

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 7, “Election Procedures,” Chapter 10, “Initiative and Referendum,” Chapter 11, “Recall of Elected Officials,” 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,” and Section 9900, “Definitions,” of Chapter 99 of Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the amendments to these regulations is to establish regulations consistent with Section 2(a)-(c) of “Initiative 83 - Ranked Choice Voting and Open the Primary Elections to Independent Voters Act of 2024”(D.C. Law 25-295), and to clarify aspects of the nominating petition circulation and ballot measure processing procedures.

In light of the enactment of the aforementioned legislation, and to ensure clarity regarding the aforementioned processes ahead of the 2026 election cycle, emergency action with respect to this rulemaking is necessary. Accordingly, the Board adopted these rules on an emergency basis at its regular meeting on Wednesday, January 14, 2026. The emergency rules shall remain in effect until Thursday, May 14, 2026 (one hundred and twenty (120) days from the adoption date), unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.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 7, ELECTION PROCEDURES, is amended as follows:

A new section, 729, “RANKED CHOICE VOTING”, is amended to read as follows:

729 RANKED CHOICE VOTING

729.1 This chapter applies to all primary, special, and general elections conducted using ranked choice voting (RCV) pursuant to D.C. Official Code § 1-1001.08a.

729.2 For purposes of this chapter, the terms outlined in D.C. Official Code § 1-1001.08a(a) through (l) and D.C. Official Code § 1-1001.02(38) - (48) shall have the same meanings when used in this chapter.

729.3 Each ballot used in an election conducted using RCV shall permit a voter to rank up to five (5) candidates, or as many candidates as are in the contest if more than two but fewer than five (5), consistent with D.C. Official Code § 1-1001.08a(b).

729.4 Each ballot shall include instructions informing the voter of the matters outlined in D.C. Official Code § 1-1001.08a(c), as approved by the Board following usability testing and ballot certification.

729.5 In each round of tabulation in a contest conducted using RCV, each ballot shall count as one (1) vote for the highest-ranked active candidate on that ballot, unless the ballot is inactive.

729.6 An inactive ballot is a ballot that contains:

- (a) No ranked active candidate;
- (b) An overvote at the highest ranking of active candidates; and/or
- (c) Two or more sequential skipped rankings before its highest-ranked active candidate.

729.7 Once a ballot becomes inactive, it shall remain inactive for the remainder of the tabulation.

729.8 An undervote is a ballot that does not contain any candidates at any ranking in a particular contest.

729.9 An undervote shall not count for any candidate in any round.

729.10 Tabulation shall proceed in rounds, as defined in D.C. Official Code § 1-1001.02(45), and shall proceed sequentially in accordance with the applicable subsection of the statute.

729.11 An overvote occurs when a voter selects more than one candidate at the same ranking, meaning multiple selections appear in the same ranking column.

729.12 An overvote shall:

- (a) Invalidate the ranking at which it occurs; and
- (b) Cause the ballot to become inactive and prevent any subsequent rankings from being counted if it occurs at the highest ranking of any active candidate on a ballot.

729.13 A skipped ranking occurs when a voter leaves a ranking unmarked, meaning no selection appears in that ranking column.

729.14 A skipped ranking shall not, by itself, invalidate a ballot.

729.15 If a ballot contains two (2) or more sequential skipped rankings before its highest-ranked active candidate, the ballot shall become inactive at the point of the sequential skip, and no subsequent rankings shall be counted.

729.16 A repeated ranking occurs when a voter selects the same candidate at more than one ranking, meaning multiple selections appear in the same candidate's row.

729.17 In the case of a repeated ranking:

- (a) The ballot shall count for that candidate only at the candidate's highest ranking on the ballot; and
- (b) A candidate's second (or lower) rankings shall not be considered skipped rankings for purposes of the sequential skipped ranking rule defined in 729.15.

729.18 In RCV single-winner contests (governed by D.C. Official Code § 1-1001.08a(d) and (g)):

- (a) If a candidate receives a majority of votes among active candidates in any round of tabulation, that candidate shall be elected or nominated, and tabulation shall be complete;
- (b) If no candidate receives a majority of votes among active candidates in a round of tabulation, the active candidate with the fewest votes shall be defeated; and
- (c) Each vote for the defeated candidate shall be transferred to the next-ranked active candidate on the ballot, if any, and a new round of tabulation shall begin.

729.19 In RCV contests for at-large members of the Council of the District of Columbia (governed by D.C. Official Code § 1-1001.08a(e)):

- (a) If there are two (2) or fewer active candidates in any round, the candidates shall be elected, and tabulation shall be complete;
- (b) If there are more than two (2) active candidates in a round, the active candidate with the fewest votes shall be defeated; and
- (c) Each vote for the defeated candidate shall be transferred to the next-ranked active candidate on the ballot, if any, and a new round of tabulation shall begin.

