subsection B6202.8, prior to requesting certification of a tax abatement, the owner must receive:

(a) A final building permit; or

(b) Letters from the building architect and DMPED certifying that the first level of concrete has been laid and the building has received building permits for both (1) the building's sheeting and shoring and excavation work and (2) the building's foundation to grade structural work. Certification by DMPED that the first level of concrete has been laid shall be given upon the submission by the owner of the standard test reports to DCRA. DMPED shall issue a certification letter regarding the first layer of concrete being laid within ten (10) business days after receipt of a written request from the owner and receipt of the standard concrete tests reports by DCRA, if such reports are required by DCRA.

B6202.8 If an owner has obtained a certificate of occupancy prior to requesting certification of a tax abatement, section B6202.7 shall not apply.

- B6202.9 If a certificate of occupancy has been issued to the owner, the owner may submit a letter to DMPED requesting a tax abatement certification that the property is eligible for a certain annual dollar amount of residential tax abatement as set forth in the NoMA Residential Development Tax Abatement Act of 2009 (D.C. Law 18-10; D.C. Official Code §§ 47-859.01 *et seq.*). The letter shall include the information required by section B6202.10(a)(i) - (iii), (v), (vi), (vii) and (viii), along with the documents required by section B6202.10(b)(iv)(A), (B) and (E), and section B6202.14.
- B6202.10 (a) If a certificate of occupancy has not been issued to the owner, the owner may submit a letter to DMPED requesting a tax abatement certification that the property is eligible for a certain annual dollar amount of residential tax abatement as set forth in the NoMA Residential Development Tax Abatement Act of 2009 (D.C. Law 18-10; D.C. Official Code §§ 47-859.01 *et seq.*).
- (b) The owner's request letter shall include the following information about the project:
- (1) The address of the project;
 - (2) The square and lot number;
 - (3) The proposed number of residential units;
 - (4) A statement that the documents required by subsection B6202.7 of this chapter have been obtained and are attached;
 - (5) The total residential FAR square footage;
 - (6) The annual dollar amount of residential tax abatement requested;
 - (7) A statement that no financing is being provided under the Tax Increment Financing program referenced in subsection B6202.2 of this chapter; and
 - (8) A statement that no relief is being provided under the Distressed Properties program referenced in subsection B6202.3 of this chapter;
- (c) The owner's request letter shall include the following attachments:
- (1) Three (3) dated photographs of the project taken within the ten (10) day period that precedes the date of submission of the owner's request letter. If the owner's request letter states that the first level of concrete has been laid, at least one (1) photograph must show the first level of concrete;
 - (2) The documents specified by section B6202.7 (a) or (b) of this chapter;

- (3) Certification of the total residential FAR square footage certified by the project architect; and
- (4) The following items:
 - (A) An area map showing the eligible area boundary and the project by location arrow;
 - (B) A scaled site plan with building footprint. The site plan shall be submitted in both full size and eleven inch (11") by seventeen inch (17") format;
 - (C) A tabulation of the zoning data for the project prepared and certified by the project architect, which shall include both the allowed and used lot occupancy, height, FAR, yards, courts, parking, and loading, and an indication of any zoning variance that is being requested;
 - (D) A calculation of the total residential FAR square footage; and
 - (E) A calculation of the annual dollar amount of residential tax abatement being requested, showing total residential FAR square footage, and tax abatement per square foot of total residential FAR square footage.

B6202.11 Within fifteen (15) business days after receipt of the owner's request letter and documents specified in subsections B6202.9 or B6202.10 of this chapter, DMPED shall:

- (a) Transmit a reservation letter to the owner stating:
 - (1) Whether the property is eligible for the applicable tax abatement;
 - (2) Whether the District of Columbia has reserved a tax abatement for the project; and
 - (3) If the District of Columbia has reserved a tax abatement for the property, the authorized annual dollar amount for the property.
- (b) If an owner's request letter is not complete, transmit a letter to the owner requesting the required additional information, which shall not affect the date of the submission by the owner of its request to DMPED for certification (unless such letter was significantly deficient);
- (c) Transmit a letter of partial reservation and partial non-certification, if the amount of the tax abatement authorized for the property partially exceeds the amount of abatement remaining under caps set forth in section B6204 of this chapter; or

- (d) Transmit a letter of non-certification, if the amount of the tax abatement requested exceeds the caps set forth in section B6204 of this chapter.

B6202.12 A tax abatement authorized by the Act and reserved by DMPED pursuant to section B6202.11 shall not be allowed:

- (a) Unless the first level of concrete for the project has been laid either before, or within six (6) months after, the date the reservation letter is transmitted by DMPED under subsection B6202.11 of this chapter, if certification was requested pursuant section B6202.9 of this chapter; or
- (b) If the project does not receive a certificate of occupancy within thirty-six (36) months after the date the reservation letter is transmitted by DMPED pursuant to section B6202.11 of this chapter; provided, that DMPED may extend the thirty-six (36) months period by up to an additional six (6) months if the building's construction has reached grade, as certified by the project architect and DCRA.

B6202.13 Valid and complete requests for certification shall be reviewed by DMPED pursuant to section B6202.11 of this chapter in the order in which they are received; provided, however, that any project which has achieved the requirements of section B6202.7, B6202.9, or B6202.10 prior to the effective date of this chapter shall be given preference for review and certification of eligibility in order of the date the requirements of sections B6202.9 or B6202.10 were achieved; and provided further, that this preference shall be applicable beginning on the date this chapter becomes effective and only for the first thirty (30) days thereafter.

B6202.14 Once the certificate of occupancy has been issued by DCRA and the owner has complied with sections B6202.9 or B6202.10, the owner shall submit the following documents to DMPED:

- (a) A copy of the certificate of occupancy;
- (b) A calculation of the "as-built" total residential FAR square footage certified by the project architect; and
- (c) A schedule of the dollar amounts for the property's twenty (20) semiannual tax abatements for the ten (10) year tax abatement period beginning with the first full six (6) month period of the tax year (October 1 through March 31 or April 1 through September 30) following the issuance date of the certificate of occupancy.

B6202.15 Upon receipt of the documents required under section B6202.14, DMPED shall certify the total residential FAR square footage and, within twenty (20) business days:

- (a) Issue to the owner a letter certifying the tax abatement pursuant to D.C. Official Code § 47-8579.03; and

- (b) Notify OTR of the owner's eligibility for the annual dollar amount of residential tax abatement, provided that such annual dollar amount shall not exceed the amount reserved under B6202.11, and provide OTR with a schedule of the tax abatement dollar amounts to be reflected on the property's twenty (20) semiannual tax bills issued during the ten (10) year tax abatement period.

B6202.16 After receiving notification from DMPED under subsection B6202.15, OTR shall reflect the tax abatement in a real property tax bill issued for the first full six (6) month period of the tax year (October 1 through March 31 or April 1 through September 30) following the issuance date of the certificate of occupancy.

B6202.17 If a condominium regime is established at the property pursuant to District of Columbia law and condominium units are sold, the tax abatement shall be prorated among the residential unit owners of the condominium in proportion to their percentage interest in the condominium regime, and the tax abatement shall accrue only to residential unit owners. DMPED shall allocate the tax abatement to the individual units, based on a schedule of the dollar amounts for the semiannual tax abatements for the then remaining portion of the ten (10) year tax abatement period. The owner shall provide this schedule to DMPED at the time of the unit sale, DMPED shall certify such allocation to OTR, and OTR shall notate the tax bills for such units to specifically reflect the abatement.

B6202.18 The imposition of a penalty or disallowance of the tax abatement by DMPED pursuant to the provisions of this chapter shall be subject to the notice and hearing provisions of the Civil Infractions Act of 1985 (D.C. Law 6-42; D.C. Official Code §§ 2-1801.01 *et seq.*), and its implementing regulations.

B6203 TAX ABATEMENTS FOR ALL NEW HOUSING PROJECTS IN NOMA AREA

B6203.1 Subject to the requirements of section B6202 of this chapter, an annual abatement of the real property tax imposed pursuant to D.C. Official Code § 47-811 for an eligible property shall be allowed in an amount computed as one dollar and fifty cents (\$1.50) multiplied by the building's total residential FAR square footage as certified by the project architect and DMPED pursuant to subsection B6202.15 of this chapter; provided, that:

- (a) If a certificate of occupancy permits the use of only part of the residential portion of the eligible property, the amount of the abatement shall be computed as one dollar and fifty cents (\$1.50) per each residential FAR square foot that is subject to the certificate of occupancy.
- (b) The tax abatement for an eligible real property allowed by this section shall expire at the end of the tenth (10th) tax year after the abatement was first reflected in a real property tax bill issued pursuant to section B6202.14 of this chapter; and

- (c) If, during a tax year for which the tax abatement is authorized by this section the property for which the abatement was granted contains fewer than ten (10) dwelling units, the abatement shall not be allowed, such disallowance to become effective during the first six (6) month period following the date on which such property first contained less than ten (10) dwelling units.

B6204 ABATEMENT CAP

- B6204.1 DMPED may approve up to five million dollars (\$5,000,000) in annual tax abatements for the Eligible Area, up to the fifty million dollars (\$50,000,000) cumulative tax abatement cap.

B6299 DEFINITIONS

- B6299.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

“Act” - the NoMA Residential Development Tax Abatement Act of 2009, effective July 7, 2009 (D.C. Law 18-10; D.C. Official Code §§ 47-859.01 *et seq.*).

“Certificate of occupancy” - the certificate of occupancy which permits the use of all or part of the residential areas of the building.

“Certified by the project architect” - the architect has affixed his or her stamp to the document.

“DCRA” - the Department of Consumer and Regulatory Affairs.

“DMPED” - the Deputy Mayor for Planning and Economic Development or designee.

