

MINUTES OF THE BOARD OF ELECTIONS REGULAR MEETING
January 4, 2023

The District of Columbia Board of Elections (“the Board”) held its Regular Monthly Meeting on Tuesday, January 4, 2023, via Zoom and in the Board’s Hearing Room, located at 1015 Half Street, SE, Washington, D.C. 20003, Suite 750. Board Chairman Gary Thompson and Board Members Karyn Greenfield and J.C. Boggs were present. The Board’s Executive Director Monica Holman Evans (“Director Evans”), General Counsel, Terri Stroud, the Director of the Office of Campaign Finance (OCF), Cecily Collier-Montgomery, and OCF General Counsel, William SanFord, were also present.

CALL TO ORDER (10:34 a.m.)

ASCERTAINMENT OF QUORUM

- Board Chair Thompson and Board Members Greenfield and Boggs constituted a quorum.

ADOPTION OF AGENDA/APPROVAL OF MINUTES

- **BOARD ACTION:** The Board unanimously adopted the agenda and minutes from the last meeting held on November 30, 2022.

BOARD MATTERS

- Introduction and welcome of new Board Member J.C. Boggs

HEARING ON PETITION FOR ENFORCEMENT OF OCF ORDERS

- On March 9, 2022, OCF filed with the Board Petitions for Enforcement of fines imposed by OCF on several candidates and/or campaign treasurers (“Respondents”) for failure to timely file January 31, 2021 Reports of Receipts and Expenditures (“R & E Reports”) that were due no later than February 19, 2021.
- On September 30, 2022, the Board’s Office of General Counsel (“OGC”) sent notices to Respondents via email and certified mail to inform them that pre-hearing conferences on the Petitions for Enforcement would be scheduled on either October 25 or 26, 2022.
- Following the pre-hearing conferences, the Board’s OGC notified the following six Respondents via email and certified mail that the Board would hear the Petitions against them on January 4, 2023:
 - OCF v. Friends of Courtney Snowden (Courtney Snowden, Treasurer)
 - \$1,650 fine imposed on May 11, 2021
 - OCF v. Committee to Elect Jacques Patterson (Lamont Harrell, Treasurer)
 - \$1,650 fine imposed on May 11, 2021
 - OCF v. Toliver for Ward 6 (Dwayne Toliver, Treasurer)
 - \$1,600 fine imposed on May 11, 2021

- OCF v. Patterson for Ward 8 (Jacque Patterson, Treasurer)
 - \$1,650 fine imposed on May 11, 2021
- OCF v. Bonita Goode 2016 (Bonita Goode, Treasurer)
 - \$1,650 fine imposed on May 14, 2021
 - **BOARD ACTION:** The Board unanimously voted to adjourn matter pending the outcome of negotiations between Ms. Goode and the OCF to settle the matter
- OCF v. Edwards for Ward 4 2020 (Marlena Edwards, Treasurer)
 - \$1,650 fine imposed on May 14, 2021
- The OGC requested the Board’s authorization to file petitions for enforcement in the D.C. Superior Court in all of the above matters except OCF v. Bonita Goode 2016.
 - **BOARD ACTION:** The Board unanimously voted to authorize OGC to file petitions for enforcements in the D.C. Superior Court.

DCBOE EXECUTIVE DIRECTOR’S DECEMBER 2022 REPORT (EXECUTIVE DIRECTOR EVANS)

