

MINUTES OF THE BOARD OF ELECTIONS REGULAR MEETING

August 26, 2021

The District of Columbia Board of Elections (the Board) held its Regular Monthly Meeting on Thursday, August 26, 2021, telephonically. Board Chairman Michael Bennett, Board Member Michael Gill, and Board Member Karyn Greenfield were present. The Board's Executive Director, Monica Evans, the Board's General Counsel, Terri D. Stroud, the Director of the Office of Campaign Finance (OCF), Cecily Collier-Montgomery, and OCF's General Counsel, William Sanford, were also present.

CALL TO ORDER (10:30 am)

ASCERTAINMENT OF QUORUM

- Board Chairman Bennett and Board Members Gill and Greenfield constitute a three-member quorum to conduct business.

ADOPTION OF AGENDA/APPROVAL OF MINUTES

- **BOARD ACTION:** The Board unanimously adopted the amended agenda and minutes from the last meeting held on July 7, 2021.

BOE OGC JULY 2021 REPORT (GENERAL COUNSEL STROUD)

- **Emergency and Proposed Rulemaking**
 - Amendment to Chapter 6, Section 602 to reflect the provisions in the Initiative and Referendum Process Improvement Amendment Act of 2020, which provides that a write-in candidate must declare their candidacy no later than 4:45 p.m. on the third (3rd) day immediately following a primary election, and no later than the seventh (7th) day following a general or special election
 - Amendment to Chapter 7 is to place it into conformity with the Initiative and Referendum Process Improvement Amendment Act of 2020, which provides that District government employees who are not District residents or qualified electors may serve as polling place officials.
 - Amendment to Chapter 11, Section 1100 to outline the rules that shall apply to the counting of words in a proposer's statement in a Recall Notice and the elected official's response thereto.

Each rulemaking shall remain in effect until Friday, December 24, 2021 (one hundred and twenty (120) days from the adoption date), unless superseded by publication of a Notice of Final Rulemaking in the D.C. Register.

- **BOARD ACTION:** Unanimously approved the motion for emergency and proposed rulemaking to be submitted to the D.C. Register to take effect upon publication.

- **Proper Subject Matter Determination Hearing for the “Elizabeth Davis Education Equity (EDEE) Pathway Policy Act of 2022” Initiative (continued)**
 - During the proper subject hearing held on Wednesday, July 7, 2021, the Board provided Mr. Boston an opportunity to address the issues noted in advisory opinions submitted by the General Counsel for the D.C. Council and the Office of the Attorney General (OAG).
 - Both opinions indicated the proposed initiative was not a proper subject for initiative because it constituted a law appropriating funds.
 - On August 1, 2021, Mr. Boston submitted a response to the advisory opinions which stated that the measure would not require the appropriation of funds because all employees are current DCPS and Department of General Services employees, many of whom are trade professionals licensed through the D.C. Board of Industrial Trades, which would create a pathway qualifying students for apprenticeship licenses.
 - Mr. Boston testified at the hearing that:
 - The city’s laws, policies, and procedures create the context that perpetuates the cycle of poverty and violence;
 - The initiative will start the process of restoring the opportunity for the city’s youth to be productive and professional;
 - The majority of the city’s high school students remain unemployed or unprepared for college; and
 - There is no reason why there cannot be a measure or pathway in which young people are exposed to opportunities.
 - General Counsel Stroud recommended that the proposed initiative measure not be accepted on the grounds that it is not a proper subject for an initiative because it is a law of appropriating funds.
 - **BOARD ACTION:** Unanimously accepted General Counsel Stroud’s recommendation and rejected the measure.

