

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. & 2019 Supp.)), hereby gives notice of proposed rulemaking action to adopt amendments to Chapter 1 (Organization of the Board of Elections), Chapter 3 (Advisory Opinions of the Board), Chapter 4 (Hearings), 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 20 (Freedom of Information) 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 District law, including the Local Residents Voting Rights Amendment Act of 2022. The rulemaking also reflects court decisions rendered in cases concerning Initiative Measure No. 82, “the “District of Columbia Tip Credit Elimination Act of 2021.” In addition, the rulemaking updates and/or clarifies Board procedures for various activities, including meetings (including hearings), the issuance of Board orders and advisory opinions, and ballot access for candidates and ballot measures. The amendments also make other non-substantive housekeeping updates and corrections of typographical and formatting 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 *District of Columbia Register*.

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

Section 102, MEETINGS, is amended to read as follows:

102 MEETINGS

102.1 Board members are charged with providing ultimate oversight over the activities and affairs of the agency. Members should make every effort to ensure their participation in all Board activities.

- 102.2 Board attendance is directly correlated to Board participation and thereby to the success of the agency and its mission. All Board members are expected to be physically present at all scheduled meetings unless some other form of attendance has been approved by the Chair.
- 102.3 Except as provided otherwise by statute, a quorum of the Board shall consist of no fewer than two (2) members of the Board and shall be necessary to conduct official Board business. At the discretion of the Chairperson, any member may participate in a meeting of the Board by means of a video conference, telephone conference, or by any means of communication by which all persons participating in the meeting are able to hear one another, and such participation shall constitute presence in person at the meeting.
- 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 *District of Columbia 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. 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.
- 102.5 The meetings of the Board shall be open to the public, with the exception of executive sessions pursuant to D.C. Official Code § 1-1001.05(a-1)(3) and the rules of this title.
- 102.6 The Board may hold a pre-meeting executive session immediately prior to commencing a regular meeting for the sole purpose of administrative action, which does not include the deliberation or taking of official action.
- 102.7 The proposed agenda for each Board meeting shall be posted on its website at least twenty-four (24) hours prior to the meeting. Copies of the agenda shall be available to the public at the meeting. Nothing in this section shall preclude the Board from amending the agenda at the meeting.
- 102.8 Meeting minutes are a matter of public record and shall include the vote of each member on each action. A draft of the minutes from each Board meeting shall be posted on the Board's website prior to the next regular meeting. Such draft shall be finalized after the official transcript from the Board meeting has been reviewed and its contents incorporated, if necessary, into the minutes. The final version of the meeting minutes shall be available electronically or in hard copy through the Office of the General Counsel.
- 102.9 Meeting transcripts shall be recorded stenographically under the supervision of the Office of General Counsel, or by other means, by an official reporter who may be

designated from time-to-time by the Board. Transcripts shall be open for inspection in the Office of the General Counsel and on the Board's website. Paper copies of the official transcript shall be available upon payment to the Board of the charges fixed for copies otherwise provided through information requests except that the Office of General Counsel may waive the fee for parties appearing at a meeting in a contested matter.

- 102.10 The Board encourages comments on any issue under the jurisdiction of the Board at its regular meetings and will provide the public with a reasonable opportunity to appear before the Board and offer such comments.
- 102.11 To ensure the orderly conduct of public Board meetings, public comments may be limited with respect to the number of speakers permitted and the amount of time allotted to each speaker; however, the Board will not discriminate against any speaker on the basis of his or her position on a particular matter.
- 102.12 Any member of the public who intends to comment regarding any agenda item or any issue under the jurisdiction of the Board is encouraged to notify the Board in advance of his or her intent to do so, providing his or her name and the topic on which he or she wishes to speak. Such notification may be provided to the Office of the General Counsel. No person shall be prevented from speaking at a Board meeting simply because he or she has not provided advance notice of his or her intent to do so.
- 102.13 Members of the public who wish to submit items for consideration by the Board shall do so in writing one (1) week in advance. Failure to submit an item in advance as required may, within the Board's discretion, result in the matter being continued until the next regularly scheduled meeting.
- 102.14 Meetings may be adjourned from time-to-time. If the time and place of resumption is publicly announced when the adjournment is ordered, no further notice shall be required.
- 102.15 Any remedy for an allegedly improperly closed meeting or a defect in notice shall be limited to that provided in D.C. Official Code § 2-579.

Section 104, ORDERS OF THE BOARD, is amended to read as follows:

104 ORDERS OF THE BOARD

- 104.1 The Chairperson shall approve or disapprove Board orders in writing with his or her signature, as may be appropriate, provided however that written orders issued in matters heard by a single member shall be signed by that member.
- 104.2 The Chairperson shall be legally bound to administer a Board order notwithstanding the fact that he or she may have disapproved the order.

- 104.3 Where a statutory provision requires that the Board act by a certain time and a timely decision is made on the record at a hearing, the Board's decision shall be deemed to have been made as of the date of such hearing regardless of the time of any subsequent release of the written memorandum opinion and order signed by the Chairperson or, where a matter is heard by a single member of the Board, the release of the written order signed by that member. In all other cases, the date of a Board or single-member decision that is memorialized in writing shall be the date set forth in the written order.

Section 105, WRITTEN COMMUNICATIONS, is amended to read as follows:

105 WRITTEN COMMUNICATIONS

- 105.1 For the purposes of this chapter, the term "written communications" means letters, memoranda, or other documents, whether formatted in hard copy or electronically.
- 105.2 All requests for documents, including requests for voter rolls for petition challenge purposes, shall be handled in accordance with procedures set forth in the District of Columbia Freedom of Information Act and Chapter 20 of this title.
- 105.3 Where a majority of the Board votes to issue a communication, the Chairperson or the Chairperson's designee may sign the document and issue it on behalf of the Board.

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

Section 300, ADVISORY OPINIONS, is amended to read as follows:

300 ADVISORY OPINIONS

- 300.1 In accordance with the provisions of this chapter, any person or entity eligible under § 300.2 may request an advisory opinion from the Board, with respect to any specific transaction or activity, as to whether the transaction or activity would constitute a violation of any provision of the Election Act.
- 300.2 Any of the following shall be eligible to request an advisory opinion of the Board:
- (a) An elected official or a candidate to be an elected official;
 - (b) Any person or entity required to or who reasonably anticipates being required to submit filings to the Board under the Election Act in connection with any election; or
 - (c) Any other person or entity under the jurisdiction of the Board.

Where the subject matter of an eligible person's request for an advisory opinion concerns campaign finance under the Campaign Finance or Fair Elections Acts, the request may be referred under § 301.2 to the Campaign Finance Office for interpretative opinion advice.

Section 301, REQUESTS FOR ADVISORY OPINIONS, is amended as follows:

Subsection 301.2 is amended to read as follows:

301.2 Upon receipt of a request for an advisory opinion that requires, in whole or in part, an interpretation of the Campaign Finance Act or the Fair Elections Act, the General Counsel shall refer the request, or the relevant portion thereof, to the Director of Campaign Finance for interpretative opinion advice.

Section 303, ISSUANCE OF ADVISORY OPINIONS, is amended as follows:

Subsection 303.2 is amended to read as follows:

303.2 Within five (5) working days after issuance of the opinion, the Board shall notify the requestor by telephone and shall forward a copy of the advisory opinion by certified mail to the requestor unless the requestor has agreed in writing to service by another means.

Section 305, JUDICIAL REVIEW OF ADVISORY OPINIONS, is amended to read as follows:

305 JUDICIAL REVIEW OF ADVISORY OPINIONS

305.1 An advisory opinion shall be deemed to be an order of the Board.

305.2 Provided that application of these advisory opinion procedures would not circumvent the exhaustion requirements otherwise applicable to election law matters and provided that the requestor is adversely affected by the opinion, any judicial review of advisory opinions is subject to the D.C. Administrative Procedure Act (D.C. Official Code § 2-501 *et seq.*).

CHAPTER 4, HEARINGS, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Section 400, GENERAL PROVISIONS, is amended to read as follows:

400 GENERAL PROVISIONS

400.1 The provisions of this chapter shall govern the procedures of the Board in all cases involving petition challenges; alleged violations of the District of Columbia Election Act, as amended; de novo review of Office of Campaign Finance findings

of violations of the Campaign Finance Act of 2011, as amended; alleged violations of Title III of the Help America Vote Act of 2002; petitions requesting the promulgation, amendment, or repeal of any regulation of the Board; or any other matter requiring the receipt of evidence and testimony in a contested case, complaint, or petition.

- 400.2 In any conflict within this chapter between general and specific provisions, the specific provisions shall govern.
- 400.3 In any conflict between this chapter and the D.C. Administrative Procedure Act, D.C. Official Code §§ 2-501 *et seq.* (2016 Repl.) the D.C. Administrative Procedure Act shall govern.
- 400.4 The General Counsel of the Board shall, following approval by the Board, issue and revise complaint and petition forms and instructions to ensure presentation of adequate information required for the understanding and processing of complaints and petitions.
- 400.5 The Board may, for good cause shown, waive any of the provisions of this chapter if, in the judgment of the Board, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.
- 400.6 The Board has the discretion to hear any case brought before it under the District of Columbia Election Act or the Campaign Finance Act of 2011 by a one-member panel, pursuant to D.C. Official Code § 1-1001.05(g) (2016 Repl.).

Subsection 401, COMPUTATION OF TIME, is amended as follows:

Subsection 401.5 is amended to read as follows:

- 401.5 For the purposes of this chapter, "legal holiday" includes the following:
- (a) New Year's Day;
 - (b) Martin Luther King's Birthday;
 - (c) President's Day;
 - (d) Memorial Day;
 - (e) D.C. Emancipation Day;
 - (f) Memorial Day;
 - (g) Juneteenth National Independence Day;

- (h) Independence Day (4th of July);
- (i) Labor Day;
- (j) Indigenous People Day;
- (k) Veterans Day;
- (l) Thanksgiving Day;
- (m) Christmas Day; and
- (n) Any other day designated a holiday by the President of the United States or the District of Columbia government.

Section 402, NOTICE OF HEARINGS, is amended to read as follows:

402 NOTICE OF HEARINGS

402.1 The parties shall be given sufficient opportunity to prepare for the hearing.

402.2 The Board's Office of General Counsel shall send a notice of hearing to the party or parties involved which shall:

- (a) Provide the time, date, and location of the hearing;
- (b) Reference applicable statutes, rules, or regulations;
- (c) State the purpose of the hearing;
- (d) Advise the party or parties that they may be represented by counsel or other representative of their choosing; and
- (e) Advise the party or parties that they may bring witnesses.

Section 404, SERVICE OF PAPERS, is amended to read as follows:

404 SERVICE OF PAPERS

404.1 Any paper required to be served upon a party shall be served upon him or her or upon the representative designated by him or her or by law to receive service of papers.

404.2 When a party has appeared through an attorney or agent, service shall be made upon the attorney or agent of record.