729.20 In RCV presidential preference primary election contests in which delegates are awarded to multiple candidates on a proportional basis (governed by D.C. Official Code § 1-1001.08a(f)):

- (a) If the percentage of total votes cast for each active candidate is above the applicable party threshold for receiving delegates, tabulation shall be complete;
- (b) If one or more active candidates are below the applicable party threshold, the active candidate with the fewest votes shall be defeated; and
- (c) Each vote for a defeated candidate shall be transferred to the next-ranked active candidate on the ballot, if any, and a new round of tabulation shall begin.

729.21 In RCV presidential preference primary election contests where delegates are awarded to a single candidate on a winner-take-all basis (governed by D.C. Official Code § 1-1001.08a(g)), tabulation shall proceed in accordance with subsection 729.18 of this section.

729.22 In any general election contest for president using RCV where the appointment of presidential electors is governed by D.C. Official Code § 1-1051.01:

- (a) The certification of the appointment of electors shall be made in accordance with D.C. Official Code § 1-1051.01; and
- (b) The final determination of the presidential vote count reported and certified to the States that have enacted § 1-1051.01 shall be the votes received in the final round of tabulation by each slate of candidates for the offices of President and Vice President of the United States that received votes in the final round of tabulation.

729.23 If two (2) or more active candidates are tied for the fewest votes and tabulation cannot continue until one candidate is eliminated, the candidate to be defeated shall be determined by lot using an automated procedure established by the Board, in accordance with D.C. Official Code § 1-1001.08a(j).

729.24 If two (2) or more candidates are tied for the greatest number of votes and the tie must be resolved to determine the winner or nominee, the tie shall be resolved pursuant to D.C. Official Code § 1-1001.10(c), except as otherwise provided in D.C. Official Code § 1-1001.08a(l)(3).

729.25 The Board shall maintain round-by-round tabulation records sufficient to permit public understanding of the tabulation process and post-election review.

729.26 Upon completion of tabulation, the Board shall certify the results in accordance with applicable law.

729.27 The Board shall preserve all ballots, cast vote records, tabulation reports, tabulation configuration records, and other election materials used in an RCV contest in accordance with applicable District law.

729.28 Records preserved pursuant to this section shall be sufficient to permit:

- (a) Reproduction of the round-by-round tabulation conducted pursuant to this section; and
- (b) Verification of compliance with D.C. Official Code § 1-1001.08a.

729.29 For each RCV contest, the Board shall produce a tabulation report that includes, at a minimum:

- (a) The vote total credited to each active candidate in each round of tabulation;
- (b) Identification of the active candidate defeated in each round, if any;
- (c) The number of votes transferred from the defeated candidate to each remaining active candidate in the subsequent round;
- (d) The number of ballots that became inactive in each round, including the aggregate number of inactive ballots; and
- (e) The final round totals upon which certification is based.

729.30 The Board shall make the tabulation report publicly available in a format that permits public understanding of the tabulation process, subject to applicable law governing voter privacy and election security.

729.31 The Board may generate and retain cast vote records for RCV contests to support tabulation, recounts, audits, and post-election review.

729.32 If cast vote records are released publicly, the Board shall apply reasonable safeguards to protect voter anonymity and prevent re-identification, consistent with applicable law.

729.33 If a recount is authorized or required under District law for an RCV contest, the recount shall be conducted using the same tabulation rules outlined in D.C. Official Code § 1-1001.08a and this section.

729.34 A recount conducted pursuant to this section shall:

- (a) Preserve chain-of-custody requirements for ballots and election materials;
- (b) Apply the same standards for determining inactive ballots, overvotes, skipped rankings, and undervotes as were applied in the original tabulation; and
- (c) Produce a revised round-by-round tabulation record reflecting the recount.

729.35 Nothing in this section shall be construed to modify, expand, or limit the recount authority, thresholds, procedures, or finality outlined in sections 814 – 816 of this title, or to authorize the use of a tabulation method not permitted by statute.

729.36 The Board shall conduct post-election audits required by District law and may conduct additional audits of RCV contests to promote public confidence in election outcomes, provided that such audits are consistent with applicable law.

729.37 Post-election audits of RCV contests shall be conducted in accordance with the audit procedures established by District law. Such audits may include, as appropriate:

- (a) Comparison of voter-verifiable paper ballots to corresponding cast vote records for a sample of ballots;
- (b) Verification that the tabulation configuration and software used in the election correspond to the certified voting system; and
- (c) Verification that the reported round-by-round tabulation is reproducible from preserved election records.

729.38 A post-election audit conducted pursuant to this section shall not alter the statutory tabulation rules or the outcome of an election unless otherwise authorized by law.

