



DISTRICT OF COLUMBIA  
BOARD OF ELECTIONS  
WASHINGTON, D.C. 20003



**MINUTES OF THE BOARD OF ELECTIONS REGULAR MEETING**  
**December 14, 2018**

The District of Columbia Board of Elections (“the Board”) held its Regular Monthly Meeting on Friday December 14, 2018 in the Board’s Hearing Room, located in Suite 750, 1015 Half Street, S.E., Washington, D.C. 20003. The Board’s Chairman Michael Bennett was present, and Board Members Dionna Lewis and Michael Gill also attended. Additionally present on the dais were Kenneth McGhie, the Board’s General Counsel; Cecily Collier-Montgomery, Director of the Office of Campaign Finance; and Alice Miller, the Board’s Executive Director.

**Chairman Bennett** called the meeting to order at 1:52 p.m.

- **BOARD ACTION:** agenda and minutes from last meeting were adopted.

**Ms. Collier-Montgomery gave the Director of Campaign Finance report:**

- The first thing I would like to report is that the Office of Campaign Finance has been reorganized, consistent with the enactment of D.C. Law 22-94, the Fair Elections Amendment Act of 2018. As you know, the law became effective on May 5, 2018, and the provisions of the law became applicable on November 7, 2018.
- The Council, in the budget for the Office of Campaign Finance for fiscal year '19, also included three audit positions for the division, as well as an information technology specialist. The Fair Elections Program will be responsible for providing for the public financing to candidate who are deemed eligible to participate in the program.
- During the month of November, there was one filing date. That date was the 8th day pre-special election report of receipts and expenditures for candidates who participated in the Ward 4 State Board of Education election. All of the participating committees timely filed their reports, as well as electronically filed their reports.
- Referrals to the Office of the General Counsel with respect to the October 10th Report of Receipts and Expenditures include the following:
  - Melik for At-Large, Melik Ahmir Abdul, treasurer; Friends of Traci Hughes, Traci Hughes, treasurer; Rosenberg for Ward 6, Clayton Rosenberg, treasurer; Dibinga for D.C., Omekongo Dibinga, treasurer; Committee to Elect James Butler for Mayor 2018, Terrence Jordan, treasurer; George Jackson for D.C. Mayor, George Jackson, treasurer; The Committee to Elect Professor Alpha Bah, Esq., MBA, Alpha Bah, treasurer; Dustin DC Canter for Mayor, Tabitha Zimmerman, treasurer; Nate Brown Mr. Ward 6, Christina Brown, treasurer; Wreh for Council, Chayanne Tweh, treasurer; Friends to Elect Calvin H. Gurley, Calvin Gurley, treasurer; Ameer Flippin, Ameer Flippin, treasurer; Citizens to Elect Bill Lewis, Charlotte Lewis, treasurer.
  - The political action committees which were referred for the failure to timely file the 8th day pre-general report were DC Choice, David Pope, treasurer; DC Democratic State Committee, John Hugh Allen, treasurer; Foodservice PAC, Sam LeBlanc, treasurer; Metro DC Democratic Socialists of America, Solidarity DC

PAC, Gabriel Rodriguez, treasurer; Ward One Democrats, Daniel Orlaskey, treasurer; DC for Democracy PAC, Vasudevan Abhiraman; Economic and Protection Party, Margaret Smith, treasurer; Holland & Knight DC PAC, Dennis Horn, treasurer; Ward 5 Democrats, William Lewis, treasurer.

- New candidates and committees who registered with the Agency include: Save our Votes, no D.C. Council repeal of Initiative 77 referendum, registered on November 1, 2018; and D.C. Proud 2019 Inaugural Committee, registered on November 14, 2018.
- The audit branch conducted 133 desk reviews. Those were desk reviews of political action committees, our constituent service funds, as well as our principal campaign committees.
  - The full field audit of Sheika Reed for Ward 1, which was initiated on August 29, 2018.
  - The periodic random audits include: Kenyon McDuffie, 2018, which was initiated March 22, 2018; the June 10, 2018 filing, Anita Bonds, 2018, initiated September 11, 2018; a periodic random audit of a constituent service program for the October 1, 2018 filing, Mayor Bowser's Constituent Service Fund.
- OCF issued two audit reports, our Ward 5, which was issued on December 5, 2018, and the Citizens Outreach Fund, which was issued on November 7, 2018.