- 404.3 Service may be made by personal delivery, by mail, by email, or as otherwise authorized by law.
- 404.4 Where there are numerous parties to a proceeding, the Board may make special provisions regarding the service of papers.
- 404.5 Service upon a party shall be completed, as follows:
- (a) By personal delivery, on handing the paper to the person to be served, or leaving it at his or her office with his or her clerk or other person in charge or, if there is no one in charge, leaving it in a conspicuous place in the office; or, if the office is closed or the person to be served has no office, by leaving it at his or her usual place of residence with some person of suitable age and discretion then residing in that place;
 - (b) By email to an email address for counsel of record or at which the party to be served has consented in writing to receive electronic communications;
 - (c) By mail, on deposit in the United States mail, properly stamped and addressed; or
 - (d) Upon being served in the specific manner prescribed by an order of the Board made in any proceeding.
- 404.6 Proof of service, stating the name and physical address or email address of the person on whom service was made and the manner and date of service, shall be shown for each pleading or evidentiary document intended for entry in a case.
- 404.7 Proof of service may be made by any of the following means:
- (a) Written acknowledgment of the party served or his or her attorney of record;
 - (b) The certificate of the attorney of record if he or she has made the service; or
 - (c) The certificate of the person making the service.
- 404.8 Pleadings and other papers (“submissions”) shall be deemed filed in the Board’s administrative record in a contested case or other particular matter if:
- (a) The submission is delivered electronically to and received at an active email address for the Board’s General Counsel or delivered physically to the Board’s offices to the attention of Board’s General Counsel; and
 - (b) The submission is formally captioned as a pleading; it is submitted in accordance with a Board order or Office of General Counsel guidance issued with respect to a specific contested case or other particular matter; is

on a Board form made available for the purpose of initiating or making a filing in a contested case or other particular matter; or otherwise sufficiently places the Board and Office of General Counsel on notice that the offering party or individual seeks to file the submission in a contested case or other particular matter.

If a party or individual seeks affirmative action by the Board in a contested case or other particular matter, the submission must also sufficiently place the Board on notice of the relief sought. Except where the Board has delegated authority to act, communications addressed to Board's staff only shall not be deemed to be directed at the Board, will be insufficient to trigger Board action, and shall not be filed, in any contested case or other particular matter.

Section 405, HEARING TRANSCRIPTS, is amended as follows:

Subsection 405.3 is amended to read as follows:

405.3 Transcripts shall be available as provided in Section 102.9.

Section 411, SIGNING OF PLEADINGS, is amended to read as follows:

411 SIGNING OF PLEADINGS

411.1 Each pleading of a party represented by an attorney shall be signed by at least one (1) attorney of record in his or her individual name, and the attorney's address, email address, and telephone number shall be stated.

411.2 A party who is not represented by an attorney shall sign each pleading and state his or her address, email address, and telephone number.

411.3 A electronic filing may be signed either typographically, in the format "s/attorney's name," or by means of a scanned handwritten signature. Except when otherwise specifically provided by this title or statute, pleadings need not be verified or accompanied by affidavit.

411.4 The signature of an attorney shall constitute a certificate by that attorney that he or she has read the pleading; that to the best of his or her knowledge, information, and belief there are grounds to support it; and that it is not interposed for delay.

Section 412, DEFENSES AND OBJECTIONS, is amended as follows:

Subsection 412.5 is amended to read as follows:

412.5 Each defense, in law or fact, to a charge of a violation in any pleading, shall be asserted in the responsive pleading, if one is required, except that the following defenses, at the option of the pleader, may be made by Motion to Dismiss:

- (a) Lack of jurisdiction over the subject matter;
- (b) Lack of jurisdiction over the person;
- (c) Insufficiency of process;
- (d) Insufficiency of service of process;
- (e) Failure to state a claim upon which relief can be granted; or
- (f) Lack of standing.

Section 413, AMENDED PLEADINGS, is amended to read as follows:

413 AMENDED PLEADINGS

- 413.1 Except as provided otherwise in this section, a party may amend his or her pleading only by leave of the Board or by written consent of the adverse party.
- 413.2 A party may amend his or her pleading as a matter of course at any time before a responsive pleading is served.
- 413.3 In all cases except petition challenge cases, if the pleading is one to which no responsive pleading is permitted and the action has not been scheduled for a hearing before the Board, a party may amend it at any time within twenty (20) days after it is served.
- 413.4 In a petition challenge case, if the pleading is one to which no responsive pleading is permitted and the action has not been scheduled before the Board, a party may amend it at any time within two (2) days after it is served, provided however that amendments filed after the close of the challenge period cannot expand the basis of any timely filed challenge.
- 413.5 In all cases except petition challenge cases, a party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within ten (10) days after service of the amended pleading, whichever period is longer, unless the Board otherwise orders.
- 413.6 In a petition challenge case, a party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within two (2) days after service of the amended pleading, whichever period is longer, unless the Board otherwise orders, provided however that amendments filed after the close of the challenge period cannot expand the basis of any timely filed challenge.

Section 414, INTERVENTION, is amended to read as follows:

414 INTERVENTION

- 414.1 Upon timely application, a person may be permitted to intervene in an action before the Board in the following circumstances:
- (a) When the applicant claims an interest relating to the transaction which is the subject of the action and he or she is so situated that the disposition of the action may as a practical matter impair or impede his or her ability to protect that interest, unless the applicant's interest is adequately represented by existing parties;
 - (b) When the applicant's claim or defense has a common question of law or fact with the pleadings; or
 - (c) In the case of a challenge to a summary statement and short title of a proposed Charter amendment, any person or group may intervene in the proceeding to respond to allegations made in the complaint, or to initiate their own challenge to the Board's summary statement and short title.
- 414.2 When a party to an action relies upon a claim or defense based upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirement, or agreement issued or made pursuant to the statute or executive order, the Board may permit the officer or agency, upon timely application, to intervene in the action.
- 414.3 Intervention will not be permitted where to do so would allow circumvention of statutory time limits for challenging a matter or would allow circumvention of limits on qualifying as a party entitled to seek judicial review. The Board, in exercising its discretion, shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.
- 414.4 A person desiring to intervene shall serve a motion to intervene upon the parties in the manner provided in § 404.
- 414.5 A motion to intervene shall state the grounds for intervention and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought.

Section 415, PRE-HEARING CONFERENCES, is amended to read as follows:

415 PRE-HEARING CONFERENCES

- 415.1 In any action, the Board's General Counsel may request that the parties appear for a pre-hearing conference to consider the following:
- (a) Simplification of the issues;

- (b) The necessity or desirability of amendments to the pleadings;
- (c) The possibility of obtaining the admission of facts and documents which will avoid unnecessary proof;
- (d) Limitation of the number of witnesses; and
- (e) Other matters which may aid in the disposition of the action.

415.2 If a party or a party's representative fails to appear, the pre-hearing conference may proceed in their absence.

415.3 The Board may enter an order which recites the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered which limit the issues for hearing, to those issues not disposed of by admissions or agreements of counsel or parties. The order, when entered, shall control the subsequent course of the action.

Section 419, HEARING PROCEDURES: GENERAL, is amended as follows:

Paragraph 419.1(m) is amended to read as follows:

- (m) Exclude unduly repetitious or immaterial or irrelevant testimony, and permit a witness to adopt the prior testimony of another witness; and

Section 420, SPECIAL CONSIDERATIONS, is amended to read as follows:

420 SPECIAL CONSIDERATIONS

420.1 The Fifth Amendment privilege against self-incrimination is applicable to hearings before the Board.

420.2 Where the Board is aware of a risk of self-incrimination, the Board shall on the record inform witnesses of their right to assert this privilege.

420.3 Where the Board is aware of a risk of self-incrimination, the Board shall warn witnesses that failure to assert this protection waives it.

Section 421, INTERPRETERS, is amended to read as follows:

421 INTERPRETERS AND OTHER ASSISTANCE

421.1 The Board shall post information on arranging interpreters and other assistance with attending and presenting at hearings on its website.

421.2 An oath or affirmation shall be administered to any interpreter orally or in writing.

Section 424, BURDEN OF PROOF, is amended to read as follows:

424 BURDEN OF PROOF

424.1 Except where the matter consists of the Board's de novo review of an Office of Campaign Finance violation finding under § 423.5, the party who asserts the claim generally bears the affirmative duty of establishing the truth of the assertion.

Subsection 428, FINAL DECISION, is amended as follows:

Subsection 428.2 is amended to read as follows:

428.2 The Board's decision shall be memorialized by a written memorandum opinion and/or order setting forth findings of fact and conclusions of law and giving the reasons for the decision and ordering appropriate action, if necessary.

Subsection 428.5 is amended to read as follows:

428.5 The decision shall be served on all parties or their representatives.

Section 429, RECONSIDERATION, is amended as follows:

Subsection 429.5 is amended to read as follows:

429.5 A motion for reconsideration, rehearing, or re-argument shall not be a prerequisite to judicial review and, where the statute requires the Board to act within a specified time, shall not extend otherwise timely Board action.

Section 430, SUBPOENAS AND DEPOSITIONS, is amended as follows:

Paragraph 430.2(d) is amended to read as follows:

(d) A command to the person to whom it is directed to attend and give testimony at a time and place specified in the subpoena; and/or

Subsection 430.3 is amended to read as follows:

430.3 Any party may upon a written motion request the Board to subpoena particular persons or evidence; provided that the subpoena shall not be obtained as a matter of right.

Section 431, SERVICE OF SUBPOENA AND NOTICE OF DEPOSITION, is amended to read as follows:

431 SERVICE OF SUBPOENA AND NOTICE OF DEPOSITION

- 431.1 A subpoena or a notice of a deposition shall be served by a non-party at least 18 years of age upon a person by delivering a copy of the subpoena or notice to the named person, pursuant to this section.
- 431.2 If a person is represented in a proceeding by counsel, a subpoena or a notice may be served upon the person's counsel.
- 431.3 Service of a subpoena or a notice of deposition and fees to an individual may be made by any of the following means:
- (a) Handing the subpoena or notice to the person;
 - (b) Leaving the subpoena or notice at the person's office with the person in charge of the office;
 - (c) Leaving the subpoena or notice at the person's dwelling place or usual place of abode with some person of suitable age and discretion then residing in that dwelling place or abode;
 - (d) Mailing the subpoena or notice by registered or certified mail to the person at the person's last known address; or
 - (e) Any other method whereby actual notice is given to the person.
- 431.4 When the person to be served is not an individual, a copy of the subpoena or notice of the deposition and fees shall be delivered by one (1) of the following ways:
- (a) Handing the subpoena or notice to a registered agent for service;
 - (b) Handing the subpoena or notice to any officer, director or agent in charge of any office of that person;
 - (c) Mailing the subpoena or notice by registered or certified mail to the representative at his or her last known address; or
 - (d) Any method whereby actual notice is given to that representative.
- 431.5 The Board may, upon the failure by any person to obey a subpoena served upon that person apply to the D.C. Superior Court for an order requiring the person to appear before the Board to give testimony, produce evidence or both. If a person fails to obey the order without an adequate excuse, the Board may apply for an order that the person be held on contempt by the court.

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

Section 500, GENERAL REQUIREMENTS FOR REGISTRATION, is amended as follows:

Subsection 500.2 is amended to read as follows:

- 500.2 A person is a “qualified elector” if they:
- (a) For a primary election, are at least seventeen (17) years of age and will be eighteen (18) on or before the next general election, or for a general or special election, are at least eighteen (18) years of age on or before the date of the general or special election;
 - (b) Are a citizen of the United States, except that this provision shall not apply in elections for the offices of Mayor, Members of the Council, Attorney General, Members of the State Board of Education, or Advisory Neighborhood Commissioners, or for elections on any ballot measures;
 - (c) [Repealed];
 - (d) Have maintained a residence in the District for at least thirty (30) days preceding the next election and do not claim voting residence or the right to vote in any state, territory, or country; and
 - (e) Have not been adjudged legally incompetent to vote by a court of competent jurisdiction.

Section 503, REGISTRATION APPLICATION FORMS AND REQUIREMENTS, is amended as follows:

Subsection 503.10 is amended to read as follows:

- 503.10 If an applicant for voter registration fails to provide the information required for registration, the Executive Director or his or her designee shall make reasonable attempts to notify the applicant of the failure. A reasonable attempt to notify the applicant may include a phone call, letter, or email. The Executive Director or his or her designee shall choose the most efficient method of communication based upon the contact information provided by the applicant.