“Eligible Area” - those portions of Wards 5 and 6 which comprise the geographic area defined by a line that starts at the center of the street at the intersection of Massachusetts Avenue, N.E., and 1st Street, N.E.; continuing north along the center line of 1st Street, N.E., to the center line of H Street, N.E.; continuing east along the center line of H Street, N.E., to the center line of 2nd Street, N.E.; continuing north along the center line of 2nd Street, N.E., to the center line of K Street, N.E.; continuing east along the center line of K Street, N.E., to the center line of 3rd Street, N.E.; continuing north along the center line of 3rd Street, N.E. (and including Square 0774, Lot 0058), to the center line of M Street, N.E.; continuing east along the center line of M Street, N.E., to 4th Street, N.E.; continuing along the center line of 4th Street, N.E., to the center line of Florida Avenue, N.E.; continuing northwest along the center line of Florida Avenue, N.E., until it crosses the WMATA rail line; continuing northeast along the boundary of the WMATA rail line until it crosses R Street, N.E.; continuing west along the center line of R Street, N.E., to Eckington Place, N.E.; continuing south along the center line of Eckington Place, N.E., to the center line of Q Street, N.E.; continuing west along the center line of Q Street, N.E. (and including Square 3519, lots 0043, 0063, and 0070), to the center line of North Capitol Street (but excluding Square 3516, lots 0104 through 0114 and 0118 through 0133, and 0807); continuing south along the center line of North Capitol Street to the center line of Eye Street N.W.; continuing west along the center line of Eye Street, N.W., to the center line of New Jersey

Avenue, N.W.; continuing southeast along the center line of New Jersey Avenue, N.W., to the center line of Massachusetts Avenue, N.W., continuing southeast along Massachusetts Avenue, N.W., to the center line of 1st Street, N.E. (the starting point).

“Eligible real property” - real property that:

- (a) Is in the Eligible Area;
- (b) Is classified, in whole or in part, as Class 1 or Class 2 property under D.C. Official Code § 47-813(c-7);
- (c) Is improved by new structures or by previously uninhabitable structure(s) which undergo substantial renovation for residential use; and
- (d) Has ten (10) or more units devoted to residential use.

“Final building permit” - the final building permit issued to the owner for the project including mechanical, electrical, plumbing, heating, ventilation, and air conditioning systems, and superstructure; provided, that permits for the installation of electrical, plumbing, and mechanical systems shall be allowed to follow after the final building permit is issued to the owner; provided further, that revision permits shall be allowed to address customary deviations due to construction conditions and other modifications.

“First level of concrete has been laid” - the foundation to grade permit has been issued, the pouring of concrete for the floor of the lowest level of the structure to be constructed (that is, the cellar, basement, sub-cellar, sub-basement, or similar level) has commenced and the concrete work testing reports have been submitted to DCRA.

“Gross floor area” - has the meaning set forth in 11 DCMR § 199.1.

“OTR” - the District of Columbia Office of Tax and Revenue.

“Owner” - the property owner or person authorized by the owner.

“Rehabilitation” - the substantial renovation of a structure for housing for sale or rental which is not habitable for dwelling purposes because it is in substantial violation of the Housing Regulations (title 14 of the District of Columbia Municipal Regulations) .

“Residential use” - has the meaning set forth in 11 DCMR § 1799.1.

“Total residential FAR square footage” - the total gross floor area of the project that is devoted to residential uses, including common areas and areas devoted to accessory uses to the residential use of the building or a portion thereof, based on the plans and drawings submitted in conjunction with the building permit application. (The terms “gross floor area” and “residential use” shall have the meaning set forth in 11 DCMR §§ 199.1 and 1799.1, respectively.)

“Units devoted to residential use” - (a) occupied units that were constructed, rehabilitated, or converted for residential use, or (b) unoccupied units that are in the process of being constructed,

rehabilitated, converted, marketed, leased, or sold for residential use, in either event pursuant to a building permit for such residential use. The use of an eligible unit for a “home occupation,” as such term is defined in the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations), shall not make a unit that is otherwise eligible ineligible.

UNIVERSITY OF THE DISTRICT OF COLUMBIA**NOTICE OF FINAL RULEMAKING**

The Board of Trustees of the University of the District of Columbia, pursuant to the authority set forth under the District of Columbia Public Postsecondary Education Reorganization Act Amendments ("Act") effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code §§ 38-1202.01(a)), hereby amends Chapter 1 of Title 8-B, DCMR. The purpose of the Final Rule is to update and modernize Chapter 1. The proposed rule was published in the D.C. Register on December 25, 2009 and May 7, 2010. *See* 56 DCR 9592 and 57 DCR 4024. All public comment received pursuant to the Notice of Proposed Rulemaking was duly considered by the Board. The Board accordingly hereby adopt this Final Rulemaking by resolution on June 29, 2010. This Final Rulemaking will be effective upon publication in the *D.C. Register*.

The Board of Trustees of the University of the District of Columbia hereby deletes the current Chapter 1 of Title 8-B, DCMR, and inserts in its place the following:

100 COMPOSITION AND AUTHORITY

- 100.1 The composition of the Board of Trustees of the University of the District of Columbia (also referred to in this title as the "Board of Trustees" or the "Board"), the manner in which the members are appointed, removed, qualifications for holding office, and the terms of office of members of the Board are established in D.C. Official Code §§ 38-1202.01, 38-1202.03 (2001 ed.); and the authority, powers and duties of the Board are established in D.C. Official Code §§ 38-1202.01, 38-1202.06 (2001 ed.).
- 100.2 In accordance with D.C. Official Code, § 38-1204.01 (2001 ed.), official acts of the Board shall only be taken when a quorum is present. All official acts of the Board shall be taken while the Board is in public session, unless otherwise authorized by law.
- 100.3 The University of the District of Columbia is an independent agency of the government of the District of Columbia, and the chief executive officer of the University established under D.C. Official Code § 38-1202.06(10) (2001 ed.) is the President of the University. The components of the University include the flagship component of the University of the District of Columbia, the Community College of the District of Columbia, the David A. Clarke School of Law, and other components as may be established by the Board.
- 100.4 In addition to establishing a new or modified policy, directive, or other decision, an official act of the Board shall operate to repeal any prior inconsistent act of the Board, and shall rescind any prior custom or practice of the University that is inconsistent with the official act.
- 100.5 With respect to the University, whenever the laws, regulations, or rules of the District of Columbia confer authority on, establish the duties of, or otherwise refer to the "head of an agency, " that term shall mean and apply to the Board of Trustees.

- 100.6 Unless otherwise provided, references in this chapter to action by the Board shall mean action by a majority vote of the Board at a duly constituted meeting.
- 100.7 No individual Trustee or Trustees shall have the power to act on behalf of the Board or University, or to bind the Board or University, unless specifically authorized by the Board, this title, or law.
- 100.8 The official acts of the Board of Trustees shall be recorded in the minutes of the meetings of the Board.

101 OFFICERS OF THE BOARD

- 101.1 In accordance with D.C. Official Code § 38-1202.01 (2001 ed.), the Board shall annually elect from among its members a Chairperson and a Vice Chairperson. In addition, the Board shall also annually elect from among its members a Secretary and a Treasurer.
- 101.2 The term of each officer shall be one year, beginning on May 15 of each year and ending at midnight on May 14 of the following year.
- 101.3 The annual election of officers shall occur at a regular meeting of the Board prior to May 15 of each year, but a special meeting may also be called for the purpose of electing the officers. The Chairperson shall be elected prior to the other officers.
- 101.4 The nomination of one Board member is required to be a candidate for officer, but a trustee may nominate himself or herself.
- 101.5 Officers shall be elected by a majority vote of the Board, taken in public session.
- 101.6 An officer may be re-elected, but shall not serve beyond his or her term as a member of the Board.
- 101.7 The annual election of officers of the Board shall be conducted at the regular meeting of the Board of Trustees held in the month of April of each year. If no regular meeting is held in April, the election shall be conducted at a special meeting of the Board held prior to May 15th. The officers elected shall take office in accordance with §101.2 of this section.

102 VACANCY IN OFFICES OF THE BOARD

- 102.1 When the office of Chairperson, Vice Chairperson, Secretary, or Treasurer becomes vacant for any reason, the Board of Trustees shall hold a special election to fill the vacant office. Such special election shall be held in the same manner as a regular election under § 101 of this chapter.

- 102.2 The special election under § 102.1 shall be held at the next regular meeting of the Board or at any special meeting of the Board held prior to the next regular meeting.
- 102.3 The Board member elected to fill a vacant office shall serve the remainder of the unexpired term of office.

103 DUTIES OF OFFICERS OF THE BOARD

- 103.1 The Chairperson shall preside and may vote on and enter into the discussion of any item of business at all regular meetings of the Board, special or emergency meetings of the Board, and meetings of the Committee of the Whole.
- 103.2 Except for the Committee of the Whole, the Chairperson shall not be the chairperson of any standing committee or ad hoc committee. In addition, the Chairperson may be a member of any committee, and shall be a non-voting ex officio member of all standing and ad hoc committees.
- 103.3 The Chairperson, in consultation with the Board, shall appoint the Chairperson and members of all standing committees and ad hoc committees established by the Board.
- 103.4 Whenever a vacancy occurs on a committee that reduces the committee to less than three committee members, the Chairperson shall promptly appoint a new committee member.
- 103.5 The Chairperson shall appoint the chairperson and members of Board committees in accordance with this Section and Section 110.
- 103.6 Subject to Sections 100.2 and 116 of this chapter, the Chairperson shall be the official spokesperson of the Board when the Board is not in session.
- 103.7 The Chairperson shall perform other duties as may be authorized by this title, the Board of Trustees, or by the laws of the District of Columbia.
- 103.8 The Vice Chairperson shall assume the duties and privileges of the Chairperson in the absence of or at the request of the Chairperson. In the absence of both the Chairperson and the Vice Chairperson, the Secretary shall assume the duties of the Chairperson. In the absence of the Chairperson, Vice Chairperson, and Secretary, the Treasurer shall assume the duties of the Chairperson.
- 103.9 The Secretary may affix the corporate seal of the Board of Trustees and, at the request of the Chairperson, may sign official Board correspondence and attest to the official acts of the Board.
- 103.10 The Treasurer shall chair the Board committee with jurisdiction over budget and financial matters.

