

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The District of Columbia Board of Elections, pursuant to the authority set forth in the District of Columbia Election Code of 1955, approved August 12, 1955, as amended (69 Stat. 699; D.C. Official Code § 1-1001.05(a)(14) (2016 Repl.)), hereby gives notice of emergency and proposed rulemaking action to adopt amendments to Chapter 30, “Campaign Finance Operations: Committees, Candidates, Constituent Service Programs, Statehood Funds”, Chapter 33, “Prohibition on Use of Government Resources for Campaign-Related Purposes and Interpretive Opinions”, Chapter 37, “Investigation and Hearings”, Chapter 42, “The Fair Elections Program,” and Chapter 43, “The Verification Process” of Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the amendments to these regulations is to clarify the mandatory training requirements and provide option for completion; to amend the Interpretative Opinion process; to adjust the fines that may be imposed against ANC candidates who fail to timely file reports; to clearly define the Petition for Enforcement Process; to amend the Fair Election payment schedule; and to amend the methods of service of process when issuing hearing notices and final decisions.

Emergency action with respect to this rulemaking is necessary and requires supporting regulations. The Board adopted these rules on an emergency basis at its regular meeting on **Wednesday, November 5, 2025**. The emergency rules shall remain in effect until Thursday, March 5, 2026 (one hundred and twenty (120) days from the adoption date), unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

Chapter 30, Campaign Finance Operations, Committees, Candidates, Constituent Service Programs, Statehood Funds, of Title 3 of the DCMR, ELECTIONS AND ETHICS, shall be amended as follows:

Section 3000, Organization of Political Committee, Political Action Committees, and Independent Expenditure Committees, shall be amended as follows:

New subsections 3000.30 and 3000.31, shall be added to read as follows:

- 3000.30 Each Statement of Organization form filed by a political committee, political action committee and independent expenditure committee shall include the primary email address of the candidate (if applicable), the treasurer, and the committee for receipt of electronic notices and service of process from the Office of Campaign Finance.
- 3000.31 Each Acceptance of the Position of Treasurer form filed by the treasurer of each political committee, political action committee and independent expenditure committee shall include the treasurer’s primary email address for receipt of electronic notices and service of process from the Office of Campaign Finance.

Section 3001, Mandatory Training, shall be amended as follows:

Subsections 3001.2 and 3001.6, shall be amended to read follows:

- 3001.2 Training shall be conducted in-person or online, at the option of the candidate or treasurer, or online only during a period of time for which the Mayor has declared a public health emergency pursuant to D.C. Official Code § 7-2034.01. At the discretion of the Director, the Office of Campaign Finance may provide online training materials to supplement the in-person training program.
- 3001.6 At the conclusion of the Office of Campaign Finance training program, each participating candidate and treasurer shall confirm, by signing an oath or affirmation, their commitment to comply with the District's campaign finance laws.

Section 3002, Candidate Status, shall be amended as follows:

Subsection 3002.2, shall be amended to read as follows:

- 3002.2 With the exception of candidates for Advisory Neighborhood Commission (ANC) member, each candidate shall, within five (5) days after becoming a candidate under § 3002.1, file a Statement of Candidacy form that indicates the following:
- (a) Whether the candidate anticipates spending less than five hundred dollars (\$500);
 - (b) The candidate's designated a principal campaign committee;
 - (c) Whether or not the candidate seeks certification as a participating candidate in the Fair Elections Program; and
 - (d) The candidate's primary email address for receipt of electronic notices and service of process from the Office of Campaign Finance.

Subsections 3002.7 – 3002.12, shall be amended and renumbered to read as follows:

- 3002.7 Each Summary Financial Statement form filed with the Office of Campaign Finance shall include the ANC candidate's primary email address for receipt of electronic notice and service of process from OCF.
- 3002.8 The Summary Financial Statement form of the Candidate for the Office of Member of an ANC shall be filed electronically with the Director of Campaign Finance at the OCF website, www.ocf.dc.gov, except as provided in § 3002.9. A paper filing of the Summary Financial Statement shall not be accepted and will be considered a failure to file.