Section 510, VOTER REGISTRATION INFORMATION, is amended as follows:

Subsection 510.1 is amended to read as follows:

- 510.1 Upon written request, the Board shall provide to any person a list of the registered qualified electors of the District of Columbia or any ward, precinct or ANC SMD therein. Responses to these data requests shall be processed in accordance with Freedom of Information Act (*see* Chapter 20 of this title).

Section 514, NOTIFICATION OF ACCEPTANCE OF REGISTRATION OR CHANGE OF REGISTRATION, is amended as follows:

Subsection 514.1 is amended to read as follows:

514.1 For registration applications and update notifications received at least twenty-one (21) days prior to an election, the Executive Director or his or her designee shall mail a non-forwardable voter registration notification to the applicant advising him or her of the acceptance or rejection of the registration application within nineteen (19) calendar days after the receipt of the registration application or update notification. If the application is rejected, the notification shall include the reason or reasons for the rejection and shall inform the voter of his or her right to either submit additional information as requested by the Board, or appeal the rejection pursuant to D.C. Official Code § 1-1001.07(f) (2016 Repl.).

Subsection 514.2 is amended to read as follows:

514.2 In the event that the notification advising the applicant of acceptance of his or her voter registration is returned to the Board as undeliverable, the Executive Director or his or her designee shall mail the notice provided in D.C. Official Code § 1-1001.07(j)(1)(B) (2016 Repl.).

Section 520, CANCELLATION OF VOTER REGISTRATION: GENERAL GROUNDS AND PROCEDURES, is amended to read as follows:

520 CANCELLATION OF VOTER REGISTRATION: GENERAL GROUNDS AND PROCEDURES

520.1 The grounds for cancellation of registration by the Board shall be the following:

- (a) Death of the voter;
- (b) Change in residence from the District of Columbia;
- (c) Signed authorization from a voter, or written notification from the voter that they are not a qualified elector;
- (d) [Repealed];
- (e) Successful challenge to voter registration;
- (f) Falsification of information on the voter registration application;
- (g) Declaration of mental incompetence by a court of competent jurisdiction;

and

- (h) In the case of a registrant whose registration is deemed inactive, failure to provide the Board with a current residence address in the District, in writing, or failure to vote in any election in accordance with D.C. Official Code § 1-1001.07(i)(4)(B) (2014 Repl.) by not later than the day after the date of the second general election for federal office that occurs after the date of the notice described in this section.

520.2 Where the Board cancels or proposes to cancel a voter's name from the registration roll, under § 520.1, notification to the person, as applicable to the cause of cancellation, shall be made by first class (forwardable) mail, except where authorization for removal has been provided by the signature of the voter, or where the voter's registration is being removed from the list of registrations deemed inactive.

520.3 In the event that the Board learns, through the regular course of business, that a voter is otherwise unqualified to be a registered elector in the District of Columbia, the Executive Director or his or her designee shall notify the registrant of this fact.

520.4 The notice shall include the information on which the Executive Director or his or her designee bases the decision and shall state that the registrant must respond within fourteen (14) days from the date of the mailing of the notice or be cancelled from the voter roll.

520.5 The Executive Director or his or her designee shall make a determination with respect to the elector's eligibility within ten (10) days of receipt of a response from the registrant.

520.6 The determination shall be sent by first class mail to the registrant.

520.7 Within fourteen (14) days of mailing the notice, the registrant may appeal, in writing, the Executive Director or his or her designee's determination to the Board.

520.8 The Board shall conduct a hearing and issue a decision within thirty (30) days of receipt of written notice of the appeal.

520.9 Requests for cancellation of voter registration received less than thirty (30) days preceding an election shall be held and processed after that election.

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

Section 600, GENERAL PROVISIONS, is amended to read as follows:

600 GENERAL PROVISIONS

600.1 This chapter governs the process by which candidates for elected office declare and withdraw their candidacy and the process by which candidates are determined to be eligible to hold the particular office sought. Acceptance by the Board or the Office of Campaign Finance of reports and statements required to be filed by a candidate pursuant to D.C. Official Code §§ 1-1101.01 *et seq.* (2011 Repl.), shall not be construed as a determination by the Board that the candidate is eligible for the particular office which he or she seeks.

600.2 For purposes of this chapter, unless otherwise provided, the following term shall have the meaning ascribed:

- (a) The term "candidate for nomination" means an individual who is seeking to win a party primary or is seeking ballot access in a general or special election by having registered voters sign a nominating petition to have his or her name printed directly on the ballot;
- (b) The term "candidate for election" means an individual who has won a party primary or survived the challenge period (D.C. Official Code § 1-1001.08(o) (2011 Repl.)) after filing a petition to have his or her name printed directly on the general or special election ballot;
- (c) The term "write-in nominee" means an individual whose name is written on the ballot by a voter in a primary, general, or special election and whose eligibility as a candidate in the election has not been determined by the Executive Director or his or her designee;
- (d) The term "write-in candidate" means an individual who has been nominated by at least one write-in vote and who has perfected his or her candidacy by filing an Affirmation of Write-In Candidacy form with the Board prior to the statutory deadline; and
- (e) The term "eligible," when used with the term "candidate," includes an individual who is not ineligible to be a candidate pursuant to D.C. Official Code § 1-1001.15, and who meets or is capable of meeting those statutory requirements necessary to serve in the particular office sought.
- (f) The term "elected office" means any of the following elected party, District, or federal offices:
 - (1) National committeemen and national committeewomen of political parties, and alternates, when the party has requested the inclusion of these offices at a regularly scheduled primary election in a presidential election year;
 - (2) Delegates to conventions and conferences of political parties, and alternates, when the party has requested the inclusion of these

offices at a regularly scheduled primary election in a presidential election year;

- (3) Members and officials of local committees of political parties when the party has requested the inclusion of these offices at a regularly scheduled primary election in a presidential election year;
- (4) Electors of President and Vice President of the United States;
- (5) Delegate to the House of Representatives;
- (6) Members of the State Board of Education;
- (7) Members of the Council of the District of Columbia, including Chairman;
- (8) Attorney General for the District of Columbia;
- (9) Mayor of the District of Columbia;
- (10) United States Senator;
- (11) United States Representative; and
- (12) Advisory Neighborhood Commissioner.

Section 601, DECLARATION OF CANDIDACY, is amended as follows:

Subsection 601.5 is amended to read as follows:

601.5 The Declaration of Candidacy must be filed before the Registrar will issue nominating petitions for the particular office sought, except that in the event the nomination of candidates for election to the office of presidential elector is made by message to the Board pursuant to D.C. Code § 1-1001.08(d) (2011 Repl.), the deadline for filing the Declaration of Candidacy shall be the same date as the deadline for making nominations by message.

Subsection 601.9 is amended to read as follows:

601.9 The preliminary determination of eligibility shall in no way be deemed to preclude further inquiry into or challenge to the eligibility of an individual for candidacy or office made prior to the certification of election results. The Executive Director or his or her designee may reverse a preliminary determination of eligibility based upon evidence which was not known to the Executive Director at the time of the preliminary determination or upon evidence of changed circumstances. Except insofar as the Executive Director may exercise his or her discretion to revisit a

preliminary favorable determination of eligibility, a preliminary favorable determination is subject to review exclusively through nominating petition challenge procedures (including challenge filing deadlines) set forth at D.C. Code § 1-1001.08(o).

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

Subsection 602.7 is amended to read as follows:

602.7 Notice of any adverse determination shall be served immediately by mail and/or email to the email address for the person identified on the Affirmation of Write-in Candidacy form.

A new subsection 602.11 is added to read as follows:

602.11 Notice of the successful bid of a write-in candidate shall be provided through the posting of election results on the Board's website. No other notice is required.

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

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

Subsection 700.5 is amended to read as follows:

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;
- (k) The individual is listed on the poll book as eligible to vote in local elections only but claims he or she is eligible to vote in an election for federal office; or
- (l) 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.

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”);
- (b) 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;
- (f) The names, addresses, email addresses, and telephone numbers of all persons who will serve as poll watchers on behalf of the candidate or measure proposer or opponent; and
- (g) 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 ballot 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 the denial of a petition for credentials, the Executive Director shall issue public notice of such denial on the Board's website.

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 (unless the information needed to do so would undermine the grant of confidential voter status);
 - (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 (unless the information needed to do so would undermine the grant of confidential voter status); 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 questions, or claims any discrepancy or error in the voting or the counting of the vote, the watcher or observer shall direct the questions 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 as follows:

Subsection 707.2 is amended to read as follows:

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 or security personnel engaged by the Board;
- (c) Duly qualified poll watchers and election observers;

- (d) Persons actually engaged in voting; and
- (e) Other persons authorized by the Board.

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

Subsection 713.7 is amended to read as follows:

713.7 No official providing voter assistance shall in any way influence or attempt to influence a voter's choice in voting, nor shall the official disclose to anyone how the voter voted.

CHAPTER 8, TABULATION AND CERTIFICATION OF ELECTION RESULTS, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Section 808, MAIL-IN 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 mail-in 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 mail-in 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 mail-in ballots for machine tabulation acceptability. All mail-in 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 mail-in 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 mail-in 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.

CHAPTER 9, FILLING VACANCIES, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Section 908, APPOINTMENT PENDING SPECIAL ELECTION: PARTY-AFFILIATED AT-LARGE COUNCIL SEAT, is amended to read as follows:

908 APPOINTMENT PENDING SPECIAL ELECTION: PARTY-AFFILIATED AT-LARGE COUNCIL SEAT

908.1 Within a reasonable period after receiving notice from the D.C. Board of Elections of a vacancy in a party-affiliated at-large council seat, the central (state) committee of that party shall appoint a qualified elector registered with the same party to fill the office until the D.C. Board of Elections holds a special election and certifies the winner as provided by D.C. Official Code § 1-204.01(d)(2) (2012 Repl.).

908.2 The central (state) committee of the party appointing a registered qualified elector affiliated with its party shall be currently registered as a political committee with the D.C. Board of Elections and have on file with the Board a certified copy of the organization's current constitution and by-laws.

Section 909, APPOINTMENT PENDING SPECIAL ELECTION: NON-PARTY AFFILIATED AT-LARGE COUNCIL SEAT, is amended to read as follows:

909 APPOINTMENT PENDING SPECIAL ELECTION: NON-PARTY AFFILIATED AT-LARGE COUNCIL SEAT

909.1 Within a reasonable period of time after receiving notice from the D.C. Board of Elections of a vacancy in a non-party affiliated at-large seat, the Council of the District of Columbia shall appoint a qualified elector who is not affiliated with any political party.

909.2 The elector appointed Councilmember at-large shall fill the office until the D.C. Board of Elections holds a special election and certifies the winner, as provided by D.C. Official Code § 1-204.01(d)(2) (2012 Repl.).

CHAPTER 10, INITIATIVE AND REFERENDUM, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Section 1000, GENERAL PROVISIONS, is amended as follows:

Paragraph 1000.4(a) is amended to read as follows:

1000.4(a) Submit for publication in the *District of Columbia Register* notice of the measure's receipt and the Board's intent to review the measure at a public hearing to determine whether it presents a proper subject for initiative or referendum, whichever is applicable ("Notice of Public Hearing: Receipt and Intent to Review");

Subsection 1000.7 is amended to read as follows:

1000.7 If the Board determines that the initiative or referendum measure presents a proper subject, or if the Superior Court of the District of Columbia grants a writ in the nature of mandamus compelling the Board to accept the measure, the Board shall accept the initiative or referendum measure as a proper subject matter and shall assign a serial number to the measure. In the case of an initiative, the Board shall also promptly request a fiscal impact statement from the Office of the Chief Financial Officer, who shall issue a fiscal impact statement within fifteen (15) business days after receipt of the request from the Board.

