

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

NOTICE OF PROPOSED RULEMAKING

The District of Columbia Board of Elections, pursuant to the authority set forth in the District of Columbia Election Code of 1955, approved August 12, 1955, as amended (69 Stat. 699; D.C. Official Code § 1-1001.05(a)(14) (2016 Repl.)), hereby gives notice of proposed rulemaking action to adopt amendments to Chapter 1, “Organization of the Board of Elections”, Chapter 2, “Personnel”, Chapter 5, “Voter Registration”, Chapter 6, “Eligibility of Candidates”, Chapter 7, “Election Procedures”, Chapter 8, “Tabulation and Certification of Election Results”, Chapter 9, “Filling Vacancies”, Chapter 10, “Initiative and Referendum”, Chapter 11, “Recall of Elected Officials”, Chapter 12, “Ballots”, Chapter 13, “Advisory Neighborhood Commission Vacancies”, Chapter 14, “Candidate Nominations: Political Party Primaries for Presidential Preference and Convention Delegates”, Chapter 15, “Candidate Nominations: Electors of President and Vice President of the United States”, Chapter 16, “Candidate Nomination: Delegate to The U.S. House of Representatives, Mayor, Chairman and Members of the Council of the District of Columbia, Attorney General, U.S. Senator, U.S. Representative, Members of The State Board of Education, and Advisory Neighborhood Commissioner”, Chapter 17, “Candidates: Members and Officials of Local Committees of Political Parties and National Committee Persons”, Chapter 18, “Charter Amending Procedures”, Chapter 19, “The Advisory Referendum Process”, and Chapter 99, “Definitions” of Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the amendments to these regulations is to have them conform with the Elections Modernization Amendment Act of 2022 and to make other non-substantive housekeeping updates and corrections of typographical errors.

The Board gives notice of its intent to take final rulemaking action to adopt these amendments in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

CHAPTER 1, ORGANIZATION OF THE BOARD OF ELECTIONS, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Subsection 102.4 of Section 102, MEETINGS, is amended to read as follows:

102.4 At the beginning of each calendar year, a preliminary schedule of regular meetings for the year, which the Board has discretion to change, shall be published in the *D.C. Register*. The publication of this schedule shall serve as proper legal notice of all of the Board’s regular meetings. Regularly scheduled Board meetings shall be held on the first Wednesday of each month, or at least once each month, at a time and place to be determined by the Board. Meetings may be rescheduled and additional meetings may be called as needed by the Board. Notice of additional meetings or notice of changes to regularly scheduled meetings shall be published on the Board’s website at least forty-eight (48) hours in advance, except in the case of emergency.

CHAPTER 2, PERSONNEL, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Subsection 201.1 of Section 201, POLITICAL ACTIVITY OF MEMBERS AND EMPLOYEES, is amended to read as follows:

201.1 The purpose of this section is to establish higher standards of conduct for members and employees of the District of Columbia Board of Elections in order to maintain public confidence in the integrity of those persons responsible for the administration of the election laws and the conduct of the electoral process in the District of Columbia. The provisions of this section shall solely govern the political conduct of the members and employees of the Board not classified as election workers. The provisions of this section are not intended to exempt members and employees from the ethics laws and standard of conduct rules imposed on all District of Columbia employees.

Section 202, POLITICAL ACTIVITY OF POLLING PLACE OFFICIALS, is amended to read as follows:

202 POLITICAL ACTIVITY OF ELECTION WORKERS

202.1 The purpose of this section is to establish higher standards of conduct for election workers of the District of Columbia Board of Elections in order to maintain public confidence in the integrity of those persons responsible for the administration of the election laws and the conduct of the electoral process in the District of Columbia. The provisions of this section shall solely govern the political conduct of election workers and are not intended to exempt election workers from the ethics laws and standard of conduct rules imposed on all District of Columbia employees.

202.2 Election workers shall be governed by the provisions of this section while employed by the Board. An election worker is employed by the Board during any hours that he or she is performing services for the Board.

202.3 No one shall serve as an election worker during an election in which he or she is a candidate or nominee for elected office.

202.4 An election worker shall not:

- (a) Hold any office in any political party or political committee; or
- (b) Participate in the activities of any candidate or political committee for or against any ballot measure in the election held in the District of Columbia.

202.5 Political activity conducted by an election worker prior to employment will not disqualify that election worker from service.

**CHAPTER 5, VOTER REGISTRATION, of Title 3 DCMR, ELECTIONS AND ETHICS,
is amended as follows:**

**Section 518, SYSTEMATIC VOTER ROLL MAINTENANCE PROGRAM: BIENNIAL
MAIL CANVASS, is amended to read as follows:**

- 518.1 By March 31 of each odd-numbered year, the Board shall confirm the residence address of each registered voter who did not confirm his or her address through the voting process or file a change of address at the polls in the preceding general election by mailing a first class non-forwardable canvass postcard to the residence address listed on the Board's records.
- 518.2 If the Postal Service returns the postcard and provides a new address for the registrant that is within the District of Columbia, the Board shall change the address on its records accordingly and then mail to both old and new addresses a forwardable notice advising the registrant that their address in the voter records has been changed to reflect the Postal Service information.
- 518.3 If the Postal Service returns the postcard as undeliverable and provides a new address for the registrant outside the District of Columbia, the Board shall mail a forwardable notice to both the old and new address, informing the registrant how to register to vote in their new jurisdiction or correct the address information obtained from the Postal Service.
- 518.4 If the Postal Service returns the postcard to the Board as undeliverable and indicates that no new address is available, the Board shall mail to the registrant at his or her last known address the forwardable notice specified in § 518.3.
- 518.5 The forwardable notices issued to registrants whose initial non-forwardable mailings were returned by the Postal Service shall include a pre-addressed and postage- paid return notification postcard to enable the registrant to confirm or correct any address information obtained from the Postal Service.
- 518.6 Upon the receipt of canvass postcards returned by the Postal Service either as undeliverable or indicating a new address outside of the District, the Board shall designate the registrant's voter registration status as inactive on the voter roll, effective on the date of the mailing of the notice.
- 518.7 Where a registered voter who has been designated inactive on the voter roll fails to respond to the forwardable notice and fails to vote during the period beginning on the date the notice was mailed and ending on the day after the second subsequent general election for federal office, the registrant's name shall be removed from the voter roll.
- 518.8 Where a registered voter who has been designated inactive on the voter roll provides the Board with a current residence address, or votes in any election, prior

to the day following the second general election for federal office occurring thereafter, the inactive designation shall be removed from the registrant's record.

- 518.9 A registrant included in the group defined by § 518.1 who has requested a separate mailing address in their voter record shall be initially mailed a notification addressed to the mailing address, asking the registrant to confirm his or her residence address on the voter roll by not later than thirty (30) days of the date of the mailing of the notice.
- 518.10 Where a registrant who has been mailed the notification in § 518.9 fails to confirm or correct their residence address, in writing, within thirty (30) days of the mailing of the notice, the Board shall issue a non-forwardable canvass postcard to the residence address as provided in § 518.1 of this chapter.
- 518.11 In the event that the Biennial Mail Canvass is delayed, the Board shall conduct the canvass as soon as practicable thereafter.
- 518.12 Consistent with procedures of the Biennial Mail Canvass, the Board shall issue the forwardable notices defined in § 518.5 whenever official mail sent to a registrant in the normal course of business is returned to the Board by the Postal Service.
- 518.13 Consistent with procedures of the Biennial Mail Canvass, the Board shall update a registrant's address or designate a registrant's voter registration status as inactive based on the return to the Board by the Postal Service of official mail sent to a registrant in the normal course of business.
- 518.14 Where the Board learns, or has reason to believe, that a registrant does not reside at the address listed on the voter registration application, the Board may issue the notice defined in § 518.1 to confirm the registrant's address, and proceed accordingly.

Subsection 519.2 of Section 519, VOTER ROLL MAINTENANCE PROGRAM, is amended to read as follows:

- 519.2 As part of its systematic voter roll maintenance program, the Board may develop additional procedures to identify and remove from the voter roll registrants who are deceased and no notification was received from the Vital Records Division of the Department of Health, who have moved from the District and no notification was received from the registrant or the United States Postal Service, or who otherwise no longer meets the qualifications as a duly registered voter.

CHAPTER 6, ELIGIBILITY OF CANDIDATES, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Section 602, AFFIRMATION OF WRITE-IN CANDIDACY, is amended as follows:

Subsection 602.1 is amended to read as follows:

- 602.1 In the case of a primary election, a write-in nominee who wishes to perfect their candidacy shall file with the Board an Affirmation of Write-in Candidacy on a form provided by the Board not later than 5:00 p.m. on the third (3rd) day immediately following the election.

