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District of Columbia REGISTER

HIGHLIGHTS

- D.C. Council declares May 6, 2024 as YOM Ha'Shoah or Holocaust Remembrance Day to remember, acknowledge, and condemn the Holocaust (Adopted Ceremonial Resolution 25-205)
- D.C. Council officially declares May 1st, 2024 as the District of Columbia Statehood Day (Adopted Ceremonial Resolution 25-206)
- D.C. Council schedules a public hearing to discuss the utilization of partnerships and local interventions for youth charged with certain dangerous crimes (Bill 25-791)
- Office of the Attorney General announces availability of funding for the FY 2025 Community-Based Grant Programs
- Department of Behavioral Health announces availability of the Opioid Abatement Strategic Impact Grant
- D.C. Board of Elections schedules a public hearing to consider "The Vermelle Paid Maternity Leave Act" proposed initiative measure
- D.C. Board of Elections updates regulations regarding ballot access, initiative processes, and qualified petition circulators
- Mayor's Office on Latino Affairs announces availability of funding for the FY 2024 Multicultural Summer Youth Employment Program

DISTRICT OF COLUMBIA REGISTER

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DISTRICT OF COLUMBIA
OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

ROOM 520S – 441 4th STREET, ONE JUDICIARY SQUARE - WASHINGTON, D.C. 20001 - (202) 727-5090

MURIEL E. BOWSER
MAYOR

VICTOR L. REID, ESQ.
ADMINISTRATOR

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ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

25-192

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 2, 2024

To recognize and honor Barracks Row Main Street on the occasion of its 25th anniversary.

WHEREAS, Barracks Row, which stretches along 8th Street, SE, from Pennsylvania Avenue, SE, to M Street, SE, is the oldest commercial corridor in the District of Columbia;

WHEREAS, in the early 1990s, local merchants founded the Barracks Row Business Alliance to revitalize the corridor after decades of neglect;

WHEREAS, in 1999, the Barracks Row Business Alliance and local residents worked with the National Trust for Historic Preservation's Main Street program to charter Barracks Row Main Street;

WHEREAS, Barracks Row Main Street was selected as one of the DC Office of Economic Development's first 5 official DC Main Streets programs;

WHEREAS, in 2005, Barracks Row Main Street was awarded the Great American Main Street Award by Main Street America;

WHEREAS, Barracks Row Main Street organizes festivals, promotions, and celebrations that increase business activity for merchants along the corridor and create unique experiences for residents, like First Fridays;

WHEREAS, Barracks Row Main Street has supported small and local businesses within its boundaries through grants for advertising, infrastructure, security, and other business needs;

WHEREAS, Barracks Row Main Street's Clean Team removes more than 8,500 bags of trash and recycling annually;

WHEREAS, Barracks Row Main Street's Façade Improvement Program has improved buildings through structural repairs, lighting, signage, and awnings;

WHEREAS, Barracks Row Main Street has partnered with the Restaurant Association of Metropolitan Washington and the Department of Small and Local Business Development to train

businesses in food, alcohol, anti-harassment, and entrepreneurship best practices; and

WHEREAS, through funding provided by the Council, Barracks Row Main Street has helped activate the recently revitalized Eastern Market Metro Park with concerts, chess tournaments, yoga, and many other special events.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this resolution may be cited as the "Barracks Row Main Street 25th Anniversary Recognition Resolution of 2024".

Sec. 2. The Council of the District of Columbia recognizes and honors Barracks Row Main Street on the occasion of its 25th anniversary.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

25-193

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 2, 2024

To commemorate and recognize the contributions that the award-winning actor Jeffrey Wright has made to the District of Columbia as a native Washingtonian.

WHEREAS, Jeffrey Wright grew up in Southeast Washington, D.C. with his mother and aunt;

WHEREAS, Jeffrey Wright graduated from St. Albans School and received a bachelor's degree in political science from Amherst College;

WHEREAS, Jeffrey Wright gained his first job working at Douglass Pool through the Marion Barry Summer Youth Employment Program at the age of 15 years old;

WHEREAS, Jeffrey Wright landed a role in Arena Stage's 1988 production of Lorraine Hansberry's "Les Blancs" in Washington, D.C.;

WHEREAS, in 1994, Jeffrey Wright won the Outer Critics Circle Award for Outstanding Debut Performance for his role in the Broadway production, *Angels in America;*

WHEREAS, in 1994, Jeffrey Wright won the Drama Desk Award for Outstanding Supporting Actor in a Play for his role in the Broadway production, *Angels in America;*

WHEREAS, in 1994, Jeffrey Wright won the Tony Award for Best Featured Actor in a Play for his role as Belize in the Broadway production, *Angels in America;*

WHEREAS, in 1996, Jeffrey Wright gained widespread acclaim for his first starring role as Jean-Michel Basquiat in the film, *Basquiat*, directed by Julian Schnabel;

WHEREAS, in 2000, Jeffrey Wright played the role of Detective Peoples Hernandez in the film *Shaft*;

WHEREAS, in 2002, Jeffrey Wright was nominated for the Tony Award for Best Actor in a Play for his role as Lincoln in the Broadway production, *Topdog/Underdog*;

ENROLLED ORIGINAL

WHEREAS, in 2004, Jeffrey Wright won the Golden Globe for Best Performance by an Actor in a Supporting Role in a Series, Limited Series, or Motion Picture Made for Television for his role in *Angels in America;*

WHEREAS, in 2004, Jeffrey Wright won the Primetime Emmy Award for Outstanding Supporting Actor in a Miniseries or a Movie for his role as Belize in the Broadway production and HBO miniseries, *Angels in Americ*a;

WHEREAS, in 2022, Jeffrey Wright was nominated for the Primetime Emmy Award for Outstanding Character Voice-Over Performance for his role as The Watcher in the Disney+ Marvel Studios television show, *What If…?*;

WHEREAS, in 2024, Jeffrey Wright is nominated by the Golden Globe Awards for Best Performance by a Male Actor in a Motion Picture – Musical or Comedy for his starring role in the 2023 film, *American Fiction;*

WHEREAS, Jeffrey Wright was nominated for his first Oscar award on March 10, 2024 for playing Thelonious "Monk" Ellison in *American Fiction*.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Jeffrey Wright Ceremonial Recognition Resolution of 2024".

Sec. 2. The Council recognizes Jeffrey Wright in the District of Columbia for his outstanding contributions to film;

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

25-194

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 2, 2024

To recognize and honor the life and accomplishments of Mailyn Amore Turkes.

WHEREAS, Mailyn Amore Turkes was born on November 28, 2012 to her loving parents Taniesha Clark and Michael Turkes;

WHEREAS, Mailyn was born a star, and her light filled any room she walked into, complemented by the brightest smile to match her loving spirit;

WHEREAS, Mailyn was a student who attended Two Rivers Elementary School;

WHEREAS, Mailyn enjoyed creating jewelry, producing YouTube/TikTok content, traveling, gymnastics, dancing, roller skating, interior home design, taking trips to Starbucks, shopping, and assisting her mother with real estate ventures;

WHEREAS, at a young age, she showed an interest in entrepreneurship by selling pop sockets and charm bracelets, and she planned to continue expanding her ventures;

WHEREAS, spending quality time with her family and friends was her number one priority;

WHEREAS, Mailyn was a child of light, love, leadership, and courage;

WHEREAS, Mailyn is survived by a large and loving family, including her parents Taniesha Clark and Michael Turkes, her siblings Makaia, Morgan, Michael, Miley, Montana, Symphony, Micah, Bryce, Brynten, and Marlee, her great-grandparents Mildred Cobb Clark, Marvin Clark, and Jacquelyn McCormick, maternal grandparents Evelyn Clark and Xavier McCormick, paternal grandparents Michelle Colbert and Michael Turkes, aunts Lisa, Brickette, Darnetta, Donxavia, Toya, Joy, Marketta, Mikia, and Miera, uncle Alvin, godmother Shauntia, god siblings Shaniya, Saige, Erykah, and Dylon, a host of cousins, and her best friends Kennedy, Skylar, and Da'Loni;

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Mailyn Amore Turkes Posthumous Ceremonial Resolution of 2024”.

ENROLLED ORIGINAL

Sec. 2. The Council of the District of Columbia recognizes and honors the life and accomplishments of Mailyn Amore Turkes.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

25-195

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

APRIL 2, 2024

To commemorate and recognize the achievements of Rajah Caruth, a motorsports racing driver and native of Washington D.C., on winning his first career NASCAR race.

WHEREAS, Rajah Caruth attended his first race at Richmond Raceway in 2014;

WHEREAS, Rajah Caruth turned 16, he began racing virtually in the eNASCAR Ignite Series where he caught the attention of the NASCAR Drive for Diversity Program;

WHEREAS, Rajah Caruth was a star track and field athlete at School Without Walls High School, where he graduated in 2020;

WHEREAS, Rajah Caruth is currently enrolled at Winston-Salem State University, pursing a degree in Motorsports Management;

WHEREAS, Rajah Caruth won his first career NASCAR race at the NASCAR Craftsman Truck Series Victoria's Voice Foundation 200 at Las Vegas Motor Speedway on March 01, 2024 in Las Vegas, Nevada;

WHEREAS, Rajah Caruth in 2020 moved up to the NASCAR Advance Auto Parts Weekly Series, where he won his first career late model race at Greenville-Pickens Speedway;

WHEREAS, Rajah Caruth won a pair of same-day victories at North Carolina’s Hickory Motor Speedway in 2021;

WHEREAS, Rajah Caruth on May 1, 2021 won the Tri-County Motor Speedway, becoming the first African-American driver to win there;

WHEREAS, Rajah Caruth earned two top five and five top-10 finishes with a best result of third place at Southern National Motorsports Park in 2021;

WHEREAS, Rajah Caruth while chasing after the ARCA Menards Series title, in 2022, was able to earn 8 top-five finishes and 14 top-10 finishes on his way to finish third place in the points standings;

ENROLLED ORIGINAL

WHEREAS, Rajah Caruth in 2023 joined GMS racing to drive the No. 24 Chevrolet Silverado RST on a full-time schedule;

WHEREAS, Rajah Caruth graduated from the NASCAR Drive For Diversity Program in 2023;

WHEREAS, Rajah Caruth became the fourth Driver for Diversity alum to win a NASCAR national series win;

WHEREAS, Rajah Caruth became only the third Black driver to win at NASCAR's national level, joining Hall of Famer Wendell Scott and Bubba Wallace.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Rajah Caruth Ceremonial Recognition Resolution of 2024".

Sec. 2. The Council of the District of Columbia acknowledges Rajah Caruth and commends him for his impactful and inspiring contributions as a NASCAR driver;

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

25-196

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 2, 2024

To recognize, honor, and congratulate the Georgetown Day School Girls middle school girls basketball program for winning the 1st ever Middle School DCSAA City Basketball Championship and congratulate the Georgetown Day School Women's Basketball Program for winning their 2nd DCSAA Class A City Basketball Championship.

WHEREAS, Georgetown Day School was founded in 1945 as Washington's first racially integrated school;

WHEREAS, The Georgetown Day School Women's Varsity Basketball team has won 2 DCSAA Class A championships in 3 years;

WHEREAS, The Georgetown Day School Middle School Girl's Basketball team finished the year with a winning record of 11-1;

WHEREAS, The Georgetown Day School Women's Varsity Basketball team finished the year with a winning record of 22-8;

WHEREAS, The Georgetown Day School Women's Varsity Basketball Team title drew recognition from the Washington Post, DCPS, and Council Members;

WHEREAS, The Georgetown Day School Women's Varsity Basketball Team has continued to promote high character student-athletes and great sportsmanship;

WHEREAS, The Georgetown Day School Middle School Basketball Team coaching staff consists of Assistant Coach Pam Stanfield and Head Coach Garrett Milam;

WHEREAS, The Georgetown Day School Women's Varsity Basketball Team coaching staff consists of assistant coaches Ashley Keels, Amy Heinzelmann, and Khalid Bashir;

WHEREAS, The Georgetown Day School Women's Varsity Basketball Team was also supported by one student-manager, Gracie Schuham-Anders;

ENROLLED ORIGINAL

WHEREAS, The Georgetown Day School Women's Varsity Basketball Team is led by 2x DCSAA Class A Coach of the year, Pam Stanfield;

WHEREAS, The Georgetown Day School DCSAA Middle School Girl's Basketball championship winning team members include:

Naomi Berger
Della Blum
Cia Carr
Lindsay Fuzesi
Evy Gilroy
Emma Hantman
Lucille Hletko Wood
Alix Kennerly
Iris Leonard
Ella Maas
Jozi McDuffie
Hazel Schroeder

WHEREAS, The Georgetown Day School DCSAA Class A Women's Basketball championship winning team members include:

Madeline Allen
Evelyn Chen
Amira Comissiong
Teresa Dean
Sabine Hletko Wood
Kesi McDuffie
Madisyn Moore-Nicholson
Cai Roberson
Nevaeh Roberson
Meridian Stanbro

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Georgetown Day School Girl's and Women's Basketball 2024 Championship Recognition Resolution of 2024."

Sec. 2. The Council of the District of Columbia recognizes and honors the Georgetown Day School Girls middle school girls basketball program for winning the 1st ever Middle School DCSAA City Basketball Championship and the Georgetown Day School Women's Varsity Basketball team for winning the 2024 DCSAA CLASS A Basketball Championship.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

25-197

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 2, 2024

To recognize the many contributions of people with developmental disabilities, to emphasize the importance of quality supports and services for people with disabilities, to reaffirm the District's commitment to building thriving communities inclusive of people with and without disabilities, and to declare the month of March 2024 as "Developmental Disabilities Awareness Month" in the District of Columbia.

WHEREAS, over 6 million Americans have developmental disabilities, and residents with developmental disabilities are our friends, family, and neighbors in every Ward of the District of Columbia;

WHEREAS, government agencies, community organizations, and individual and family leaders work together to ensure that people with developmental disabilities experience full access to education, housing, employment, recreational activities, and other community resources;

WHEREAS, we believe that inclusion of people with developmental disabilities in our communities, workplaces, and schools makes us all better off;

WHEREAS, the District is committed to recognizing that every person, regardless of disability, has gifts and talents, infinite capacity to learn and make decisions, and the capability to make important contributions to their communities if given opportunities to do so;

WHEREAS, the government of the District of Columbia, in a demonstration of its commitment to supporting District residents with developmental disabilities, is working to support more opportunities for economic self-sufficiency, belonging, and creative innovation by establishing a State as a Model Employer program;

WHEREAS, creating inclusive, supportive, and thriving environments is everyone's responsibility;

WHEREAS, the 2024 observance of Developmental Disabilities Awareness Month celebrates 38 years of advocacy in education, employment, housing, and community support; and

ENROLLED ORIGINAL

WHEREAS, Developmental Disabilities Awareness Month 2024 will address the theme of "A World of Opportunities," and will celebrate people working together to remove obstacles and create a world where everyone can succeed.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Developmental Disabilities Awareness Month Recognition Resolution of 2024".

Sec. 2. The Council recognizes the contributions of people with developmental disabilities and declares the month of March 2024 as "Developmental Disabilities Awareness Month", as a confirmation of the District's continued support for residents with developmental disabilities and those who support them to achieve their goals.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

25-198

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 2, 2023

To declare April 2023 as "Child Abuse Prevention Month" in the District of Columbia.

WHEREAS, Child Abuse Prevention Month, first commemorated in 1983, recognizes the importance of families and communities working together to prevent child abuse and neglect and promotes the social and emotional well-being of children and families;

WHEREAS, every child has the right to develop and mature in a safe, secure, and supportive environment, free from violence, victimization, and neglect;

WHEREAS, in federal fiscal year 2021, 3.9 million reports were made to child protective services;

WHEREAS, research indicates that child abuse and adverse childhood experiences can have long-term psychological, emotional, and physical effects that have lasting consequences for victims of abuse;

WHEREAS, child abuse and neglect is a serious problem affecting every segment of our community and finding solutions requires input and action from everyone;

WHEREAS, our children are our most valuable resources and will shape the future of the District of Columbia;

WHEREAS, protective factors are conditions that reduce or eliminate risk and promote social, emotional, and developmental well-being of children;

WHEREAS, effective child abuse prevention activities succeed because of partnerships created within communities, human service agencies, schools, faith-based and community organizations, businesses, law enforcement agencies, and families;

WHEREAS, the District recognizes the impact of bringing awareness to this issue, which unfortunately many District children and youth experience;

ENROLLED ORIGINAL

WHEREAS, we acknowledge that we must work together as a community to increase awareness about child abuse and contribute to promote the social and emotional well-being of children and families in a safe, stable, and nurturing environment;

WHEREAS, the Child and Family Services Agency, through the Keeping DC Families Together Initiative, promotes the well-being of families and works to prevent child abuse through promising policies, practices, and partnerships; and

WHEREAS, the Council of the District of Columbia thanks and recognizes the community partners who work to prevent the tragedy of child abuse and neglect before it happens and keep the children of the District healthy and whole.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Child Abuse Prevention Month Recognition Resolution of 2023".

Sec. 2. The Council declares April 2023 as "Child Abuse Prevention Month" in the District of Columbia.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

25-199

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 2, 2024

To celebrate the 46th anniversary of Zenith Gallery and recognize it for its contributions to the District of Columbia and the Greater Washington Metropolitan Area.

WHEREAS, Ward 4 resident Margery E. Goldberg, founder and director, opened Zenith Gallery on Rhode Island Avenue NW, March 1978 when she was 27 years old;

WHEREAS, since opening their doors, Zenith continues to represent artists from the Washington Area, national, and international artists;

WHEREAS, for over 46 years, Ms. Goldberg has been curating public, private, corporate, and institutional collections throughout the Washington D.C. tri-state area and nationally;

WHEREAS, by pushing boundaries, Zenith Gallery has grown to become one of Washington's foremost and longest running galleries, recognized for its striking mix of high-quality contemporary artworks in all media including paintings, indoor and outdoor sculpture, neon art, tapestries and mixed media and collage art, and photography that stimulate and engage. The gallery services have expanded to include high-quality acquisition, consulting, appraisal, and commissioning services to residential, corporate, and institutional clients including many DC Public Schools;

WHEREAS, Margery Goldberg received a BA in Fine Arts from George Washington University and studied woodworking, sculpture and silversmithing at the Rochester Institute of Technology where she was later a guest lecturer. Ms. Goldberg arrived in DC in 1968 from Rochester, New York. An art major, dance minor with a heavy dose of social activism. After college, Ms. Goldberg opened a woodworking studio in Georgetown, under the Whitehurst Freeway and produced sculptures, sculptural furniture, and commissioned art;

WHEREAS, Ms. Goldberg was one of the first woman in America with her own woodworking studio. After a fire left her Hayloft studio in ruins, she opened Zenith Gallery in a complex at 15th and Rhode Island Avenue NW, 50,000 square-foot property that had been the international school of law, 4 townhouses, a large three-story building that housed the Dance Exchange and Studio Theater and a carriage house where Zenith Gallery began which

ENROLLED ORIGINAL

had her woodshop and several artists' studios. The gallery opened in 1978, 10 years after the riots decimated 14th Street. Soon after, 50 artists' studios were added which served as an affordable haven for artists to work, live, show their work and support each other. After the complex was closed in a zoning dispute the Zenith Gallery moved to 413 Seventh Street NW for 24 years and was actively involved in the development and growth of the Penn Quarter downtown business community and the building of the Capital One Arena which was then the MCI Center;

WHEREAS, In 2009, Zenith Gallery and The Zenith Community Arts Foundation moved to Ms. Goldbergs home in Ward 4, which includes a two-story Gallery Salon, a regular gallery in the lower level, a sculpture garden in front and an inground sculpture garden in her former swimming pool. Zenith continues to host art exhibitions with artists talks for noted and emerging artists at Zenith Gallery in upper northwest Washington;

WHEREAS, as an accomplished artist, Goldberg has created more than 300 pieces of sculpture, sculptured furniture and neon, now in private and public collections throughout the U.S., Canada and Europe. In addition to showing her work in her own gallery, she has been featured in 10 one-women shows in the Mid-Atlantic region and more than 40 group shows in 13 U.S. cities;

WHEREAS, as a curator, Mrs. Goldberg has launched 450-plus shows for her own gallery as well as traveling exhibitions, multiple Art League shows and more than 100 corporate collections and projects, including major outdoor sculptures;

WHEREAS, Ms. Goldberg established The Zenith Community Arts Foundation– a Washington DC, non-profit 501C-3 organization in 2000. The Foundation is dedicated to promoting art and fostering alliances between artists, businesses, non-profits, and public sector organizations, using the transformative power of art to benefit the community particularly through public art projects, education;

WHEREAS, in 2020, ZCAF received a $150,000 grant from events DC to build the nation's capital's first mobile woodshop and a stationary woodshop. The mobile woodshop goes to two schools teaching carpentry skills, math, and employability skills at Ballou Stay in Ward 8 and Luke C. Moore Stay program in Ward 5; and

WHEREAS, In 2023, ZCAF received another grant from Events DC to create a traveling exhibition about the trees of DC. DC is the Tree capital of the country and along with Casey trees this exhibition will be traveling around DC for the next few years. ZCAF and Casey Trees produced 8 arboreal panels, called "The Wonders of DC Trees." These colorful displays dramatize the significance of the urban canopy in the District of Columbia. They have already appeared at the Kennedy Center and will eventually be featured in selected DC public libraries, with a kickoff exhibition at Martin Luther King Library in April 2025.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Zenith Gallery 46th Anniversary Ceremonial Recognition Resolution of 2024".

ENROLLED ORIGINAL

Sec. 2. The Council of the District of Columbia recognizes and congratulates the Zenith Gallery on its 46th anniversary and Zenith Community Arts Foundation on its 24 years, and recognizes its success as a champion for the arts in the District.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

25-200

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 2, 2024

To posthumously recognize and honor Wanda Anita Oates for her exceptional resilience and tireless dedication to education, athletics, and community empowerment in the District of Columbia.

WHEREAS, Wanda Anita Oates was born in Washington, DC in 1942, and devoted her life to providing equal access to athletic programs for all students, regardless of gender or background;

WHEREAS, Coach Oates graduated from Theodore Roosevelt High School and Howard University and emerged as a leader in her community, navigating through the challenges of the post-Brown versus Board of Education era with grace and determination;

WHEREAS, despite the absence of sports programs for girls during her youth, Coach Oates pursued her passion for athletics, ultimately becoming a championship-winning coach and inspiration for countless individuals;

WHEREAS, Coach Oates' tenure as a physical education teacher and coach at Ballou High School exemplifies her unwavering commitment to empowering and nurturing young people;

WHEREAS, recognizing the inequities faced by female athletes, Coach Oates pioneered the establishment of girls' sports programs; including, basketball, volleyball, track and field, and softball, paving the way for future generations of athletes;

WHEREAS, Coach Oates' dedication to her students transcended the realm of athletics, as she instilled invaluable life lessons and fostered a culture of excellence both on and off the court and field;

WHEREAS, despite facing adversity and resistance, Coach Oates remained steadfast in her pursuit of equality and opportunity for all, challenging societal norms and breaking barriers;

ENROLLED ORIGINAL

WHEREAS, Coach Oates became the first woman to coach boys' varsity high school basketball team in the District when she assumed the role at Ballou following her success with the girls' team;

WHEREAS, Coach Oates led Ballou High School to championships in the 1990s with her friend and assistant coach, Brenda Speaks, by her side;

WHEREAS, throughout her illustrious career, Coach Oates' results were impressive, with 10 league championships over 13 years as the head coach of the girls' basketball team at Ballou and in 1991, the first championship for the boys' team in 20 years; and

WHEREAS, Coach Oates was inducted into the Scholastic Sports Hall of Fame in 2009 and the D.C. Hall of Fame in 2014, further solidifying her legacy as a trailblazer and role model.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Coach Wanda Anita Oates Recognition Resolution of 2024."

Sec. 2. The Council of the District of Columbia recognizes and honors the life and legacy of Coach Wanda Anita Oates as a native Washingtonian, a trailblazer, an advocate, a mentor, and a community builder.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

25-201

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 2, 2024

To recognize April as the Month of the Military Child.

WHEREAS, United States military families help sustain our fighting force, and it is important to emphasize and recognize the critical role of their dependents while their parents serve the nation;

WHEREAS, the Military Interstate Children's Compact Commission is committed to resolving the educational transition issues that are faced by these children and their families;

WHEREAS, the average military student faces transition challenges more than twice during high school, and most military children will attend six to nine different school systems from kindergarten to 12th grade;

WHEREAS, Military Interstate Children's Compact Commission is committed to easing transitions for children of military families and ensuring that they are afforded the same opportunities for educational success as other children and are not delayed in achieving their educational goals;

WHEREAS, in 1986, former Defense Secretary Caspar Weinberger designated the month of April as the Month of the Military Child;

WHEREAS, beginning in April 2018 and every year in April thereafter, Military Interstate Children's Compact Commission and other organizations underscore the important role of military children in our communities; and

WHEREAS, the District of Columbia believes it is important to celebrate and honor the role of military children and families in our communities.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "April is the Month of the Military Child Ceremonial Recognition Resolution of 2024".

ENROLLED ORIGINAL

Sec. 2. The Council acknowledges the extraordinary sacrifices that military families make and commends the Military Interstate Children's Compact Commission on the important work that it does to enhance the quality of life and educational opportunities for military children.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONAL RESOLUTION

25-202

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 2, 2024

To recognize St. Francis de Sales Church and the church's 120th year anniversary.

WHEREAS, St. Francis de Sales Church, located at 2101 Rhode Island Avenue N.E. in the Langdon community in Ward 5, is pastored by Father Brian Sanderfoot;

WHEREAS, the first parish church was built in 1908 on the foundation of the Queen's Chapel with history dating back to 1722 for Catholic worship;

WHEREAS, the current church has been on Rhode Island Avenue, N.E. since 1927 when the congregation moved to allow for growth and be closer to the streetcar line;

WHEREAS, for several generations the Sunday morning service has been serviced by dedicated Gospel musicians including long-times friends of the parish and voices drawn from its predominantly African-American congregation;

WHEREAS, from 1946-2008 the church educated thousands of students from both the parish and the larger community at the St. Franics de Sales K-8 Catholic grade school;

WHEREAS, through the Annual Thanksgiving Dinner, St. Francis de Sales Church serves more than 100 meals to homebound and other underserved community members, even during recent times of shutdown;

WHEREAS, since the mid-1970s St. Francis de Sales Church has hosted weekly meeting for Alcoholics Anonymous and Al-Anon;

WHEREAS, the St. Francis de Sales Church's food pantry operates monthly and distributes both fresh and frozen food as well as canned and boxed goods to both existing and new clients;

WHEREAS, the annual Christmas celebration committee distributes toys and gift cards to dozens of families with children and senior households; and

ENROLLED ORIGINAL

WHEREAS, the St. Francis de Sales Church "Green Team" works closely with the District of Columbia's Department of Energy and Environment to capture thousands of gallons of rainwater and relieve water runoff into the Anacostia Watershed through its comprehensive system of rainwater and permeable pavement on its campus.

IT IS HEARBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "St. Francis de Sales Church 120th Anniversary Recognition Resolution of 2024".

Sec. 2. The Council of the District of Columbia recognizes and celebrates the St. Francis de Sales Church on the occasion of its 120th anniversary for its outstanding commitment, dedication, and service to its members and the community.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

25-203

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 2, 2024

To honor the Old People Are Cool project, led by Linked Senior and supported by Forest Hills of DC, and celebrate our District's seniors by declaring May as "Old People Are Cool Month" in the District of Columbia.

WHEREAS, every May the Administration for Community Living within the US Department of Health and Human Services leads a national observance of Older Americans Month to honor the independence, integration, and inclusion of older adults throughout all aspects of life;

WHEREAS, the Administration for Community Living's theme for Older Americans Month in 2024 is Aging Unbound, which offers an opportunity to explore diverse aging experiences and discuss how communities can combat stereotypes;

WHEREAS, it is acknowledged that ageism currently isolates and marginalizes older adults, which hurts our communities and inhibits our collective achievement and optimal growth;

WHEREAS, the Old People Are Cool project was created to confront the harmful ageism that prevents communities from reaching their maximum potential by combatting ageism and raising the profile of the senior care industry;

WHEREAS, the Old People are Cool project has the core mission to celebrate human life by acknowledging elders as people, individuals, and recipients of love, and to facilitate thoughts, words, and actions that promote a world that is loving, aging, and united;

WHEREAS, we additionally recognize the nobility of those healthcare workers who uplift and care for our elders and seek to acknowledge their dedication to this valued group within our community; and

WHEREAS, the Old People Are Cool project has built a supportive, inclusive, and celebratory environment in the District through its efforts of bolstering morale and generating inclusivity of older adults through community-building events and social media-story sharing.

ENROLLED ORIGINAL

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Old People Are Cool Recognition Resolution of 2024."

Sec. 2. The Council of the District of Columbia celebrates and recognizes the Old People are Cool project during the national celebration of Older Americans Month and honors its commitment to advancing the welfare and perception of seniors in the whole of the District of Columbia.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

25-204

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 2, 2024

To recognize and honor Dorie Ann Ladner for her work to advance civil rights and racial equality.

WHEREAS, Dorie Ann Ladner dedicated her life to the fight for racial equality and civil rights, inspiring many to fight for their right to vote;

WHEREAS, Ms. Ladner was a member of the National Association for the Advancement of Colored People (NAACP) and the Student Nonviolent Coordinating Committee (SNCC), organizers of the Civil Rights Movement;

WHEREAS, Ms. Ladner was a founder of the Council of Federated Organizations, a network of civil rights groups that worked to coordinate voter education and registration throughout Mississippi;

WHEREAS, Ms. Ladner participated in the 1963 March on Washington, the March from Selma to Montgomery, the Freedom Riders, and Freedom Summer;

WHEREAS, Ms. Ladner led marches, sit-ins, anti-poverty programs, and voter registration drives to fight segregation and voter disenfranchisement;

WHEREAS, Ms. Ladner earned her Master's of Social Work degree from Howard University, and served the DC community as an emergency room social worker at DC General Hospital;

WHEREAS, Ms. Ladner's consistent collaborator throughout her life of advocacy and activism was her younger sister Joyce Ladner, who served interim president of Howard University;

WHEREAS, Ms. Ladner was a 50-year resident of Columbia Road in Adams Morgan and was a beloved neighbor and community member; and

ENROLLED ORIGINAL

WHEREAS, with a unique mix of creativity, advocacy, and determination, Ms. Dorie Ladner, dedicated her life to promoting and securing civil rights for African-Americans.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Dorie Ladner Ceremonial Recognition Resolution of 2024".

Sec. 2. The Council of the District of Columbia honors the work of Dorie Ladner as a civil rights leader.

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Sec. 3. This Resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

25-205

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 2, 2024

To recognize the brave and attentive workers at the Baby Einstein Child Development Center, who safely evacuated 16 infants and children from the premises mere minutes before a gas leak caused an explosion and the collapse of the neighboring building on January 18, 2024.

WHEREAS, the Baby Einstein Child Development Center, located at 1225 Marion Barry Avenue Southeast, sustained serious damage after a gas explosion;

WHEREAS, Regina Snead, owner of Baby Einstein Child Development Center, and other staff smelled gas and immediately leapt into action to evacuate 16 children and infants minutes before the explosion;

WHEREAS, all of the children evacuated safely as a result of the vigilance, organization, and direction of Baby Einstein Child Development Center's staff; and

WHEREAS, Baby Einstein Child Development Center has provided District families in Anacostia affordable, convenient, and consistent childcare for over 10 years and continues to provide childcare for families at a temporary site until the facility can be rebuilt.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Baby Einstein Child Development Center Staff Recognition Resolution of 2024".

Sec. 2. The Council recognizes the heroic actions of the Baby Einstein Child Development Center's staff on January 18, 2024.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

25-206

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 2, 2024

To recognize the Metropolitan Police Department officers who responded to events on February 14, 2024, for their bravery and heroic efforts to protect the residents of the District of Columbia.

WHEREAS, on February 14, 2024, Metropolitan Police Department (MPD) officers approached the suspect with a warrant after Humane Law Enforcement received reports of animal cruelty at the suspect's residence;

WHEREAS, when the officers responded to Humane Law Enforcement's report and attempted to serve an arrest warrant, the suspect reacted by opening fire from the building;

WHEREAS, four MPD officers were injured, 3 by gunshot;

WHEREAS, roadblocks disrupted local schools and neighbors as the officers worked diligently to negotiate the suspect's surrender;

WHEREAS, the actions of MPD's Emergency Response Team resulted in the rescue of 31 dogs and puppies and the arrest of the suspect after an hours-long standoff;

WHEREAS, the 3 officers shot on the scene recovered after treatment at the MedStar Washington Hospital Center;

WHEREAS, everyone who works, visits, and lives in the District, including our police officers, deserves to be safe and secure; and

WHEREAS, MPD police officers put their lives on the line to protect District residents every day and the District is safer because of their commitment and sacrifice.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Metropolitan Police Department February 14, 2024, Response Recognition Resolution of 2024".

ENROLLED ORIGINAL

Sec. 2. The Council honors and recognizes the responding officers for their bravery and efforts to protect residents of the District of Columbia.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

25-207

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 2, 2024

To remember, acknowledge and condemn the Holocaust and to declare May 6, 2024 as Yom Ha'Shoah or Holocaust Remembrance Day.

WHEREAS, the Holocaust was a dark period in human history between 1933 and 1945 marked by the systematic persecution and annihilation by Nazi Germany and their collaborators of 6,000,000 Jews and another 6,000,000 individuals targeted and victimized for their ethnicity, religious beliefs, disabilities, sexual orientation, political ideology, or nationality;

WHEREAS, it is our moral responsibility to educate future generations about the Holocaust and its devastating impact on the world, and to work towards creating a society that is free from prejudice, bigotry, and discrimination;

WHEREAS, May 6, 2024 marks Yom Ha'Shoah or Holocaust Remembrance Day, a solemn day of reflection and remembrance for the victims of the Holocaust and an opportunity for us to reaffirm our commitment to human rights and dignity;

WHEREAS, the District of Columbia stands united in its condemnation of all forms of hatred, prejudice, and discrimination, and remains committed to promoting a culture of respect, understanding, and acceptance; and

WHEREAS, the Jewish Community Relations Council of Greater Washington is hosting a Yom Ha'Shoah Commemoration on May 6, 2024 to honor the lives of those affected and to remember their courage and strength.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Holocaust Remembrance Day Recognition Resolution of 2024"

Sec. 2. The Council of the District of Columbia recognizes Holocaust Remembrance Day and its significance in remembering the victims of the Holocaust and promoting the values of justice, equality, and human dignity.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A CEREMONIAL RESOLUTION

25-208

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 2, 2024

To officially declare May 1st, 2024, as D.C. Statehood Day in the District of Columbia.

WHEREAS, the District of Columbia's over 700,000 citizens pay more in federal income taxes per capita than any other state and more in total federal income taxes than 22 states;

WHEREAS, the dollar amount of federal taxes paid by the residents of the District of Columbia currently stands at $1,402,519,271;

WHEREAS, the United States Constitution as ratified in 1788 provided the right to vote for representation in Congress to the "People of the several States" of the United States, which included citizens living on the land that would later be designated by the federal government for the nation's capital as ceded by Maryland and Virginia to become the District of Columbia;

WHEREAS, despite the provision of the right to vote in the Constitution, through the enactment of the "District of Columbia Organic Act of 1801", D.C. residents were disenfranchised from voting for representative Members of Congress more than 200 years ago;

WHEREAS, the District of Columbia has more residents that the States of Vermont and Wyoming, and almost as many as Alaska and North Dakota;

WHEREAS, the citizens of the District of Columbia continue to express their determination to achieve full representation by electing 2 United States Senators and a United States Representative to advocate for statehood and full democracy;

WHEREAS, citizens of the District of Columbia bear all of the responsibilities of citizenship, including fighting in wars and serving in the military, paying federal income taxes, and serving on federal juries;

WHEREAS, no other democratic nation denies basic rights of self-government, including participation in the national legislature, to residents of its capital;

WHEREAS, the United Nations Human Rights Committee has released statements expressing concern over this denial of representation to citizens in D.C.;

WHEREAS, the Organization of American States (OAS), to which the United States is a signatory, has described the disenfranchisement of D.C. residents as a violation of its charter agreement;

ENROLLED ORIGINAL

WHEREAS, Congress often interferes in legislation passed by D.C.'s locally elected officials by enacting spending restrictions on D.C. revenue, violating the fundamental principle that states and local governments are best-suited to follow the will of their citizens;

WHEREAS, in spite of nearly 3 decades of balanced budgets, D.C. faces the possibility each year of being shut down because of congressional interference, threatening both D.C. and national security;

WHEREAS, it has been more than 60 years since the passage of the Civil Rights Act, and more than 50 years since the District of Columbia was granted home rule, and the residents of the District of Columbia have yet receive the same rights as the residents of the 50 states.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "D.C. Statehood Day Recognition Resolution of 2024."

Sec. 2. The Council of the District of Columbia hereby declares May 1st, 2024 to be D.C. Statehood Day and encourages leaders and residents to discuss statehood for the District of Columbia in high-profile settings in an effort to educate Americans regarding the lack of congressional voting representation and budget autonomy for the residents of the District.

Sec. 3. This resolution shall take effect immediately.

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE OF INTENT TO ACT ON NEW LEGISLATION

The Council of the District of Columbia hereby gives notice of its intention to consider the following legislative matters for final Council action in not less than 15 days. Referrals of legislation to various committees of the Council are listed below and are subject to change at the legislative meeting immediately following or coinciding with the date of introduction. It is also noted that legislation may be co-sponsored by other Councilmembers after its introduction.

Interested persons wishing to comment may do so in writing addressed to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, NW, Room 5, Washington, D.C. 20004. Copies of bills and proposed resolutions are available in the Legislative Services Division, 1350 Pennsylvania Avenue, NW, Room 10, Washington, D.C. 20004, Telephone: 724-8050 or online at http://www.dccouncil.gov.

COUNCIL OF THE DISTRICT OF COLUMBIA PROPOSED LEGISLATION

B25-0798 Moped Registration Accountability Amendment Act of 2024

Intro. 04-30-2024 by Councilmembers Nadeau, and Allen and referred to the Committee on Transportation and the Environment

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B25-0800 Mathematics Education Improvement Amendment Act of 2024

Intro. 05-01-2024 by Councilmembers Parker, R. White, Pinto, Lewis George, Henderson, Nadeau, and Bonds and referred to the Committee of the Whole

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B25-0801 Building Energy Performance Standards Amendment Act of 2024

Intro. 05-01-2024 by Councilmember Allen and referred to the Committee on Transportation and the Environment

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B25-0802 U Street Affordable Housing and Public Participation Assurances Amendment Act of 2024

Intro. 05-02-2024 by Councilmember Nadeau and referred sequentially to the Committee on Facilities and Family Services, and Committee on Business and Economic Development

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B25-0810 Motor Vehicle Insurance Modernization Amendment Act of 2024

Intro. 05-03-2024 by Chairman Mendelson and referred to the Committee on Business and Economic Development with comments from the Committee on Transportation and the Environment

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B25-0811 Red-backed Salamander Official State Amphibian Designation Act of 2024

Intro. 05-06-2024 by Councilmembers Lewis George, Bonds, R. White, Nadeau, and Henderson and referred to the Committee of the Whole

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B25-0812 Ida B. Wells Alley Designation Act of 2024

Intro. 05-06-2024 by Councilmember T. White and referred to the Committee of the Whole

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B25-0813 Eid al-Fitr Day Amendment Act of 2024

Intro. 05-06-2024 by Councilmember T. White and referred to the Committee on Executive Administration and Labor

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B25-0814 Displacement Prevention Amendment Act of 2024

Intro. 05-06-2024 by Councilmember T. White and referred to the Committee on Business and Economic Development

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B25-0815 Advisory Neighborhood Commission Funding Access Act of 2024

Intro. 05-06-2024 by Councilmember T. White and referred to the Committee on Housing

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B25-0816 Equitable Retailer Regulation of 24-Hour Tobacco Stores Act of 2024

Intro. 05-06-2024 by Councilmember T. White and referred to the Committee on Public Works and Operations

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B25-0817 Michael A. Locksley Football Stadium Designation Act of 2024

Intro. 05-06-2024 by Councilmembers T. White, and McDuffie and referred to the Committee of the Whole

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B25-0818 Deputy Ombudsman for the Department of Youth Rehabilitation Services Act of 2024

Intro. 05-06-2024 by Councilmembers T. White, McDuffie, and Parker and referred sequentially to the Committee on Recreation, Libraries, and Youth Affairs, and Committee on Facilities and Family Services

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B25-0819 Burial Assistance Program Increase Amendment Act of 2024

Intro. 05-06-2024 by Councilmembers T. White, Allen, McDuffie, Henderson, and Parker and referred to the Committee on Housing

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B25-0820 Department of Youth Rehabilitation Services Badge Identification Theft Act of 2024

Intro. 05-06-2024 by Councilmember T. White and referred sequentially to the Committee on Recreation, Libraries, and Youth Affairs

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PR25-0738 Citizen Review Panel Andrew Miller Appointment Resolution of 2024

Intro. 04-30-2024 by Chairman Mendelson and referred to the Committee of the Whole

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PR25-0739 Citizen Review Panel Dr. Tyra Moore Appointment Resolution of 2024

Intro. 04-30-2024 by Chairman Mendelson and referred to the Committee of the Whole

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PR25-0740 Commission on Health Equity Nicole Stratchan Confirmation Resolution of 2024

Intro. 04-30-2024 by Chairman Mendelson and referred to the Committee on Health

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PR25-0741 Commission on Health Equity Mighty Fine Confirmation Resolution of 2024

Intro. 04-30-2024 by Chairman Mendelson and referred to the Committee on Health

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PR25-0742 Commission on Health Equity Dr. Suyanna Linhales Barker Confirmation Resolution of 2024

Intro. 04-30-2024 by Chairman Mendelson and referred to the Committee on Health

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PR25-0743 Commission on Health Equity Ana López van Balen Confirmation Resolution of 2024

Intro. 04-30-2024 by Chairman Mendelson and referred to the Committee on Health

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PR25-0744 Commission on Health Equity Linda Elam Confirmation Resolution of 2024

Intro. 04-30-2024 by Chairman Mendelson and referred to the Committee on Health

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PR25-0745 Citizen Review Panel Carolyn Woods Appointment Resolution of 2024

Intro. 04-30-2024 by Chairman Mendelson and referred to the Committee of the Whole

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PR25-0746 Domestic Violence Fatality Review Board Toshira Monroe Confirmation Resolution of 2024

Intro. 05-01-2024 by Chairman Mendelson and referred to the Committee on Judiciary and Public Safety

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PR25-0747 Domestic Violence Fatality Review Board Nkiru Nnawulezi Confirmation Resolution of 2024

Intro. 05-01-2024 by Chairman Mendelson and referred to the Committee on Judiciary and Public Safety

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PR25-0749 Clemency Board Dr. Amber Thornton Confirmation Resolution of 2024

Intro. 05-02-2024 by Chairman Mendelson and referred to the Committee on Judiciary and Public Safety

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PR25-0750 Clemency Board Mark Rollins Confirmation Resolution of 2024

Intro. 05-02-2024 by Chairman Mendelson and referred to the Committee on Judiciary and Public Safety

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PR25-0751 Provident Group Girard Properties Inc. Revenue Bonds Project Approval Resolution of 2024

Intro. 05-02-2024 by Chairman Mendelson and referred to the Committee on Business and Economic Development

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PR25-0752 D.C. Preparatory Academy Revenue Bonds Project Approval Resolution of 2024

Intro. 05-02-2024 by Chairman Mendelson and referred to the Committee on Business and Economic Development

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PR25-0758 Board of Medicine Miriam Michael Confirmation Resolution of 2024

Intro. 05-03-2024 by Chairman Mendelson and referred to the Committee on Health

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PR25-0759 Board of Medicine William Strudwick Confirmation Resolution of 2024

Intro. 05-03-2024 by Chairman Mendelson and referred to the Committee on Health

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PR25-0760 Board of Medicine Amr Madkour Confirmation Resolution of 2024

Intro. 05-03-2024 by Chairman Mendelson and referred to the Committee on Health

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PR25-0761 Board of Medicine Harry Barbee Confirmation Resolution of 2024

Intro. 05-03-2024 by Chairman Mendelson and referred to the Committee on Health

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PR25-0762 Board of Medicine Luis Dominguez Confirmation Resolution of 2024

Intro. 05-03-2024 by Chairman Mendelson and referred to the Committee on Health

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PR25-0763 Racial Equity Advisory Board Kimberly Jeffries Leonard Confirmation Resolution of 2024

Intro. 05-03-2024 by Chairman Mendelson and referred to the Committee on Business and Economic Development

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PR25-0765 Zoning Commission Gwen Marcus Wright Confirmation Resolution of 2024

Intro. 05-03-2024 by Chairman Mendelson and referred to the Committee of the Whole

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PR25-0766 District of Columbia Water and Sewer Authority Board of Directors Howard Gibbs Confirmation Resolution of 2024

Intro. 05-03-2024 by Chairman Mendelson and referred to the Committee on Transportation and the Environment

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PR25-0767 District of Columbia Water and Sewer Authority Board of Directors Richard Jackson Confirmation Resolution of 2024

Intro. 05-03-2024 by Chairman Mendelson and referred to the Committee on Transportation and the Environment

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PR25-0768 District of Columbia Water and Sewer Authority Board of Directors Anthony Giancola Confirmation Resolution of 2024

Intro. 05-03-2024 by Chairman Mendelson and referred to the Committee on Transportation and the Environment

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PR25-0769 Food Policy Council Carrie Vaughn Confirmation Resolution of 2024

Intro. 05-03-2024 by Chairman Mendelson and referred to the Committee on Health

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PR25-0770 Food Policy Council Kristy McCarron Confirmation Resolution of 2024

Intro. 05-03-2024 by Chairman Mendelson and referred to the Committee on Health

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PR25-0771 Food Policy Council Nicholas Stavely Confirmation Resolution of 2024

Intro. 05-03-2024 by Chairman Mendelson and referred to the Committee on Health

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PR25-0772 Food Policy Council Jason Kellogg Confirmation Resolution of 2024

Intro. 05-03-2024 by Chairman Mendelson and referred to the Committee on Health

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PR25-0773 Food Policy Council Angela Chester-Johnson Confirmation Resolution of 2024

Intro. 05-03-2024 by Chairman Mendelson and referred to the Committee on Health

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PR25-0774 Food Policy Council Dalila Boclin Confirmation Resolution of 2024

Intro. 05-03-2024 by Chairman Mendelson and referred to the Committee on Health

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Council of the District of Columbia
COMMITTEE ON TRANSPORTATION AND THE ENVIRONMENT
NOTICE OF PUBLIC HEARING
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004

COUNCILMEMBER CHARLES ALLEN, CHAIRPERSON
COMMITTEE ON TRANSPORTATION AND THE ENVIRONMENT

ANNOUNCES A PUBLIC HEARING ON

B25-0710, THE "AUTONOMOUS VEHICLE TESTING PERMIT REQUIREMENT AMENDMENT ACT OF 2024"

B25-0738, THE "TRANSPORTATION IMPROVEMENTS AMENDMENT ACT OF 2024"

AND

B25-0801, THE "BUILDING ENERGY PERFORMANCE STANDARDS AMENDMENT ACT OF 2024"

Thursday, June 6, 2024, 9:30 a.m. – no later than 5:30 p.m.
Hybrid Hearing in Room 120 (for government witnesses) and
via Zoom (for public witnesses)
To Watch Live:
https://dccouncil.us/council-videos/
http://video.oct.dc.gov/DCC/jw.html
https://www.facebook.com/CMcharlesallen

On Thursday, June 6, 2024, Councilmember Charles Allen, Chairperson of the Committee on Transportation and the Environment, will convene a public hearing to consider B25-0710, the "Autonomous Vehicle Testing Permit Requirement Amendment Act of 2024", B25-0738, the "Transportation Improvements Amendment Act of 2024", and B25-0801, the "Building Energy Performance Standards Amendment Act of 2024". This is a hybrid format hearing, with public witnesses appearing virtually via the Zoom platform and government witnesses testifying in-person in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, from 9:30 a.m. to no later than 5:30 p.m.

The stated purpose of B25-0710, the "Autonomous Vehicle Testing Permit Requirement Amendment Act of 2024", is to amend the Autonomous Vehicle Act of 2012 to prohibit driverless testing of autonomous vehicles ("AVs") on District roadways without an AV testing permit and to

require any person or entity testing AVs with a test operator before an AV testing permit becomes available to provide notice to the District Department of Transportation ("DDOT").

The stated purpose of B25-0738, the "Transportation Improvements Amendment Act of 2024", is to amend the Department of Transportation Establishment Act of 2002 to provide the Director of DDOT greater discretion to delegate the duties and responsibilities assigned to DDOT; to provide the DDOT Director with the authority to construct, maintain and control DDOT infrastructure on land transferred from the federal government for recreational purposes, provided that the land is adjacent to public space and integral to a transportation improvement plan or project or DDOT's control of public space; and to provide that the District has an adequate interest sufficient to meet federal highway funding requirements in federal parkland where transportation infrastructure projects are located.