Section 1001, ADOPTION OF BALLOT LANGUAGE, is amended as follows:

Subsection 1001.1 is amended to read as follows:

1001.1 Within twenty (20) calendar days of the date on which the Board accepts the initiative or referendum measure, the Board shall:

(a) Prepare the following for adoption at a public meeting:

- (1) An abbreviated and impartial summary statement, written in plain language, that does not exceed one hundred (100) words in length and which expresses the chief purpose of the proposed measure;
- (2) A short title for the measure not exceeding fifteen (15) words in length by which it will be readily identifiable and distinguishable from other measures which may appear on the ballot; and

- (3) The proper legislative form of the initiative or referendum measure, where applicable, similar to the form of an act that has completed the course of the legislative process within the District of Columbia government before transmittal to Congress.
- (b) Submit for publication in the *District of Columbia Register* notice of the public meeting to adopt the summary statement, short title, and legislative form of the measure which, in the case of an initiative measure, shall be held after the deadline for the Board's receipt of the fiscal impact statement described in Subsection 1000.7 of this chapter. The notice of the public meeting shall include the formulations prepared by the Board.

Subsection 1001.3 is amended to read as follows:

- 1001.3 Within twenty-four (24) hours after the public meeting at which the summary statement, short title, and legislative text are adopted, the Board shall:
- (a) Notify the proposer of the measure of the adopted language by email;
 - (b) Submit the adopted language to the *District of Columbia Register* and at least one newspaper of general circulation for publication, and post it on its website; and
 - (c) In the case of an initiative measure, publish the measure's fiscal impact statement in the *District of Columbia Register* and at least one newspaper of general circulation for publication, and post it on its website.

Section 1003, SIGNATURE REQUIREMENTS, is amended as follows:

Subsection 1003.3 is amended to read as follows:

- 1003.3 The Board shall use the latest official end-of-month count of registered qualified electors published in the *District of Columbia Register* that was made at least thirty (30) days prior to submission of the signatures for the particular initiative or referendum measure to determine the minimum number of signatures required for ballot access. Any subsequent changes in the District-wide or ward voter counts, including changes caused by any redistricting, shall not be grounds for challenging the number of signatures needed on a petition as calculated based on five percent (5%) of such published end-of-month count.

Section 1005, FILING PETITIONS, is amended to read as follows:

1005 FILING PETITIONS

- 1005.1 All pages of an initiative petition shall be submitted in hard copy for filing no later than 5:00 p.m. on the one hundred and eightieth (180th) calendar day following the

date upon which the Board provided the original petition form. All pages of a referendum petition shall be submitted in hard copy for filing no later than 5:00 p.m. on the last business day before the act, or any part of the act, which is the subject of the referendum has become law. A petition, or any sheet comprising the petition, that is not timely submitted shall not be accepted for filing.

1005.2 All timely submitted petitions shall be received by the Executive Director or his or her designee. When a petition is offered for filing, the Executive Director shall:

- (a) Count the petition pages and issue a receipt for the total number of petition pages submitted;
- (b) Shall serially number the pages and obliterate any blank lines appearing on each petition page; and
- (c) Prepare an initial total count, broken down by ward, of the signatures submitted pursuant to the rules of this section.

1005.3 A signature shall not be accepted, and shall not be included in the Executive Director's initial total count, if it:

- (a) Appears on a page that is not a proper reproduction of the paper form provided by the Board;
- (b) Appears on a page which does not have a completed circulator affidavit;
- (c) Appears on a page that was circulated by an individual who is not a qualified petition circulator; or
- (d) Is the signature of a registered voter who submitted a notarized request to disallow his or her signature from being counted on the petition, provided that the request was received prior to the time the petition is filed.

1005.4 If the initial total count indicates that a petition contains at least five percent (5%) of registered qualified electors in the District, the Executive Director shall accept the petition, post the petition for public inspection and challenge, and proceed with registration verification of petition signers in accordance with the rules of this chapter. If the petition does not contain at least five percent (5%) of registered qualified electors in the District, the Executive Director shall refuse to accept the petition and shall notify the proposer(s) in writing of the refusal.

1005.5 If the accepted petition is for a referendum, the Executive Director shall request that the custodian of the act return it to the Chairman of the Council of the District of Columbia.

1005.6 Within ten (10) days after a refusal, the proposer(s) of a rejected initiative or referendum petition may petition the Superior Court of the District of Columbia for a writ in the nature of mandamus to compel the Board to accept the petition. The Board shall retain the submitted petition pending appeal.

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

1006 PETITION CHALLENGES

1006.1 The Executive Director or his or her designee shall post all timely submitted petitions, or facsimiles thereof, in the Board's office for public inspection and opportunity for challenge on the basis of an insufficient number of valid signatures or any other grounds (except as to the merits of the measure) by any qualified elector(s) for ten (10) days, including Saturdays, Sundays, and holidays, beginning on the third (3rd) calendar day after the petitions are filed. A challenge to an initiative or referendum petition that is not properly submitted to the Board within the challenge period shall not be accepted.

1006.2 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 to the validity of the signatures on the petition is properly filed if:

- (a) It cites the alleged signature or circulator requirement defects, as set forth in the signature validity rules of this chapter, by line and page;
- (b) It is signed and submitted in-person at the Board's office by a qualified elector within the ten (10)-day posting period;
- (c) It alleges the minimum number of signature defects which, if valid, would render the proposed measure ineligible for ballot access; and
- (d) It appears on its face to be based on a good faith review of each signature and circulator affidavit. An absence of good faith may be determined where the Board's review of the challenge indicates that the defect(s) alleged for a substantial number of signatures and/or circulator affidavits could not reasonably be found to apply to such signatures and /or circulator affidavits.

A challenge on grounds other than the alleged invalidity of any petition signature will be properly filed if sets forth concisely a procedural or other defect that is not based on the merits of the legislative change sought.

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. In addition, the Board's General Counsel may schedule a pre-hearing conference between the parties.

- 1006.4 After receipt of a properly filed challenge that is based on allegedly invalid signatures, the Board's staff shall search the Board's registration records to prepare a recommendation to the Board as to the validity of the challenge.
- 1006.5 The Board shall receive evidence in support of and in opposition to the challenge and shall rule on the validity of the challenge no more than twenty (20) days after the challenge has been filed. The Board shall consider any other evidence as may be submitted, including but not limited to, documentary evidence, affidavits, and oral testimony.
- 1006.6 The Board, in view of the fact that it shall hear and determine the validity of the challenge within a limited time, may limit examination and cross-examination of witnesses to the following:
- (a) Objections and specifications of such objections, if any, to the petition; and
 - (b) Objections and specifications of such objections, if any, to the petition challenge.
- 1006.7 Based upon the evidence received, the Board shall either reject or uphold the challenge, and accordingly grant or deny ballot access to the proposed measure whose petition was challenged.
- 1006.8 If a one (1)-member Board panel makes a determination on the validity of a challenge, either the challenger or the proposer may apply to either the full Board or the District of Columbia Court of Appeals for a review of such determination within three (3) days after the announcement of the one (1)-member panel determination; provided that any appeal to the full Board must be made in time to permit the Board to resolve the matter by no later than twenty (20) days after the challenge has been filed. An appeal from a full Board determination to the Court of Appeals shall be made within three (3) days.

Section 1008, WATCHERS, is amended to read as follows:

1008 WATCHERS

- 1008.1 Two (2) persons representing the proposer(s) and two (2) persons representing any committee(s) registered with the Office of Campaign Finance and organized in opposition to a proposed initiative or referendum measure may be present during the counting and validation procedures and shall be deemed watchers.
- 1008.2 To secure the presence of watchers, the proposer, or any committee registered in opposition, shall file a petition for credentials for watchers, within three (3) days from the date the initiative or referendum petition is submitted for filing.

- 1008.3 Each petition for credentials shall be on a form furnished by the Board and shall contain the following:
- (a) The name, address, telephone number, and signature of the proposer(s) or the committee(s), together with the title of the proposed measure and its serial number;
 - (b) The names, addresses, and telephone numbers of the persons authorized to represent the proposer(s) or the committee(s) and receive the badges from the Board; and
 - (c) A certificate that each proposed watcher shall conform to the regulations of the Board concerning watchers and the conduct of the counting and validation process.
- 1008.4 Watchers shall report to the Board's offices no later than the first business day following the submission of the credential petition, at which time the Board shall issue a badge for each authorized watcher, with space for the watcher's name, the serial number of the measure, and the name of the proposer(s) or political committee(s) represented by the watcher.
- 1008.5 Board staff shall notify the persons authorized to represent the proposer(s) or the committee(s) of the schedule for the administration of the counting and validation procedures, which may occur after the close of business, on weekends, and on scheduled holidays, and of any amendments to such schedule. Such notice shall include instructions on the time by which watchers must report to the Board's offices in order to observe the process. Watchers who report after the stated time may be denied the opportunity to observe the process on that day.
- 1008.6 Badges shall be worn by the authorized watcher at all times when observing the counting and validation process.
- 1008.7 An authorized alternate watcher may, in the discretion of the proposer(s) or the political committee(s), be substituted for a watcher at any time during the counting and validation process; provided, that notice is first given to the designated representative of the Board who is present.
- 1008.8 No watcher shall at any time during the counting and validation process do the following:
- (a) Touch any official record of the Board; or
 - (b) Interfere with the progress of the counting and validation process or obstruct in any way the process.

1008.9 If a watcher has any questions or claims any discrepancy, inaccuracy, or error in the conduct of the procedures, he or she shall direct his or her question or complaint to the Board designee in charge.

1008.10 Any watcher who, in the judgment of the Board or its designated representative, has failed to comply with any of the rules in this section may be requested to leave the area where the verification process is being conducted, and the watcher's credentials shall be deemed canceled. An authorized alternate watcher may be substituted.

Section 1009, PETITION CERTIFICATION, is amended to read as follows:

1009 PETITION CERTIFICATION

1009.1 Within thirty (30) calendar days after the acceptance of an initiative or referendum petition for filing, the Board shall determine whether the petition contains the number of valid signatures necessary, in terms of percentage and ward distribution requirements, to be certified for ballot access.

1009.2 Upon the acceptance of a petition, the Executive Director or his or her designee shall:

- (a) Verify the registration of each petition signer; and
- (b) Determine the number of signatures of verified registrants.

1009.3 The signatures of the verified registrants shall comprise the universe of signatures from which a random sample will be drawn for purposes of verifying the signatures' authenticity ("random sample universe").

1009.4 A signature will not be counted and included in the random sample universe if:

- (a) The signer's voter registration was designated as inactive on the voter roll at the time the petition was signed;
- (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, except that, if the Board's records indicate that the voter filed a change of address after the date on which the petition was signed but that was received on or before the petition was submitted, the signature shall be included in the random sample universe;
- (c) The signature is a duplicate of a valid signature;
- (d) The signature is not dated;

- (e) The petition does not include the printed or typed address of the signer;
- (f) The petition does not include the printed or typed name of the signer where the signature is not sufficiently legible for identification;
- (g) The circulator of the petition sheet was not a qualified petition circulator at the time the petition was signed;
- (h) The circulator of the petition failed to complete all required information in the circulator's affidavit;
- (i) [REPEALED]; or
- (j) The signature was obtained on a petition sheet that was submitted on behalf of a previously filed initiative or referendum petition that was rejected or found to be numerically insufficient.

1009.5 Each signature in the random sample universe shall be ascribed to the ward in which the signer was a duly registered voter on the date the petition was signed regardless of whether any subsequent redistricting causes the voter to be assigned to a new ward, except that if the Board's records indicate that the voter filed a change of address after the date on which the petition was signed, but that was received on or before the petition was submitted, the signature shall be included in the ward of the voter's new address.