103.11 The Chairperson in consultation with the President may adjust as necessary the schedule of regular meetings for the Board and shall require the chairpersons of standing committees to establish a schedule of regular meetings for their committees.

104 ADMINISTRATIVE SUPPORT

104.1 The President shall act as custodian of the official records of the Board. With the Secretary of the Board, the President shall certify and maintain the minutes of the Board, may attest to all official acts of the Board, and with the approval of the Board, shall conduct and supervise the daily business of the Board at the direction of the Chairperson.

104.2 At the direction of the Chairperson, the President shall facilitate meetings of the Board and its committees and shall publish agendas and public notices for the Board meetings as required by this chapter.

104.3 At least five (5) business days prior to each regular meeting of the Board, the President shall electronically or manually deliver to each Trustee an agenda approved by the Chairperson that lists all substantive matters upon which action is to be taken at the meeting.

104.4 The President shall cause a verbatim record to be created of every meeting of the Board and the standing committees of the Board.

104.5 The President shall in consultation with the Board appoint one (1) or more persons to assist in carrying out Board support functions and responsibilities set forth in this chapter. That person(s) shall report directly to the Board on Board related matters.

104.6 The President shall provide for making a written transcript or electronic transcription of each public meeting of the Board and shall prepare minutes of all public meetings of the Board, as required by law or this chapter. The President shall ensure that a copy of the minutes of each public meeting is electronically or manually delivered to each member of the Board.

104.7 Official correspondence of the Board of Trustees shall be conducted through the President of the University. Official correspondence from the Board of Trustees to the University community shall be forwarded by the Chairperson of the Board through the President of the University. The President shall disseminate such correspondence as directed by the Chairperson.

105 MEETINGS OF THE BOARD OF TRUSTEES

105.1 The Board Chair may appoint the General Counsel or other University official or other person to be the parliamentarian and advise the Chair.

- 105.2 The University General Counsel shall be available to the Board at regular Board meetings including executive sessions to provide independent legal counsel to the Chairperson and other members of the Board.
- 105.3 The University General Counsel shall upon the request of a Committee Chair make himself or herself available for independent counsel at committee meetings. Should the General Counsel not be available he or she may with reasonable notice to the committee chair send an assistant General Counsel.
- 105.4 Calling Meetings. Meetings of the Board of Trustees shall be called or scheduled as follows:
- (a) Regular Meetings. Regular meetings of the Board shall be called by the Chairperson, based upon a schedule established by the Chairperson in consultation with the President. The Board shall conduct at least four (4) regular meetings each year.
 - (b) Special Meetings. Special meetings of the Board shall be called by the Chairperson, or in accordance with D.C. Official Code § 38-1204.01 (2001 ed.), by a majority of the members of the Board. In the case of a meeting called by the Chairperson or a majority of the members of the Board, the Chairperson or majority shall notify the President in writing not less than forty-eight (48) hours prior to the meeting of the time and place of the meeting.
 - (c) Emergency Meetings. The Chairperson may call an emergency meeting of the Board by notifying the President as promptly as possible of the nature of the emergency, and the purpose, time, and place of the meeting.
- 105.5 Notice of Meetings. The President shall give timely notice of all meetings of the Board to the public and to all members of the Board, and such notice shall contain the time and location of the meeting, and the purpose or agenda of the meeting.
- (a) Timely Notice. As used in this subsection, timely notice means that notice must be transmitted with sufficient time to allow the members of the Board and the public to learn of, review, prepare and attend the meeting. The President shall give notice of all meetings not less than five (5) business days prior to any regular meeting, three (3) business days for any special meeting or regularly scheduled committee meeting, and one (1) business day for emergency meetings.
 - (b) Manner of Notice to Members of the Board. Notice to the members of the Board shall be in writing, preferably by electronic mail to each member at an electronic mail address designated by the member. For regular and special meetings of the Board and regularly-scheduled Committee meetings of the Board, the President shall include the agenda of the meeting including all supporting documentation necessary to be considered prior to taking official action. For emergency

meetings, notice shall include the purpose(s) for which the meeting is being called and should be accompanied by supporting documentation when possible.

- (c) Manner of Notice to the Public. Notice to the public shall be made in a manner calculated to inform the University community and interested members of the public of the meeting. Such notice may include public signage, website postings, and blast electronic mails.

105.6 Meeting Agendas. Except as provided by this chapter, the only items to be discussed or considered at any meeting of the Board shall be the items contained on the meeting agenda. The agenda for meetings of the Board shall be established as follows:

- (a) Regular Meetings. The agenda of every regular meeting of the Board shall include (i) presentation and approval of the minutes of prior meetings of the Board; (ii) a report of the Chairperson of the Board, which may include items for the information of the Board, items for referral to Board committees, and items requiring official action by the Board; (iii) a report of the President, which may include items for the information of the Board, items for referral to Board committees, and items requiring official action by the Board; (iv) a report from each standing and ad hoc committee of the Board, which may include recommendations for official action by the Board and items for the information of the Board; (v) provision of time for any member to present new business for information or committee referral, provided that such items shall not be added to the agenda for action except in accordance with Section 105.8.
- (b) Special Meetings. The agenda of a special meeting shall include only the matters stated on the notice of the meeting.
- (c) Emergency Meetings. The agenda of an emergency meeting shall include only the matters stated on the notice of the meeting. No items for action by the Board may be added to the emergency meeting.

105.7 Items Not on the Agenda. Items not on the agenda for a meeting of the Board of Trustees may be added to the agenda in accordance with this section. Items not added to the agenda must be added to the agenda of a later meeting, or referred to the appropriate committee for consideration.

- (a) Regular Meetings. The Chairperson may introduce any item for information, referral, or action by the Board provided that there is a second from another member. Any other member of the Board may introduce any item for information or action by the Board upon a motion approved by a majority of the Board.
- (b) Special Meetings. Members of the Board may introduce any item for information, referral, or action only upon waiver of the rules of order as defined in section 108.

- 105.8 Consideration of Agenda Items. Consideration of agenda items shall begin when the Chairperson calls the item to the floor for consideration. An item added to the agenda in accordance with Section 105.7 shall be considered after the business on the published agenda.
- 105.9 Committee Consideration of Agenda Items. Each matter coming before the Board should first be referred to the appropriate committee by the Board Chairperson; however, (a) actions on emergency basis shall not require committee consideration prior to the Board taking action; and (b) upon written explanation to the Chair, the Board may, by majority vote, place any item on the agenda for a regular or special meeting which has not been referred by committee.
- 105.10 Quorum and Voting
- (a) In accordance with D.C. Official Code § 38-1204.01 (2001 ed.), a quorum of the full Board shall consist of eight (8) voting members, regardless of any vacancies in the membership of the Board, unless otherwise provided by law.
 - (b) Unless otherwise provided, any official act of the Board shall be by vote of a majority (more than 1/2 the Board members) of the voting Board members present after the establishment of a quorum.
 - (c) An action required by this title to be by an absolute majority of the Board shall mean an affirmative vote of a majority of the entire voting membership of the Board, regardless of meeting attendance or abstentions.
 - (d) Other than the Chair of the Committee, members may appear at any Committee or ad hoc meeting by telephone or other electronic video or Internet medium, provided that such members can hear and be heard by the other members of the Board and the public.
- 105.11
- (a) Fiscal Impact Statements. All resolutions coming before the Board, other than ceremonial resolutions, shall be submitted with a statement of the statement setting forth (1) the administration's assessment of costs or savings to the University of the program or policy contained therein, (2) the criteria upon which the assessment is based, and (3) the certification of the Managing Director of Finance that funds are available to implement the resolution.
 - (b) Risk Assessment Statements. All resolutions coming before the Board, other than ceremonial resolutions, shall contain an assessment of potential business or financial risk to the University. This risk assessment shall include, as a minimum, (1) a projection of costs and/or net saving to the university as a result of the resolution, (2) the benefit(s) anticipated, (3) a certification by the managing

Director of Finance that funds are available to implement the resolution, and (4) a risk mitigation strategy. The Board may waive this requirement by majority vote.

105.12 Executive Session. The Board may enter executive session by majority vote to discuss or take action on matters specified in subsection (c).

- (a) An executive session may be placed on the agenda of any meeting of the Board.
- (b) The only persons permitted to attend or listen to executive session shall be the members of the Board; however the Board may, upon motion and second, admit other persons to an executive session. No verbatim record shall be made when the Board is in executive session but a record must be kept and disclosure will be subject to applicable law.
- (c) The only matters upon which the Board may take action in executive session are personnel matters; but the Board may discuss matters related to litigation, confidential negotiations, confidential student issues, and any other issues permitted by law.
- (d) At the conclusion of the executive session, or at the next meeting of the Board following the occurrence of an executive session, the Chairperson shall announce that an executive session was held, and state that all matters acted upon in executive session were proper. If a member of the Board objects to the Chairperson's statement, the Board shall vote to confirm the validity of the executive session. If a majority fails to confirm the validity of the executive session, any action taken in executive session shall be deemed void.

106-107 RESERVED

108 CONDUCT OF MEETINGS OF THE BOARD OF TRUSTEES

- 108.1 Debate and proceedings of the meetings of the Board shall be governed by the provisions of this section. Where this section is silent, the meetings of the Board shall be governed by the latest edition of Robert's Rules of Order. The provisions of this section, and the rules or order, may be waived by a majority vote of Trustees present.
- 108.2 Each proposed action by the Board shall be considered in the form of a motion or resolution. The adoption of a formal resolution shall not be necessary unless the particular action requires it.
- 108.3 Oral motions (other than procedural or technical motions) may be reduced to writing and read into the record before the final vote.
- 108.4 Debate on Agenda Items. Once the Chair brings an agenda item to the floor, the members shall commence debate and discussion. A member who wishes to speak shall

ask to be recognized by the Chair, and members shall be recognized in the order in which he or she ask to be recognized.