- **General Matters**
 - On December 6, 2022, Director Evans participated on a panel at the Bipartisan Policy Center Summit along with other Election officials, secretaries of state, academics, and others to discuss the 2022 midterm elections and trends and issues to address ahead of upcoming elections.
 - In December 2022, the agency had its budget review team meeting to present our FY2024 budget. We have requested funding to upgrade systems and replace equipment ahead of the next election cycle.
 - On December 14, 2022, the Board conducted recounts for Advisory Neighborhood Commission (ANC) Single-Member Districts (“SMDs” 5A06 and 7C05. We recertified the results the results for the SMD 5A06 contest as the resulted indicated that the winner changed from Derrick Holloway to Kweku A. Toure.
 - On Monday, December 19, 2022, the Board certified the election results for contests for ANC SMDs 3E07 and 6E02, both of which had resulted in a tie.
 - The Board is continuing to meet with vendors regarding what worked well and what can be improved for future elections.
 - Returned ballots are now being entered into voter focus which is the first step in the post-election list maintenance process for updating the voter registry.
 - The Board is currently taking steps to fully implement new legislation that will be in place for the 2024 election cycle, the Elections Modernization Amendment Act of 2022 and the Local Resident Voting Rights Amendment Act of 2022.
 - During 2023, the Board will be updating its informational materials and seeking ways to improve the website.
- **Voter Education and Outreach (VEOD)**
 - During December, two outreach events were conducted:

- YMCA Anthony Bowen Branch Youth Summit
- The 24th Annual Senior Holiday Celebration at the D.C. Armory.
- **Voter Registration Rolls**
 - In December, the Voter Services Division registered 1,266 voters and processed 3,397 registration changes. In total, 4,963 registration cards were mailed out.
- **Online Voter Registration**
 - To date, 33,283 applications have been processed through our web portal.

DCBOE GENERAL COUNSEL’S DECEMBER 2022 REPORT (GENERAL COUNSEL STROUD)

- **Rulemaking to Title 3 (Elections and Ethics) of the D.C. Municipal Regulations**
 - Emergency and Proposed Rulemaking
 - Title 3, Chapters 30, 33, 37, and 42 are proposed to be amended to achieve consistency between the regulations and existing legislation. The changes require that political action committees establish non-contribution accounts for the purpose of making independent expenditures. These accounts must be segregated from the other accounts those tax years. The Board previously approved other amendments that allow the continuation of OCF on-line training, limit campaign contributions from government contractors, impose fines for failure to remit unexpended campaign funds, and adjust the basis upon which Fair Election matching funds are calculated. OCF is seeking re-approval because the prior approval granted by the Board expired at the end of September of 2022.
 - **BOARD ACTION:** Voted 2-0 to adopt the Emergency and Proposed Rulemaking, amending Chapters 30, 33, 37 and 42 which places the Board's regulations into conformity with the Campaign Finance Reform and Conflict of Interest Public Disclosure Amendment Act of 2011, as well as the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 as amended by the COVID-19 Response Supplemental Emergency Amendment Act of 2020.
- **Litigation Status**
 - **Kathy Henderson v. D.C. Board of Elections (D.C. Court of Appeals)**
 - Kathy Henderson filed a Recall Petition against Sydelle Moore, Advisory Neighborhood Commissioner for Single-Member District 5D05. The petition was rejected due to an insufficient number of signatures.
 - Ms. Henderson appealed the matter to the DC Court of Appeals (“DCCA”).
 - On November 10, 2022, the Court issued an order directing the parties to file briefs by November 25, 2022 addressing whether or not the case was moot in light of the November 8, 2022 General Election.
 - In its brief, the Board contended that the case was effectively moot since a recall election could not be scheduled before Moore's term expire on

January 2, 2023. On December 6, 2022, the Court issued an order dismissing Ms. Henderson's appeal as moot, and the matter is now closed.

- **Public Interest Legal Foundation (PILF) v. Monica Evans (U.S. District Court for the District of Columbia)**
 - This matter was filed in the US District Court for the District of Columbia under the National Voter Registration Act (NVRA).
 - The suit alleges that the Board is out of compliance with the NVRA's public records provision.
 - All briefing has been submitted and we are awaiting a ruling.

- **Williams v. District of Columbia (D.C. Superior Court)**
 - This matter, which was filed in the D.C. Superior Court on September 2, 2022 against the District of Columbia, concerns the Board's publication of certified election results on its website instead of in the D.C. Register.
 - The plaintiff requested that new elections be held and that actions issued by the affected administrations, particularly with respect to zoning and property disposition, be nullified. The D.C. Office of the Attorney General ("OAG") plans to file a motion to dismiss.