- **Proper Subject Matter Determination Hearing for Proposed Initiative Measure “District of Columbia Full Minimum Wage for Tipped Workers Amendment Act of 2022”**
 - On June 22, 2021, the measure was filed with the Board's Voter Services Division and was accompanied by a verified statement of contributions that was filed on June 21st with the OCF.
 - Advisory opinions received from the General Counsel for the D.C. Council and the Office of the Attorney General indicate that the measure is a proper subject for initiative.
 - There were no opponents of the proposed initiative present, and the Board did not receive any written testimony in opposition to the measure prior to the hearing.
 - Members of the public who spoke to the Board in support of the proposed initiative include:
 - Ryan O’Leary (Proposer)
 - Adam Eidinger
 - Deion King

- Julian Johnson
 - General Counsel Stroud recommended that the initiative measure be accepted as a proper subject for initiative.
 - **BOARD ACTION:** Unanimously approved General Counsel Stroud’s recommendation and accepted the measure.
- **Adoption of Petition to Recall Sydelle Moore, Advisory Neighborhood Commissioner for SMD 5D05**
 - Recall Petition was filed on July 22, 2021 by proposer Kathy Henderson, a registered voter in SMD 5D05.
 - Ms. Henderson alleges that Ms. Moore’s response to the recall petition is defamatory and was unrelated to the statement of reasons to recall. Ms. Henderson suggests that all statements made against Ms. Moore can be verified.
 - Ms. Henderson adopted the petition as drafted, and the Board approved its issuance to the proposer.
 - The Voter Services Division read the report on the recall petition into the record, which included the procedural history of the recall, the projected signature requirements, and the timeframe for petition circulation.
- **Adoption of Petition to Recall Holly Muhammad, Advisory Neighborhood Commissioner for Single Member District 8A01**
 - Recall Petition was filed on July 23, 2021 by proposer Thomas Donohue Jr., a registered voter in SMD 8A01.
 - Mr. Donohue alleges that Ms. Muhammad’s response to the recall petition is unnecessary and unrelated to his listed statement of reasons to recall.
 - Mr. Donohue inquired if the Board could remove Ms. Muhammad’s unrelated responses since the response will be released publicly and would interfere with him collecting signatures, and the Board should be able to remove unrelated statements.
 - **BOARD ACTION:** Unanimously approved a motion to delay the adoption of the petition by the proposer and its issuance.
- **Litigation Status**
 - **Long v. D.C. Board of Elections**
 - This matter was filed in D.C. Superior Court on July 2, 2021 and is a civil complaint seeking \$10,000 in damages. Mr. Long claims negligence and unjust enrichment, and alleges that the Board issued him a check without informing him not to deposit it, then had payment of the check stopped, causing him to have a negative balance and a returned check fee.
 - The Board is being represented in this matter by the OAG, which serves as counsel for the Office of Finance and Resource Management, the entity that handled the issuance of poll worker checks for the Board.
 - There was an initial hearing on August 9, 2021, and it was continued to October 12, 2021.

BOARD MATTERS

- Acknowledged the appointment of new Executive Director, Monica Evans, which became effective on August 1, 2021.
- Chairman Bennett announced that he will be stepping down from the Board as Chairman effective September 30, 2021.

OCF AUGUST 2021 REPORT (DIRECTOR COLLIER-MONTGOMERY)

On August 2, 2021, the Office of the D.C. Auditor (ODCA) issued the Report titled the “District of Columbia Fair Elections Program.” The Report found that the Fair Elections Program (FEP) met its goals which included increasing candidate participation, reducing corporate contributions, creating greater access to funding, and amplifying the voices of everyday voters. The ODCA was required by The Fair Elections Act to evaluate the FEP following the 2020 Election Cycle, the first year of its implementation.

Community Outreach

During July and August 2021, OCF participated along with the Board of Elections (BOE) in the following Metropolitan Police Department (MPD) Beat the Streets Community Outreach events:

- Tuesday, July 20, 2021 – 2300 Ainger Place, S.E. (Woodland Community)
- Wednesday, July 21, 2021 – 3500 14th Street, N.W. (Mt. Pleasant/Columbia Heights Community)
- Thursday, July 29, 2021 – 62nd & Dix Streets, N.E.
- Wednesday, August 18, 2021 – 115 Atlantic St., S.W. (Lockridge/Bellevue Library).

● Fair Elections Program Division (FEP) Report for July/August 2021

- Authorized Base Amount and Matching Payments
 - The amount of public funds disbursed during the 2020 election cycle remains unchanged at \$4,016,797.64.
 - During July and August 2021, there were no disbursements authorized for Base Amount and Matching Payments from the Fair Elections Fund for candidates who have registered seeking to participate in the FEP during the 2022 Election Cycle.