- 3002.9 The Office of Campaign Finance shall provide log-in information, including a Personal Identification Number (PIN), for access to the OCF Electronic Filing and Disclosure System to ANC candidates following the certification of the election results by the Board.
- 3002.10 The Director of the Office of Campaign Finance may grant an exception to the electronic filing requirement by the ANC candidate in either of the following circumstances:
- (a) The filer submits a statement of actual hardship to the OCF no less than fifteen (15) days before the applicable filing deadline; and
 - (b) The filer submits a statement to the OCF describing an emergency that occurred on or before the filing deadline preventing the electronic filing. The request for an exception based on emergency does not delay any reporting deadlines. If a penalty is imposed for failure to file or timely file, the penalty may be set aside or reduced in accordance with § 3711.2(f).
- 3002.11 The Director shall review and respond in writing to an application for an exception within three (3) business days after its receipt.
- 3002.12 With the exception of candidates for the Office of Member of an Advisory Neighborhood Commission, each individual who ceases to become a candidate shall immediately file a Statement of Candidate Withdrawal form upon termination of the candidacy.

Section 3015, Use of Surplus Funds, shall be amended as follows:

Subsections 3015.5 and 3015.6, shall be amended to read as follows:

- 3015.5 Surplus funds of a candidate or candidate-elect shall be:
- (a) Used to retire the debts of the committee that received the funds;
 - (b) Used to repay any loans made by a candidate to support his or her campaign;
 - (c) Contributed to a political party for political purposes; and/or
 - (d) Transferred to a political committee, a charitable organization that meets the requirements of the tax laws of the District of Columbia, or in the case of an elected official, an established constituent-services fund.
- 3015.6 Surplus funds of a candidate or candidate-elect shall be disbursed under § 3015.5(b) to the candidate or candidate-elect within six (6) months of one (1) of the following events:
- (a) Defeat in an election;

- (b) Election to office; or
- (c) Withdrawal as a candidate.

Chapter 33, Prohibition on the Use of Government Resources for Campaign-Related Purposes and Interpretive Opinions, of Title 3 of the DCMR, ELECTIONS AND ETHICS, shall be amended as follows:

Section 3305, Interpretative Opinions, shall be amended as follows:

Subsection 3305.1, shall be amended to read as follows:

3305.1 Any person subject to this chapter may request a written interpretative opinion concerning the application of the Act, and Chapters 30-42 of this title.

New subsections 3305.7 and 3305.8, shall be added to read as follows:

3305.7 At the discretion of the Director, or upon receiving a request from a person listed below, the Director shall provide an interpretative opinion regarding compliance with Chapters 30-42 of this title within thirty (30) days after its receipt:

- (a) A public official;
- (b) A political committee, political action committee, independent expenditure committee;
- (c) An official of a political party;
- (d) Any person required to or who reasonably anticipates being required to submit filings to the Campaign Finance Board under this subchapter; or
- (e) Any other person under the jurisdiction of the Campaign Finance Board.

3305.8 Upon written request by the requestor, the Director may provide an expedited written response within fifteen (15) days after its receipt.

Chapter 37, Investigations and Hearings, of Title 3 of the DCMR, ELECTIONS AND ETHICS, shall be amended as follows:

Section 3709, Informal Hearing for Alleged Violation of Reporting and Disclosure Requirements, shall be amended as follows:

Subsection 3709.2, shall be amended to read as follows:

3709.2 The reporting and disclosure requirements shall apply to the following documents:

- (a) Statement of Acceptance of Position of Chairperson;

- (b) Statement of Acceptance of Position of Treasurer;
- (c) Identification of Campaign Literature;
- (d) Notification of Non-Support;
- (e) Report of Exemption for a Candidate Spending Less Than \$500;
- (f) Report of Receipts and Expenditures;
- (g) Request for Candidate Waiver;
- (h) Request for Additional Information;
- (i) Statement of Candidacy;
- (j) Statement of Candidate Withdrawal;
- (k) Statement of Committee Termination;
- (l) Statement of Information;
- (m) Statement of Organization;
- (n) Summary Financial Statement for Advisory Neighborhood Commission (ANC);
- (o) Verified Statement of Contribution Report;
- (p) Withdrawal of Chairperson;
- (q) Withdrawal of Treasurer;
- (r) 24-Hour Report of Receipts for Candidates and Committees;
- (s) Schedule of Bundled Contributions;
- (t) 14-Day Report of Independent Expenditures by Individuals;
- (u) Certification of Attendance at ~~In-Person~~ Training for Candidate and Treasurer;
- (v) Designation of Campaign Depository;
- (w) Affidavit of Business Contributor;

- (x) Fair Elections Program Report of Receipts and Expenditures;
- (y) Fair Elections Program Statement of Registration;
- (z) Fair Elections Program Affidavit of Candidate and Treasurer;
- (aa) Fair Elections Program Receipt and Affirmation Statement for Contributor;
- (bb) Fair Elections Program Request to Rescind Certification.
- (cc) Fair Elections Program Request for Additional Information; and
- (dd) Fair Elections Program Preliminary Statement of Findings.