729.39 The Board shall maintain documentation and records concerning RCV contests for 22 months after the election in which they are held.

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

Section 1001, Adoption of Ballot Language, is amended to read as follows:

1001 ADOPTION OF BALLOT LANGUAGE

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.

Section 1007, Validity of Signatures, is amended to read as follows:

1007 VALIDITY OF SIGNATURES

1007.1 A petition 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 and has failed to file a change of address form that is received by the Board on or before the date that the 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 or the address entered by the signer is illegible;
- (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 or correctly enter 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) [REPEALED];
- (k) The signature was obtained outside of the presence of the circulator; or
- (l) The signature was obtained on a petition sheet that was submitted on behalf of a previously filed petition that was rejected or found to be numerically insufficient.

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

Section 1107, Validity of Signatures, is amended to read as follows:

1107

VALIDITY OF SIGNATURES

1107.1 A petition 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 and has failed to file a change of address form that is received by the Board on or before the date that the 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 or the address entered by the signer is illegible;

- (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 or correctly enter 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) [REPEALED];
- (k) The signature was obtained outside of the presence of the circulator;
- (l) The signature was obtained on a petition sheet that was submitted on behalf of a previously filed petition that was rejected or found to be numerically insufficient; or
- (m) The signer is not a registered voter in the ward or Single-Member District of the elected official sought to be recalled.

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 1407, Validity of Signatures, is amended to read as follows:

1407 VALIDITY OF SIGNATURES

1407.1 Once a petition has been properly challenged pursuant to this chapter, a challenged 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 entered by the signer 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 or the address entered by the signer is illegible;
- (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 or correctly enter 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) The signature was not personally witnessed by the circulator;
- (k) The signature appears on a sheet that was not personally circulated by the circulator;
- (l) The signer is not registered to vote in the same party as the candidate at the time the petition is signed; or
- (m) The signer is not a U.S. citizen.

1407.2 Notwithstanding subsection 1407.1, the Board may waive a defect for good cause shown consistent with applicable statutory provisions.

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 1507, Validity of Signatures, is amended to read as follows:

VALIDITY OF SIGNATURES

1507.1

Once a petition has been properly challenged pursuant to this chapter, a challenged 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 entered by the signer 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 or the address entered by the signer is illegible;
- (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 or correctly enter 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) The signature was not personally witnessed by the circulator;
- (k) The signature appears on a sheet that was not personally circulated by the circulator; or
- (l) The signer is not a U.S. citizen.

1507.2 Notwithstanding subsection 1507.1, the Board may waive a defect for good cause shown consistent with applicable statutory provisions.

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 1607, Validity of Signatures, is amended to read as follows:

1607 VALIDITY OF SIGNATURES

1607.1 Once a petition has been properly challenged pursuant to this chapter, a challenged 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 entered by the signer 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 or the address entered by the signer is illegible;
- (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 or correctly enter 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) The signature was not personally witnessed by the circulator;
- (k) The signature appears on a sheet that was not personally circulated by the circulator;
- (l) 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;
- (m) 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
- (n) With respect to a petition for the office of Delegate to the U.S. House of Representatives, U.S. Senator, or U.S Representative, the signer is not a U.S. citizen.

1607.2 Notwithstanding subsection 1607.1, the Board may waive a defect for good cause shown consistent with applicable statutory provisions.

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

Section 1707, Validity of Signatures, is amended to read as follows:

1707 VALIDITY OF SIGNATURES

1707.1 Once a petition has been properly challenged pursuant to this chapter, a challenged 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 entered by the signer 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 or the address entered by the signer is illegible;
- (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 or correctly enter 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) The signature was not personally witnessed by the circulator;
- (k) The signature appears on a sheet that was not personally circulated by the circulator;
- (l) The signer is not a registered voter in the ward from which the candidate seeks nomination at the time the petition was signed;
- (m) The signer is not registered to vote in the same party as the candidate at the time the petition is signed; or
- (n) The signer is not a U.S. citizen.

1707.2 Notwithstanding subsection 1707.1, the Board may waive a defect for good cause shown consistent with applicable statutory provisions.

Section 9900, DEFINITIONS, of Chapter 99 is amended as follows:

The definition of the term “Overvote” is amended to read as follows:

Overvote – an instance in which a voter casts a vote for a greater number of candidates or positions than the number for which he or she was lawfully entitled to vote and no vote shall be counted with respect to that office or question; provided that with respect to a ranked choice voting contest, an overvote means an instance in which a voter has ranked more than one candidate at the same ranking.

The definition of the term “Undervote” is amended to read as follows:

Undervote – an instance in which a voter casts a vote for a lesser number of candidates or positions than the number for which he was lawfully entitled to vote; provided that with respect to a ranked choice voting contest, an undervote is a ballot that does not contain any candidates at any ranking in a particular contest.

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.