

Chapter 13 ADVISORY NEIGHBORHOOD COMMISSION VACANCIES

1300 GENERAL PROVISIONS

1300.1 This chapter governs the process by which vacancies in the office of Advisory Neighborhood Commissioner are certified and filled.

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

- (a) Resignation of the incumbent by signed letter received by the Board, provided that if such resignation letter is prospective, the resignation is notarized, irrevocable, and effective not more than sixty (60) days following receipt of the letter;
- (b) Failure of the incumbent to reside in the Single-Member District from which the member is elected, as determined by resolution of the Advisory Neighborhood Commission that has been certified by the Board, or by other findings of the Board, as described in this chapter;
- (c) The incumbent holds another elected public office as defined by D.C. Official Code § 1-309.05(a)(2) (2006 Repl.);
- (d) Death of the incumbent;
- (e) Declaration of vacancy by a court;
- (f) Successful recall of the incumbent; or
- (g) When the office of an Advisory Neighborhood Commissioner from a Single-Member District remains vacant after a general election.

SOURCE: Final Rulemaking published at 43 DCR 1078, 1094-95 (March 1, 1996); as amended by Final Rulemaking published at 60 DCR 5582 (April 12, 2013); as amended by Final Rulemaking published at 61 DCR 625 (January 24, 2014).

1301 PETITION BY ANC FOR DECLARATION OF VACANCY

- 1301.1 If a Commissioner fails to reside in the Single-Member District from which the Commissioner is elected and the Commissioner does not submit a letter of resignation, the affected Advisory Neighborhood Commission shall petition the Board by a resolution, signed by the Chairperson and secretary, to declare a vacancy. Consideration of the resolution shall meet all of the requirements as prescribed in D.C. Official Code § 1-309.06 (f)(2).
- 1301.2 A copy of the resolution, the minutes of the meeting at which the resolution was adopted, and a list of those individuals in attendance at the public meeting shall be sent to the Board, the Council of the District of Columbia, the Mayor, and the affected Commissioner. The resolution shall be a document, separate from all other papers, which states the reason for the vacancy. A separate resolution shall be required for each vacancy.
- 1301.3 The Executive Director or his or her designee shall post, by making available for public inspection, the resolution in the office of the Board for ten (10) working days, beginning on the third working day after receipt of the resolution.
- 1301.4 Any qualified elector may, within the ten (10) day period, challenge the validity of the resolution by a written statement, duly signed by the challenger and filed with the Board, specifying concisely the alleged defects in the resolution.
- 1301.5 Within three (3) working days of receipt of a challenge, the Board shall serve, in person or by certified mail, a copy of the challenge upon the Chairperson of the affected Advisory Neighborhood Commission.
- 1301.6 The Board shall receive evidence in support of and in opposition to the challenge and shall determine the validity of the challenged resolution not more than thirty (30) days after the challenge has been filed.
- 1301.7 If the Board upholds the validity of the resolution, it shall certify the seat as vacant and forward a copy of the certification and the resolution, by personal service or certified mail, within three (3) working days, to the Chairperson of the respective Advisory Neighborhood Commission. Within three (3) days after certification of the vacancy, either the challenger or the affected Commissioner may apply to the District of Columbia Court of Appeals for a review of the reasonableness of the determination.
- 1301.8 If, at the expiration of the challenge period, no challenge has been filed with respect to the resolution, the Board shall certify the vacancy.

1302 DECLARATION OF VACANCY BY THE BOARD

- 1302.1 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
- 1302.2 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.
- 1302.3 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.
- 1302.4 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.
- 1302.5 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.
- 1302.6 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.

SOURCE: Final Rulemaking published at 43 DCR 1078, 1095 (March 1, 1996); as amended by Final Rulemaking published at 60 DCR 5582 (April 12, 2013); as amended by Final Rulemaking published at 61 DCR 625 (January 24, 2014).

1303

CERTIFICATION OF VACANCY AND PETITIONS

1303.1 Except when the vacancy occurs due to the Commissioner's failure to reside in the District from which the Commissioner was elected, the Executive Director or his or her designee shall be authorized to certify the seat as vacant and submit the notice for publication in the D.C. Register. Within five (5) business days after the date that the vacancy notice is published in the *D.C. Register*, the Executive Director shall make petitions available for obtaining signatures of registered electors within the respective Single-Member District, except that if a vacancy occurs within six (6) months of a general election, nominating petitions shall not be made available and the seat shall remain vacant for the remainder of the term of office. In the event petitions are not obtained by any registered qualified elector within the affected Single-Member District within fourteen (14) working days after petitions have been made available, the Board shall republish the vacancy notice.

1303.2 All rules established in Chapter 16 of this title shall apply, except that:

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

SOURCE: Final Rulemaking published at 43 DCR 1078, 1095-96 (March 1, 1996); as amended by Final Rulemaking published at 61 DCR 625 (January 24, 2014).

1304 APPOINTMENT OR ELECTION

- 1304.1 Upon conclusion of the five (5) day nominating petition challenge period, the Executive Director or his or her designee shall certify the list of qualified candidates to fill the vacancy.
- 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 *D.C. Register* and the Advisory Neighborhood Commissioners shall appoint the qualified candidate to the vacant Advisory Neighborhood Commissioner position at its next regularly scheduled meeting.
- 1304.3 If more than one qualified candidate is certified, the Executive Director shall transmit the list of qualified candidates to the affected area Advisory Neighborhood Commission. The Commission shall give notice at a public meeting that at the next regularly scheduled meeting there shall be an open vote of the members of the affected Single-Member District to elect the new commissioner. Upon conclusion of the election, the Commission shall transmit to the Board a resolution signed by the Chairman and Secretary of the Advisory Neighborhood Commission that states the winner of the election and requests that the Board certify the vacancy as filled by notice published in the *D.C. Register*.

SOURCE: Final Rulemaking published at 43 DCR 1078, 1096-97 (March 1, 1996); as amended by Final Rulemaking published at 60 DCR 5582 (April 12, 2013); as amended by Final Rulemaking published at 61 DCR 625 (January 24, 2014).