Subsection 602.2 is amended to read as follows:

- 602.2 In the case of a general or special election, a write-in nominee who wishes to perfect their candidacy shall file with the Board an Affirmation of Write-in Candidacy on a form provided by the Board not later than 5:00 p.m. on the seventh (7th) day immediately following the election.

Section 603, WITHDRAWAL OF CANDIDATES, is amended to read as follows:

603 WITHDRAWAL OF CANDIDATES

- 603.1 Except as provided in this section, a candidate shall withdraw his or her candidacy by executing and filing with the Board a notarized affidavit which states that the candidate irrevocably withdraws the candidacy for the office to which he or she has been nominated or is seeking nomination. The withdrawal shall be irrevocable only for the office sought and for the election at issue.
- 603.2 Notwithstanding the requirements set forth in subsection 603.1 of this section, a candidate may effect withdrawal by emailing to the Board a non-notarized affidavit which states that the candidate irrevocably withdraws the candidacy for the office to which he or she has been nominated or is seeking nomination, provided that the email is sent from the email address provided by the candidate in his or her Declaration of Candidacy filed in accordance with subsection 601 of this section.
- 603.3 In the case of a presidential candidate who publically withdraws during a primary election and no affidavit of withdrawal is received from the candidates for delegate in support of that presidential candidate, the Board may remove the names of such candidates from the ballot.
- 603.4 The Executive Director or his or her designee shall provide public notice of all withdrawals.
- 603.5 The affidavit of withdrawal shall be filed with the Board no later than 5 p.m. on the 54th day before Election Day. If a candidate withdraws after the 54th day before Election Day, his or her name may still appear on the official ballot or separate handout (in the case of a presidential preference primary, pursuant to party rule). In this case, notice of the candidate's withdrawal shall also be posted in vote centers.

CHAPTER 7, ELECTION PROCEDURES, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Section 700, ELIGIBILITY OF ELECTORS, is amended to read as follows:

700 ELIGIBILITY OF ELECTORS

700.1 For the purpose of determining eligibility of an elector in a primary election, a change in party affiliation status occurs when a voter:

- (a) Changes his or her party registration from one political party to another;
- (b) Changes his or her party registration from “no party (independent)” to a political party; or
- (c) Changes his or her party registration from a political party to “No Party (independent).”

700.2 Repealed.

700.3 For the purpose of determining eligibility of an elector during any election for President and Vice President, an individual shall qualify as an elector in the District of Columbia for the offices of President and Vice President only (qualified federal elector) if:

- (a) He or she resided in the District of Columbia and has moved into another state or territory and does not meet the voter registration residency requirements of that state or territory; and
- (b) He or she otherwise meets the requirements of a qualified elector in the District of Columbia as of the date of change of residence.

700.4 Eligible electors shall be permitted to cast a regular ballot during the early voting period or on Election Day. Eligible electors shall include:

- (a) In the case of primary elections:
 - (1) Duly registered voters whose registration record indicates an affiliation with the party conducting the primary and have not changed their party affiliation status during the twenty-one (21) days preceding the primary;
 - (2) Registered voters who have filed a change of address and/or name notification with valid proof of residence at the time of voting and whose registration record indicates an affiliation with the party conducting the primary that has not been changed during the twenty-

one (21) days preceding the primary; or

- (3) Qualified electors who newly register to vote during the early voting period or on Election Day; provide valid proof of residence; and affiliate with a party conducting a primary election.

(b) In the case of general elections:

- (1) Duly registered voters;
- (2) Registered voters who have filed a change of address and/or name notification with valid proof of residence at the time of voting; or
- (3) Qualified electors who newly register to vote during the early voting period or on Election Day and provide valid proof of residence.

(c) In the case of special elections:

- (1) Duly registered voters residing in the political subdivision in which the special election is occurring;
- (2) Registered voters residing in the political subdivision in which the special election is occurring who have filed a change of address and/or name notification with valid proof of residence at the time of voting; or
- (3) Qualified electors residing in the political subdivision in which the special election is occurring who newly register to vote during the early voting period or on Election Day and provide valid proof of residence.

700.5

An individual whose eligibility to vote in an election cannot be determined at the time of voting shall cast a special (provisional) ballot. An individual's eligibility may be unable to be determined for any of the following reasons:

- (a) The individual attempted to register to vote at a vote center but did not provide valid proof of residence;
- (b) The individual filed a change of address notification at a vote center but did not provide valid proof of residence;
- (c) The individual filed a change of name notification at a vote center but did not provide valid proof of residence;
- (d) Repealed;

- (e) The individual has already signed the poll book for the current election;
- (f) The individual is listed as having cast a ballot in the election;
- (g) The individual has not previously voted in a federal election in the District and who registered to vote by mail and failed to present, either at the time of registration, at a vote center, or when voting by mail, either a copy of a current and valid government-issued photo identification, a copy of a current (the issue, bill, or statement date is no earlier than ninety (90) days before the attempt to register and/or vote, whichever is applicable) utility bill, bank statement, government check, or paycheck, or other government-issued document that shows his or her name and address;
- (h) The individual is listed on the poll book but claims, in a primary election, that the party affiliation indicated on the listing is in error;
- (i) The individual is listed on the poll book but claims, in a general election, that the ANC Single-Member District indicated on the listing is in error;
- (j) The individual's qualifications as an elector have been challenged pursuant to this chapter, and that challenge is accepted; or
- (k) The individual is attempting to vote in an election for federal office during extended voting hours as a result of a federal or District of Columbia court order, or any other order.

700.6 An individual who casts a special (provisional) ballot due to failure to provide valid proof of residence or identification at the time of voting must provide such proof by no later than the seventh day after the election at issue in order for their ballot to be counted.

Section 703, OPENING AND CLOSING OF POLLS ON ELECTION DAY, is amended to read as follows:

703 OPENING AND CLOSING OF POLLS ON ELECTION DAY

703.1 Vote Centers in which elections are to be held shall be opened at 7:00 a.m. on the date required by law for the election and shall remain open for voting until 8:00 p.m., except in instances when the time established for the close of voting is extended pursuant to a federal or District of Columbia court order or Board order.

703.2 All persons standing in line at a vote center at the close of polls shall be permitted to vote, if otherwise qualified.

703.3 At the close of polls, an election worker shall take a position at the end of any existing line of prospective voters, and only persons standing in front of the official at that time shall be permitted to vote.

703.4 By order, the Board may, at its discretion, extend polling hours at a Vote Center in order to resolve unforeseen emergency situations on Election Day.

Section 704, POLLING PLACE OFFICIALS, is amended to read as follows:

704 VOTE CENTER OFFICIALS

704.1 The operations of Vote Centers and ballot counting places shall be conducted by officials designated by the Board.

704.2 The official in charge of each Vote Center shall be known as the Site Coordinator.

704.3 The duties of the Site Coordinator may be delegated by the Board or by the Site Coordinator to another official, who shall be known as the Alternate Site Coordinator.

704.4 All vote center officials shall be qualified registered electors in the District of Columbia, except that the Board may appoint individuals who are not qualified registered electors to serve as vote center officials, if the individual:

- (a) Is at least sixteen (16) years of age on the day that he or she will be a vote center official;
- (b) Resides in the District of Columbia; and
- (c) Is enrolled in or has graduated from a public or private secondary school or an institution of higher education.

704.5 Notwithstanding Subsection 704.4 of this section, no vote center official who is a District government employee is required to be a District resident or a qualified elector in the District.

704.6 All vote center officials shall:

- (a) Complete at least four (4) hours of training;
- (b) Receive certification by the Board; and
- (c) Take and sign an oath of office to honestly, faithfully, and promptly perform the duties of office.

704.7 A vote center official's past performance shall be considered before appointing him or her as a vote center official in a subsequent election.

704.8 Unless otherwise provided, Board employees working at early voting centers shall have the same authority and duties as the Site Coordinator and other vote center officials.

Section 705, NEWS MEDIA, is amended to read as follows:

705 NEWS MEDIA

705.1 For the purpose of this chapter, the term "media" shall mean any individual or group engaging in the mass communication of information to the public, such as through television, radio, or publishing, and shall not include poll watchers or election observers, as defined in this chapter.

705.2 At the appropriate discretion of the Site Coordinator, news media representatives shall be permitted access to voting places during voting hours for a reasonable and limited period of time for the purpose of filming or photographing inside voting places. The Site Coordinator may consider the following factors when determining the granting and duration of media access to the voting place:

- (a) The size of the voting place;
- (b) The number of persons in the voting place; and
- (c) The amount of time remaining in voting hours.