1009.6 If the number of signatures in the random sample universe does not meet or exceed the established ward and District-wide requirements, the Board shall reject the petition as numerically insufficient.

1009.7 If the number of signatures in the random sample universe meets or exceeds the established minimum ward and District-wide requirements, the Board shall supply the Data Analysis and Visualization Division of the Office of Planning with the signatures in the random sample universe, broken down by ward. The Data Analysis and Visualization Division shall draw and identify for the Board a sample of one hundred (100) signatures from each ward to be verified, except where:

- (a) The Data Analysis and Visualization Division determines that sampling the signatures of a given ward would not be necessary for the Board to make a determination to accept or reject the petition; or
- (b) The Data Analysis and Visualization Division determines that a sample larger than one hundred (100) must be drawn in order for the Board to make a determination to accept or reject the petition, and thus draws and identifies an appropriate sample size. If necessary to reach the required levels of statistical certainty, the Data Analysis and Visualization Division may draw

progressively larger sample sizes or, at the discretion of the Board, the entire random sample universe of signatures may be tested.

- 1009.8 In making the determination as to the authenticity of a signature, the Board shall disqualify a signature if the signature appearing on the petition does not match the signature on file in the Board's records.
- 1009.5 The Board shall report the number of authentic signatures in each ward sample ("random sample results") to the Data Analysis and Visualization Division. Using the random sample results, the Data Analysis and Visualization Division shall employ formulas from the fields of probability and statistics to determine the following:
- (a) Whether a ward equals or exceeds the required number of authentic signatures with ninety-five percent (95%) confidence, and should thus be accepted;
 - (b) Whether a ward does not equal or exceed the required number of authentic signatures with ninety-five percent (95%) confidence, and should thus be rejected; or
 - (c) Whether a larger sample should be drawn since no decision could be made with ninety-five percent (95%) confidence from the sample used.
- 1009.6 If is the Data Analysis and Visualization Division determines that at least five (5) of the eight (8) election wards have the required number of valid signatures, then it shall use a stratified random sampling formula to combine the figures from all wards which were sampled to determine whether the entire number of authentic signatures appearing on the petition is equal in number to five percent (5%) of the registered electors in the District of Columbia with ninety-five percent (95%) confidence. The Data Analysis and Visualization Division shall request that the Board verify additional signatures for authenticity if a larger sample is needed to make a determination, unless the Board in the exercise of its discretion requires that the entire random sample universe of signatures shall be tested.
- 1009.7 If the total number of authentic signatures equals or exceeds the ward and District-wide signature requirements with ninety-five percent (95%) confidence, the Board shall certify the petition as numerically sufficient for ballot access.
- 1009.8 If the total number of authentic signatures fails to equal or exceed the ward and District-wide signature requirements with ninety-five percent (95%) confidence, the Board shall certify the petition as numerically insufficient to qualify for ballot access.

Chapter 11, RECALL OF ELECTED OFFICIALS, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Section 1103, SIGNATURE REQUIREMENTS, is amended to read as follows:

1103 SIGNATURE REQUIREMENTS

- 1103.1 A petition to recall an elected official in a city-wide office shall contain the valid signatures of at least ten percent (10%) of the registered qualified electors of the District of Columbia, provided that the total number of signatures submitted shall include ten percent (10%) of the registered electors in at least five (5) of the eight (8) election wards.
- 1103.2 A petition to recall an elected official from a ward shall contain the valid signatures of at least ten percent (10%) of the registered qualified electors of the ward from which the official was elected.
- 1103.3 A petition to recall an elected official from a Single-Member District shall contain the valid signatures of at least ten percent (10%) of the registered qualified electors of the Single-Member District from which the official was elected.
- 1103.4 The maximum number of signatures that the Board will accept for filing with respect to an office is two (2) times the minimum number of signatures as required for that office by this section. Working from the first page of a petition that has been serially numbered pursuant to Subsection 1105.2 of this chapter, the Board shall only accept for filing the maximum number of signatures that may be filed pursuant to this section.
- 1103.5 The Board shall use the latest official end-of-month count of registered qualified electors published in the *District of Columbia Register* that was made at least thirty (30) days prior to submission of the signatures for the particular initiative or referendum measure to determine the minimum number of signatures required for ballot access. Any subsequent changes in the District-wide or ward voter counts, including changes caused by any redistricting, shall not be grounds for challenging the number of signatures needed on a petition as calculated based on five percent (5%) of such published end-of-month count.

Section 1105, FILING PETITIONS, is amended to read as follows:

1105 FILING PETITIONS

- 1105.1 Where the elected official sought to be recalled is an elected official other than an Advisory Neighborhood Commissioner, all pages of a recall petition shall be submitted in hard copy for filing no later than 5:00 p.m. on the one hundred and eightieth (180th) calendar day following the date upon which the Board provided the original petition form. Where the elected official sought to be recalled is an Advisory Neighborhood Commissioner, all pages of a recall petition shall be submitted in hard copy for filing no later than 5:00 p.m. on the sixtieth (60th)

calendar day following the date upon which the Board provided the original petition form. A petition, or any sheet comprising the petition, that is not timely submitted shall not be accepted for filing

1105.2 All timely submitted petitions shall be received by the Executive Director or his or her designee. When a petition is offered for filing, the Executive Director shall:

- (a) Count the petition pages and issue a receipt for the total number of petition pages submitted;
- (b) Serially number the pages and obliterate any blank lines appearing on each petition page; and
- (c) Prepare an initial total count, broken down by ward, of the signatures submitted.

1105.3 A signature shall not be accepted, and shall not be included in the Executive Director's initial total count, if it:

- (a) Appears on a page that is not a proper reproduction of the paper form provided by the Board;
- (b) Appears on a page which does not have a completed circulator affidavit;
- (c) Appears on a page that was circulated by an individual who is not a qualified petition circulator; and
- (d) Is the signature of a registered voter who submitted a notarized request to disallow his or her signature from being counted on the petition, provided that the request was received prior to the time the petition is filed.

1105.4 If the initial total count indicates that the petition contains the signatures of at least ten percent (10%) of the registered qualified electors residing in the political subdivision from which the elected official sought to be recalled is elected, the Executive Director shall accept the petition, post the petition for public inspection and challenge, and proceed with registration verification of petition signers in accordance with the rules of this chapter. If the petition does not contain the signatures of at least ten percent (10%) of the registered qualified electors residing in the political subdivision from which the elected official sought to be recalled is elected, the Executive Director shall refuse to accept the petition and shall notify the proposer(s) in writing of the refusal.

1105.5 Within ten (10) days after the refusal, the proposer(s) of a refused petition may, pursuant to D.C. Code § 1-1001.17(j)(1) (2016 Repl.), petition the Superior Court of the District of Columbia for a writ in the nature of mandamus to compel the Board to accept the petition.

Section 1106, PETITION CHALLENGES, is amended to read as follows:

1106 PETITION CHALLENGES

1106.1 The Executive Director or his or her designee shall post all timely submitted petitions, or facsimiles thereof, in the Board's office for public inspection and opportunity for challenge on the basis of an insufficient number of valid signatures or any other grounds (except as to the merits of the recall) by any qualified elector(s) for ten (10) days, including Saturdays, Sundays, and holidays, beginning on the third (3rd) calendar day after the petitions are filed. A challenge to a recall petition that is not properly submitted to the Board within the challenge period shall not be accepted.

1106.2 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 to the validity of the signatures on the petition is properly filed if:

- (a) It cites the alleged signature or circulator requirement defects, as set forth in the signature validity rules of this chapter, by line and page;
- (b) It is signed and submitted in-person at the Board's office by a qualified elector within the ten (10)-day posting period;
- (c) It alleges the minimum number of signature defects which, if valid, would render the proposed measure ineligible for ballot access; and
- (d) It appears on its face to be based on a good faith review of each signature and circulator affidavit. An absence of good faith may be determined where the Board's review of the challenge indicates that the defect(s) alleged for a substantial number of signatures and/or circulator affidavits could not reasonably be found to apply to such signatures and/or circulator affidavits.

A challenge on grounds other than the alleged invalidity of any petition signature will be properly filed if sets forth concisely a procedural or other defect that is not based on the merits of the reasons for or against the recall.

1106.3 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. In addition, the Board's General Counsel may schedule a pre-hearing conference between the parties.

1106.4 After receipt of a properly filed challenge that is based on allegedly invalid signatures, the Board's staff shall search the Board's registration records to prepare a recommendation to the Board as to the validity of the challenge.

- 1106.5 The Board shall receive evidence in support of and in opposition to the challenge and shall rule on the validity of the challenge no more than twenty (20) days after the challenge has been filed. The Board shall consider any other evidence as may be submitted, including but not limited to, documentary evidence, affidavits, and oral testimony.
- 1106.6 The Board, in view of the fact that it shall hear and determine the validity of the challenge within a limited time, may limit examination and cross-examination of witnesses to the following:
- (a) Objections and specifications of such objections, if any, to the petition; and
 - (b) Objections and specifications of such objections, if any, to the petition challenge.
- 1106.7 Based upon the evidence received, the Board shall either reject or uphold the challenge, and accordingly grant or deny ballot access to the proposed measure whose petition was challenged.
- 1106.8 If a one (1)-member Board panel makes a determination on the validity of a challenge, either the challenger or the proposer may apply to either the full Board or the District of Columbia Court of Appeals for a review of such determination within three (3) days after the announcement of the one (1)-member panel determination; provided that any appeal to the full Board must be made in time to permit the Board to resolve the matter by no later than twenty (20) days after the challenge has been filed. An appeal from a full Board determination to the Court of Appeals shall be made within three (3) days.

Section 1108, WATCHERS, is amended to read as follows:

1108 WATCHERS

- 1108.1 Two (2) persons representing the proposer(s) and two (2) persons representing the elected official sought to be recalled may be present during the counting and validation procedures and shall be deemed watchers.
- 1108.2 To secure the presence of watchers, the proposer or elected official shall file a petition for credentials for watchers within three (3) days from the date the initiative or referendum petition is submitted for filing.
- 1108.3 Each petition for credentials shall be on a form furnished by the Board and shall contain the following:
- (a) The name, address, telephone number, and signature of the proposer(s) or elected official;

- (b) The names, addresses, and telephone numbers of the persons authorized to represent the proposer(s) or elected official and receive the badges from the Board; and
- (c) A certificate that each proposed watcher shall conform to the regulations of the Board concerning watchers and the conduct of the counting and validation process.

1108.4 Watchers shall report to the Board's offices no later than the first business day following the submission of the credential petition, at which time the Board shall issue a badge for each authorized watcher, with space for the watcher's name, the serial number of the measure, and the name of the proposer(s) or political committee(s) represented by the watcher.

1108.5 Board staff shall notify the persons authorized to represent the proposer(s) or the elected official of the schedule for the administration of the counting and validation procedures, which may occur after the close of business, on weekends, and on scheduled holidays, and of any amendments to such schedule. Such notice shall include instructions on the time by which watchers must report to the Board's offices in order to observe the process. Watchers who report after the stated time may be denied the opportunity to observe the process on that day.

1108.6 Badges shall be worn by the authorized watcher at all times when observing the counting and validation process.

1108.7 An authorized alternate watcher may, in the discretion of the proposer(s) or the elected official, be substituted for a watcher at any time during the counting and validation process; provided, that notice is first given to the designated representative of the Board who is present.

1108.8 No watcher shall at any time during the counting and validation process do the following:

- (a) Touch any official record of the Board; or
- (b) Interfere with the progress of the counting and validation process or obstruct in any way the process.