Subsection 3709.4, shall be amended to read as follows:

- 3709.4 In the notice, an alleged violator of the reporting and/or disclosure requirements shall be informed of:
- (a) The nature of the alleged violation;
 - (b) The authority on which the hearing is based;
 - (c) The date and time of the hearing;
 - (d) The right to be represented by legal counsel;
 - (e) The fact that the alleged violator's failure to appear may be considered an admission of the allegation; and
 - (f) The fact that service of process shall be by both regular mail and electronic mail.

Subsection 3709.8, shall be amended to read as follows:

- 3709.8 If the respondent fails to appear after a reasonable period of time, the Director shall:
- (a) Reschedule the informal hearing;
 - (b) Issue notice of the rescheduled informal hearing; and
 - (c) Serve the respondent by both regular mail and electronic mail.

Subsection 3709.10, shall be amended to read as follows:

- 3709.10 Following the conduct of each informal hearing, the Director shall:
- (a) Determine whether a violation has occurred;

- (b) Issue a written order with findings of facts and conclusions of law; and
- (c) Serve the respondent by both regular mail and electronic mail.

Section 3711, Schedule of Fines, shall be amended as follows:

Subsection 3711.2 (s), shall be amended as follows:

- 3711.2 Except for fines imposed for violations of the regulations and statutory provisions governing the Constituent Service Programs under § 3711.3 and the Fair Elections Program under § 3711.4, fines shall be imposed as follows:
- (s) Failure to file ANC Summary Financial Report: fifty dollars (\$50), up to one hundred fifty dollars (\$150);

Subsection 3711.3 (u), shall be amended as follows:

- 3711.3 Fines for violations of the regulations and statutory provisions governing Constituent Services Programs shall be imposed, as follows:
- (u) Failure to timely liquidate a Bitcoin contribution: fifty dollars (\$50) per day; and

New paragraph (v), shall be added to read as follows:

- (v) Failure to file a Report of Receipts and Expenditures: fifty dollars (\$50) per day.

Subsection 3711.10, shall be amended to read as follows:

- 3711.10 If a party fails to pay the ordered fine, the Director shall petition for enforcement of its order before the Board in an adversarial and open hearing, pursuant to Chapter 4 of this title, within ninety (90) days after the expiration of the period provided for the payment of the fine.

Chapter 42, Fair Elections Program, of Title 3 of the DCMR, ELECTIONS AND ETHICS, shall be amended as follows:

Section 4201, registration of candidate, shall be amended as follows:

New subsection 4201.12, shall be added to read as follows:

- 4201.12 For the purposes of this Chapter, a candidate seeking to participate in the Fair Elections Program shall pay all outstanding fines in full at the registration of

candidacy in the Fair Elections Program, and where enforcement proceedings are pending at registration and fines subsequently imposed, the Director may suspend the candidate either seeking participation or certified in the Fair Election Program until the fines are paid in full.

Section 4202, Mandatory Training, shall be amended as follows:

Subsections 4202.2 and 4202.5, shall be amended to read as follows:

- 4202.2 Training shall be conducted in-person or online, at the option of the candidate or treasurer, or only online during a period of time for which the Mayor has declared a public health emergency pursuant to D.C. Official Code § 7-2034.01. At the discretion of the Director, the Office of Campaign Finance may provide online training materials to supplement the in-person training program.
- 4202.5 At the conclusion of the Office of Campaign Finance training program, each participating candidate and treasurer shall confirm, by signing an oath or affirmation, their commitment to comply with the District's campaign finance laws.

Section 4206, Certification, Revocation, and Recission as a Participating Candidate, shall be amended as follows:

Subsections 4206. 3 and 4206.5, shall be amended to read as follows:

- 4206.3 No later than ten (10) business days after a candidate attains compliance under § 4206.1 the Director of Campaign Finance shall determine whether the candidate meets the requirements for certification as a participating candidate, and:
- (a) If the requirements are met, certify the candidate as a participating candidate; or
 - (b) If the requirements are not met, the Director shall notify the candidate in writing of the specific deficiencies and (1) provide an opportunity to cure the deficiencies and, (2) appeal the Director's determination in writing to the Board within ten (10) business days after the candidate receives the determination, or otherwise the decision of the Director becomes final. An appeal of the Director's determination to the Board shall be considered a complaint and proceed in accordance with the rules of Chapter 4 of this title.
 - (c) The petition of appeal must state the grounds for reconsideration of the denial for certification as a participating candidate.
- 4206.5 If a certification is revoked under § 4206.3, the Director shall notify the candidate in writing of (1) the basis for the Director's revocation; and (2) the right to appeal the revocation in writing to the Board within ten (10) business days after the

candidate receives the determination, or otherwise the decision of the Director becomes final. An appeal of a revocation to the Board shall be considered a complaint and proceed in accordance with the rules of Chapter 4 of this title.