**William SanFord presented the report of the General Counsel.**

- During the month of November 2018, the Office of the General Counsel received 29 referrals. Twenty-two of the referrals were from the Public Information and Records Management Division, and seven referrals were transmitted from the Reports Analysis and Audit Division.
- During the month of November 2018 the Office of the General Counsel completed 10 informal hearings, and issued 6 orders, which included the following: 2 orders regarding failure to timely file reports of receipts and expenditures were issued, which imposed fines that totaled \$2,350 dollars. And 4 orders regarding failures to timely file reports of receipts and expenditures in which no fines were imposed were also issued.
- During the month of November 2018 the Office of the General Counsel imposed fines against the following respondents A fine of \$1,650 was imposed against Justin Green, a candidate for the at-large council position. A fine of \$700 was imposed against Dustin DC Canter for Mayor, who ran for mayor in 2018 election cycle.
- Office of the General Counsel collected a total of \$3,000 dollars in fines, from Jeffrey Thompson, which is in installment payment. That was part of an agreement that was reached between Mr. Thompson and the Office of the General Counsel in December of 2017.

**Ms. Miller gave the Executive Director's report.**

- The Board conducted the December 4th special election for the Ward 4 State Board of Education member.
  - I would request that the Board certify the winner of that election, who is Frazier O'Leary who won that election, so we need a motion to certify Frazier O'Leary as the winner of the Ward 4 State Board of Education.

- **BOARD ACTION:** The Board certified Mr. Frazier O'Leary as the winner of the Ward 4 School Board seat.
- Subsequent to the November 6th general election, we had several requests for recounts that were filed. Because of those recounts, we have a new certification for 4C08, Leah Anderson, 8E01, Oye Owolewa, and that's it.
  - **BOARD ACTION:** The Board certified 4C08 and 8E01, Leah Anderson and Oye Owolewa respectively as the the winners of the ANC contests.

**Mr. McGhie presented the General Counsel's report.**

- There are 15 petitions for enforcement that we would like to have the Board address, so that we can have orders, in order to file them in D.C. Superior Court for enforcement.
  - Docket No. 15C-067, respondent's name is Patterson for Ward 8. The amount of the fine is \$1,650, and the missing filing is the August 17th filing from 2015; 16C-003, again Patterson for Ward 8. The amount of the fine is \$1,600, and the missing filing is the February 17 2016; 16C-040, again Patterson for Ward 8. The fine amount is \$1,500, and the missing filing is the March 30th filing; 17C-001, Toliver for Ward 4. The fine amount is \$1,750, and the missing filing is reports of receipts and expenditures from February 17; 17C-003 the amount of the fine is \$850, and the missing filing is the reports of receipts and expenditures from February 17, 2017; 17C-006, Holmes for Ward 8. The fine amount is \$1,450, and the missing filing is a report of receipts and expenditures from February 17, 2017; 17C-011, Toliver for Ward 4. The amount of the fine is \$2,650, and the missing report is the report of receipts and expenditures from August 16, 2017; 17C-014, again, Patterson for Ward 8 the fine amount is \$1,700, and the missing report is the August 16, 2017; 17C-017, Committee to Elect Natalie Williams. The amount of the fine is \$2,650, and the missing report is the report of receipts and expenditures from August 16, 2017; Justin Green at large, 17C-019. The fine amount is \$2,650, and the missing report is, again, the August 16, 2017 report of receipts and expenditures; 17C-020, Sheila Bunn for Ward 8. Fine amount is \$1,700. Missing report is the August 16, 2017 report of receipts and expenditures; 17C-021, Carter at large, 2014. The fine amount is \$1,700, and it's the August 16, 2017; 17C-023, Lannette Woodruff for School Board. The fine amount is \$200; 17C-024, Committee to elect Jacque Patterson, 2016. The amount of the fine is \$200. It's a report of receipts and expenditures from August 16, 2017; the final matter is 17P-008, D.C. Recovery Act for Living Descendants. The fine amount is \$1,800, and the missing report is the report of receipts and expenditures from August 16, 2017.
  - **BOARD ACTION:** The Board accepted Mr. McGann's report and resolved to issue orders on each one of the petitions for enforcement before the D.C. Superior Court for an order of enforcement.
- I have emergency and proposed rulemaking to amend Title 3, DCMR, Chapter 5, Voter Registration. The purpose of the amendment is to provide means for voters who are victims of covered offenses or covered employees, as defined in the Address Confidentiality Act of 2018, to make their voter records confidential.
  - **BOARD ACTION:** The Board accepted the emergency rulemaking.