1108.9 If a watcher has any questions or claims any discrepancy, inaccuracy, or error in the conduct of the procedures, he or she shall direct his or her question or complaint to the Board designee in charge.

1108.10 Any watcher who, in the judgment of the Board or its designated representative, has failed to comply with any of the rules in this section may be requested to leave the area where the verification process is being conducted, and the watcher's

credentials shall be deemed canceled. An authorized alternate watcher may be substituted.

Section 1109, PETITION CERTIFICATION, is amended to read as follows:

1109 PETITION CERTIFICATION

1109.1 Within thirty (30) calendar days after the acceptance of a recall petition for filing, the Board shall determine whether the petition contains the number of valid signatures necessary, in terms of percentage and ward distribution requirements, to be certified for ballot access.

1109.2 Upon the acceptance of a petition, the Executive Director or his or her designee shall:

- (a) Verify the registration of each petition signer; and
- (b) Determine the number of signatures of verified registrants.

1109.3 The signatures of the verified registrants shall comprise the universe of signatures from which a random sample will be drawn for purposes of verifying the signatures' authenticity ("random sample universe").

1109.4 A signature will not be counted and included in the random sample universe if:

- (a) The signer's voter registration was designated as inactive on the voter roll at the time the petition was signed;
- (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, except that, if the Board's records indicate that the voter filed a change of address after the date on which the petition was signed but that was received on or before the petition was submitted, the signature shall be included in the random sample universe;
- (c) The signature is a duplicate of a valid signature;
- (d) The signature is not dated;
- (e) The petition does not include the printed or typed address of the signer;
- (f) The petition does not include the printed or typed name of the signer where the signature is not sufficiently legible for identification;
- (g) The circulator of the petition sheet was not a qualified petition circulator at

the time the petition was signed;

- (h) The circulator of the petition failed to complete all required information in the circulator's affidavit;
- (i) The signer was also the circulator of the same petition sheet where the signature appears;
- (j) The signature was obtained on a petition sheet that was submitted on behalf of a previously filed initiative or referendum petition that was rejected or found to be numerically insufficient; or
- (k) The signer is not a registered voter in the ward or Single-Member District of the elected official sought to be recalled.

1109.5 Each signature in the random sample universe shall be ascribed to the ward in which the signer was a duly registered voter on the date the petition was signed regardless of whether any subsequent redistricting causes the voter to be assigned to a new ward, except that if the Board's records indicate that the voter filed a change of address after the date on which the petition was signed, but that was received on or before the petition was submitted, the signature shall be included in the ward of the voter's new address.

1109.6 If the number of signatures in the random sample universe does not meet or exceed the established ward and District-wide requirements, the Board shall reject the petition as numerically insufficient. If necessary to reach the required levels of statistical certainty, the Data Analysis and Visualization Division may draw progressively larger sample sizes or, at the discretion of the Board, the entire random sample universe of signatures may be tested.

1109.7 If the number of signatures in the random sample universe meets or exceeds the established minimum requirements and the officer sought to be recalled is an Advisory Neighborhood Commissioner, the Board shall verify the authenticity of all of the signatures in the random sample universe.

1109.8 If the number of signatures in the random sample universe meets or exceeds the established minimum requirements and the officer sought to be recalled is elected from a ward or at-large, the Board shall supply the Data Analysis and Visualization Division of the Office of Planning with the signatures in the random sample universe, further broken down by ward if the elected official sought to be recalled is elected at-large.

1109.9 If the elected official sought to be recalled is elected at-large, the Data Analysis and Visualization Division shall draw and identify for the Board a sample of one hundred (100) signatures from each ward to be verified, except where:

- (a) The Data Analysis and Visualization Division determines that sampling the signatures of a given ward would not be necessary for the Board to make a determination to accept or reject the petition; or
- (b) The Data Analysis and Visualization Division determines that a sample larger than one hundred (100) must be drawn in order for the Board to make a determination to accept or reject the petition, and thus draws and identifies an appropriate sample size.

1109.10 If the elected official sought to be recalled is elected from a ward, the Data Analysis and Visualization Division shall determine the size of the random sample.

1109.11 In making the determination as to the authenticity of a signature, the Board shall disqualify a signature if the signature appearing on the petition does not match the signature on file in the Board's records.

1109.12 The Board shall report the number of authentic signatures in each ward sample ("random sample results") to the Data Analysis and Visualization Division. Using the random sample results, the Data Analysis and Visualization Division shall employ formulas from the fields of probability and statistics to determine the following:

- (a) Whether a ward equals or exceeds the required number of authentic signatures with ninety-five percent (95%) confidence, and should thus be accepted;
- (b) Whether a ward does not equal or exceed the required number of authentic signatures with ninety-five percent (95%) confidence, and should thus be rejected; or
- (c) Whether a larger sample should be drawn since no decision could be made with ninety-five percent (95%) confidence from the sample used.

1109.13 In the event that the elected official sought to be recalled is elected at-large, if the Data Analysis and Visualization Division determines that at least five (5) of the eight (8) election wards have the required number of valid signatures, then it shall use a stratified random sampling formula to combine the figures from all wards which were sampled to determine whether the entire number of authentic signatures appearing on the petition is equal in number to five percent (5%) of the registered electors in the District of Columbia with ninety-five percent (95%) confidence. The Data Analysis and Visualization Division shall request that the Board verify additional signatures for authenticity if a larger sample is needed to make a determination, unless the Board in the exercise of its discretion requires that the entire random sample universe of signatures shall be tested.

- 1109.14 If the total number of authentic signatures equals or exceeds the ward and District-wide signature requirements with ninety-five percent (95%) confidence, the Board shall certify the petition as numerically sufficient for ballot access.
- 1109.15 If the total number of authentic signatures fails to equal or exceed the ward and District-wide signature requirements with ninety-five percent (95%) confidence, the Board shall certify the petition as numerically insufficient to qualify for ballot access.

Chapter 12, BALLOTS, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Section 1200, BALLOT FORM AND CONTENT, is amended as follows:

Subsection 1200.5 is amended to read as follows:

- 1200.5 Initiative, referendum, and recall measures, proposed Charter amendments, and special elections to fill vacancies may appear on a separate ballot in any election.

Section 1201, FICTITIOUS AND SAMPLE BALLOTS, is amended to read as follows:

1201 SAMPLE BALLOTS

- 1201.1 The Board shall publish a sample ballot to be used in each election (except the official ballot to be used in the Advisory Neighborhood Commissions elections) in one or more newspapers of general circulation in the District not more than twenty-one (21) days before each election.
- 1201.2 The Board shall permit the preparation and distribution of sample ballots, subject to the following requirements:
- (a) Sample ballots shall be printed or reproduced on white paper; and
 - (b) Sample ballots shall be prominently marked on the front with the word(s) "Sample" or "Sample Ballot."

Section 1204, BALLOT POSITION LOTTERY, is amended as follows:

Subsection 1204.1 is amended to read as follows:

- 1204.1 In each primary, general and special election, the Board, or its designee(s), shall determine, by lottery, the order of the candidates' names on the ballot in each contest.

Chapter 13, ADVISORY NEIGHBORHOOD COMMISSION VACANCIES, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Section 1302, DECLARATION OF VACANCY BY THE BOARD, is amended to read as follows:

1302 DECLARATION OF VACANCY BY THE BOARD

- 1302.1 The Board may declare and certify a vacancy on its own initiative when:
- (a) The office of a Commissioner remains vacant after a general or special election; or
 - (b) The Board determines, through its established procedures for the maintenance of the voter registration roll, that a Commissioner is no longer a registered qualified elector actually residing in the single-member district from which the Commissioner was elected; provided that such voter roll maintenance procedures shall not include qualification challenges that can otherwise be presented to the appropriate Neighborhood Advisory Commission in accordance with Section 1301 of this chapter.
- 1302.2 If the Executive Director, through voter registration list maintenance activities, receives evidence that a Commissioner is no longer a registered qualified elector residing in the Single-Member District from which he or she was elected, the Executive Director, or his or her designee, shall present such evidence to the Board at a public hearing to determine whether a vacancy should be certified.
- 1302.3 The Executive Director or his or her designee shall notify the Commissioner by certified mail of the hearing and provide the evidence supporting the existence of the vacancy. The hearing shall be held no fewer than twenty (20) days after the mailing of the Notice.
- 1302.4 The notice shall include the following information:
- (a) A statement that the Executive Director or his or her designee shall present evidence that the Commissioner is not a registered qualified elector residing in the Single-Member District from which elected; and
 - (b) A statement that the Commissioner may rebut the evidence, in-person or in writing.
- 1302.5 The Executive Director or his or her designee shall send copies of the notice to the following:
- (a) The Chairperson of the affected commission;
 - (b) The Council of the District of Columbia; and

(c) The Mayor of the District of Columbia.

1302.6 The Board shall consider the Executive Director's evidence and any evidence presented in the rebuttal by the Commissioner. If the Board finds that the Commissioner is not a registered qualified elector residing in the Single-Member District from which he or she was elected, the Board shall certify the seat as vacant.

1302.7 Within three (3) days after the certification of the vacancy, the affected Commissioner may apply to the District of Columbia Court of Appeals for a review of the reasonableness of such determination.

Section 1304, APPOINTMENT OR ELECTION, is amended as follows:

Subsection 1304.2 is amended to read as follows:

1304.2 If there is only one qualified candidate to fill the vacancy, the Executive Director shall certify the office as being filled by notice published in the *District of Columbia Register*.

Chapter 14, CANDIDATE NOMINATIONS: POLITICAL PARTY PRIMARIES FOR PRESIDENTIAL PREFERENCE AND CONVENTION DELEGATES, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Section 1400, GENERAL PROVISIONS, is amended as follows:

Subsection 1400.6 is amended to read as follows:

1400.6 The delegates and alternates, of each political party in the District of Columbia to the national convention of that party convened for the nomination of that party for President shall be obliged to vote only for the candidate whom the delegate or alternate has been selected to represent in accordance with properly promulgated rules of the political party, on the 1st ballot cast at the convention for nominees for President, or until such time as such candidate to whom the delegate is committed withdraws the candidate's candidacy, whichever occurs first.

Section 1402, PETITION FORM, is amended as follows:

Subsection 1402.4 is amended to read as follows:

1402.4 No nominating petition shall be issued to any person other than the candidate whose name appears on the first page of the petition, unless the Board receives written notice from the candidate which authorizes the Board to release petitions in their name. The authorization shall include the following:

(a) Candidate's name;

- (b) Office which the candidate seeks and political party; and
- (c) Candidate's signature.

Section 1405, FILING PETITIONS, is amended as follows:

Subsection 1405.1 is amended to read as follows:

1405.1 Before the nominating petition is filed, all sheets which comprise the petition shall be assembled and serially numbered.

Subsection 1405.2 is amended to read as follows:

1405.2 At the time of filing the nomination by petition, the following affidavits, forms, and declarations shall be filed on forms prescribed by the Board:

- (a) If the petition nominates a specific presidential candidate, an affidavit executed personally by the presidential candidate ("Affidavit of Presidential Nominee Candidate") naming the candidates for delegate and alternate and stating their consent to the following:
 - (1) The appearance of his or her name on the primary ballot; and
 - (2) If applicable, the appearance of each named delegate/alternate being listed on the ballot (or separate handout) as committed to his or her candidacy;
- (b) If the petition nominates "uncommitted" delegates, one of the following affidavits or forms:
 - (1) If the party plan does not require the listing of delegates/alternates on the ballot or separate handout, an affidavit filed by the sponsor of the petition effort that he or she is a sponsor of the petition to place "uncommitted" on the ballot; or
 - (2) If the party plan requires listing of delegates/alternates on the ballot or separate handout, a "Delegate Slate Registration Form" which provides the names of all candidates for delegate/alternate, and the name, address, telephone number and signature of the individual who is authorized to represent the delegates/alternates in matters before the Board;
- (c) A Declaration of Candidacy for each candidate for delegate and alternate, as required by Chapter 6 of this title; and

- (d) An affidavit from each candidate for delegate and alternate stating that he or she was properly selected as a delegate/alternate pursuant to party rules (“declaration of proper selection”).