The stated purpose of B25-0801, the "Building Energy Performance Standards Amendment Act of 2024", is to amend the CleanEnergy DC Omnibus Amendment Act of 2018 to align the District's Building Energy Performance Standards with the recommendations from the Building Energy Performance Standards Task Force, to delay the start of the second and third compliance cycles by one year, to require DOEE to establish building energy performance standards for the second and third compliance cycles no later than January 1, 2028, and every 6 years thereafter, to clarify that a period of time for which a public health emergency was in effect shall not count toward the 3-year delay for a qualifying building to come into compliance, to create a whole-cycle exemption for qualifying buildings that are vacant or in financial distress, to change the term "alternative compliance penalties" to "alternative compliance payments", and to require DOEE and the Zoning Commission to amend regulations to confirm that mechanical and electrical upgrades made to comply with the District's Building Energy Performance Standards are exempt from stormwater and Green Area Ratio requirements; and to amend the Green Building Act of 2006 to change the benchmark reporting and verification deadline from April 1 to May 1, to clarify that a consulting firm other than the owner or property management company may conduct verification if the firm completed the benchmarking for the building, to exempt a building owner from third-party verification requirements when both the owner and its benchmarking consultant have a demonstrated history and track record of data integrity, and to allow DOEE to permit third-party verification requirements to be modulated in detail or timing.

The Committee invites the public to provide live and written testimony. Public witnesses seeking to provide testimony at the Committee's hearing must thoroughly review the following instructions:

- If you would like to provide live testimony during the hearing or submit written testimony for the record, please use the Council's Hearing Management System at https://lims.dccouncil.gov/hearings/. HMS is a universal, centralized way to find out about upcoming hearings, register to testify, submit testimony, download testimony, and see how many witnesses have registered. **The deadline to register to provide testimony through HMS is Friday, May 31, 2024, at 5:30 p.m. The hearing record closes on Friday, June 21, at 5:30 p.m., after which you will be unable to submit written testimony.**
- Once you have identified the hearing at which you want to testify on the Hearing Management System, read the Hearing Notice at the bottom of the page for additional

details on the hearing. The hearing page also shows how many witnesses have already registered under the "Witnesses" heading.

- Click the "Register to Testify" button at the upper right of the page to register to testify at the hearing. If the deadline to sign up for a hearing has already passed, or if there is no public testimony at the hearing, the button will not be available.
- If there are multiple topics to be considered at a hearing, select which one you would like to speak to by placing a checkmark next to the relevant topic or legislation. If you are testifying on behalf of an organization, select "Organization" and include your title and the organization's name. If you are testifying on your own behalf, select "Individual." There may be additional fields included by a Committee to gather further details.
- Select "Live Testimony" or "Record Testimony." Select "Live Testimony" if you previously registered to testify at the hearing. If your testimony is only for the written record, choose "Record Testimony." Please use the same name, organization information, and email address that you used if you registered to testify.
- If you are trying to submit testimony, click the "Submit Testimony" button in the upper right on the hearing page. If the deadline to submit testimony for a hearing has already passed, the button will not be available.
- You can upload testimony in either Adobe PDF, Microsoft Word, Apple Pages, or a plain text file by clicking "Upload My Testimony." You can also type your testimony from this page by selecting "I will type my testimony here."
- After completing the web form, you should receive a confirmation email from noreply@dccouncil.gov. Prior to the hearing, you will receive an email from noreply@dccouncil.gov from the Committee with additional details on testifying, including the access link.
- The Committees will approve witnesses' registrations based on the total time allotted for public testimony. The Committees will also determine the order of witnesses' testimony.
- Representatives of organizations and ANCs will be allowed a maximum of five minutes for oral testimony, and individuals will be allowed a maximum of three minutes. If more than one witness is testifying on behalf of the same organization, the first witness will have five minutes, and all subsequent witnesses will have three minutes. To accommodate additional public witnesses, the Committee may reduce witnesses' allotted time for testimony but will inform witnesses if it plans to do so.
- Witnesses are not permitted to yield their time to or substitute their testimony for the testimony of another individual or organization.
- Witnesses who anticipate needing language interpretation, including ASL interpretation, are requested to inform the Committee as soon as possible, but no later than five business days before the hearing. Please include this request in the additional field for this purpose when you register to testify. The Committee will make every effort to fulfill timely requests; however, requests received fewer than five business days before the hearing may not be fulfilled.

COUNCIL OF THE DISTRICT OF COLUMBIA

COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY

BROOKE PINTO, CHAIR

NOTICE OF PUBLIC HEARING

on

Bill 25-791, the "Utilizing Partnerships and Local Interventions for Truancy and Safety (UPLIFT) Amendment Act of 2024" (Titles I through III only)

Thursday, May 30, 2024
9:30 a.m.

In the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Room 123
and virtually via Zoom

To watch live:
Councilmember Pinto's YouTube Page (www.youtube.com/@cmbrookepinto)
DC Council Website (dccouncil.gov)
Council Channel 13 (Cable Television Providers)
Office of Cable Television Website (entertainment.dc.gov)

On Thursday, May 30, 2024, Councilmember Brooke Pinto, Chairwoman of the Committee on the Judiciary and Public Safety, will hold a hearing on **Bill 25-791, the "Utilizing Partnerships and Local Interventions for Truancy and Safety (UPLIFT) Amendment Act of 2024" (Titles I through III only)**.

Bill 25-791, introduced by Chairman Mendelson at the request of the Mayor, has several components, but only the first three titles have been referred to the Committee on the Judiciary and Public Safety.[1] Title I would require families of youth charged with certain dangerous crimes to meet and develop a rehabilitation plan with the Department of Youth Rehabilitation Services. Title II would limit the use of diversion for youth charged with certain dangerous crimes. Title III would limit the use of consent agreements, deferred disposition agreements, and deferred adjudication agreements for youth charged with certain dangerous crimes. **The scope of the hearing will be limited to these areas of the bill and will not explore the remaining titles related to truancy or student discipline.**

The Committee invites the public to testify. Those who wish to do so must register using the Council's Hearing Management System at https://lims.dccouncil.gov/hearings **by 5:00 p.m. on Tuesday, May 28, 2024**. Witnesses who represent organizations will have 5 minutes to speak. All others will have 3 minutes to speak.[2] **Witnesses will have the option to testify in person or virtually**; witnesses should specify which option they are electing at the time they sign up to testify.

[1] The entire bill is also referred to the Committee of the Whole. *See* the referral memorandum for the bill, available here.
[2] If there is a large number of witnesses, the Committee may allow less time for each witness in order to ensure all witnesses have an opportunity to testify.

Witnesses who anticipate needing spoken language interpretation, or who require sign language interpretation, are requested to inform the Committee office of the need as soon as possible, but no later than 5 business days before the proceeding. We will make every effort to fulfill timely requests, although alternatives may be offered. Requests may be submitted via the Hearing Management System during registration or by contacting Ms. Aukima Benjamin, Committee Manager to the Committee on the Judiciary and Public Safety, at (202) 724-8058 or via email at judiciary@dccouncil.gov. Requests received less than 5 business days before the proceeding may not be fulfilled. Witnesses will receive instructions on how to participate by Zoom prior to the hearing. If you have additional questions, please contact Ms. Benjamin at the phone number or email listed above.

If you are unable to testify at the public hearing, written statements are encouraged and will be made a part of the official record; written testimony should be submitted through the Council's Hearing Management System at https://lims.dccouncil.gov/hearings. Testimony will be publicly accessible following Committee review.

The record will close at 5:00 p.m. on **Thursday, June 13, 2024.**

Council of the District of Columbia
COMMITTEE ON TRANSPORTATION AND THE ENVIRONMENT
NOTICE OF PUBLIC ROUNDTABLE
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004

COUNCILMEMBER CHARLES ALLEN, CHAIRPERSON
COMMITTEE ON TRANSPORTATION AND THE ENVIRONMENT

ANNOUNCES A PUBLIC ROUNDTABLE ON

PR25-0690, THE "WASHINGTON METRORAIL SAFETY COMMISSION ROBERT C. BOBB CONFIRMATION RESOLUTION OF 2024"

PR25-0718, THE "GREEN FINANCE AUTHORITY BOARD ANTHONY WASHINGTON CONFIRMATION RESOLUTION OF 2024"

AND

PR25-0719, THE "GREEN FINANCE AUTHORITY BOARD MONICA WARREN-JONES CONFIRMATION RESOLUTION OF 2024"

Thursday, May 30, 2024, 9:30 a.m. – 11:30 a.m.
Hybrid Hearing in Room 120 and via Zoom
To Watch Live:
https://dccouncil.us/council-videos/
http://video.oct.dc.gov/DCC/jw.html
https://www.facebook.com/CMcharlesallen

On Thursday, May 30, 2024, Councilmember Charles Allen, Chairperson of the Committee on Transportation and the Environment, will convene a public roundtable to consider PR25-0690, the "Washington Metrorail Safety Commission Robert C. Bobb Confirmation Resolution of 2024", PR25-0718, the "Green Finance Authority Board Anthony Washington Confirmation Resolution of 2024", and PR25-0719, the "Green Finance Authority Board Monica Warren-Jones Confirmation Resolution of 2024". This is a hybrid format roundtable, with witnesses appearing virtually via the Zoom platform or in-person in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, from 9:30 a.m. to 11:30 a.m.

The stated purpose of PR25-0690, the "Washington Metrorail Safety Commission Robert C. Bobb Confirmation Resolution of 2024", is to confirm Robert Bobb to the Board of Directors of the Washington Metrorail Safety Commission, for a term to end February 9, 2028.

The stated purpose of PR25-0718, the "Green Finance Authority Board Anthony Washington Confirmation Resolution of 2024", is to confirm the appointment of Anthony Washington to the Green Finance Authority Board, for a term to end July 9, 2026.

The stated purpose of PR25-0719, the "Green Finance Authority Board Monica Warren-Jones Confirmation Resolution of 2024", is to confirm the appointment of Monica Warren-Jones to the Green Finance Authority Board, for a term to end July 9, 2026.

The Committee invites the public to provide live and written testimony. Public witnesses seeking to provide testimony at the Committee's roundtable must thoroughly review the following instructions:

- If you would like to provide live testimony during the roundtable or submit written testimony for the record, please use the Council's Hearing Management System at https://lims.dccouncil.gov/hearings/. HMS is a universal, centralized way to find out about upcoming hearings, register to testify, submit testimony, download testimony, and see how many witnesses have registered. **The deadline to register to provide testimony through HMS is Monday, May 27, 2024, at 5:30 p.m. The hearing record closes on Friday, May 31, at 5:30 p.m., after which you will be unable to submit written testimony.**
- Once you have identified the hearing at which you want to testify on the Hearing Management System, read the Hearing Notice at the bottom of the page for additional details on the hearing. The hearing page also shows how many witnesses have already registered under the "Witnesses" heading.
- Click the "Register to Testify" button at the upper right of the page to register to testify at the hearing. If the deadline to sign up for a hearing has already passed, or if there is no public testimony at the hearing, the button will not be available.
- If there are multiple topics to be considered at a hearing, select which one you would like to speak to by placing a checkmark next to the relevant topic or legislation. If you are testifying on behalf of an organization, select "Organization" and include your title and the organization's name. If you are testifying on your own behalf, select "Individual." There may be additional fields included by a Committee to gather further details.
- Select "Live Testimony" or "Record Testimony." Select "Live Testimony" if you previously registered to testify at the hearing. If your testimony is only for the written record, choose "Record Testimony." Please use the same name, organization information, and email address that you used if you registered to testify.
- If you are trying to submit testimony, click the "Submit Testimony" button in the upper right on the hearing page. If the deadline to submit testimony for a hearing has already passed, the button will not be available.
- You can upload testimony in either Adobe PDF, Microsoft Word, Apple Pages, or a plain text file by clicking "Upload My Testimony." You can also type your testimony from this page by selecting "I will type my testimony here."
- After completing the web form, you should receive a confirmation email from noreply@dccouncil.gov. Prior to the roundtable, you will receive an email from

noreply@dccouncil.gov from the Committee with additional details on testifying, including the access link.

- The Committees will approve witnesses' registrations based on the total time allotted for public testimony. The Committees will also determine the order of witnesses' testimony.
- Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals will be allowed a maximum of three minutes. If more than one witness is testifying on behalf of the same organization, the first witness will have five minutes, and all subsequent witnesses will have three minutes. To accommodate additional public witnesses, the Committee may reduce witnesses' allotted time for testimony but will inform witnesses if it plans to do so.
- Witnesses are not permitted to yield their time to or substitute their testimony for the testimony of another individual or organization.
- Witnesses who anticipate needing language interpretation, including ASL interpretation, are requested to inform the Committee as soon as possible, but no later than five business days before the roundtable. Please include this request in the additional field for this purpose when you register to testify. The Committee will make every effort to fulfill timely requests; however, requests received fewer than five business days before the roundtable may not be fulfilled.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC ROUNDTABLE

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC ROUNDTABLE

on

PR 25-712, "Historic Preservation Review Board Gabrielle Miller Confirmation Resolution of 2024"

on

Thursday, May 23, 2024 at 3:30 p.m.
(or immediately following the preceding hearing)

Council Chambers, Room 500 (Track A)
John A. Wilson Building
1350 Pennsylvania Avenue NW
DC Council Website (www.dccouncil.gov)

Council Chairman Phil Mendelson announces a public roundtable before the Committee of the Whole on **PR 25-712**, the "Historic Preservation Review Board Gabrielle Miller Confirmation Resolution of 2024. The public roundtable will be held at **3:30 p.m. on Thursday, May 23, 2024 (or immediately following the preceding hearing).**

The stated purpose of PR 25-712 is to confirm the appointment of Gabrielle Miller as an archaeologist member of the Board. The Board is the official body of advisors appointed by the Mayor to guide the government and public on the preservation of historic buildings and property in the District of Columbia. The Board also assists with the implementation of federal preservation programs and the review of federal projects in the District. The purpose of the roundtable is to receive testimony as to the fitness of the nominee.

Those who wish to testify must register using the Council's Hearing Management System at https://lims.dccouncil.gov/hearings by **5:00 p.m. on Tuesday, May 21, 2024**. **Testimony is limited to four minutes**. Witnesses who anticipate needing spoken language interpretation, or require sign language interpretation, are requested to inform the Committee office of the need as soon as possible but no later than five business days before the proceeding by emailing cow@dccouncil.gov. We will make every effort to fulfill timely requests, although alternatives may be offered. Requests received in less than five business days may not be fulfilled. Witnesses will receive instructions on how to participate by Zoom prior to the hearing. If you have additional questions, please contact Evan Cash, Committee and Legislative Director, at (202) 724-7002 or ecash@dccouncil.gov.

Public witnesses may participate in person or virtually via the Internet on the Zoom Video Conference platform. Testimony should be submitted through the Council's Hearing Management System (https://lims.dccouncil.gov/hearings) in advance of the hearing. That testimony will be publicly accessible upon Committee review. If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Statements for the record should be submitted through the Hearing Management System or left by voicemail by calling (202) 430-6948 (up to 3 minutes which will be transcribed). The record will close at 5:00 pm on June 6, 2024.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC ROUNDTABLE

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC ROUNDTABLE

on

PR 25-720, "Board of Industrial Trades LaVonne Woods Confirmation Resolution of 2024"

PR 25-721, "Board of Industrial Trades Shawn Ellis Confirmation Resolution of 2024"

PR 25-722, "Board of Industrial Trades Tanya Lewis Confirmation Resolution of 2024"

on

Thursday, May 23, 2024 at 3:00pm
(or immediately following the previous hearing)
Council Chambers Room 500 (Track A)
John A. Wilson Building
1350 Pennsylvania Avenue NW
DC Council Website (www.dccouncil.gov)

Council Chairman Phil Mendelson announces a public roundtable before the Committee of the Whole on **PR 25-720**, the "Board of Industrial Trades LaVonne Woods Confirmation Resolution of 2024," **PR 25-721**, the "Board of Industrial Trades Shawn Ellis Confirmation Resolution of 2024," and **PR 25-722**, the "Board of Industrial Trades Tanya Lewis Confirmation Resolution of 2024," The roundtable will be held at **3:00 p.m. on Thursday, May 23, 2024, or immediately following the preceding Committee of the Whole hearing.**

The stated purpose of PR 25-720 is to confirm the reappointment of LaVonne Woods as a licensed electrician member of the Board of Industrial Trades. The stated purpose of PR 25-721 is to confirm the reappointment of Shawn Ellis as a licensed steam and other operating engineer member of the Board of Industrial Trades. The stated purpose of PR 25-722 is to confirm the reappointment of Tanya Lewis as a licensed electrician member of the Board of Industrial Trades. The Mayor submitted each of these three nominations to the Council on April 8, 2024. The purpose of the roundtable is to receive testimony from public witnesses as to the fitness of these nominees.

Those who wish to testify about this legislation must register using the Council's Hearing Management System at https://lims.dccouncil.gov/hearings by **5:00 p.m. on Tuesday, May 21, 2024**. **Testimony is limited to four minutes**. Witnesses who anticipate needing spoken language interpretation, or require sign language interpretation, are requested to inform the Committee office of the need as soon as possible but no later than five business days before the proceeding by emailing cow@dccouncil.gov. We will make every effort to fulfill timely requests, although alternatives may be offered. Requests received in less than five business days may not be fulfilled. Witnesses will receive instructions on how to participate by Zoom prior to the hearing. If you have additional questions, please contact Christian Washington, Special Counsel, at (202) 724-8083 or cow@dccouncil.gov.

Public witnesses will participate virtually via the Internet on the Zoom Video Conference platform. Testimony should be submitted through the Council's Hearing Management System in advance of the hearing. Testimony will be publicly accessible upon Committee review. If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Statements for the

record should be submitted through the Hearing Management System or left by voicemail by calling (202) 430-6948 (up to 3 minutes which will be transcribed). The record will close at 5:00 pm on Monday, June 3, 2024.

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Grant Budget Modifications

Pursuant to the Consolidated Appropriations Act of 2017, approved May 5, 2017 (P.L. 115-31), the Council of the District of Columbia gives notice that the Mayor has transmitted the following Grant Budget Modification (GBM).

A GBM will become effective on the 15th day after official receipt unless a Member of the Council files a notice of disapproval of the request which extends the Council's review period to 30 days. If such notice is given, a GBM will become effective on the 31st day after its official receipt unless a resolution of approval or disapproval is adopted by the Council prior to that time.

Comments should be addressed to the Secretary to the Council, John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Room 5 Washington, D.C. 20004. Copies of the GBMs are available in the Legislative Services Division, Room 10.
Telephone: 724-8050

GBM 25-0071 Grant Budget Modifications as of April 24, 2024

RECEIVED: 14-day review begins May 1, 2024

GBM 25-0072 Grant Budget Modifications as of April 30, 2024

RECEIVED: 14-day review begins May 7, 2024

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Reprogramming Requests

Pursuant to DC Official Code Sec 47-361 et seq. of the Reprogramming Policy Act of 1990, the Council of the District of Columbia gives notice that the Mayor has transmitted the following reprogramming request(s).

A reprogramming will become effective on the 15th day after official receipt unless a Member of the Council files a notice of disapproval of the request which extends the Council's review period to 30 days. If such notice is given, a reprogramming will become effective on the 31st day after its official receipt unless a resolution of approval or disapproval is adopted by the Council prior to that time.

Comments should be addressed to the Secretary to the Council, John A. Wilson Building, 1350 Pennsylvania Avenue, NW, and Room 5 Washington, D.C. 20004. Copies of reprogramming's are available in Legislative Services, Room 10.
Telephone: 724-8050

Reprog. 25-0116: Request to reprogram Fiscal Year 2024 Local funds budget authority in the amount of $569,613 within the District of Columbia Public Library (DCPL) was filed in the Office of the Secretary Friday, May 3, 2024. Funds are needed to support costs associated with unarmed security services to increase the security presence at neighborhood library locations, purchase supplies to support the Period Product Legislation and other facility needs, and to support administrative services, operational needs, and summer programs.

RECEIVED: 14-day review begins May 6, 2024

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

****CORRECTION**

Placard Posting Date:	May 3, 2024
Protest Petition Deadline:	June 17, 2024
Roll Call Hearing Date:	July 8, 2024
Protest Hearing Date:	August 14, 2024

License No.:	ABRA-128072
Licensee:	Convene at 600 14th DC, LLC
Trade Name:	** Convene at 600 14th DC, LLC
License Class:	Retailer's Class "C" Tavern
Address:	600 14th Street, N.W.
Contact:	Kristin B. Newby: (202) 816-8848, Kristin.newby@bevlaw.com

WARD 2 ANC 2C SMD 2C01

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on July 8, 2024 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed electronically to abca.legal@dc.gov on or before the Petition deadline. The **Protest Hearing date** is scheduled on **August 14, 2024 at 1:30 p.m.**

NATURE OF OPERATION

A Tavern with 1295 seats and a Total Occupancy Load of 1295.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION

Sunday through Saturday 8am – 11pm

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date:	May 3, 2024
Protest Petition Deadline:	June 17, 2024
Roll Call Hearing Date:	July 8, 2024
Protest Hearing Date:	August 14, 2024

License No.:	ABRA-128072
Licensee:	Convene at 600 14th DC, LLC
Trade Name:	**Convene
License Class:	Retailer's Class "C" Tavern
Address:	600 14th Street, N.W.
Contact:	Kristin B. Newby: (202) 816-8848, Kristin.newby@bevlaw.com

WARD 2 ANC 2C SMD 2C01

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on July 8, 2024 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed electronically to abca.legal@dc.gov on or before the Petition deadline. The **Protest Hearing date** is scheduled on **August 14, 2024 at 1:30 p.m.**

NATURE OF OPERATION

A Tavern with 1295 seats and a Total Occupancy Load of 1295.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION

Sunday through Saturday 8am – 11pm

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	May 10, 2024
Protest Petition Deadline:	June 24, 2024
Roll Call Hearing Date:	July 15, 2024
Protest Hearing Date:	September 11, 2024

License No.:	ABRA-128500
Licensee:	Essential Media, LLC
Trade Name:	Fizzesse
License Class:	Retailer's Class "B" Internet
Address:	5909 Blair Road, N.W., Space 3016
Contact:	David A. Carter: (301) 242-8800, david@carterlawmd.com

WARD 4 ANC 4B SMD 4B06

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on July 15, 2024 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed electronically to abra.legal@dc.gov on or before the Petition deadline. The **Protest Hearing date** is scheduled on **September 11, 2024 at 1:30 p.m.**

NATURE OF OPERATION

New Class "B" Internet Retailer selling beer and wine online only for off-premises consumption. This location will not be open to the public.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES

Sunday through Saturday 7am – 12am

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

****RESCIND**

Placard Posting Date:	March 29, 2024
Protest Petition Deadline:	May 13, 2024
Roll Call Hearing Date:	June 3, 2024
Protest Hearing Date:	July 24, 2024

License No.:	ABRA-127899
Licensee:	Essential Media, LLC
Trade Name:	Fizzesse
License Class:	Retailer's Class "B" Internet
Address:	1240 Mt. Olivet Road N.E., Space Number 3037
Contact:	David A. Carter: (301) 242-8800, david@carterlawmd.com

WARD 5 ANC 5D SMD 5D05

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on June 3, 2024 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed electronically to abra.legal@dc.gov on or before the Petition deadline. The **Protest Hearing date** is scheduled on **July 24, 2024 at 1:30 p.m.**

NATURE OF OPERATION

New Class "B" Internet Retailer selling beer and wine online only for off-premises consumption. This location will not be open to the public.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES

Sunday through Saturday 7am – 12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	May 10, 2024
Protest Petition Deadline:	June 24, 2024
Roll Call Hearing Date:	July 15, 2024
Protest Hearing Date:	September 11, 2024
License No.:	ABRA-127167
Licensee:	Lidl US Operations, LLC
Trade Name:	Lidl
License Class:	Retailer's Class "A" 25% Full-Service Grocery Store
Address:	4000 Wisconsin Avenue, N.W.
Contact:	Stephen O'Brien, Esq.: (202) 625-7700, sobrien@malliosobrien.com

WARD 3 ANC 3A SMD 3A01

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on July 15, 2024 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed electronically to abra.legal@dc.gov on or before the Petition deadline. The **Protest Hearing date** is scheduled on **September 11, 2024 at 1:30 p.m.**

NATURE OF OPERATION

A new Retailer's Class "A" 25% Full-Service Grocery Store selling a full array of grocery products along with beer and wine for off-premises consumption.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES

Sunday through Saturday 6am – 12am

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
5/10/2024

Notice is hereby given that:

License Number: ABRA-095984 **License Class/Type: A / Retail - Liquor Store**

Applicant: Nine Nines Inc.

Trade Name: Bell Wine & Liquor

SMD: 2B05

Has applied for the renewal of an alcoholic beverage license at the premises:

1821 M STREET NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
6/24/2024

A HEARING WILL BE HELD ON:
7/15/2024

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	9 am - 12 am	9 am - 12 am
Monday:	9 am - 12 am	9 am - 12 am
Tuesday:	9 am - 12 am	9 am - 12 am
Wednesday:	9 am - 12 am	9 am - 12 am
Thursday:	9 am - 12 am	9 am - 12 am
Friday:	9 am - 12 am	9 am - 12 am
Saturday:	9 am - 12 am	9 am - 12 am

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
5/10/2024

Notice is hereby given that:

License Number: ABRA-097671 **License Class/Type: A / Retail - Liquor Store**

Applicant: Grand Cata, LLC

Trade Name: Grand Cata

SMD: 2G02

Has applied for the renewal of an alcoholic beverage license at the premises:

1550 7TH STREET NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
6/24/2024

A HEARING WILL BE HELD ON:
7/15/2024

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	10 am - 10 pm	10 am - 10 pm
Monday:	10 am - 10 pm	10 am - 10 pm
Tuesday:	10 am - 10 pm	10 am - 10 pm
Wednesday:	10 am - 10 pm	10 am - 10 pm
Thursday:	10 am - 10 pm	10 am - 10 pm
Friday:	10 am - 10 pm	10 am - 10 pm
Saturday:	10 am - 10 pm	10 am - 10 pm

ENDORSEMENT(S): Tasting

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
5/10/2024

Notice is hereby given that:

License Number: ABRA-103723 **License Class/Type: B / Retail - Grocery**

Applicant: Miku, LLC
Trade Name: J & D Market
SMD: 8A03

Has applied for the renewal of an alcoholic beverage license at the premises:

2201 MINNESOTA AVENUE SE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
6/24/2024

A HEARING WILL BE HELD ON:
7/15/2024

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	8 am - midnight	8 am - midnight
Monday:	8 am - midnight	8 am - midnight
Tuesday:	8 am - midnight	8 am - midnight
Wednesday:	8 am - midnight	8 am - midnight
Thursday:	8 am - midnight	8 am - midnight
Friday:	8 am - midnight	8 am - midnight
Saturday:	8 am - midnight	8 am - midnight

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
5/10/2024

Notice is hereby given that:

License Number: ABRA-117074 **License Class/Type: A / Internet**

Applicant: Pure Impact Group L.L.C.

Trade Name: Shared Pour

SMD: 3F05

Has applied for the renewal of an alcoholic beverage license at the premises:

4221 CONNECTICUT AVENUE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
6/24/2024

A HEARING WILL BE HELD ON:
7/15/2024

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	7am - 12am	7am - 12am
Monday:	7am - 12am	7am - 12am
Tuesday:	7am - 12am	7am - 12am
Wednesday:	7am - 12am	7am - 12am
Thursday:	7am - 12am	7am - 12am
Friday:	7am - 12am	7am - 12am
Saturday:	7am - 12am	7am - 12am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
5/10/2024

Notice is hereby given that:

License Number: ABRA-121495 **License Class/Type: A / Internet**

Applicant: Cadaster Wines LLC
Trade Name: Cadaster Wines
SMD: 3F05

Has applied for the renewal of an alcoholic beverage license at the premises:

4221 CONNECTICUT AVENUE NW

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
6/24/2024

A HEARING WILL BE HELD ON:
7/15/2024

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	9am - 9pm	9am - 9pm
Monday:	6am - 1am	6am - 1am
Tuesday:	6am - 1am	6am - 1am
Wednesday:	6am - 1am	6am - 1am
Thursday:	6am - 1am	6am - 1am
Friday:	6am - 1am	6am - 1am
Saturday:	6am - 1am	6am - 1am

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ON
5/10/2024

Notice is hereby given that:

License Number: ABRA-125121 **License Class/Type: A / Internet**

Applicant: Barrel Nation DC, LLC

Trade Name: Barrel Nation

SMD: 5C05

Has applied for the renewal of an alcoholic beverage license at the premises:

955 V STREET NE

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:
6/24/2024

A HEARING WILL BE HELD ON:
7/15/2024

AT 10:00 a.m., 2000 14th STREET, NW, 4th FLOOR, WASHINGTON, DC 20009

Days	Hours of Operation	Hours of Sales/Service
Sunday:	9 am - 9 pm	9 am - 9 pm
Monday:	9 am - 9 pm	9 am - 9 pm
Tuesday:	9 am - 9 pm	9 am - 9 pm
Wednesday:	9 am - 9 pm	9 am - 9 pm
Thursday:	9 am - 9 pm	9 am - 9 pm
Friday:	9 am - 9 pm	9 am - 9 pm
Saturday:	9 am - 9 pm	9 am - 9 pm

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	May 10, 2024
Protest Petition Deadline:	June 24, 2024
Roll Call Hearing Date:	July 15, 2024
Protest Hearing Date:	September 11, 2024
License No.:	ABRA-128381
Licensee:	Vinery, LLC
Trade Name:	Vinery
License Class:	Retailer's Class "D" Tavern
Address:	3404 Connecticut Avenue, N.W., Suite 3
Contact:	Cameron Mixon: (202) 686-7600, cmixon@theveritaslawfirm.com

WARD 3 ANC 3C SMD 3C05

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on July 15, 2024 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed electronically to abca.legal@dc.gov on or before the Petition deadline. The **Protest Hearing date** is scheduled on **September 11, 2024 at 1:30 p.m.**

NATURE OF OPERATION

New Class "D" Tavern selling beer and wine. Total Occupancy Load of the Establishment is 40. The interior capacity is 36, including seating for 20, and the Summer Garden has a capacity of 4 with seating for 4.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR INSIDE PREMISES AND SUMMER GARDEN

Sunday through Saturday 10am – 9pm

DC BOARD OF ELECTIONS

NOTICE OF PUBLIC HEARING
RECEIPT AND INTENT TO REVIEW INITIATIVE MEASURE

The Board of Elections shall consider in a public hearing whether the proposed measure, "The Vermelle Paid Maternity Leave Act," is a proper subject matter for initiative at the Board's regular meeting on Wednesday, June 12, 2024 at 10:30 a.m., at 1015 Half Street SE, Suite 750, Washington DC 20003. The Board will meet remotely. Members of the public can only access the meeting by using the following information:

Join Zoom Meeting
https://zoom.us/j/5546215828?pwd=MkVTRnBVUW8yc1lhY2tFRC9qY0Vvdz09

Meeting ID: 554 621 5828
Passcode: 299837
One tap mobile
+16468769923,,5546215828#,,,,*299837# US (New York)
+13017158592,,5546215828#,,,,*299837# US (Washington DC)

Dial by your location
+1 646 876 9923 US (New York)
+1 301 715 8592 US (Washington DC)
+1 312 626 6799 US (Chicago)
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)
+1 408 638 0968 US (San Jose)
+1 669 900 6833 US (San Jose)

Meeting ID: 554 621 5828
Passcode: 299837

Find your local number: https://zoom.us/u/a9gZ43CBe

In making a proper subject matter determination, the Board does not consider the merits of a proposed measure. Instead, it may consider only whether the proposed measure meets the subject matter requirements set forth in District of Columbia law. Specifically, the Board must reject the proposed measure if it determines that:

- The measure conflicts with or seeks to amend the Title IV of the DC Home Rule Act ("the District Charter");
- The measure conflicts with the U.S. Constitution;
- The measure has not been properly filed;
- The verified statement of contributions (the measure committee's statement of organization and report of receipts and expenditures) was not timely filed;

- The measure would authorize discrimination in violation of the DC Human Rights Act;
- The measure would negate or limit a budgetary act of the DC Council; or
- The measure would appropriate funds

Those who wish to testify at the hearing on the propriety of the proposed measure in light of the above-referenced criteria should contact the Board's Office of the General Counsel at 202-727-2194 or ogc@dcboe.org and provide their name, address, telephone number, and name of the organization represented (if any) by no later than Thursday, June 6, 2024 at 4:00 p.m. Any written testimony or memoranda should be submitted for the record to the Board's Office of the General Counsel, 1015 Half Street SE, Suite 750, Washington, DC 20003 or at ogc@dcboe.org by that date and time as well. Individuals shall be permitted a maximum of three minutes for oral presentations. Representatives of organizations shall be permitted a maximum of five minutes for oral presentations.

The Short Title, Summary Statement, and Legislative Text of the proposed initiative, as submitted to the Board by the proposer(s) of the measure, read as follows:

SHORT TITLE

"Vermelle Paid Maternity Leave Act"

SUMMARY STATEMENT

If enacted, the "Vermelle Paid Maternity Leave Act" would:

a. Allow pregnant women working in DC to receive one year of full paid maternity leave, once they start their third trimester.

b. Allow pregnant women working in DC to receive nine months of full paid leave after giving birth.

c. Allow the significant other/spouse of a pregnant woman to receive full pay while working only half-days during the third trimester, to care for their spouse. This only applies to significant others who work in DC.

LEGISLATIVE TEXT

BE IT ENACTED BY THE ELECTORS OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Vermelle Paid Maternity Leave Act".

Sec 2. Black women are 4 times more likely to die from pregnancy related complications than White women. Black women are 43 percent more likely to have a miscarriage than White Women and are 80 percent more likely to develop postpartum depression than White women. Black infants are twice as likely to die in the first year than White infants. Latina women are nearly twice as likely to die from pregnancy related complications than White women and are 40

percent more likely to develop postpartum depression than White women. Asian women are 9 times more likely to report suicidal thoughts during the postpartum period than White women. As of right now DC only allows for two weeks of paid prenatal leave and three months of paid leave to care for a newborn. Doctors say that returning to work less than six months after giving birth, increases the risk of postpartum depression.

Increasing maternity paid leave has been proven to decrease the risk of postpartum depression, and infant mortality. The "Vermelle Paid Maternity Leave Act" will allow pregnant women working in DC to receive paid maternity leave once they start their third trimester and will receive nine months of paid leave after giving birth.

The significant others/spouses of pregnant women will be allowed to receive full pay while working only half-days during the third trimester, to care for their spouse. This applies only to significant others who work in DC. This legislation does not appropriate funds because it is the same funds that would already used for employees if they were not on leave.

Sec 3. This act shall take effect after a 30-day period of Congressional review as provided in section 602(c) (1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

HISTORIC PRESERVATION REVIEW BOARD

NOTICE OF PUBLIC HEARING

The D.C. Historic Preservation Review Board will hold a public hearing to consider an application to designate the following property a historic landmark in the D.C. Inventory of Historic Sites. The Board will also consider the nomination of the property to the National Register of Historic Places:

Case No. 24-08: Youth Pride, Inc.
1536 U Street NW
Square 190, Lot 810
Applicants: Center for Community Change Action (owner) and the D.C. Preservation League
Affected Advisory Neighborhood Commission: 2B

The hearing will take place at **9:00 a.m. on Thursday, June 27, 2024**. The Board hearing will be online, the details for which will be available here: planning.dc.gov/node/1176060. It will be conducted in accordance with the Review Board's Rules of Procedure (10C DCMR 2, see planning.dc.gov/node/594182).

The Board's hearing is open to all interested parties or persons. Public and governmental agencies, Advisory Neighborhood Commissions, property owners, and interested organizations or individuals are invited to testify before the Board. Written testimony may also be submitted prior to the hearing. All submissions should be sent to the address above.

A copy of the historic designation application is currently on file and available for inspection by the public at the Historic Preservation Office. It is posted on the office website at planning.dc.gov/page/pending-nominations-dc-inventory. A copy of the staff report and recommendation will be available at the office five days prior to the hearing at planning.dc.gov/node/1176060. The office also provides information on the D.C. Inventory of Historic Sites, the National Register of Historic Places, and Federal tax provisions affecting historic property.

If the Historic Preservation Review Board designates a property, it will be included in the D.C. Inventory of Historic Sites and will be protected by the D.C. Historic Landmark and Historic District Protection Act of 1978. The Review Board will simultaneously consider the nomination of the property to the National Register of Historic Places. The National Register is the Federal government's official list of prehistoric and historic properties worthy of preservation. Listing in the National Register provides recognition and assists in preserving our nation's heritage. Listing provides recognition of the historic importance of properties and assures review of Federal undertakings that might affect the character of such properties. If a property is listed in the Register, certain Federal rehabilitation tax credits for rehabilitation and other provisions may apply. Public visitation rights are not required of owners. The results of listing in the National Register are as follows:

Consideration in Planning for Federal, Federally Licensed, and Federally Assisted Projects: Section 106 of the National Historic Preservation Act of 1966 requires that Federal agencies

allow the Advisory Council on Historic Preservation an opportunity to comment on all projects affecting historic properties listed in the National Register. For further information, please refer to 36 CFR 800.

Eligibility for Federal Tax Provisions: If a property is listed in the National Register, certain Federal tax provisions may apply. The Tax Reform Act of 1986 (which revised the historic preservation tax incentives authorized by Congress in the Tax Reform Act of 1976, the Revenue Act of 1978, the Tax Treatment Extension Act of 1980, the Economic Recovery Tax Act of 1981, and the Tax Reform Act of 1984) provides, as of January 1, 1987, for a 20% investment tax credit with a full adjustment to basis for rehabilitating historic commercial, industrial, and rental residential buildings. The former 15% and 20% Investment Tax Credits (ITCs) for rehabilitation of older commercial buildings are combined into a single 10% ITC for commercial and industrial buildings built before 1936. The Tax Treatment Extension Act of 1980 provides Federal tax deductions for charitable contributions for conservation purposes of partial interests in historically important land areas or structures. Whether these provisions are advantageous to a property owner is dependent upon the particular circumstances of the property and the owner. Because the tax aspects outlined above are complex, individuals should consult legal counsel or the appropriate local Internal Revenue Service office for assistance in determining the tax consequences of the above provisions. For further information on certification requirements, please refer to 36 CFR 67.

Qualification for Federal Grants for Historic Preservation When Funds Are Available: The National Historic Preservation Act of 1966, as amended, authorizes the Secretary of the Interior to grant matching funds to the States (and the District or Columbia) for, among other things, the preservation and protection of properties listed in the National Register.

Owners of private properties nominated to the National Register have an opportunity to concur with or object to listing in accord with the National Historic Preservation Act and 36 CFR 60. Any owner or partial owner of private property who chooses to object to listing must submit to the State Historic Preservation Officer a notarized statement certifying that the party is the sole or partial owner of the private property, and objects to the listing. Each owner or partial owner of private property has one vote regardless of the portion of the property that the party owns. If a majority of private property owners object, a property will not be listed. However, the State Historic Preservation Officer shall submit the nomination to the Keeper of the National Register of Historic Places for a determination of eligibility for listing in the National Register. If the property is then determined eligible for listing, although not formally listed, Federal agencies will be required to allow the Advisory Council on Historic Preservation an opportunity to comment before the agency may fund, license, or assist a project which will affect the property. If an owner chooses to object to the listing of the property, the notarized objection must be submitted to the above address by the date of the Review Board meeting.

For further information, contact Tim Dennee, Landmarks Coordinator, at timothy.dennee@dc.gov.

BOARD OF ZONING ADJUSTMENT
REVISED NOTICE OF VIRTUAL PUBLIC HEARING

TIME AND PLACE: Wednesday, June 12, 2024, @ 9:30 a.m.
Via WebEx & YouTube (Office of Zoning): https://dcoz.dc.gov/BZA06-12-2024
Instructions: https://dcoz.dc.gov/release/virtual-public-hearings
Witness Sign Up: https://dcoz.dc.gov/service/sign-testify

TO CONSIDER THE FOLLOWING: The Board of Zoning Adjustment will adhere to the following schedule but reserves the right to hear items on the agenda out of turn.

WARD TWO

Application of:	**Marwick Associates, LLC**
Case No.:	**21132**
Address:	1641 R Street N.W. (Square 178, Lot 97)
ANC:	**2B**
Relief:	Special Exceptions from: • the rear yard requirements of Subtitle G § 207.6 (pursuant to Subtitles G §§ 207.14 and 5200.1; and Subtitle X § 901.2) • the lot occupancy requirements of Subtitle G § 210.1 (pursuant to Subtitles G §§ 207.14 and 5200.1; and Subtitle X § 901.2)
Project:	To construct a rear addition to an existing, semi-detached, four-story with basement, mixed-use building in the MU-5A/DC Zone.

WARD TWO

Application of:	**3428 O Street, LLC**
Case No.:	**21157**
Address:	3428 O Street N.W. (Square 1228, Lot 76)
ANC:	**2E**
Relief:	Special Exception from: • the corner store use requirements of Subtitle U § 254.13(a) (pursuant to Subtitle U § 254.14 and Subtitle X § 901.2) Area Variance from: • the corner store use requirements of Subtitle U § 254.6(g) (pursuant to Subtitle X § 1002)
Project:	To operate a corner store on the first floor and basement of an existing, mixed-use building in the R-3/GT Zone.

WARD FOUR

Application of:	**David Quinn and Courtney Subramanian**
Case No.:	**21128**
Address:	1507 Decatur Street N.W. (Square 2708, Lot 38)
ANC:	**4E**
Relief:	Special Exceptions from: • the lot occupancy requirements of Subtitle D § 210.1 (pursuant to Subtitle D § 5201.1 and Subtitle X § 901.2) • the accessory building rear yard requirements of Subtitle D § 5004.1(b) (pursuant to Subtitle D § 5201.1 and Subtitle X § 901.2)
Project:	To construct second and third story additions, and an accessory garage second story addition, to an existing, detached, two-story with basement, principal dwelling unit in the R-1B/SH Zone.

WARD SEVEN

Application of:	**2310-2312 Nicholson Street SE Ventures, LLC**
Case No.:	**21124**
Address:	2310-2314 Nicholson Street S.E. (Square 5560, Lots 12, 13, and 31)
ANC:	**7B**
Relief:	Special Exceptions from: • the matter-of-right uses of Subtitle U § 401 (pursuant to Subtitle U § 420.1(b) and Subtitle X § 901.2) • the subdivision regulations of Subtitle C § 302.1 (pursuant to Subtitle C § 305.1 and Subtitle X § 901.2)
Project:	To permit an art gallery and museum use, in existing, residential use buildings in the RA-2 Zone.

PLEASE NOTE:
This public hearing will be held virtually through WebEx. Information for parties and the public to participate, view, or listen to the public hearing will be provided on the Office of Zoning website and in the case record for each application or appeal by the Friday before the hearing date.

The public hearing in these cases will be conducted in accordance with the provisions of Subtitles X and Y of the District of Columbia Municipal Regulations, Title 11, including the text provided in the Notice of Emergency and Proposed Rulemaking adopted by the Zoning Commission on May 11, 2020, in Z.C. Case No. 20-11.
Individuals and organizations interested in any application may testify at the public hearing via WebEx or by phone and are strongly encouraged to sign up to testify 24 hours prior to the start of the hearing on OZ's website at https://dcoz.dc.gov/ or by calling Robert Reid at 202-727-5471. Pursuant to Subtitle Y, Chapter 2 of the Regulations, the Board may impose time limits on the testimony of all individuals and organizations.

Individuals and organization may also submit written comments to the Board by uploading submissions via IZIS or by email to bzasubmissions@dc.gov. Submissions are strongly encouraged to be sent at least 24 hours prior to the start of the hearing.

Do you need assistance to participate?

**Note that party status is not permitted in Foreign Missions cases.*

Do you need assistance to participate?

Amharic
ለመሳተፍ ዕርዳታ ያስፈልግዎታል?
የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጎም)
ካስፈለገዎት እባክዎን ከስብሰባው አምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኤሜል Zelalem.Hill@dc.gov ይገናኙ። እነኝህ አገልግሎቶች የሚሰጡት በነጻ ነው።

Chinese
您需要有人帮助参加活动吗？
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Korean
참여하시는데 도움이 필요하세요?
특별한 편의를 제공해 드려야 하거나, 언어 지원 서비스(번역 또는 통역)가 필요하시면, 회의 5일 전에 Zee Hill 씨께 (202) 727-0312로 전화 하시거나 Zelalem.Hill@dc.gov 로 이메일을 주시기 바랍니다. 이와 같은 서비스는 무료로 제공됩니다.

Spanish
¿Necesita ayuda para participar?
Si tiene necesidades especiales o si necesita servicios de ayuda en su idioma (de traducción o interpretación), por favor comuníquese con Zee Hill llamando al (202) 727-0312 o escribiendo a Zelalem.Hill@dc.gov cinco días antes de la sesión. Estos servicios serán proporcionados sin costo alguno.

Vietnamese
Quí vị có cần trợ giúp gì để tham gia không?
Nếu quí vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc Zelalem.Hill@dc.gov trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

FOR FURTHER INFORMATION, CONTACT THE OFFICE OF ZONING AT (202) 727-6311.

FREDERICK L. HILL, CHAIRPERSON
LORNA L. JOHN, VICE-CHAIRPERSON
CARL BLAKE, MEMBER,
CHRISHAUN SMITH, MEMBER,
NATIONAL CAPITAL PLANNING COMMISSION
A PARTICIPATING MEMBER OF THE ZONING COMMISSION
KEARA M. MEHLERT, SECRETARY, BOARD OF ZONING ADJUSTMENT
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this hearing to the Office of Open Government at opengovoffice@dc.gov .

BOARD OF ZONING ADJUSTMENT
CORRECTED NOTICE OF VIRTUAL PUBLIC HEARING

TIME AND PLACE: Wednesday, July 3, 2024, @ 9:30 a.m.
Via WebEx & YouTube (Office of Zoning): https://dcoz.dc.gov/BZA07-03-2024
Instructions: https://dcoz.dc.gov/release/virtual-public-hearings
Witness Sign Up: https://dcoz.dc.gov/service/sign-testify

TO CONSIDER THE FOLLOWING: The Board of Zoning Adjustment will adhere to the following schedule but reserves the right to hear items on the agenda out of turn.

WARD ONE

Application of:	**1840 Kalorama, LLC**
Case No.:	**21051A**
Address:	1836-1840 Kalorama Road N.W (Square 2553, Lot 826)
ANC:	**1C**
Relief:	Modification of Significance to: • Board of Zoning Adjustment 21051 (pursuant to Subtitle Y § 703) Special Exception from: • the penthouse enclosing wall requirements of Subtitle C § 1503.4 (pursuant to Subtitle C § 1506 and Subtitle X § 901.2)
Project:	To construct a rear addition and penthouse, and convert to an 11-unit apartment house, an existing, attached, four-story building in the RA-2 Zone.

WARD THREE

Application of:	**Jason Chung, Shiwei Wang, Chong Zhang, and Lifang Zhang**
Case No.:	**21141**
Address:	4005 Fessenden Street N.W. (Square 1756, Lot 36)
ANC:	**3E**
Relief:	Special Exception from: • the rear yard requirements of Subtitle D § 207.1 (pursuant to Subtitle D § 5201.1 and Subtitle X § 901.2)
Project:	To construct a one-story, accessory garage addition, to an existing, detached, two-story with cellar, principal dwelling unit in the R-1B Zone.

WARD SIX

Application of:	**Taco Bell of America, LLC**
Case No.:	**21144**
Address:	411 8th Street S.E. (Square 16, Lot 902)
ANC:	**6B**
Relief:	Special Exception from: • the matter-of-right uses of Subtitle U § 512 (pursuant to Subtitle U § 513.1(e) and Subtitle X § 901.2)
Project:	To permit a fast-food establishment use in an existing, attached, two-story commercial building in the MU-4/CHC Zone.

PLEASE NOTE:
This public hearing will be held virtually through WebEx. Information for parties and the public to participate, view, or listen to the public hearing will be provided on the Office of Zoning website and in the case record for each application or appeal by the Friday before the hearing date.

The public hearing in these cases will be conducted in accordance with the provisions of Subtitles X and Y of the District of Columbia Municipal Regulations, Title 11, including the text provided in the Notice of Emergency and Proposed Rulemaking adopted by the Zoning Commission on May 11, 2020, in Z.C. Case No. 20-11.
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FOR FURTHER INFORMATION, CONTACT THE OFFICE OF ZONING AT (202) 727-6311.