- 108.5 Limiting Debate. Upon a motion that has been seconded, the Chair shall impose time limits on discussion and debate; provided that each member wishing to speak shall be allotted an equal amount of time. The Chair may allow additional rounds of debate following the expiration of the time limits.
- 108.6 Concluding Debate. Once debate has concluded, or once debate has expired in accordance with part (3) of this subsection, the Chair shall call the question, and the members shall vote upon the agenda item.
- 108.7 Any proposed action that has been provided to Board members in the form of a written recommendation or motion (before or during a meeting of the Board), including the minutes of a prior meeting of the Board, may be acted upon without reading lengthy material accompanying the motion or recommendation into the record, at the discretion of the chair. If the motion is adopted, the accompanying material shall be included in the record.
- 108.8 The order of items on the agenda of any meeting of the Board or any committee of the Board may be changed by the chair, at its discretion, or by majority vote of the members present and voting.
- 108.9 Items for referral to a committee of the Board that are presented at a regular meeting, or at any other meeting of the Board, shall be referred to the appropriate committee by the chair.
- 108.10 Items received by the Board between meetings shall be referred to the appropriate committee by the Chairperson.
- 108.11 Any member of the Board may include written comments in the record on any matter on the agenda of a Board meeting by providing a typed original of the written statement to the President with a copy for each Board member within three (3) days of the adjournment of the meeting.
- 108.12 Unless specifically provided by common consent of the Board members present or under waiver of the rules of order, only the following may address the Board or participate in the discussion of matters at a regular, special, or emergency meeting of the Board:
- (a) Members of the Board of Trustees, including the President; and
 - (b) University personnel designated by the President, subject to the approval of the chair.

109 RESERVED

110 COMMITTEES OF THE BOARD OF TRUSTEES

110.1 The Chairperson of the Board shall annually propose a structure of standing committees to be chaired by voting Board members in addition to the Executive Committee; the Audit Committee; the Budget and Finance Committee; the Academic Affairs Committee, the Student Affairs Committee; and Committee of the Whole for adoption by resolution of a majority of the Board. The membership and jurisdiction of each committee shall be as follows:

- (a) The Executive Committee shall be comprised of the Officers of the Board. The Executive Committee shall have all of the power of the Board between meetings, but the Board may limit such power by Resolution. Interim actions taken by the Executive Committee must be submitted for ratification by the Board at its next regularly scheduled meeting. If a majority fails to confirm the validity of an Executive Committee action, that action shall be deemed void ab initio. Appropriate notice of Executive Committee actions must be given to all members of the Board and to the public within five (5) business days.
- (b) The Academic Affairs Committee shall consist of a chairperson and at least two (2) other members of the Board. It shall ensure that the academic program of the University is consistent with the institution's mission and strategies; that the academic budget reflects the institution's academic priorities; that the faculty personnel policies and procedures complement academic priorities; that the institution's academic programs are appropriate for its students, that technology is effectively used to enhance the academic programs of the University; and that the institution assesses the effectiveness of its academic programs.
- (c) The Budget and Finance Committee shall consist of the Treasurer, who shall be the chairperson, and at least two (2) other members. It shall monitor the institution's financial operations; oversee annual and long-range operating budgets; ensure that accurate and complete financial records are maintained; review capital budgets for adherence to prescribed policy and guidance, present exceptions to the full Board for approval; recommend investment policies to the Board; manage asset classes; review investment expenses; and oversee accounting and financial reporting; ensure that timely and accurate information is presented to the Board; and communicate with and educate the Board on all aspects of the University's financial status.
- (d) The Audit Committee shall consist of a chairperson, who shall not be the chairperson of the Budget and Finance Committee, and at least two (2) other members. Each member of the Audit Committee shall be independent from the University and from the District Government leadership. The Audit Committee shall ensure that the financial operations of the University are in compliance with all applicable laws, regulations, and financial accounting standards; provide oversight and guidance to the University's Internal Auditor in the performance of his duties; ensure that an annual audit is conducted; select independent auditors to perform the annual audit; meet with the auditors before the process begins to

review the general scope and procedures for the audit and to discuss areas where the Committee may desire special emphasis; upon completion of the audit again meet with the auditors to review the financial statements, their report of the adequacy of internal controls, and other findings; review the auditor's "management letter"; present the financial statement to the full Board; review the results of other work done by the auditors; confer with the Office of Inspector General of the District of Columbia (OIG) regarding significant investigations into financial matters; and oversee the institution's conflict-of-interest policy, including how it pertains to the Board.

- (e) The Student Affairs Committee shall consist of a chairperson and at least two (2) other members. It shall be responsible for representing students' interest in the Board's policy-making activities; ensuring adequate resources for the student affairs programs; keeping pace with the changing needs of students; and promoting the role of the campus in the community.
 - (f) The Committee of the Whole shall consist of all members of the Board, and shall have jurisdiction concurrent with that of any committee. The Committee of the Whole may also have jurisdiction over matters not subject to the jurisdiction of any established standing committee.
- 110.2 The Chairperson may establish such advisory committees as deemed necessary to advise on policy. Such committees may consist of members of the Board, students, faculty members, parents, and governmental, educational, business, industrial, labor, and community representatives. The membership and scope of concern of each such committee shall be carefully defined. Such committees may be abolished or reconstituted by the Chair or by majority vote of the Board. The Chair may assign issues for consideration to such committees, establishing a deadline for report or recommendations. Such committees, in written reports distributed in the agenda package at least five (5) days prior to any regular meeting of the Board, may raise issues within their respective domains to the Board for consideration. Advisory committees shall not have executive powers.
- 110.3 The Chairperson shall establish the number of members, appoint the chairperson and members, subject to Section 110.1, and make determinations with respect to the jurisdiction of each standing committee of the Board.
- 110.4 The Chairperson may remove or reassign the chairperson or any member of a standing committee by notifying the chairperson or member in writing; provided, that a removed or reassigned committee chairperson may challenge such removal or reassignment by notifying the full Board of such challenge within five (5) days of the removal or reassignment, whereupon the removal or reassignment shall be subject to ratification by the full Board within thirty (30) days.
- 110.5 The Chairperson of the Board may establish ad hoc committees at any time, either by announcement at a meeting of the Board or in writing to the members of the Board.

When establishing an ad hoc committee, the Chairperson shall set forth the name, membership, and purpose of the ad hoc committee.

- 110.6 An ad hoc committee shall be dissolved upon the submission of a final report and recommendation(s) to the Board, upon the expiration of a specified term of the committee that is set forth when the ad hoc committee is established, by the Chairperson, or by vote of a majority of the Board.
- 110.7 All standing and ad hoc committees of the Board shall be composed of members of the Board of Trustees; provided that the Chairperson may appoint non-members of the Board to ad hoc or advisory committees if such persons possess knowledge, skill, experience, or training necessary for the performance of a committee's function and such knowledge, skill, experience, or training is not available among the Trustees. Any committee which shall have a majority of members who are not members of the Board shall not have executive power or otherwise have the authority to impose decisions or policy upon the Board or the University. Notwithstanding anything in this section, members of the Executive Committee and Committee of the Whole shall be comprised exclusively of members of the Board.
- 110.8 Standing and ad hoc committees of the Board shall not have executive power unless specifically provided by the provisions of this title or unless that power is specifically delegated to the committee to deal with a particular matter by official act of the Board.
- 110.9 All committees of the Board are fact-finding and deliberative bodies except as otherwise provided in this chapter.

111 MEETINGS OF BOARD COMMITTEES

- 111.1 The quorum of a committee shall consist of a majority of the voting members of the committee.
- 111.2 A Board committee may meet and hold discussions in the absence of a quorum; however, no recommendations to the Board or other matters may be acted upon in the absence of a quorum.
- 111.3 Committee meetings shall be held in accordance with a schedule established by the committee chairperson with notice to the Chairperson of the Board and President.
- 111.4 The chairperson of a committee may call a meeting of the committee by notifying the President of the date, time, and purpose of the special meeting. Committee meetings shall be public; provided that the chairperson may elect to go into executive session for matters permitted under Section 105.11.
- 111.5 Notice of committee meetings shall be given to members of the Board and public in accordance with Section 105.5.

- 111.6 The chairperson of the committee shall present recommendations of the committee to the Board in the form of a written committee report. The committee report may also contain a report of other items discussed or received by the committee for the information of the Board.
- 111.7 If a Board committee, including the Committee of the Whole, meets in executive session, no minutes or verbatim record shall be required. If the committee takes action in executive session on a personnel matter, or other matter, authorized by law, the committee shall report its action to the full Board in an appropriate manner.

112 CONDUCT OF PUBLIC HEARINGS BY THE BOARD

- 112.1 The Board of Trustees may conduct a public hearing on any matter within the jurisdiction of the Board by informing the President and the Chairperson of the Board not less than five (5) days prior to the hearing in order to provide notice to the public.
- 112.2 A public hearing conducted by a Committee of the Board shall be conducted in the manner provided by the Board of Trustees.
- 112.3 Hearings of the Committee of the Whole shall be chaired by the Chairperson of the Board or by a member of the Board designated by the Chairperson all other standing or ad hoc committees shall be chaired by the appropriate Board committee chairperson.
- 112.4 The presence of a quorum of the Board or Board Committee shall not be required to conduct a public hearing.
- 112.5 The Committee chairperson of the public hearing shall report on the hearing at the next committee or regular meeting of the Board, or at a special meeting of the Board held prior to the regular meeting when the report is an item properly on the agenda of the special meeting.