● Remitted Funds

- As of August 25, 2021, \$140,686.88 has been remitted for deposit in the Fair Elections Fund from the campaign operations of participating candidates from the three elections held in 2020.

● Ongoing Post-Election Audits

- Preliminary Statement of Findings
 - 34 audits are currently ongoing before the FEP at various stages, including:

- 11 audit documentations received and audits in progress
 - 14 audits were completed with preliminary statements of findings issued
 - Nine failures to submit audit documentations; these matters were referred to the OGC
 - The status of the reported audits is posted on the OCF website.

- **Public Information and Records Management Division (PIRM) Report for July/August 2021**
 - July 1st Filing of Reports of Receipts and Expenditures (R&E Reports):
 - Constituent Services Programs
 - 8 required filers
 - 8 timely filers
 - 8 electronically filed their report
 - 8 certified E-filings
 - Senator/Representative Statehood Funds
 - 3 required filers
 - 3 timely filers
 - 3 electronically filed their report
 - 3 certified E-filings
 - Legal Defense Committees – Eighteenth Report
 - 1 required filer
 - 1 timely filer
 - 1 electronically filed their report
 - 1 certified E-filing
 - July 31st Filing of R&E Reports:
 - Principal Campaign Committees (PCCs) & Political Action Committees (PACs) – Sixteenth R&E Reports (due August 20th)
 - 105 required filers
 - 87 timely filers
 - 18 failures to file
 - 87 electronically filed their report
 - 87 certified E-filings
 - 3 PCC's filed termination reports
 - FEP PCCs – Sixteenth R&E Reports (due August 20th)
 - 22 required filers
 - 14 timely filers
 - 8 failures to file
 - 14 electronically filed their report
 - 14 certified E-filings
 - 7 committees filed termination report

- Independent Expenditure Committees – Sixteenth R&E Reports (due August 2nd)
 - 1 required filer
 - 1 timely filer
 - 1 electronically filed their report
 - 1 certified E-filing

- Legal Defense Committee – Sixteenth R&E Reports (due August 2nd)
 - 1 required filer
 - 1 timely filer
 - 1 electronically filed their report
 - 1 certified E-filing

- Initiative/Referendum Committees – Sixteenth R&E Reports (due August 20th)
 - 8 required filers
 - 3 timely filers
 - 5 failures to file
 - 3 electronically filed their report
 - 3 certified E-filings

- Recall Committees – Sixteenth R&E Reports (due August 2nd)
 - 1 required filer
 - 1 timely filer
 - 1 electronically filed their report
 - 1 certified E-filing

- Legal Defense Committee – Sixteenth R&E Reports (due August 2nd)
 - 1 required filer
 - 1 timely filer
 - 1 electronically filed their report
 - 1 certified E-filing

- **New Candidates/Committees**
 - Traditional Candidates
 - Barbara Summers (Mayor), registered June 25, 2019
 - Karl Racine/Karl Racine 2022 (Attorney General), registered March 12, 2020
 - Phil Mendelson/Mendelson for Chairman (Council), registered May 5, 2021
 - Adeoye Owolewa/ Oye 4 U.S. Representative 2022, registered May 11, 2021
 - James Butler/Butler for Mayor 2022, registered June 24, 2021
 - Rodney Red Grant/Rodney Red Grant for Mayor, registered July 6, 2021

FEP Candidates

- Ryan Jones/Ryan Jones for AG (Attorney General), registered April 25, 2011
- Mary Cheh/Cheh 2022 (Council, Ward 3), registered June 17, 2021
- Gordon Fletcher/Gordon Fletcher for Ward 5, registered July 13, 2021

Initiative Committees

- Elizabeth Davis Education Equity Pathway Policy Act of 2022, registered April 23, 2021
 - DC Committee to Build a Better Restaurant Industry, registered June 21, 2021
 - The Black Autonomy Movement, registered July 12, 2021
- Nine new candidates and treasurers have completed the mandatory OCF Entrance Conference Presentation for July/August 2021
 - Rodney Red Grant/Candidate for Mayor
 - Cine D. Ivery/Treasurer, Rodney Red Grant for Mayor
 - James Butler/Candidate for Mayor
 - Terrence L. Jordan/Butler for Mayor 2022
 - Ruth Pagani/Treasurer, D.C. Democratic State Committee
 - Adam Eidinger/Treasurer, D.C. Committee to Build a Better Restaurant Industry
 - Mary Cheh/Candidate, City Council Ward-3
 - Matthew Frumin/Treasurer, Cheh 2022
 - Ruth Pagani/Treasurer, Gordon Fletcher for Ward 5