FREDERICK L. HILL, CHAIRPERSON
LORNA L. JOHN, VICE-CHAIRPERSON
CARL BLAKE, MEMBER,
CHRISHAUN SMITH, MEMBER,
NATIONAL CAPITAL PLANNING COMMISSION
A PARTICIPATING MEMBER OF THE ZONING COMMISSION
KEARA M. MEHLERT, SECRETARY, BOARD OF ZONING ADJUSTMENT
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this hearing to the Office of Open Government at opengovoffice@dc.gov .

BOARD OF ZONING ADJUSTMENT
NOTICE OF VIRTUAL PUBLIC HEARING

TIME AND PLACE: Wednesday, July 17, 2024, @ 9:30 a.m.
Via WebEx & YouTube (Office of Zoning): https://dcoz.dc.gov/BZA07-17-2024
Instructions: https://dcoz.dc.gov/release/virtual-public-hearings
Witness Sign Up: https://dcoz.dc.gov/service/sign-testify

TO CONSIDER THE FOLLOWING: The Board of Zoning Adjustment will adhere to the following schedule but reserves the right to hear items on the agenda out of turn.

WARD ONE

Application of:	**Baldwin House Cooperative Association**
Case No.:	**21152**
Address:	2750 Sherman Avenue N.W. (Square 2864, Lot 831)
ANC:	**1B**
Relief:	Special Exception from: • the matter-of-right uses of Subtitle U § 301 (pursuant to Subtitle U § 320.1(b) and Subtitle X § 901.2)
Project:	To construct two additional dwelling units and a community service center, to an existing, detached, three-story with cellar, 6-unit apartment house in the RF-1 Zone.

WARD TWO

Application of:	**Trustees for Harvard University**
Case No.:	**21143**
Address:	3100 R Street N.W. (Square 1281, Lot 836)
ANC:	**2E**
Relief:	Special Exception from: • the matter-of-right uses of Subtitle U § 201 (pursuant to Subtitle U § 203.1(o) and Subtitle X § 901.2) Area Variance from: • the gross floor area requirements of to Subtitle U § 203.1(o) (pursuant to Subtitle X § 1002)
Project:	To permit a nonprofit organization use in an existing, semi-detached, four-story with basement, residential building in the R-1B/GT Zone.

WARD THREE

Application of:	**Sreeja Nair and Alexander Cohen**
Case No.:	**21150**
Address:	4450 Alton Place N.W. (Square 1591, Lot 18)
ANC:	**3E**
Relief:	Special Exception from: • the side yard requirements of Subtitle D § 208.2 (pursuant to Subtitle D § 5201 and Subtitle X § 901.2)
Project:	To construct front and side additions, to an existing, detached, two-story, principal dwelling unit in the R-1B Zone.

WARD FOUR

Appeal of:	**BZA Appeal No. 21100 of Friends of the Field and Gladys Austin, Kenneth Austin, Claudia Russell, Sylvie Tanoh, Thierry Tanoh, Nancy Voisin, and David Patton**
Appeal No.:	**21100**
Address:	5901 Utah Avenue N.W. (Square 2319, former Lot 829; now Lots 831 and 832)
ANC:	**3/4G**
Relief:	Appeal pursuant to: • The provisions of Subtitle X § 1100
Appeal from:	The decision made on November 30, 2023, by the District of Columbia Department of Buildings Zoning Administrator to issue Building Permit No. BCIV2300110

WARD FOUR

Application of:	**Hesuk Chun**
Case No.:	**21146**
Address:	1331 Randolph Street N.W. (Square 2824, Lot 84)
ANC:	**4C**
Relief:	Special Exceptions from: • the matter-of-right uses of Subtitle U § 301 (pursuant to Subtitle U § 320.2 and Subtitle X § 901.2) • the rear addition requirements of Subtitle E § 207.4 (pursuant to Subtitle E § 207.5 and Subtitle X § 901.2)
Project:	To construct a third story with roof deck, and a rear addition with cellar, and convert to a three-unit apartment house, an existing, attached, two-story with cellar, principal dwelling unit in the RF-1 Zone.

WARD SIX

Application of:	**Daniel Ritterpusch**
Case No.:	**21145**
Address:	813 7th Street N.E. (Square 889, Lot 19)
ANC:	**6A**
Relief:	Special Exception from: • the matter-of-right uses of Subtitle U § 301 (pursuant to Subtitle U § 301.1(e) and Subtitle X § 901.2)
Project:	To construct a new, detached, two-story, accessory garage, with accessory dwelling, to an existing, attached, two-story with cellar, principal dwelling unit in the RF-1 Zone.

PLEASE NOTE:
This public hearing will be held virtually through WebEx. Information for parties and the public to participate, view, or listen to the public hearing will be provided on the Office of Zoning website and in the case record for each application or appeal by the Friday before the hearing date.

The public hearing in these cases will be conducted in accordance with the provisions of Subtitles X and Y of the District of Columbia Municipal Regulations, Title 11, including the text provided in the Notice of Emergency and Proposed Rulemaking adopted by the Zoning Commission on May 11, 2020, in Z.C. Case No. 20-11.

Individuals and organizations interested in any application may testify at the public hearing via WebEx or by phone and are strongly encouraged to sign up to testify 24 hours prior to the start of the hearing on OZ's website at https://dcoz.dc.gov/ or by calling Robert Reid at 202-727-5471. Pursuant to Subtitle Y, Chapter 2 of the Regulations, the Board may impose time limits on the testimony of all individuals and organizations.

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Do you need assistance to participate?

**Note that party status is not permitted in Foreign Missions cases.*

Do you need assistance to participate?

Amharic
ለመሳተፍ ዕርዳታ ያስፈልግዎታል?
የተለየ እርዳታ ካስፈለገዎት ወይም የቋንቋ እርዳታ አገልግሎቶች (ትርጉም ወይም ማስተርጎም) ካስፈለገዎት እባክዎን ከስብሰባው አምስት ቀናት በፊት ዚ ሂልን በስልክ ቁጥር (202) 727-0312 ወይም በኤሜል Zelalem.Hill@dc.gov ይገናኙ። እነኝህ አገልግሎቶች የሚሰጡት በነጻ ነው።

Chinese
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Vietnamese

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FOR FURTHER INFORMATION, CONTACT THE OFFICE OF ZONING AT (202) 727-6311.

FREDERICK L. HILL, CHAIRPERSON
LORNA L. JOHN, VICE-CHAIRPERSON
CARL BLAKE, MEMBER,
CHRISHAUN SMITH, MEMBER,
NATIONAL CAPITAL PLANNING COMMISSION
A PARTICIPATING MEMBER OF THE ZONING COMMISSION
KEARA M. MEHLERT, SECRETARY, BOARD OF ZONING ADJUSTMENT
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this hearing to the Office of Open Government at opengovoffice@dc.gov .

BOARD OF ZONING ADJUSTMENT
NOTICE OF VIRTUAL PUBLIC HEARING

TIME AND PLACE: Wednesday, July 24, 2024, @ 9:30 a.m.
Via WebEx & YouTube (Office of Zoning): https://dcoz.dc.gov/BZA07-24-2024
Instructions: https://dcoz.dc.gov/release/virtual-public-hearings
Witness Sign Up: https://dcoz.dc.gov/service/sign-testify

TO CONSIDER THE FOLLOWING: The Board of Zoning Adjustment will adhere to the following schedule but reserves the right to hear items on the agenda out of turn.

WARD FIVE

Application of:	**K Two, LLC**
Case No.:	**18987B**
Address:	1124-1126 Florida Avenue N.E. (Square 4070, Lot 808)
ANC:	**5D**
Relief:	Modification of Significance to: • Board of Zoning Adjustment Order No. 18987 (pursuant to Subtitle Y § 704)
Project:	To allow the construction of a five-story, multi-family building containing 46 units in the MU-4 Zone.

WARD FIVE

Application of:	**Dinesh Tandon and Nidhi Tandon**
Case No.:	**21151**
Address:	2324 North Capitol Street N.W. (Square 3124, Lot 143)
ANC:	**5E**
Relief:	Special Exception from: • the non-conforming use requirements of Subtitle C § 204.1 (pursuant to Subtitle C § 204.9 Subtitle X § 901.2) Area Variance from: • the non-conforming use requirements of Subtitle C § 204.1(b) (pursuant to Subtitle X § 1002)
Project:	To permit a restaurant use in an existing, detached, two-story with cellar, mixed-use building in the RF-1 Zone.

WARD SEVEN

Application of:	**James B. Briley Sr., Trustee, and Dila Construction, LLC**
Case No.:	**21149**
Address:	1801 D Street N.E. (Square 4560, Lot 152)
ANC:	**7D**
Relief:	Area Variances from: • the rules of measurement for front setbacks of Subtitle B § 315.1(pursuant to Subtitle X § 1002) • the front setback requirements of Subtitle E § 206.2 (pursuant to Subtitle X § 1002)
Project:	To construct two new, three-story, attached, and semi-attached, principal dwelling units in the RF-1 Zone.

WARD SEVEN

Application of:	**Jason Wedge**
Case No.:	**21153**
Address:	1608 E Street N.E. (Square 4538, Lot 129)
ANC:	**7D**
Relief:	Special Exception from: • the rear yard requirements of Subtitle E § 207.1 (pursuant to Subtitle E § 5201.1 and Subtitle X § 901.2)
Project:	To construct a two-story rear addition to an existing, attached, two-story, four-unit apartment house in the RF-1 Zone.

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DISTRICT OF COLUMBIA BOARD OF ELECTIONS

NOTICE OF FINAL 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 § 1-1001.01 *et seq*.), hereby gives notice of final rulemaking action to adopt amendments to Chapter 6 (Eligibility of Candidates), 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), and Chapter 17 (Candidates: Members and Officials of Local Committees of Political Parties and National Committee Persons) of Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the amendments to these regulations is to conform the Board's regulations to existing law and current practice regarding the ballot access and initiative processes and qualified petition circulators.

A Notice of Proposed Rulemaking with respect to this rulemaking was published in the *District of Columbia Register* on February 23, 2024 at 71 DCR 001936. No written comments on the proposed rules were received during the public comment period, and no substantive changes have been made to the regulations as proposed.

The Board adopted these rules as final at a regular meeting on Thursday, May 2, 2024. These final rules will become effective immediately upon publication of this notice in the *District of Columbia Register.*

CHAPTER 6, ELIGIBILITY OF CANDIDATES, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Section 601, DECLARATION OF CANDIDACY, is amended as follows:

Subsection 601.6 is amended to read as follows:

601.6 Within three (3) business days after the deadline for filing nominating petitions for the particular office sought, the Executive Director or his or her designee shall issue a preliminary determination as to the eligibility of the declarant to be candidate for the particular office sought.

Subsection 601.7 is amended to read as follows:

601.7 Notice of the Executive Director's preliminary determination shall be served immediately by email or first-class mail upon each candidate.

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

Section 1000, GENERAL PROVISIONS, is amended as follows:

Subsection 1000.4 is amended to read as follows:

1000.4 Within one business day after the receipt of a proposed initiative or referendum measure, the Board shall request advisory opinions from the Attorney General and the General Counsel for the Council on whether the measure is a proper subject of initiative or referendum: provided that, advisory opinions regarding proposed initiatives are due within 15 business days after the request, and advisory opinions regarding proposed referenda are due within five business days after the request.

Section 1004, NON-RESIDENT CIRCULATORS, is amended as follows:

Paragraph 1004.1(c) is amended to read as follows:

(c) Swears under oath or affirms that he or she is at least seventeen (17) years of age and will be eighteen (18) years of age on or before the next general election;

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

Section 1103, SIGNATURE REQUIREMENTS, is amended as follows:

Subsection 1103.5 is amended to read as follows:

1103.5 The Board shall use the latest official end-of-month count of registered qualified electors published in the *District of Columbia Register* that was made at least thirty (30) days prior to submission of the signatures for the particular recall measure to determine the minimum number of signatures required for ballot access. Any subsequent changes in the District-wide or ward voter counts, including changes caused by any redistricting, shall not be grounds for challenging the number of signatures needed on a petition as calculated based on five percent (5%) of such published end-of-month count.

Section 1104, NON-RESIDENT CIRCULATORS, is amended as follows:

Paragraph 1104.1(c) is amended to read as follows:

(c) Swears under oath or affirms that he or she is at least seventeen (17) years of age and will be eighteen (18) years of age on or before the next general election;

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 1404, NON-RESIDENT CIRCULATORS, is amended as follows:

Paragraph 1404.1(c) is amended to read as follows:

(c) Swears under oath or affirms that he or she is at least seventeen (17) years of age and will be eighteen (18) years of age on or before the next general election;

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 1504, NON-RESIDENT CIRCULATORS, is amended as follows:

Paragraph 1504.1(c) is amended to read as follows:

(c) Swears under oath or affirms that he or she is at least seventeen (17) years of age and will be eighteen (18) years of age on or before the next general election;

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 1604, NON-RESIDENT CIRCULATORS, is amended as follows:

Paragraph 1604.1(c) is amended to read as follows:

(c) Swears under oath or affirms that he or she is at least seventeen (17) years of age and will be eighteen (18) years of age on or before the next general election;

CHAPTER 17, CANDIDATES: MEMBERS AND OFFICIALS OF LOCAL COMMITTEES OF POLITICAL PARTIES AND NATIONAL COMMITTEE PERSONS, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended to as follows:

Section 1704, NON-RESIDENT CIRCULATORS, is amended as follows:

Paragraph 1704.1(c) is amended to read as follows:

(c) Swears under oath or affirms that he or she is at least seventeen (17) years of age and will be eighteen (18) years of age on or before the next general election;

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

NOTICE OF FINAL 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. & 2019 Supp.)), hereby gives notice of final rulemaking action to adopt an amendment to Chapter 7 (Election Procedures) of Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the rulemaking is to implement the provisions of the Leave to Vote Amendment Act of 2020 (D.C. Law 23-110).

A Notice of Proposed Rulemaking with respect to this rulemaking was published in the *District of Columbia Register* on March 15, 2024 at 71 DCR 002922. No written comments on the proposed rules were received during the public comment period, and no substantive changes have been made to the regulations as proposed.

The Board adopted these rules as final at a regular meeting on Thursday, May 2, 2024. These final rules will become effective immediately upon publication of this notice in the *District of Columbia Register.*

Chapter 7, ELECTION PROCEDURES, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

A new section, Section 726, LEAVE TO VOTE POSTING REQUIREMENTS, is added to read as follows:

726 LEAVE TO VOTE POSTING REQUIREMENTS

726.1 The Board shall make the notice required by D.C. Official Code § 1-1007a(b)(5) available to employers by placing the notice on the Board's website in a downloadable format.

726.2 Employers may download the notice from the Board's website or request the notice by sending an email to communications@dcboe.org.

726.3 Employers shall post the notice no later than 60 days before all scheduled elections, including any special elections.

726.4 Every employer shall post and maintain the notice in a conspicuous and accessible place in or about the premises at which any employee is employed.

726.5 For employees who work remotely, or if no conspicuous and accessible place exists, employers shall meet the notice requirements by providing the notice to their

employees by any other reasonable means provided that the employee signs a statement acknowledging receipt of the notice.

A new section, Section 727, REQUESTS FOR LEAVE TO VOTE, is added to read as follows:

727 REQUESTS FOR LEAVE TO VOTE

727.1 Upon an employee's request, an employer shall provide the employee at least two hours of paid leave to vote in an election in which the employee is eligible to vote.

727.2 An employer may require an employee to request leave to vote a reasonable time in advance of the timeframe sought for leave.

727.3 An employee's request for leave to vote is made a reasonable time in advance if:

(a) The request is consistent with an existing employee leave policy; or

(b) In the absence of an employee leave policy, the request is made no later than seven (7) days before the time requested to vote.

727.4 In response to a request for leave to vote, an employer may specify the hours during the in-person voting period in which the employee may take leave to vote.

727.5 Upon a student's request, an educational institution shall provide the student at least two hours of leave to vote in an election in which the student is eligible to vote.

727.6 In response to a request for leave to vote, an educational institution may specify the hours during the in-person voting period in which the student may take leave to vote.

A new section, Section 728, LEAVE TO VOTE ENFORCEMENT, is added to read as follows:

728 LEAVE TO VOTE ENFORCEMENT

728.1 Any employee or student who believes their rights under the Leave to Vote Act have been violated may initiate a complaint with the Board pursuant to the procedures set forth in Chapter 4 of this title.

728.2 An employee or student shall file the complaint within fourteen (14) days after the date(s) of the alleged violation(s).

728.3 In a complaint filed under this chapter, each allegation by an employee or student shall constitute a separate violation.

728.4 Pursuant to D.C. Official Code § 1-1001.18, the Board may impose a civil fine of up to $2,000 upon a determination made pursuant to Chapter 4 of Title 3 DCMR that a violation of a provision of the Leave to Vote Act has occurred.

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to An Act To authorize the Commissioners of the District of Columbia to make regulations to prevent and control the spread of communicable and preventable diseases, approved August 11, 1939 (53 Stat. 1408; D.C. Official Code § 7-131 *et seq*.), and Section 2 of Mayor's Order 98-141, dated August 20, 1998, hereby gives notice of the adoption of the following amendment to Chapter 2 (Communicable and Reportable Diseases) of Subtitle B (Public Health and Medicine) of Title 22 (Health) of the District of Columbia Municipal Regulations ("DCMR").

This rulemaking: (1) eliminates the requirement for healthcare providers to electronically report to the Department of Health immediately upon the provisional diagnosis of COVID-19; and (2) requires electronic reporting to the Department of Health immediately upon a laboratory-confirmed diagnosis of COVID-19 using a laboratory antigen test, a nucleic acid amplification test, or a polymerase chain reaction laboratory test.

This rulemaking is necessary because the spread of a contagious disease such as COVID-19 is an imminent threat to the health, safety, and welfare of District residents. However, the reporting of COVID-19 cases based on a provisional diagnosis or the appearance of suspicious symptoms results in the overreporting of cases that may not be true COVID-19 cases and may ignore influenza, respiratory syncytial virus, and other respiratory illnesses. Therefore, it is necessary that the Department of Health and the Health Information Exchange receive prompt reports of new positive test results for COVID-19 based on a laboratory antigen test, a nucleic acid amplification test, or polymerase chain reaction test and that reports based on provisional diagnosis or suspicious symptoms are not reported.

A Notice of Emergency and Proposed Rulemaking was published in the *District of Columbia Register* on March 1, 2024 at 71 DCR 002162. The emergency rule was adopted on February 16, 2024, and became effective immediately on that date. No comments were received in response to the Notice of Emergency and Proposed Rulemaking. No changes have been made to the text of the rule as proposed. The Director of the Department of Health adopted the rule as final on May 2, 2024. The final rule will be effective upon publication of this notice in the *District of Columbia Register*.

Section 201, COMMUNICABLE DISEASE SURVEILLANCE, of Chapter 2, COMMUNICABLE AND REPORTABLE DISEASES, of Subtitle B, PUBLIC HEALTH AND MEDICINE, of Title 22, HEALTH, of the District of Columbia Municipal Regulations is amended as follows:

Subsection 201.4 is amended to read as follows:

201.4 Coronavirus disease (COVID-19) shall be considered a communicable disease for the purpose of communicable disease surveillance and shall be reported electronically to the Department of Health immediately upon a laboratory-

confirmed diagnosis using a laboratory antigen test, a nucleic acid amplification test, or a polymerase chain reaction laboratory test.

DISTRICT OF COLUMBIA OFFICE OF ADMINISTRATIVE HEARINGS

NOTICE OF PROPOSED RULEMAKING

The Chief Administrative Law Judge (CALJ) of the District of Columbia Office of Administrative Hearings (OAH), pursuant to the authority set forth in Sections 8(a)(7) and 8(b)(7) of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76, D.C. Official Code §§ 2-1831.05(a)(7) and (b)(7) (2016 Repl. & 2019 Supp.)), hereby gives notice of the adoption of the following proposed rulemaking to amend Chapter 28 (Office of Administrative Hearings: Rules of Practice and Procedure) and Chapter 29 (Office of Administrative Hearings: Rules for DCPS, Rental Housing, Public Benefits, and Unemployment Insurance Cases) of Title 1 (Mayor and Executive Agencies) of the District of Columbia Municipal Regulations (DCMR).

The proposed rulemaking governs the general rules of procedure before OAH and the procedures for District of Columbia Public Schools, District of Columbia Office of the State Superintendent of Education, District of Columbia Department of For-Hire Vehicles, Rental Housing, Public Sector Worker's Compensation, Public Benefits, and Unemployment Insurance cases.

The CALJ of OAH also gives notice of the intent to take final rulemaking action to adopt these proposed rules not less than thirty (30) days from the date of publication of this notice in the *District of Columbia Register*. Directions for submitting comments may be found at the end of this notice.

Chapter 28 OFFICE OF ADMINISTRATIVE HEARINGS: RULES OF PRACTICE AND PROCEDURE, of Title 1 DCMR, MAYOR AND EXECUTIVE AGENCIES, is repealed in its entirety and replaced with:

CHAPTER 28 OFFICE OF ADMINISTRATIVE HEARINGS: RULES OF PRACTICE AND PROCEDURE

Sections

2800	**SCOPE OF CHAPTER**
2801	**APPLICABILITY OF DISTRICT OF COLUMBIA SUPERIOR COURT RULES OF CIVIL PROCEDURE**
2802	**BEGINNING A CASE AT OAH**
2803	**BEGINNING A CIVIL FINE CASE – NOTICE OF INFRACTION**
2804	**BEGINNING A CIVIL FINE CASE – NOTICE OF VIOLATION**
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2800 SCOPE OF CHAPTER

2800.1 This Chapter contains general rules of procedure for the Office of Administrative Hearings (OAH). Chapter 29 of these Rules contains rules for cases referred to OAH by the District of Columbia Public Schools (DCPS) and the District of Columbia Office of the State Superintendent of Education (OSSE); cases involving the Department of For-Hire Vehicles (DFHV) Establishment Act; rental housing; public sector workers compensation cases; public benefits cases; and unemployment insurance cases.

2800.2 These Rules do not extend or limit the jurisdiction of OAH.

2800.3 These Rules shall be used to secure the fair, speedy, and inexpensive determination of every case.

2800.4 No Administrative Law Judge shall maintain standing, chamber, or other individual rules. However, an Administrative Law Judge may issue procedural orders in individual cases.

2800.5 These Rules (Chapters 28 and 29) may be cited as "OAH Rule _____," without reference to the District of Columbia Municipal Regulations (DCMR).

2800.6 These Rules control all procedures at OAH. No procedural rules adopted by any other District of Columbia government agency apply in cases at OAH.

2800.7 These Rules apply to all filings in new or pending cases on or after **[effective date of final rulemaking]**.

2801 APPLICABILITY OF DISTRICT OF COLUMBIA SUPERIOR COURT RULES OF CIVIL PROCEDURE

2801.1 Where these Rules do not address a procedural issue, an Administrative Law Judge may refer to the District of Columbia Superior Court Rules of Civil Procedure as guidance to decide the issue.

2802 BEGINNING A CASE AT OAH

2802.1 The District of Columbia ("District") may begin a case at OAH by filing a Notice of Infraction or Notice of Violation as described in §§ 2803 and 2804, respectively.

2802.2 Any party also may begin a case at OAH by filing a request for a hearing as described in § 2805.

2802.3 Chapter 29 contains Rules for how to begin cases referred to OAH by DCPS and OSSE; cases involving DFHV; rental housing cases; public sector workers compensation cases; public benefits cases; and unemployment insurance cases.

2803 BEGINNING A CIVIL FINE CASE – NOTICE OF INFRACTION

2803.1 Section 2803 establishes procedures for cases in which the District seeks payment of a civil fine in accordance with the Civil Infractions Act (D.C. Official Code §§ 2-1802.01 –.05).

2803.2 The District shall file a Notice of Infraction, as authorized by law, at OAH when it is seeking a civil fine under § 2803. The District shall comply with §§ 2803.5 thorough 2803.10 when filing a Notice of Infraction under the Civil Infractions Act.

2803.3 The District shall only serve a copy of the Notice of Infraction on the Respondent as authorized by the Civil Infractions Act.

2803.4 If a Respondent files an answer before the District files a Notice of Infraction, OAH shall open a case. The Administrative Law Judge may require the District to file the original Notice of Infraction.

2803.5 (a) If the District serves a Notice of Infraction to the Respondent by first-class mail, it shall not file the Notice of Infraction until at least fifteen (15) calendar days after the date that it mailed the Notice of Infraction. When it files the Notice of Infraction, the District also shall file an affidavit, on a form approved by the Chief Administrative Law Judge, verifying that the United States Postal Service (USPS) did not return the Notice of Infraction to the District.

(1) If the USPS returns a Notice of Infraction to the District after it has filed the affidavit required by this Subsection, the District shall notify OAH by filing a new affidavit, on a form approved by the Chief Administrative Law Judge.

(2) If the USPS returns the Notice of Infraction to the District, the District may file proof of any alternative service of the Notice of Infraction.

(b) If the District serves a Notice of Infraction on the Respondent by electronic service, it may not file the Notice of Infraction until at least fifteen (15) calendar days after the date that it emailed the Notice of Infraction. When it files the Notice of Infraction, the District also shall file an affidavit, on a form approved by the Chief Administrative Law Judge, attesting why service at the recipient email address is reasonably calculated to give actual notice to the Respondent. An affidavit stating that the Respondent themselves provided the District with their recipient email address, or that the recipient email address was used for successful communication with Respondent within the past six (6) months, will create a presumption that electronic service to that address was valid.

(c) If the District serves a Notice of Infraction to the Respondent by personal service (hand-delivery), or by delivery to the Respondent's or other person's last known home or business address, the District also shall file an affidavit, on a form approved by the Chief Administrative Law Judge, providing specific facts from which the presiding ALJ can determine that the person served was either the Respondent (in the case of personal service) or a person of suitable age and discretion residing with or employed by the Respondent (in the case of delivery to their home or business).

(d) If the District serves a Notice of Infraction by posting the notice in accordance with D.C. Official Code § 2-1802.05(b), the District shall also file an affidavit, on a form approved by the Chief Administrative Law

Judge, explaining why the identity or location of the property owner is unknown.

2803.6 When the District files a Notice of Infraction, it shall file a copy of all exhibits it expects to offer at any hearing in the case and shall provide a copy of each exhibit to the Respondent. An Administrative Law Judge may allow the District to use exhibits that it did not file or provide in accordance with this Subsection if there is no prejudice to the Respondent.

2803.7 OAH may refuse to accept for filing or later dismiss any Notice of Infraction that does not comply with the applicable law or these Rules.

2804 BEGINNING A CIVIL FINE CASE – NOTICE OF VIOLATION

2804.1 Section 2804 establishes procedures for cases in which the District seeks payment of a civil fine in accordance with the Litter Control Administration Act (D.C. Official Code §§ 8-801 – 812).

2804.2 The District shall file a Notice of Violation, as authorized by law, at OAH, when it is seeking a civil fine. The District shall comply with § 2804.5 when filing a Notice of Violation under the Litter Control Administration Act.

2804.3 The District shall only serve a copy of the Notice of Violation on the Respondent as authorized by the Litter Control Administration Act.

2804.4 If a Respondent files an answer before the District files a Notice of Violation, OAH shall open a case. The Administrative Law Judge may require the District to file the original Notice of Violation.

2804.5 (a) If the District serves a Notice of Violation to a Respondent by certified mail, the District shall file a copy of a USPS electronic return receipt or other proof that the USPS delivered the Notice of Violation to the Respondent's address consistent with the requirements of the Litter Control Administration Act.

(b) If the District serves a Notice of Violation to a Respondent by first-class mail, the District shall file proof that the USPS delivered the Notice of Violation to the Respondent's address consistent with the requirements of the Litter Control Administration Act, which may include filing an affidavit, on a form approved by the Chief Administrative Law Judge, verifying that the United States Postal Service (USPS) did not return the Notice of Violation to the District.

(c) If the District serves a Notice of Violation by personal service (hand-delivery) to the owner, the owner's authorized agent, the building superintendent, the operator of equipment, or any other responsible

individual at the premises, the District also shall file an affidavit, on a form approved by the Chief Administrative Law Judge, providing specific facts from which the presiding ALJ can determine the identity of the person served.

(d) If the District serves a Notice of Violation by posting the notice in a conspicuous place on the premises in violation, the District also shall file an affidavit or other evidence providing specific facts regarding the time and location of posting.

2804.6 When it files a Notice of Violation, the District shall file a copy of all exhibits it expects to offer at any hearing in the case and shall provide a copy of each exhibit to the Respondent. An Administrative Law Judge may allow the District to use exhibits that it did not file or provide in accordance with this Subsection if there is no prejudice to the Respondent.

2804.7 OAH may refuse to accept for filing or later dismiss any Notice of Violation that does not comply with the applicable law or these Rules.

2805 BEGINNING A CASE BY REQUESTING A HEARING

2805.1 Unless a statute or these Rules describe a different way to begin a case, a party seeking a hearing at OAH shall file a request for hearing in writing.

2805.2 The hearing request shall not have to follow any specific format. The Clerk's office shall make blank forms to request a hearing available. A hearing request shall contain the following information:

(a) A short description of the dispute;

(b) A description of what the party wants the judge to do;

(c) Any key dates that are involved;

(d) A copy of any ruling or decision that is being disputed or appealed;

(e) The party's full name, mailing address, email address, and telephone number; and

(f) If known, the full name, mailing address, email address, and telephone number of every other party involved in the dispute.

2805.3 Parties shall pay close attention to any deadlines for filing hearing requests. The deadlines are set by statute, regulations, or agency rules other than these Rules, and not by OAH.

2805.4 Any hearing request to appeal a Child Support Services Division (CSSD) enforcement action shall include a copy of an Order of Condemnation, if any, or a copy of a CSSD notice describing the enforcement action.

2805.5 Any hearing request to appeal a proposed tax assessment, other than a proposed real property tax assessment, shall be filed with OAH and a copy served on the District of Columbia Office of Tax and Revenue. The hearing request shall state the type of tax (for example, personal, business, or franchise), tax year(s), and amount of tax appealed. The hearing request shall include a copy of the proposed tax assessment.

2805.6 Any hearing request to appeal a decision concerning a Certificate of Need shall be filed with OAH and a copy sent to the Director of the State Health Planning and Development Agency (SHPDA) in the Department of Health. SHPDA shall transfer the agency record of the proceedings to OAH within thirty (30) calendar days of service of the request for hearing.

2806 IDENTIFICATION OF PARTIES

2806.1 Any paper filed at OAH shall contain the name, mailing address, telephone number, and email address, if any, of the filer. After a case is assigned a case number, any paper filed in that case shall contain the case number.

2806.2 Any paper filed at OAH by an attorney or other representative shall identify the represented party and shall contain the District of Columbia Bar number, if any, of the attorney.

2806.3 A party, attorney, or representative shall notify the Clerk and all other parties in writing of any change in mailing address, telephone number, or email address previously provided to OAH within three (3) calendar days of the change.

2806.4 The most recent contact information provided by a party, attorney, or other representative under this Section shall be considered correct. A party or representative who does not keep an address current may fail to receive orders and may lose a case as a result.

2806.5 The Clerk may reject, or an Administrative Law Judge may strike, any paper that does not comply with this Section.

2807 SUBSTITUTION, ADDITION, AND INTERVENTION OF PARTIES

2807.1 Except when a District agency is redesignated or ceases to exist, after proper notice and an opportunity to be heard, an Administrative Law Judge may substitute a person or entity for a named party or may add parties to a case. An Administrative Law Judge may add a District agency or its contractor as a party to a case prior to

the agency's receiving proper notice and an opportunity to be heard, but the agency or contractor may object at its initial appearance or in its initial filing.

2807.2 Anyone who has an interest in the subject matter of a pending case and contends that the representation of his or her interest is inadequate may file a motion to intervene. After proper notice and an opportunity to be heard, an Administrative Law Judge may allow an interested person or entity to intervene.

2807.3 If an Administrative Law Judge grants a motion for leave to intervene, the intervenor may participate to the extent allowed by the Administrative Law Judge.

2807.4 No person or entity may intervene as a co-Petitioner with the District in any enforcement action where the District seeks a fine unless a statute allows it.

2807.5 A person or entity to which the District has properly delegated a governmental function may request to intervene, but may not be substituted for the District.

2807.6 In the case where a District agency is redesignated or ceases to exist, the Clerk shall substitute the successor agency for the predecessor agency, consistent with the relevant statutory authority.

2808 REPRESENTATION BY ATTORNEYS AND LAW STUDENTS

2808.1 An attorney may represent any party before OAH. Unless otherwise provided by statute or these Rules, only attorneys who are active members in good standing of the District of Columbia Bar, or who are authorized to practice law in the District of Columbia pursuant to Rule 49(c) of the District of Columbia Court of Appeals, may appear before OAH as a representative of a party.

2808.2 An attorney who is not a member of the District of Columbia Bar, and who is not authorized to practice law in the District of Columbia pursuant to Rule 49(c) of the District of Columbia Court of Appeals, may appear before OAH either under § 2810 or after the filing and granting of a motion to appear *pro hac vice*, in which the attorney shall declare under penalty of perjury that:

(a) I have not applied for admission *pro hac vice* in more than five (5) cases in OAH or in the courts of the District of Columbia during this calendar year. I have applied for admission *pro hac vice* in OAH and in the courts of the District of Columbia _____ (list number) times previously in this calendar year;

(b) I am a member in good standing of the bar of the highest court(s) of the State(s) of _____ (list all states);

(c) There are no disciplinary complaints pending against me for violation of the rules of the courts of those states (or describe all pending complaints);

(d) I am not currently suspended or disbarred for disciplinary reasons from practice in any court;

(e) I do not practice or hold out to practice law in the District of Columbia;

(f) I am familiar with OAH's Rules found at 1 DCMR 28 and 29;

(g) I am applying for admission *pro hac vice* for the following reason(s): _____ (list all reasons);

(h) I acknowledge the jurisdiction of OAH and the courts of the District of Columbia over my professional conduct, and agree to be bound by the District of Columbia Court of Appeals Rules of Professional Conduct, in this matter, if I am admitted *pro hac vice*; and

(i) I have informed my client that I am not a member of the District of Columbia Bar, and my client has consented to my representation in this case.

2808.3 For good cause shown, the presiding Administrative Law Judge may revoke the *pro hac vice* admission of any attorney.

2808.4 Current law students who have successfully completed forty-two (42) credit hours of law school may appear before OAH. An Administrative Law Judge may terminate a law student's representation under this Subsection at any time, for any reason, without notice or hearing. A law student practicing under this Subsection shall:

(a) Be enrolled in a law school approved by the American Bar Association;

(b) Have the consent and oversight of a supervising attorney assigned to the law student;

(c) Sign and file a Notice of Appearance in the case with the supervising attorney;

(d) Have the written permission of the client, which shall be filed in the record;

(e) Not file any paper unless the law student and supervising attorney sign it;

(f) Not appear at any proceeding without the supervising attorney;

(g) Neither ask for nor receive a fee of any kind for any services provided under this rule, except for the payment of any regular salary made to the law student;

(h) Comply with any limitations ordered by the presiding Administrative Law Judge; and

(i) Not have been denied admission to practice before the District of Columbia Court of Appeals pursuant to its Rule 48.

2808.5 An attorney supervising a law student who appears pursuant to § 2808.4 shall:

(a) Be an active member in good standing of the District of Columbia Bar;

(b) Assume full responsibility for supervising the law student;

(c) Sign and file a Notice of Appearance in the case with the law student;

(d) Assist the law student in preparation of the case, to the extent necessary in the supervising lawyer's professional judgment to ensure that the law student's participation is effective on behalf of the person represented;

(e) Appear at all proceedings with the law student; and

(f) Review and sign any paper filed by the law student.

2808.6 The District of Columbia Rules of Professional Conduct may govern the conduct of all attorneys appearing before OAH, in addition to these Rules.

2808.7 The Chief Administrative Law Judge or presiding Administrative Law Judge may enter an order restricting the practice of any attorney appearing before OAH for good cause. The restrictions may include, without limitation:

(a) Disqualification from a particular case;

(b) Suspension or disqualification from practice before OAH;

(c) A requirement that an attorney obtain ethics or other professional training or counseling; or

(d) A requirement that an attorney appear only when accompanied by another attorney with particular skills or a particular level of experience.

2808.8 The attorney shall be given notice and opportunity to be heard either before the imposition of a restriction, or as soon thereafter as is practicable.

2808.9 An Administrative Law Judge's authority under § 2808.7 is limited to restricting the practice of an attorney in a pending case based on the conduct of the attorney

in that case. Nothing in this Section limits the authority of the Chief Administrative Law Judge to enter a separate order restricting an attorney's practice before OAH.

2808.10 Any attorney appearing before OAH in a representative capacity under this Section shall provide, under his or her signature, the attorney's District of Columbia bar number, office address, and telephone number. Persons appearing (or applying to appear) under §§ 2808.2 or 2808.4 shall state, immediately under their signature, the Subsection under which they are appearing (or applying to appear), their office address, and telephone number. Persons appearing under § 2808.2 shall state the jurisdiction of their admission and shall provide the bar number, if any, from that jurisdiction, and their office address, and telephone number.

2808.11 An attorney representing a party may testify only as permitted by Rule 3.7 of the District of Columbia Rules of Professional Conduct.

2809 WITHDRAWAL OF APPEARANCE BY AN ATTORNEY

2809.1 An attorney may withdraw an appearance before a hearing date has been set if:

(a) Another attorney simultaneously enters or has already entered an appearance on behalf of the client; and

(b) The attorney files a consent to the withdrawal that the client has signed.

2809.2 If a hearing date has been set, or if the client's written consent is not obtained, or if the client is not represented by another attorney, an attorney shall move to withdraw an appearance and receive permission from the presiding Administrative Law Judge to withdraw from the case. Unless the client is represented by another attorney or the motion is made orally in front of the client and the Administrative Law Judge, the attorney shall certify that:

(a) The attorney has served the client a notice advising the client to obtain other counsel, or if the client intends to represent himself or herself, or intends to object to the withdrawal, to notify the Administrative Law Judge in writing within fifteen (15) days of service of the notice or before the next hearing date, whichever is earlier; and

(b) The attorney has served the client with a copy of the motion with a certificate of service listing the client's last known address.

2809.3 Except when an Administrative Law Judge has granted an oral motion to withdraw in the presence of the client, the order granting permission for the attorney to withdraw shall be served on the client. If no new counsel has entered an appearance or the client has not notified the Administrative Law Judge of an intention to represent himself or herself, the order shall instruct the client to arrange promptly for new counsel or be prepared to represent himself or herself.

2809.4 The presiding Administrative Law Judge may deny an attorney's motion to withdraw if the withdrawal would unduly delay the case, be unduly prejudicial to any party, or otherwise not be in the interests of justice.

2810 OTHER AUTHORIZED REPRESENTATION

2810.1 An individual may represent himself or herself in proceedings before OAH.

2810.2 Any person representing a party as permitted by this Section shall obtain the consent of the party.

2810.3 A family member or domestic partner may represent a party provided that person does not accept compensation in any form.

2810.4 In addition to an attorney authorized by § 2808, an authorized agency employee may represent an agency before OAH.

2810.5 If required by law, an Administrative Law Judge shall permit a party to be represented by another person who is not an attorney.

2810.6 An authorized officer, director, partner, or employee may represent a corporation, partnership, limited partnership, or other private legal entity before OAH.

2810.7 An individual or any representative of any entity listed in § 2810.6 may represent a party if the party has or had a contractual relationship with that individual or entity that is substantially related to the subject matter of the case (such as a landlord/tenant relationship in a civil fine case or owner/property manager relationship) and that relationship existed before the case arose.

2810.8 Section 2982 contains additional Rules for representation in unemployment compensation cases.

2810.9 Section 2972 contains additional Rules for representation in public benefits cases.

2810.10 Section 2935 contains additional Rules for representation in rental housing cases.

2810.11 Any person authorized by the United States Tax Court to represent a party before that court may represent a party before OAH in any case arising under D.C. Official Code § 2-1831.03(b)(4), and on the same basis as would be permitted by the United States Tax Court.

2810.12 The Chief Administrative Law Judge or presiding Administrative Law Judge may enter an order restricting the practice of any non-attorney representative appearing at OAH.

2810.13 The non-attorney representative shall be given notice and opportunity to be heard either before the imposition of a restriction under § 2810.12, or as soon thereafter as is practicable.

2810.14 An Administrative Law Judge's authority under § 2810.12 is limited to restricting the practice of a non-attorney representative in a pending case based on the conduct of the non-attorney representative in that case. Nothing in this Section limits the authority of the Chief Administrative Law Judge to enter a separate order restricting a non-attorney representative's practice before OAH.

2811 FILING OF PAPERS AND EXHIBITS; REPRESENTATIONS TO OAH

2811.1 (a) A "paper" means any pleading, motion, exhibit or witness list, or any other written submission filed with OAH.

(b) An "exhibit" means a document, photograph, an audio or video recording, an electronic item, or any non-documentary or physical evidence filed with a paper or offered into evidence at a proceeding.

2811.2 Any paper filed at OAH shall be legible and signed by a party or a party's representative.

2811.3 To file any paper at OAH, a person shall bring; mail; fax; email to oah.filing@dc.gov; submit via the eFiling portal; or have the paper delivered to the Clerk's office during regular business hours from 9:00 a.m. to 5:00 p.m. on a business day.

(a) A paper is filed on the day the Clerk's office receives it during business hours, except as provided in §§ 2811.4, 2811.5, and 2811.6.

(b) This Section permits any party to file papers by email with OAH or via the eFiling portal and the District to file data electronically. It also permits OAH to serve orders and notices by e-mail. The filing of any paper by email or via the eFiling portal following the procedures set forth in this Section constitutes filing for all purposes under these Rules.

2811.4 The filing date of a fax transmission shall be determined as follows:

(a) The filing date is the date on which the fax is received in the Clerk's office between the hours of 9:00 a.m. and 5:00 p.m. If a paper is received on a date or at a time when the Clerk's office is not open, the paper shall be deemed to have been filed when the Clerk's office is next open.

(b) A party filing a paper by fax is responsible for delay, disruption, interruption of electronic signals, and legibility of the paper, and accepts the risk that the paper may not be filed.

(c) Any incomplete or illegible fax shall not be considered received unless a hard copy of the fax is filed or a complete and legible fax is received within three (3) calendar days of the first transmission. In a response to a motion, the Administrative Law Judge may extend this time.

2811.5 The filing date for an email filing received in the correct OAH email box before 5:00 p.m. on any OAH business day shall be the date it is received. The filing date for an email filing received at other times shall be the next day that the Clerk's Office is open for business. The date and time recorded in the correct OAH email box shall be conclusive proof of when an email filing was received.

2811.6 The filing date for a paper received and date-stamped through the eFiling portal before 5:00 pm on any OAH business day shall be the date it is received, which the Clerk's office shall communicate by email through the eFiling portal. The filing date for an eFiling portal paper received at other times shall be the next day that the Clerk's office is open for business. The date and time recorded on the eFiling portal date stamp shall be conclusive proof of when the paper was filed.

2811.7 A party filing any paper by email or by the eFiling portal is responsible for any delay, disruption, or interruption of electronic signals, as well as for the legibility and completeness of the transmitted image, and accepts the risk that the paper may not be filed.

2811.8 (a) All papers, documentary exhibits, and photographic exhibits to be filed by email or via eFiling portal shall be in portable document format (PDF). The papers shall be attached to an email, and not contained in the body of the email itself.

(b) Audio and video exhibits filed with a paper shall be filed on a flash drive with the Clerk's office.

2811.9 OAH may reject any email filings that do not conform to this Section.

2811.10 Pursuant to § 2806, every paper filed by email or via eFiling portal shall contain:

(a) The name, mailing address, telephone number, and email address of the person filing it;

(b) The case number assigned by OAH, or a statement that a case number has not yet been assigned; and

(c) A brief description of the paper (for example, "request for hearing in a Medicaid matter," "motion for new hearing date for an unemployment hearing," "exhibits/documents for hearing in rental housing case").

2811.11 A filing that does not contain the information in § 2811.10 is subject to rejection. A cover page that can be used to satisfy this requirement is available at OAH. The "subject" line of the email shall also contain a brief description of the paper.

2811.12 If a paper filed by email or via eFiling portal is rejected, the party shall be notified by email. A rejected paper does not constitute a filing at OAH.

2811.13 Every filing made by email or via the eFiling portal shall contain either a signature image or a typed signature. A paper filed by email by an unrepresented party, that does not contain a signature as required by this Subsection, shall not be rejected on that basis alone.

2811.14 The certification requirement of this Section shall apply to all papers filed by email and via the eFiling portal.

2811.15 A party or representative filing a paper with OAH certifies in good faith that the party or representative:

(a) Has read the paper;

(b) Is not presenting it for any improper purpose, such as to harass, to cause unnecessary delay, or to increase the cost of litigation needlessly;

(c) Any legal contentions are warranted by existing law or a good faith argument to change existing law; and

(d) Any factual contentions have or are likely to have evidentiary support.

2811.16 If, after notice and an opportunity to respond, an Administrative Law Judge determines that an attorney or representative has violated this Section, the Administrative Law Judge may impose sanctions, including those authorized by §§ 2808.7 and 2810.12.

2812 HOW TO SERVE A PAPER

2812.1 "Service" of a paper or to "serve" a paper means to send or deliver the paper as set forth in this Section.

2812.2 Every paper filed at OAH shall be served on the other parties or their attorneys or representatives no later than the day it is filed with OAH. Exceptions may be identified in these Rules, by statute, or by OAH order.

2812.3 Unless otherwise ordered by an Administrative Law Judge or agreed by the parties, service shall be made by delivering a copy, mailing a copy, or sending a copy by commercial carrier. Service on an attorney for a party, or on a District agency through its Office of the General Counsel, designee, or its contractor, may be made by emailing a copy.

2812.4 Service by delivery means:

(a) Handing a copy of a paper to the party or a representative;

(b) Leaving a paper at the party's or representative's place of business with an employee; or

(c) Leaving a paper at the party's residence with an adult who lives there.

2812.5 Service by mail means mailing a properly addressed copy of a paper with first-class postage by depositing it with the United States Postal Service.

2812.6 Service by email means emailing a legible copy of a paper to the correct email address without the system receiving a reply that the email could not be delivered.

2812.7 Service by commercial carrier means giving a copy of a paper, properly addressed to the commercial carrier with the cost of delivery pre-paid for delivery within three calendar days.

2812.8 Unrepresented parties may consent to service by email or other means of service and may withdraw their consent. Both consent and withdrawal of that consent shall be in writing.

2812.9 Any paper filed shall include a signed statement that the paper was served on the parties. This statement is known as a "certificate of service." The certificate of service shall identify the individual serving the paper, the parties and addresses served, the way the paper was served, and the date served.

2812.10 The Clerk may reject, or an Administrative Law Judge may strike, a paper if a party fails to file a certificate of service with the paper.

2812.11 A party's actual receipt of a paper shall bar any claim by the party of defective service except for a claim of late service.

2812.12 A party shall send a copy of any paper filed by email (except a request for a hearing that begins a case) to all other parties, and shall include a certificate of service as required by § 2812.9. A party may not send the copy by email unless the other party consents, pursuant to this Section.

2812.13 The five (5) additional days added to the response times by § 2813.5 do not apply to orders, notices, or papers served by email, even if they are also served by other means.

2812.14 Unless otherwise ordered, a party who files or serves any original paper by email shall keep the original until after the case is concluded and the time for any appeals

has expired. The party shall make the original available for inspection upon request of another party after prior reasonable notice filed with OAH. This Section shall not limit the authority of an Administrative Law Judge to order production of the original.

2812.15 Parties agreeing to service by email are responsible for monitoring their email accounts, including spam (bulk or junk) folders, and for opening the emails.

2812.16 The Clerk may serve orders and notices by email to any party who provides an email address and consents, in writing or on the record, to receiving papers by email. The party shall ensure that the Clerk has an accurate, up-to-date email address. In an emergency, without a party's advance consent, the Clerk may serve orders and notices by email in addition to any other authorized method of service.

2812.17 If the District seeks to begin a case at OAH by filing a Notice of Infraction or a Notice of Violation pursuant to §§ 2803 and 2804, the District may transfer to OAH data from the Notice of Infraction or the Notice of Violation by electronic means, pursuant to prior technical arrangements with OAH. The electronic transfer by itself neither begins a case nor satisfies the District's obligations under §§ 2803 and 2804. The District shall file the Notice of Infraction or Notice of Violation and its attachments, substantially in the form provided to the Respondent, with the proof of service.

2813 CALCULATING DEADLINES

2813.1 This Section applies to all time periods, whether set by these Rules, by an OAH order, or by any applicable law, unless a statute or specific regulation provides otherwise.

2813.2 When an action shall or may be taken within a specified number of days after an act or event, the day of the act or event shall not be counted against the days allowed. If OAH is closed on the day that is the specified number of days after the act or event, then the last day for taking the action is the next day that OAH is open.