113 SEAL OF THE UNIVERSITY OF THE DISTRICT OF COLUMBIA

- 113.1 Pursuant to the authority set forth in D. C. Official Code, §38-1202.01(a) (2001 ed.), the Board of Trustees shall adopt a seal, which shall be used in accordance with this section.
- 113.2 The official corporate seal of the Board of Trustees of the University of the District of Columbia shall be used only in connection with the transaction of business by or on behalf of the Board of Trustees. When the University seal is used as the corporate seal of the Board, it shall contain the words "Board of Trustees."
- 113.3 The seal adopted by the Board under this section shall be the official seal of the University of the District of Columbia and all programs and administrative components under the jurisdiction of the Board. When used as the seal of the University, the seal shall not contain the words "Board of Trustees."

- 113.4 The seal may be imprinted or embossed. In the reproduction or other use of the seal, no alteration may be made in the design adopted by the Board.
- 113.5 The seal of the Board of Trustees may be used to authenticate or attest to documents, diplomas, records, legal instruments, and publications issued or maintained by the Board of Trustees.
- 113.6 The University seal may be used by programs and administrative components of the University to authenticate documents, records, legal instruments, and publications issued or maintained by the University.
- 113.7 The University seal may be used for decorative, or other purposes not listed in § 113.6, upon approval of the specific usage by the President or the Board.
- 113.8 The University seal shall not be used for any purpose by organizations, groups, or individuals operating outside of the jurisdiction of the Board unless written permission is secured from the President or the Board of Trustees prior to that use.
- 113.9 Other seals or logos adopted by programs or administrative components of the University may be used for decorative purposes on documents or publications approved by the President; Provided, that whenever those documents or publications require authentication, the official seal of the University shall be affixed in accordance with §113.6.
- 113.10 The President shall be the custodian of the seal of the University and may issue additional written guidelines for use of the seal.

114 REIMBURSEMENT OF BOARD MEMBER EXPENSES

- 114.1 Each Trustee may claim reimbursement for actual expenses incurred while engaging in activities necessary to and directly related to service as a Trustee in an amount not to exceed four thousand dollars (\$4,000) in any fiscal year; provided that (i) the Board may approve reimbursements totaling in excess of four thousand dollars (\$4,000) in a fiscal year, and (ii) prior approval of the Board shall be required for any single expense greater than one thousand dollars (\$1,000). All claims for reimbursement must be submitted to the President in accordance with Section 114.2 not later than one (1) year after the expense is incurred.
- 114.2 A Trustee may request reimbursement by submitting a written claim for reimbursement to the President or the President's designee. Each claim for reimbursement shall be accompanied by receipts or other documentation of expenses incurred.
- 114.3 If the President denies a reimbursement request, the President shall inform the member in writing and give the reasons for the denial within ten (10) days of receipt of the request for reimbursement. The member may appeal the denial to the Chair of the Board within

ten (10) days of the denial. The Executive Committee shall consider the matter and act to affirm the President's decision or direct immediate payment within ten (10) days.

114.4 Individual members of the Board shall be entitled to use of University facilities (including library and media services, on-campus parking, admission to athletic and University-sponsored cultural events, athletic facilities, and other facilities to which University employees have access without charge or at a nominal fee) without incurring expenses, subject to the following limitations:

- (a) Use of facilities shall be subject to the same availability criteria that are applied to employees of the University; and
- (b) Use of major facilities (such as the University auditorium), other than for official Board activities, shall be subject to payment of costs associated with the use of the facility.

115 PUBLIC DOCUMENTS AND REQUESTS FOR INFORMATION

115.1 The President shall respond to all requests for information made to the Board on behalf of the Board. This includes, but is not limited to, requests for information from members of the public, requests for information from District or federal agencies, and requests made under the Freedom of Information Act.

115.2 The President shall make all public Board resolutions, minutes, agendas, and other accompanying materials available to members of the public upon request. The President may deny any request for information made under this Section if such denial would be permissible in the case of a request under the D.C. Freedom of Information Act, as provided in D.C. Official Code § 2-534 (2001 ed.).

115.3 Documents produced under Section 115.2 shall be provided to the requestor via electronic mail, free of cost, if the documents are available in electronic medium. The President is authorized to develop fees for the production of records in other formats, provided that such fees shall not exceed the fees applicable to similar requests under the Freedom of Information Act, D.C. Official Code § 2-531, et seq.

116 COMMUNICATION OF OFFICIAL BOARD POSITIONS

116.1 The official position of the Board of Trustees of the University of the District of Columbia shall be the position adopted by the Board of Trustees by official action of the Board or shall reflect the existing policy or rules of the Board or long-standing pattern or practice.

116.2 The position of the Board with respect to any personnel matter or matter in litigation or negotiation may be determined by the Board in executive session.

116.3 Whenever the official position of the Board of Trustees on any matter is communicated to any public body or official, including any agency of the federal or District government, that position shall be communicated in the following manner:

- (a) In writing in the form of a rule, resolution, position paper, proposed rule or legislation, proposed amendment, or statement which has been adopted by action of the Board of Trustees or prepared pursuant to an action of the Board;
- (b) Orally or in writing by the Chairperson of the Board of Trustees or his or her designee; or
- (c) Orally or in writing by the President or other representative of the Board of Trustees or the University, pursuant to a specific action of the Board or otherwise in accordance with the provisions of this section.

117 - 119 RESERVED

120 ALUMNI MEMBERS OF THE BOARD OF TRUSTEES

120.1 In accordance with the provisions of D.C. Official Code, §38-1202.01 (2001 ed.), the University shall conduct elections to choose three (3) members of the Board of Trustees of the University from among those persons who hold a degree from the University or its predecessor institutions.

120.2 In accordance with the provisions of D.C. Official Code, § 38-1202.01 (2001 ed.), a person shall be eligible to appear on the ballot for the election held under this section if that person holds either of the following:

- (a) A degree awarded by the University of the District of Columbia, or any component institution of the University of the District of Columbia as provided by Section 100.3; or
- (b) A degree awarded by one (1) or more of the predecessor institutions of the University, as set forth in, § 38-1202.01(c)(3).

120.3 Notwithstanding the provisions of § 120.2 of this section, no person shall be eligible to appear on the ballot for the election held under this section if that person has been convicted of a felony as defined in the D.C. Official Code.

120.4 The President, or the President's designee, shall take all reasonable steps to ensure that each person on the ballot for an election held under this section is qualified under the provisions of §§120.2 and 120.3 of this section, and may require an affidavit of eligibility or other proof of eligibility.

120.5 Not less than ninety (90) days, nor more than one hundred eighty (180) days, before the expiration of the term of office of the incumbent alumni member of the Board of

Trustees, the President, or the President's designee, in consultation with the University of the District of Columbia National Alumni Society, shall conduct an election to fill the impending vacancy.

- 120.6 The election held under this section shall be conducted in accordance with written procedures established by the President in consultation with the University of the District of Columbia National Alumni Association and approved by the Board. The election procedures shall comply with the provisions of this section and § 38-1202.01.
- 120.7 An election held pursuant to this section shall be conducted by secret postal ballot, but may additionally include the capability for alumni to cast ballots electronically. Completed ballots may be mailed or delivered to the University.
- 120.8 The election procedures shall provide for the conduct of the election in a manner that will ensure that each eligible voter has the opportunity to cast one (1), but not more than one (1) ballot. An eligible voter is any person holding a degree from the University of the District of Columbia, or any component of the University of the District of Columbia, or any of the predecessor institutions set forth in § 38-1202.01(c)(3).
- 120.9 The election procedures shall include the manner in which nominations for candidates to appear on the ballot shall be made.
- 120.10 The election procedures shall provide for the nomination of persons by petition.
- 120.11 The President shall certify the results of an election held under this section (including the names of the persons on the ballot, the number of votes received by each person, and the name of the person elected) to the Board of Trustees at the next meeting of the Board held after the election is conducted.
- 120.12 Any question or dispute which arises in connection with the conduct of an election, the nomination of persons to be on the ballot, or any other matter in connection with the election held under this section shall be resolved by the President, or the President's designee, in the manner established by the election procedures for the conduct of the election. The determination of the President, or the President's designee, shall be the final and binding decision of the University.
- 120.13 If an office of alumni member of the Board becomes vacant due to resignation, death, incapacity, or any other reason, a special election to fill the vacant office shall be held within one hundred twenty (120) days. The provisions of this subsection shall not apply if the vacancy occurs within nine (9) months of the date on which the term of office of the incumbent was due to expire.
- 120.14 The person elected in a special election, pursuant to the election procedures established under this section, shall take office upon certification of the results of the election by the President and shall serve the remainder of the unexpired term.

121 RESERVED**122 STUDENT MEMBER OF THE BOARD OF TRUSTEES**

122.1 In accordance with the provisions of D.C. Official Code, § 38-1202.01, the University annually shall conduct an election to choose one (1) member of the Board of Trustees of the University from among the full-time students of the University.

122.2 In accordance with the provisions of § 38-1202.01, a student shall be eligible to appear on the ballot for an election held under this section if that student meets the following qualifications:

- (a) He or she is a full-time student at the University of the District of Columbia, or any component institution of the University of the District of Columbia as provided by Section 100.3, as evidenced by being enrolled in a degree-granting program and taking in the current semester not less than twelve (12) credit hours of coursework for an undergraduate student, nine (9) credit hours of coursework for a graduate student, or ten (10) credit hours of coursework for a law student.
- (b) He or she is in good standing at the University. For purposes of this section, the term "good academic standing" shall be defined as follows:
 - (1) Having earned at least twenty-four (24) undergraduate credits, twelve (12) graduate credits, or having completed the first semester of law school while enrolled as a student at the University; and
 - (2) Having and maintaining a cumulative grade point average ("CGPA") of 3.0 or higher for all undergraduate, graduate, law or professional studies students; provided that prior to the term beginning May 15, 2011, the CGPA requirement of this section shall be 2.5.

122.3 A student shall not be eligible to appear on the ballot for an election held under this section if that student has been convicted of a felony, as defined in the D.C. Official Code.