Section 4207, Base Amount Payments, shall be amended as follows:

New subsection 4207.12, shall be added to read as follows:

4207.12 For the purpose of this Chapter, the commencement of the distribution of payments from the Fair Elections Funds shall begin no earlier than the July 31st reporting date of the calendar year immediately preceding the calendar year in which the Primary Election is held.

Section 4209, Limitation on the Use of Fair Election Program Funds and Expenditures, shall be amended as follows:

Subsection 4209.5, shall be amended to read as follows:

4209.5 A participating candidate shall not make expenditures for the following:

- (a) Legal expenses not directly related to acts taken under this act or the Elections Code;
- (b) Payment of any penalty or fine imposed pursuant to Federal or District law;
- (c) Compensation to the participating candidate or a member of the participating candidate's immediate family, except for reimbursement of out-of-pocket expenses incurred for campaign purposes, payable in accordance with § 4203.19;
- (d) Clothing and other items or services related to the participating candidate's personal appearance;
- (e) Contributions, loans, or transfers to another candidate's political committee or a political action committee;
- (f) Gifts, which, for the purposes of this paragraph, shall not include printed campaign materials such as signs, brochures, buttons, or clothing; and
- (g) Any other purpose that does not support the nomination of election to office of the participating candidate as delineated in § 3013 of this title.

Section 4211, Remitting Funds and Donating Equipment, shall be amended as follows:

New subsection 4211.9, shall be added to read as follows:

4211.9 Notwithstanding §§ 4211.1, 4211.2 and 4211.3, a participating candidate may continue to collect contributions, which will not be matched, for payment of debt for a period no later than sixty (60) days from the date of the election.

Section 4212, Filing Deadlines, shall be amended as follows:

Subsection 4212.2, shall be amended to read as follows:

4212.2 Reports of Receipts and Expenditures (R&E) shall be filed by candidates seeking certification and participating candidates with the Office of Campaign Finance on the following dates:

- (a) 10th day of October proceeding the date on which an election is held;
- (b) March 10th, June 10th, August 10th, October 10th, and December 10th in the seven (7) months preceding the date on which an election is held for which the candidate seeks office, and the committee supports a candidate for office;
- (c) March 10th, April 10th, May 10th, June 10th, August 10th, October 10th, and December 10th, and the eight (8th) day next preceding the date of any primary, general or special election, in any year in which there is held an election for which the candidate seeks office and the committee supports a candidate for office;
- (d) January 31st of each year; and
- (e) July 31st of each year in which there is no election.

Chapter 43, The Verification Process, of Title 3 of the DCMR, ELECTIONS AND ETHICS, shall be amended as follows:

New section 4308, “Post-Election Cycle Audits and Desk Reviews”, shall be added to read as follows:

4308.1 The Director shall require a Post-Election Cycle Audit of campaign operations of all certified candidates in the Fair Elections Program. The Post-Election Cycle Audit process shall commence within ninety (90) days of the certification of the general election by the Board of Elections, unless otherwise extended for good cause.

4308.2 The Fair Elections Program may issue a Preliminary Statement of Findings letter to the treasurer of the certified candidate’s principal campaign committee, detailing the errors and discrepancies noted during the Post-Election Cycle Audit process,

and will require the treasurer to respond within fifteen (15) days and provide corrections or file an amended report.

- 4308.3 The Fair Elections Program shall conduct Desk Reviews of each Report of Receipts and Expenditures in accordance with this chapter, to ensure the accurate reporting of financial activity.
- 4308.4 At the conclusion of a Desk Review, the Fair Elections Program may issue a Request for Additional Information (RFAI) letter to the treasurer of a participating candidate's principal campaign committee, whose Report of Receipts and Expenditures was found to contain errors or discrepancies. The RFAI will detail the errors and discrepancies noted during the review and will require the treasurer to respond within fifteen (15) days and provide corrections or file an amended report.

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