2813.3 When an action shall or may be taken at least a specified number of days before an act or event, the day of the act or event shall not be counted toward the required number of days. If OAH is closed on the day that is the specified number of days before the act or event, then the last day for taking the action is the next day that OAH is open.

2813.4 In computing any time period measured in hours:

(a) If any period expires before 10:00 a.m. on any day OAH is open, the period shall be extended to 10:00 a.m. on that day;

(b) If any period expires after 4:00 p.m. on any day, the period shall be extended to 10:00 a.m. on the next day OAH is open; and

(c) If any period expires on a day OAH is closed, the period shall be extended to 10:00 a.m. on the next day OAH is open.

2813.5 Unless a statute or regulation provides otherwise, when a party may or shall act within a specified time period, measured in days, after service of a document:

(a) The specified time period shall apply if the document is served no later than 5:00 p.m. by a successfully completed hand-delivery, or email transmission. If service by one of these methods is completed after 5:00 p.m., the document shall be deemed served the following day.

(b) One (1) day shall be added to the specified time period if the document is served by being delivered to or picked up by a commercial delivery service for next-day delivery.

(c) Five (5) days shall be added to the specified time period if the document is served by being placed in the United States mail (postage paid) or in District of Columbia Government inter-agency mail.

(d) Service is deemed complete when sent.

2813.6 When a party may or shall act within a specified time period, an Administrative Law Judge for good cause shown may reduce the time or extend it, even after the period has expired, except for any period prescribed by law, any period provided under § 2833, or any ten (10) day period provided under § 2828.

2813.7 Any reference to "days" in an OAH order or in these Rules means calendar days unless specifically designated otherwise.

2814 ANSWERS IN CIVIL FINE CASES

2814.1 To answer a Notice of Infraction or a Notice of Violation (both "Notice"), a Respondent shall file the Respondent's copy of the Notice at OAH. The Respondent shall indicate on the Notice whether the Respondent's answer is Admit, Admit with Explanation, or Deny.

2814.2 If a Respondent does not file the Respondent's copy of the Notice, a written answer shall be sufficient if it contains both the number of the Notice and a statement whether the Respondent's answer is Admit, Deny, or Admit with Explanation.

2814.3 A Respondent is not required to send a copy of the answer to the District. OAH shall send the District a copy of every answer of Deny or Admit with Explanation.

2814.4 A Respondent whose answer is Admit shall pay the fine specified on the Notice when filing the answer. A Respondent who pays the fine without stating a plea shall be deemed to have pleaded Admit.

2814.5 If a Respondent's answer is Deny, OAH ordinarily shall schedule a hearing and shall notify the Respondent and District, in writing, of the hearing date and time. The hearing order shall contain additional information about procedures for the hearing.

2814.6 If a Respondent's answer is Deny, an Administrative Law Judge may decide the case based on the papers submitted, without an in-person hearing, if the Administrative Law Judge determines that a hearing is unnecessary and after giving the District notice and an opportunity to respond.

2814.7 At least five (5) calendar days before any hearing date, the Respondent shall file with OAH, and also shall serve on the District copies of all exhibits that the Respondent intends to ask the Administrative Law Judge to consider at the hearing. An Administrative Law Judge may allow a Respondent to use exhibits at a hearing that the Respondent did not file or provide to the District before the hearing if there is no prejudice to the District.

2814.8 If a Respondent's answer is Admit with Explanation, a Respondent shall submit a written explanation stating why the Respondent believes the Administrative Law Judge should reduce or suspend the fine or any penalty. The Respondent also shall submit any papers, photographs, or other materials supporting the Respondent's explanation.

2814.9 OAH shall send a copy of an answer of Admit with Explanation and supporting materials to the District, and shall allow the District twenty-one (21) calendar days to reply. The District shall send the Respondent a copy of all papers the District files in reply.

2814.10 The Administrative Law Judge shall decide Admit with Explanation cases by considering all the materials filed by the parties, including any exhibits filed with the Notice, Respondent's explanation and supporting materials, and the District's reply and supporting materials. The Administrative Law Judge shall hold a hearing only if the parties' materials are not sufficient to allow him or her to decide the case.

2814.11 In an Admit with Explanation case, the Administrative Law Judge shall dismiss the Notice if he or she determines that the Respondent did not commit or is not responsible for the violation charged.

2814.12 In all civil fine cases, an Administrative Law Judge shall not impose a fine that exceeds the fine amount the District requests.

2815 DEFAULTS IN CIVIL FINE CASES

2815.1 This Section contains rules for deciding civil fine cases in which the Respondent does not file an answer.

2815.2 (a) In a Civil Infractions Act or a Litter Control Administration Act case, if a Respondent fails to answer within the time allowed by law, an Administrative Law Judge shall determine whether:

(1) The District has submitted evidence of proper service; and

(2) The Notice of Infraction or Notice of Violation meets all legal requirements on its face.

(b) If an Administrative Law Judge determines the requirements of § 2815.2(a) have been met, the Administrative Law Judge shall find the Respondent in default and shall impose the legally authorized fine and penalty. If not, the Administrative Law Judge shall dismiss the Notice of Infraction or Notice of Violation without prejudice.

2815.3 In a Civil Infractions Act case, if the USPS returns an order finding the Respondent in default to the Clerk's Office, for reasons that call into question the accuracy of any affidavit filed under §§ 2803.5 through 2803.10, (for example, "no such address," "addressee unknown"), an Administrative Law Judge may issue an order requiring the District to show why the default order should not be vacated. If the District does not respond with sufficient evidence showing that it mailed the Notice of Infraction to a valid address for the Respondent, the default order shall be vacated and the Notice of Infraction shall be dismissed.

2815.4 In default cases brought under acts other than the Civil Infractions Act or the Litter Control Administration Act, the procedure shall be consistent with the applicable law and shall ensure that:

(a) There is sufficient evidence of proper service on the Respondent; and

(b) The charging document meets all legal requirements on its face.

2815.5 A Respondent who fails to answer shall be held in default and shall pay the legally authorized fine and penalty. If the Administrative Law Judge does not find the Respondent in default, the Administrative Law Judge shall dismiss the Notice without prejudice.

2816 INVOLUNTARY DISMISSALS AND DEFAULTS

2816.1 Except as provided in § 2816.2, if the party initiating a case fails to comply with an Administrative Law Judge's order or these Rules or otherwise fails to prosecute the case, the Administrative Law Judge may, on his or her own motion or on the motion of the opposing party, dismiss all or part of the case. Dismissal shall ordinarily be with prejudice unless the Administrative Law Judge finds good cause to dismiss without prejudice.

2816.2 Dismissals for defective service shall be without prejudice, unless the Administrative Law Judge decides otherwise.

2816.3 If an attorney, representative, or unrepresented party fails, without good cause, to appear at a hearing, the Administrative Law Judge may dismiss the case, enter an order of default, decide the case on the merits, or impose other sanctions.

2816.4 If an attorney, representative, or unrepresented party fails, without good cause, to appear at a prehearing or status conference or a mediation session, the Administrative Law Judge may determine the appropriate sanction, which may include dismissal or entry of default.

2817 MOTIONS PROCEDURE

2817.1 A "motion" is a request for an Administrative Law Judge to take some action. Before filing any motion (except a motion for summary adjudication, voluntary dismissal, reconsideration, relief from a final order, attorney's fees, or sanctions), a party shall make a good faith effort to ask all other parties if they agree to what the motion requests. The motion shall describe that good faith effort and say whether the other parties agreed to what the motion requests. If a party fails to comply with this § 2817.1, an Administrative Law Judge may deny the motion.

2817.2 Unless made during a hearing, all motions shall be in writing. Parties may choose to file, or an Administrative Law Judge may require the parties to file, briefs (written arguments) in support of or in opposition to a motion. The required format and structure for motions shall be as follows:

(a) Without permission from an Administrative Law Judge, no motion or response (or any brief in support of or in opposition to a motion) shall exceed twenty (20) one and one-half (1.5)-spaced typed pages in length, excluding exhibits.

(b) The font size of a motion, response, or brief shall be at least twelve (12) points, with no less than one-inch margins.

(c) The first page of a motion, response, or brief shall include: the parties' names, the case number, and the name of the presiding Administrative Law

Judge, if known. The last page shall include a certificate of service that complies with § 2812.9 .

(d) A motion shall state what the party wants the Administrative Law Judge to do and why.

2817.3 When a motion is based on information not on the record, a party may support or oppose the motion with affidavits, declarations, or other papers.

2817.4 Except as otherwise ordered by an Administrative Law Judge, a separate memorandum of points and authorities shall not be filed with a motion.

2817.5 Before filing a motion to schedule or reschedule a hearing or status conference, a party shall make a good faith effort to consult with all other parties and seek agreement on two (2) or more acceptable dates and times for the hearing or status conference.

2817.6 Unless otherwise provided by these rules or ordered by an Administrative Law Judge, all parties opposing a motion shall have fourteen (14) calendar days from the service of the motion to file and serve a response. Further filings related to the motion are not permitted and may be rejected unless ordered by an Administrative Law Judge.

2817.7 The Administrative Law Judge may decide any motion without holding a hearing. No motion, including a motion to extend time, to continue a hearing, or to seek other relief, shall be effective until an Administrative Law Judge decides the motion in writing. Parties may contact OAH to learn if an Administrative Law Judge has decided a motion.

2817.8 The Administrative Law Judge may decide a motion regarding scheduling or rescheduling without waiting for a response.

2818 VOLUNTARY DISMISSALS OF CASES

2818.1 The party initiating the case may move to dismiss the case at any time, and the Administrative Law Judge may grant the motion without waiting for a response from the opposing side.

2818.2 An opposing party who objects to the voluntary dismissal of a case may file a motion for reconsideration as provided in § 2830.

2818.3 The parties may file a joint motion for dismissal of a case with or without prejudice.

2818.4 Dismissal under this Section shall be without prejudice unless an Administrative Law Judge orders otherwise. A dismissal with prejudice may occur:

(a) If the party requesting dismissal has previously dismissed the claim;

(b) If the motion for dismissal is made pursuant to a settlement that does not specifically require dismissal without prejudice; or

(c) In order to prevent harm to the other side.

2818.5 For any pending case, the agency issuing the Notice of Infraction or Notice of Violation shall file a Notice of Voluntary Dismissal with OAH within five (5) business days of any of the following occurring:

(a) Payment of all fines cited in the subject Notice, and any applicable penalties, pursuant to an Admit plea submitted under § 2814.4.

(b) Any settlement of the case or change of plea occurring prior to entry of a Final Order, including any settlements involving a waiver of fines upon abatement or acceptance of partial payment in full satisfaction of all outstanding fines and penalties.

2818.6 A Notice of Voluntary Dismissal filed pursuant to § 2818.5 shall reference one of the grounds above, if applicable.

2818.7 If a default order or Final Order is inadvertently entered by OAH due to an agency's failure to timely file a Notice of Voluntary Dismissal in accordance with this Rule, the agency shall file a Motion to Vacate in accordance with § 2830.11 within five (5) business days of service of the Final Order.

2819 SUMMARY ADJUDICATION

2819.1 A party may move for an Administrative Law Judge to decide a case or part of a case summarily, without an evidentiary hearing, by filing a motion for summary adjudication. A motion for summary adjudication that relies on factual assertions shall include a statement of undisputed facts that support the decision requested by the party. A statement of undisputed facts sets forth facts that matter to the case and that the party has reason to believe are not or will not be genuinely disputed by the other party or parties. A motion for summary adjudication may include affidavits, declarations under penalty of perjury, exhibits, and a discussion of controlling legal authority.

2819.2 The party opposing a motion for summary adjudication may file a statement indicating for each fact set forth in the statement of undisputed facts whether the party admits the fact, denies the fact, or does not have sufficient information to admit or deny the fact. The party's opposition to the motion for summary adjudication may also include affidavits, declarations under penalty of perjury, exhibits, and a discussion of controlling legal authority.

2819.3 The Administrative Law Judge may treat as undisputed any facts set forth in the statement of undisputed facts that are not disputed by the opposing party. The Administrative Law Judge may also conduct a hearing on whether facts that matter to the case are genuinely in dispute.

2819.4 If the undisputed facts support the decision requested by the moving party, the Administrative Law Judge may grant a summary adjudication for the moving party.

2820 MEDIATION

2820.1 Mediation is a process of assisted, informal negotiation which uses a neutral third party, the mediator, to aid the parties in exploring the possibility of settlement. No party shall be compelled to accept a settlement or other resolution of the dispute in mediation.

2820.2 At any time during case proceedings, an Administrative Law Judge may refer a case for mediation to a qualified mediator with or without the consent of the parties. Any party may request an Administrative Law Judge to refer a case for mediation.

2820.3 Mediations are confidential and shall be closed to the public. Mediations shall not be recorded electronically or in any other manner, with or without the consent of the parties. Evidence of anything that occurs during mediation sessions and documents prepared exclusively for or during mediation shall not be introduced into evidence or otherwise disclosed to the presiding Administrative Law Judge. Nothing in this Subsection prohibits the introduction or disclosure of information or evidence that any party obtained outside of mediation.

2820.4 The mediator may speak privately with any party or any representative during the mediation process.

2820.5 The mediator shall not disclose anything that occurs at mediation to the presiding Administrative Law Judge except to report without elaboration:

(a) Whether the parties reached an agreement; and, if not

(b) Whether he or she believes further mediation would be productive.

2820.6 The mediator shall not be called to testify, participate in discovery, or otherwise provide information in any subsequent proceeding related to the mediation.

2820.7 An Administrative Law Judge who conducts mediation shall not be the Administrative Law Judge in any subsequent proceedings for the case, but, with the consent of the parties, may issue an order on procedural matters concerning the mediation or reflecting any agreement reached during the mediation.

2820.8 All parties or their representatives shall appear for any mediation session. Any representative who appears shall have authority to resolve the case.

2820.9 If a party or representative fails to appear at a scheduled mediation session without good cause, the mediator shall notify the presiding Administrative Law Judge, who may impose an appropriate sanction, which may include dismissal or entry of default.

2821 DISCOVERY, EXPERT, AND OPINION TESTIMONY

2821.1 Discovery is generally not permitted. An Administrative Law Judge may authorize discovery for good cause shown, but interrogatories and depositions are disfavored.

2821.2 A party may move for an Administrative Law Judge to issue a subpoena to require any non-party to provide documents prior to the hearing in accordance with §§ 2824, 2934, 2975, and 2984, as applicable.

2821.3 Any motion for discovery shall explain the relevance of the information that is sought and shall describe all attempts to obtain consent from the opposing party, including a description of all discovery to which the opposing party has agreed.

2821.4 Unless otherwise ordered by an Administrative Law Judge, any motion for discovery shall be filed at least twenty (20) calendar days before the date of any scheduled evidentiary hearing.

2821.5 An Administrative Law Judge may impose appropriate sanctions if a party fails to comply with a discovery request, including prohibiting the party from offering evidence and ordering that specific facts are established.

2821.6 At an Administrative Law Judge's discretion, a witness may be allowed to offer opinion testimony even if the witness is not qualified by an Administrative Law Judge as an expert in a particular subject matter. A party wishing to present expert or other opinion testimony may disclose to the other parties in writing, a reasonable time prior to the witness's testimony, some or all of the following:

(a) The witness's identity and professional experience (a resume or curriculum vitae);

(b) The opinions to which the witness expects to testify;

(c) A short and plain statement of the basis for each opinion to which the witness expects to testify; and

(d) If the witness expects to base an opinion on publications, a list of those publications.

2821.7 The disclosures under § 2821.6 may be prepared by someone other than the witness. A party may be required to make any or all of these disclosures by order of an Administrative Law Judge.

2821.8 For good cause shown, including undue prejudice to a party, an Administrative Law Judge may limit, postpone, or refuse to allow expert or other opinion testimony. In deciding whether a witness may offer expert or other opinion testimony and in assessing how much weight to give to such testimony, an Administrative Law Judge may consider the adequacy, timing, or absence of the disclosures described in § 2821.6 as well as any failure to make an ordered disclosure.

2822 BURDEN OF PROOF

2822.1 Unless otherwise established by law, the proponent of an order shall have the burden of proof, that is, the requirement to persuade the Administrative Law Judge on every contested factual issue.

2822.2 Unless otherwise established by law, the burden of production, that is, the requirement to introduce evidence first, shall be as follows:

(a) Whenever a party challenges the District's denial of an application for a license, permit, or public benefit, the District shall have the burden of producing sufficient evidence to establish the reasons for the denial;

(b) Whenever the District suspends, revokes, or terminates a license, permit, or public benefit, or proposes to do so, the District shall have the burden of producing sufficient evidence to establish the reasons for its action;

(c) The party asserting an affirmative defense identified in District of Columbia Superior Court Civil Rule 8(c) shall have the burden of producing sufficient evidence to establish that defense; and

(d) The party asserting an exception to the requirements or prohibitions of any statute or rule shall have the burden of producing sufficient evidence to establish that exception.

2822.3 Otherwise, an Administrative Law Judge shall allocate the burden of producing evidence to promote fairness, equity, substantial justice, and sound judicial administration.

2822.4 If a party has presented all of its evidence on an issue on which it has the burden of proof, and the presiding Administrative Law Judge concludes that the party has failed to meet its burden, the Administrative Law Judge may find against that party on that issue without awaiting the close of all the evidence in that case.

2823 HEARINGS AND EVIDENCE

2823.1 The presiding Administrative Law Judge shall determine whether a hearing is required by law in any case.

2823.2 Unless otherwise ordered by an Administrative Law Judge, at least five (5) calendar days before any evidentiary hearing (except in unemployment compensation cases governed by § 2983.1 or in DFHV cases), a party shall serve on all other parties and file with the Clerk the following:

(a) A list of the witnesses, other than a party or a charging inspector, whom the party intends to call to testify, including their address and telephone number if available; and

(b) An exhibit list, including a numbered copy of each exhibit that the party intends to offer into evidence, other than exhibits that were served with the Notice of Violation, Notice of Infraction, or Answer or are to be used solely for impeachment or rebuttal.

2823.3 The Administrative Law Judge may exclude any witnesses or exhibits not disclosed under § 2823.2 if he or she finds that the opposing party would be prejudiced by the failure to disclose.

2823.4 (a) An Administrative Law Judge shall have the sole discretion to determine whether a proceeding or part of a proceeding will be conducted in person, via teleconference, or via videoconference.

(b) Subject to a party's right to request to appear in person or via videoconference, teleconferencing shall be presumptively used for pre-hearing conferences, status conferences and motion hearings.

(c) By OAH policy, The Chief Administrative Law Judge shall establish the presumed manner of conducting evidentiary hearings.

(d) An in-person hearing shall be held only in an OAH courtroom, except as otherwise provided in this Section. An in-person hearing may be held in another physical location only as required by law or in exceptional circumstances with approval of the Chief Administrative Law Judge. An Administrative Law Judge may permit a party to appear or a witness to testify at an in-person hearing from a remote location by telephone, videoconferencing, or similar means. Unless otherwise permitted or ordered by an Administrative Law Judge, representatives of a party shall not appear by telephone at an in-person hearing.

(e) An Administrative Law Judge may determine the manner and extent of the use of teleconferencing or videoconferencing, and may require participants to attend court proceedings, in whole or in part, in whatever manner they deem appropriate.

(f) Any party may request that a hearing may be conducted in an alternate platform or in-person if scheduled remotely. Any request to change the

platform in which a hearing is to be conducted shall comply with § 2817 regarding the filing of motions. In considering a request to change the way a proceeding is conducted, the Administrative Law Judge shall consider:

(1) The capabilities of the Administrative Law Judge and the parties to participate in the platform to be used, including whether any necessary parties are unable to participate in the proceeding because of lack of technology, poor connectivity, actual inability to use technology, or inability to physically appear;

(2) Whether the other necessary parties consent to the request;

(3) Whether the platform to be used for the proceeding will facilitate the presentation of evidence in the case;

(4) Whether the platform to be used for the proceeding will prejudice either party, either positively or negatively; and

(5) Any other factors that the Administrative Law Judge may determine to be relevant.

2823.5 Parties shall have the following rights at a hearing:

(a) To testify and to have other witnesses testify for them;

(b) To cross-examine witnesses called by another party;

(c) To request that any prospective witness be excluded from the courtroom;

(d) To examine all exhibits offered into evidence by another party;

(e) To object to the admission of any testimony or other evidence;

(f) To subpoena witnesses, as provided in § 2824; and

(g) To appear with a representative, as provided in §§ 2808 and 2810.

2823.6 At a hearing, all parties may present evidence. "Evidence" includes testimony by the parties and by any witnesses; papers; photographs; or any other items that a party believes may help the Administrative Law Judge decide the case. The Administrative Law Judge shall decide what evidence shall become part of the record.

2823.7 Testimony in any hearing ordinarily will be given in open court. An Administrative Law Judge may exclude testimony given by any other means, unless otherwise permitted by statute or these Rules.

2823.8 For good cause shown, an Administrative Law Judge may permit a witness to submit written testimony in advance of the hearing, subject to cross-examination and redirect examination at the hearing.

2823.9 For good cause shown, an Administrative Law Judge may allow parties to submit pre-recorded testimony subject to appropriate safeguards including cross-examination.

2823.10 All witnesses shall testify under penalty of perjury. Nothing in this Subsection forbids the admission of an affidavit or other written statement under penalty of perjury.

2823.11 Hearsay evidence (generally, a statement by a person not present at the hearing) is admissible. When hearsay evidence is admitted, the Administrative Law Judge shall assess the reliability of the evidence to determine the weight it should be assigned. An Administrative Law Judge shall consider the speaker's absence in evaluating the evidence.

2823.12 In determining the admissibility and weight of evidence, an Administrative Law Judge may use the Federal Rules of Evidence for guidance, but they shall not be binding.

2823.13 An Administrative Law Judge may limit or exclude testimonial or documentary evidence to avoid surprise or prejudice to other parties, repetition, or delay.

2823.14 Whenever any applicable law or order requires or permits the filing of an affidavit or other writing signed under oath, the signer may submit a written declaration in substantially the following form:

"I declare under penalty of perjury that the foregoing is true and correct. Signed on (date).

____(Signature)_____
(Printed or typed name)"

2823.15 All Administrative Law Judges are authorized to administer oaths.

2824 SUBPOENAS FOR WITNESSES AND FOR DOCUMENTS AT HEARINGS

2824.1 Except as provided in § 2824.5 (unemployment compensation and rental housing cases), a subpoena for the appearance of witnesses and production of documents at a hearing shall only be issued by an Administrative Law Judge.

2824.2 A party may request a subpoena in writing, or an Administrative Law Judge may issue a subpoena without a party's request. Subpoenas and forms to request a subpoena are available from the Clerk's Office.

2824.3 To request a subpoena, unless otherwise authorized by an Administrative Law Judge, a party shall file a motion that states the relevance of the requested testimony or documents with a copy of the proposed subpoena. An Administrative Law Judge may modify the proposed subpoena.

2824.4 Unless otherwise provided by law or order of an Administrative Law Judge, any request for a subpoena shall be filed no later than seven (7) calendar days prior to the hearing.

2824.5 In unemployment compensation and rental housing cases, the Clerk shall, without an order of the Administrative Law Judge, issue the following subpoenas at the request of a party:

(a) For subpoenas in unemployment compensation cases, refer to Section 2984.

(b) For subpoenas in rental housing cases, refer to Section 2934.

(c) When the Clerk issues a subpoena authorized by this Subsection, the Clerk shall sign it, but otherwise leave it blank. The party requesting the subpoena shall fill in the remaining information on the subpoena form.

(d) If a party in an unemployment insurance or rental housing case wants to obtain any subpoena not authorized by this Subsection, the party shall request an Administrative Law Judge to issue that subpoena in accordance with §§ 2824.1 through 2824.4.

2824.6 It is the responsibility of the requesting party to serve a subpoena in a timely fashion. Any person, including a party, who is at least eighteen (18) years of age, may serve a subpoena.

2824.7 Service of a subpoena for a witness to appear at a hearing shall be made by personally delivering the subpoena to the witness, or as consented to by the person or entity served, or as ordered by an Administrative Law Judge. Unless otherwise ordered by an Administrative Law Judge, service shall be made at least seven (7) calendar days before the hearing.

2824.8 A subpoena for the production of documents shall be directed to either an individual, a corporation, the District, or another entity.

2824.9 A subpoena to produce documents shall be served by any of the following means:

(a) Handing it to the person or to a representative of the person or entity;

(b) Leaving it at a person's office with a responsible adult, or if no one is available, leaving it in a conspicuous place in the office;

(c) Leaving it with a responsible adult at an entity's office that is connected to the case;

(d) Mailing it to the last known address of the person;

(e) Mailing it to the last known address of an entity's office connected to the case; or

(f) Delivering it by any other means, including electronic means, if consented to in writing by the person or entity served, or as ordered by an Administrative Law Judge.

2824.10 A person or entity ordered by subpoena to produce documents:

(a) Shall not appear in person at the hearing unless ordered by an Administrative Law Judge to produce the documents at a hearing;

(b) Shall produce the documents as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the subpoena; and

(c) Shall expressly make any claims of privilege or protection with a description of the documents not produced that is sufficient to enable the requesting party to contest the claim.

2824.11 A subpoena may be served at any place within the District of Columbia, or at any place outside the District of Columbia that is within twenty-five (25) miles of the place of the hearing.

2824.12 Upon order of an Administrative Law Judge, to prove service of a subpoena, a party shall file a written statement or shall provide in-court testimony describing the date of service, manner of service, and names of the persons served.

2824.13 The recipient of a subpoena, or any party to the case, may file and serve a motion to quash or modify the subpoena. An Administrative Law Judge may quash or modify the subpoena for any reason, including, but not limited to, if the subpoena:

(a) Was issued under §§ 2824.5, 2934.1 or 2984.1, but does not meet the requirements of those Subsections;

(b) Was improperly served;

(c) Fails to allow reasonable time for compliance;

(d) Requires a person who is not a party or an officer of a party to travel to a hearing more than twenty-five (25) miles from where that person resides, is

employed, or regularly transacts business, except that such a person may be ordered to appear by telephone;

(e) Requires disclosure of privileged or other protected information; or

(f) Subjects a person or entity to undue burden or expense.

2824.14 If a person or entity disobeys a subpoena, an Administrative Law Judge may order compliance with the subpoena, as authorized by D.C. Official Code § 2-1831.09(b)(1). If a person subject to the order fails to comply, the Administrative Law Judge may impose sanctions as authorized by D.C. Official Code § 2-1831.09(b)(8). A party may apply to the Superior Court of the District of Columbia for an order to show cause why that person should not be held in civil contempt, as authorized by D.C. Official Code § 2-1831.09(e).

2825 CONSOLIDATION AND SEPARATE HEARINGS

2825.1 When cases involve a common question of law or fact, or when multiple Notices of Violation or Notices of Infraction have been issued to the same Respondent, an Administrative Law Judge may, in his or her discretion:

(a) Consolidate the cases for all or any purposes; or

(b) Order a joint hearing on all or any issues.

2825.2 An Administrative Law Judge may consolidate cases or order a joint hearing on motion of a party or on the Administrative Law Judge's own motion.

2825.3 An Administrative Law Judge may order a separate hearing on any issue in a case where appropriate.

2826 LANGUAGE INTERPRETATION

2826.1 OAH shall provide oral or sign language interpretation services upon request for persons seeking information or participating in a hearing. An Administrative Law Judge may order the use of such services at a hearing. Only interpreters arranged by OAH shall be used during hearings.

2826.2 A person who needs oral or sign language interpretation services for a hearing shall request them as early as possible to avoid delay.

2826.3 Upon request by a party with impaired vision, OAH shall provide official documents in Braille or large print within seven (7) business days.

2826.4 An interpreter at a hearing shall swear or affirm to interpret accurately, completely, and impartially to the best of the interpreter's skills and judgment.

2827 COURTROOM PROCEDURE

2827.1 Unless otherwise prohibited by law or duly ordered by an Administrative Law Judge, proceedings at OAH shall be open to the public.

2827.2 Administrative Law Judges and OAH non-judicial staff may observe any proceedings at OAH. They shall keep confidential any confidential information that they may receive in those proceedings.

2827.3 Electronic devices that make noise, including cell phones, are prohibited unless set for silent operation.

2827.4 Audio and video recording, broadcasting, and photography are prohibited anywhere at OAH unless authorized by the Chief Administrative Law Judge. The presiding Administrative Law Judge may allow anyone to draw during proceedings in a hearing room so long as it does not disrupt those proceedings.

2827.5 Weapons, dangerous implements, and illegal drugs are prohibited at OAH and are subject to confiscation. The prohibition against weapons does not apply to authorized service weapons carried by law enforcement officers unless they are parties to a case.

2827.6 Dangerous or toxic items, including but not limited to chemicals and sharp objects, that pose a threat to health or safety are prohibited at OAH. Any party who wants to use such an item as evidence shall file a motion and obtain the approval of the presiding Administrative Law Judge prior to the hearing before bringing the item to OAH.

2827.7 Except for those animals assisting persons with disabilities, animals are prohibited at OAH.

2827.8 Any person who presents a threat to safety or who is disrupting OAH operations or proceedings may be removed.

2828 RECORDINGS AND TRANSCRIPTS

2828.1 All proceedings, except for mediations, shall be recorded. The recording is the official record of what occurred at the proceeding.

2828.2 Any party may obtain a copy of the recording of a proceeding by request. OAH may charge a fee for the recording, but the fee may be waived by an Administrative Law Judge or by the Clerk's Office.

2828.3 Any transcript of a recording of a proceeding shall be prepared by a qualified reporter or transcriber who shall personally certify that he or she is not a party or counsel to a party or otherwise related to or employed by a party or counsel in the

case; that he or she has no material interest in the outcome of the case; and that the transcript represents the testimony and proceedings of the case as recorded.

2828.4 In filings, a party may only rely upon a transcript prepared according to this Section.

2828.5 Unless otherwise stipulated by the parties or ordered by an Administrative Law Judge, if a party cites to a portion of a transcript, the entire transcript of the proceeding shall be filed at OAH, and a copy shall be served on all parties.

2828.6 In any case in which a party files a petition for review in the District of Columbia Court of Appeals, OAH shall arrange for the preparation and filing of a transcript without charge to any party.

2829 SANCTIONS

2829.1 Before issuing an order imposing any sanctions under the OAH Establishment Act (D.C. Official Code §§ 2-1831.01 - .19), the presiding Administrative Law Judge shall allow the party subject to the sanction an opportunity to be heard. Any order imposing a sanction shall be in writing.

2830 REQUESTING RECONSIDERATION, A NEW HEARING, OR RELIEF FROM A FINAL ORDER

2830.1 This Section contains Rules about how to ask an Administrative Law Judge to change a final order after it has been issued or to request a new hearing whether or not a final order has been issued. Errors or omissions are not a sufficient basis for a new hearing or to change an order if the errors are harmless.

2830.2 No motion filed under this Section stays the final order or otherwise affects a party's obligations to comply with the final order, unless an Administrative Law Judge orders otherwise.

2830.3 Within ten (10) calendar days after a final order has been served, any party may file a motion asking the Administrative Law Judge to change the final order. Such a motion is a "motion for reconsideration or for a new hearing." The movant shall state whether an appeal has been filed.

(a) If an appeal has been filed, OAH has no jurisdiction to decide the motion absent a remand for that purpose.

(b) If an appeal has been filed, an Administrative Law Judge may, in his or her discretion, issue an indicative order to alert the appellate forum as to how they would rule on a motion for reconsideration if OAH had jurisdiction.

2830.4 With the exception of public sector worker's compensation cases, if any party files a motion for reconsideration or for a new hearing within the ten (10) calendar day

deadline, the time for seeking judicial review of a final order does not start to run until the Administrative Law Judge rules on the motion.

2830.5 If any party files a motion for reconsideration or for a new hearing before a final order is issued or within the ten (10) calendar day deadline of § 2830.3, and where substantial justice requires, the Administrative Law Judge may change the final order or schedule a new hearing for any reason including, but not limited to, the following:

(a) The party filing the motion did not attend the hearing, has a good reason for not doing so, and states an adequate claim or defense;

(b) The party filing the motion did not file a required answer to a Notice of Infraction or Notice of Violation or did not file some other required document, has a good reason for not doing so, and states an adequate claim or defense;

(c) The final order contains an error of law;

(d) The final order's findings of fact are not supported by the evidence; or

(e) New evidence has been discovered that previously was not reasonably available to the party filing the motion.

2830.6 An Administrative Law Judge shall treat any motion asking for a change in a final order as a motion for reconsideration or for a new hearing if it is filed within the ten (10) calendar day deadline specified in § 2830.3, regardless of the title that a party gives to that motion.

2830.7 After the ten (10) calendar day deadline, a party may file a motion asking the Administrative Law Judge to change the final order. A motion filed under this Subsection is a "motion for relief from the final order." The movant shall state whether an appeal has been filed. If an appeal has been filed, OAH has no jurisdiction to decide the motion absent a remand for that purpose.

2830.8 Any motion for relief from the final order has no effect on the deadline for seeking judicial review of the final order.

2830.9 Any motion for relief from the final order based on the grounds stated in § 2830.10 (a), (b), or (c) shall be filed within one-hundred twenty (120) calendar days after service of the final order. A motion for relief from the final order based on the grounds stated in § 2830.10 (d) or (e) may be filed at any time.

2830.10 On a motion for relief from the final order, an Administrative Law Judge may change the final order only for one or more of the following reasons:

(a) Mistake, inadvertence, surprise, excusable neglect, or any other reason justifying relief (such as failure to attend a hearing for good cause; failure to answer a Notice of Infraction or Notice of Violation for good cause; or failure to file a required document for good cause), provided that the Administrative Law Judge considers whether the party:

(1) Had actual notice of the proceedings;

(2) Acted in good faith;

(3) Took prompt action;

(4) Presented an adequate defense, and

(5) Can argue that changing the final order would not prejudice the non-moving party;

(b) Newly discovered evidence that with reasonable diligence could not have been discovered in time to file a motion for reconsideration or for a new hearing within the ten (10) calendar day deadline;

(c) Fraud, misrepresentation, or other misconduct of an adverse party;

(d) The final order is void, such as when the final order has been entered following defective or invalid service of process; or

(e) A prior judgment on which the final order is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application.

2830.11 For good cause shown, the agency issuing the Notice of Infraction or Notice of Violation may request that a final order issued in its favor be set aside.

2830.12 An Administrative Law Judge shall treat any motion asking for a change in a final order as a motion for relief from the final order, if the motion is not filed within the ten (10) calendar day deadline specified in § 2830.3, regardless of the title that a party gives to that motion.

2830.13 Any party filing any motion under this Section shall include a short and plain statement of all the reasons why the Administrative Law Judge should change the final order.

2830.14 An opposing party is not required to file a response to any motion under this Section, unless an Administrative Law Judge orders a response. Before granting any motion under the Section, an Administrative Law Judge shall issue an order allowing the opposing party an opportunity to respond to the motion.

2830.15 If an Administrative Law Judge grants a motion filed under this Section, he or she may:

(a) Order further submissions from the parties;

(b) Order the parties to appear for a hearing; or

(c) Issue a new final order that may or may not change the result in the case.

2830.16 A party who files a motion under this Section may request, a ruling on the motion at any time before the Administrative Law Judge rules on the motion.

2831 APPEALS

2831.1 Every appealable order shall include a statement of appeal rights and shall be served on the parties and their representatives.

2831.2 The filing of an appeal or a petition for review does not stay (or delay) the date a final order goes into effect unless a stay is ordered.

2831.3 Any party may file a motion to stay a final order pending appeal. A motion for a stay shall include the reasons for granting the stay. Any party may file a motion to stay the effective date of a final order.

2831.4 In determining whether to grant a stay, the Administrative Law Judge may consider the following factors: whether the party filing the motion is likely to succeed on the merits, whether denial of the stay will cause irreparable injury, whether and to what degree granting the stay will harm other parties, and whether the public interest favors granting a stay.

2832 CLERICAL MISTAKES

2832.1 At any time, an Administrative Law Judge or the Clerk, in consultation with an Administrative Law Judge, may correct clerical, typographical, numerical, or technical mistakes in the record and errors from oversight or omission.

2832.2 An Administrative Law Judge may order that notice of such corrections be given to the parties.

2832.3 If a party has filed a request for appellate review, such mistakes may be corrected before the record is transmitted to the reviewing court, and thereafter may be corrected with leave of the reviewing court.

2833 PAYMENT PLANS IN CIVIL INFRACTIONS ACT CASES

2833.1 If an Administrative Law Judge has imposed monetary sanctions under the Civil Infractions Act, a Respondent may request to pay the monetary sanctions in installments. An Administrative Law Judge may permit installment payments for no more than six months beyond the date of the final order and may charge a fee of one percent per month of the outstanding amount.

2833.2 In requesting a payment plan under this Section, a Respondent shall state, in writing, the reasons for seeking a payment plan, the length of time requested, and why Respondent cannot afford to pay the entire monetary sanction in a lump sum.

2833.3 A Respondent shall file with OAH and serve on the District a request for a payment plan within thirty (30) calendar days of the service of the final order.

2833.4 The District may file with OAH a response to a request for a payment plan within five calendar days of the service of the request.

2834 ABATEMENT COST REQUESTS

2834.1 Before or after an Administrative Law Judge has issued a final order finding a Respondent liable for a violation of the Litter Control Administration Act, the District may file and serve a motion to require the Respondent to pay abatement costs. The District shall file and serve the motion, with an itemization of costs, not later than one-hundred and twenty (120) calendar days after service of a final order. A Respondent shall have fourteen (14) calendar days from the date of being served with the motion to file and serve a response on the District.

2834.2 A Respondent may request a hearing on the District's motion. The request shall be in writing and shall be filed within thirty (30) calendar days after the District serves its motion.

2834.3 If a Respondent timely requests a hearing on the District's motion, the presiding Administrative Law Judge shall hold a hearing on the issue of abatement costs. At the hearing on abatement costs, the Administrative Law Judge shall not consider any arguments or evidence relating to Respondent's previously established liability for the violation. A Respondent's liability has been previously established if:

(a) An Administrative Law Judge has held a separate hearing on the violation and found the Respondent liable for the violation;

(b) The Respondent has admitted liability; or

(c) An Administrative Law Judge has found the Respondent in default.

2834.4 If liability has not been previously established, the Administrative Law Judge may consolidate the liability and abatement cost hearings in their sole discretion.

2834.5 If a Respondent does not file a timely request for a hearing on the District's motion, the Administrative Law Judge may:

(a) Decide, based on the papers filed, whether the District is entitled to recover abatement costs and their amount; or

(b) Before deciding the issue, order the District and the Respondent to appear for a hearing on the issue.

2835 INABILITY OF AN ADMINISTRATIVE LAW JUDGE TO PROCEED

2835.1 If a hearing has commenced or is completed and the assigned Administrative Law Judge is unable to proceed, another Administrative Law Judge may proceed in the case. The successor Administrative Law Judge shall certify that he or she is familiar with the record.

2835.2 If a recording of the hearing is unavailable, the successor Administrative Law Judge shall, if requested by any party, recall a witness whose testimony is material and disputed.

2835.3 The successor Administrative Law Judge may serve the parties with a proposed final order and allow the parties to file exceptions and present argument before issuing a final order.

2836 RECUSAL; ETHICS COMPLIANCE

2836.1 Whether or not a party has moved for recusal, an Administrative Law Judge who has a personal bias or prejudice in favor of or against any party in an assigned case, or who has another good reason to recuse himself or herself from the case, shall proceed no further in the case, and the case shall be reassigned to another Administrative Law Judge. An Administrative Law Judge may recuse himself or herself from a case only if there is good reason to do so.

2836.2 Administrative Law Judges at all times shall comply with the OAH Code of Judicial Ethics, which shall be available to the public.

2836.3 A party to a case may file a motion to disqualify the presiding Administrative Law Judge for reasons that include, but are not limited to:

(a) The Administrative Law Judge has a personal bias or prejudice concerning a party or a party's lawyer or other representative involved in the proceeding;

(b) The Administrative Law Judge served as lawyer or representative in the matter in controversy, or a lawyer with whom the Administrative Law Judge practiced law served during such association as a lawyer concerning the

matter, or the Administrative Law Judge or such lawyer has been a material witness concerning it;

(c) The Administrative Law Judge has served in other governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;

(d) The Administrative Law Judge, individually or as a fiduciary, or the Administrative Law Judge's spouse or minor child residing in the Administrative Law Judge's household, has a more than trivial financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding; or

(e) The Administrative Law Judge or the Administrative Law Judge's spouse or a person within the third degree of relationship to either of them or the spouse of such person:

(1) Is a party to the proceeding, or an officer, director, or trustee of a party;

(2) Is acting as a lawyer or representative in the proceeding;

(3) Is known by the Administrative Law Judge to have an interest that could be substantially affected by the outcome of the proceeding; or

(4) Is to the Administrative Law Judge's knowledge likely to be a material witness in the proceeding.

2836.4 A motion to disqualify the presiding Administrative Law Judge shall:

(a) Allege the specific facts and reasons upon which the movant relies as the grounds for disqualification. The moving party shall include all grounds for disqualification that are known at the time the motion is filed;

(b) Identify the precise date when the facts constituting the grounds for the motion were discovered by the party or the party's counsel;

(c) Be filed within a reasonable time not to exceed fourteen (14) days after discovery by the party or party's counsel of the facts constituting the grounds for the motion. If a party discovers the grounds for disqualification within fourteen (14) days of a scheduled hearing, the motion shall be filed as soon as practicable; and

(d) Be sworn by the movant or include a legally sufficient affidavit stating the specific facts and evidence supporting the grounds for disqualification.

2836.5 For the purposes of this Rule, the following grounds are not legally sufficient to support a motion to disqualify:

(a) Generalized, speculative, or unsubstantiated assertions of institutional or judicial bias or prejudice;

(b) Complaints of bias or prejudice based on adverse rulings by the Administrative Law Judge or statements and opinions made while ruling on matters before the court;

(c) Complaints of bias or prejudice that would not lead an objectively reasonable observer to conclude that recusal was required; or

(d) Actions taken or statements made by an Administrative Law Judge while disciplining a party or counsel or taking corrective action in order to maintain control and decorum in the courtroom or hearing, unless such statements or actions rise to a level of hostility or unprofessionalism that an objective, reasonable person would acknowledge represents more than mere discipline.

2836.6 The challenged judge shall rule on the motion to disqualify by examining the legal sufficiency of the motion. The challenged judge shall not weigh the evidence or dispute the factual allegations. If the motion is deemed legally sufficient and is granted, the case shall be reassigned to a different Administrative Law Judge. If the motion is denied, judicial review may be sought in accordance with applicable law.

2837 AMICUS CURIAE OR "FRIEND OF THE COURT"

2837.1 Any non-party having an interest in the issues in a case pending before OAH may move for leave to file an *amicus curiae* submission or to make an *amicus curiae* appearance, or an Administrative Law Judge may invite such a submission or appearance. The motion shall explain why the *amicus curiae* submission or appearance would be helpful to OAH.

2838 CHIEF ADMINISTRATIVE LAW JUDGE RESPONSIBILITIES

2838.1 The Chief Administrative Law Judge or his or her designee may administer an oath of office to an Administrative Law Judge or other OAH employee.

2839 [RESERVED]

2899 DEFINITIONS

For the purposes of this chapter the term:

Agency shall have the meaning provided that term in D.C. Official Code § 2-502(3).

Civil Infractions Act means the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, D.C. Official Code §§ 2-1801.01 - .05.

Clerk means the OAH Clerk of Court or authorized designee.

Commercial carrier means a business that accepts and delivers parcels, such as Federal Express or the United Parcel Service.

District of Columbia or District means the District of Columbia, or any government agency authorized by law to prosecute cases before OAH and whose administrative litigation falls under the jurisdiction of OAH, but does not include OAH.

Electronic Signature means an electronic symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

Exhibit means a document, photograph, an audio or video recording, an audio or video recording, an electronic item, or any non-documentary or physical evidence filed with a paper, or offered into evidence at a proceeding.

In-person proceeding means a proceeding that is held in an OAH courtroom with all participants physically present in the same location.

Litter Control Administration Act means the Litter Control Administration Act of 1985, D.C. Official Code §§ 8-801 – 812.

Motion mean a request for an Administrative Law Judge to take some action.

OAH Establishment Act means the Office of Administrative Hearings Establishment Act of 2001, D.C. Official Code §§ 2-1831.01 - .19.

Paper means any pleading, motion, exhibit, or witness list, or any other written submission filed with OAH.

Party means persons or entities who begin a case at OAH or the persons or entities on the other side.

Presiding Administrative Law Judge means an Administrative Law Judge assigned to a particular case.

Respondent means the person or entity against whom the District seeks payment of a fine for a Notice of Infraction or a Notice of Violation.

Signature Image means that a scanned version of an original signature has been copied and pasted into a PDF document.

Teleconferencing means the use of a remote digital platform, used through an audio-only option, that sends audio signals over a transmission circuit so that two or more individuals can communicate with each other while in different physical locations.

Videoconferencing means the use of a remote digital platform that sends video, voice, and/or data signals over a transmission circuit so that two or more individuals or groups can communicate with each other simultaneously using video codecs, monitors, cameras, audio microphones, and audio speakers.

Chapter 29 OFFICE OF ADMINISTRATIVE HEARINGS: RULES FOR DCPS, RENTAL HOUSING, PUBLIC BENEFITS, AND UNEMPLOYMENT INSURANCE CASES, of Title 1 DCMR, MAYOR AND EXECUTIVE AGENCIES, is repealed in its entirety and replaced with:

CHAPTER 29 OFFICE OF ADMINISTRATIVE HEARINGS: RULES FOR DCPS & OSSE, DFHV, RENTAL HOUSING, PUBLIC SECTOR WORKER'S COMPENSATION, PUBLIC BENEFITS, AND UNEMPLOYMENT INSURANCE CASES

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2900 DCPS AND OSSE HEARINGS – SCOPE

2900.1 Sections 2900 through 2909 shall govern procedures in cases referred to OAH by the District of Columbia Public Schools (DCPS) and by the District of Columbia Office of the State Superintendent of Education (OSSE).

2900.2 The Rules in Chapter 28 shall apply for procedural issues not addressed in §§ 2900 through 2909.

2900.3 OAH is not required to follow any other procedural rules adopted by DCPS or by OSSE in cases referred to OAH by DCPS or by OSSE.

2901 DCPS STUDENT DISCIPLINE CASES – REFERRALS

2901.1 DCPS may refer a student discipline case to OAH, for an Administrative Law Judge to hold a hearing and to decide:

(a) The material facts;

(b) Whether required due process procedures, including notice and the opportunity to respond to the charges, have been followed or have been waived;

(c) Whether any failure to follow procedures identified in 5-B DCMR § 2505 was prejudicial;

(d) Whether the facts show that the student committed any of the violations upon which a proposed disciplinary action is based; and

(e) The proper Tier for any violation shown, as specified in 5-B DCMR § 2502.

2901.2 DCPS shall refer a student discipline case by filing with OAH a copy of the notice of recommended action provided to the adult student, or a minor student's parent or guardian. DCPS shall provide the adult student or minor student's parent or guardian with a hearing notice that states:

(a) The date and time of the hearing;

(b) Directions for attending the hearing remotely (or the location of an in-person hearing);

(c) The hearing rights of the adult student or the minor student's parent or guardian; and

(d) The consequences of failing to attend the hearing without a good reason.

2902 DCPS STUDENT DISCIPLINE CASES – HEARINGS

2902.1 An adult student, or a minor student's parent or guardian, may request DCPS or OAH to postpone the hearing for not more than five (5) school days, if necessary to prepare for the hearing or provide for the attendance of necessary parties or witnesses.

2902.2 The parties shall file exhibits and witness lists at least one (1) day before the hearing unless the party has a good reason for not doing so. DCPS shall provide an adult student or a minor student's parent or guardian with any exhibits and witness lists when it issues the Notice of Hearing.

2902.3 DCPS shall allow an adult student, or a minor student's parent or guardian, or a student's attorney, to inspect and copy the student's disciplinary file before the hearing upon request and consistent with any applicable laws or regulations.

2902.4 Prior to the hearing, DCPS shall make the student's disciplinary file electronically available to OAH and to the adult student or to the minor student's parent or guardian. Either party may move to introduce all or part of the disciplinary file into evidence at the hearing.

2902.5 The parties shall have all rights set forth in § 2823.5 at a hearing.

2902.6 An adult student or a minor student's parent or guardian may select another person to represent a student at a hearing, in addition to the representatives listed in §§ 2808 and 2810. The representative shall be subject to §§ 2810.12 through 2810.14.

2902.7 The hearing shall be closed to the public unless the adult student or the minor student's parent or guardian requests the hearing be open to the public.

2902.8 A party who fails to appear for a scheduled hearing may ask OAH, in writing, for a new hearing date. The request shall be filed within one (1) school day after the scheduled hearing date. The Administrative Law Judge may grant a new hearing date for good cause shown.