705.3 Upon entry to the voting place, a media representative shall present his or her news media outlet identification to the Site Coordinator. The Site Coordinator shall record the presence of the media representative(s) and make a determination concerning access and duration thereof.

705.4 Media representatives shall be prohibited from the following activities in any voting place:

- (a) Interviewing vote center officials or voters inside the voting place;
- (b) Taping of media representative's remarks inside the voting place;
- (c) Impeding the voting process or the work of vote center officials;
- (d) Filming or photographing in a way that divulges how an individual is voting;

- (e) Filming or photographing the voter list or other election materials in a way that divulges the name or other registration information of an individual voter.

705.5 No filming or photography of any individual in a voting place, or in the 50 feet abutting an entrance to a voting place, shall be performed unless prior express permission is obtained.

Section 706, POLL WATCHERS AND ELECTION OBSERVERS, is amended to read as follows:

706 POLL WATCHERS AND ELECTION OBSERVERS

706.1 Each candidate and each proponent or opponent of a proposed ballot measure may petition the Board for credentials authorizing poll watchers at any voting place and/or ballot counting place.

706.2 Persons who wish to witness the administration of elections, including nonpartisan or bipartisan, domestic or international organizations, who are not affiliated with a candidate or ballot measure may petition the Board for credentials authorizing election observers at any voting place and/or ballot counting place.

706.3 Each petition shall be filed with the Board, not less than two (2) weeks before each election and shall be on a form furnished by the Board. The Board reserves the right to accept petitions filed less than two (2) weeks before each election.

706.4 At the time of filing, the poll watcher petition form shall contain the following information:

- (a) The name, address, telephone number, and signature of the candidate or ballot measure proponent or opponent (“applicant”);
- (c) The office for which the applicant is a candidate or the short title of the measure which the applicant supports or opposes;
- (c) The name, address, email address, and telephone number of the poll watcher supervisor, if one is designated by the candidate, proponent, or opponent;
- (d) The locations where access credentials are sought;
- (e) The names, addresses, email addresses, and telephone numbers of at least two (2) and not more than three (3) persons who are authorized to collect the poll watcher badges from the Board on behalf of the candidate or ballot measure proponent or opponent for distribution to the authorized poll watchers; and

- (f) A certificate from the applicant that each poll watcher selected shall conform to the regulations of the Board with respect to poll watchers and the conduct of the election.

706.5 At the time of filing, the election observer petition form shall contain the following:

- (a) The name, address, email address, and telephone number of the organization or individual seeking credentials;
- (b) The name, address, email address, and telephone number of the election observer supervisor, if a person is designated by an organization;
- (c) The names, addresses, email addresses, and telephone numbers of all observers who will be receiving badges;
- (d) The locations where access credentials are sought;
- (e) The names, addresses, email addresses, and telephone numbers of at least one (1) and not more than three (3) persons who are authorized to collect the election observer badges from the Board on behalf of the organization or individual seeking credentials for distribution to the authorized election observers; and
- (f) A certificate from the applicant that each election observer selected shall conform to the regulations of the Board with respect to election observers and the conduct of the election.

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

- (a) Each qualified candidate shall be entitled to one (1) poll watcher in each of the voting places where his or her name appears on the ballot.
- (b) Each proponent or opponent of a ballot measure who has timely filed a verified statement of contributions with the Office of Campaign Finance shall be entitled to one (1) poll watcher in each voting place where the ballot measure appears on the ballot.

706.7 The Board and its designees may, at their discretion, rotate credentialed poll watchers and election observers in and out of voting places and/or ballot counting places on an equitable basis in the event of space constraints. The Board and its designees may grant preference to poll watchers over election observers, and organizations over individuals.

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

- 706.9 In making a determination of the number of watchers or observers allowed, the Executive Director shall consider the following:
- (a) The number of candidates or requesting organizations;
 - (b) Whether the candidates are running as a slate;
 - (c) The number of proponents and opponents of measures and proposed Charter amendments;
 - (d) The physical limitations of the voting places and counting places; and
 - (e) Any other relevant factors.
- 706.10 Within twenty-four (24) hours of a denial, the Executive Director shall issue a public notice with respect to any denial of a petition for credentials.
- 706.11 The Board shall issue a badge for each authorized poll watcher, election observer, or authorized watcher representing the proponents or opponents of ballot measures. A completed badge must include the watcher or observer's name and the name of the candidate or party represented by the watcher, or any organization being represented by the observer. Badges that do not include this information are incomplete and cannot be used for access to voting or counting places.
- 706.12 Badges shall be numbered consecutively, and consecutive numbers issued to each candidate, organization, proponent, or opponent.
- 706.13 All badges shall be worn by the authorized poll watcher or election observer in plain view at all times when on duty at the voting place or counting place.
- 706.14 An authorized alternate poll watcher or election observer may, in the discretion of the watcher or observer supervisor, be substituted for a watcher or observer at any time; provided, that notice is first given to the designated representative of the Board at the voting place or ballot counting place.
- 706.15 A poll watcher shall be allowed to perform the following acts:
- (a) Observe the count;
 - (b) Unofficially ascertain the identity of persons who have voted;
 - (c) Report alleged discrepancies to the Site Coordinator; and
 - (d) Challenge voters in accordance with the procedures specified in this chapter, if the watcher is a registered qualified elector.

- 706.16 An election observer shall be allowed to perform the following acts:
- (a) Observe the count;
 - (b) Unofficially ascertain the identity of persons who have voted; and
 - (c) Report alleged discrepancies to the Site Coordinator.
- 706.17 No poll watcher or election observer shall, at any time, do any of the following:
- (a) Touch any official record, ballot, voting equipment, or counting form;
 - (b) Interfere with the progress of the voting or counting;
 - (c) Assist a voter with the act of voting;
 - (d) Talk to any voter while the voter is in the process of voting, or to any counter while the count is underway; provided, that a watcher or observer may request that a ballot be referred for ruling on its validity to a representative of the Board;
 - (e) In any way obstruct the election process; or
 - (f) Use any video or still cameras inside voting and counting locations if such use is determined by the Site Coordinator to be disruptive or to interfere with the election administration process.
- 706.18 A candidate may not serve as a poll watcher at any voting place.
- 706.19 If a poll watcher or election observer has any question, or claims any discrepancy or error in the voting or the counting of the vote, the watcher or observer shall direct the question or complaint to the Site Coordinator. In each vote center, the Site Coordinator shall be the representative of the Board to whom the poll watchers or election observers shall direct all questions and comments. In counting places, the Executive Director shall identify those representatives to whom poll watchers and election observers shall direct all questions and comments.
- 706.20 Any poll watcher or election observer who, in the judgment of the Board or its designated representative, has failed to comply with any of the rules contained in this section, or has engaged in some other prohibited activity or misconduct, may be requested to leave the voting place or the counting place.
- 706.21 If a poll watcher or election observer is requested to leave, that watcher's or observer's authorization to use credentials shall be cancelled, and he or she shall leave the voting place or counting place forthwith.

706.22 An authorized alternate poll watcher or election observer may be substituted for a watcher or observer who has been removed.

Section 707, POLITICAL ACTIVITY AT VOTING PLACES, is amended to read as follows:

707 POLITICAL ACTIVITY AT VOTING PLACES

707.1 The Site Coordinator shall have full authority to maintain order, pursuant to the Election Act, the regulations contained in this section, and directives of the Executive Director, General Counsel and their designees, including full authority to request police officials to enforce lawful orders of the Site Coordinator.

707.2 The only persons who shall be permitted to be present in voting places or ballot counting places are the following:

- (a) Designated representatives of the Board;
- (b) Police officers;
- (c) Duly qualified poll watchers and election observers;
- (d) Persons actually engaged in voting; and
- (e) Other persons authorized by the Board.

707.3 The only activity which shall be permitted in the portion of any building used as a voting place or ballot counting place shall be the conduct of the election. No partisan or nonpartisan political activity, or any other activity which, in the judgment of the Site Coordinator, may directly or indirectly interfere with the orderly conduct of the election, shall be permitted in, on, or within a reasonable distance outside the building used as a voting place or ballot counting place.

707.4 For the purposes of this section, the term “political activity” shall include, without limitation, any activity intended to persuade a person to vote for or against any candidate or measure or to desist from voting.