• **Reports Analysis and Audit Division (RAAD) Report for July/August 2021**

- 100 desk reviews and other activities
- July/August 2021 Audits Issued
 - Evans CSF, issued July 15, 2021
 - Oye for US Representative, issued August 6, 2021
 - Ward 5 Democrats, issued August 20, 2021
 - Ward Eight Democrats, issued August 20, 2021
- Ongoing Audits
 - Newly elected officials:
 - Brooke Pinto for Ward 2 – Preliminary Draft Audit Report issued August 25, 2021
 - Jacque4DC At-Large SBOE –Hearing was held on August 18, 2021 to reinforce request for additional records. Records are due to the Audit staff by September 2, 2021.
 - Candidates in Upcoming 2022 Election and Political Action Committees – July 31, 2021 Report (Audit Notification Letter was issued on August 6, 2021)
 - Mendelson 2022 – The audit fieldwork is in progress.
 - Ward 6 Democrats – The audit fieldwork is in progress.

OCF OGC REPORT for July/August 2021 (GENERAL COUNSEL WILLIAM SANFORD)

- **July 2021**
 - **Intake/Output Report**
 - No referrals for informal hearings were received.
 - No informal hearing orders were issued.
 - **Open Investigations**
 - NONE
 - **Interpretative Opinions**
 - NONE
 - **No Show Cause Proceedings**
 - NONE
- **August 2021**
 - **Intake/Output Report**
 - 22 orders were issued
 - 16 orders issued in which fines totaling \$19,200 were imposed
 - Six orders in which no fines were imposed
 - **Open Investigations**
 - NONE
 - **Interpretative Opinions**
 - NONE
 - **No Show Cause Proceedings**
 - NONE

BOE EXECUTIVE DIRECTOR'S JULY/AUGUST 2021 REPORT (EXECUTIVE DIRECTOR EVANS)

- **General Information**
 - The Board will follow the Mayor's Order regarding COVID guidance, which goes into effect on September 19, 2021, that all employees must be vaccinated or submit to weekly testing.
 - The Voter Education and Outreach Division (VEOD) attended over 20 events during the months of July and August. VEOD is currently working on plans for National Voter Registration Day (NVRD), which will be held on September 28, 2021.

- The Poll Worker and Recruitment Training Division has received around 7,000 applications, and are continuing to receive applications daily.
- The canvass process is in the final stages and the second mailer will be sent to relevant voters in the next few weeks.
- The Data Services Division sent out about 3,900 voter ID cards during the past month.
- Ahead of the 2022 election cycle, we are working on a communications plan for internal and external communications.

PUBLIC MATTERS

- Dorothy Brizill
 - Requested an explanation regarding former Executive Director Alice Miller stepping down and the appointment of new Executive Director Evans.
 - **BOARD RESPONSE:** General Counsel Stroud explained that the former Executive Director, Alice Miller, had recently stepped down from her post. As a result, the Board appointed Mrs. Monica Evans to the role. The appointment of Mrs. Evans was done pursuant to the Board's independent personnel authority and in accordance with the District Personnel Manual.
 - Inquired about agency-related items discussed at the June 17, 2021 D.C. Council Judiciary Committee hearing by former Executive Director Miller and Board Chairman Bennett.
 - **BOARD RESPONSE:** Executive Director Evans noted that the Board hopes to get funding for the additional items. The Board does not have the ability to fund itself. Therefore, the Board has been in communications with the Council in hopes that funding will be appropriated for these critical items.
 - Asked for status update regarding the reorganization plan, and the identity of the person at the Board that should be consulted regarding the development of the plan.
 - **BOARD RESPONSE:** The Board noted that the organization is not working on any reorganization plans. The plans referenced in the resignation letter of Chairman Michael Bennett were merely recommendations he would have proposed to the Council.

ADJOURNMENT (12:14 p.m.)