

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

NOTICE OF SECOND EMERGENCY AND PROPOSED RULEMAKING

The District of Columbia Board of Elections, pursuant to the authority set forth in D.C. Code § 1-1001.05(a)(14), hereby gives notice of emergency and proposed rulemaking action to adopt amendments to Chapter 5, “Voter Registration,” in Title 3 of the District of Columbia Municipal Regulations (DCMR).

The first Notice of Emergency and Proposed Rulemaking to adopt amendments to Chapter 5, “Voter Registration,” was published in the *D.C. Register* on December 28, 2018 at 65 DCR 14152. The purpose of the proposed amendments was to provide means for voters who are victims of covered offenses or covered employees, as defined in the Address Confidentiality Act of 2018, effective July 3, 2018 (D.C. Law 22-118; 65 DCR 5064 (May 11, 2018)), to make their voter records confidential.

Following the publication of the first Notice of Emergency and Proposed Rulemaking, the Board of Elections received comments from the District of Columbia Office of Victim Services and Justice Grants (OVSJG) concerning how the proposed Chapter 5 rules operated in conjunction with the newly authorized Address Confidentiality Program. These were the only comments received. After review of the comments from OVSJG, the Board determined further substantive amendments to Chapter 5 were necessary in order to conform the Board’s regulations with the protections provided for program participants of the Address Confidentiality Program established by the Address Confidentiality Act of 2018.

Therefore, the purpose of the revised proposed amendments to § 510 is to provide for the following:

1. Amend § 510.9 to allow a registered elector to qualify to have his or her voter record made confidential by providing an Address Confidentiality Program authorization card issued pursuant to the “Address Confidentiality Act of 2018.”
2. At §510.10, clarify that registered qualified electors who provide an Address Confidentiality Program authorization card shall have their entire voter record removed from all voter records available for public inspection, including poll books at all voting locations. Subsection 510.10 further clarifies that the addresses of all other electors who qualify to make their address confidential will be removed from all records available for public inspection except poll books. This exception is created to allow these electors with a confidential status the ability to vote in person at voting locations. In contrast, Address Confidentiality Program participants who wish to make their voter record confidential are obligated to vote by mail pursuant to law.
3. Create a new § 510.11 to establish rules for the duration of the confidential status and the ability for electors to renew or cancel the confidential status.

Emergency action to adopt these rules is necessary so that victims of covered offenses or covered employees can take immediate action to make their voter records confidential and to ensure confidentiality protections granted by the Address Confidentiality Act of 2018. Adoption of these rules is necessary for the immediate preservation of the public peace and welfare of District residents, in accordance with D.C. Official Code § 2-505(c) (2001).

The Board adopted these emergency rules at its regularly scheduled meeting on Wednesday, April 3, 2019, at which time the amendments became effective. The emergency rules shall remain in effect until Thursday, August 1, 2019 (one hundred and twenty (120) days from the adoption date), unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Board gives notice of its intent to take final rulemaking action to adopt these amendments in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 5, VOTER REGISTRATION, of Title 3 of the DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS is amended as follows:

Subsection 510.9 of Section 510, VOTER REGISTRATION INFORMATION, is amended to read as follows:

- 510.9 A registered qualified elector's address shall be considered public information unless made confidential. A registered qualified elector's address may be made confidential under any of the following circumstances:
- (a) The registered qualified elector, or his or her representative, presents a copy of a court order to the Registrar directing the confidentiality of the qualified elector's address;
 - (b) The registered qualified elector, or his or her representative, presents the Registrar with reasonable written evidence demonstrating that the registered voter has at any time been a victim of a covered offense or covered employee, as defined in the "Address Confidentiality Act of 2018" (D.C. Law 22-118). This evidence may include employment, court, law enforcement, medical, or social service records; or an Address Confidentiality Program authorization card issued pursuant to the "Address Confidentiality Act of 2018."
 - (c) In the determination of the Registrar of Voters, the registered qualified elector is an individual of significant public stature and public disclosure of the elector's address would cause an unwarranted invasion of privacy.

Subsection 510.10 of Section 510, VOTER REGISTRATION INFORMATION, is created to read as follows:

- 510.10 If a registered qualified elector's address is made confidential upon the showing of an Address Confidentiality Program authorization card, his or her entire

registration record shall be removed from all voter records available for public inspection, including poll books available in any voting place. If a registered qualified elector's address is made confidential upon the showing of any other document or reason authorized by this section, the elector's address shall be removed from all voter records available for public inspection with the exception of poll books available in any voting place.

Subsection 510.11 of Section 510, VOTER REGISTRATION INFORMATION, is created to read as follows:

- 510.11 Any record made confidential pursuant to this section shall remain confidential for a period of five years from the date the address is made confidential unless any of the following:
- (a) An alternate period of time is specified by court order;
 - (b) The Registrar of Voters determines that maintenance of the confidential status is necessary to prevent the unwarranted invasion of privacy;
 - (c) The elector renews his or her request to maintain a confidential voter status; or
 - (d) The elector makes a written request to remove his or her record from confidential status.

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