2903 DCPS STUDENT DISCIPLINE CASES – DECISIONS

2903.1 After the close of the record in a student discipline case, the Administrative Law Judge shall issue Findings of Fact and Conclusions of Law on the issues identified in § 2901.1.

2903.2 The Administrative Law Judge shall issue the Findings of Fact and Conclusions of Law within one (1) school day after the close of the record. OAH shall provide copies to DCPS, to the adult student or minor student's parent or guardian, and to any authorized representative.

2903.3 In all student discipline cases, DCPS shall be bound by the Administrative Law Judge's Findings of Fact and Conclusions of Law and shall have no authority to reverse or modify the Findings of Fact or Conclusions of Law.

2903.4 If the Administrative Law Judge concludes that the student committed any of the violations upon which the disciplinary action is based, the Administrative Law Judge shall make a recommendation for the appropriate discipline within the Tier found to be proper, considering the factors in 5-B DCMR § 2502. OAH shall return the case to DCPS for it to decide the appropriate discipline.

2903.5 If the Administrative Law Judge concludes that due process was denied or that the student did not commit any of the violations upon which the disciplinary action is based, OAH shall return the case to DCPS for appropriate action.

2903.6 Because this Section requires that OAH return student discipline cases to DCPS for further action, the Administrative Law Judge's decision is not a final disposition of the matter, and a statement of appeal rights is not required in accordance with § 2831.1.

2904 DCPS STUDENT DISCIPLINE CASES – RECONSIDERATION

2904.1 Section 2830 of these Rules shall not apply to DCPS cases. If DCPS has not issued a final notice of disciplinary action, any party may file a written motion for reconsideration of the Findings of Fact and Conclusions of Law no later than one school day after the date the decision is issued. A copy of any such motion shall be served on the opposing party. The presiding ALJ shall decide the motion within one school day.

2904.2 If any party files a motion for reconsideration or for a new hearing, the Administrative Law Judge may change the Findings of Fact and Conclusions of Law or grant a new hearing where substantial justice requires, or for any reason including, but not limited to, the following:

(a) The party filing the motion did not attend the hearing, has a good reason for not doing so, and states an adequate claim or defense;

(b) The Findings of Fact and Conclusions of Law contain an error of law;

(c) The Findings of Fact and Conclusions of Law are not supported by the evidence; or

(d) New evidence has been discovered that previously was not reasonably available to the party filing the motion.

2904.3 If the adult student or minor student's parent or guardian did not receive actual notice of the hearing and DCPS has issued a final notice of disciplinary action, the adult student or minor student's parent or guardian may file a request for reconsideration with DCPS, and request that DCPS:

(a) Vacate the final notice;

(b) Refer the case back to OAH for a hearing, and

(c) Vacate the Findings of Fact and Conclusions of Law.

2904.4 DCPS may order a new hearing, or request OAH to decide whether to grant a new hearing, when deciding the request for reconsideration.

2905 OSSE CONTESTED RESIDENCY CASES – REFERRALS

2905.1 OSSE may refer a contested residency case to OAH for a final decision.

2906 OSSE CONTESTED RESIDENCY CASES – BEGINNING A CASE

2906.1 OSSE shall refer a contested residency case to OAH by filing a copy of the exclusion letter given to the student's parent, custodian, guardian, or other primary caregiver and the request for review that OSSE received, along with a statement that OSSE requests OAH to hear and decide the case.

2907 OSSE CONTESTED RESIDENCY CASES – HEARINGS

2907.1 In all contested residency cases, OAH shall set the hearing date and issue the hearing notice.

2907.2 The Rules in Chapter 28 shall apply to all hearings in contested residency cases, except that parties shall file and serve the witness lists and exhibit lists required by § 2823.2 no later than five (5) calendar days before the hearing date. All exhibits filed by OSSE shall be marked with numbers for identification beginning with 200.

2907.3 The student's parent, custodian, guardian, or other primary caregiver who is claiming District of Columbia residency has the burden of proving the student's residency status for the purpose of deciding whether the student may enroll in a District of Columbia public school tuition free.

2908 OSSE CONTESTED RESIDENCY CASES – FINAL ORDERS

2908.1 The presiding Administrative Law Judge shall issue a final order in all contested residency cases, which shall include the statement of appeal rights required by § 2831.1.

2909 DCPS AND OSSE CASES – CONFIDENTIALITY OF THE RECORD

2909.1 The OAH record in any case referred by DCPS or by OSSE shall be confidential. Only the following persons shall have access to that record:

(a) The adult student or the adult student's representative;

(b) The minor student's parent, guardian, or representative;

(c) Any person who has the written consent of the adult student or the minor student's parent or guardian;

(d) School officials with a legitimate official interest; and

(e) The student's parent, custodian, or other primary caregiver claiming District of Columbia residency, or their representative in a contested residency case.

2910 DFHV HEARINGS – SCOPE

2910.1 Sections 2910 through 2913 shall govern procedures in cases adjudicated by OAH for Notices of Infraction issued by the District of Columbia ("District') that are enforced by the District of Columbia Department of For-Hire Vehicles (DFHV).

2910.2 The Rules in Chapter 28 shall apply for procedural issues not addressed in §§ 2910 through 2913.

2911 DFHV – BEGINNING A CIVIL FINE CASE

2911.1 When the District is seeking civil fines or sanctions under the District of Columbia Department of For-Hire Vehicles Establishment Act of 1985 (D.C. Official Code §§ 50-301.01 - .34) ("DFHV Act"):

(a) The issuing agency of the Notice of Infraction may file it by entering it in the automatic ticket database presently maintained by the Department of Motor Vehicles (DMV). The day the Notice of Infraction data is entered into the DMV database shall be deemed the date of filing of the Notice of Infraction with OAH;

(b) If the issuing agency serves a Notice of Infraction by first-class mail, it may not file the Notice of Infraction with OAH until it submits proof of delivery. When the issuing agency serves the Notice of Infraction by first-class mail, it shall also file an affidavit, on a form approved by the Chief Administrative Law Judge, verifying that the United States Postal Service (USPS) did not return the Notice of Infraction to the issuing agency;

(c) If DFHV issues a Notice of summary or proposed denial, revocation, suspension or modification of a license, a Notice to cease and desist, or a Notice to take action, DFHV shall file the Notice with OAH promptly and serve it in the manner provided under the DFHV Act and implementing regulations. OAH shall schedule a hearing as required by law or on the request of the Respondent;

(d) If DFHV takes other actions under the DFHV Act or implementing regulations appealable to OAH, DFHV shall file the relevant Notice, Order, or Action with OAH and serve it in the manner provided under the DFHV Act and implementing regulations. If the DFHV Act and implementing regulations do not specify a manner of service, DFHV shall follow paragraph (b) of this Subsection.

2911.2 The signature of an issuing officer shall not be required on a Notice of Infraction is issued from a hand-held electronic device; provided, that the officer's printed name, department, and badge number appear legibly on the face of the Notice of Infraction.

2912 DFHV – ANSWERS IN CIVIL FINE CASES

2912.1 In DFHV cases filed in the DMV automatic ticket database, the Respondent shall answer a Notice of Infraction ("Notice") according to the instructions on the back of the Notice. The Respondent's answer shall indicate whether the response to the Notice is Admit, Admit with Explanation, or Deny.

2912.2 The issuing agency shall have access to answers of Deny or Admit with Explanation in DFHV cases filed in the DMV automatic ticket database.

2912.3 In DFHV cases filed in the DMV automatic ticket database, OAH shall notify the issuing agency in writing of the hearing date and time selected by Respondent, either in writing or by calendaring the hearing in the DMV database. If Respondent does not select the date and time of the hearing, OAH shall notify the Respondent in writing of the date and time of the hearing.

2912.4 At least five calendar days before any hearing date, the Respondent shall file with OAH copies of all exhibits that the Respondent intends to ask the Administrative Law Judge to consider at the hearing in the DMV database. An Administrative Law Judge may allow a Respondent to use exhibits at a hearing that the Respondent did not file or provide to the issuing agency before the hearing if there is no prejudice to the issuing agency.

2912.5 In DFHV cases filed in the DMV automatic ticket database, Respondent may file any materials supporting the answer of Admit with Explanation as to why the Respondent believes the Administrative Law Judge should reduce or suspend any fine or penalty through the DMV database.

2912.6 The issuing agency has access to the answer of Admit with Explanation and Respondent's supporting materials through the DMV database. DFHV shall file any reply to the answer in the DMV database within twenty-one (21) days of the filing of the answer and shall also provide any reply to the Respondent.

2912.7 OAH shall schedule a hearing as required by law or on the request of the Respondent in a case involving a denial, revocation, suspension, or modification of a license issued under the DFHV Act; or any other order or action authorized under the DFHV Act, other than a Notice of Infraction. If the Respondent requests a hearing, OAH shall schedule the hearing as required by law or as soon as practicable. If DFHV does not appear for a hearing, the Administrative Law Judge may suspend the hearing and close the case.

2913 DFHV – DEFAULTS IN CIVIL FINE CASES

2913.1 In DFHV cases filed under Subsection 2911.1(b), if the USPS returns to the Clerk's office a default order that was mailed to Respondent for reasons that call into question the accuracy of any affidavit filed under § 2911.1(b), (for example, "no such address," "addressee unknown"), an Administrative Law Judge may issue an order requiring the issuing agency to show why the default order should not be vacated. If the issuing agency does not respond with sufficient evidence showing that it mailed the Notice to a valid address for the Respondent, the default order shall be vacated and the Notice of Infraction shall be dismissed.

2913.2 The default procedure shall be consistent with the applicable law in default cases brought under the DFHV Act and shall ensure that:

(a) There is sufficient evidence of proper service on the Respondent; and

(b) The charging document meets all legal requirements on its face.

2913.3 A Respondent who fails to answer shall be held in default and shall pay the legally authorized fine and penalty. If the Administrative Law Judge does not find the Respondent in default, the Administrative Law Judge shall dismiss the Notice without prejudice.

2920 RENTAL HOUSING CASES – SCOPE

2920.1 Sections 2920 through 2942 shall govern procedures in rental housing cases, including rent stabilization cases under the Rental Housing Act and conversion and sale cases under the Rental Housing Conversion and Sale Act, at OAH.

2920.2 The Rules in Chapter 28 shall apply for procedural issues not addressed in §§ 2920 through 2942.

2921 RENTAL HOUSING CASES – BEGINNING A CASE

2921.1 A party may begin a rent stabilization case by filing a petition with the Rent Administrator in accordance with 14 DCMR § 3901.

2921.2 For conversion and sale cases,

(a) An aggrieved owner, tenant, or tenant organization may begin a conversion or sale case by filing a petition for declaratory relief with the Conversion and Sale Administrator in accordance with § 503a of the Rental Housing Conversion and Sale Act, D.C. Official Code § 42-3405.03a.

(b) A party aggrieved by the rejection of an application pursuant to the Rental Housing Conversion and Sale Act may begin a case by filing a petition for reconsideration with the Conversion and Sale Administrator in accordance with § 504 of the Rental Housing Conversion and Sale Act, D.C. Official Code § 42-3405.04.

(c) A party aggrieved by a temporary cease and desist order from unlawful practices under the Rental Housing Conversion and Sale Act may begin a case by filing a request for a hearing with the Conversion and Sale Administrator in accordance with § 506 of the Rental Housing Conversion and Sale Act, D.C. Official Code § 42-3405.06.

(d) An owner aggrieved by the revocation of certification for conversion, or a tenant association aggrieved by the revocation of registration of a tenant organization, may begin a case by filing a request for a hearing with the Conversion and Sale Administrator in accordance with § 507 of the Rental Housing Conversion and Sale Act, D.C. Official Code § 42-3405.07.

2921.3 The timeliness of the filing of any petition shall be measured from the date the Rent Administrator or the Conversion and Sale Administrator receives the petition for filing.

2921.4 For rent stabilization cases, the Rent Administrator may refuse to accept for filing a petition for rent stabilization cases as provided in 14 DCMR § 3901.

2921.5 After receiving the filing of a petition or request, the Rent Administrator or the Conversion and Sale Administrator shall forward the petition or request and all accompanying papers to OAH, together with a copy of the registration statement for the housing accommodation.

2921.6 When OAH receives a petition or request from the Rent Administrator or the Conversion and Sale Administrator, OAH shall open the case. The parties then shall file all papers and attachments at OAH in accordance with § 2811.

2922 RENTAL HOUSING CASES – PARTIES

2922.1 Any petition or request that is filed on behalf of more than one person or entity shall individually name each person or entity.

2922.2 When neither the claim asserted nor the relief requested requires the participation of the individual tenant member, any tenant association may file and shall be

granted party status to prosecute or defend a petition on behalf of any one or more of its members who have provided the association with written authorization to represent them in the action, or to seek on behalf of all members any relief available under the Rental Housing Act or the Rental Housing Conversion and Sale Act, as applicable. No further inquiry into the membership of the association shall be permitted.

2922.3 A tenant association that seeks to be named as a party in a petition or request shall file, along with the petition or request:

(a) A list of all tenants who are members of the tenant association and parties to the petition or request, including each member's full name and unit number;

(b) Proof of tenancy for each tenant who is a member of the tenant association and seeks to be represented by it, by rent receipt, cancelled check, copy of lease agreement, or any other documentation accepted by the Rental Accommodations Division or the Rental Conversion and Sale Division, as applicable; and

(c) Written authorization from each tenant who is a member of the tenant association and seeks to be a party, giving the tenant association permission to represent the tenant.

2922.4 An inquiry into the membership of the association beyond the information required by § 2922.3 shall not be permitted. Failure to provide the information in § 2922.3 is grounds to deny party status to a tenant association.

2922.5 Any tenant association that is a party to the action pursuant to § 2922.2 shall be listed in the caption.

2922.6 For rent stabilization cases, the housing provider as listed on the registration statement, if any, shall be a party, and shall be named in the caption. If a managing agent represents the housing provider in the proceeding, the managing agent also shall be a party, and shall be identified as the managing agent and named in the caption.

2922.7 For rental housing conversion and sale cases, in a petition for declaratory relief against an owner, the owner as listed on the certification statement for conversion or on the offer of sale, if any, shall be a party, and shall be named in the caption.

2923 RENTAL HOUSING CASES – SENDING NOTICE

2923.1 OAH shall notify the parties of proceedings by first-class mail or, with consent, by email.

2923.2 For rent stabilization cases, OAH shall mail a copy of any tenant petition by first-class mail or, with consent, by email to any adverse party named in the tenant petition and to the housing provider listed on the registration statement for the housing accommodation.

2923.3 For rent stabilization cases, a housing provider who files a petition shall provide for each tenant in the housing accommodation one copy of the petition and one envelope addressed to each tenant by name, address, and rental unit, with first class mail postage prepaid. The envelope shall bear OAH's return address unless the housing provider files a hardship petition or voluntary agreement. The envelopes for those petitions shall bear the return address of the Rent Administrator.

2923.4 For rent stabilization cases, if a housing provider files a petition for a building with ten (10) or more rental units, the housing provider shall provide a hard copy and computer file of a service list containing the name, address, and rental unit for each tenant. The computer file shall be in Microsoft Word format, arranged so that the list may be printed onto labels measuring one inch by two and five-eighths (2 5/8) inches.

2923.5 For conversion and sale cases involving a petition for declaratory relief against an owner, OAH shall mail a copy of any petition by first-class mail or, with consent, by email to any adverse party named in the petition and, if needed, to the owner listed on the certification statement for conversion or on the offer of sale.

2924 RENTAL HOUSING CASES – SERVICE

2924.1 For rent stabilization cases, every paper filed at OAH shall be served in accordance with § 904 of the Rental Housing Act (D.C. Official Code § 42-3509.04), as follows:

(a) By handing the paper to the person, by leaving it at the person's place of business with some responsible person in charge, or by leaving it at the person's usual place of residence with a person of suitable age and discretion;

(b) By telegram, when the content of the information or document is given to a telegraph company properly addressed and prepaid;

(c) By mail or deposit with the USPS properly stamped and addressed; or

(d) By any other means that is in conformity with an order of the Rental Housing Commission (Commission) or OAH in any proceeding.

2924.2 For conversion and sale cases, every paper filed at OAH shall be served in accordance with § 508 of the Rental Housing Conversion and Sale Act (D.C.

Official Code § 42-3405.08), which allows papers to be served by registered mail or in any other authorized manner reasonably calculated to give actual notice.

2925 RENTAL HOUSING CASES – CALCULATING DEADLINES

2925.1 Section 2813 shall govern the calculation of deadlines. For rent stabilization cases, the timeliness of any appeal to the Commission shall be governed by the Commission Rules in 14 DCMR § 3802.

2926 RENTAL HOUSING CASES – CONCILIATION, ARBITRATION, AND MEDIATION

2926.1 For rent stabilization cases, the parties may request conciliation or arbitration of any dispute by the RAD in accordance with its regulations.

2926.2 The parties may request, or an Administrative Law Judge may order, mediation of any dispute pursuant to § 2820.

2927 RENTAL HOUSING CASES – SUBSTITUTION OR ADDITION OF PARTIES

2927.1 An Administrative Law Judge may substitute or add a party under § 2807.1 if: a party dies; a party entity is dissolved or reorganized; a party entity's ownership or interest changes; or, for rent stabilization cases, an amended registration statement for the housing accommodation is filed under 14 DCMR § 4103.

2927.2 If a party has been incorrectly named, the Administrative Law Judge may substitute or add the correct party under § 2807.1.

2928 RENTAL HOUSING CASES – INTERVENORS

2928.1 Sections 2807.2 and 2807.3 shall govern motions for intervention.

2929 RENTAL HOUSING CASES – AMENDMENT OF PETITIONS, CONSOLIDATION OF PETITIONS AND EXPANDING THE SCOPE OF A PROCEEDING

2929.1 An Administrative Law Judge may consolidate (join) two or more petitions if they present identical or similar issues, involve the same rental unit or housing accommodation, or involve other circumstances in which consolidation would be expedient and would not prejudice the parties. A party may file a motion to consolidate, or an Administrative Law Judge may consolidate, cases on his or her own motion.

2929.2 If the Administrative Law Judge determines that the issues raised in a petition or request may affect other tenants or all tenants in the housing accommodation, the

Administrative Law Judge may expand the scope of the proceeding to include all affected tenants.

2929.3 Before expanding the scope of the proceeding, the Administrative Law Judge shall provide notice to the affected tenants and the housing provider or owner.

2929.4 Notice under §2929.3 shall state the issues to be decided and shall advise the tenants that they have a right to participate in the proceedings and that any decision shall be binding on them.

2929.5 Tenants and the housing provider or owner may present arguments in support of or opposition to expanding the scope of the proceeding.

2929.6 A party may amend a petition to add additional allegations after the petition has been transferred to OAH, but before the hearing concludes, by moving to amend the petition with the presiding Administrative Law Judge. The motion shall state the allegations to be added and the factual basis for those allegations. No written motion to amend shall be considered unless it recites that the movant sought to obtain the consent of parties affected, and that the consent was granted or denied, including the identity of the party or parties who declined to consent. If the movant does not obtain a response from the opposing party, the movant shall demonstrate that the movant made a good faith effort in accordance with §2817.5.

2929.7 In determining whether a motion to amend a petition should be granted, the Administrative Law Judge shall consider:

(a) the number of requests to amend;

(b) the length of time that the case has been pending;

(c) the presence of bad faith or dilatory reasons for the request;

(d) the merit of the proffered amendment;

(e) any prejudice to the non-moving party; and

(f) the orderly administration of justice.

2930 RENTAL HOUSING CASES – HEARINGS

2930.1 A petition received by OAH shall be treated as a request for a hearing. OAH shall schedule a status conference, a hearing, or mediation after receiving the petition. OAH shall notify the parties of the hearing date and of their right to obtain a lawyer at least fifteen (15) calendar days before a hearing.

2930.2 An Administrative Law Judge may dismiss any petition or any claim in a petition without holding a hearing if the Rental Housing Act or the Rental Housing Conversion and Sale Act, as applicable, does not provide relief for the claim(s). The Administrative Law Judge shall first give the parties notice and an opportunity to respond.

2931 RENTAL HOUSING CASES – RENT ADMINISTRATOR'S SHOW CAUSE ORDERS

2931.1 For rent stabilization cases, if the Rent Administrator concludes after investigation that a housing provider has violated the Rental Housing Act, the Rent Administrator may file an order to show cause with OAH and shall serve the housing provider with a copy of the order to show cause.

2931.2 The order to show cause shall specify the sections of the Rental Housing Act or rules that the housing provider has allegedly violated and shall describe the evidence that supports the Rent Administrator's assertions and the proposed corrective action or sanction.

2931.3 Once the Rent Administrator files the order to show cause, the case shall proceed under this chapter.

2932 RENTAL HOUSING CASES – BURDEN OF PROOF

2932.1 The proponent of an order shall have the burden of proof.

2932.2 For rent stabilization cases:

(a) The tenant has the burden to prove the claims alleged in a tenant petition except that the housing provider has the burden to prove entitlement to any exemption under the Rental Housing Act.

(b) The housing provider has the burden to prove the claims alleged in a housing provider petition.

(c) In show cause hearings in rent stabilization cases, the burden of proof shall rest on the Rent Administrator.

(d) In retaliation cases, the tenant has the burden of proving that retaliation occurred or that a presumption applies. If a presumption applies, then the housing provider has the burden to rebut the presumption by clear and convincing evidence.

(e) In security deposit cases, if the tenant seeks an order to have the security deposit returned, the tenant shall prove the amount of the security deposit

paid and that the security deposit was not returned. If the housing provider seeks an order to withhold all or a portion of the security deposit, the housing provider shall prove the reasons for the withholding.

2932.3 For conversion and sale cases:

(a) In cases involving petitions for declaratory relief, the petitioner has the burden to prove the claims alleged in the petition.

(b) In cases involving the rejection of an application, a temporary cease and desist order, or the revocation of a certificate or registration, the agency has the burden to prove facts justifying the action.

2932.4 Unless otherwise provided by law, a party shall prove each fact essential to his or her claim by a preponderance of the evidence so that the Administrative Law Judge finds that it is more likely than not that each fact is proven.

2933 RENTAL HOUSING CASES – PAPERS FILED WITH THE RAD, CASD, OR OTHER AGENCIES

2933.1 Any party shall introduce a copy of that document into evidence the party who wishes the Administrative Law Judge to consider a document that is on file with the RAD, Conversion and Sale Division (CASD), or any other District of Columbia agency. The Administrative Law Judge shall admit the document into evidence if he or she finds that it is relevant and is an accurate copy of a document on file with the RAD, CASD, or other agency.

2933.2 A party can establish that a document is an accurate copy of a document on file with RAD, CASD, or other agency by:

(a) Providing a copy with a legible original file stamp;

(b) Providing a copy with a legible copy of the original file stamp;

(c) Providing a copy certified by the Rent Administrator, Conversion and Sale Administrator, or an authorized employee of RAD or CASD;

(d) Providing testimony or other evidence that the Administrative Law Judge finds satisfactory; or

(e) Consent of all parties to the admission of the document into evidence.

2934 RENTAL HOUSING CASES – SUBPOENAS AND DISCOVERY

2934.1 In rent stabilization cases, the Clerk shall issue no more than three subpoenas to the tenant side and no more than three subpoenas to the housing provider side under § 2824.5 to compel:

(a) The appearance at a hearing of any witnesses, including housing inspectors, with knowledge of conditions, repairs, or maintenance in a party's rental unit or any common areas for the three-year (3) period immediately before the filing of the petition with the Rent Administrator;

(b) The production at or before a hearing of all records not created by a government agency, relating to conditions, repairs, or maintenance to a party's rental unit or any common areas for the three-year (3) period immediately before the filing of the petition with the Rent Administrator;

(c) The production at or before a hearing of housing violation notices in the possession of the District of Columbia Department of Buildings or the District of Columbia Department of Licensing and Consumer Protection relating to a party's rental unit or any common areas for the three-year (3) period immediately before the filing of the petition with the Rent Administrator; and

(d) The production at or before a hearing of all records in a housing provider's possession relating to any rent increases demanded or implemented for a party's rental unit for the three-year period immediately before the filing of the petition with the Rent Administrator.

2934.2 Section 2824 shall apply to all other subpoenas for witnesses and documents at hearings in rental housing cases.

2934.3 Section 2821 shall apply to discovery in all rental housing cases.

2935 RENTAL HOUSING CASES – REPRESENTATION

2935.1 Persons authorized to appear before OAH by §§ 2808 and 2810 may represent parties in rental housing cases.

2935.2 A tenant association may represent one or more tenants in any proceeding as follows:

(a) A statement shall be filed with OAH stating that the tenant consents to representation by the tenant association and the tenant association consents to represent the tenant;

(b) A tenant or a tenant association may revoke the consent by filing a statement to that effect;

(c) A tenant association shall designate one or more members or attorneys to represent the association and any of the tenants it represents;

(d) A tenant association may elect to proceed only in a representative capacity without being listed as a party or listed in the caption.

2935.3 The provisions of §§ 2808 and 2810 concerning discipline of persons appearing before OAH shall apply to all representatives in rental housing cases.

2935.4 If an Administrative Law Judge decides that a proceeding is so complex, or the potential liability is so great that a party should be represented by a lawyer, the Administrative Law Judge shall explain to the party the advantages of obtaining a lawyer and offer to continue the case to give the party an opportunity to obtain a lawyer.

2936 RENTAL HOUSING CASES – APPEALS BEFORE A FINAL ORDER IN RENT STABILIZATION CASES

2936.1 An Administrative Law Judge's rulings in a rent stabilization proceeding ordinarily may not be appealed to the Commission until a final order is issued. Before a final order is issued, a party may appeal an order of the Administrative Law Judge only if the Administrative Law Judge certifies the ruling for appeal to the Commission.

2936.2 A party may move the Administrative Law Judge to certify to the Commission an appeal of any ruling other than a final order. Such an appeal is an "interlocutory appeal."

2936.3 The Administrative Law Judge shall certify a ruling for interlocutory appeal only if he or she determines that the issue presented is of such importance to the proceeding that it requires the immediate attention of the Commission, and only if the following are shown:

(a) The ruling involves an important question of law or policy requiring interpretation of the Rental Housing Act, and about which there is substantial basis for difference of opinion; and

(b) Either of the following applies:

(1) An immediate ruling will materially advance the completion of the proceeding; or

(2) Denial of an immediate ruling will cause undue harm to the parties or the public.

2936.4 A party seeking review by interlocutory appeal shall file a motion for certification within five (5) calendar days of service of a ruling by the Administrative Law

Judge. The opposing party shall have five (5) calendar days in which to respond. Unless extended by a written order, the Administrative Law Judge shall rule on the motion within ten (10) calendar days following the filing of any response.

2936.5 If the Administrative Law Judge declines to certify a ruling, the Commission may review that ruling on appeal from a final order.

2936.6 The Administrative Law Judge may stay the proceeding while an interlocutory appeal is pending.

2937 RENTAL HOUSING CASES – INITIAL DECISIONS AND FINAL ORDERS

2937.1 For rent stabilization cases, after the close of the record in a case involving a tenant or housing provider petition, the Administrative Law Judge shall issue a final order.

2937.2 For rental housing conversion and sale cases, after the close of the record in cases involving petitions for declaratory relief pursuant to D.C. Official Code § 42-3405.03a, the Administrative Law Judge shall issue a final order.

2937.3 For rental housing conversion and sale cases, after the close of the record in cases involving the rejection of applications pursuant to D.C. Official Code § 42-3405.04, temporary cease and desist orders pursuant to D.C. Official Code § 42-3405.06, or a revocation of certifications or registrations pursuant to D.C. Official Code § 42-3405.07, the Administrative Law Judge shall issue an initial decision, pursuant to D.C. Code § 42–3405.08.

2937.4 OAH shall serve all initial decisions or final orders, as applicable, on the parties by first-class mail or, with consent, by email. OAH shall also serve:

(a) For rent stabilization cases, OAH also shall serve all final orders on the Rent Administrator and the Commission.

(b) For conversion and sale cases, OAH shall serve all initial decisions and final orders on the Conversion and Sale Administrator.

2938 RENTAL HOUSING CASES – REQUESTING RECONSIDERATION, A NEW HEARING, OR RELIEF FROM A FINAL ORDER

2938.1 Motions for reconsideration of an initial decision, reconsideration of a final order, a new hearing, or relief from a final order shall be decided in accordance with § 2830.

2938.2 For rental housing conversion and sale cases, any party may request reconsideration of an initial decision issued pursuant to D.C. Official Code § 42–3405.08.

2928.3 (a) Motions for reconsideration of an initial decision shall be filed with OAH within ten (10) calendar days of the date of service of the initial decision.

(b) If any party files a motion for reconsideration of an initial decision within the ten (10) calendar day deadline, the Conversion and Sale Administrator cannot issue a final decision for purposes of appeal to the D.C. Court of Appeals until the Administrative Law Judge rules on the motion.

2938.4 If any party files a motion for reconsideration or for a new hearing within the ten (10) calendar day deadline specified in § 2830.3, an Order shall not be final for purposes of appeal to the Commission or the D.C. Court of Appeals, as applicable, until the Administrative Law Judge rules on the motion. The motion shall state whether an appeal has been filed with the Commission or the D.C. Court of Appeals, as applicable. If an appeal has been filed, OAH has no jurisdiction to decide the motion absent a remand for that purpose.

2938.5 Any motion for relief from final order has no effect on the deadline for appealing to the Commission or the D.C. Court of Appeals, as applicable. If an appeal has been filed, OAH has no jurisdiction to decide a motion for relief from final order absent a remand for that purpose.

2939 RENTAL HOUSING CASES – APPEALS

2939.1 For rent stabilization cases, the Administrative Law Judge's final order is appealable to the Commission. A party shall file a petition for review by the Commission within ten (10) business days of the date of service of the final order.

2939.2 For conversion and sale cases,

(a) In cases involving the rejection of applications pursuant to D.C. Official Code § 42-3405.04, temporary cease and desist orders pursuant to D.C. Official Code § 42-3405.06, or a revocation of certifications or registrations pursuant to D.C. Official Code § 42-3405.07, the Administrative Law Judge's initial decision is not appealable to the D.C. Court of Appeals. If no party requests reconsideration within the ten (10) calendar day deadline, or following an Administrative Law Judge's decision on reconsideration, the Conversion and Sale Administrator shall adopt and render the initial decision as a final decision and serve upon each party a final order pursuant

to D.C. Official Code § 42-3405.08. The Conversion and Sale Administrator's final order is appealable to the D.C. Court of Appeals;

(b) In cases involving petitions for declaratory relief pursuant to D.C. Official Code § 42-3405.03a, the Administrative Law Judge's final order is appealable to the D.C. Court of Appeals; and

(c) For all appealable final orders, a party shall file a petition for review in the D.C. Court of Appeals within fifteen (15) calendar days of the date of service of the final order.

2940 RENTAL HOUSING CASES – OFFICIAL RECORD OF A PROCEEDING

2940.1 The official record of a proceeding shall consist of the following:

(a) The final order and any other orders or notices of the Administrative Law Judge;

(b) The recordings or any transcripts of the proceedings before the Administrative Law Judge;

(c) All papers and exhibits offered into evidence at the hearing; and

(d) All papers filed by the parties or the Rent Administrator or Conversion and Sale Administrator, as applicable, at OAH.

2940.2 Documents attached to a petition or other filings shall be offered and received in evidence at a hearing before the Administrative Law Judge can use them to establish facts.

2941 RENTAL HOUSING CASES – ATTORNEY'S FEES IN RENT STABILIZATION CASES

2941.1 All motions for an award of attorney's fees shall be filed within thirty (30) calendar days of service of the final order. But if a timely motion for reconsideration is filed, a motion for an award of attorney's fees shall be filed within thirty (30) days of the service date of the order deciding the motion or within thirty (30) days of the deemed denial date.

2941.2 The motion shall state whether an appeal has been filed with the Commission. If an appeal has been filed, OAH has no jurisdiction to decide the motion and it shall be held in abeyance until all appeals of the final order are exhausted.

2941.3 If a party did not prevail before OAH but does so in an appeal to the Commission without remand, the party may file a motion for attorney's fees incurred before

OAH within thirty (30) calendar days of the service date of the Commission's decision.

2941.4 A party moving for an award of attorney's fees has the burden of proving the amount of the award with substantial evidence of the hours of services provided and the rates charged for those services. Motions for attorney's fees shall be decided in accordance with the Commission's standards as provided in Title 14 of the DCMR.

2942 RENTAL HOUSING CASES – INTEREST ON SECURITY DEPOSITS IN RENT STABILIZATION CASES

2942.1 In any case in which a tenant claims entitlement to interest on a security deposit under D.C. Official Code § 42-3502.17(b), the tenant shall produce evidence of the amount of the security deposit that was given to the housing provider, the date on which it was given, and amount of interest, if any, paid to the tenant.

2942.2 If the tenant meets the requirements of § 2924.1, the housing provider shall produce evidence of the amount of interest that was earned on the security deposit.

2942.3 If the housing provider fails to produce evidence of the amount of interest that was earned, or the security deposit was not held in an interest-bearing account, the Administrative Law Judge shall compute interest by applying the Superior Court of the District of Columbia judgment rate prevailing on January 1st and on July 1st for each six-month period (or part thereof) of the tenancy.

2950 PUBLIC SECTOR WORKERS COMPENSATION CASES – SCOPE

2950.1 Sections 2950 through 2956 shall govern OAH hearings of appeals of certain Public Sector Workers Compensation decisions of the District of Columbia Office of Risk Management (ORM).

2950.2 The Rules in Chapter 28 shall apply for procedural issues not addressed in §§ 2950 through 2956.

2950.3 OAH shall hear the following appeals from ORM:

(a) Initial awards for or against compensation benefits pursuant to D.C. Official Code § 1-623.24(b);

(b) Appeals of overpayment determinations under D.C. Code § 1-623.29(b-1)(1);

(c) Modifications of awarded benefits pursuant to D.C. Official Code § 1-623.24(d); and

(d) Requests for determinations of whether a claimant has a permanent disability pursuant to D.C. Official Code § 1-623.06a.

2951 PUBLIC SECTOR WORKERS' COMPENSATION — BEGINNING A CASE

2951.1 Appeals shall be initiated by filing a written hearing request at OAH. The request may be made on a form supplied by the Public Sector Workers' Compensation Program (the Program) and approved by OAH. A hearing request shall contain:

(a) The name, address, and email address of the claimant and of the claimant's representative, if any;

(b) The type of claim;

(c) Claimant's employing agency when the injury occurred;

(d) A statement that the person signing the hearing request has read it and attests that the contents are true and accurate to the best of his or her knowledge;

(e) The signature of the claimant or the claimant's representative, if any;

(f) The specific nature and extent of the relief sought;

(g) A statement that the person signing the hearing request has read it and attests that the contents are true and accurate to the best of his or her knowledge; and

(h) The signature of the claimant of the claimant's representative, if any.

2951.2 A hearing request shall be accompanied by a copy of the decision being appealed or a copy of the Notice of Benefits Cap for appeals under D.C. Official Code § 1-623.06a if one has been issued.

2951.3 The claimant or claimant's representative shall sign the request for hearing and file it with OAH within thirty (30) days of service of the decision. Section 2811 prescribes procedures for filing.

2951.4 No hearing request shall exceed fifteen (15) pages, exclusive of the cover page. The Clerk may reject hearing requests that do not conform to these Rules.

2951.5 The presiding Administrative Law Judge may excuse a claimant's failure to comply with the specific requirements of this Section.

2952 PUBLIC SECTOR WORKERS COMPENSATION — SCHEDULING

2952.1 After a hearing request is filed, OAH shall send a copy to the Program and may issue a scheduling order for a status conference. At the status conference, the Administrative Law Judge shall ordinarily issue an order establishing deadlines for the following discovery and hearing activities:

(a) Serving and filing of Discovery Requests, including designation of expert witnesses and exchange of witness reports, if any;

(b) Scheduling of depositions of the parties and witnesses;

(c) Close of Discovery;

(d) Filing of a Joint Pre-Hearing Statement, including designation of all witnesses that a party proposes to call at the hearing and a list of all exhibits the party proposes to offer into evidence. Copies of all proposed exhibits shall be served on the other party and filed with the Court together with the Joint Pre-Hearing Statement;

(e) Deadline for any Motions *in Limine* and responses;

(f) Date and time of the Pre-Hearing Conference; and

(g) Date and time of the Hearing.

2952.2 The following provisions shall be deadlines for Discovery:

(a) Discovery Requests. No interrogatories, requests for admission, requests for production or inspection, or other discovery requests may be served after the deadline for discovery requests without approval of an Administrative Law Judge;

(b) Depositions. Depositions for any purpose shall be noticed at least ten (10) days before the scheduled deposition date and the deposition date shall be before the close of discovery;

(c) Exchange Lists of Fact Witnesses. On or before the applicable scheduling order deadline(s), each party shall serve and file a list of all the party's fact witnesses, including the address, and telephone number, if available. No witness who is not designated in the lists may be called to testify at the hearing except for impeachment or rebuttal or upon a showing that the party did not learn of the witness until after the deadline. For good cause, an Administrative Law Judge may allow an undesignated witness to testify if allowing the testimony shall not unduly prejudice the opposing party;

(d) Expert Witness Report. If either party intends to offer an expert opinion, the opposing party may require the party to submit a report of the expert's testimony in accordance with § 2954.2. A treating physician may give opinion testimony about the cause and extent of a claimant's disability without having to prepare a report; and

(e) Close of Discovery. No deposition or other discovery may be had after the applicable scheduling order deadline except by permission of an Administrative Law Judge upon a showing of good cause.

2952.3 The presiding Administrative Law Judge may schedule continued status conferences and extend discovery deadlines as may be appropriate. Before filing a motion to extend discovery, or to reschedule a status conference, a party shall seek consent of the opposing party as required by § 2817.5.

2953 PUBLIC SECTOR WORKERS COMPENSATION — PRE-HEARING CONFERENCE

2953.1 In accordance with the scheduling order, the parties shall file a Joint Pre-Hearing Statement that includes the following:

(a) A joint statement of the case, including all stipulated facts;

(b) A statement of the remaining issues in dispute;

(c) A statement of any objections to admissibility of proposed exhibits, including the specific grounds for the objections;

(d) A list of each party's proposed witnesses, excluding witnesses offered solely for impeachment or rebuttal;

(e) A list of the exhibits each party proposes to offer, together with a copy of the exhibit. Claimants' exhibits shall be numbered 100 through 199. Agency exhibits shall be numbered 200 through 299. The parties are encouraged, but not required, to number the pages of the cumulative exhibits consecutively (Bates stamped), to avoid confusion about page references in the record; and

(f) Designation of portions of deposition transcripts and discovery responses to be used at the Hearing (except for transcripts of depositions of expert witnesses).

2953.2 Each party shall serve and file any Motion *in Limine* or other motion concerning the conduct of the Hearing prior to the applicable scheduling order deadline.

2953.3 At the Pre-Hearing Conference the Administrative Law Judge shall discuss and make rulings on the following matters:

(a) Whether the parties will agree to additional stipulations of fact or to the admissibility of exhibits;

(b) The need to exchange any additional medical or vocational reports or other documents;

(c) The approximate time that each party will require for the Hearing and whether it may be appropriate to set time limits or to limit the number of witnesses;

(d) Resolution of any pending motions;

(e) Whether the Hearing will be conducted in person, via videoconference, or via teleconference;

(f) Whether interpreters will be needed; and

(g) Any other matters that may be appropriate.

2954 PUBLIC SECTOR WORKERS COMPENSATION — DISCOVERY

2954.1 Each party shall disclose the identity and proposed testimony of any expert witness in accordance with the scheduling order issued pursuant to § 2952.1.

2954.2 Unless otherwise stipulated, any Expert Witness Report shall contain the following:

(a) A statement of all opinions the witness will express and the basis for those opinions;

(b) The data or other information considered by the witness in forming them;

(c) Any exhibits that will be used to summarize or support them;

(d) The witnesses' qualifications, including a list of all publications authored in the previous ten (10) years;

(e) A list of all other cases in which, during the previous four (4) years, the witness testified as an expert at trial or by deposition;

(f) A statement of the compensation to be paid for the study and testimony in the case; and

(g) The following certification signed by the witness: "I hereby certify that this report is a complete and accurate statement of all my opinions, and the basis and reasons for them, to which I will testify under oath."

2954.3 A party may depose any person who has been identified as an expert and whose opinions may be presented at the Hearing.

2954.4 Interrogatories. Unless otherwise stipulated or ordered, a party may serve on any other party no more than twelve (12) written interrogatories, including subparts. The interrogatories shall be answered as follows:

(a) By the party to whom they are directed or, if by the District, by any officer or agent, who shall furnish the information available to the party;

(b) The responding party shall serve answers or objections within twenty-one (21) days after being served;

(c) Objections to interrogatories shall be stated specifically. Each interrogatory shall, to the extent it is not objected to, be answered separately and fully in writing under oath. Answers and objections shall identify and quote each interrogatory in full immediately preceding the answer or objection;

(d) The person who makes the answers shall sign them, and the attorney who objects shall sign any objections; and

(e) If the answer to an interrogatory may be determined by examining, auditing, compiling, abstracting, or summarizing a party's business records, including electronically stored information, and if the burden of deriving or ascertaining the answer is substantially the same for either party, the responding party may answer by:

(1) Specifying the records that shall be reviewed in sufficient detail to enable the interrogating party to locate them as readily as the responding party; and

(2) Giving the interrogating party a reasonable opportunity to examine and audit the records and to make copies, compilations, abstracts, or summaries.

2954.5 Requests for Production of Documents. Requests shall be made and responded to in accordance with D.C. Superior Court Civil Rule 34.

2954.6 Requests for Admission. Unless otherwise stipulated or ordered, a party may serve no more than fifteen (15) requests for admission on the other party. Requests shall be made and responded to in accordance with D.C. Superior Court Civil Rule 36.

2954.7 Depositions. Depositions shall be conducted in accordance with D.C. Superior Court Civil Rules 30 and 31.

2954.8 Motions to Compel Discovery. No party shall file a Motion to Compel Discovery without permission of the presiding Administrative Law Judge. Permission shall be

granted only after the parties or counsel have conferred in an effort to resolve the dispute or a party or counsel has made at least three (3) attempts to contact the opposing party or counsel without success to set up a meeting to confer.

(a) If the parties are unable to resolve the dispute after discussing it for a reasonable period, they shall request a telephone conference with the presiding Administrative Law Judge.

(b) If the dispute cannot be resolved by conference call with the Administrative Law Judge, the Administrative Law Judge may direct the moving party to file a motion to compel discovery.

(c) Before filing a Motion to Compel Discovery without having conferred with the opposing party or counsel, the moving party or counsel shall submit a written description of three separate attempts to contact the opposing party or counsel by telephone or email, including dates and times, and describe any response that was received. If an Administrative Law Judge finds that a party has made a good faith effort to resolve the issue, the Administrative Law Judge may direct the moving party to file a Motion to Compel Discovery. The Administrative Law Judge may also impose appropriate sanctions on the opposing party.

(d) Any Motion to Compel Discovery shall state specifically the Discovery that was requested, and any objections raised by the opposing party and specify the information or documents that the opposing party declined to provide.

(e) An opposing party may respond to a Motion to Compel Discovery within the time specified in § 2813.6 or such other time as the presiding Administrative Law Judge shall specify.

2954.9 Sanctions. If the District's Motion to Compel Discovery is granted, in addition to other sanctions that the presiding Administrative Law Judge may impose, the Administrative Law Judge shall deduct any reasonable expenses, costs, and fees incurred by the District, including attorney's fees, from any award of attorney's fees to the Claimant.

2955 PUBLIC SECTOR WORKERS COMPENSATION — HEARINGS

2955.1 The rules for hearings and evidence set forth in § 2823 shall apply to Public Sector Workers Compensation hearings except as modified in this Section.

2955.2 All hearings shall be recorded. Any party may obtain a copy of the recording in accordance with § 2828.2. Except where OAH is required by law to prepare a transcript, parties who want written transcripts shall prepare them at their own expense in accordance with § 2828.3.

2955.3 The party with the ultimate burden of proof ordinarily shall go first, but the presiding Administrative Law Judge may change the order of presentation to accommodate the availability of witnesses or the needs of the parties.

2956 PUBLIC SECTOR WORKERS COMPENSATION — ATTORNEY'S FEES

2956.1 An attorney who has represented a claimant who seeks to recover attorney's fees shall file a motion within thirty (30) days of the issuance of a final decision. The motion shall contain the following information:

(a) An itemized description of each service rendered, including the date and the amount of time spent. Time shall be recorded in intervals of no greater than ¼ hour. Intervals of one-tenth (1/10) hour are preferred;

(b) The amount of the fee which the attorney seeks; and

(c) A statement explaining the basis for the requested fee.

2956.2 In determining the amount of any award, the Administrative Law Judge shall consider at least the following factors:

(a) The nature, novelty, and complexity of the case;

(b) The time and labor required;

(c) The amount of benefits awarded;

(d) Customary local charges for similar services; and

(e) The professional qualifications of the attorney or other representative.

2956.3 Claims for attorney's fees are governed by D.C. Official Code § 1-623.27 and the Public Sector Workers' Compensation Benefits Rule on Attorney's Fees, 7 DCMR § 162.

2970 PUBLIC BENEFITS CASES – SCOPE

2970.1 Sections 2970 through 2979 shall govern hearings requested by individuals, other than service providers, concerning the following benefits:

(a) Medicaid, Healthcare Alliance, or other healthcare programs administered by the District of Columbia;

(b) Temporary Assistance for Needy Families (TANF);

(c) Supplemental Nutrition Assistance Program (SNAP) (formerly Food Stamps);

(d) Interim Disability Assistance;

(e) Shelter and services for homeless persons;

(f) Rental Assistance programs;

(g) General Assistance for Children;

(h) Child Care Subsidy;

(i) Program on Work, Employment, and Responsibility (POWER);

(j) Burial Assistance;

(k) Any other benefits provided by the District of Columbia Department of Human Services (DHS);

(l) Low Income Home Energy Assistance Program benefits provided by the District of Columbia Office of Energy and the Environment (DOEE);

(m) Vocational Rehabilitation Services;

(n) Randolph Sheppard Vending Facilities Program (RSVFP); and

(o) Benefits subject to a complaint made under the District of Columbia Department of Disability Services' (DDS) Formal Complaint Process.

2970.2 Sections 2970 through 2979 also shall govern hearings requested by DHS when it seeks to disqualify someone from receiving SNAP (formerly Food Stamps) benefits due to an intentional program violation.

2970.3 The Rules in Chapter 28 shall apply for procedural issues not addressed in §§ 2970 through 2979.

2970.4 If there is a conflict between any federal law or regulation and anything in these Rules, the federal law or regulation shall control.

2970.5 If there is a conflict between any District of Columbia statute and these Rules, the District of Columbia statute shall control.

2970.6 If there is a conflict between any other agency's procedural rules or regulations and these Rules, these Rules shall control.

2971 PUBLIC BENEFITS CASES – BEGINNING A CASE

2971.1 A person can request a hearing by e-mailing, filing via eFiling portal, mailing, faxing, or bringing a written request to OAH, or by making an oral request in person at OAH or by telephone to OAH. OAH's email address is oah.filing@dc.gov, its fax number is 202-442-4789, its telephone number is 202-442-9094, and its street and mailing address is Office of Administrative Hearings, One Judiciary Square, 441 4th Street, NW, Suite 450 North, Washington, DC 20001.

2971.2 Hearing request forms shall be available at OAH (including on its website), at all DHS service centers, at the District of Columbia Department of Health Care Finance (DHCF), at DOEE, at the Division of Early Childhood Education at OSSE, and at DDS, Rehabilitation Services Administration.

2971.3 (a) A hearing request shall describe:

(1) The type(s) of benefits involved;

(2) The action or inaction to which the person objects; and

(3) The name and, to the extent available, the telephone number, mailing address, and e-mail address of the person requesting a hearing.

(b) Persons who request a hearing under the Homeless Services Reform Act may provide only an e-mail address at which they can receive any papers in the case, including notices and orders, if they do not have a street address or post office box where they can receive mail.

(c) If available, a copy of the agency's notice of its action or decision shall be attached to the hearing request. A hearing request that does not contain a copy of the notice need not be rejected on that basis alone.

2971.4 To make a hearing request in writing, a person may email, file via eFiling portal, mail, fax, or bring a written request to:

(a) DHS;

(b) DHCF for a hearing concerning Medicaid, Healthcare Alliance, or other healthcare programs administered by the District of Columbia;

(c) DOEE for a hearing concerning Low Income Home Energy Assistance Program benefits (LIHEAP);

(d) A shelter or other service provider for a hearing under the Homeless Services Reform Act;

(e) The Division of Early Childhood Education at OSSE for a hearing concerning childcare benefits;

(f) DDS, Rehabilitation Services Administration, for a hearing concerning vocational rehabilitation services; or

(g) OAH.