707.5 The distance deemed “reasonable” shall be approximately fifty feet (50 ft.) from any door used to enter the building for voting. The exact distance shall be determined by the Site Coordinator, depending on the physical features of the building and surrounding area. Wherever possible, the limits shall be indicated by a chalk line, or by some other physical marker at the vote center.

707.6 A voter may bring materials into the voting place for purpose of aiding the voter to cast their ballot, including, but not limited to, sample ballots, candidate pamphlets, or write-in stamps, or other materials. Any items left in the voting place shall be removed and discarded.

707.7 A person shall be warned to cease and desist his or her conduct upon any instance of the following:

- (a) Violation of the Election Act or regulations contained in this section;
- (b) Failure to obey any reasonable order of the Board or its representative(s);
or
- (c) Acting in a disorderly manner in, or within a reasonable distance outside the building used as a voting place or ballot counting place.

707.8 If the person committing the violation(s) fails to cease and desist, a member of the Metropolitan Police Department of the District of Columbia shall be requested to evict the person or take other appropriate action.

Section 710, CHALLENGE TO VOTER QUALIFICATIONS: IN-PERSON VOTING, is amended to read as follows:

710 CHALLENGE TO VOTER QUALIFICATIONS: IN-PERSON VOTING

710.1 Challenges to voter qualifications where the voter is present at the time of the challenge shall be conducted according to the procedures of this section. Challenges to a voter's registration, as described in D.C. Official Code § 1-1001.07(e)(5), may occur pursuant to the rules in Chapter 5, and may not occur at any voting place.

710.2 Any duly registered voter may challenge the qualifications of a prospective voter in a primary, special, or general election.

710.3 Any challenge to the qualifications of a prospective voter shall be in writing on a form provided by the Board, and shall indicate the name of the person challenged, the basis for the challenge, and the evidence provided to support the challenge.

710.4 The challenger shall also sign an affidavit declaring under penalty of perjury that the challenge is based upon substantial evidence which he or she believes in good faith shows that the person challenged is not a qualified elector of the District.

710.5 After receiving a challenge or making a challenge on his or her own initiative, the Site Coordinator shall give the challenged voter an opportunity to respond.

710.6 The Site Coordinator shall review the evidence presented and shall:

- (a) Affirm the challenge upon a finding that it is based on substantial evidence specific to the voter being challenged and probative of the challenged voter's status as a qualified elector; or

- (b) Deny the challenge upon a finding that it is not based on substantial evidence specific to the voter being challenged and probative of the challenged voter's status as a qualified elector.

- 710.7 The Site Coordinator shall record the decision and the rationale for the decision on a form provided by the Board.
- 710.8 If the Site Coordinator denies the challenge, he or she shall inform the challenger that the challenger may appeal the decision to the Board and shall give the challenger copies of the rules regarding challenges and appeals to the Board.
- 710.9 Any appeal of the Site Coordinator's decision to deny the challenge shall be made either before the challenged voter casts a ballot, or before either the challenger or the challenged voter leaves the vote center, whichever is earlier.
- 710.10 If the challenger does not appeal the Site Coordinator's decision to deny the challenge, the challenged voter shall cast a regular ballot.
- 710.11 If the challenger appeals the Site Coordinator's decision to deny the challenge, the Site Coordinator shall state, over the telephone, the facts of the case to a Board hearing officer authorized to rule on the appeal for the Board.
- 710.12 Either a Board member, the Board's Executive Director, or the Board's Registrar of Voters may serve as the Board's hearing officer for the appeal.
- 710.13 The hearing shall be recorded and transcribed, and the transcript shall serve as the official case record, along with the written documentation specified in this section of the Site Coordinator's initial decision to deny the challenge.
- 710.14 The hearing officer shall take testimony under oath from the challenger, the person challenged, the Site Coordinator, and any witnesses who wish to testify.
- 710.15 Each person who testifies before the hearing officer shall state for the record their name as recorded on the Board's voter registration list, their residence address, mailing address and telephone number, and their role in the challenge.
- 710.16 The hearing officer shall receive evidence and testimony and shall then close the hearing.
- 710.17 After reviewing all evidence pertaining to the challenge and making a decision based upon their determination of whether the challenger has presented substantial evidence that is specific to the voter being challenged and probative of the challenged voter's status as a qualified elector, the hearing officer shall either:

- (a) Affirm the Site Coordinator’s decision to deny the challenge, in which case the challenged voter shall cast a regular ballot, and the Site Coordinator shall inform the challenger of their right to appeal the decision of the Board hearing officer to the Superior Court of the District of Columbia; or
- (b) Overturn the Site Coordinator’s decision to deny the challenge, in which case the challenged voter shall cast a “challenged” special ballot.

710.18 If the Site Coordinator affirms the challenge, or if the Board’s hearing officer overturns the decision of the Site Coordinator to deny a challenge, the Site Coordinator shall allow the challenged voter to cast a “challenged” special ballot.

Section 712, SPECIAL BALLOT APPEAL RIGHTS, is amended as follows:

Subsection 712.2 is amended to read as follows:

712.2 The Board shall provide the voter, at the time of voting or after a challenge to a mail-in ballot has been upheld pursuant to this chapter, with written notice that indicates the manner by which they may learn whether the Executive Director has decided to count or reject, in whole or in part, the voter’s Special Ballot, and of the dates scheduled for hearings for voters whose Special Ballots are rejected to contest the Executive Director’s preliminary determination if they petition to do so.

Subsection 712.4 is amended to read as follows:

712.4 No earlier than eight (8) days and no later than ten (10) days after the date of any election, the Board shall, upon petition of the voter, conduct a hearing for the voter to contest the Executive Director’s preliminary determination to reject the voter’s Special Ballot.

Section 713, ASSISTANCE TO VOTERS, is amended to read as follows:

713 ASSISTANCE TO VOTERS

713.1 Any voter who requires assistance in voting may be given assistance by a person of the voter’s choice, other than a poll watcher or election observer, the voter’s employer or agent of that employer, or officer or agent of the voter’s union.

713.2 The Board shall ensure that capable assistance shall be made available to any requesting voter.

713.3 The Board shall provide in each voting place one (1) or more election workers specifically trained to assist voters upon their request.

713.4 Any person giving assistance shall assist only upon the request of the voter and in accordance with the wishes of the voter.

- 713.5 The Site Coordinator shall ensure that a record is made of the provision of such assistance to the voter and the nature of the voter's need for assistance.
- 713.6 Assistance provided to a voter may include, though not necessarily be limited to, the following:
- (a) Marking the ballot in accordance with the voter's expressed wishes;
 - (b) Reading the ballot to a voter whose vision is impaired or who cannot read;
 - (c) Recording a write-in vote as designated by the voter; and
 - (d) Completing any form for the voter.
- 713.7 No person or official providing voter assistance shall in any way influence or attempt to influence a voter's choice in voting, nor shall the person or official disclose to anyone how the voter voted. Any person who violates this section may, upon conviction, be subject to a \$10,000 fine or imprisonment up to five years, or both, pursuant to D.C. Official Code § 1-1001.14(a).
- 713.8 Written instructions on how to cast a ballot shall be available to all voters. A trained election worker shall also be available to explain how to cast a ballot.
- 713.9 All voters shall have the opportunity, if desired, to mark a demonstration ballot prior to entering the voting booth.

Section 714, SPOILED BALLOTS, is amended to read as follows:

714 SPOILED BALLOTS

- 714.1 If a voter makes a mistake in marking a ballot or erroneously defaces or tears a ballot, he or she may surrender the spoiled ballot to an election worker, who shall furnish the voter with another ballot.
- 714.2 The election worker shall request the voter place the spoiled ballots into the spoiled ballot envelope.
- 714.3 The voter shall seal the envelope and shall return it to the election worker before an additional ballot can be issued.
- 714.4 An election worker shall not issue more than three (3) ballots (one (1) original, two (2) replacements) to any voter. Before the election worker issues the second (2nd) ballot, the election worker shall inform the voter that the voter may have only one (1) additional ballot after the first (1st) replacement ballot. Before the election

worker issues the third (3rd) ballot, the election worker shall inform the voter that it will be the last ballot issued to the voter.

714.5 [REPEALED]

Section 722, “EMERGENCY ABSENTEE BALLOTS” is repealed.

CHAPTER 8, TABULATION AND CERTIFICATION OF ELECTION RESULTS, is amended as follows:

Paragraph 800.1(o), in Section 800, VOTING SYSTEM STANDARDS, is amended to read as follows:

- (o) Not provide to a voter any type of receipt or voter confirmation that the voter legally may retain after leaving the vote center; and

Subsection 802.6 in Section 802, VALIDITY OF BALLOTS, is amended to read as follows:

802.6 If a vote center was authorized by the Board to use reproductions of official paper ballots because of an emergency, the reproductions shall be duplicated and the duplicated ballots shall be considered official ballots and deemed valid.