Section 1406, PETITION CHALLENGES, is amended to read as follows:

1406 PETITION CHALLENGES

1406.1 The Executive Director or his or her designee shall post nominating petitions, or facsimiles thereof, in the Board’s office for public inspection and opportunity for challenge on the basis of an insufficient number of valid signatures or any other grounds by any qualified elector(s) for ten (10) days, including Saturdays, Sundays, and holidays, beginning on the third (3rd) calendar day after the petition-filing deadline required by law. A challenge to a nominating petition that is not properly submitted to the Board within the challenge period shall not be accepted.

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 to the validity of the signatures on the petition is properly filed if:

- (a) It cites the alleged signature or circulator requirement defects, as set forth in the signature validity rules of this chapter, by line and page;
- (b) It 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;
- (c) It alleges the minimum number of signature defects which, if valid, would render the prospective candidate ineligible for ballot access; and
- (d) It appears on its face to be based on a good faith review of each signature and circulator affidavit. An absence of good faith may be determined where the Board’s preliminary review of the challenge indicates that the defect(s) alleged for a substantial number of signatures and/or circulator affidavits could not reasonably be found to apply to such signatures and/or circulator affidavits.

A challenge on grounds other than the alleged invalidity of any petition signature will be properly filed if it concisely sets forth a procedural or other defect.

1406.3 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 candidate in-person, by first-class mail, or by email. In addition, the Board’s General Counsel may schedule a pre-hearing conference between the parties.

- 1406.4 After the receipt of a properly filed challenge that is based on allegedly invalid signatures, the Board's staff shall search the Board's permanent registration records to prepare a recommendation to the Board as to the validity of the challenge. The scope of the search shall be limited to matters raised in the challenge. In the event Board staff discovers a fatal defect either on the face of a petition or pursuant to a record search concerning a specific allegation or challenge, the Board may, on its own motion, declare any signature(s) invalid, notwithstanding the defect was not alleged or challenged; alternatively, the Board, in its discretion, may waive any formal error.
- 1406.5 The Board shall receive evidence in support of and in opposition to the challenge and shall rule on the validity of the challenge no more than twenty (20) days after the challenge has been filed. The Board shall consider any other evidence as may be submitted, including but not limited to, documentary evidence, affidavits, and oral testimony.
- 1406.6 The Board, in view of the fact that it shall hear and determine the validity of the challenge within a limited time, may limit examination and cross-examination of witnesses to the following:
- (a) Objections and specifications of such objections, if any, to the nominating petition; and
 - (b) Objections and specifications of such objections, if any, to the petition challenge.
- 1406.7 Based upon the evidence received, the Board shall either reject or uphold the challenge, and accordingly grant or deny ballot access to the candidate whose petition was challenged.
- 1406.8 If a one (1)-member Board panel makes a determination on the validity of a challenge, either the challenger or any person named in the challenged petition as a nominee may apply to either the full Board or the District of Columbia Court of Appeals for a review of such determination within three (3) days after the announcement of the one (1)-member panel determination; provided that any appeal to the full Board must be made in time to permit the Board to resolve the matter by no later than twenty (20) days after the challenge has been filed. An appeal from a full Board determination to the Court of Appeals shall be made within three (3) days.
- 1406.9 If at the expiration of the challenge period referred to in this section, no challenge has been filed with respect to a nominating petition, the Executive Director, or his or her designee, shall certify the candidate, and the candidate's name shall be printed on the ballot.

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

Subsection 1407.1 is amended to read as follows:

- 1407.1 Once a nominating petition has been challenged pursuant to this chapter, a signature shall not be counted as valid in any of the following circumstances:
- (a) The signer's voter registration was designated as inactive on the voter roll at the time the petition was signed;
 - (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;
 - (c) The signature is a duplicate of a valid signature;
 - (d) The signature is not dated;
 - (e) The petition does not include the address of the signer;
 - (f) The petition does not include the name of the signer where the signature is not sufficiently legible for identification;
 - (g) The circulator of the petition sheet was not a qualified petition circulator at the time the petition was signed;
 - (h) The circulator of the petition failed to complete all required information in the circulator's affidavit;
 - (i) The signature is not made by the person whose signature it purports to be; provided that registered voters who are unable to sign their names may make their marks in the space for signature. These marks shall not be counted as valid signatures unless the persons witnessing the marks shall attach to the petition affidavits that they explained the contents of the petitions to the signatories and witnessed their marks;
 - (j) Reserved;
 - (k) Reserved;
 - (l) Reserved;
 - (m) Reserved;

- (n) The signer is not registered to vote in the same party as the candidate at the time the petition is signed; or
- (o) The signer is not a U.S. citizen.

CHAPTER 15, CANDIDATE NOMINATIONS: ELECTORS OF PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Section 1502, PETITION FORM, is amended as follows:

Subsection 1502.4 is amended to read as follows:

- 1502.4 No nominating petition shall be issued to any person other than the candidate whose name appears on the first page of the petition, unless the Board receives written notice from the candidate which authorizes the Board to release petitions in their name. The authorization shall include the following:
- (a) Candidate's name;
 - (b) Office which the candidate seeks and political party; and
 - (c) Candidate's signature.

Section 1505, FILING PETITIONS, is amended as follows:

Subsection 1505.1 is amended to read as follows:

- 1505.1 Before the nominating petition is filed, all sheets which comprise the petition shall be assembled and serially numbered.

Section 1506, PETITION CHALLENGES, is amended to read as follows:

1506 PETITION CHALLENGES

- 1506.1 The Executive Director or his or her designee shall post nominating petitions, or facsimiles thereof, in the Board's office for public inspection and opportunity for challenge on the basis of an insufficient number of valid signatures or any other grounds by any qualified elector(s) for ten (10) days, including Saturdays, Sundays, and holidays, beginning on the third (3rd) calendar day after the petition-filing deadline required by law. A challenge to a nominating petition that is not properly submitted to the Board within the challenge period shall not be accepted.
- 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 to the validity of the signatures on the petition is properly filed if:

- (a) It cites the alleged signature or circulator requirement defects, as set forth in the signature validity rules of this chapter, by line and page;
- (b) It 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;
- (c) It alleges the minimum number of signature defects which, if valid, would render the prospective candidate ineligible for ballot access; and
- (d) It appears on its face to be based on a good faith review of each signature and circulator affidavit. An absence of good faith may be determined where the Board's preliminary review of the challenge indicates that the defect(s) alleged for a substantial number of signatures and/or circulator affidavits could not reasonably be found to apply to such signatures and/or circulator affidavits.

A challenge on grounds other than the alleged invalidity of any petition signature will be properly filed if it concisely sets forth a procedural or other defect.

1506.3 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 candidate in-person, by first-class mail, or by email. In addition, the Board's General Counsel may schedule a pre-hearing conference between the parties.

1506.4 After the receipt of a properly filed challenge that is based on allegedly invalid signatures, the Board's staff shall search the Board's permanent registration records to prepare a recommendation to the Board as to the validity of the challenge. The scope of the search shall be limited to matters raised in the challenge. In the event Board staff discovers a fatal defect either on the face of a petition or pursuant to a record search concerning a specific allegation or challenge, the Board may, on its own motion, declare any signature(s) invalid, notwithstanding the defect was not alleged or challenged; alternatively, the Board, in its discretion, may waive any formal error.

1506.5 The Board shall receive evidence in support of and in opposition to the challenge and shall rule on the validity of the challenge no more than twenty (20) days after the challenge has been filed. The Board shall consider any other evidence as may be submitted, including but not limited to, documentary evidence, affidavits, and oral testimony.

1506.6 The Board, in view of the fact that it shall hear and determine the validity of the challenge within a limited time, may limit examination and cross-examination of witnesses to the following:

- (a) Objections and specifications of such objections, if any, to the nominating petition; and
- (b) Objections and specifications of such objections, if any, to the petition challenge.

1506.7 Based upon the evidence received, the Board shall either reject or uphold the challenge, and accordingly grant or deny ballot access to the candidate whose petition was challenged.

1506.8 If a one (1)-member Board panel makes a determination on the validity of a challenge, either the challenger or any person named in the challenged petition as a nominee may apply to either the full Board or the District of Columbia Court of Appeals for a review of such determination within three (3) days after the announcement of the one (1)-member panel determination; provided that any appeal to the full Board must be made in time to permit the Board to resolve the matter by no later than twenty (20) days after the challenge has been filed. An appeal from a full Board determination to the Court of Appeals shall be made within three (3) days.

1506.9 If at the expiration of the challenge period referred to in this section, no challenge has been filed with respect to a nominating petition, the Executive Director, or his or her designee, shall certify the candidate, and the candidate's name shall be printed on the ballot.

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

Subsection 1507.1 is amended to read as follows:

1507.1 Once a nominating petition has been challenged pursuant to this chapter, a signature shall not be counted as valid in any of the following circumstances:

- (a) The signer's voter registration was designated as inactive on the voter roll at the time the petition was signed;
- (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;
- (c) The signature is a duplicate of a valid signature;

- (d) The signature is not dated;
- (e) The petition does not include the address of the signer;
- (f) The petition does not include the name of the signer where the signature is not sufficiently legible for identification;
- (g) The circulator of the petition sheet was not a not a qualified petition circulator at the time the petition was signed;
- (h) The circulator of the petition failed to complete all required information in the circulator's affidavit;
- (i) The signature is not made by the person whose signature it purports to be; provided that registered voters who are unable to sign their names may make their marks in the space for signature. These marks shall not be counted as valid signatures unless the persons witnessing the marks shall attach to the petition affidavits that they explained the contents of the petitions to the signatories and witnessed their marks; or
- (j) The signer is not a U.S. citizen.

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

Section 1602, PETITION FORM, is amended as follows:

Paragraph 1602.2(a) is amended to read as follows:

- (a) The name and address of the candidate, and the office to which the candidate seeks nomination;

Subsection 1602.4 is amended to read as follows:

1602.4 No nominating petition form shall be issued to any person other than the candidate unless the Board receives written notice from the candidate which authorizes the Board to release petitions in their name. The authorization shall include the following:

- (a) Candidate's name;

- (b) Office which the candidate seeks and political party, if the office sought is partisan; and
- (c) Candidate's signature.

Section 1603, SIGNATURE REQUIREMENTS, is amended as follows:

Section 1603.9 is repealed.

Section 1605, FILING PETITIONS, is amended as follows:

Subsection 1605.1 is amended to read as follows:

1605.1 Before the nominating petition is filed, all sheets which comprise the petition shall be assembled and serially numbered.

Paragraph 1605.3(c) is amended to read as follows:

- (c) Be on a form issued by the Executive Director or his or her designee in accordance with the rules of this chapter.

Section 1606, PETITION CHALLENGES, is amended to read as follows:

1606 PETITION CHALLENGES

1606.1 The Executive Director or his or her designee shall post nominating petitions, or facsimiles thereof, in the Board's office for public inspection and opportunity for challenge on the basis of an insufficient number of valid signatures or any other grounds by any qualified elector(s) for ten (10) days, including Saturdays, Sundays, and holidays, beginning on the third (3rd) calendar day after the petition-filing deadline required by law. A challenge to a nominating petition that is not properly submitted to the Board within the challenge period shall not be accepted.