2971.5 To make a hearing request in person, a person may visit:

(a) A DHS service center;

(b) DHCF, or the Office of the Health Care Ombudsman and Bill of Rights, for a hearing concerning Medicaid, Healthcare Alliance, or other healthcare programs administered by the District of Columbia, or the Aging and Disability Resource Center for a hearing concerning the Elderly and Persons with Physical Disabilities (EPD) waiver program;

(c) DOEE, for a hearing concerning Low Income Home Energy Assistance Program benefits (LIHEAP);

(d) The Division of Early Childhood Education at the OSSE, for a hearing concerning childcare benefits;

(e) DDS, Rehabilitation Services Administration, for a hearing concerning vocational rehabilitation services; or

(f) OAH.

2971.6 To make a hearing request by telephone, a person may call:

(a) DHS;

(b) DHCF, for a hearing concerning Medicaid, Healthcare Alliance, or other healthcare programs administered by the District of Columbia;

(c) The Division of Early Childhood Education at OSSE, for a hearing concerning child-care benefits; or

(d) DDS, Rehabilitation Services Administration, for a hearing concerning vocational rehabilitation services; or

(e) OAH.

2971.7 If the agency or service provider receives a written hearing request, it shall file the request with OAH within three calendar days of receiving the request.

2971.8 If the agency or service provider receives an oral or telephone hearing request, it shall prepare and file a hearing request form with OAH within three calendar days of receiving the request.

2971.9 If OAH receives a written hearing request from an individual, it shall send the request to any agency or service provider whose decision is being challenged.

2971.10 If OAH receives an oral or telephone hearing request from an individual, it shall complete a written summary of the request and send it to any agency or service provider whose decision is being challenged.

2971.11 DHS can request a hearing concerning a claim that a SNAP (formerly Food Stamps) recipient should be disqualified from receiving benefits due to an intentional program violation by completing and filing a hearing request form approved by the Chief Administrative Law Judge.

2972 PUBLIC BENEFITS CASES – REPRESENTATION BY ATTORNEYS

2972.1 An attorney or a law student may represent an applicant for, or recipient of, public benefits pursuant to § 2808. An attorney entering an appearance under § 2808 may withdraw an appearance only as allowed under § 2809.

2972.2 An attorney who meets the qualifications to represent a party under § 2808 may limit the scope of representation in accordance with this Section. Scope of representation may be limited by date, time period, activity, or subject matter.

2972.3 A party shall agree to the scope of representation. A party and an attorney may provide notice of their agreement to limited scope representation and specify the scope of representation by filing and serving a *Notice of Limited Scope Representation*.

2972.4 If the scope of representation is limited by date or time period, the attorney's appearance terminates at the end of the date or time period, without the necessity of leave of court. If the scope of representation is limited by activity or subject matter, the attorney's appearance terminates upon the attorney filing a *Notice of Completion*, which shall be filed with OAH and served on each party, including the attorney's client.

2972.5 Service on an attorney who has entered a limited appearance is required only for matters within the scope of the representation as stated in the notice. Service shall also be made on the party. Service on the attorney for matters outside the scope of the limited appearance does not extend the scope of the attorney's representation.

2972.6 An attorney may extend a limited appearance only by filing and serving a new notice of limited appearance pursuant to this Section or by filing and serving a *Notice of General Appearance* pursuant to § 2808.

2973 PUBLIC BENEFITS CASES – REPRESENTATION BY NON-ATTORNEYS

2973.1 An applicant for, or recipient of, public benefits may be represented by a relative, a friend, or any other representative who is not employed by the District of Columbia government.

2973.2 An Administrative Law Judge may require any person who is not a lawyer and who requests a hearing on behalf of another person to file a statement, signed by that other person, authorizing the non-lawyer to be a representative. A hearing request is subject to dismissal if the required statement is not filed.

2973.3 In accordance with the District of Columbia Public Assistance Act, D.C. Official Code § 4-210.10, if the public benefits applicant or recipient who requested the hearing is not represented by a lawyer, the District or a service provider may not be represented by a lawyer at any hearing involving the following public benefit programs:

(a) Medicaid, Healthcare Alliance or other healthcare programs administered by the District of Columbia;

(b) Temporary Assistance for Needy Families (TANF);

(c) SNAP (formerly Food Stamps);

(d) Interim Disability Assistance;

(e) General Assistance for Children;

(f) Shelter and services for homeless persons; and

(g) Program on Work Employment and Responsibility (POWER).

2973.4 The District or a service provider may be represented by a lawyer at a hearing involving any other public benefit program regardless of whether the person who requested a hearing is represented by a lawyer.

2973.5 Sections 2808 and 2810 shall govern the practice of non-attorney representatives.

2974 PUBLIC BENEFITS CASES – ADMINISTRATIVE REVIEWS

2974.1 An administrative review is an informal meeting between the person who has requested a hearing at OAH and a representative of the agency or service provider whose action or inaction is being challenged by that person. The purpose of an administrative review is to determine whether the agency's or service provider's position is valid and, if possible, to achieve an informal solution.

2974.2 An agency or service provider shall offer each person who requests a hearing at OAH an opportunity for an administrative review, if required by law. At least five (5) calendar days before the hearing date, the agency or service provider shall file and send to all parties and their representatives a status report, which says whether an administrative review was held, and the results of any review.

2974.3 In cases involving shelter or other services for homeless persons, as required by the Homeless Services Reform Act, the Department of Human Services shall conduct the administrative review.

2974.4 As required by law, the agency or service provider shall make the case file available to the person who requested the hearing.

2975 PUBLIC BENEFITS CASES – SUBPOENAS

2975.1 Any party may file a request in writing for an Administrative Law Judge to issue a subpoena to require a witness to attend a hearing.

2975.2 The Administrative Law Judge shall issue a subpoena under this Section if it is likely that the witness will be able to provide testimony that will be helpful in deciding the case, and if requiring the witness to appear will not be unduly burdensome or contrary to law.

2975.3 Any party also may request a subpoena to require a witness to bring documents, photographs, or other materials to present as evidence at the hearing. The Administrative Law Judge shall issue a subpoena if it is likely that the requested items will be helpful in deciding the case, and if requiring those items to be produced will not be unduly burdensome or otherwise contrary to law.

2975.4 A form to be used to request a subpoena is available from OAH.

2975.5 If an Administrative Law Judge issues a subpoena, the party requesting the subpoena shall deliver it pursuant to §§ 2824.6 through 2824.9 and 2824.11. Unless otherwise ordered by an Administrative Law Judge, delivery shall be made at least two (2) days before the hearing.

2976 PUBLIC BENEFITS CASES – HEARING DATES

2976.1 After a hearing request is filed, an Administrative Law Judge ordinarily shall schedule a hearing. If any applicable law requires that an administrative review be completed before a hearing takes place, a hearing shall not take place until the administrative review has been completed; a statutory deadline for completing the administrative review has passed; or the party requesting a hearing has waived their right to the administrative review.

2976.2 An Administrative Law Judge may schedule a status conference or other preliminary hearing to simplify the issues in the case, identify the parties' legal and factual positions, rule on any preliminary legal issues, or for any other purpose.

2976.3 Any party may ask an Administrative Law Judge for a different hearing date. Copies of a request form shall be sent with any hearing notice and are available from OAH.

2976.4 Only an Administrative Law Judge can change a hearing date.

2977 PUBLIC BENEFITS CASES – HEARINGS AND EVIDENCE

2977.1 The Administrative Law Judge shall decide at each hearing the order in which the parties will present their cases.

2977.2 If a party who requests a hearing fails to attend the hearing or a status conference without good cause, the Administrative Law Judge may dismiss the case without prejudice. "Good cause" for failing to attend a hearing or status conference includes, but is not limited to: serious illness, an accident, an unexpected child-care issue, severe weather conditions, or other emergency.

2977.3 If the agency or service provider whose action or inaction is being challenged fails to attend the hearing, the Administrative Law Judge may rule in favor of the person who requested the hearing.

2977.4 In a SNAP (formerly Food Stamps) Intentional Program Violation case, the District shall prove its case even if the other party fails to attend the hearing.

2977.5 Parties shall have the following rights at a hearing:

(a) To testify and to have other witnesses testify for them;

(b) To cross-examine witnesses called by another party;

(c) To request that any prospective witness be excluded from the courtroom;

(d) To examine all exhibits offered into evidence by another party;

(e) To object to the admission of any testimony or other evidence;

(f) To subpoena witnesses, as provided in § 2975; and

(g)) To appear with a representative, as provided in §§ 2972 and 2973.

2977.6 At a hearing, all parties may present evidence. "Evidence" includes testimony by the parties and any witnesses that a party may present. Evidence also includes documents, photographs, or any other items that a party believes may help the Administrative Law Judge decide the case. The Administrative Law Judge shall decide what evidence becomes part of the record.

2977.7 Unless otherwise ordered by the presiding Administrative Law Judge, at least five (5) calendar days before the hearing date, each party shall file with OAH, and send to the other parties, a list of witnesses' names and addresses, if available; and copies of any documents, photographs, or other items that the party wants the Administrative Law Judge to consider at the hearing. If the party who requested a hearing needs assistance copying or scanning documents or photographs, the party may request assistance from OAH.

2977.8 If anything is not filed according to the requirements of § 2977.7, and the other party shows that it has been prejudiced, the Administrative Law Judge shall have the discretion to set a new hearing date to allow the other party to prepare.

2977.9 If any party demonstrates that it has been prejudiced by the unexpected appearance of a witness, the Administrative Law Judge shall have the discretion to set a new hearing date to allow the other party to prepare for the witness testimony. If a witness was named on the witness list in the manner provided in § 2977.7, the Administrative Law Judge shall find that there has been no prejudice.

2978 PUBLIC BENEFITS CASES – DEADLINES

2978.1 If a federal or District of Columbia law or regulation imposes any time limitation for issuing or serving the decision in a particular public benefits matter, that law or regulation shall govern.

2979 PUBLIC BENEFITS CASES – REQUESTING RECONSIDERATION, A NEW HEARING, OR RELIEF FROM A FINAL ORDER

2979.1 Motions for reconsideration, a new hearing, or relief from a final order shall be decided in accordance with § 2830.

2980 UNEMPLOYMENT INSURANCE CASES – SCOPE

2980.1 Sections 2980 through 2986 shall govern hearings of appeals of decisions of the District of Columbia Department of Employment Services (DOES) concerning unemployment compensation insurance.

2980.2 The Rules in Chapter 28 shall apply for procedural issues not addressed in §§ 2980 through 2986.

2980.3 If there is a conflict between any federal law or regulation and anything in these Rules, the federal law or regulation shall control.

2980.4 If there is a conflict between any District of Columbia statute and anything in these Rules, the District of Columbia statute shall control.

2980.5 If there is a conflict between any other agency's procedural rules or regulations and these Rules, these Rules shall control.

2981 UNEMPLOYMENT INSURANCE CASES – BEGINNING A CASE

2981.1 A party requesting a hearing to appeal a DOES Claims Examiner's Determination in an unemployment compensation case shall file a copy of the determination that the party is appealing with the hearing request. If the party does not file a copy of the determination, OAH shall issue an order directing the party to file a copy of the determination in order to establish OAH's jurisdiction. If the copy is not provided, OAH may dismiss the case.

2981.2 In unemployment compensation cases, OAH may extend the deadline for filing a hearing request upon a showing of excusable neglect or good cause.

2981.3 Section 2805 shall govern all other procedures for requesting a hearing.

2982 UNEMPLOYMENT INSURANCE CASES – REPRESENTATIVES

2982.1 An authorized agent employed by a firm whose usual business includes providing representation in unemployment compensation cases may represent any party.

2982.2 Sections 2808 and 2810, shall govern the practice of lawyers or other party representatives.

2983 UNEMPLOYMENT INSURANCE CASES – FILING OF PAPERS

2983.1 (a) When a request for hearing is mailed to OAH, if the envelope containing the request bears a legible USPS postmark or if there is other proof of the mailing date, the request shall be considered filed on the mailing date. The filing date cannot be established by a private postage meter postmark alone.

(b) When a request for hearing is delivered to OAH by commercial carrier, the filing date is the date the commercial carrier received the request for delivery to the Clerk's Office, if the cost of delivery is prepaid and delivery is to occur within three (3) calendar days of the commercial carrier's receipt. The date of commercial carrier's receipt shall be established by a document or other record prepared by the commercial carrier in the normal course of business.

2983.2 Section 2811 shall govern all other procedures for filing papers.

2984 UNEMPLOYMENT INSURANCE CASES – SUBPOENAS

2984.1 In unemployment compensation cases, the Clerk shall issue no more than three (3) subpoenas to each party under § 2824.5 to compel:

(a) The appearance at a hearing of persons who have direct knowledge of Claimant's separation from employment or of the reasons for an adverse action regarding Claimant's benefits; or

(b) The production at a hearing of documents, dated no earlier than six months before the date of separation, in the other party's possession that directly relate to Claimant's separation from employment or to the reasons for an adverse action regarding Claimant's benefits.

2984.2 Service of a subpoena for a witness to appear at a hearing shall be made by personally delivering the subpoena to the witness. Unless otherwise ordered by an Administrative Law Judge, service shall be made at least two (2) calendar days before the hearing.

2984.3 Section 2824 shall govern all other procedures for subpoenas.

2985 UNEMPLOYMENT INSURANCE CASES – HEARINGS AND EVIDENCE

2985.1 At least three business days before a hearing in an unemployment compensation case, a party shall serve on all other parties and file with the Clerk the following:

(a) A list of the witnesses, other than a party, whom the party intends to call to testify; and

(b) A copy of each exhibit that the party intends to offer into evidence, other than exhibits to be used solely for impeachment or rebuttal.

2985.2 Section 2823 shall govern all other procedures for hearings.

2986 UNEMPLOYMENT INSURANCE CASES – REQUESTING RECONSIDERATION, A NEW HEARING, OR RELIEF FROM A FINAL ORDER

2986.1 Section 2830 shall govern decisions on motions for reconsideration, a new hearing, or relief from a final order.

2999 DEFINITIONS

2999.1 Unless otherwise provided, the definitions in Chapter 28 apply to this chapter.

2999.2 For purposes of this chapter, the term:

CASD means the Conversion and Sale Division of the Department of Housing and Community Development.

Commission means the Rental Housing Commission.

Contested residency case means a case in which an adult student or a minor student's parent or guardian has filed, pursuant to 5-E DCMR § 2009.3, a request for review of a decision by DCPS that a student is not entitled to tuition-free education because the student is not a resident of the District of Columbia.

Conversion and Sale Act means the Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code §§ 42-3401.01 – 3405.13).

Conversion and Sale Administrator means the Conversion and Sale Administrator of CASD

DCPS means District of Columbia Public Schools.

DDS means District of Columbia Department on Disability Services.

DFHV means District of Columbia Department of For-Hire Vehicles.

DFHV Act means the Department of For-Hire Vehicles Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-301.01 - .34)

DHCF means District of Columbia Department of Health Care Finance.

DHS means District of Columbia Department of Human Services.

Disciplinary file means any and all tangible evidence, in DCPS's possession, which forms the basis for the school's decision to propose the specific disciplinary action, including, but not limited to, student, staff and other witness statements, incident reports, photographs, police reports, and security camera footage. Nothing in these rules prohibits DCPS from redacting any information it deems confidential or protected.

District of Columbia or District means the District of Columbia, or any government agency authorized by law to prosecute cases before OAH and whose administrative litigation falls under the jurisdiction of OAH, but does not include OAH.

DOEE means District of Columbia Department of Energy and Environment.

DOES means District of Columbia Department of Employment Services.

Homeless Services Reform Act means the Homeless Services Reform Amendment Act of 2017, effective February 28, 2018 (D.C. Law 22-65; D.C. Official Code §§ 4-751.01 – 756.07).

Limited scope representation means a relationship between an attorney and a person seeking legal services in which they have agreed that the scope of the legal services shall be limited by date, time period, activity, or subject matter.

ORM means District of Columbia Office of Risk Management.

OSSE means District of Columbia Office of the State Superintendent of Education.

RAD means the Rental Accommodations Division of the Department of Housing and Community Development.

Rent Administrator means the Rent Administrator of the RAD.

Rental Housing Act means the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code §§ 42-3501.01 – 3509.10).

Rental housing cases means cases initiated pursuant to the Rental Housing Act and the Rental Housing Conversion and Sale Act.

School day means a day that school is open, whether or not students are attending, but does not include any day that OAH is closed.

Service Provider means a person or entity that furnishes assistance to members of the public through a contract with or funding from the District.

Student discipline case means a case in which DCPS seeks to expel a student or to suspend a student for at least six days.

All persons desiring to comment on the subject matter of this proposed rulemaking should submit comments in writing no later than thirty (30) days after the date of publication of this notice in the *District of Columbia Register* via e-mail to johnnie.barton@dc.gov, or to the Office of Administrative Hearings, 441 Fourth Street NW, Suite 450N, Washington, DC 20001, Attn: Johnnie Barton, Attorney Advisor. Copies of this proposed rulemaking may be obtained from www.oah.dc.gov or from the address listed above.

DISTRICT OF COLUMBIA BOARD OF ELECTIONS

NOTICE OF 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. & 2019 Supp.)), hereby gives notice of proposed rulemaking action to adopt amendments to Chapter 5 (Voter Registration) 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 address that may be used by unhoused D.C. residents for voter registration purposes and the process for challenging registered voter status.

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 *District of Columbia Register.*

CHAPTER 5, VOTER REGISTRATION, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Section 503, REGISTRATION APPLICATION FORMS AND REQUIREMENTS, is amended as follows:

Paragraph 503.1(c) is amended to read as follows:

(c) A Department of Motor Vehicles (DMV)-issued driver's license or non-driver's identification card application where the applicant does not decline to register to vote or update his or her voter registration information; or

Subsection 503.3 is amended to read as follows:

503.3 An applicant shall provide the following information on any voter registration application or voter registration update notification:

(a) Applicant's complete name;

(b) Applicant's current and fixed residence address in the District, provided that an unhoused applicant may provide the address that appears on a DMV-issued non-driver's identification card that has been issued to the applicant where the DMV has authorized the use of a certified social service provider's address for purpose of non-driver identification card issuance;

(c) Applicant's date of birth;

(d) Applicant's original signature; and

(e) Applicant's DMV-issued identification number in the case of an applicant who has been issued a current and valid driver's license, or the last four (4) digits of the applicant's social security number (if any).

Section 504, REGISTRATION TIMELINESS AND EFFECTIVENESS, is amended to read as follows:

Subsection 504.7 is amended to read as follows:

504.7 Valid proof of residence is any official document showing the voter's name and a District of Columbia home address or, in the case of an unhoused voter, the address that appears on a DMV-issued non-driver's identification card that has been issued to the applicant where the DMV has authorized the use of a certified social service provider's address for the purpose of non-driver identification card issuance. Proof of residence shall either be presented in paper or electronic form. A proof of residence document in electronic form shall be presented on a voter-owned device. The Board shall not be responsible for providing an independent wireless connection for voters to access documents in electronic form. Acceptable forms of proof of residence include:

(a) A copy of current and valid government-issued photo identification;

(b) A utility bill for water, gas, electricity, cable, internet, telephone, or cellular phone service issued within the last ninety (90) days;

(c) A savings, checking, credit, or money market account statement from a bank or credit union issued within the last ninety (90) days;

(d) A paycheck, stub, or earning statement that includes the employer's name, address, and telephone number and was issued within the last ninety (90) days;

(e) A government-issued document or check from a federal or District agency, other than the Board of Elections, issued within the last ninety (90) days;

(f) A current residential lease or rental agreement;

(g) An occupancy statement from a District homeless shelter issued within the last ninety (90) days; or

(h) A tuition or housing bill from a District of Columbia college or university issued for the current academic or housing term.

Section 521, CANCELLATION OF VOTER REGISTRATION: CHALLENGE AND REQUEST FOR ADDITIONS TO REGISTRATION ROLL, is amended as follows:

Subsection 521.1 is amended to read as follows:

521.1 Any duly registered voter may:

(a) "Challenge" the registration (but not pre-registration) of any person on the following grounds:

(i) The voter is fictitious;

(ii) The voter is deceased;

(iii) The voter, by the time of the primary election, will not be at least seventeen (17) years of age and will not be eighteen (18) on or before the next general election;

(iv) The voter will not be at least eighteen (18) years of age on or before the date of the general or special election;

(v) The voter will not have lived within the District for at least thirty (30) days preceding the next election;

(vi) The voter claims voting residence or the right to vote in any state, territory, or country; or

(vii) The voter has been adjudged legally incompetent to vote by a court of competent jurisdiction.

(b) "Request" the addition of any person whose name has been erroneously omitted or cancelled from the registration roll.

Subsection 521.2 is amended to read as follows:

521.2 A voter registration challenge or request to add a person whose name has been erroneously omitted or cancelled shall not be accepted:

(a) If, within three (3) business days of receipt of the challenge or request, the Board's General Counsel issues a determination that the challenge or request is insufficiently supported. In the event of such determination, the voter submitting the challenge or request may re-submit the challenge or request with additional support or, within three (3) business days of notice of the General Counsel's determination, appeal that determination in writing to the Board; or

(b) If the challenge or request was submitted after the forty-fifth (45th) day preceding an election.

Subsection 521.5 is amended to read as follows:

521.5 If the General Counsel does not find that the challenge was insufficiently supported, the Board shall send notice to any person whose registration has been challenged at the address listed on the Board's record, along with a copy of any evidence filed in support of the challenge.

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 *District of Columbia 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.

DEPARTMENT OF LICENSING AND CONSUMER PROTECTION

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Licensing and Consumer Protection, pursuant to the authority set forth in D.C. Official Code § 47-2853.10(a)(12); Mayor's Order 2000-70, dated May 2, 2000; and Mayor's Order 2022-149, dated September 29, 2022, hereby gives notice of the intent to adopt the following amendments to Chapters 19 (Landscape Architects), 32 (Interior Designers), 33 (Non-Health Occupations: General Rules), and Chapter 34 (Architects) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

This proposed rulemaking amends the continuing education licensure renewal requirements for architects, interior designers, and landscape architects. Specifically, it allows an applicant for the renewal or reinstatement of an existing license to attest to their having completed continuing education requirements as part of the application process. Licensees for the professions of architecture, interior design, and landscape architecture are currently required to submit proof of having completed the required continuing education credits through a license renewal or reinstatement application. This proof includes a certificate of completion from the course sponsor or provider, which must be approved by the American Institute for Architects (AIA) or the National Council of Architectural Registration Boards (NCARB). This requirement creates an unnecessary administrative burden on the licensees who must upload copies of the certificates for each of the courses they complete. Additionally, the current process imposes an administrative burden on the Board of Architecture, Interior Design, and Landscape Architecture (Board), the body responsible for reviewing and verifying the continuing education (CE) information for licensees. There are over 4,000 licensed architects, interior designers, and landscape architects in the District of Columbia (District). The Board is responsible for reviewing and verifying the CE information for each license, which includes reviewing transcripts or certificates of completion to determine if (1) the continuing education course meets health, safety, and welfare criteria; (2) the number of hours for each course are correctly reported; and (3) each course is approved by either AIA or NCARB.

This proposed rulemaking will require a license renewal or reinstatement applicant to attest their compliance with the continuing education requirements, while maintaining the existing rule provisions that the continuing education credits are only valid if the program is approved by the Board.

In addition to allowing licensees to attest to having fulfilled their CE requirements, this proposed rulemaking requires licensees to retain proof of course completion for six (6) years and authorizes the Board to conduct an audit to verify whether applicants for license renewal or reinstatement are compliant with their continuing education requirements. Finally, the proposed rulemaking makes conforming amendments to existing regulations related to continuing education requirements for expired licenses and extensions granted for good cause.

During the COVID-19 Public Health Emergency, applicants for license renewal or reinstatement were allowed to attest to their completion of approved continuing education credits or hours by submitting a signed statement to that effect with their application. The Board found this attestation process to be a more efficient method of reporting a licensee's compliance with the continuing

education requirements. In addition to being more efficient and thus less prone to errors, this process reduced the administrative burden on both licensees and the Board.

Further, this rulemaking would bring alignment across other boards and commissions in the District. For example, the D.C. Board of Professional Engineers and the D.C. Board of Accountancy allow its licensees to attest to having completed their CE requirements when they apply to renew their licenses. *See* 17 DCMR §§ 1526 and 2532. Additionally, the D.C. Board of Professional Engineers and the D.C. Board of Accountancy require licensees to retain copies of their course completion for auditing by the Board. See 17 DCMR §§ 1528 and 2532. Thus, there is precedent within DLCP's Occupational and Professional Licensing Administration to support this regulatory change for licensed architects, interior designers, and landscape architects.

Additionally, the proposed rulemaking seeks to conform with NCARB's Model Rule R304, which: (1) permits an architecture license renewal applicant to certify completion of required continuing education hours, (2) provides for a six (6) year-period of record retention by an architecture licensee for continuing education courses, and (3) allows a professional board to conduct audits of architecture licensees for verification of a licensee's compliance with continuing education requirements. Finally, allowing licensees to attest to having completed their CE requirements would make District requirements consistent with neighboring jurisdictions Virginia and Maryland. *See* 18VAC §§ 10-20-670 and 10-20-683; see also COMAR §§ 09.18.03.06, 09.21.05.07, 09.21.05.08, 09.28.04.08, and 09.28.04.09.

Lastly, this proposed rulemaking makes a conforming amendment to Chapter 33 of Title 17 of the DCMR to reflect the name of the Board as being the "Board of Architecture, Interior Design, and Landscape Architecture". In 2016, the Council of the District of Columbia passed the Landscape Architecture and Professional Design Firms Amendment Act of 2016, effective April 7, 2017 (D.C. Law 21-249; D.C. Official Code § 47-2853.04 *et seq*.). The law, among other things, changed the name of the D.C. Board of Architecture to its current name.

The Director hereby gives notice of the intent to take final rulemaking action to adopt these rules as final in not less than thirty (30) days after the publication of this notice in the *District of Columbia Register.* Directions for submitting comments are provided at the end of this notice.

Chapter 19, LANDSCAPE ARCHITECTS, of Title 17, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, of the DCMR is amended as follows:

Section 1907, CONTINUING EDUCATION REQUIREMENTS FOR RENEWAL OR REINSTATEMENT OF A LICENSE, is amended as follows:

Subsections 1907.2, 1907.3, 1907.4, 1907.6, 1907.7, 1907.8, and 1907.9 are amended to read as follows:

1907.2 An applicant for renewal of a license shall have completed twenty-four (24) hours of credit in approved continuing education programs during the term of the license. At least eighteen (18) of these hours shall be in health, safety, and welfare subjects.

1907.3 An applicant for reinstatement of an expired license or renewal of an inactive license shall have completed twenty-four (24) hours of credit in approved continuing education programs, and an additional six (6) hours of credit for each year the license was expired or inactive, up to a maximum of thirty-six (36) hours. At least seventy-five percent (75%) of these hours shall be in health, safety, and welfare subjects. To be creditable, courses shall not have been completed more than two (2) years prior to the date of application.

1907.4 An applicant under this section shall submit with their renewal or reinstatement application an attestation of their having completed the required continuing education credits. The attestation shall include the following information with respect to each program:

(a) The name and address of the sponsor of the program;

(b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;

(c) The dates on which the applicant attended the program and

(d) The hours of credit claimed.

1907.6 An applicant for the renewal of a license who fails to complete the continuing education requirements and provide an attestation as required under this section by or before the expiration date may renew the license within sixty (60) days after expiration by completing the outstanding hours and by paying the required late fee. Any hours obtained after licensure expiration and claimed for late renewal shall not be creditable for the next renewal period. Upon renewal, the Board shall deem the applicant to have possessed a valid license during the period between the expiration of the license and its renewal.

1907.7 If an applicant for the renewal of a license fails to complete the continuing education requirements and provide an attestation as required under this section within sixty (60) days after the expiration of the applicant's license, the license shall be deemed to have lapsed on the date of expiration, and the applicant shall be required to apply for reinstatement of the expired license pursuant to § 3308 of this title.

1907.8 The Board may grant an extension of the sixty (60) day period to renew after expiration if the applicant's failure to complete continuing education requirements was for good cause. For purposes of this subsection, good cause includes proof of the following during the term of the license:

(a) Serious and protracted illness of the applicant, who submits a doctor's statement verifying the illness;

(b) The death or serious and protracted illness of a member of the applicant's

immediate family, which death or illness resulted in the applicant's inability to complete the continuing education requirements within the specified time. For the purposes of this subsection, the term "immediate family" means the applicant's spouse and any parent, brother, sister, or child of the applicant and the spouse of any such parent, brother, sister, or child; or

(c) Active military service.

1907.9 An extension granted under this section shall not relieve an applicant from complying with the continuing education requirements for the next renewal period.

A new section 1912 is added to read as follows:

1912 CONTINUING EDUCATION: RECORDKEEPING AND AUDIT REQUIREMENTS

1912.1 A licensee shall be responsible for documenting their completion of the continuing education requirements and shall bear the burden of providing satisfactory proof of completion and establishing that any program or activity for which credit is claimed complies with the standards set forth in § 1907.

1912.2 A licensee shall retain course documentation for six (6) years after completing a continuing education program or activity for which credit is claimed. Acceptable documentation shall include the following:

(a) A copy of the course outline and certificate of successful completion from the sponsor which shall include the following information:

(1) The name of the sponsor of the program;

(2) The name of the program and a description of the subject matter covered;

(3) The dates on which the licensee attended the program; and

(4) The hours of credit earned;

(b) In the case of courses taken at an accredited college or university, proof of satisfactory completion of the course, including the name of the college or university, name of the course, date of completion, and the number of hours of earned, along with a copy of the course syllabus;

(c) In the case of licensees claiming credit for publication of a technical paper, article, or book, satisfactory proof of its publication; or

(d) Other comparable proof deemed satisfactory by the Board.

1912.3 The Board may, as it deems appropriate, conduct an audit of active licensees to determine compliance with the continuing education requirements.

1912.4 Upon notification by the Board that a licensee has been selected for an audit, the licensee shall submit proof of his or her compliance with the continuing education requirements in accordance with §§ 1907 and 1912 within thirty (30) days after receipt of the notice.

1912.5 A licensee who fails to provide proof of having completed the continuing education requirements during an audit may be subject to another audit in the subsequent licensure term.

1912.6 If the Board determines that the licensee has not met his or her continuing education requirement in accordance § 1907, the Board may either grant an additional period of time in which the deficiencies can be cured or impose disciplinary action in accordance with the Act and this chapter.

Chapter 32, INTERIOR DESIGNERS, of Title 17, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, of the District of Columbia Municipal Regulations is amended as follows:

Section 3210, CONTINUING EDUCATION REQUIREMENTS FOR LICENSEES, is renamed and amended in its entirety to read as follows:

3210 **CONTINUING EDUCATION REQUIREMENTS FOR LICENSEES FOR RENEWAL OR REINSTATEMENT OF A LICENSE**

3210.1 This section shall apply to all applicants for the renewal or reinstatement of a license to practice interior design, except those applicants seeking first renewal of a license granted by examination.

3210.2 A continuing education credit shall be valid only if it is part of a program approved by the Board in accordance with § 3211 of this chapter.

3210.3 An applicant for renewal of a license shall have completed ten (10) contact hours of credit in approved continuing education programs during the term of the license.

3210.4 An applicant under this section shall submit with their renewal or reinstatement application an attestation of their having completed the required continuing education credits. The attestation shall include the following information with respect to each program:

(a) The name and address of the sponsor of the program;

(b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;

(c) The dates on which the applicant attended the program; and

(d) The hours of credit claimed.

3210.5 The Board may, in its discretion, grant an extension of the sixty (60) day period, up to a maximum of one (1) year, for renewal after expiration, if the applicant's failure to complete the continuing education requirements was for good cause.

3210.6 For purposes of this section, good cause shall include the following:

(a) Serious and protracted illness of the applicant, who submits a doctor's statement verifying the illness;

(b) The death or serious and protracted illness of a member of the applicant's immediate family, which death or illness resulted in the applicant's inability to complete the continuing education requirements within the specified time. For the purposes of this subsection, the term "immediate family" means the applicant's spouse and any parent, brother, sister, or child of the applicant and the spouse of any such parent, brother, sister, or child; or

(c) Active military service.

3210.7 An extension granted under this section shall not relieve an interior designer from complying with the continuing education requirement for the next renewal period.

3210.8 An applicant for the renewal of a license who fails to complete the continuing education requirements by or before the expiration date may renew the license within sixty (60) days after expiration by completing the outstanding hours and by paying the required late fee. Any hours obtained after licensure expiration and claimed for late renewal shall not be creditable for the next renewal period. Upon renewal, the Board shall deem the applicant to have possessed a valid license during the period between the expiration of the license and its renewal.

Section 3211, APPROVED CONTINUING EDUCATION PROGRAMS, is amended as follows:

Subsection 3211.2(b)(2) is amended to read as follows:

(2) The Council for Interior Design Qualification (CIDQ).

A new section 3215 is added to read as follows:

3215 CONTINUING EDUCATION: RECORDKEEPING AND AUDIT REQUIREMENTS

3215.1 A licensee shall be responsible for documenting their completion of the required continuing education and shall bear the burden of providing satisfactory proof of completion and establishing that any program or activity for which credit is claimed complies with the standards set forth in § 3210.

3215.2 A licensee shall retain course documentation for six (6) years after completing a continuing education program or activity for which credit is claimed. Acceptable documentation shall include, but is not limited to, the following:

(a) A certificate of successful completion from the sponsor which includes the following information:

(1) The name of the sponsor of the program;

(2) The name of the program and a description of the subject matter covered;

(3) The dates on which the licensee attended the program; and

(4) The hours of credit earned; and

(b) A copy of the course outline prepared by the course sponsor or provider;

(1) In the case of courses taken at an accredited university and college, proof of satisfactory completion of the course, including the name of the college or university, name of the course, date of completion, and the number of hours of earned, along with a copy of the course syllabus;

(2) In the case of licensees claiming credit for publication of a technical paper, article, or book, satisfactory proof of its publication; or

(3) Other comparable proof deemed satisfactory by the Board.

3215.3 The Board may, as it deems appropriate, conduct an audit of active licensees to determine compliance with the continuing education requirements.

3215.4 Upon notification by the Board that a licensee has been selected for an audit, the licensee shall submit proof of his or her compliance with the continuing education requirements in accordance with § 3210 within thirty (30) days of receipt of the notice.

3215.5 A licensee who fails to provide proof of continuing education compliance during an audit may be subject to another audit in the subsequent licensure term.

3215.6 If the Board determines that the licensee has not met his or her continuing education requirement in accordance § 3210, the Board may either grant an additional period of time in which the deficiencies can be cured or impose disciplinary action in accordance with the Act.

Chapter 33, NON-HEALTH OCCUPATIONS: GENERAL RULES, of Title 17, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, of the District of Columbia Municipal Regulations is amended as follows:

Section 3300, APPLICABILITY, is amended as follows:

Subsection 3300.1(f) is amended to read as follows:

(f) The Board of Architecture, Interior Design, and Landscape Architecture, established by the Second Omnibus Regulatory Reform Amendment Act of 1998, effective April 20, 1999 (D.C. Law 12-261; D.C. Official Code § 47-2853.06(a)); and as amended by the Regulation of Landscape Architecture and Professional Design and Professional Design Firm Amendment Act of 2016, effective April 7, 2017 (D.C. Law 21-249; D.C. Official Code § 47-2853.06(a)).

Chapter 34, ARCHITECTS, of Title 17, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, of the District of Columbia Municipal Regulations is amended as follows:

Section 3414, CONTINUING EDUCATION, is amended as follows:

The section heading is amended to read as follows:

3414 CONTINUING EDUCATION REQUIREMENTS FOR RENEWAL OR REINSTATEMENT OF A LICENSE

Subsection 3414.2 is amended to read as follows:

3414.2 An applicant for renewal of a license shall have completed twenty-four (24) Professional Development Unit (PDU) hours of credit in approved continuing education programs in health, safety, and welfare subjects during the term of the license.

Subsection 3414.3 is amended to read as follows:

3414.3 An applicant under this section shall submit with their renewal or reinstatement application an attestation of their having completed the required continuing education credits. The attestation shall include the following information with respect to each program:

(a) The name and address of the AIA sponsor of the program;

(b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;

(c) The dates on which the applicant attended the program; and

(d) The hours of credit claimed.

Subsection 3414.7 is amended to read as follows:

3414.7 For purposes of this section, good cause includes, but is not limited to, the following:

(a) Serious and protracted illness of the applicant, who submits a doctor's statement verifying the illness;

(b) The death or serious and protracted illness of a member of the applicant's immediate family, which death or illness resulted in the applicant's inability to complete the continuing education requirements within the specified time. For the purposes of this subsection, the term "immediate family" means the applicant's spouse and any parent, brother, sister, or child of the applicant and the spouse of any such parent, brother, sister, or child; or

(c) Active military service.

A new subsection 3414.9 is added to read as follows:

3414.9 An applicant for the renewal of a license who fails to complete and provide attestation the continuing education requirements by or before the expiration date may renew the license within sixty (60) days after expiration by completing the outstanding hours and by paying the required late fee. Any hours obtained after licensure expiration and claimed for late renewal shall not be creditable for the next renewal period. Upon renewal, the Board shall deem the applicant to have possessed a valid license during the period between the expiration of the license and its renewal.

A new Section 3416, CONTINUING EDUCATION: RECORDKEEPING AND AUDIT REQUIREMENTS, is added to read as follows:

3416 CONTINUING EDUCATION: RECORDKEEPING AND AUDIT REQUIREMENTS

3416.1 A licensee shall be responsible for documenting their completion of the required continuing education and shall bear the burden of providing satisfactory proof of completion and establishing that any program or activity for which credit is claimed complies with the standards set forth in § 3414.

3416.2 A licensee shall retain course documentation for six (6) years after completing a continuing education program or activity for which credit is claimed. Acceptable documentation shall include, but is not limited to, the following:

(a) (1) A certificate of successful completion from the sponsor which includes the following information:

(A) The name of the sponsor of the program;

(B) The name of the program and a description of the subject matter covered;

(C) The dates on which the licensee attended the program; and

(D) The hours of credit earned; and

(2) A copy of the course outline prepared by the course sponsor or provider;

(b) In the case of courses taken at accredited universities and colleges, proof of satisfactory completion of the course, including the name of the college or university, name of the course, date of completion, and the number of hours of earned, along with a copy of the course syllabus;

(c) In the case of licensees claiming credit for publication of a technical paper, article, or book, satisfactory proof of its publication; or

(d) Other comparable proof deemed satisfactory by the Board.

3416.3 The Board may, as it deems appropriate, conduct an audit of active licensees to determine compliance with the continuing education requirements.

3416.4 Upon notification by the Board that a licensee has been selected for an audit, the licensee shall submit proof of his or her compliance with the continuing education requirements in accordance with § 3414 within thirty (30) days of receipt of the notice.

3416.5 A licensee who fails to provide proof of continuing education compliance during an audit may be subject to another audit in the subsequent licensure term.

3416.6 If the Board determines that the licensee has not met his or her continuing education requirement in accordance § 3414, the Board may either grant an additional period of time in which the deficiencies can be cured or impose disciplinary action in accordance with the Act.

All persons desiring to comment on the subject matter of these proposed regulations should submit comments in writing to the Department of Licensing and Consumer Protection by email to April R. Randall, Legislative Director, at april.randall2@dc.gov no later than thirty (30) days after publication of this notice in the *District of Columbia Register*. Persons with questions concerning

this Notice of Proposed Rulemaking should call (202) 442-8062. Copies of the proposed regulations can be obtained at www.dcregs.dc.gov.

DEPARTMENT OF HEALTH

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 ("Act"), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of the intent to adopt, on an emergency basis, the following amendment to Chapter 96 (Certified Nurse Aides) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations ("DCMR").

This rulemaking amends Chapter 96 to permit the use of certified nurse aides (CNA) in a home setting. The challenges of the COVID-19 pandemic have led to the growing shortage of nursing personnel. While several policy measures are being considered for adoption, it has been determined that permitting the use of CNA in a home setting would be a helpful step toward bridging the current gaps in healthcare services. The shortage, however, is becoming dire and it is imperative for the preservation of the health, safety, and welfare of the public to take this action immediately on an emergency basis. Allowing CNA to perform work in home settings will reduce the shortage of nursing personnel needed to provide healthcare services in home settings.

This emergency rule was adopted on April 29, 2024 and became effective immediately on that date. The emergency rule will expire one hundred twenty (120) days from the date of adoption, which will be August 27, 2024, or upon publication of a Notice of Final Rulemaking in the *District of Columbia Register*, whichever occurs first.

The Director also gives notice of the intent to adopt this rule as final in not less than thirty (30) days from the date of publication of this notice in the *District of Columbia Register*.

CHAPTER 96, CERTIFIED NURSE AIDES, OF TITLE 17, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

SECTION 9600, GENERAL PROVISIONS, is amended as follows:

Subsection 9600.5 is amended to read as follows:

9600.5 A CNA may provide nursing care services in a home setting under the following conditions:

(a) A registered nurse licensed pursuant to Chapter 54 of this title shall have attested to the CNA's competency in functions related to providing nursing services in a home care setting such as home safety and infection control in a home;

(b) The CNA shall provide the services only under supervision of a registered nurse licensee pursuant to Chapter 54 of this title and pursuant to the assignment permitted under Section 9313 of this title; and

(c) The CNA may perform home health aide and personal care aide tasks including those enumerated in Section 9315 of this title and shall be subject to the standards of conduct and practice required for a home health aide pursuant to Chapter 93.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *District of Columbia Register*. Comments should be sent to the Department of Health, Office of the General Counsel, 2201 Shannon Place, SE, 4th Floor, Washington, DC 20020, or by email to Panravee.Vongjaroenrat@dc.gov. Copies of the proposed rules may be obtained by contacting Panravee Vongjaroenrat, Senior Assistant General Counsel, at (202) 478-5746 or Panravee.Vongjaroenrat@dc.gov.

DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF FOURTH EMERGENCY AND PROPOSED RULEMAKING

The Stabilization and Reform Board (Board) of the District of Columbia Housing Authority (DCHA), pursuant to the authority set forth in the District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-203 and § 6-210.02 (2018 Repl.)), hereby gives notice of the adoption, on an emergency basis, of the following amendments to Chapters 49 (Purpose and Scope of Housing Choice Voucher Program Administrative Plan), 50 (Reserved), 51 (Eligibility Considerations and Initial Family Composition), 52 (Briefing of Families and Issuance of Vouchers), 53 (Recertifications, Housing Quality Standard Inspections, and Family Moves), 54 (Verification Procedures), 55 (Portability), 56 (Debts and Repayment Agreements), 57 (Rental Assistance Demonstration Administrative Plan), 58 (Owner Eviction Guidelines and Grounds for Termination From the Housing Choice Program), 59 (Definitions), 76 (Housing Choice Voucher Program: Waiting Lists, Local Preferences, and Applicant Selection), 83 (Rent and Housing Assistance Payments), 85 (Housing Choice Voucher Program: Participant Moves), 89 (Informal Hearing Procedures for Applicants and Participants of the Housing Choice Voucher and Moderate Rehabilitation Program), 91 (Housing Choice Voucher Program: Rent Reform Demonstration Program), and 94 (Affordable Housing Rental Rehabilitation Financial Assistance) and the addition of Chapters 100 (Project-Based Vouchers (PBV) Under the Rental Assistance Demonstration (RAD) Program), 101 (Special Purpose Vouchers), and 199 (Definitions) to Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR).

The proposed rulemaking amends and restates the existing Chapters 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 76, 83, 85, 89, 91, and 94 and adds Chapters 100, 101, and 199 to Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR) to address and remediate the issues identified by the United States Department of Housing and Urban Development (HUD) in its 2022 assessment of DCHA.

On April 12, 2023, the First Notice of Emergency and Proposed Rulemaking was adopted by the Board. The emergency rules became effective on that date and were published in the *District of Columbia Register* on May 19, 2023 at 70 DCR 007115.

On August 2, 2023, the Second Notice of Emergency and Proposed Rulemaking was adopted by the Board and became effective August 10, 2023. The emergency rules became effective on that date and were published in the *District of Columbia Register* on September 8, 2023 at 70 DCR 012004.

On December 13, 2023, the Third Notice of Emergency and Proposed Rulemaking was adopted by the Board and became effective on that date and were published in the *District of Columbia Register* on January 5, 2024 at 71 DCR 000092.

On April 10, 2024, this Fourth Notice of Emergency and Proposed Rulemaking was adopted by the Board and became effective the same day. These emergency rules will remain in effect for up

to one hundred twenty (120) days from the date of adoption or upon publication of a Notice of Final Rulemaking in the *District of Columbia Register,* whichever occurs first.

Per D.C. Official Code § 2-505(c) emergency rulemakings are promulgated when the action is necessary for the immediate preservation of the public peace, health, safety, welfare, or morals. In reissuing the proposed rulemaking, DCHA will continue to work with HUD to obtain specific responses to the regulations before adoption of Final Regulations. HUD has advised DCHA it is still undertaking its review of the regulations. In addition, during the Emergency and Proposed rule-making period, DCHA will continue to engage with community stakeholders, advocates, residents, and resident councils regarding the proposed changes before adoption of Final Regulations.

The Board also gives notice of intent to take rulemaking action to adopt these proposed regulations as final in not less than thirty (30) days from the date of publication of this notice in the *District of Columbia Register*.

Chapter 49, PURPOSE AND SCOPE OF HOUSING CHOICE VOUCHER PROGRAM ADMINISTRATIVE PLAN, of Title 14 DCMR, HOUSING, is deleted and replaced in its entirety to read as follows:

CHAPTER 49

PURPOSE AND SCOPE OF HOUSING CHOICE VOUCHER PROGRAM ADMINISTRATIVE PLAN

4900 STATEMENT OF POLICIES AND OBJECTIVES

4900.1 The Section 8 Program was established by the Housing and Community Development Act of 1974, 42 U.S.C. § 1437 (1976), and amended by the Housing and Community Development Act of 1981 (Pub. L. 97-35), the Housing and Urban-Rural Recovery Act of 1983 (Pub .L. 98-181), the Technical Amendments Act of 1984 (Pub. L. 98-479), and the Housing and Community Development Act of 1987 (42 U.S.C. § 3543).

4900.2 Administration of the Housing Program and the functions and responsibilities of the District of Columbia Housing Authority (DCHA) shall be in compliance with the personnel policy of DCHA, the Equal Opportunity Plan, and the Department of Housing and Urban Development's (HUD) Housing Choice Voucher regulations and guidance.

4900.3 Administration of the Housing Choice Voucher (HCV) Program shall be consistent with all federal, state, and local laws, including but not limited to:

(a) Fair Housing Act (42 U.S.C. §§ 3601, *et seq*.);

(b) Federal and D.C. Fair Housing regulations;

(c) D.C. Human Rights Act (D.C. Official Code §§ 2-1401.01, *et seq*.);

(d) American with Disabilities Act (ADA) (42 U.S.C §§ 12101, *et seq*.);

(e) Violence Against Women Act (VAWA) (42 U.S.C. § 13981); and

(f) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §§ 701, *et seq*.).

4901 STATEMENT OF LOCAL OBJECTIVES

4901.1 Consistent with the purpose and policy of the United States Housing Act of 1937, as amended, the mission of DCHA is to provide rental assistance for decent, safe, and affordable housing to eligible families in accordance with the provisions set forth in Section 24 of the Code of Federal Regulations, other applicable sections of the Code of Federal Regulations, and applicable HUD notices and guidance.

4901.2 In addition, through the creative use of federal grants and local resources, DCHA seeks to respond to special local housing concerns such as homelessness and the de-institutionalization of mental health care consumers.

4901.3 This Administrative Plan (Plan), comprising Chapters 49 through 59 and Chapters 76, 83, 85, 89, 91, 94, and 100 through 102 of this title of the DCMR, outlines how DCHA shall implement the requirements found in the applicable federal laws, regulations, and notices, as well as the requirements of the District of Columbia Code regarding the HCV Program. Accordingly, there may be times when DCHA is obligated to implement changes in federal law and regulations that have not yet been incorporated into the regulations that comprise the Plan.

4902 PROGRAM DESCRIPTION

4902.1 The HCV Program is designed to achieve four major objectives:

(a) To provide improved living conditions for very low-income families while maintaining their rent payments at an affordable level;

(b) To promote freedom of housing choice and spatial deconcentration of lower income and minority families;

(c) To provide decent, safe, and sanitary housing for eligible participants; and

(d) To provide incentives to private property owners to rent to lower income families by offering timely assistance payments and protection against unpaid rent, damages, and vacancy loss.

4902.2 HUD chose DCHA as a Moving-to-Work (MTW) agency and has a HUD-approved MTW plan that shall be updated every two (2) years. This program has been named Making an IMPACT. This Plan is designed to implement the MTW goals applicable to the HCV Program. These goals are to:

(a) Develop enhanced housing opportunities;

(b) Sustain quality property management;

(c) Achieve effective customer support services; and

(d) Organize efficient businesslike operating systems.