Section 805, SPECIAL BALLOT BOX INSPECTION, is amended to read as follows:

805 SPECIAL BALLOT BOX INSPECTION

805.1 A special ballot box inspection team shall perform the following functions for the ballots of each vote center:

- (a) Open special ballot box containers and remove all ballot envelopes;
- (b) Separate all ballot envelopes into two (2) groups:
 - (1) Special ballot envelopes; and
 - (2) Mail-in ballot envelopes which were delivered to a polling place.
- (c) Record the number of each type of ballot envelope for each vote center.

805.2 Members of the special ballot box inspection team shall not open any ballot envelopes but shall deliver them unopened to a representative designated by the Executive Director.

805.3 Special ballot envelopes gathered pursuant to this section shall be processed in conformity with § 807.

805.4 [REPEALED]

805.5 Mail-in ballot envelopes gathered pursuant to this section shall be processed in conformity with § 808.

Section 806, TABULATION PROCEDURES, is amended as follows:

Subsection 806.5 is amended to read as follows:

806.5 Special Ballots, together with any damaged ballots received from the vote centers, shall be tabulated separately at a time designated by the Executive Director.

Subsection 806.9 is repealed.

Section 807, SPECIAL BALLOT TABULATION, is amended as follows:

Subsection 807.3 is amended to read as follows:

807.3 A Special Ballot shall be eligible to be tabulated when the Executive Director has verified that the voter is eligible in accordance with Subsection 700.5 of this Title.

Subsection 807.4 is amended to read as follows:

807.4 Not later than the seventh (7th) day after each election, the Executive Director shall issue preliminary determinations to count or reject each Special Ballot cast during an election.

Section 808, ABSENTEE BALLOT TABULATION, is amended to read as follows:

808 MAIL-IN BALLOT TABULATION

808.1 The provisions of this section shall govern the tabulation of all mail-in ballots timely submitted to the Board.

808.2 The handling and tabulation of absentee ballots shall:

- (a) Be conducted separately from the tabulation of all other ballots;
- (b) Be conducted publicly; and
- (c) Otherwise be conducted in the same manner as regular ballots cast in person, insofar as those procedures do not conflict with the provisions of this section.

808.3 All mail-in ballots received by the Board shall be tabulated as soon as practicable after the deadline for the receipt of mail-in ballots received by mail.

- 808.4 Prior to tabulation, the Executive Director’s designee shall verify that the voter signed the mail-in ballot envelope.
- 808.5 In preparation for tabulation, the Executive Director’s designee shall open the outer mailing envelopes and remove the inner secrecy envelope which contains the mail-in ballot.
- 808.6 Working precinct by precinct, the Executive Director’s designee shall:
- (a) Open the inner secrecy envelopes, being careful not to damage the ballot inside. If an absentee ballot is damaged in this process, the valid votes shall be reproduced on duplicate ballots, in accordance with the rules of this chapter; and
 - (b) Inspect the absentee ballots for machine tabulation acceptability. All absentee ballots that are identified as not being machine readable shall be removed and reproduced on duplicate ballots in accordance with the rules of this chapter.
- 808.7 The absentee ballot shall be tabulated and counted as being cast in the ward and precinct in which the voter resides provided that the voter signs the absentee ballot envelope to certify that they are a registered voter in the District of Columbia, that they have not voted and will not vote more than one ballot in the election, and that they are not voting in any other jurisdiction in the United States.

Subsection 809.4 in Section 809, VOTE COUNTING BY HAND, is amended to read as follows:

- 809.4 The counting shall be conducted by counting teams of two (2) or more officials. An election official known as the “Counting Team Captain” shall be designated as being in charge of one or more counting teams as determined by the Executive Director, or his or her designee. The counting shall proceed according to administrative procedures established by the Executive Director.

Section 810, DISCRETIONARY MANUAL TABULATION, is amended to read as follows:

810 DISCRETIONARY MANUAL TABULATION

- 810.1 Notwithstanding instances when manual tabulation is required by law or this chapter, the Board may order that ballots be manually inspected and tabulated under the following circumstances:
- (a) Upon the filing of a recount petition, when it appears that a disproportionate number of potential undervotes or overvotes have occurred in a particular

vote center, or to determine whether write-in votes have been cast that affect vote totals for candidates whose names are pre-printed on the ballot;

- (b) When there is evidence of a machine miscount or malfunction; or
- (c) When it is determined by the Board that manual tabulation is necessary to ascertain correct vote totals.

810.2 When manual tabulation is ordered pursuant to this section:

- (a) Validity of ballots and votes and tabulation procedures shall conform to the rules specified in this chapter;
- (b) Only the ballots for those vote centers and contests designated by the Board shall be manually tabulated; and
- (c) The Board shall direct that the tabulation be conducted at a time that is practicable.

Section 811, BALLOT ACCOUNTING, is amended to read as follows:

811 BALLOT ACCOUNTING

811.1 Following the tabulation of all votes, a full accounting of official ballots shall be made prior to certification of the official election results.

811.2 The accounting of official ballots shall include the following:

- (a) For each precinct, and for each party in a primary election, the sum of the number of ballots issued to the voters, less the number of spoiled ballots, should equal the total number of ballots cast in the precinct;
- (b) For each precinct, and for each party in a primary election, the sum of the number of cards issued to voters and exchanged for ballots, plus the number of special ballots, should equal the total number of voters;
- (c) For each precinct, and for each party in a primary election, upon completion of the election day count and exclusive of special and mail-in ballots, the sum of the number of vote center ballots counted plus the number of special ballots cast should equal the totals from §§ 811.2(a) and (b);
- (d) For each entire election and for each type of ballot used in it, the sum of the number of mail-in ballots issued to voters electronically, by mail, in person, by affidavit (emergency), spoiled mail-in ballots, plus the number of mail-in ballots remaining unused, should equal the total number of mail-in ballots;

- (e) For each entire election and for each type of ballot used in it, the sum of the number of mail-in ballots cast, mail-in ballots spoiled, and mail-in ballots not returned, should equal the total number of mail-in ballots issued to voters; and
- (f) For each Single-Member District, the total number of Single-Member District ballots cast should equal the sum of the ballots cast in each precinct servicing that Single-Member District.

811.3 Following tabulation, the ballots for each precinct shall be transferred to a secure and locked storage location where they shall remain secured for twenty-two (22) months; thereafter, if no election contest or other proceeding is pending in which the ballots may be needed as evidence, the ballots may be destroyed.

811.4 The Board shall retain and store all data processing materials related to the vote counting from the time the canvass is completed until the expiration of the period for challenging elections in a secured area and conforming to data security practices outlined in EAC Election Management Guidelines - Security—Voting Equipment and Peripheral Devices.

Section 812, POST-ELECTION MANUAL AUDIT, is amended as follows:

Subsection 812.2 is amended to read as follows:

812.2 After each General and Special election, the Executive Director shall conduct a public manual audit of at least:

- (a) All ballots cast, including mail-in ballots, in one precinct per Ward or at least five percent of all precincts participating in an election, whichever number is greater;
- (b) Five percent (5%) of Special Ballots cast and counted; and
- (c) Five percent (5%) of ballots cast at early voting centers.

Subsection 812.11 is amended to read as follows:

812.11 Individuals performing the manual audit shall not be informed of the corresponding machine tally results at any time before or during the manual audit.

Subsection 813.2 in Section 813, CERTIFICATION OF ELECTION RESULTS, is amended to read as follows:

813.2 The Board shall publish the results of each election and the nominees or winners on its website.

Section 814, AUTOMATIC RECOUNT, is amended to read as follows:

814 AUTOMATIC RECOUNT

814.1 The Board shall conduct an automatic recount:

- (a) If, in any election for President and Vice-President of the United States, Delegate to the House of Representatives, Mayor, Chairman of the Council, member of the Council, Attorney General, at-large member of the State Board of Education, or member of the State Board of Education, the certified election results show a margin of victory for a candidate that is less than one percent (1%) of the total votes cast for that office. The cost of such recount shall not be charged to any candidate;
- (b) If, in any contest involving an initiative, referendum, or recall measure, the difference between the number of votes for and against the measure is less than one percent (1%) of the total votes cast in that contest; or
- (c) If so ordered by the D.C. Court of Appeals pursuant to a petition to review an election, whether or not a recount has been previously conducted or requested.