122.4 In accordance with the provisions of § 38-1202.01, a student shall be required to remain a full-time student and maintain good standing at the University, as set forth in § 122.2 of this section, in order to take office after election and to continue to hold the office of student member of the Board; otherwise the term of office of that student member shall automatically terminate and the vacant office shall be filled by election or special election, in accordance with the provisions of this section.

122.5 The President, or the President's designee, shall take all reasonable steps to ensure that each student on the ballot for an election held under this section is qualified under the provisions of §§ 122.2 and 122.3 of this section, and may require an affidavit of eligibility or other proof of eligibility.

- 122.6 Not less than thirty (30) days, nor more than sixty (60) days, before the expiration of the term of office of the incumbent student member of the Board of Trustees, the President, or the President's designee, shall conduct an election to fill the impending vacancy.
- 122.7 The election held under this section shall be conducted in accordance with written procedures established by the President and approved by the Board. The election procedures shall comply with the provisions of this section and the provisions of § 38-1202.01.
- 122.8 An election held pursuant to this section shall be conducted by secret ballot. The method of balloting shall be determined by the President.
- 122.9 The election procedures shall provide for the conduct of the election in a manner that will ensure that each eligible voter has the opportunity to cast one (1), but not more than one (1) ballot. An eligible voter is any person who is a full-time or part-time student who is registered at the University on the date of the election.
- 122.10 The election procedures shall include the manner in which nominations for candidates to appear on the ballot shall be made.
- 122.11 The election procedures shall provide for the nomination of candidates by petition.
- 122.12 The President shall certify the results of an election held under this section (including the names of the students on the ballot, the number of votes received by each candidate, and the name of the student elected) to the Board of Trustees at the next meeting of the Board held after the election is conducted.
- 122.13 Any question or dispute which arises in connection with the conduct of an election, the nomination of students to be on the ballot, or any other matter in connection with the election held under this section shall be resolved by the President, or the President's designee, in a manner established by the election procedures for the conduct of the election. The decision of the President, or the President's designee, shall be the final and binding decision of the University.
- 122.14 Except as provided in § 122.18, if the office of student member of the Board becomes vacant due to the death, incapacity, resignation, failure of the student member to maintain eligibility to hold office, or for any other reason, the vacant office shall be filled at the next regular election for the office of student member of the Board.
- 122.15 If the office of student member of the Board becomes vacant on or before February 15, a special election to fill the vacant office shall be held within forty-five (45) days of the date the office becomes vacant.
- 122.16 A student elected in a special election, pursuant to procedures established for elections under this section, shall take office upon certification of the results of the election by the

President, in accordance with the provisions of § 122.16 of this section, and shall serve the remainder of the unexpired term.

123-124 RESERVED

125 RULEMAKING RULES

- 125.1 The provisions of this section shall govern the adoption, amendment, and repeal of rules by the Board in accordance with D.C. Official Code § 2-505(a). As used in this section, any action taken to adopt, amend, and repeal rules in accordance with § 2-505(a) shall be referred to as “rulemaking.”
- 125.2 The official policies of the Board shall be set forth in the Rules of the University of the District of Columbia and codified in Title 8 of the District of Columbia Municipal Regulations ("DCMR").
- 125.3 Each proposed, emergency, and final rulemaking action by the Board of Trustees to adopt, amend, or repeal all or any part of a rule shall be by majority vote, with a quorum of the Board being present.
- 125.4 Each rulemaking action by the Board shall be pursuant to a recommendation from the Board committee with jurisdiction over the subject matter of the rule.
- 125.5 Rulemaking recommendations of a Board committee shall be subject to amendment on the floor at the meeting of the full Board at which the rulemaking action is considered.

126 DISCUSSION DRAFTS OF PROPOSED RULES

- 126.1 Prior to making a recommendation to the Board of Trustees for action on a rulemaking matter, the Board committee shall consider the rulemaking matter in the form of a Committee Discussion Draft, which shall be prepared for the committee by the General Counsel, pursuant to the direction of the committee.
- 126.2 The General Counsel shall send copies of the Committee Discussion Draft to each member of the Board and the President of the University five (5) business days prior to consideration of the matter at a meeting of the Board committee. Copies may also be sent to administrators and other members of the University community. All recommendations and input shall be attributable.
- 126.3 The Committee Discussion Draft may be revised to include all or part of the written or informal input of members of the Board and the President of the University, or the President's designee, as well as the recommendations of the General Counsel. The General Counsel may hold meetings or discussions on the Committee Discussion Draft with any member of the University community or other interested individuals or groups.

126.4 All comments and recommendations on a Committee Discussion Draft received by the General Counsel shall be presented to the Board committee along with the revised Discussion Draft at or before the meeting of the committee at which the draft rulemaking action is considered.

127 ADOPTION OF PROPOSED RULES

127.1 The initial action of the Board on the adoption, repeal, or amendment of a rule shall be the approval of a proposed rulemaking action. If the rulemaking action is to be taken on an emergency basis, the Board shall adopt an emergency and proposed rule at the same time.

127.2 The recommendation of a Board committee to the Board for rulemaking action to adopt, amend, or repeal any rule, or part of a rule, shall be in writing and shall be in a form suitable for publication in the D.C. Register in accordance with the provisions of the D.C. Documents Act and the Rules of the District of Columbia Office of Documents and Administrative Issuances.

127.3 Each recommendation for emergency rulemaking action shall include a written description of the emergency justifying the action.

127.4 Each recommendation for proposed rulemaking action with an abbreviated notice period shall include written reasons justifying the abbreviated notice period.

127.5 After Board action on a proposed rule (or an emergency and proposed rulemaking action), the General Counsel shall prepare a proposed rulemaking notice (or emergency and proposed rulemaking notice) for publication in the D.C. Register.

128 FINAL RULEMAKING ACTION

128.1 All comments on proposed rules received during the notice period after publication of proposed rules in the D.C. Register shall be forwarded to the Office of the General Counsel.

128.2 The General Counsel shall inform the Board committee and the President of all recommended modifications to proposed rulemaking action prior to committee action on a final rulemaking recommendation.

128.3 The Board committee shall meet to consider comments received and other recommendations for modifications to proposed rules prior to making a recommendation to the Board for final adoption of the rule.

128.4 If no comments are received on a proposed rulemaking action, and no recommendations for modification of the proposed rules are received, other than minor technical corrections, the chairperson of the Board committee may forward the rules to the Board for final adoption without a meeting of or action by the committee.

- 128.5 The Board shall approve the adoption of final rules at a regular, special, or emergency meeting of the Board held after the expiration of the period for public notice and comment on the proposed rules. The provisions of this subsection may not be waived by the Board, and shall not be affected by the fact that no comments or recommendations are received by the Board during the public notice period.
- 128.6 After final action by the Board to adopt, amend, or repeal all or part of a rule, the Office of the General Counsel shall prepare a final rulemaking notice for publication in the D.C. Register.
- 128.7 Certification of Board approval of the rulemaking action shall be made by the President, the President's designee, or an employee of the Office of the General Counsel who witnessed the Board action.
- 128.8 The General Counsel shall ensure that the rules submitted for publication in the D.C. Register are identical to those approved by the Board. The provisions of this subsection shall not preclude minor technical corrections (such as the correction of errors in spelling, grammar, or numbers) made by the Office of the General Counsel prior to the submission of the rulemaking action to the D.C. Office of Documents and Administrative Issuances.
- 128.9 Unless the Board action adopting final rules provides a specific effective date, the effective date of the rules shall be the date of publication of the final rulemaking notice in the D.C. Register. An effective date specified by the Board may not be earlier than the date of publication of the notice of final rulemaking in the D.C. Register.
- 128.10 The adoption of a final rule by the Board and the publication of the final rule in the D.C. Register shall have the following effect on prior Board acts:
- (a) Chapters, sections, or subsections of University Rules that are covered by the final rule and which were adopted prior to the effective date of the final rule are repealed;
 - (b) Any provision of a Board resolution that is inconsistent with the final rule is rescinded; and
 - (c) Any prior custom or practice of the University that is inconsistent with the final rule is rescinded and shall be discontinued after the effective date of the final rule.

129 RESERVED

130 REMOVAL OF A MEMBER OF THE BOARD OF TRUSTEES

- 130.1 Pursuant to the provisions of D. C. Code, § 38-1202.03, the Board of Trustees has the power to remove any member of the Board, after fair notice and an opportunity to be

heard, for adequate cause which relates to the member's character or efficiency as a Trustee.

- 130.2 Proceedings for the removal of a member of the Board shall be conducted in accordance with the provisions of this section.
- 130.3 Removal of a member of the Board shall be initiated by the filing of a Petition for Removal by one (1) or more members of the Board. The Petition for Removal shall be filed with the Chairperson of the Board (the "Chairperson") , unless the Chairperson is the subject of the petition, in which case the petition shall be filed with the Vice Chairperson of the Board. A copy of the petition shall be filed with the President of the University.
- 130.4 A Petition for Removal shall be in writing and shall set forth the name of the member of the Board who the petition seeks to remove, the name(s) of the petitioner (s) , a clear and concise statement of the reasons for removal, and a request that the Board act to remove the member. The Petition for Removal shall be signed by each petitioner.
- 130.5 Upon receipt of the Petition for Removal, the Chairperson of the Board (or the Vice Chairperson if the Chairperson is the subject of the petition) shall notify the member of the Board who is the subject of the petition of the filing of the petition. The notice shall be in writing, and shall include a copy of the petition and a copy of this section of the University Rules, and shall be personally delivered to the Board member or mailed to the Board member by certified mail, return receipt requested.
- 130.6 Within ten (10) days of the receipt of a Petition for Removal, the Chairperson (or the Vice Chairperson) shall appoint an ad hoc committee to consider the petition, provide a forum for the member of the Board who is the subject of the petition to be heard, and to make a recommendation to the Board of Trustees on the disposition of the petition.
- 130.7 The ad hoc committee appointed under §130.6 shall consist of three (3) members of the Board of Trustees, no more than one (1) of which may be a petitioner. The subject of the petition shall not serve on the ad hoc committee by appointment or ex officio, nor shall the Chairperson (or Vice Chairperson) chair the ad hoc committee.
- 130.8 The Chairperson (or the Vice Chairperson) shall designate a chairperson of the ad hoc committee who shall call and chair the meetings of the committee and present the report and recommendation of the committee to the Board of Trustees. The chairperson of the ad hoc committee shall not be a petitioner.
- 130.9 The Chairperson (or the Vice Chairperson) shall notify the member of the Board who is the subject of the petition in writing of the appointment of the ad hoc committee and the membership of the ad hoc committee.