4902.3 DCHA is responsible for complying with all subsequent changes in HUD regulations pertaining to the HCV-administered programs. If such changes conflict with this Plan, HUD regulations shall control.

4902.4 DCHA is legally permitted to enter into contracts within the jurisdictional boundaries known as the District of Columbia.

4903 APPLICABILITY OF THE ADMINISTRATIVE PLAN

4903.1 This Plan, comprising Chapters 49 through 59 and Chapters 76, 83, 85, 89, 91, 94, and 100 through 102 of this title of the District of Columbia Municipal Regulations (DCMR):

(a) Outlines how DCHA shall implement the requirements found in the applicable federal laws, regulations, and notices, as well as the requirements of the District of Columbia Code related to the HCV Program; and

(b) Establishes policies for items which are not covered under other chapters of the DCMR or Federal regulations for the following programs directly funded by HUD and administered by DCHA's HCV Program office:

(1) Tenant-Based Vouchers;

(2) Project-Based Vouchers;

(3) Enhanced Vouchers;

(4) Family Unification Program Vouchers;

(5) Veterans Affairs Supportive Housing (VASH) Vouchers;

(6) Mainstream and Non-Elderly Disabled Vouchers;

(7) Homeownership Vouchers;

(8) Portable Vouchers;

(9) Set-asides for Special Needs Populations as determined by the Board of Commissioners; and

(10) Moderate Rehabilitation Program.

4903.2 There are certain issues that may not be addressed in the Plan related to HCV Program applicants and participants where DCHA turns to guidance provided by the HUD HCV Guidebook, Federal regulations, HUD Memos and Notices, and guidelines or other applicable law.

4903.3 This Administrative Plan was adopted by a resolution of DCHA Board of Commissioners on April 12, 2023.

4903.4 The Board of Commissioners shall approve any changes to the Plan.

4903.5 The Plan incorporates by reference portions of Title 14 of the DCMR, as follows:

(a) Chapter 61 – Fair Housing and Equal Opportunity;

(b) Chapter 74 – Reasonable Accommodation Policies and Procedures;

(c) Chapter 92 – Housing Choice Voucher/Home Ownership Assistance Program (HCV/HOAP); and

(d) Chapter 93 – Partnership Program for Affordable Housing.

4903.6 To the extent that other chapters of Title 14 of the DCMR regulate areas relating to the HCV Program, the Plan shall control unless otherwise indicated by the Plan.

4903.7 If other chapters of Title 14 of the DCMR regulate areas that apply to HCV Program where the Plan is silent, those regulations shall control.

4903.8 Pursuant to D.C. Official Code § 6-227(c), this Plan applies to locally funded programs except to the extent that:

(a) Such program has unique rules and procedures for its administration; and

(b) The Plan is inconsistent with any of the unique rules and procedures or applicable local or federal regulations.

4904 VETERANS AFFAIRS SUPPORTIVE HOUSING – SPECIAL PROGRAM RULES

4904.1 Veterans Affairs Supportive Housing (VASH) vouchers are generally administered in accordance with the HCV Program tenant-based rental assistance regulations set forth at 24 C.F.R. § 982, the DCMR, and this Plan.

4904.2 To be HUD-VASH eligible, a family must include at least one homeless veteran. Section 8(o)(19) of the United States Housing Act of 1937, 42 U.S.C. § 1437f(o)(19) (2006) requires homeless veterans to have chronic mental illnesses or chronic substance use disorders with treatment of these disorders required as a condition of receipt of HUD-VASH assistance. This requirement shall be waived for the VASH program.

4904.3 HUD has prescribed additional operating requirements for this program which DCHA shall follow. Those additional requirements can be found in Department of Housing and Urban Development, *Section 8 Housing Choice Vouchers: Revised Implementation of the HUD-Veterans Affairs Supportive Housing Program,* Docket No. FR-6243-N-01, 86 FR 53207, effective September 27, 2021.

4904.4 Pursuant to the guidance issued by HUD, if DCHA recommends a VASH participant for termination, DCHA may first consult with the VASH participant's case manager prior to terminating to discuss the reasons for terminating and discuss whether termination can be avoided.

4904.5 If HUD waives or specifies alternative requirements in connection with the VASH Program, DCHA shall incorporate these changes in the administration of the VASH Program where applicable.

4904.6 Upon turnover, HUD-VASH vouchers shall be issued to eligible families as identified by the Veterans Affair Medical Center (VAMC).

4904.7 If a HUD-VASH voucher participant no longer requires case management by VAMC, he or she may qualify to receive a voucher under the regular HCV Program. DCHA has allotted a certain number of vouchers specifically for veterans in this situation.

4904.8 VAMC shall be responsible for maintaining lists of eligible veterans requesting a voucher who do not qualify for case management.

4905 MODERATE REHABILITATION

4905.1 The following provisions of the Plan shall not apply to the Moderate Rehabilitation program, as defined at 24 C.F.R. § 882:

(a) 14 DCMR Chapter 52 – Applications, Wait List, and Tenant Selection;

(b) 14 DCMR § 5103 – Spouse, Cohead, Other Adult, and Dependent;

(c) 14 DCMR § 5107 – Absent Family Members;

(d) 14 DCMR § 7600 - Termination of HCV Assistance-Eviction; and

(e) 14 DCMR § 8500 – Participant Household Moves

4905.2 The following annual and special rent adjustments policies shall apply:

(a) DCHA shall adjust the Contract Rent upon receipt of a revised Contract Rent schedule from the owner, provided that each unit is in decent, safe, and sanitary condition and that the owner is otherwise in compliance with the terms of the Lease and HUD Tenancy Addendum;

(b) The Annual Adjustment Factors which HUD publishes shall be utilized in calculating the Family's rent. On or after each annual anniversary date of the Contract, the Contract Rent may be adjusted in accordance with HUD procedures, effective for the month following the submittal by the Owner of a revised schedule of Contract Rents. The changes in rent as a result of the adjustment cannot exceed the amount established by multiplying the Annual Adjustment Factor by the base rents;

(c) Approved rent adjustments as provided in this section shall not result in material differences between the rents charged for assisted and comparable unassisted units;

(d) The participant's Security Deposit shall be the lesser of the Total Tenant Payment (TTP) or Fifty Dollars ($50), which is the maximum permissible security deposit;

(e) DCHA shall pay vacancy claims for up to sixty (60) Days at eighty percent (80%) of the Housing Assistance Payment (HAP) of the previous tenant; and

(f) DCHA does not pay any claims for damages.

4906 FAIR HOUSING POLICY

4906.1 DCHA shall comply fully with all federal, state, and local nondiscrimination laws in accordance with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment.

4906.2 Specifically, DCHA shall not on account of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or

expression, familial status, family responsibilities, genetic information, disability, matriculation, political affiliation, source of income, status as a victim of an intrafamily offense, or place of residence or business deny any Family or individual the opportunity to apply for or receive assistance under HUD's Section 8 Housing Voucher Program within the requirements of the HUD regulations and the D.C. Human Rights Act.

4906.3 To further its commitment to full compliance with applicable civil rights laws, DCHA shall provide information to participants regarding discrimination and any recourse available to them should they feel they have been the victim of discrimination on one (1) or more protected grounds. Such information shall be made available during the Family briefing session and all applicable Fair Housing Information and Discrimination Complaint Forms shall be made a part of the briefing packet.

4906.4 DCHA subscribes to HUD's "open-housing" policy and, as such, shall maintain lists of available housing submitted by owners and in all neighborhoods within DCHA's jurisdiction to ensure "greater mobility and housing choice" to low-income households that DCHA serves.

4906.5 DCHA shall review and update its Equal Opportunity Housing Plan annually to ensure that these objectives are being met.

4907 PROTECTIONS FOR APPLICANTS AND PARTICIPANTS UNDER THE VIOLENCE AGAINST WOMEN ACT

4907.1 In certain circumstances, as further explained below, applicants or participants may be afforded additional protections from HCV PROGRAM requirements and policies under the Violence Against Women Act (VAWA). DCHA shall comply with the terms of VAWA in administration of the HCV PROGRAM. VAWA protections are for victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation. DCHA shall not discriminate against VAWA victims based on any protected categories pursuant to 24 CFR § 5.105(a) including race, color, national origin, religion, sex, familial status, disability, or age.

4907.2 Applicants seeking admission to the HCV Program or to a Project-Based Voucher unit shall not be denied admission based on, or as a direct result of, the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant otherwise qualifies for admission, assistance, participation, or occupancy.

4907.3 Family or a Family member participant shall not be terminated from the HCV Program or a Project-Based Voucher unit based on, or as a direct result of, the fact that the family member participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

4907.4 If a member of the assisted Family is removed from the family composition due to that member of the assisted Family being the perpetrator in criminal acts of domestic violence, dating violence, sexual assault, or stalking and the victim is part of the assisted Family, the perpetrator may not be considered a remaining Family member or an eligible Family member.

4907.5 In making its decision as to who retains assistance, DCHA shall consider all credible evidence, including, but not limited to, documentation submitted to DCHA pursuant to § 4907.12.

4907.6 (a) Pursuant to federal regulations, the denial of continued HCV Program assistance to a Family member who engages in criminal acts related to domestic violence, dating violence, sexual assault, or stalking against members of the assisted Family shall be considered a form of termination of the individual Family member. DCHA shall follow the procedures described in Chapters 58 and 89 of this title of the DCMR when terminating assistance to such an individual unless the individual is absent or expected to be absent pursuant to paragraph (b) of this subsection.

(b) If the Family member who engages in criminal acts related to domestic violence, dating violence, sexual assault, or stalking against another Family member is absent, or expected to be absent due to court order or incarceration, from the assisted unit for more than one hundred and twenty (120) consecutive days, DCHA shall remove that Family member and the individual shall no longer be considered part of the family composition.

(c) An absent family member removed from the family composition pursuant to paragraph (b) of this subsection shall also be denied continued HCV Program assistance. DCHA shall follow the same procedures as described in Chapters 58 and 89 of this title of the DCMR when terminating of the participation of the removed absent family member.

4907.7 Pursuant to federal regulations, criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking, engaged in by a member of a participant's household or any guest or other person under the participant's control, shall not be cause for termination of tenancy, occupancy rights of, or assistance to the victim, if the participant or immediate family member of the participant is the victim.

4907.8 Notwithstanding § 4907.7, DCHA may terminate assistance to a participant for violating a program obligation not premised on an act of domestic violence, dating violence, sexual assault, or stalking, provided that DCHA does not subject such a participant to a more demanding standard than other participants in making the determination to terminate assistance to the participant.

4907.9 A victim of domestic violence, sexual violence, dating violence, or stalking who is absent for more than one hundred twenty (120) days may still be considered a Family member based on documentation that the victim is expected to return to the Family in a reasonable time if the victim provides to DCHA documentation that meets the requirements of § 4907.12.

4907.10 If a Family or Family member participant has been a victim of domestic violence, dating violence, sexual assault, or stalking by an individual, the participant may port to another PHA jurisdiction in violation of the lease as explained in Chapter 55 of this title of the DCMR so long as the Family has complied with all other obligations of the HCV Program.

4907.11 If a Family or Family member participant who has been the victim of domestic violence, dating violence, stalking, or sexual assault moves in violation of the lease, DCHA shall not terminate assistance or deny a Family's request to move under portability if the move was related to the act of domestic violence, dating violence, stalking, or sexual assault. The portability regulations outlined in Chapter 55 of this title shall apply.

4907.12 A Family may document an incident or incidents of domestic violence, dating violence, sexual assault, or stalking as follows:

(a) The HUD-approved certification form;

(b) A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking (*i.e.*, police reports, protective orders, and restraining orders); or

(c) Documentation that is -

(1) Signed by the victim;

(2) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or mental health or medical provider (collectively, "professional") from whom the victim has sought assistance in the situation; and

(3) Attested, under penalty of perjury, that the professional believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for VAWA protection.

(d) DCHA will notify the household member seeking relief under VAWA of the member's status under § 4907.1 within fourteen (14) business days of receiving documentation as explained in paragraphs (a) through (c) of this subsection. Notice will be provided by first-class mail to the address of

record or an alternative address or email address, if one is provided, and by phone, if a phone number is provided.

4907.13 Any information submitted to DCHA under this section, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, shall be maintained in strict confidence by DCHA.

(a) DCHA shall not allow any individual administering assistance on behalf of the HCV Program or any persons within their employ (e.g., contractors) or any employee of DCHA to have access to confidential information unless explicitly authorized by DCHA for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

(b) DCHA shall not enter confidential information submitted to DCHA pursuant to this section into any shared database or disclose such information to any other entity or individual, except to the extent that the disclosure is:

(1) Requested or consented to in writing by the individual in a time-limited release;

(2) Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or

(3) Otherwise required by applicable law.

4907.14 (a) If DCHA receives conflicting documentation submitted pursuant to § 4907.12 from two (2) or more members of a household, each petitioning for VAWA protections under this section and each claiming to be a victim and naming one (1) or more of the other petitioning household members as the perpetrator, DCHA may require third-party documentation to resolve the conflict in accordance with VAWA and its implementing regulations.

(b) DCHA will determine which household members shall continue to be assisted in accordance with §§ 4907.21 and 5317.6. DCHA shall provide written notice to the household member(s) who will not retain assistance with the opportunity for an informal hearing in accordance with § 8908.

4907.15 If a Family or Family member participant who has been a victim of domestic violence, dating violence, sexual assault, or stalking by an individual, requests an emergency transfer voucher pursuant to §§ 5333 or 5501 of this title, the family or family member participant must submit the request in writing. A family or family member participant may submit a DCHA or HUD-approved emergency transfer voucher form, or provide a written statement that includes either:

(a) A statement expressing and certifying, under penalty of perjury, that the participant reasonably believes that there is a threat of imminent harm from further violence if the participant were to remain in the same dwelling unit assisted under the HCV Program; or

(b) A statement certifying, under penalty of perjury, that the participant was a sexual assault victim and that the sexual assault occurred on the premises during the ninety (90)-calendar-day period preceding the participant's request for an emergency transfer voucher.

4907.16 If a family or family member participant requests an emergency transfer voucher under the protections of VAWA, DCHA will request in writing that the family or family member participant provide at least one (1) form of documentation specified in § 4907.12.

4907.17 (a) Participants must provide the documentation required under § 4907.16 within fourteen (14) business days of receiving the written request for documentation. If DCHA receives documentation containing information that conflicts with existing information already available to DCHA, DCHA may require third-party documentation to resolve the conflict in accordance with VAWA and its implementing regulations. Third-party documentation must be provided within thirty (30) calendar days of the date of the request for the third-party documentation.

(b) If DCHA receives conflicting documentation of domestic violence, dating violence, sexual assault, or stalking from two more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, § 4907.14 shall apply.

(c) DCHA will administratively withdraw a family or family members' request pursuant to § 4907.16 if documentation is not provided as explained in paragraph (a) of this subsection.

(d) DCHA will notify the household member seeking relief under VAWA of the member' status under § 4907.1 within fourteen (14) business days of receiving documentation as explained in paragraphs (a) through (c) of this subsection. Notice will be provided by first-class mail to the address of record or an alternative address or email address, if one is provided, and by phone, if a phone number is provided.

4907.18 For families residing in Partnership Program units, also called Project-Based Voucher ("PBV") units, the following provisions shall apply:

(a) If a family or family member participant who is a victim of domestic violence, dating violence, sexual assault, or stalking, makes a written

emergency transfer request in the manner specified by § 4907.15 and provides documentation in the manner specified by § 4907.16 and § 4907.17, DCHA may transfer the family to another Project-Based subsidized unit or another unit in the Public Housing program subject to availability and at DCHA's discretion. Upon written request, the family may receive priority to receive the next available opportunity for continued tenant-based rental assistance.

(b) Notwithstanding § 5333.2, a family or family member participant is not required to give advanced written notice, with a copy to DCHA, of intent to vacate the PBV unit if the family moved to protect the health or safety of the victim.

4907.19 For families residing in the Moderate Rehabilitation Program, as defined in § 4905.1, and Single Room Occupancy (SRO) housing facilities, as defined in § 1901.3, the following provisions shall apply:

(a) If a family or family member participant who is a victim of domestic violence, dating violence, sexual assault, or stalking, makes a written emergency transfer request in the manner specified by § 4907.15 and provides documentation in the manner specified by § 4907.16 and §4907.17, DCHA may transfer the family to another Moderate Rehabilitation Program unit (for a family residing in a Moderate Rehabilitation Program unit) or SRO unit (for a family residing in a SRO unit) subject to availability. If at the time of the transfer request there is no available Moderate Rehabilitation unit or SRO unit, DCHA may transfer the family to a Project-Based subsidized unit subject to availability and at DCHA's discretion. If there is no available Project-Based subsidized unit, then upon written request and at DCHA's discretion, the family may receive the opportunity for tenant-based rental assistance.

(b) Notwithstanding § 5333.2, a family or family member participant is not required to give advanced written notice, with a copy to DCHA, of intent to vacate the Moderate Rehabilitation Program unit or SRO unit if the family moved to protect the health or safety of the victim.

4907.20 DCHA will provide to applicants deemed ineligible for the HCV Program and participants in the HCV Program the "Notice of Occupancy Rights under the Violence Against Women Act" and the HUD-approved certification form in accordance with HUD rules and regulations.

4907.21 Conflicting Allegations Panel.

(a) If DCHA receives conflicting documents submitted pursuant to § 4907.12 from two (2) or more members of a household, each claiming to be a victim and naming one (1) or more of the other petitioning household

members as the perpetrator, DCHA shall convene a conflicting allegations panel within five (5) business days to recommend which Family member should remain in the voucher program by requiring third-party documentation to resolve the conflict in accordance with the Violence Against Women Act (VAWA) and its implementing regulations, as explained in §§ 4907.12 and 4907.14, and other applicable laws using the following guidelines:

(1) Prior to making any recommendation on who retains assistance, the conflicting allegations panel shall attempt to notify both adult family members involved in the alleged incident by first-class mail to the address of record or an alternative address or email address, if one is provided, and by phone, if a phone number is provided, that only one (1) part of the family shall continue to receive assistance;

(2) The notice shall inform both adults of how DCHA will determine who retains assistance, and what relevant information each adult can provide to assist DCHA in making its recommendation;

(3) After making its recommendation using the factors as enumerated in § 5317.6, the documentation provided pursuant to §§ 4907.12 and 4907.14, and any additional relevant information provided (including, but not limited to, police report(s), protective orders, restraining orders, photographs, video footage, any past history of abuse, or evidence of who is the primary aggressor), DCHA shall notify both adults in writing within five (5) business days of its decision and the basis for the decision; and

(4) The adult family member who DCHA determines shall not continue to receive assistance shall be entitled to an informal hearing pursuant to Chapter 89 of this title of the DCMR.

(b) The Conflicting Allegations Panel will consist of three members, two (2) HCV Program staff members, designated by the HCV Program Director, and a victims' service provider employee or agent.

4908 DECONCENTRATION OF POVERTY

4908.1 DCHA encourages owners of decent, safe, and sanitary housing units to lease to Housing Choice Voucher families by encouraging program participation by owners of units located outside areas of poverty or minority concentration.

4908.2 DCHA encourages program participation by owners of units in low poverty areas by initiating personal contact with owners and managers by conducting formal

and informal discussions and meetings to encourage participation of owners of units located outside areas of poverty or minority concentration.

4908.3 DCHA shall periodically evaluate the geographic distribution of assisted families to identify areas within the jurisdiction where owner outreach should be targeted. The purpose of these activities is to provide more choices and better housing opportunities to families. DCHA shall hold briefings for those owners who were identified as owners of units within these targeted areas.

4909 OWNER OUTREACH

4909.1 DCHA issues invitations to owners as needed to make dwelling units available for leasing by eligible families in accordance with the Equal Opportunity Housing Plan. DCHA welcomes the continuous participation of owners of decent, safe, and sanitary housing units.

4909.2 DCHA shall maintain a list of interested owners and their properties which are available for HCV Program. As inquiries from prospective new owners are received, program staff records the necessary information on units and shall make such information available to prospective participants upon request.

4909.3 Owner meetings with HCV Program staff shall be held periodically to maintain a positive relationship and to provide owners further knowledge regarding Program rules and operations.

4910 FAMILY OUTREACH

4910.1 DCHA continues to publicize and disseminate information, as needed, concerning the availability and nature of housing assistance for very low-income families. Upon execution of an Annual Contributions Contract (ACC) for additional units, DCHA shall make known to the public through publication in a newspaper of general circulation, minority media, and other suitable means the availability and nature of housing assistance for very low-income families, unless application taking has been suspended according to HUD regulations or there is a sufficient number of families on DCHA's waiting list that advertising would not be necessary.

4910.2 The Notice to the public pursuant to § 4912.1 shall:

(a) Advise families that applications shall be taken at the Client Placement Division;

(b) Briefly describe the HCV program; and

(c) State that applicants for Public Housing may also apply for the HCV Program and shall not lose their place on the Public Housing waiting list.

4910.3 When notice to the public is required per § 4912.1, DCHA shall also distribute fact sheets to the broadcasting media to reach persons who cannot read. Personal contacts with the news media and with community service personnel, and public service announcements shall be made.

4911 PRIVACY RIGHTS

4911.1 In conjunction with the HUD Form 50058, applicant and participant families shall be required to sign the Federal Privacy Act Statement, which states under what conditions HUD will release Family and owner information.

4911.2 DCHA shall only release information to third parties under one or more of the following circumstances:

(a) With the signed and written consent of the Head of Household;

(b) To HUD and/or other housing agencies on amounts owed to DCHA for claims paid and not reimbursed by a participant and/or landlord regardless of whether there is a repayment agreement; or

(c) As permitted or required by law.

Chapter 50, RESERVED, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 50

FAIR HOUSING AND EQUAL OPPORTUNITY NON-DISCRIMINATION

5000 INTRODUCTION

5000.1 Federal laws require PHAs to treat all applicants and participants equally, providing the same opportunity to access services, regardless of family characteristics and background. Federal law prohibits discrimination in housing based on race, color, religion, sex, national origin, age, familial status, and disability. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. DCHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

(a) Title VI of the Civil Rights Act of 1964;

(b) Title VIII of the Civil Rights Act of 1968 (as amended by the Housing and Community Development Act of 1974 and the Fair Housing Amendments

Act of 1988);

(c) Executive Orders 11063 and 13988;

(d) Section 504 of the Rehabilitation Act of 1973;

(e) The Age Discrimination Act of 1975;

(f) Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern);

(g) The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the Federal Register February 3, 2012, and further clarified in Notice PIH 2014-20; and

(h) Violence Against Women Reauthorization Act of 2013 (VAWA).

5000.2 When more than one civil rights law applies to a situation, the laws will be read and applied together.

5000.3 Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted will also apply.

5000.4 The District of Columbia Housing Authority (DCHA) will protect individual rights of tenants, applicants, or staff according to the District of Columbia Housing Authority Human Rights Act of 1977 and Regulation Revisions (Section 4-705 Filing of Complaints).

5000.5 Federal regulations prohibit discrimination against certain protected classes and other groups of people. State and local requirements, as well as DCHA policies, can prohibit discrimination based on other factors.

5000.6 DCHA shall not discriminate because of race, color, sex, religion, familial status, age, disability, or national origin (called “protected classes”).

5000.7 Familial status includes children under the age of eighteen (18) living with parents or legal custodians, pregnant women, and people securing custody of children under the age of eighteen (18).

5000.8 DCHA will not discriminate based on marital status, gender identity, or sexual orientation.

5000.9 DCHA will not discriminate based on the following protected classes defined in the District of Columbia Human Rights Act below:

(a) Age: Eighteen (18) years of age or older.

(b) Color: skin pigmentation, including variations in skin pigmentation.

(c) Credit Information: any written, oral, or other communication of information bearing on an employee's creditworthiness, credit standing, credit capacity, credit score, or credit history.

(d) Disability: a physical or mental impairment substantially limiting one or more major life activities; physical can include auditory, speech, visual, and/or neurological impairments and mental can include cognitive and learning impairments.

(e) Family Responsibilities: supporting an individual in a legal dependent or blood relationship, which includes, but is not limited to children, grandchildren, and parents.

(f) Familial Status: a pregnant individual or a parent, guardian, or caregiver who has legal status with respect to children under the age of 18.

(g) Gender Identity or Expression: a gender-related identity, appearance, expression, or behavior of an individual, regardless of the individual's assigned sex at birth.

(h) Genetic Information: an individual's DNA or genetic predisposition, a family member's genetic predisposition; information resulting from requests for genetic testing, or history which may indicate the likelihood or increase risk of an individual's predisposition to develop a disease, illness, syndrome, or condition.

(i) Homeless Status: an individual, family, or youth who lacks, lost, or will imminently lose a fixed, regular, and adequate nighttime residence, which can include the result of escaping an unsafe environment.

(j) Marital Status: married, in a domestic partnership, single, divorced, separated or widowed, and the usual conditions associated therewith, including pregnancy or parenthood.

(k) Matriculation: being enrolled in a college, university, or some type of secondary school or program, including vocational programs.

(l) National Origin: the state, country, or nation state where an individual or their ancestors are from.

(m) Personal Appearance: outward appearance, irrespective of sex and gender identity or expression, including hair style and color, facial hair, tattoos, body size or shape, and body piercings, subject to business requirements and standards.

(n) Place of Residence or Business: the geographical location of home or work.

(o) Political Affiliation: the state of belonging to or endorsing any political party.

(p) Race: classification or association based on an individual's ancestry, ethnicity and/or physical traits.

(q) Religion: a personal set or institutionalized system of attitudes, beliefs, and practices relating to a supernatural force or being, or its equivalent in secular faiths, including the presence or absence of commitment or devotion to any faith.

(r) Sealed Eviction Record: an eviction record that has been sealed by the Superior Court of the District of Columbia for specific reasons or upon motion by the tenant demonstrating that sealing is warranted.

(s) Sex: the state of being biologically male, female, or intersex including medical conditions and reproductive health decisions associated therewith.

(t) Sexual Orientation: an individual's romantic and/or sexual attraction for another person(s); includes relationship types such as aromantic, ethical non-monogamy, open relationships, polyamory, etc.

(u) Source of Income: the origination of an individual's personal and professional finances, including from housing choice vouchers (Section 8), emergency assistance payments, SSI Income, alimony, and disability benefit programs.

(v) Status as a Victim or Family Member of a Victim of Domestic Violence, a Sexual Offense, or Stalking (DVSOS): when an individual is a victim or family member of a victim of domestic violence, sexual offense, or stalking.

(w) Status as a Victim of an Intrafamily Offense: an individual, their family, or a household member who is a victim of domestic violence, sexual assault, stalking, and/or cruelty to the victim's animal.

5000.10 DCHA will not use any of these factors to:

(a) Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the housing choice voucher program.

(b) Provide housing that is different from that provided to others.

(c) Subject anyone to segregation or disparate treatment.

(d) Subject anyone to sexual harassment.

(e) Restrict anyone's access to any benefit enjoyed by others in connection with the housing program.

(f) Treat a person differently in determining eligibility or other requirements for admission.

(g) Steer an applicant or participant toward or away from a particular area based any of these factors.

(h) Deny anyone access to the same level of services.

(i) Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program.

(j) Discriminate in the provision of residential real estate transactions.

(k) Discriminate against someone because they are related to or associated with a member of a protected class.

(l) Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class.

5000.11 DCHA must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, DCHA must provide information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods. The Housing Assistance Payments (HAP) contract informs owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability in connection with the contract.

5000.12 If an applicant or participant believes that any family member has been discriminated against by DCHA or an owner, the family should advise DCHA. DCHA should make every reasonable attempt to determine whether the

applicant's or participant's assertions have merit and take any warranted corrective action. In addition, DCHA is required to provide the applicant or participant with information about how to file a discrimination complaint.

5000.13 Upon receipt of a housing discrimination complaint, DCHA is required to:

(a) Provide written notice of the complaint to those alleged and inform the complainant that such notice was made.

(b) Within 20 business days of receiving the complaint, DCHA will investigate and attempt to remedy discrimination complaints made against DCHA.

(c) Advise the family of their right to file a fair housing complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO).

(d) Post HUD's fair housing poster, in conspicuous and accessible locations in DCHA's location which shall reference how to file a complaint with FHEO.

(e) Keep records of all complaints, investigations, notices, and corrective actions.

5000.14 Applicants or participants who believe that they have been subject to unlawful discrimination may notify DCHA either orally or in writing.

5000.15 Within ten (10) business days of receiving the complaint, DCHA will provide a written notice to those alleged to have violated the rule. DCHA will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

5000.16 DCHA will attempt to remedy discrimination complaints made against DCHA and will conduct an investigation into all allegations of discrimination.

5000.17 Within ten (10) business days following the conclusion of DCHA's investigation, DCHA will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.

5000.18 DCHA will keep a record of all complaints, investigations, notices, and corrective actions.

5001 POLICIES RELATED TO PERSONS WITH DISABILITIES

5001.1 One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

5001.2 DCHA must ensure that persons with disabilities have full access to DCHA's programs and services. This responsibility begins with the first contact by an interested family and continues through every aspect of the program.

5001.3 DCHA will ask all applicants and participants if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by DCHA, by including the following language:

> "If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the housing authority."

5001.4 A specific name and phone number of designated staff will be provided to process requests for accommodation.

5001.5 DCHA will display posters and other housing information and signage in locations throughout DCHA's office in such a manner as to be easily readable from a wheelchair.

5001.6 A reasonable accommodation is an adjustment made to a rule, policy, practice, or service that allows a person with a disability to have equal access to the HCV program. For example, reasonable accommodations may include making home visits, extending the voucher term, or approving an exception payment standard for a participant to lease an accessible dwelling unit.

5001.7 Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for DCHA, or result in a "fundamental alteration" in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider's operations.

5001.8 When needed, DCHA will modify normal procedures to accommodate the needs of a person with disabilities. Examples include:

(a) Permitting applications and reexaminations to be completed by mail.

(b) Conducting home visits.

(c) Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside DCHA range) if

DCHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit.

(d) Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit.

(e) Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with DCHA staff.

5001.9 If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that DCHA treat the information as a request for a reasonable accommodation, even if no formal request is made.

5001.10 The family must explain what type of accommodation is needed to provide the person with the disability full access to DCHA's programs and services.

5001.11 If the need for the accommodation is not readily apparent or known to DCHA, the family must explain the relationship between the requested accommodation and the disability. There must be an identifiable connection, or nexus, between the requested accommodation and the individual's disability.

5001.12 DCHA will encourage the family to make its request in writing using a reasonable accommodation request form. However, DCHA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

5001.13 The regulatory civil rights definition for persons with disabilities is provided at the end of this chapter. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and income allowances.

5001.14 Before providing an accommodation, DCHA must determine that the person meets the definition of a person with a disability, and that the accommodation will enhance the family's access to DCHA's programs and services.

5001.15 If a person's disability is obvious or otherwise known to DCHA, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required.

5001.16 If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to DCHA, DCHA must verify that the person meets

the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

5001.17 When verifying a disability, DCHA will follow the verification policies provided in § 5500. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in § 5001.17(d). In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

(a) Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability.

(b) DCHA must request only information that is necessary to evaluate the disability-related need for the accommodation. DCHA will not inquire about the nature or extent of any disability.

(c) Medical records will not be accepted or retained in the participant file.

(d) In the event that DCHA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, DCHA will dispose of it. In place of the information, DCHA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information.

5001.18 DCHA must approve a request for an accommodation if the following three (3) conditions are met:

(a) The request was made by or on behalf of a person with a disability;

(b) There is a disability-related need for the accommodation; and

(c) The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on DCHA, or fundamentally alter the nature of DCHA's HCV operations (including the obligation to comply with HUD requirements and regulations).

5001.19 Requests for accommodations must be assessed on a case-by-case basis, considering factors such as the overall size of DCHA's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

5001.20 Before deciding whether to approve the request, DCHA may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that DCHA may verify the need for the requested accommodation.

5001.21 After a request for an accommodation is presented, DCHA will respond in writing within ten (10) business days.

5001.22 If DCHA denies a request for an accommodation because there is no relationship, or nexus, found between the disability and the requested accommodation, the notice will inform the family of the right to appeal DCHA's decision through an informal review (if applicable) or informal hearing.

5001.23 If DCHA denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of DCHA's operations), DCHA will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden.

5001.24 If DCHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, DCHA will notify the family in writing of its determination within 10 business days from the date of the most recent discussion or communication with the family. The notice will inform the family of the right to appeal DCHA's decision through an informal hearing (if applicable) or the grievance process.

5001.25 DCHA shall ensure that persons with disabilities related to hearing and vision have reasonable access to DCHA's programs and services.

5001.26 At the initial point of contact with each applicant, DCHA shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

5001.27 To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available.

5001.28 To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with DCHA staff, one-on-one assistance will be provided upon request.

5001.29 Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third party

representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

5001.30 DCHA must comply with a variety of regulations pertaining to physical accessibility, including the following:

(a) Notice PIH 2010-26;

(b) Section 504 of the Rehabilitation Act of 1973;

(c) The Americans with Disabilities Act of 1990;

(d) The Architectural Barriers Act of 1968; and

(e) The Fair Housing Act of 1988.

5001.31 DCHA's policies concerning physical accessibility must be readily available to applicants and participants. They can be found in three (3) key documents:

(a) This plan describes the key policies that govern DCHA's responsibilities with regard to physical accessibility;

(b) Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally-funded housing programs; and

(c) DCHA Plan provides information about self-evaluation, needs assessment, and transition plans.

5001.32 The design, construction, or alteration of DCHA facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Newly-constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the HCV program.

5001.33 When issuing a voucher to a family that includes an individual with disabilities, DCHA will include a current list of available accessible units known to DCHA and will assist the family in locating an available accessible unit, if necessary.

5001.34 In general, owners must permit the family to make reasonable modifications to the unit. However, the owner is not required to pay for the modification and may require that the unit be restored to its original state at the family's expense when the family moves.

5001.35 A DCHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation.

5001.36 When applicants with disabilities are denied assistance, the notice of denial must inform them of DCHA's informal review process and their right to request an informal review. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal review process.

5001.37 When a participant family's assistance is terminated, the notice of termination must inform them of DCHA's informal hearing process and their right to request a hearing and reasonable accommodation.

5001.38 When reviewing reasonable accommodation requests, DCHA must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to DCHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, DCHA must make the accommodation.

5002 IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

5002.1 Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding, and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the HCV program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. DCHA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

5002.2 LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English. For the purposes of this Plan, LEP persons are HCV applicants and participants, and parents and family members of applicants and participants.

5002.3 In order to determine the level of access needed by LEP persons, DCHA will balance the following four (4) factors:

(a) The number or proportion of LEP persons eligible to be served or likely to be encountered by the HCV program;

(b) The frequency with which LEP persons come into contact with the program;

(c) The nature and importance of the program, activity, or service provided by the program to people's lives; and

(d) The resources available to DCHA and costs related to the access.

5002.4 DCHA will offer competent interpretation services free of charge, upon request to the LEP person.

5002.5 DCHA will utilize a language line for telephone interpreter services.

5002.6 When exercising the option to conduct remote briefings, informal reviews, or hearings, however, DCHA will coordinate with a remote interpretation service which, when available, uses video conferencing technology rather than voice-only interpretation.

5002.7 Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by DCHA. DCHA, at its discretion, may choose to use the language services even when LEP persons desire to use an interpreter of their choosing. The interpreter may be a family member or friend. If the interpreter chosen by the family is a minor, DCHA will not rely on the minor to serve as the interpreter.

5002.8 DCHA will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits.

5002.9 Where feasible and possible, according to its language assistance plan (LAP), DCHA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents.

5002.10 Translation is the replacement of a written text from one language into an equivalent written text in another language.

5002.11 In order to comply with written-translation obligations, DCHA will take the following steps:

(a) DCHA will provide written translations of vital documents for each eligible LEP language group that constitutes five percent (5%) or one thousand (1,000) persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

(b) If there are fewer than fifty (50) persons in a language group that reaches the five percent (5%) trigger, DCHA does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

5002.12 After completing the four (4) factor analysis and deciding what language assistance services are appropriate, DCHA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

5002.13 If DCHA determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to DCHA's HCV program and services.

5002.14 If it is determined that DCHA serves very few LEP persons, and DCHA has very limited resources, DCHA will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process.

5002.15 If DCHA determines it is appropriate to develop a written LEP plan, the following five (5) steps will be taken:

(a) Identifying LEP individuals who need language assistance;

(b) Identifying language assistance measures;

(c) Training staff;

(d) Providing notice to LEP persons; and

(e) Monitoring and updating the LEP plan.

5002.16 A person with a disability, as defined under federal civil rights laws, is any person who:

(a) Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual;

(b) Has a record of such impairment; or

(c) Is regarded as having such impairment.

5002.17 The phrase "physical or mental impairment" includes:

(a) Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

(b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

5002.18 "Major life activities" includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and/or working.

5002.19 "Has a record of such impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

5002.20 "Is regarded as having an impairment" is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as DCHA) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

5002.21 The definition of a person with disabilities does not include:

(a) Current illegal drug users;

(b) People whose alcohol use interferes with the rights of others; or

(c) Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the HCV program.

5002.22 The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

5002.23 [RESERVED]

5002.24 [RESERVED]

Chapter 51, ELIGIBILITY CONSIDERATIONS AND INITIAL FAMILY COMPOSITION, of Title 14 DCMR, HOUSING, is deleted and replaced in its entirety to read as follows:

CHAPTER 51

ELIGIBILITY CONSIDERATIONS AND INITIAL FAMILY COMPOSITION

5100 INTRODUCTION

5100.1 The District of Columbia Housing Authority (DCHA) shall ensure that every individual and family admitted to the Housing Choice Voucher (HCV) program meet all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed by DCHA to confirm eligibility and determine the level of the family's assistance.

5100.2 To be eligible for the HCV program, the applicant family must:

(a) Qualify as a family as defined by the U.S. Department of Housing and Urban Development (HUD) and DCHA;

(b) Have income at or below HUD-specified income limits;

(c) Qualify on the basis of citizenship or the eligible immigrant status of family members;

(d) Provide social security number information for household members as required;

(e) Consent to DCHA's collection and use of family information as provided for in PHA-provided consent forms; and

(f) Not currently receiving a duplicative subsidy.

5100.3 DCHA shall determine that the current or past behavior of household members does not include activities that are prohibited by HUD or DCHA.

5100.4 Each family must identify the individuals to be included in the family at the time of application and must notify DCHA if the family's composition changes.

5100.5 The following definitions shall apply under this § 5100:

Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than thirty (30%), fifty (50%), or eighty (80%) percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Co-head means an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one co-head.

Committed relationship means a familial relationship between two (2) individuals characterized by mutual caring and the sharing of a mutual residence.

Dependent means a family member who is under eighteen (18) years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, co-head, foster children/adults and live-in aides.

Dependent Child means in the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of "dependent" in 24 CFR § 5.603, which states that the dependent must be a member of the assisted family, other than the head of household or spouse, who is under eighteen (18) years of age, or is a person with a disability, or is a full-time student. Foster children and foster adults are not considered dependents.

Developmental Disability means a severe, chronic disability of an individual that:

(a) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(b) is manifested before the individual attains age twenty-two (22);

(c) is likely to continue indefinitely; and

(d) results in substantial functional limitations in three (3) or more of the following areas of major life activity:

(1) Self-care,

(2) Receptive and expressive language,

(3) Learning,

(4) Mobility,

(5) Self-direction,

(6) Capacity for independent living,

(7) Economic self-sufficiency; and

(8) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

An individual from birth to age nine (9), inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting three (3) or more of the criteria described in (d) above if the individual, without services and supports, has a high probability of meeting those criteria later in life.

Disabled family means one in which the head, spouse, or co-head is a person with disabilities.

Elderly family means one in which the head, spouse, co-head, or sole member is an elderly person.

Elderly person means a person who is at least 62 years of age.

Extremely low-income family means a family whose annual income does not exceed the federal poverty level or thirty percent (30%) of the median income for the area, whichever number is higher.

Family means as defined by HUD and includes, but is not limited to the following, regardless actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or a group of persons residing together. Such group includes, but is not limited to, a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant family. DCHA has the discretion to determine if any other group of persons qualifies as a family. A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.

Family member means:

(a) A domestic partner; or

(b) A dependent child of a domestic partner, which shall include, for the purposes of this section, an unmarried person under twenty-two (22) years of age, an unmarried person under twenty-five (25) years of age who is a full-time student, or an unmarried person regardless of age who is incapable of self-support because of a mental or physical disability that existed before age twenty-two (22). A dependent child of a domestic partner shall include a natural child, adopted child, stepchild, foster child, or child in the legal custody of a domestic partner.

Foster adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone.

Foster child means is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

Full-time student (FTS) means a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution.

Gender Identity means actual or perceived gender characteristics. DCHA also adheres to definitions presented in the District of Columbia Human Rights Act.

Guest means a person temporarily staying in the unit with the consent of a member of the household who has expressed or implied authority to so consent.

Household includes additional people who, with DCHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

Independent student means a student that meets one or more of the following criteria:

(a) The individual is at least twenty-four (24) years old by December 31 of the award year for which aid is sought;

(b) The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was thirteen (13) years of age or older;

(c) The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence;

(d) The individual is a veteran of the U.S. Armed Forces or is currently serving on active duty in the Armed Forces for other than training purposes;

(e) The individual is a graduate or professional student;

(f) The individual is married;

(g) The individual has one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent); or

(h) The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:

(1) A local educational agency homeless liaison;

(2) The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director;

(3) A financial aid administrator; or

(4) The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

Individual with Handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

(a) Physical or mental impairment includes:

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body

systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

(2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction, and alcoholism.

(b) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(c) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(d) "Is regarded as having an impairment" means:

(1) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;

(2) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or

(3) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

Institution of higher education has the meaning given in the Higher Education Act of 1965 in 20 U.S.C. §§ 1001 and 1002.

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

(a) is determined to be essential to the care and well-being of the persons;

(b) is not obligated for the support of the persons; and

(c) would not be living in the unit except to provide the necessary supportive services.

Low-income family means family whose annual income does not exceed eighty percent (80%) of the median income for the area, adjusted for family size. DCHA shall consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were selected from DCHA's waiting list.

Marriage partner means the partner in a "common law" marriage as defined in state law.

Near-elderly person means a person who is fifty to sixty-one (50-61) years of age.

Other adult means a family member, other than the head, spouse, or co-head, who is eighteen (18) years of age or older. Foster adults and live-in aides are not considered other adults.

Parents For purposes of student eligibility restrictions, parents includes biological or adoptive parents, stepparents (as long as they are currently married to the biological or adoptive parent), and guardians (e.g., grandparents, aunt/uncle, godparents, etc.).

Person with Disabilities means a person who has any of the following types of conditions:

(a) Has a disability, as defined in 42 U.S.C. § 423(d)(1)(A), which reads:

(1) Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months;

(2) In the case of an individual who has attained the age of fifty-five (55) and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time; or

(3) Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.§ 15002(8)].

(b) Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes their ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

(c) People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term person with disabilities refers to an individual with handicaps.

Sexual orientation means homosexuality, heterosexuality, or bisexuality. DCHA also adheres to definitions presented in the District of Columbia Human Rights Act.

Spouse means the marriage partner of the head of household. The term "spouse" does not apply to friends, roommates, or significant others who are not marriage partners.

Very low-income family means a family whose annual income does not exceed fifty percent (50%) of the median income for the area, adjusted for family size.

Veteran means a person who served in the active military, naval, or air service and who was discharged or released from such service under conditions other than dishonorable.

Vulnerable Youth means an individual who meets the U.S. Department of Education's definition of independent student in paragraphs (b), (c), or (h), as adopted in Section II of FR Notice 9/21/16:

(a) The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was thirteen (13) years of age or older;

(b) The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence; or

(c) The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:

(1) A local educational agency homeless liaison;

(2) The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director, or

(3) A financial aid administrator.

5101 FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY

5101.1 Except under the following conditions, DCHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:

(a) If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, DCHA must ensure that the victim retains assistance.

(b) In accordance with Notice PIH 2017-08, for HUD–Veterans Affairs Supportive Housing (HUD–VASH) vouchers, when the veteran is the perpetrator of domestic violence, dating violence, sexual assault, or stalking, the victim must continue to be assisted. Upon termination of the perpetrator's HUD–VASH voucher, the victim should be given a regular HCV if one is available, and the perpetrator's HUD–VASH voucher should be used to serve another eligible family. If a regular HCV is not available, the victim will continue to use the HUD–VASH voucher, which must be issued to another eligible family upon the voucher's turnover.

(c) If a court determines the disposition of property between members of the assisted family, DCHA is bound by the court's determination of which family members continue to receive assistance.

5101.2 When a family on the waiting list breaks up into two (2) otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open.

5101.3 If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.

5101.4 If a court determines the disposition of property between members of an applicant or resident family, DCHA shall abide by the court's determination.

5101.5 In the absence of a judicial decision or an agreement among the original family members, DCHA shall determine which family will retain their placement on the waiting list or continue to receive assistance. In making its determination, DCHA shall take into consideration the following factors:

(a) the interest of any minor children, including custody arrangements;

(b) the interest of any ill, elderly, or disabled family members;

(c) the interest of any family member who is the victim of domestic violence, dating violence, sexual assault, or stalking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse; and

(d) any possible risks to family members as a result of criminal activity.

5101.6 The HUD definition of family includes the remaining member of a tenant family, which is a member of an assisted family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

5101.7 [RESERVED]

5102 HEAD OF HOUSEHOLD

5102.1 The family may designate any qualified family member as the Head of Household.

5102.2 The Head of Household must have the legal capacity to enter into a lease under state and local law. DCHA may designate a minor who is emancipated under state law as Head of Household.

5103 SPOUSE, COHEAD, OTHER ADULT, AND DEPENDENT

5103.1 A family may have a spouse or co-head, but not both.

5103.2 DCHA may designate a minor who is emancipated under state law as a Spouse.

5103.3 DCHA may designate a minor who is emancipated under state law as a co-head.

5103.4 DCHA shall not consider foster adults and live-in aides as Other Adults.

5103.5 DCHA shall consider dependents that are subject to a joint custody arrangement a member of the family, if they live with the applicant or participant family fifty percent (50%) or more of the time.

5103.6 When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, DCHA shall make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

5104 PERSONS WITH DISABILITIES AND DISABLED FAMILY

5104.1 Under the HCV program, special rules apply to persons with disabilities and to any family whose head, spouse, or cohead is a person with disabilities.

5104.2 DCHA shall make all aspects of the HCV program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

5104.3 Even though persons with drug or alcohol dependencies are considered persons with disabilities, DCHA may deny assistance for reasons related to alcohol and drug abuse in accordance with the policies found in this § 5100 chapter, or from terminating assistance in accordance with the policies in § 7600.

5105 GUESTS

5105.1 A guest can remain in the assisted unit no longer than thirty (30) consecutive days or a total of ninety (90) cumulative calendar days during any twelve (12) month period.

5105.2 Children who are subject to a joint custody arrangement or for whom a family has written visitation privileges, that are not included as a family member because they live outside of the assisted household more than fifty percent (50%) of the time, are not subject to the time limitations of guests as described above.

5105.3 A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last forty (40) consecutive days). DCHA shall not make an exception unless the family can identify and provide documentation of the residence to which the guest will return.

5105.4 DCHA shall consider guests who represent the unit address as their residence address or address of record for receipt of benefits or any other purposes as unauthorized occupants.

5105.5 DCHA shall consider guests who remain in the unit beyond the allowable time limit as unauthorized occupants, and their presence constitutes a violation of the guest policy.

5106 FOSTER CHILDREN AND FOSTER ADULTS

5106.1 DCHA shall consider foster children and foster adults who are living with an applicant or who have been approved by DCHA to live with a participant family as household members but not as family members.

5106.2 The income of foster children and foster adults is not counted in family annual income.

5106.3 Foster children and foster adults do not qualify for a dependent deduction.

5106.4 A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of HQS space standards according.

5107 ABSENT FAMILY MEMBERS

5107.1 Individuals may be absent from the family, either temporarily or permanently, for a variety of reasons including educational activities, placement in foster care, employment, illness, incarceration, and court order.

5107.2 Generally an individual who is or is expected to be absent from the assisted unit for one hundred twenty (120) consecutive days or less is considered temporarily absent and continues to be considered a family member.

5107.3 Generally an individual who is or is expected to be absent from the assisted unit for more than one hundred twenty (120) consecutive days is considered permanently absent and no longer a family member except as follows:

(a) When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to DCHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

(b) Children temporarily absent from the home as a result of placement in foster care are considered members of the family. If a child has been placed in foster care, DCHA shall verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

(c) An employed head, spouse, or co-head absent from the unit more than one hundred twenty (120) consecutive days due to employment will continue to be considered a family member.