Section 817, POST GENERAL ELECTION SUMMARY REPORT, is amended to read as follows:

817.1 Within ninety (90) days following every general election, the Board shall publish on its website a report (“post general election summary report”) containing the following information:

- (a) The total number of ballots cast and counted, with subtotals for each type of ballot;
- (b) The total number of spoiled and special ballots not counted;
- (c) The total number of persons registered to vote more than twenty-one (21) days preceding the election, broken down by party, ward, and precinct;
- (d) The number of persons who registered to vote between twenty-one (21) days preceding the election and the date of the election;
- (e) The number of persons who registered to vote at an early voting center;
- (f) The number of persons who registered to vote on Election Day;

- (g) The number of election workers at each precinct, broken down by position title;
- (h) Copies of any unofficial summary reports generated by the Board on election night;
- (i) A summary of issues identified in Site Coordinator or Area Representative reports;
- (j) Performance measurement data of election workers;
- (k) A description of any irregularities experienced during early voting and on Election Day;
- (l) Recommendation for means by which the efficiency, accuracy, and speed of counting and reporting election results can be improved, including equipment or technology and an estimate of associated costs; and
- (m) Any other relevant information.

CHAPTER 9, FILLING VACANCIES, is amended as follows:

Subsection 910.1 in Section 910, SPECIAL ELECTIONS, is amended to read as follows:

- 910.1 The D.C. Board of Elections shall conduct a special election in order to elect an individual to serve the unexpired portion of the term of office vacated, except that no special election shall be conducted when:
- (a) A vacancy occurs in the office of Delegate on or after May 1st of the last year of the Delegate's term of office; or
 - (b) A vacancy occurs in the office of member of the State Board of Education on or after February 1st of the last year of the term of the affected office.

CHAPTER 10, INITIATIVE AND REFERENDUM, is amended as follows:

Subsection 1000.2 in Section 1000, GENERAL PROVISIONS, is amended to read as follows:

- 1000.2 For purposes of this chapter, unless otherwise provided, the following terms shall be defined as follows:
- (a) The term "Home Rule Act" means the "District of Columbia Self Government and Governmental Reorganization Act", Public Law 93-198 (codified at D.C. Official Code § 1-201.01 *et seq.*), and any subsequent amendments.

- (b) The term “qualified petition circulator” means any individual who is:
 - (1) At least 17 years of age and who will be 18 years of age on or before the next general election; and
 - (2) Either a resident of the District of Columbia, or a resident of another jurisdiction who has registered as a petition circulator with the Board in accordance with this chapter.
- (c) The term “initiative” means the process by which the electors of the District of Columbia may propose laws (except laws appropriating funds) and present such proposed laws directly to the registered qualified electors of the District of Columbia for their approval or disapproval.
- (d) The term “referendum” means the process by which the registered qualified electors of the District of Columbia may suspend acts of the Council of the District of Columbia (except emergency acts, acts levying taxes, or acts appropriating funds for the general operation budget) until such acts have been presented to the registered qualified electors of the District of Columbia for their approval or rejection, provided that the Chairman of the Council has transmitted the Act to the Speaker of the House of Representatives, and the President of the Senate, under D.C. Official Code § 1-206.02(c)(1) (2006 Repl.).

Subsection 1006.3 in Section 1006, PETITION CHALLENGES, is amended to read as follows:

1006.3 Upon the receipt of a properly filed challenge, the General Counsel or his or her designee shall promptly serve a copy of the challenge upon the proposer, by first-class mail, or email.

Section 1010, DATE OF ELECTION, is amended to read as follows:

1010 DATE OF ELECTION

1010.1 After it certifies that an initiative petition is numerically sufficient for ballot access, the Board shall conduct an election on the initiative measure during the next primary, general or city-wide special election held at least 90 days after the date on which the petition was certified as numerically sufficient.

1010.2 After it certifies that an initiative petition is numerically sufficient for ballot access, the Board shall conduct an election on the referendum measure within one hundred and fourteen (114) days after the date on which the petition was certified as numerically sufficient, provided that if a previously scheduled primary, general, or special election will occur between 54 and 114 days after the date the measure has

been certified as numerically sufficient, the Board may conduct the election on the referendum measure during that election.

- 1010.3 The Board shall publish the established legislative text in no less than two (2) newspapers of general circulation in the District of Columbia within thirty (30) calendar days after the date of certification of the initiative or referendum petition as numerically sufficient for ballot access.

CHAPTER 11, RECALL OF ELECTED OFFICIALS, is amended as follows:

Subsection 1100.2 in Section 1100, GENERAL PROVISIONS, is amended to read as follows:

- 1100.2 For purposes of this chapter, unless otherwise provided, the following terms shall have the meaning ascribed:
- (a) The term “elected official” means any of the following office holders:
 - (1) Mayor of the District of Columbia;
 - (2) Members of the Council of the District of Columbia;
 - (3) Attorney General for the District of Columbia;
 - (4) United States Senator;
 - (5) United States Representative;
 - (6) Members of the State Board of Education; and
 - (7) Advisory Neighborhood Commissioner.
 - (b) The term “qualified petition circulator” means an individual who is:
 - (1) At least 17 years of age and who will be 18 years of age on or before the next general election; and
 - (2) Either a resident of the District of Columbia, or a resident of another jurisdiction who has registered as a petition circulator with the Board in accordance with this chapter.

Subsection 1110.1 in Section 1110, DATE OF ELECTION, is amended to read as follows:

- 1110.1 After it certifies that a recall petition is numerically sufficient for ballot access, the Board shall conduct a special election on the recall within one hundred and fourteen (114) days after the date on which the petition was certified as numerically sufficient, provided that if a previously scheduled general or special election will

occur between 54 and 114 days after the date the measure has been certified as numerically sufficient, the Board may call for the measure to be included on the ballot for that election.

CHAPTER 12, BALLOTS, is amended as follows:

Subsection 1200.1 in Section 1200, BALLOT FORM AND CONTENT, is amended to read as follows:

1200.1 The Board shall provide official ballots to voters that shall be used by the voter to indicate candidate and ballot measure preferences in any contest.

Subsection 1201.1 in Section 1201, FICTITIOUS AND SAMPLE BALLOTS, is repealed.

Subsection 1202.1 in Section 1202, ORDER OF CONTESTS AND QUESTIONS, is amended to read as follows:

1202.1 Contests and questions in any Primary, General or Special Election, if applicable to that election, shall appear on the ballot in the following order:

- (a) Primary Presidential Preference (for Primary Election)/Electors for President and Vice President of the United States (for General Election);
- (b) Delegate to the U.S. House of Representatives;
- (c) Mayor of the District of Columbia;
- (d) Chairman of the Council of the District of Columbia;
- (e) At-Large Member of the Council of the District of Columbia;
- (f) Ward Member of the Council of the District of Columbia;
- (g) Attorney General of the District of Columbia;
- (h) United States Senator;
- (i) United States Representative;
- (j) At-Large Member of the State Board of Education;
- (k) Ward Member of the State Board of Education;
- (l) Advisory Neighborhood Commissioner;
- (m) National committeemen and national committeewomen;

- (n) Local party committee members and officials;
- (o) Short title and summary statement of each proposed initiative, referendum, and Charter amendment; and
- (p) Recall measures.

CHAPTER 13, ADVISORY NEIGHBORHOOD COMMISSION VACANCIES, is amended as follows:

Subsection 1300.2 in Section 1300, GENERAL PROVISIONS, is amended to read as follows:

1300.2 For the purposes of this chapter, a vacancy is deemed to exist in the office of a member of an Advisory Neighborhood Commissioner when any of the following occurs:

- (a) Resignation of the incumbent by signed letter received by the Board, provided that if such resignation letter is prospective, the resignation is notarized, irrevocable, and effective not more than sixty (60) days following receipt of the letter;
- (b) Failure of the incumbent to reside in the Single-Member District from which the member is elected, as determined by resolution of the Advisory Neighborhood Commission that has been certified by the Board, or by other findings of the Board, as described in this chapter;
- (c) Failure of the incumbent to have resided in the Single-Member District from which the member is elected for the 60-day period immediately preceding the day on which the incumbent filed the nominating petitions as a candidate for the office held;
- (d) The incumbent holds another elected public office as defined by D.C. Official Code § 1-309.05(a)(2) (2006 Repl.);
- (e) With the exception of a member representing the single-member district that includes the Central Detention Facility and Correctional Treatment Facility, the incumbent is convicted of a felony that was committed while he or she held the office;
- (f) Death of the incumbent;
- (g) Declaration of vacancy by a court;
- (h) Successful recall of the incumbent; or

- (i) When the office of an Advisory Neighborhood Commissioner from a Single-Member District remains vacant after a general election.