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 to the validity of the signatures on the petition is properly filed if:

- (a) It cites the alleged signature or circulator requirement defects, as set forth in the signature validity rules of this chapter, by line and page;
- (b) It 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;
- (c) It alleges the minimum number of signature defects which, if valid, would render the prospective candidate ineligible for ballot access; and

- (d) It appears on its face to be based on a good faith review of each signature and circulator affidavit. An absence of good faith may be determined where the Board's preliminary review of the challenge indicates that the defect(s) alleged for a substantial number of signatures and/or circulator affidavits could not reasonably be found to apply to such signatures and/or circulator affidavits.

A challenge on grounds other than the alleged invalidity of any petition signature will be properly filed if it concisely sets forth a procedural or other defect.

- 1606.3 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 candidate in-person, by first-class mail, or by email. In addition, the Board's General Counsel may schedule a pre-hearing conference between the parties.
- 1606.4 After the receipt of a properly filed challenge that is based on allegedly invalid signatures, the Board's staff shall search the Board's permanent registration records to prepare a recommendation to the Board as to the validity of the challenge. The scope of the search shall be limited to matters raised in the challenge. In the event Board staff discovers a fatal defect either on the face of a petition or pursuant to a record search concerning a specific allegation or challenge, the Board may, on its own motion, declare any signature(s) invalid, notwithstanding the defect was not alleged or challenged; alternatively, the Board, in its discretion, may waive any formal error.
- 1606.5 The Board shall receive evidence in support of and in opposition to the challenge and shall rule on the validity of the challenge no more than twenty (20) days after the challenge has been filed. The Board shall consider any other evidence as may be submitted, including but not limited to, documentary evidence, affidavits, and oral testimony.
- 1606.6 The Board, in view of the fact that it shall hear and determine the validity of the challenge within a limited time, may limit examination and cross-examination of witnesses to the following:
 - (a) Objections and specifications of such objections, if any, to the nominating petition; and
 - (b) Objections and specifications of such objections, if any, to the petition challenge.
- 1606.7 Based upon the evidence received, the Board shall either reject or uphold the challenge, and accordingly grant or deny ballot access to the candidate whose petition was challenged.

1606.8 If a one (1)-member Board panel makes a determination on the validity of a challenge, either the challenger or any person named in the challenged petition as a nominee may apply to either the full Board or the District of Columbia Court of Appeals for a review of such determination within three (3) days after the announcement of the one (1)-member panel determination; provided that any appeal to the full Board must be made in time to permit the Board to resolve the matter by no later than twenty (20) days after the challenge has been filed. An appeal from a full Board determination to the Court of Appeals shall be made within three (3) days.

1606.9 If at the expiration of the challenge period referred to in this section, no challenge has been filed with respect to a nominating petition, the Executive Director, or his or her designee, shall certify the candidate, and the candidate's name shall be printed on the ballot.

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

Subsection 1607.1 is amended to read as follows:

- 1607.1 Once a nominating petition has been challenged pursuant to this chapter, a signature shall not be counted as valid in any of the following circumstances:
- (a) The signer's voter registration was designated as inactive on the voter roll at the time the petition was signed;
 - (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;
 - (c) The signature is a duplicate of a valid signature;
 - (d) The signature is not dated;
 - (e) The petition does not include the address of the signer;
 - (f) The petition does not include the name of the signer where the signature is not sufficiently legible for identification;
 - (g) The circulator of the petition sheet was not a qualified petition circulator at the time the petition was signed;

- (h) The circulator of the petition failed to complete all required information in the circulator's affidavit;
- (i) The signature is not made by the person whose signature it purports to be, provided that registered voters who are unable to sign their names may make their marks in the space for signature. These marks shall not be counted as valid signatures unless the persons witnessing the marks shall attach to the petition affidavits that they explained the contents of the petitions to the signatories and witnessed their marks;
- (j) Reserved;
- (k) Reserved;
- (l) Reserved;
- (m) The signer is not a registered voter in the ward or Single-Member District from which the candidate seeks nomination at the time the petition was signed;
- (n) On a petition to nominate a candidate in a primary election, the signer is not registered to vote in the same party as the candidate at the time the petition is signed; or
- (o) With respect to a petition for the office of Delegate to the U.S. House of Representatives, the signer is not a U.S. citizen.

CHAPTER 17, CANDIDATES: MEMBERS AND OFFICIALS OF LOCAL COMMITTEES OF POLITICAL PARTIES AND NATIONAL COMMITTEE PERSONS, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Section 1702, PETITION FORM, is amended as follows:

Subsection 1702.7 is amended to read as follows:

1702.7 No nominating petition shall be issued to any person other than the candidate, or the authorized slate representative, unless the Board receives written notice from the candidate or slate representative which authorizes the Board to release petitions in their name. The authorization shall include the following:

- (a) Candidate's name;
- (b) Office which the candidate seeks; and
- (c) Candidate or slate representative's signature.

Section 1705, FILING PETITIONS, is amended as follows:

Subsection 1705.1 is amended to read as follows:

1705.1 Before the nominating petition is filed, all sheets which comprise the petition shall be assembled and serially numbered.

Section 1706, PETITION CHALLENGES, is amended to read as follows:

1706 PETITION CHALLENGES

1706.1 The Executive Director or his or her designee shall post nominating petitions, or facsimiles thereof, in the Board's office for public inspection and opportunity for challenge on the basis of an insufficient number of valid signatures or any other grounds by any qualified elector(s) for ten (10) days, including Saturdays, Sundays, and holidays, beginning on the third (3rd) calendar day after the petition-filing deadline required by law. A challenge to a nominating petition that is not properly submitted to the Board within the challenge period shall not be accepted.

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 to the validity of the signatures on the petition is properly filed if:

- (a) It cites the alleged signature or circulator requirement defects, as set forth in the signature validity rules of this chapter, by line and page;
- (b) It 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;
- (c) It alleges the minimum number of signature defects which, if valid, would render the prospective candidate ineligible for ballot access; and
- (d) It appears on its face to be based on a good faith review of each signature and circulator affidavit. An absence of good faith may be determined where the Board's preliminary review of the challenge indicates that the defect(s) alleged for a substantial number of signatures and/or circulator affidavits could not reasonably be found to apply to such signatures and/or circulator affidavits.

A challenge on grounds other than the alleged invalidity of any petition signature will be properly filed if it concisely sets forth a procedural or other defect.

1706.3 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 candidate in-person,

by first-class mail, or by email. In addition, the Board's General Counsel may schedule a pre-hearing conference between the parties.

- 1706.4 After the receipt of a properly filed challenge that is based on allegedly invalid signatures, the Board's staff shall search the Board's permanent registration records to prepare a recommendation to the Board as to the validity of the challenge. The scope of the search shall be limited to matters raised in the challenge. In the event Board staff discovers a fatal defect either on the face of a petition or pursuant to a record search concerning a specific allegation or challenge, the Board may, on its own motion, declare any signature(s) invalid, notwithstanding the defect was not alleged or challenged; alternatively, the Board, in its discretion, may waive any formal error.
- 1706.5 The Board shall receive evidence in support of and in opposition to the challenge and shall rule on the validity of the challenge no more than twenty (20) days after the challenge has been filed. The Board shall consider any other evidence as may be submitted, including but not limited to, documentary evidence, affidavits, and oral testimony.
- 1706.6 The Board, in view of the fact that it shall hear and determine the validity of the challenge within a limited time, may limit examination and cross-examination of witnesses to the following:
- (a) Objections and specifications of such objections, if any, to the nominating petition; and
 - (b) Objections and specifications of such objections, if any, to the petition challenge.
- 1706.7 Based upon the evidence received, the Board shall either reject or uphold the challenge, and accordingly grant or deny ballot access to the candidate whose petition was challenged.
- 1706.8 If a one (1)-member Board panel makes a determination on the validity of a challenge, either the challenger or any person named in the challenged petition as a nominee may apply to either the full Board or the District of Columbia Court of Appeals for a review of such determination within three (3) days after the announcement of the one (1)-member panel determination; provided that any appeal to the full Board must be made in time to permit the Board to resolve the matter by no later than twenty (20) days after the challenge has been filed. An appeal from a full Board determination to the Court of Appeals shall be made within three (3) days.
- 1706.9 If at the expiration of the challenge period referred to in this section, no challenge has been filed with respect to a nominating petition, the Executive Director, or his

or her designee, shall certify the candidate, and the candidate's name shall be printed on the ballot.

Section 1707, VALIDITY OF SIGNATURES, is amended as follows:

Section 1707.1 is amended to read as follows:

1707.1 Once a nominating petition has been challenged pursuant to this chapter, a signature shall not be counted as valid in any of the following circumstances:

- (a) The signer's voter registration was designated as inactive on the voter roll at the time the petition was signed;
- (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 during the first 10 days following the date on which a challenge to the nominating petition is filed.
- (c) The signature is a duplicate of a valid signature;
- (d) The signature is not dated;
- (e) The petition does not include the address of the signer;
- (f) The petition does not include the name of the signer where the signature is not sufficiently legible for identification;
- (g) The circulator of the petition sheet was not a qualified petition circulator at the time the petition was signed;
- (h) The circulator of the petition failed to complete all required information in the circulator's affidavit;
- (i) The signature is not made by the person whose signature it purports to be; provided that registered voters who are unable to sign their names may make their marks in the space for signature. These marks shall not be counted as valid signatures unless the persons witnessing the marks shall attach to the petition affidavits that they explained the contents of the petitions to the signatories and witnessed their marks;
- (j) Reserved;

- (k) Reserved;
- (l) Reserved;
- (m) The signer is not a registered voter in the ward from which the candidate seeks nomination at the time the petition was signed;
- (n) The signer is not registered to vote in the same party as the candidate at the time the petition is signed; or
- (o) The signer is not a U.S. citizen.

CHAPTER 18, CHARTER AMENDING PROCEDURES, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

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

1800 GENERAL PROVISIONS

- 1800.1 In accordance with the provisions of the D.C. Self-Government Act, the District 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 in accordance with the provisions of this Chapter.
- 1800.2 Any 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, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

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

1900 GENERAL PROVISIONS

- 1900.1 In accordance with the provisions of the D.C. Self-Government Act, the Council of the District of Columbia may, by Resolution, call a special election to present for an advisory referendum vote of the people any proposition upon which the Council desires to take action. Such election shall be implemented in accordance with this Chapter.
- 1900.2 Any committee organized in support of, or in opposition to, any advisory referendum presented to voters shall file a verified statement of contributions with the Office of Campaign Finance.

Chapter 20, FREEDOM OF INFORMATION, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Section 2000, PURPOSE AND APPLICATION, is amended as follows:

Subsection 2000.1 is amended to read as follows:

2000.1 This Chapter contains the rules and procedures to be followed by the District of Columbia Board of Elections (hereinafter "the Board") in implementing the Freedom of Information Act, (D.C. Official Code § 2-531 *et seq.*)("the Act" or "FOIA").

Section 2002, REQUESTS FOR RECORDS, is amended as follows:

Subsection 2002.2 is amended to read as follows:

2002.2 A written request may be submitted on-line through the D.C. FOIA Public Access Portal on the Board's website or mailed, faxed, or e-mailed to the General Counsel. The outside of the envelope or the subject line of the fax or e-mail shall state: "Freedom of Information Act Request" or "FOIA Request". In addition, a request shall include a daytime telephone number, e-mail address, or mailing address for the requester.

Section 2008, FEES, is amended as follows:

Subsection 2008.7 is amended to read as follows:

2008.7 Remittance shall be in the form either of a personal check or bank draft on a bank in the United States or a postal money order. Remittance shall be made payable to the order of the D.C. Treasurer and mailed or otherwise delivered to the General Counsel for the Board.

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 *District of Columbia 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@dcboc.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.