- 130.10 The ad hoc committee shall meet to consider the petition within thirty (30) days of the date of appointment of the ad hoc committee. Meetings of the ad hoc committee shall be conducted in executive session.
- 130.11 The member of the Board who is the subject of the petition shall be given an opportunity to be heard by the ad hoc committee. The member shall also be entitled to submit to the ad hoc committee a written response to the petition in addition to having an opportunity to be heard by the committee.
- 130.12 The member of the Board who is the subject of the petition shall be entitled to be represented by counsel or any representative of his or her choice, and may present witnesses and documentary evidence on his or her behalf.
- 130.13 If the member of the Board who is the subject of the petition is unable to appear before the ad hoc committee on any of the dates suggested by the chairperson of the committee, the member may propose alternative dates within the thirty (30) day time frame by submitting at least three (3) alternative dates in writing to the committee chairperson. The chairperson shall then set a date for the committee meeting.
- 130.14 The meeting of the committee at which the member of the Board who is the subject of the petition is heard shall be conducted without formal rules of evidence. The member of the Board shall be heard without questioning or rebuttal by the committee.
- 130.15 Within ten (10) days of the conclusion of the meeting of the ad hoc committee, the chairperson of the committee shall prepare a written report and recommendation to the Board. The members of the committee shall sign the report and indicate their concurrence with the report. A majority of the ad hoc committee must concur in the report and recommendation. If a member of the committee does not concur with the report and recommendation, he or she may prepare, sign, and file a written dissent.
- 130.16 The chairperson of the ad hoc committee shall file the report with the Chairperson of the Board (or the Vice Chairperson if the Chairperson is the subject of the petition) with a copy to each member of the Board and the President of the University.
- 130.17 As soon as practicable after receiving the report and recommendation of the ad hoc committee, the Board of Trustees shall meet (at the call of the Chairperson or Vice Chairperson) as a Committee of the Whole in executive session to consider the report and vote on the Petition for Removal.
- 130.18 Action by the Board of Trustees to remove the member of the Board who is the subject of the petition shall require the affirmative vote of a majority of the Board. The member who is the subject of the petition shall be entitled to attend the meeting of the Committee of the Whole (without representation) and shall be entitled to participate in the discussion and vote.

130.19 Removal of the member of the Board shall be effective immediately upon announcement by the chair of the Committee of the Whole of an affirmative vote to remove. If the member of the Board who is removed is not present, he or she shall be notified as soon as practicable by the chair of the Committee of the Whole.

UNIVERSITY OF THE DISTRICT OF COLUMBIA**NOTICE OF FINAL RULEMAKING**

The Board of Trustees of the University of the District of Columbia pursuant to the authority set forth under the District of Columbia Public Postsecondary Education Reorganization Act Amendments ("Act") effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code §§ 38-1202.01(a)), hereby amends Chapter 2 of Title 8-B, DCMR. The purpose of the Final Rule is to update and modernize Chapter 2. The proposed rule was published in the *D.C. Register* on December 25, 2009 and May 7, 2010. See 56 DCR 9592 and 57 DCR 4049. All public comment received pursuant to the Notice of Proposed Rulemaking was duly considered by the Board. The Board accordingly hereby adopts this Final Rulemaking. This Final Rulemaking will be effective upon publication in the *D.C. Register*.

The Board of Trustees of the University of the District of Columbia hereby deletes the current Chapter 2 of Title 8-B, DCMR, and inserts in its place the following:

200 THE PRESIDENT OF THE UNIVERSITY

- 200.1 The Chief Executive Officer of the University, appointed by the Board of Trustees (the "Board") pursuant D.C. Official Code § 38-1202.06(10), shall be the President of the University of the District of Columbia (the "President"). The President shall report directly to the Board.
- 200.2 Whenever a vacancy exists in the office of the President, or whenever the Board has notice that a vacancy will exist, the Board shall appoint a committee to be Chaired by a voting member of the Board to conduct an orderly search for candidates for appointment to the office of President. When the office of the President is vacant, the Board shall appoint an individual to serve as Interim President or Acting President within 30 days of the vacancy.
- 200.3 Appointment of the President, including the renewal of an existing appointment, shall be by affirmative vote of a majority of the Board.
- 200.4 The terms and conditions of the appointment of the President, including compensation and benefits, shall be set forth in a contract of employment which shall be negotiated with the appointee in a manner directed by the Board and shall be subject to ratification by an affirmative vote of the majority of the Board.
- 200.5 A housing allowance or a University residence in the District of Columbia may be provided for the President.

201 DISMISSAL OF THE PRESIDENT FOR CAUSE

- 201.1 The Board may dismiss the President at any time for cause.

- 201.2 Upon request made within ten (10) calendar days after the Board action of dismissal, the President shall be furnished a statement of the charges against him or her.
- 201.3 If the President demands a hearing on his or her dismissal, a hearing shall be held within ten (10) calendar days after the receipt of the charges by the President.
- 201.4 The hearing shall be held before the Committee of the Whole of the Board, in executive session, in accordance with procedures adopted by the Board. The President shall be entitled to present a response and defense to the charges presented, either personally or through counsel of the President's choosing.
- 201.5 The Board may retain special counsel to represent the Board for the purposes of this section as the Board deems appropriate.
- 201.6 Dismissal of the President for cause shall be by a majority of the Board.

202 GENERAL AUTHORITY AND DUTIES OF THE PRESIDENT

- 202.1 The President shall have authority and responsibility for the academic and administrative affairs and operations of the University and the components thereof established under Section 100.3 subject to the provisions of this Title and applicable law.
- 202.2 The President may delegate to his or her subordinates any of the duties and authority of the office of President, except the following:
- (a) Service as a non voting ex officio member of the Board; and
 - (b) Responsibilities reserved solely to the President under the provisions of this subtitle or other applicable law or regulation.
- 202.3 The President shall fix the calendar of the University.
- 202.4 Upon the recommendation of the faculty, the President shall, in the name of the Board, award degrees to candidates who meet all of the requirements and prerequisites for the respective degree or concentration.
- 202.5 The President shall provide for awarding fellowships, scholarships, and academic prizes from appropriations, gifts, or endowments approved for these purposes.
- 202.6 Subject to the provisions of this title and applicable law, the President may appoint, promote, demote, and dismiss University employees. The President may also determine compensation for, non-administrators. The President shall recommend for approval by the Board through the Executive Committee, or committee determined by the Board Chair the compensation of all administrators and non-administrators at pay grade level 1A and above.

203 FUND-RAISING AND GIFTS

- 203.1 The President shall develop, initiate, implement, and approve fund-raising campaigns for the benefit of the University.
- 203.2 The President may determine, consistent with any expressed intent of the donor, if applicable:
- (a) The purpose(s) for which the gift shall be used; and
 - (b) Whether income or principal, or both, shall be used.
- 203.3 The President may utilize gifts to support established University programs or to fund new or special programs, in accordance with the provisions of this subtitle.
- 203.4 The President shall determine whether any condition on the receipt of a gift, or the purpose(s) for which the gift will be used, will require expenditure of additional or supplementary funds by the University and shall provide for inclusion of required expenditures in the University financial plan subject to Board approval. In no event shall the acceptance of any gift by the University constitute a commitment requiring expenditures in excess of budgeted items.
- 203.5 The President may return to the donor all or any unused portion of a gift of personal property when the purposes of the gift have been fulfilled or fulfillment has become impossible or impractical and alternative uses are precluded.

204 BUDGET AND FINANCIAL ADMINISTRATION

- 204.1 The President shall annually prepare a budget for the University, including a plan for operating and capital expenditures and shall provide the Board copies of the proposal and all necessary back up documentation not less than 10 days prior to any Board or Committee on Budget and Finance for review and consideration of approval. As part of the budget process, the President shall prepare a request to the Mayor and Council for District appropriations for the support of the University subject to approval by the Board prior to submission to the Mayor or the Council of the District of Columbia of a final.
- 204.2 Prior to the beginning of each fiscal year, the President shall prepare a financial plan for control of expenditures by the University. Upon approval of the financial plan by the Board, the President shall manage the expenditures of the University in accordance with the financial plan. All modifications of the financial plan including shifting or reallocations of funds within programs or other areas over \$250,000 must be approved by the Budget and Finance Committee and reported to the Board. Cumulative modifications during the fiscal year of the financial plan that are \$1 million and over must be approved by the Board.

- 204.3 During the fiscal year, the President shall recommend to the Board for its approval modifications of the financial plan based on changes in the District appropriation, actual or projected revenues, cost of programs and operations, academic program needs, or other factors. Reprogramming of appropriated budget authority shall be in accordance with applicable District law.
- 204.4 The President shall make timely recommendations to the Board for the establishment or modification of tuition, fees, and other assessments to be paid by students of the University.
- 204.5 The President shall make recommendations to the Board for a capital improvement program, including recommendations for the addition of a new project or a deletion, substantial modification, or change in the priority of an approved project for Board approval and shall provide all necessary back up documentation necessary not less than 10 days prior to any Board or Committee on Budget and Finance for review and consideration of approval.
- 204.6 The President may negotiate and approve indirect cost rates to be applied to contracts and grants. The use of indirect cost funds shall be included in the annual financial plan.
- 204.7 The President may approve the write-off of debts owed to the University deemed uncollectible, subject to ratification by the Board as part of the financial plan. The President shall ensure that adequate reserves are maintained to allow for uncollectible debts.
- 204.8 The President may write off routine disallowed claims under grants and contracts against funds received from the federal government in reimbursement of indirect costs.