Subsection 1301.1 in Section 1301, PETITION BY ANC FOR DECLARATION OF VACANCY, is amended to read as follows:

1301.1 When a vacancy occurs in an Advisory Neighborhood Commission and the Commissioner does not submit a letter of resignation, the affected Advisory Neighborhood Commission shall petition the Board by a resolution, signed by the Chairperson and Secretary, to declare a vacancy. Such petition shall be based upon the Advisory Neighborhood Commission's own determination, or upon the receipt of a written allegation that a vacancy has occurred in such Advisory Neighborhood Commission. Consideration of the resolution shall meet all of the requirements as prescribed in D.C. Official Code § 1-309.06 (f)(2).

Subsection 1303.2 in Section 1303, CERTIFICATION OF VACANCY AND PETITIONS, is amended to read as follows:

- 1303.2 All rules established in Chapter 16 of this title shall apply, except that:
- (a) The candidate's petition, Declaration of Candidacy, affidavits, and supplements, if any, shall be filed with the Board at its office not later than 4:45 p.m. within twenty-one (21) days after the date on which the Executive Director makes the petitions available; and
 - (b) The Executive Director or his or her designee shall post nominating petitions, or facsimiles thereof, in the Board's office for public inspection for five (5) working days beginning on the third (3rd) business day after the filing deadline.

Subsection 1304.3 in Section 1304, APPOINTMENT OR ELECTION, is amended to read as follows:

1304.3 If more than one qualified candidate is certified, the Executive Director shall transmit the list of qualified candidates to the affected area Advisory Neighborhood Commission. The Commission shall give notice at a public meeting of the time and location for the election of the new commissioner. After the vacancy has been filled, the Commission shall transmit to the Board a resolution signed by the Chairman and Secretary of the Advisory Neighborhood Commission that states the winner of the election and requests that the Board certify the vacancy as filled by notice published in the *D.C. Register*.

CHAPTER 14, "CANDIDATE NOMINATIONS: POLITICAL PARTY PRIMARIES FOR PRESIDENTIAL PREFERENCE AND CONVENTION DELEGATES" is amended as follows:

Subsection 1400.2 in Section 1400, GENERAL PROVISIONS, is amended to read as follows:

1400.2 For purposes of this chapter, unless otherwise provided, the following terms shall be defined as follows:

- (a) The term “eligible party” or “major party” means an authorized political party which is qualified to hold a party primary for partisan offices pursuant to D.C. Official Code § 1-1001.08 (h)(2);
- (b) The term “qualified petition circulator” means an individual who is:
 - (1) At least 17 years of age and who will be 18 years of age on or before the next general election; and
 - (2) Either a resident of the District of Columbia, or a resident of another jurisdiction who has registered as a petition circulator with the Board in accordance with this chapter.

Section 1406, PETITION CHALLENGES, is amended as follows:

Subsection 1406.2 is amended to read as follows:

1406.2 Except as provided in this section, the Board shall adjudicate the validity of each properly filed challenge in accordance with the procedures prescribed in chapter 4 of this title. A challenge is properly filed if it:

- (a) Cites the alleged signature or circulator requirement defects, as set forth in the signature validity rules of this chapter, by line and page;
- (b) Is signed and submitted in-person at the Board’s office by a qualified elector by no later than 5:00 p.m. on the 10th day of the challenge period; and
- (c) Alleges the minimum number of signature defects which, if valid, would render the prospective candidate ineligible for ballot access.

Section 1407, VALIDITY OF SIGNATURES, is amended as follows:

Paragraph 1407.1(b) is amended to read as follows:

- (b) The signer, according to the Board’s records, is not registered to vote at the address listed on the petition at the time the petition was signed; provided that an address on a petition which is different than the address which appears on the Board's records shall be deemed valid if the signer's current address is within the boundary from which the candidate seeks nomination and the signer files a change of address form with the Board by no later than 5:00 p.m. on the 10th day after the candidate receives notice of the challenge;

CHAPTER 15, “CANDIDATE NOMINATIONS: ELECTORS OF PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES” is amended as follows:

Section 1500, GENERAL PROVISIONS, is amended as follows:

Subsection 1500.2 is amended to read as follows:

1500.2 For purposes of this chapter, unless otherwise provided, the following terms shall be defined as follows:

- (a) The term “ballot access” means the process by which the names of candidates for President and Vice President are placed on the general election ballot.
- (b) The term “authorized political party” means a political party that was organized prior to and continuously from the passage of the District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.01 *et seq.*), or whose name has been approved by the Board pursuant to the rules of this chapter;
- (c) The term “qualified petition circulator” means an individual who is:
 - (1) At least 17 years of age and who will be 18 years of age on or before the next general election; and
 - (2) Either a resident of the District of Columbia, or a resident of another jurisdiction who has registered as a petition circulator with the Board in accordance with this chapter.

Subsection 1500.6 is amended to read as follows:

1500.6 At the time of filing either the nomination by message or nomination by petition, the following affidavits and declarations shall be filed on forms prescribed by the Board:

- (a) An affidavit from each of the three (3) candidates for presidential electors (“Affidavit of Presidential Elector Candidate”) stating that:
 - (1) The candidate meets all the legal requirements for office;
 - (2) The nomination as a candidate for presidential elector is filed with the nominee’s knowledge and consent;
 - (3) If elected as a presidential elector, the candidate shall vote in the electoral college for the presidential and vice presidential candidates

nominated by the designated political party or whose nomination the accompanying petition was filed in support of; and

(4) The candidate acknowledges that, in accordance with D.C. Official Code § 1-1001.08(g)(3), his or her presidential elector ballot shall not be accepted if he or she does not vote for the candidate of the party he or she was elected to represent, and that if he or she refuses to present a ballot, presents an unmarked ballot, or refuses to vote for the candidate of the party whom the elector has been selected to represent, he or she shall vacate the office of the elector.

(b) An affidavit executed personally by the presidential and vice presidential candidates (“Affidavit of Presidential and Vice Presidential Candidate”), stating their consent to the following:

(1) The appearance of their names on the general election ballot; and

(2) Representation in the electoral college by each of the three (3) named presidential electors, in the event that their presidential electors are elected in the District of Columbia; and

(c) A Declaration of Candidacy for each candidate for presidential elector, executed in accordance with chapter 6 of this title.

Section 1506, PETITION CHALLENGES, is amended as follows:

Subsection 1506.2 is amended to read as follows:

1506.2 Except as provided in this section, the Board shall adjudicate the validity of each properly filed challenge in accordance with the procedures prescribed in chapter 4 of this title. A challenge is properly filed if it:

(a) Cites the alleged signature or circulator requirement defects, as set forth in the signature validity rules of this chapter, by line and page;

(b) Is signed and submitted in-person at the Board’s office by a qualified elector by no later than 5:00 p.m. on the 10th day of the challenge period; and

(c) Alleges the minimum number of signature defects which, if valid, would render the prospective candidate ineligible for ballot access.

Section 1507, VALIDITY OF SIGNATURES, is amended as follows:

Paragraph 1507.1(b) is amended to read as follows:

- (b) The signer, according to the Board’s records, is not registered to vote at the address listed on the petition at the time the petition was signed; provided that an address on a petition which is different than the address which appears on the Board's records shall be deemed valid if the signer's current address is within the boundary from which the candidate seeks nomination and the signer files a change of address form with the Board by no later than 5:00 p.m. on the 10th day after the candidate receives notice of the challenge;

CHAPTER 16, “CANDIDATE NOMINATION: DELEGATE TO THE U.S. HOUSE OF REPRESENTATIVES, MAYOR, CHAIRMAN AND MEMBERS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA, ATTORNEY GENERAL, U.S. SENATOR, U.S. REPRESENTATIVE, MEMBERS OF THE STATE BOARD OF EDUCATION, AND ADVISORY NEIGHBORHOOD COMMISSIONER” is amended as follows:

Section 1600, GENERAL PROVISIONS, is amended as follows:

Paragraph 1600.2(f) in Section 1600, GENERAL PROVISIONS, is amended to read as follows:

- (f) The term “qualified petition circulator” means an individual who is:
 - (1) At least 17 years of age and who will be 18 years of age on or before the next general election; and
 - (2) Either a resident of the District of Columbia, or a resident of another jurisdiction who has registered as a petition circulator with the Board in accordance with this chapter.