- A proposed rulemaking to amend Title 3, DCMR, Municipal Regulations, Chapter 42. Those are Office of Campaign Finance regulations. I will defer to Ms. Montgomery to explain the nature of that proposed rulemaking.
  - The amendment would amend Title 3 of District of Columbia Municipal Regulations to include two new chapters. Those chapters are designed for the implementation of the Fair Elections Program.
  - Chapter 42 includes the general provisions of the program, including registration, mandatory filing, contribution limits, etc. Chapter 43 only covers disclosure information and, also, the disposal of surplus property.
  - **BOARD ACTION:** The Board accepted the proposed rulemaking.
- Litigation status update. The Board is in court on Graham v. D.C. Board of Elections. That was a case dealing with the referendum measure. Proponents of the referendum filed a referendum on October 31st to suspend an act of the Council.
  - The plaintiffs alleged that there was not proper notice by the Board in its initial meeting, when it decided on the proper subject and when it made the formulation of the language. They also alleged that the formulation of the Board's language was improper or was misleading. Finally, they challenged the Board's determination that it was a proper subject for a referendum. Judge Kravitz ruled in favor of the plaintiffs on the notice issue. directed that the Board could take no further action on processing the referendum.

**Ms. Dorothy Brizill presented public matters:**

- On Mr. McGhie's last item regarding the litigation that was filed in Graham v. The Board of Elections concerning Referendum 008, I would like a better sense of where the Board is on its belief regarding the requirement of notice.
  - What troubled me is Paragraph 9 of the Board of Elections' Motion to Dismiss, where it states -- your attorney has written prior to the discussion of the subject matter at your November 9th Board of Elections public hearing, the Board addressed the procedural issue of whether the hearing was properly noticed.
  - As you know, the public notice of a hearing scheduled by the Board of Elections did not appear in the D.C. Register until November 9th, the very day of the public hearing.
  - CHAIR BENNETT: Right now, what I can refer you to is simply what you read and what you already have. After we finish our analysis and make some assessments, Mr. McGhie indicated earlier that we were considering appealing. We'd be happy to share our rationale with you. Right now, anything I give you is simply stream of consciousness and part of our thought process.
- In your filings in the court, you make a big issue of indicating that the notice and the language of the referendum was published on your website. It was not, and I have email exchanges with your public information officer because it was not there. There was a banner headline saying it was supposed to be there, but the language, itself, was not there.

- The final thing I would ask about is the extent to which you're using closed-door meetings.
- This Voter Confidentiality Act. What is its implications for those who are trying to verify whether or not someone is a registered voter? Are those records going to be redacted, so that we won't be able to find out, or how is it going to work?
  - They're going to be treated like any other confidential voter. We have Supreme Court individuals that have confidential voters. We have judges that are confidential voters. I believe that it's just that no individual that's looking at the voter roll will be able to look at what their actual address is.

**Mr. Gottlieb Simon presented public matters:**

- Over the most recent decade, we have had that issue come up more than once. In fact, almost every election since -- to me, it might be 19, but actually since 2008, a person who has withdrawn gets more votes than somebody else.
- I would like to suggest that we do something so that the confusion, and sometimes the embarrassment for all parties involved, could be mitigated. I would suggest that we perhaps put something into the regulations that would make this clear.
- So a suggestion that we need to do something so that when people look at the regulations -- and I tried to find a clear statement in the regulations that would tell somebody that just because you're the runner up, you don't get to be the person who takes the seat.
- CHAIR BENNETT: So what you're asking us to do is to clarify the regs to make it clear that there is a vacancy that has occurred in those cases where the winner cannot be seated.

There being no further business before the Board, the meeting adjourned at 2:44 p.m.