205 EXECUTION OF CONTRACTS AND OTHER DOCUMENTS

- 205.1 Except as otherwise specifically provided in this section or in this title, the President may execute on behalf of the University all contracts and other documents, including documents to solicit and accept pledges, gifts, and grants.
- 205.2 Notwithstanding any provision of this section to the contrary, the President may execute all documents necessary in the exercise of the President's duties when an emergency precludes prior submission to the Board; Provided, that in all cases the President shall submit to the Board within forty-eight 48 hours a written justification for actions taken, the impact, including fiscal, of the actions and a request for ratification of the action(s) by majority vote of the Board.
- 205.3 The President may provide for execution claims against debtors in bankruptcy, in receivership, or in liquidation, and against estates of deceased persons.

205.4 Specific authorization by the Board shall be required for the following documents or any transaction that would establish an exception to the University Rules as set forth in this subtitle:

- (a) Any commitment for more than seven (7) years; or
- (b) Each transaction that would require any of the following:
 - (1) Modification of the financial plan in excess of the reprogramming authority delegated to the President;
 - (2) Modification of the capital improvement program; or
 - (3) Obligating the University to expenditures or costs for which there is no established funding source.
- (c) Any commitment of greater than one million dollars (\$1,000,000) in a single fiscal year.

205.5 Specific authorization by the Board shall be required for any of the following:

- (a) Acceptance of any pledge or gift in excess of one million dollars (\$ 1,000,000) in cash or estimated value;
- (b) Agreements for the provision of employee group insurance benefits;
- (c) Affiliation agreements involving direct financial obligations or commitments by the University to programs or projects not included in the financial plan;
- (d) Applications for licenses to operate radio or television broadcast equipment; and
- (e) Agreements under which the University assumes liability for the conduct of persons other than University officers, employees, agents, students, invitees, and guests. This restriction shall not apply to agreements under which the University assumes responsibility for the condition of property in its custody.

206 RESERVED

207 RESERVED

208 COMPENSATION OF ADMINISTRATORS

208.1 The Board shall determine Executive compensation for administrators and non-administrators at Grade level 1A and above, including initial compensation upon appointment and subsequent changes in compensation, upon recommendation of the

President through the Executive Committee or appropriate committee determined by the Board Chair.

208.2 Compensation of administrators of the University with "acting" status shall be approved in the same manner in 208.1.

209 RESERVED

210 EXECUTIVE APPOINTMENTS: GENERAL PROVISIONS

210.1 In order to allow the President to appoint highly qualified and experienced executive talent to senior administrative positions, as well as to provide flexibility in making top administrative appointments, the President is authorized to make executive appointments to designated positions in the Educational Service, in accordance with the provisions of §§ 210 through 212 subject to the provisions of this Title and applicable law.

210.2 Except as required under § 212, an executive appointment may be made on a noncompetitive basis. Each executive appointee shall be qualified based on job description submitted by the President and approved by the Executive Committee for the position to which he or she is appointed. The Executive Committee shall also review the qualifications of the appointee being considered prior to the appointment being made.

210.3 Executive appointments are "at will" appointments and executive appointees shall serve at the pleasure of the President. A person serving under an executive appointment shall not have any job tenure or protection in that position. An executive appointment may be terminated at any time without appeal or right to compensation.

210.4 The President may appoint a current employee to serve in an "acting" status in a position designated to be filled by executive appointment without requiring that employee to resign from his or her current position. Compensation of appointees with "acting" status shall be determined in accordance with the provisions of §210.6 and other applicable subsections of this chapter. Service in an "acting" status in a position designated to be filled by executive appointment shall be limited to one (1) year. The President shall seek Board approval for an extension forty five (45) days prior to the year ending if he/she determines and can demonstrate that additional time is needed. Should an extension be approved by the Board the President shall provide the Board immediately with a plan and time line for making the permanent appoint within ninety day (90) of the end of the one (1) year period should the appointment be necessary.

210.5 The President shall determine compensation for each executive appointment at grade level 2A and below, including initial compensation upon appointment and subsequent changes in compensation, in accordance with the level of responsibility of the position, the experience and qualifications of the appointee, and other factors, in accordance with the administrative pay scale approved by the Board.

- 210.6 The Board shall determine Executive compensation for administrators and non-administrators at Grade level 1A and above, including initial compensation upon appointment and subsequent changes in compensation, upon recommendation of the President through the Executive Committee or appropriate committee determined by the Board Chair.
- 210.7 Compensation of administrators of the University with “acting” status shall be approved in the same manner in 210.5-210.6.
- 210.8 A University employee who is a permanent incumbent and who is serving in a position designated to be filled by executive appointment shall retain all the rights and benefits of his or her permanent employment status and shall not be converted to an executive appointment. However, once the incumbent vacates the position (due to reassignment, resignation, or other reason), the person subsequently appointed to fill the position shall be subject to the executive appointment provisions of this section.
- 210.9 The President shall not enter into any agreements with interim/acting executive appointees that grant tenure or right of employment in any faculty, administrative or other University position unless such person holds permanent or tenured faculty rank at the University or approved by the Executive Committee.
- 210.10 There shall be no interim appointments to executive positions. Any existing appointments shall be acting and shall expire ninety (90) days from the final rulemaking of this section.

211 EXECUTIVE APPOINTMENTS: NON-ACADEMIC ADMINISTRATORS

- 211.1 The following administrative positions shall be filled by executive appointment and shall be ratified by the majority vote of the Board:
- (a) Non-academic vice presidents;
 - (b) General Counsel; and
 - (c) Internal Auditor.
- 211.2 The President may designate any position which reports directly to the President or any senior management or legal position of Administrative Salary Grade Level of 2B or higher which reports directly to a vice president to be filled by executive appointment.
- 211.3 The President, in his or her discretion, may conduct a formal or informal search or provide for a recruitment process to fill a position by executive appointment under this section.
- 211.4 An employee of the University with permanent status who accepts an executive appointment under this section shall not have reversionary rights to return to the same

position upon termination of the executive appointment. However, upon termination of the executive appointment, the former executive appointee shall retain his or her employment status at the University and shall be assigned to a position at the same level that he or she held at the time of the executive appointment.

- 211.5 A person newly hired under this section may, upon termination of the executive appointment, apply for competitive appointment to a position in the Educational Service for which he or she is qualified.

212 EXECUTIVE APPOINTMENTS: ACADEMIC ADMINISTRATORS

- 212.1 The following positions shall be filled by executive appointment:

- (a) Provost;
- (b) Deans of academic colleges;
- (c) Associate and assistant deans of academic colleges; and
- (d) Community College Chief Executive Officer.

- 212.2 The appointment of faculty members to serve in administrative positions which report directly to the Provost, Community College Chief Executive Officer or a dean shall be an executive appointment.

- 212.3 The President shall provide for a formal search and selection process, including active faculty and Board participation, to fill the positions of Provost, academic dean, and Chief Executive Officer of the Community College. If the Provost, Community College Chief Executive Officer, or a academic dean position is vacated, the President shall name an acting for a period not to exceed one (1) year from the date of the vacancy, and administrative leave shall not be considered time in the position. For other executive appointments under this section, the President, in his or her discretion, may conduct a formal or informal search or provide for a recruitment process to fill a position by executive appointment. Such process shall be completed within one (1) year of the time of vacancy.

- 212.4 A person newly hired for the position of Provost or academic dean may be granted academic title and rank with tenure in the department in which he or she is qualified at the recommendation of the President and approval by the Board through the Executive Committee or Committee designated by the Chair.

- 212.5 A person who holds permanent or tenured faculty rank at the University and who accepts an appointment to an academic administrative position under this section shall not be required to resign from his or her faculty position and shall have the right to return to his or her faculty position upon termination of the executive appointment.

212.6 During a simultaneous appointment to an academic administrative position under this section, a faculty member shall be subject to the terms and conditions of employment set forth in the executive appointment. The faculty member shall be deemed to be on leave of absence from his or her faculty position, but shall retain simultaneous faculty title and rank.

212.7 When a person holding faculty rank accepts an executive appointment to an academic administrative position, he or she shall be a full-time, twelve (12) month employee and shall receive compensation and benefits as set forth in the executive appointment, in accordance with the provisions of § 210.5, until termination of the executive appointment.

213 APPOINTMENT AND REMOVAL OF DEPARTMENT CHAIRS

213.1 Subject to the approval of the Provost, the dean shall appoint the chair of each department. Each appointee shall serve at the pleasure of the dean, and shall be subject to annual review and evaluation by the dean.

213.2 The dean shall consult with the members of the faculty of a department on the appointment of the department chair, pursuant to a uniform process approved by the Provost.

213.3 To be eligible to serve as a chair, a person shall be a member of the department faculty who holds the rank of Associate Professor or Professor. A dean may appoint a faculty member who does not meet the requirements of this subsection to be "acting" chairperson for a term of not more than one (1) year.

213.4 Each department chair shall be paid his or her regular faculty salary for services performed during the academic year. If the services of the department chair are required for all or part of a summer term, compensation for those services shall be determined by the President in consultation with the Provost and the deans.

213.5 A department chair shall not be required to provide services as chair beyond the academic year. If a chair is not available to provide services needed beyond the academic year, the dean may appoint an "acting" chair to serve during the interim period.

213.6 The faculty of a department may petition the dean for the removal of the department chair by two-thirds (2/3) majority vote of the regular, full-time faculty of the department. The decision to remove or retain the chair shall be at the discretion of the dean after consultation with the Provost.

213.7 Reduced teaching loads requirements for each department chair shall be determined by the dean and approved by the Provost.