Section 1606, PETITION CHALLENGES, is amended as follows:

Subsection 1606.2 is amended to read as follows:

- 1606.2 Except as provided in this section, the Board shall adjudicate the validity of each properly filed challenge in accordance with the procedures prescribed in chapter 4 of this title. A challenge is properly filed if it:
- (a) Cites the alleged signature or circulator requirement defects, as set forth in the signature validity rules of this chapter, by line and page;
 - (b) Is signed and submitted in-person at the Board’s office by a qualified elector by no later than 5:00 p.m. on the 10th day of the challenge period; and
 - (c) Alleges the minimum number of signature defects which, if valid, would render the prospective candidate ineligible for ballot access.

Section 1607, VALIDITY OF SIGNATURES, is amended as follows:

Paragraph 1607.1(b) is amended to read as follows:

- (b) The signer, according to the Board's records, is not registered to vote at the address listed on the petition at the time the petition was signed; provided that an address on a petition which is different than the address which appears on the Board's records shall be deemed valid if the signer's current address is within the boundary from which the candidate seeks nomination and the signer files a change of address form with the Board by no later than 5:00 p.m. on the 10th day after the candidate receives notice of the challenge;

CHAPTER 17, "CANDIDATES: MEMBERS AND OFFICIALS OF LOCAL COMMITTEES OF POLITICAL PARTIES AND NATIONAL COMMITTEE PERSONS" is amended as follows:

Subsection 1700.2 of Section 1700, GENERAL PROVISIONS, is amended to read as follows:

1700.2 For purposes of this chapter, unless otherwise provided, the following terms shall be defined as follows:

- (a) The term "major party" means an authorized political party which is qualified to hold a party primary for partisan offices pursuant to D.C. Official Code § 1-1001.08 (h)(2);
- (b) The term "qualified petition circulator" means an individual who is:
 - (1) At least 17 years of age and who will be 18 years of age on or before the next general election; and
 - (2) Either a resident of the District of Columbia, or a resident of another jurisdiction who has registered as a petition circulator with the Board in accordance with this chapter.
- (c) The term "slate" means a list of candidates that have qualified for ballot access and indicated the intent to be recognized as a group on the ballot by filing a Slate Registration Form on a form provided by the Board. Slates may be comprised of:
 - (1) Two (2) or more individual candidates who have qualified for ballot access by filing separate nominating petitions;
 - (2) A group of candidates who have qualified for ballot access by filing a single nominating petition; or

- (3) A combination of individual candidates or groups of candidates who have qualified for ballot access by filing separate nominating petitions.

Section 1706, PETITION CHALLENGES, is amended as follows:

Subsection 1706.2 is amended to read as follows:

- 1706.2 Except as provided in this section, the Board shall adjudicate the validity of each properly filed challenge in accordance with the procedures prescribed in chapter 4 of this title. A challenge is properly filed if it:
- (a) Cites the alleged signature or circulator requirement defects, as set forth in the signature validity rules of this chapter, by line and page;
 - (b) Is signed and submitted in-person at the Board's office by a qualified elector by no later than 5:00 p.m. on the 10th day of the challenge period; and
 - (c) Alleges the minimum number of signature defects which, if valid, would render the prospective candidate ineligible for ballot access.

CHAPTER 18, "CHARTER AMENDING PROCEDURES" is amended as follows:

Section 1800, GENERAL PROVISIONS, is amended to read as follows:

1800 GENERAL PROVISIONS

- 1800.1 The District of Columbia Board of Elections is vested with the authority to administer generally the provisions of the "Charter Amending Procedures Act" ["Title III, District Charter Preamble, Legislative Power and Charter Amending Procedure," § 303, District of Columbia Self-Government and Governmental Reorganization Act (hereinafter referred to as the "D.C. Self-Government Act"), P.L. 93-198, 87 Stat. 774, December 24, 1973.]
- 1800.2 The District of Columbia Board of Elections shall be responsible for the conduct of elections to amend "Title IV, The District Charter" (hereinafter referred to as the "Charter"), of the D.C. Self-Government Act.
- 1800.3 The District of Columbia Board of Elections shall be authorized to promulgate rules and regulations for the implementation of the "Charter Amending Procedures Act" of the D.C. Self-Government Act, pursuant to D.C. Code § 1-1001.05(a)(14) (2006 Repl.).
- 1800.4 In accordance with the provisions of the D.C. Self-Government Act, the Charter may be amended by an act passed by the Council of the District of Columbia and

ratified by a majority of the registered qualified electors of the District voting in the election held for ratification.

1800.5 Any political committee organized in support of, or in opposition to, a proposed Charter amendment shall file a verified statement of contributions with the Office of Campaign Finance.

CHAPTER 19, “THE ADVISORY REFERENDUM PROCESS” is amended as follows:

Subsection 1900.2 of Section 1900, GENERAL PROVISIONS, is amended to read as follows:

1900.2 The District of Columbia Board of Elections shall be authorized to promulgate rules and regulations for the implementation and conduct of elections for advisory referendum votes, pursuant to D.C. Official Code § 1-1001.05(a)(14) (2006 Repl.).

Subsection 1906.3 of Section 1906, CERTIFICATION OF LANGUAGE FORMULATED BY THE BOARD OF ELECTIONS, is amended to read as follows:

1906.3 Within thirty (30) days of the certification, the Board shall publish the following in the *D.C. Register*, and in at least two (2) newspapers of general circulation:

- (a) The Resolution passed by the Council in its entirety;
- (b) The short title of the Advisory Referendum as certified by the Board;
- (c) The summary statement as certified by the Board; and
- (d) A statement that the Advisory Referendum will be presented to voters in an election conducted pursuant to § 1907 of this chapter.

Subsection 1907.1 of Section 1907, DATE OF ELECTION AND BALLOT FORMAT is amended to read as follows:

1907.1 If the Council does not specify an election date in the Resolution, the Advisory Referendum shall be presented to voters at the next primary, general, or citywide special election conducted at least fifty-four (54) days after the Board of Elections certifies the short title and summary statement for the ballot.

CHAPTER 99, “DEFINITIONS” is amended as follows:

9900 DEFINITIONS

Section 9900.1 is amended as follows:

The definition of “Board Employee” is amended to read as follows:

Board Employee - as distinguished from an “election worker,” an individual who is employed by the District of Columbia Board of Elections to perform personal services for the Board as either a permanent, temporary, intermittent, or trainee employee and includes employees on leave, leave without pay, or on furlough or leave of absence for educational purposes.

The definition of “Election Day worker” is amended to read as follows:

Election worker – an individual who is employed by the District of Columbia Board of Elections on those dates when elections and early voting are conducted in the District of Columbia or any subsequent dates upon which the counting or recounting of ballots occurs and includes, but is not limited to site coordinators, election workers, counters, or area representatives.

The definition of “Election official” is amended to read as follows:

Election official – any Board employee or election worker.

A new defined term, “Mail-in ballot” is added between the definitions for “Made with cooperation or consultation with any candidate” and “Mass collections” to read as follows:

Mail-in ballot – a physical ballot received by a registered qualified elector via mail or alternative format ballot, such as a web-based ballot, that is accessible to registered qualified electors with disabilities and absent uniformed services and overseas voters.

The defined term “Office” is repealed.

The defined term “Polling place” is repealed.

The defined term “Polling place official” is repealed.

A new defined term, “Qualified petition circulator” is added between the definitions for “Qualified elector” and “Qualified registered elector” to read as follows:

Qualified petition circulator - a person who is at least 17 years of age and who will be 18 years of age on or before the next general election and either:

- (a) A District resident; or
- (b) A resident of another jurisdiction who has registered with the Board as a petition circulator and consented to being subject to the subpoena power of the Board and the jurisdiction of the Superior Court of the District of Columbia for the enforcement of subpoenas without respect to the individual’s place of residence.

A new defined term, “Vote center” is added between the definitions for “Undervote” and “Voter registration application” to read as follows:

Vote center – a centralized polling place at which registered qualified electors may vote, regardless of their address within the District, provided that only registered qualified electors in the care and custody of the Department of Corrections may vote at Vote Centers located in Department of Corrections facilities.

All persons desiring to comment on the subject matter of this rulemaking should file written comments by no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with the Office of the General Counsel, Board of Elections, 1015 Half Street S.E., Suite 750, Washington D.C. 20003. Please direct any questions or concerns to the Office of the General Counsel at 202-727-2194 or ogc@dcboe.org. Copies of the proposed rules may be obtained at cost from the above address, Monday through Friday, between the hours of 9:00 a.m. and 4:00 p.m.