- **Dorothy Douglas v. D.C. Board of Elections (D.C. Court of Appeals)**
 - On December 7, 2022, Dorothy Douglas, a candidate who lost her election bid to become Advisory Neighborhood Commissioner for Single-Member District 7C07, filed a *pro se* petition in the D.C. Court of Appeals seeking to decertify the election results in that race.
 - Ms. Douglas alleges that she lost votes as a result of voters in SMD 7C07 being given ballots for SMD 7D03.
 - On December 2, 2022, the Court ordered that Ms. Douglas' petition be filed and that the case be expedited. The court directed the Board to file a designation of record by January 11, 2023, and Ms. Douglas to file a motion for summary reversal of the election results by January 23, 2023, with the Board's response due seven days after that.

OFC DECEMBER 2022 REPORT (DIRECTOR COLLIER-MONTGOMERY)

- **Fair Elections Program (FEP) Division Report for December 2022**
 - To date, OCF has authorized a total sum of \$13,529,614.50 for disbursement from the FEP Fund in base amounts and matching payments to the 42 candidates certified in the FEP to participate in the June 21, 2022 Primary Election and the November 8, 2022 General Election.
 - The OCF authorized six disbursements from the FEP fund to participating candidates who were certified in the 2022 election cycle. All names are listed on the OCF website.

- **Desk Reviews and Other Activities**
 - 24 desk reviews were conducted of the December 10, 2022 R & E Reports
 - 8 requests for additional information ("RFAI") letters were sent regarding

these reports.

- **Remitted Funds**
 - As of December 31, 2022, the total sum of \$667,679.43 has been remitted for deposit in the fund from campaign operations of candidates who were certified to participate in the 2022 election.
- **Ongoing Post-Election Audits**
 - There are currently 27 post-election audits
 - All audits and the status of each are posted on the OCF website.
- **Public Information and Records Management Division (PIRM)**
 - There was one filing deadline in December, the December 10th R & E Report for the following committees:
 - Principal Campaign Committees (“PCCs”)
 - Political Action Committees (“PACs”)
 - FEP Candidate Committees
 - Independent Expenditure Committees (“IECs”)
 - Inaugural committees
 - The real-time images of the reports are available at the OCF website.
 - **New Candidate/Committees**
 - NONE
 - **Referrals to the OGC**
 - Failure to Timely File the December 10th R & E Report
 - PCCs – (5)
 - Fair Elections Program Candidate Committees – (1)
 - PACs – (3)
- **Reports Analysis and Audit Division (RAAD) Program**
 - 107 desk reviews were conducted during December 2022.
 - 12 RFAI letters were sent regarding these reviews.
 - **December Audits Issued**
 - Phil’s Fund for Citizen Service – issued December 12, 2022
 - Kenyan McDuffie 2022 – issued December 12, 2022
 - Stacia for Mayor 2022 – issued December 12, 2022
 - **Ongoing Periodic Audits**
 - NONE

OCF DECEMBER GENERAL COUNSEL REPORT (GENERAL COUNSEL WILLIAM SANFORD)

- **Intake/Output Report**
 - The OCF OGC received 10 referrals from the RAAD division for failure to timely

respond to a request for additional information.

- OCF OGC issued three orders imposing a total of \$5,850 in fines. The fines were imposed in the following amounts against the following respondents:
 - Friends of Courtney Snowden - \$1,950.00
 - Toliver for Ward 4 - \$1,950.00
 - Carter At-Large - \$1,950.00
- OCF collected fines in the amount of \$500 from the Perry Red for Ward 4 Council PCC.
- **Open Investigations**
 - One full investigation was initiated as a result of a complaint filed on December 29, 2022.
- **Interpretative Opinions**
 - NONE
- **Show Cause Proceedings**
 - NONE

PUBLIC MATTERS

The discussion in the public matters portion of the meeting can be found on pages 50 – 57 of the [transcript for this hearing](#).

ADJOURNMENT (11:41 a.m.)