(d) If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted. DCHA shall request verification of the family member's permanent absence from a responsible medical professional. If the responsible medical professional cannot provide a determination, the person will be considered temporarily absent. If the family certifies that the family member is confined on a permanent basis, they may present, and DCHA shall consider, any additional documentation or evidence.

5107.4 A family must request DCHA approval for the return of any adult family members that DCHA previously determined to be permanently absent. Such an individual is subject to the eligibility and screening requirements as set forth elsewhere in this chapter.

5108 LIVE-IN AIDE

5108.1 DCHA shall approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR § 8, to make the program accessible to and usable by the family member with disabilities.

5108.2 The income of a live-in aide is not counted in the calculation of annual income for the family.

5108.3 Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide.

5108.4 Because live-in aides are not "family" members, a relative who serves as a live-in aide would not be considered a remaining member of a tenant family.

5108.5 A family's request for a live-in aide must be made in writing.

5108.6 DCHA shall require written verification from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member.

5108.7 For continued approval, the family must submit a new, written request - subject to DCHA verification - at each biennial/triennial reexamination.

5108.8 The family and live-in aide must submit a certification stating that the live-in aide is:

(a) not obligated for the support of the person(s) needing the care; and

(b) would not be living in the unit except to provide the necessary supportive services.

5108.9 DCHA shall not approve a particular person as a live-in aide, and may withdraw such approval if:

(a) The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;

(b) The person commits drug-related criminal activity or violent criminal activity; or

(c) The person currently owes rent or other amounts to DCHA or to another DCHA in connection with Section 8 or public housing assistance under the 1937 Act.

5108.10 DCHA shall notify the family of its decision in writing within twenty (20) business days of receiving a request for a live-in aide, including all required documentation related to the request.

5109 INCOME ELIGIBILITY AND TARGETING

5109.1 HUD establishes income limits for all areas of the country and publishes them annually in the *Federal Register*. They are based upon estimates of median family income with adjustments for family size. The income limits are used to determine eligibility for the program and for income targeting purposes as discussed in this section.

5109.2 Income limits are used for eligibility only at admission. Income eligibility is determined by comparing the annual income of an applicant to the applicable income limit for their family size.

5109.3 In order to be income eligible, an applicant family must be one of the following:

(a) A very low-income family;

(b) A low-income family that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program. DCHA shall consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were selected from DCHA’s waiting list;

(c) A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR § 248.173;

(d) A low-income or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR § 248.101; or

(e) DCHA has not established any additional categories of eligible low-income families.

5109.4 At least seventy-five percent (75%) of the families admitted to DCHA's program during DCHA fiscal year must be extremely low-income families. HUD may approve exceptions to this requirement if DCHA demonstrates that it has made all required efforts but has been unable to attract an adequate number of qualified extremely low-income families.

5109.5 Families continuously assisted under the 1937 Housing Act and families living in eligible low-income housing that are displaced because of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not counted for income targeting purposes.

5110 CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS

5110.1 Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

5110.2 All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with DCHA's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

5110.3 HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are ineligible noncitizens. For citizens, nationals and eligible noncitizens the declaration must be signed personally by the head, spouse, co-head, and any other family member eighteen (18) or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to

contend their immigration status. No declaration is required for live-in aides, foster children, or foster adults.

5110.4 In general, citizens and nationals are required to submit only a signed declaration as verification of their status. However, HUD regulations permit DCHA to request additional documentation of their status, such as a passport.

5110.5 Family members who declare citizenship or national status will not be required to provide additional documentation unless DCHA receives information indicating that an individual's declaration may not be accurate.

5110.6 In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with DCHA efforts to verify their immigration status. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

5110.7 Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under § 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

5110.8 Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a non-contending family member listing, signed by the head, spouse, or co-head (regardless of citizenship status), indicating their ineligible immigration status. DCHA is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

5110.9 Providing housing assistance to noncitizen students is prohibited per 24 CFR § 5.522. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

5110.10 A family is eligible for assistance as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered 'mixed families". Such families will be given notice that their assistance will be prorated, and that they may request a hearing if they contest this determination.

5110.11 DCHA may elect to aid a family before the verification of the eligibility of the individual or one family member. Otherwise, no individual or family may be assisted prior to the affirmative establishment by DCHA that the individual or at least one family member is eligible. Verification of eligibility for this purpose occurs when the individual or family members have submitted documentation to DCHA in accordance with program requirements.

5110.12 DCHA shall not provide assistance to a family before the verification of at least one family member.

5110.13 When DCHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within ten (10) business days of the determination. The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance and will advise the family of its right to request an appeal to USCIS, or to request an informal hearing with DCHA.

5110.14 The informal hearing with DCHA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

5110.15 For new occupants joining the assisted family, DCHA must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

5110.16 If an individual qualifies for a time extension for the submission of required documents, DCHA must grant such an extension for no more than thirty (30) days.

5110.17 Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

5110.18 DCHA shall verify the citizenship status of applicants at the time other eligibility factors are determined.

5111 SOCIAL SECURITY NUMBERS

5111.1 The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age six (6) has been added to an applicant family within six (6) months prior to voucher issuance, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within ninety (90) days of the

effective date of the initial HAP contract. These requirements do not apply to noncitizens who do not contend eligible immigration status.

5111.2 In addition, each participant who has not previously disclosed a SSN, has previously disclosed a SSN that HUD or the SSN determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age sixty-two (62) or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.

5111.3 DCHA must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR § 5.216.

5112 FAMILY CONSENT TO RELEASE OF INFORMATION

5112.1 HUD requires each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, the form HUD-52675 Debts Owed to Public Housing Agencies and Terminations, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

5112.2 DCHA must deny admission to the program if any member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR § 5, Subparts B and F.

5113 STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION

5113.1 Section 327 of Public Law 109-115 and the implementing regulation at 24 CFR § 5.612 established new restrictions on the eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

5113.2 If a student enrolled at an institution of higher education is under the age of twenty-four (24), is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents must be income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined independent from their parents in accordance with DCHA Policy, the income of the student's parents will not be considered in determining the student's eligibility.

5113.3 The new law does not apply to students who reside with parents who are applying to receive HCV assistance. It is limited to students who are seeking assistance on their own, separately from their parents.

5113.4 DCHA shall consider a student "independent" from their parents and the parents' income will not be considered when determining the student's eligibility if the following four criteria are all met:

(a) The individual is of legal contract age under state law;

(b) The individual has established a household separate from their parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education's definition of independent student;

(c) The individual was not claimed as a dependent by their parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms; and

(d) The individual provides a certification of the amount of financial assistance that will be provided by their parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

5113.5 If DCHA determines that an individual meets the definition of a vulnerable youth such a determination is all that is necessary to determine that the person is an independent student for the purposes of using only the student's income for determining eligibility for assistance.

5113.6 DCHA shall verify that a student meets the above criteria in this §5113.

5113.7 If a student is applying for assistance on their own, apart from their parents, DCHA shall determine whether the student is subject to the eligibility restrictions contained in 24 CFR §5.612. If the student is subject to those restrictions, DCHA shall ensure that:

(a) the student is individually eligible for the program;

(b) either the student is independent from their parents or the student's parents are income eligible for the program, and

(c) the "family" with which the student is applying is collectively eligible for the program.

5113.8 For any student who is subject to the 24 CFR § 5.612 restrictions, DCHA shall follow its usual policies in determining whether the student individually and the student's "family" collectively are eligible for the program and determine whether the student is independent from their parents in accordance with the definition of independent student, and follow the policies below, if applicable, in determining whether the student's parents are income eligible for the program.

5113.9 If DCHA determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, DCHA shall send a notice of denial in accordance with the policies in § 7600, and the applicant family will have the right to request an informal review in accordance with the policies in § 9100.

5113.10 For any student who is subject to the 24 CFR § 5.612 restrictions and who does not satisfy the definition of independent student in this section, DCHA shall determine the income eligibility of the student's parents as follows:

(a) If the student's parents are married and living together, DCHA shall obtain a joint income declaration and certification of joint income from the parents.

(b) If the student's parent is widowed or single, DCHA shall obtain an income declaration and certification of income from that parent.

(c) If the student's parents are divorced or separated, DCHA shall obtain an income declaration and certification of income from each parent.

(d) If the student has been living with one of their parents and has not had contact with or does not know where to contact their other parent, DCHA shall require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. DCHA shall then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

(e) In determining the income eligibility of the student's parents, DCHA shall use the income limits for the jurisdiction in which the parents live.

5114 EIV SYSTEM SEARCHES

5114.1 Prior to admission to the program, DCHA must search for all household members using the EIV Existing Tenant Search module. DCHA must review the reports for any SSN matches involving another public housing authority or a multifamily entity and follow up on any issues identified.

5114.2 DCHA must provide the family with a copy of the Existing Tenant Search results if requested.

5114.3 At no time may any family member receive duplicative assistance.

5114.4 If the tenant is a new admission to DCHA, and a match is identified at a multifamily property, DCHA must report the program admission date to the

multifamily property and document the notification in the tenant file. The family must provide documentation of move-out from the assisted unit, as applicable.

5114.5 DCHA shall contact DCHA or owner identified in the report to confirm that the family has moved out of the unit and obtain documentation of current tenancy status, including a form HUD-50058 or 50059, as applicable, showing an end of participation. DCHA shall only approve assistance contingent upon the move-out from the currently occupied assisted unit.

5114.6 All adult household members must sign the form HUD-52675 Debts Owed to Public Housing and Terminations. Prior to admission to the program, DCHA must search for each adult family member in the Debts Owed to public housing agencies (PHAs) and Terminations module.

5114.7 If a current or former tenant disputes the information in the module, the tenant should contact DCHA directly in writing to dispute the information and provide any documentation that supports the dispute.

5114.8 If DCHA determines that the disputed information is incorrect, DCHA shall update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three (3) years from the end of participation date in the program.

5114.9 DCHA shall require each adult household member to sign the form HUD-52675 once at the eligibility determination. Any new members added to the household after admission will be required to sign the form HUD-52675 prior to being added to the household.

5114.10 DCHA shall search the Debts Owed to PHAs and Terminations module as part of the eligibility determination for new households and as part of the screening process for any household members added after the household is admitted to the program. If any information on debts or terminations is returned by the search, DCHA shall determine if this information warrants a denial.

5114.11 For each new admission, DCHA is required to review the EIV Income and IVT Reports to confirm and validate family reported income within one hundred twenty (120) days of the IMS/PIC submission date of the new admission. DCHA must print and maintain copies of the EIV Income and IVT reports in the tenant file and resolve any discrepancies with the family within sixty (60) days of the EIV Income or IVT report dates.

5115 DENIAL OF ASSISTANCE

5115.1 A family that does not meet the eligibility criteria must be denied assistance.

5115.2 When considering any denial of admission, DCHA may not use arrest records as the basis for the denial.

5115.3 Denial of assistance includes any of the following:

(a) Not placing the family's name on the waiting list;

(b) Denying or withdrawing a voucher;

(c) Not approving a request for tenancy or refusing to enter into a HAP contract; and

(d) Refusing to process a request for or to provide assistance under portability procedures.

5115.4 DCHA may not deny assistance based on any of the following criteria:

(a) Age, disability, race, color, religion, sex, or national origin;

(b) Where a family lives prior to admission to the program;

(c) Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside DCHA's jurisdiction under portability;

(d) Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock;

(e) Whether the family includes children;

(f) Whether a family decides to participate in a family self-sufficiency program; or

(g) Whether or not a qualified applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking if the applicant is otherwise qualified for assistance.

5115.5 DCHA shall deny assistance in the following cases:

(a) Any member of the household has been evicted from federally assisted housing in the last three (3) years for drug-related criminal activity; provided, however, that DCHA shall admit an otherwise-eligible family who was evicted from federally assisted housing within the past five years for drug-related criminal activity if DCHA is able to verify that the household member who engaged in the criminal activity has completed a

supervised drug rehabilitation program approved by DCHA, or the person who committed the crime is no longer living in the household;

(b) DCHA determines that any household member is currently engaged in the use of illegal drugs, or has used any illegal drugs during the previous three months;

(c) DCHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents. In determining reasonable cause, DCHA shall consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A record or records of arrest will not be used as the sole basis of determining reasonable cause. DCHA shall also consider evidence from treatment providers or community-based organizations providing services to household members;

(d) Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing;

(e) Any household member is subject to a lifetime registration requirement under a state sex offender registration program; or

(f) If any household member is currently engaged in, or has engaged in within the past five years any of the following criminal activities, the family will be denied assistance:

(1) Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug;

(2) Violent criminal activity, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage;

(3) Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the within a three-block radius of the premises; or

(4) Criminal activity that may threaten the health or safety of property owners, management staff, and persons performing contract

administration functions or other responsibilities on behalf of DCHA (including DCHA employee or DCHA contractor, subcontractor, or agent).

5515.6 Evidence of such criminal activity includes, but is not limited to:

(a) Any conviction for drug-related or violent criminal activity within the past five years; or

(b) Records of arrests for drug-related or violent criminal activity within the past five years, although a record or records of arrest will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity.

5115.7 In making its decision to deny assistance, DCHA shall consider the factors discussed in section. Upon consideration of such factors, DCHA may, on a case-by-case basis, decide not to deny assistance.

5115.8 DCHA shall deny assistance to an applicant family if:

(a) The family does not provide information that DCHA or HUD determines is necessary in the administration of the program;

(b) The family does not provide complete and true information to DCHA;

(c) Any family member has been evicted from federally assisted housing in the last three (3) years;

(d) Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;

(e) The family owes rent or other amounts to any DCHA in connection with Section 8 or other public housing assistance under the 1937 Act, unless the family repays the full amount of the debt prior to being selected from the waiting list;

(f) If the family has not reimbursed any DCHA for amounts DCHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list;

(g) The family has breached the terms of a repayment agreement entered into with DCHA, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list; or

(h) A family member has engaged in or threatened violent or abusive behavior toward DCHA personnel. *"*Abusive or violent behavior towards DCHA personnel*"* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior. *"*Threatening" refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

5115.9 When denying admission due to family debts as shown in HUD's EIV system, DCHA shall provide the family with a copy of the EIV Debt Owed to DCHA and Termination report.

5115.10 If the family wishes to dispute the information in the report, the family must contact DCHA that entered the information in EIV in writing, explaining why EIV information is disputed. The family must also provide a copy of the letter and all applicable verification to DCHA to support the family's claim. DCHA shall consider the information provided by the family prior to issuing a notice of denial.

5116 SCREENING

5116.1 DCHA shall require every applicant family to submit a consent form signed by each adult household member.

5116.2 DCHA shall perform a criminal background check through local and national law enforcement for every adult household member.

5116.3 DCHA shall use the Dru Sjodin National Sex Offender database to screen applicants for admission.

5116.4 DCHA shall ask whether the applicant, or any member of the applicant's household, is subject to a lifetime registered sex offender registration requirement in any state.

5116.5 If DCHA denies assistance based on a criminal record or on lifetime sex offender registration information, DCHA shall notify the household of the reason and provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission.

5116.6 DCHA shall not conduct additional screening to determine an applicant family's suitability for tenancy.

5116.7 The owner is responsible for screening and selection of the family to occupy the owner's unit. An owner may consider a family's history with respect to factors such as: payment of rent and utilities, caring for a unit and premises, respecting the rights of other residents to the peaceful enjoyment of their housing, criminal

activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

5116.8 DCHA must inform the owner that screening and selection for tenancy is the responsibility of the owner.

5116.9 DCHA shall provide prospective owners with the family's current and prior address (as shown in DCHA records) and the name and address (if known) of the owner at the family's current and prior addresses.

5116.10 DCHA may provide owners with additional information, as long as families are notified that the information will be provided, and the same type of information is provided to all owners.

5116.11 DCHA shall not disclose to the owner any confidential information provided to DCHA by the family in response to DCHA request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation.

5116.12 DCHA shall inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the initial HQS inspection or before. DCHA shall not provide any additional information to the owner, such as tenancy history or criminal history, etc.

5117 CRITERIA FOR DECIDING TO DENY ASSISTANCE

5117.1 DCHA shall use the concept of the preponderance of the evidence as the standard for making all admission decisions.

5117.2 “Preponderance of the evidence” is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

5117.3 DCHA shall consider the following facts and circumstances prior to making its decision:

(a) The seriousness of the case, especially with respect to how it would affect other residents’ safety or property;

(b) The effects that denial of assistance may have on other members of the family who were not involved in the action or failure to act;

(c) The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or a victim of domestic violence, dating violence, sexual assault, or stalking; or

(d) The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future.

5117.4 While DCHA shall not use a record or records of arrest as the sole basis for denial, an arrest may trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity.

5117.5 As part of its investigation, DCHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. DCHA may also consider:

(a) Any statements made by witnesses or the applicant not included in the police report;

(b) Whether criminal charges were filed;

(c) Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal; or

(d) Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity.

5117.6 DCHA shall consider evidence of criminal conduct if it indicates a demonstrable risk to safety or property.

5117.7 DCHA shall require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

5117.8 Should DCHA's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration, DCHA shall offer the family the opportunity to remove the ineligible family member from the household.

5117.9 If the family is unwilling to remove that individual from the household, DCHA shall deny admission to the family.

5117.10 For other criminal activity, DCHA may permit the family to exclude the culpable family members as a condition of eligibility.

5117.11 As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit, stay as a guest, or reside in the assisted unit.

5117.12 After admission to the program, the family must present evidence of the former family member's current address upon DCHA request.

5117.13 If the family includes a person with disabilities, DCHA's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

5117.14 If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, DCHA shall determine whether the behavior is related to the stated disability. If so, upon the family's request, DCHA shall determine whether admitting the family as a reasonable accommodation is appropriate. DCHA shall only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of assistance.

5118 NOTICE OF ELIGIBILITY OR DENIAL

5118.1 If the family is eligible for assistance, DCHA shall notify the family in writing and schedule a tenant briefing.

5118.2 If DCHA determines that a family is not eligible for the program for any reason, DCHA shall notify the family promptly. DCHA shall notify the family of a decision to deny assistance in writing within ten (10) business days of the determination.

5118.3 The notice must describe:

(a) the reasons for which assistance has been denied;

(b) the family's right to an informal review; and

(c) the process for obtaining the informal review.

5118.4 If DCHA uses a criminal record or sex offender registration information obtained under 24 CFR § 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before DCHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record. DCHA shall give the family an opportunity to dispute the accuracy

and relevance of that record, in the informal review process in accordance with program requirements.

5118.5 If based on a criminal record or sex offender registration information, an applicant family is ineligible, DCHA shall notify the family in writing of the denial and provide a copy of the record to the applicant and to the subject of the record.

5118.6 DCHA shall give the family ten (10) business days to dispute the accuracy and relevance of the information. If the family does not contact DCHA to dispute the information within that ten (10) day period, DCHA shall proceed with issuing the notice of denial of admission.

5118.7 DCHA shall give a family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter the opportunity to do so as part of the informal review process.

5118.8 Notice requirements for denial of assistance to noncitizens are contained in § 7600.

5118.9 DCHA's notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, sexual assault or stalking are contained in § 5119.

5119 PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

5119.1 The Violence against Women Act of 2013 (VAWA) and the HUD regulation at 24 CFR § 5.2005(b) prohibits DCHA from denying an applicant admission to the HCV program on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault or stalking, if the applicant otherwise qualifies for assistance or admission.

5119.2 [RESERVED]

5119.3 VAWA expanded notification requirements to include the obligation for DCHA to provide applicants who are denied assistance with a VAWA Notice of Occupancy Rights (form HUD–5380) and a domestic violence certification form (HUD-5382) at the time the applicant is denied.

5119.4 DCHA acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, poor rental history, a record of previous damage to an apartment, a prior arrest record) due to adverse factors that would warrant denial under DCHA's policies.

5119.5 While DCHA is not required to identify whether adverse factors that resulted in the applicant's denial are a result of domestic violence, dating violence, sexual assault, or stalking, the applicant may inform DCHA that their status as a victim is directly related to the grounds for the denial.

5119.6 DCHA shall request that the applicant provide enough information to DCHA to allow DCHA to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

5119.7 DCHA shall include in its notice of denial the VAWA information described in § 4900 as well as including a copy of the form HUD-5382.

5119.8 DCHA shall request in writing that an applicant wishing to claim protection under VAWA notify DCHA within fourteen (14) business days.

5119.9 If an applicant claims the protection against denial of assistance that VAWA provides to victims of domestic violence, dating violence, sexual assault or stalking, DCHA shall request in writing that the applicant provide documentation supporting the claim in accordance with §§ 4900 and 5100.

5119.10 If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

(a) A signed statement:

(1) Requesting that the perpetrator be removed from the application; and

(2) Certifying that the perpetrator will not be permitted to visit or to stay as a guest in the assisted unit; or

(b) Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to their belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

5120 ADDITION OF NON-CUSTODIAL CHILDREN TO THE HOUSEHOLD

5120.1 The Head of Household shall inform DCHA in writing within ten (10) days of any minor child occupying the property who does not qualify as a guest under §5105

and of whom any member of the household intends to primarily assume the duties and obligations for which a parent is legally responsible or at least 120 days.

5120.2 The Family must inform DCHA of the Head of Household's intentions to maintain the duties and obligations for which a parent is legally responsible of the minor child and provide documentation of the current status of the parent at the time the child occupies the property.

5120.3 DCHA shall add any child to the household composition if the following documentation, whether temporary or permanent, is provided by the Family:

(a) Custodial Power of Attorney

(b) Court Ordered Guardianship

(c) Court Ordered Custody

(d) Court Ordered Conservatorship

(e) Copy of Complaint or Motion for custody which includes a declaration under penalty of perjury and date-stamped to show filing with the Court that is provided to DCHA as proof that the Head of Household or Family member with the consent of the Head of Household is in the process of securing legal custody of the minor.

The Head of Household must update DCHA and the owner/property management of any change regarding the status of any of these orders or documents.

5120.4 If the Head of Household cannot provide DCHA with any of the forms of documentation described in § 5120.3 as of the date of the notice required by § 5120.1, the child may reside in the assisted unit for a period of 120 consecutive days with the opportunity for two (2) additional 60 day extensions thereafter, provided that:

(a) The extension request to DCHA is made in writing at least 10 business days prior to the expiration of the 120 day period or the extension thereof ; and

(b) The Head of Household must update DCHA and the owner/property management of any change regarding the documentation provided in accordance with §5120.2.

5120.5 Any minor child added to the household composition to live in the unit pursuant to §5120.3 shall be included in the Family's voucher size calculation. The Head of Household must update DCHA and the owner/property management of any

change regarding the status of the household composition after issuance of the voucher.

5120.6 Failure by the Head of Household to provide updates as required per §5120.3 and §5120.5 will result in DCHA determining the minor child is an unauthorized occupant and may subject all of the household to consequences of program violation for unauthorized occupants.

Chapter 52, BRIEFING OF FAMILIES AND ISSUANCE OF VOUCHERS, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 52

APPLICATIONS, WAITING LIST, AND TENANT SELECTION

5200 THE APPLICATION PROCESS

5200.1 This § 5200 describes DCHA policies for making applications available, accepting applications making preliminary determinations of eligibility, and the placement of applicants on the waiting list. Section 5200 also describes DCHA's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

5200.2 Any family that wishes to receive HCV assistance must apply for admission to the program. HUD permits DCHA to determine the format and content of HCV applications, as well how such applications will be made available to interested families and how applications will be accepted by DCHA. DCHA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of DCHA's application.

5200.3 DCHA will use a two-step application process.

5200.4 Under the two-step application process, DCHA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list.

5200.5 Families may obtain application forms from DCHA's website. Families may also request – by telephone or by mail – that an application be mailed to them via first class mail.

5200.6 Completed applications must be returned to DCHA by portal, mail, or electronically via email. Applications must be complete in order to be accepted by DCHA for processing.

5200.7 DCHA must take steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard DCHA application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). DCHA must provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or DCHA must provide an alternate approach that provides full access to the application process.

5200.8 DCHA is required to take reasonable steps to ensure equal access to their programs and activities by persons with limited English proficiency.

5200.9 DCHA must review each complete application received and make a preliminary assessment of the family's eligibility. DCHA must accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations. Where the family is determined to be ineligible, DCHA must notify the family in writing. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

5200.10 No applicant has a right or entitlement to be listed on the waiting list, or to any position on the waiting list.

5200.11 All applicant families will be placed on the waiting list.

5200.12 DCHA's electronic system will advise the applicant that their application has been accepted.

5200.13 Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list.

5200.14 Applicants will be placed on the waiting list according the date and time their complete application is received by DCHA.

5201 PART II: MANAGING THE WAITING LIST

5201.1 DCHA must have policies regarding various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for assistance, as well as conducting outreach to ensure enough applicants.

5201.2 In addition, HUD imposes requirements on how a DCHA may structure its waiting list and how families must be treated if they apply for assistance from a DCHA that administers more than one assisted housing program.

5201.3 DCHA's HCV waiting list must be organized in such a manner to allow DCHA to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this plan.

5201.4 The waiting list must contain the following information for each applicant listed:

(a) Applicant name;

(b) Family unit size;

(c) Date and time of application;

(d) Qualification for any local preference; and

(e) Racial or ethnic designation of the head of household.

DCHA will maintain a single waiting list for the HCV program.

5201.5 HUD directs that a family that applies for assistance from the HCV program must be offered the opportunity to be placed on the waiting list for any public housing, project-based voucher or moderate rehabilitation program DCHA operates if (1) the other programs' waiting lists are open, and (2) the family is qualified for the other programs.

5201.6 HUD permits, but does not require, that DCHA's maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs.

5201.7 A family's decision to apply for, receive, or refuse other housing assistance must not affect the family's placement on the HCV waiting list, or any preferences for which the family may qualify.

5201.8 DCHA will not merge the HCV waiting list with the waiting list for any other program DCHA operates.

5201.9 DCHA is permitted to close the waiting list if it has an adequate pool of families to use its available HCV assistance. Alternatively, DCHA may elect to continue to accept applications only from certain categories of families that meet preferences or funding criteria.

5201.10 DCHA will close the waiting list when the estimated waiting period for housing assistance for applicants on the list reaches twelve (12) months for the most

current applicants. Where DCHA has funding criteria that require a specific category of family, DCHA may elect to continue to accept applications from these applicants while closing the waiting list to others.

5201.11 If the waiting list has been closed, it cannot be reopened until DCHA publishes a notice in local newspapers of general circulation, minority media, and other suitable media outlets. The notice must comply with HUD fair housing requirements and must specify who may apply, and where and when applications will be received.

5201.12 DCHA will announce the reopening of the waiting list at least ten (10) business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

5201.13 DCHA will give public notice by publishing the relevant information in suitable media outlets to be determined at the time of opening.

5201.14 DCHA must conduct outreach as necessary to ensure that DCHA has enough applicants on the waiting list to use the HCV resources it has been allotted.

5201.15 Because HUD requires DCHA to admit a specified percentage of extremely low-income families to the program, DCHA may need to conduct special outreach to ensure that an adequate number of such families apply for assistance.

5201.16 DCHA outreach efforts must comply with fair housing requirements. This includes:

(a) Analyzing the housing market area and the populations currently being served to identify underserved populations;

(b) Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program; and

(c) Avoiding outreach efforts that prefer or exclude people who are members of a protected class.

5201.17 DCHA outreach efforts must be designed to inform qualified families about the availability of assistance under the program. These efforts may include, as needed, any of the following activities:

(a) Submitting press releases to local newspapers, including minority newspapers;

(b) Developing informational materials and flyers to distribute to other agencies;

(c) Providing application forms to other public and private agencies that serve the low income population; or

(d) Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities.

5201.18 DCHA will monitor the characteristics of the population being served and the characteristics of the population in DCHA's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

5201.19 While the family is on the waiting list, the family must immediately inform DCHA of changes in contact information, including current residence, mailing address, and phone number. The changes must be submitted via the online portal or through DCHA's designated wait list update email address.

5201.20 HUD requires DCHA to establish policies to use when removing applicant names from the waiting list.

5201.21 The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to a DCHA request for information or updates, and DCHA determines that the family did not respond because of the family member's disability, DCHA must reinstate the applicant family to their former position on the waiting list.

5201.22 The waiting list will be updated as needed to ensure that all applicants and applicant information is current and timely.

5201.23 To update the waiting list, DCHA will send an update request via first class mail and email (if available) to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address(es) that DCHA has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

5201.24 The family's response must be in writing and may be delivered by mail or by email. Responses should be postmarked or received by DCHA not later than fifteen (15) business days from the date of DCHA letter.

5201.25 If the family fails to respond within fifteen (15) business days, the family will be removed from the waiting list without further notice.

5201.26 If the notice is returned by the post office with no forwarding address and the family does not respond via email, the applicant will be removed from the waiting list without further notice.

5201.27 If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated unless the family has responded by email or through the portal. In this case, the family will have fifteen (15) business days to respond from the date the letter was re-sent.

5201.28 If a family is removed from the waiting list for failure to respond, DCHA may reinstate the family if it is determined that the lack of response was due to DCHA error, or to circumstances beyond the family's control.

5201.29 If at any time an applicant family is on the waiting list, DCHA determines that the family is not eligible for assistance, the family will be removed from the waiting list.

5201.30 If a family is removed from the waiting list because DCHA has determined the family is not eligible for assistance, a notice will be sent to the family's address of record. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding DCHA's decision.

5202 PART III: SELECTION FOR HCV ASSISTANCE

5202.1 As vouchers become available, families on the waiting list must be selected for assistance in accordance with the policies described in this part.

5202.2 The order in which families are selected from the waiting list depends on the selection method chosen by DCHA and is impacted in part by any selection preferences for which the family qualifies. The availability of targeted funding also may affect the order in which families are selected from the waiting list.

5202.3 DCHA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to DCHA's selection policies.

5202.4 HUD may award funding for specifically named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 projects). In these cases, DCHA may admit such families whether or not they are on the waiting list, and, if they are on the waiting list, without considering the family's position on the waiting list. These families are considered non-waiting list selections. DCHA must maintain records showing that such families were admitted with special program funding.

5202.5 HUD may award DCHA funding for a specified category of families on the waiting list. DCHA must use this funding only to assist the families within the

specified category. In order to assist families within a targeted funding category, DCHA may skip families that do not qualify within the targeted funding category.

5202.6 DCHA administers the following types of targeted funding:

(a) VASH;

(b) Family Unification Program (FUP);

(c) Non-Elderly Disabled (NED);

(d) Foster Youth Initiative (FYI); and

(e) Mainstream Voucher.

Regular HCV funding may be used to assist any eligible family on the waiting list.

5202.7 DCHA's must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that DCHA will use.

5202.8 DCHA's are permitted to establish local preferences, and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits DCHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with DCHA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

5202.9 DCHA will select families from the waiting list based on date and time of application.

5202.10 HUD requires that extremely low-income (ELI) families make up at least seventy-five percent (75%) of the families admitted to the HCV program during DCHA's fiscal year. ELI families are those with annual incomes at or below the federal poverty level or thirty percent (30%) of the area median income, whichever number is higher. To ensure this requirement is met, a DCHA may skip non-ELI families on the waiting list to select an ELI family.

5202.11 Low-income families admitted to the program that are "continuously assisted" under the 1937 Housing Act, as well as low-income or moderate-income families admitted to the program that are displaced because of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, are not counted for income targeting purposes.

5202.12 DCHA will monitor progress in meeting the income targeting requirement throughout the fiscal year. Extremely low-income families will be selected ahead of other eligible families on an as-needed basis to ensure the income targeting requirement is met.

5202.13 DCHA system of preferences may select families based on local preferences according to the date and time of application or by a random selection process (lottery). If DCHA does not have enough funding to assist the family at the top of the waiting list, it is not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list.

5202.14 Families will be selected on a first-come, first-served basis according to the date and time their complete application is received by DCHA.

5202.15 When a family has been selected from the waiting list, DCHA must notify the family.

5202.16 DCHA will notify the family by first class mail and/or email when it is selected from the waiting list. The notice will inform the family of the following:

(a) Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview;

(b) Who is required to attend the interview; and

(c) All documents that must be provided at the interview, including information about what constitutes acceptable documentation.

5202.17 If a notification letter is returned to DCHA with no forwarding address and the email rejects as an invalid address, the family will be removed from the waiting list. A notice of denial will be sent to the family's address of record.

5202.18 HUD recommends that DCHA obtain the information and documentation needed to make an eligibility determination though a face-to-face interview with a DCHA representative. Being invited to attend an interview does not constitute admission to the program.

5202.19 Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if DCHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period determined by DCHA.

5202.20 Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability.

5202.21 Families selected from the waiting list are required to participate in an eligibility interview.

5202.22 All adult members of the households must attend the eligibility interview. DCHA may waive this requirement on a case-by-case basis for purposes of reasonable accommodation. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to DCHA.

5202.23 The head of household, spouse, or co-head must provide acceptable documentation of legal identity. If the family representative does not provide the required documentation at the time of the interview, they will be required to provide it within ten (10) business days.

5202.24 Pending disclosure and documentation of social security numbers, DCHA will allow the family to retain its place on the waiting list for thirty (30) days. If not all household members have disclosed their SSNs at the next time DCHA is issuing vouchers, DCHA will issue a voucher to the next eligible applicant family on the waiting list.

5202.25 The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, and must complete required forms, provide required signatures, and submit required documentation. If any materials are missing, DCHA will provide the family with a written list of items that must be submitted.

5202.26 Any required documents or information that the family is unable to provide at the interview must be provided within ten (10) business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension for an additional ten (10) business days. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial.

5202.27 An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

5202.28 Interviews will be conducted in English. For limited English proficient (LEP) applicants, DCHA will provide translation services in accordance with DCHA's LEP plan.

5202.29 If the family is unable to attend a scheduled interview, the family should contact DCHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, DCHA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without DCHA approval will be denied

assistance based on the family's failure to supply information needed to determine eligibility. A notice of denial will be issued.

5202.30 DCHA must verify all information provided by the family. Based on verified information, DCHA must make a final determination of eligibility and must confirm that the family qualified for any special admission, targeted funding admission, or selection preference that affected the order in which the family was selected from the waiting list.

5202.31 At final determination of eligibility, as applicants are pulled from the waiting lists and forwarded for lease-up, DCHA extended the length of time to one hundred eighty (180) days that the verified application data is deemed valid per its MTW Status. This has reduced the amount of duplicative work required of eligibility staff in DCHA's Client Placement Division as well as reduce the time necessary to build a qualified applicant pool.

5202.32 If DCHA determines that the family is ineligible, DCHA will send written notification of the ineligibility determination within ten (10) business days of the determination. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal review.

5202.33 If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g. targeted funding, extremely low-income), the family will be returned to its original position on the waiting list. DCHA will notify the family in writing that it has been returned to the waiting list and will specify the reasons for it.

5202.34 If DCHA determines that the family is eligible to receive assistance, DCHA will invite the family to attend a briefing.

Chapter 53, RECERTIFICATIONS, HOUSING QUALITY STANDARD INSPECTIONS, AND FAMILY MOVES, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 53

BRIEFINGS AND VOUCHER ISSUANCE

5300 BRIEFINGS AND FAMILY OBLIGATIONS

5300.1 HUD regulations require the DCHA to conduct mandatory briefings for applicant families who qualify for a voucher. The briefing provides a broad description of owner and family responsibilities, explains the DCHA's procedures, and includes instructions on how to lease a unit. This part describes how oral briefings will be conducted, specifies what written information will be provided to families, and lists the family's obligations under the program.

5300.2 Prior to issuance of a voucher, the DCHA must give the family an oral briefing and provide the family with a briefing packet containing written information about the program. Families may be briefed in individual face-to-face meetings, through group briefing sessions, or via remote briefing sessions.

5300.3 Families will be notified of their eligibility for assistance at the time they are invited to a briefing. The notice will be sent electronically.

5300.4 The notice will advise the family of the type of briefing, who is required to attend the briefing, and the date and time of the briefing. The notice will also inform the family of any additional requirements as addressed in relevant policy elsewhere in this section.

5300.5 If the notice is rejected, the applicant will be denied and their name will not be placed back on the waiting list.

5300.6 At the briefing, the DCHA must ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973) and ensure that the briefing site is accessible to individuals with disabilities.

5300.7 Generally, briefings are conducted remotely. However, at the DCHA's discretion or at the family's written request, the DCHA may provide an in-person briefing. In-person briefings may be conducted in either one-on-one sessions or in group meetings.

5300.8 Generally, the head of the household is required to attend the briefing. If the head of household is unable to attend, the DCHA may approve another adult family member to attend the briefing.

5300.9 Families that attend group briefings and still need individual assistance will be referred to an appropriate DCHA staff person.

5300.10 Briefings will be conducted in English. For limited English proficient (LEP) applicants, the DCHA will provide interpretation services in accordance with the DCHA's LEP plan.

5300.11 Applicants who fail to attend a scheduled in-person briefing will be scheduled for another briefing automatically. The DCHA will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without prior DCHA approval, will be denied assistance.

5300.12 Remote briefings may be conducted over the phone, via video conferencing, or through other virtual platforms.

5300.13 The DCHA has the sole discretion to require that briefings be conducted remotely. If the DCHA schedules a remote briefing, the DCHA will conduct a face-to-face briefing upon request of the applicant as reasonable accommodation for a person with a disability if safety and health concerns can be reasonably addressed.

5300.14 In addition, the DCHA will conduct a briefing remotely upon request of the applicant as a reasonable accommodation. The DCHA will consider other reasonable requests for a remote briefing on a case-by-case basis.

5300.15 As with in-person briefings, the platform for conducting remote briefings must be accessible and the briefing conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual.

5300.16 If no method of conducting a remote briefing is available that appropriately accommodates an individual's disability, the DCHA may not hold against the individual their inability to participate in the remote briefing, and the DCHA should consider whether postponing the remote briefing to a later date is appropriate or whether there is a suitable alternative.

5300.17 Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances.

5300.18 Limited English Proficiency (LEP) requirements also apply to remote briefings, including the use of interpretation services and document translation.

5300.19 The DCHA must ensure that the lack of technology or inability to use technology for remote briefings does not pose a disadvantage to families that may not be apparent to the DCHA. The DCHA must ensure that the family has appropriate technological access in order to fully participate in the remote briefing.

5300.20 At least ten (10) business days prior to scheduling the remote briefing, the DCHA will provide written notification to families participating in the briefing to advise of technological requirements and to request the family notify the DCHA of any known barriers. The DCHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to

attend an in-person briefing or have a one-on-one briefing over the phone, as appropriate.

5300.21 The DCHA will conduct remote briefings via a video conferencing platform and telephone conferencing call-in, simultaneously, providing the family with both login information and conferencing call-in information. The family may then choose which platform to utilize.

5300.22 The DCHA will provide the briefing packet electronically. The DCHA will provide a paper copy of the briefing packet upon family request, and may reschedule the briefing to allow adequate time for the family to receive the physical briefing packet.

5300.23 The DCHA will ensure that all electronic information stored or transmitted as part of the briefing meets the requirements for accessibility for persons with disabilities and persons with LEP, and is secure, including ensuring personally identifiable information (PII) is protected.

5300.24 The DCHA will ensure that families who participate in remote briefings have the opportunity to ask questions as part of the briefing.

5300.25 If families lose connectivity during any remote briefing or otherwise feel they were unable to access information presented during the briefing, the family may request a one-on-one briefing over the phone or in person with the DCHA.

5300.26 Each briefing must provide information on the following subjects:

(a) How the Housing Choice Voucher program works;

(b) Family and owner responsibilities;

(c) Where the family can lease a unit, including renting a unit inside or outside the DCHA's jurisdiction;

(d) An explanation of how portability works. The DCHA may not discourage the family from choosing to live anywhere in the DCHA jurisdiction or outside the DCHA jurisdiction under portability, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order;

(e) The DCHA must inform the family of how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process which may affect the family's assistance;

(f) The advantages of areas that do not have a high concentration of low-income families; and

(g) For families receiving welfare-to-work vouchers, a description of any local obligations of a welfare-to-work family and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.

5300.27 In briefing a family that includes a person with disabilities, DCHA must also take steps to ensure effective communication.

5300.28 Documents and information provided in the briefing packet must include the following:

(a) The term of the voucher, voucher suspensions, and the DCHA's policies on any extensions of the term. If the DCHA allows extensions, the packet must explain how the family can request an extension;

(b) A description of the method used to calculate the housing assistance payment for a family, including how the DCHA determines the payment standard for a family, how the DCHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule;

(c) An explanation of how the DCHA determines the maximum allowable rent for an assisted unit;

(d) Where the family may lease a unit and an explanation of how portability works, including information on how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process that may affect the family's assistance;

(e) The HUD-required tenancy addendum, which must be included in the lease;

(f) The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy;

(g) A statement of the DCHA policy on providing information about families to prospective owners;

(h) The DCHA subsidy standards including when and how exceptions are made;

(i) Materials (e.g., brochures) on how to select a unit and any additional information on selecting a unit that HUD provides (e.g., HUD brochure entitled, "A Good Place to Live");

(j) Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form, including information on how to complete the form and file a fair housing complaint;

(k) A list of landlords known to the DCHA who may be willing to lease a unit to the family or other resources (e.g., newspapers, organizations, online search tools) known to the DCHA that may assist the family in locating a unit. DCHAs must ensure that the list of landlords or other resources covers areas outside of poverty or minority concentration;

(l) Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the DCHA;

(m) The family obligations under the program, including any obligations of a welfare-to-work family, and any obligations of other special programs if the family is participating in one of those programs;

(n) The grounds on which the DCHA may terminate assistance for a participant family because of family action or failure to act;

(o) DCHA informal hearing procedures including when the DCHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing;

(p) An explanation of the advantages of moving to an area that does not have a high concentration of low-income families; and

(q) The HUD pamphlet on lead-based paint entitled, "Protect Your Family from Lead in Your Home."

5300.29 If the DCHA is in a metropolitan area, the following additional information must be included in the briefing packet in order to receive full points under SEMAP Indicator 7, Expanding Housing Opportunities:

(a) Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction;

(b) Information about the characteristics of these areas including job opportunities, schools, transportation, and other services; and

(c) An explanation of how portability works, including a list of portability contact persons for neighboring DCHAs with names, addresses, and telephone numbers.

5300.30 In addition to items required by the regulations, DCHAs may wish to include supplemental materials to help explain the program to both participants and owners.

5300.31 The DCHA will provide the following additional materials in the briefing packet:

(a) Information on how to fill out and file a housing discrimination complaint form;

(b) The form HUD-5380 domestic violence certification form and the form HUD 5382 notice of occupancy rights, which contains information on VAWA protections for victims of domestic violence, dating violence, sexual assault, and stalking;

(c) "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse;

(d) "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12;

(e) Housing Enjoyable Living Program (HELP) briefing information; and

(f) Housing Search Log.

5300.32 Obligations of the family are described in the housing choice voucher (HCV) regulations and on the voucher itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. The DCHA must inform families of these obligations during the oral briefing, and the same information must be included in the briefing packet. When the family's unit is approved and the HAP contract is executed, the family must meet those obligations in order to continue participating in the program.

5300.33 Unless otherwise noted below, when family obligations require the family to respond to a request or notify the DCHA of a change, notifying the DCHA of the request or change within ten (10) business days is considered prompt notice.

5300.34 When a family is required to provide notice to the DCHA, the notice must be in writing. This includes electronic notification to the DCHA.

5300.35 The family obligations of the voucher are listed as follows:

(a) The family must supply any information that the DCHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status;

(b) The family must supply any information requested by the DCHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition;

(c) The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information;

(d) Any information supplied by the family must be true and complete; and

(e) The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

5300.36 Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

5300.37 The family must allow the DCHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.

5300.38 The family must not commit any serious or repeated violation of the lease.

5300.39 The DCHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction or an owner's notice to evict, police reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge.

5300.40 Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated lease violations by the victim.

5300.41 The family must notify the DCHA and the owner before moving out of the unit or terminating the lease.

5300.42 The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the DCHA at the same time the owner is notified.

5300.43 The family must promptly give the DCHA a copy of any owner eviction notice.

5300.44 The family must use the assisted unit for residence by the family. The unit must be the family's only residence.

5300.45 The composition of the assisted family residing in the unit must be approved by the DCHA. The family must promptly notify the DCHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request DCHA approval to add any other family member as an occupant of the unit.

5300.46 The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The DCHA will determine eligibility of the new member in accordance with the policies in Chapter 3.

5300.47 The family must promptly notify the DCHA in writing if any family member no longer lives in the unit.

5300.48 If the DCHA has given approval, a foster child or a live-in aide may reside in the unit. The DCHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when DCHA consent may be given or denied. For policies related to the request and approval of foster children, foster adults, and live-in aides.

5300.49 The family must not sublease the unit, assign the lease, or transfer the unit.

5300.50 Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

5300.51 The family must supply any information requested by the DCHA to verify that the family is living in the unit or information related to family absence from the unit.

5300.52 The family must promptly notify the DCHA when the family is absent from the unit.

5300.53 Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than thirty (30) calendar days. Written notice must be provided to the DCHA at the start of the extended absence.

5300.54 The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease.

5300.55 The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).

5300.56 Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program.

5300.57 Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

5300.58 Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises.

5300.59 An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state, or local housing assistance program.

5300.60 A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless the DCHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities.

5301 SUBSIDY STANDARDS AND VOUCHER ISSUANCE

5301.1 The DCHA must establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions. This part presents the policies that will be used to determine the family unit size (also known as the voucher size) a particular family should receive, and the policies that govern making exceptions to those standards. The DCHA must also establish policies related to the issuance of the voucher, to the voucher term, and to any extensions of the voucher term.

5301.2 For each family, the DCHA determines the appropriate number of bedrooms under the DCHA subsidy standards and enters the family unit size on the voucher that is issued to the family. The family unit size does not dictate the size of unit the family must actually lease, nor does it determine who within a household will share a bedroom/sleeping room.

5301.3 The following requirements apply when the DCHA determines family unit size:

(a) The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding;

(b) The subsidy standards must be consistent with space requirements under the housing quality standards;

(c) The subsidy standards must be applied consistently for all families of like size and composition;

(d) A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size;

(e) A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family;

(f) Any live-in aide (approved by the DCHA to reside in the unit to care for a family member who is disabled or is at least fifty (50) years of age) must be counted in determining the family unit size; and

(g) Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the DCHA subsidy standards.

5301.4 The DCHA will assign one bedroom for each two persons within the household, except in the following circumstances:

(a) Single person families will be allocated one bedroom;

(b) A single head of household will receive their own bedroom;

(c) Other adult family members shall not be allocated a bedroom with a minor other than a single parent and their child under age five (5);

(d) Persons of opposite gender (other than spouses, and children under age five (5) will be allocated separate bedrooms;

(e) Two minors of the same gender shall be allocated one bedroom. However, no individual thirteen (13) or older will share a bedroom with a member with a five (5) year or more age difference, other than a single parent (who is not the head of household) and their child under age five; and

(f) Live-in aides will be allocated a separate bedroom. No additional bedrooms will be allocated for family members of a live-in aide.

5301.5 The DCHA will reference the following chart in determining the appropriate voucher size for a family:

Voucher Size	**Persons in Household (Minimum – Maximum)**
1 Bedroom	1-2
2 Bedrooms	2-4
3 Bedrooms	3-6

4 Bedrooms 4-8
5 Bedrooms 6-10

5301.6 In determining family unit size for a particular family, the DCHA may grant an exception to its established subsidy standards if the DCHA determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances. Reasons may include, but are not limited to:

(a) A need for an additional bedroom for medical equipment; or

(b) A need for a separate bedroom for reasons related to a family member's disability, medical or health condition.

5301.7 For a single person who is not elderly, disabled, or a remaining family member, an exception cannot override the regulatory limit of a zero or one bedroom.

5301.8 The DCHA will consider granting an exception for any of the reasons specified in the regulation: the age, sex, health, handicap, or relationship of family members or other personal circumstances.

5301.9 The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g., doctor or health professional), unless the disability and the disability–related request for accommodation is readily apparent or otherwise known. The family's continued need for an additional bedroom due to special medical equipment must be re-verified at biennial/triennial reexamination.

5301.10 The DCHA will notify the family of its determination within 10 business days of receiving the family's request. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

5301.11 When a family is selected from the waiting list (or as a special admission as described in Chapter 4), or when a participant family wants to move to another unit, the DCHA issues a Housing Choice Voucher, form HUD-52646. This chapter deals only with voucher issuance for applicants. For voucher issuance associated with moves of program participants, please refer to Chapter 10.

5301.12 The voucher is the family's authorization to search for housing. It specifies the unit size for which the family qualifies, and includes both the date of voucher issuance and date of expiration. It contains a brief description of how the program works and explains the family obligations under the program. The voucher is evidence that the DCHA has determined the family to be eligible for the program, and that the DCHA expects to have money available to subsidize the family if the

family finds an approvable unit. However, the DCHA does not have any liability to any party by the issuance of the voucher, and the voucher does not give the family any right to participate in the DCHA's housing choice voucher program.

5301.13 A voucher can be issued to an applicant family only after the DCHA has determined that the family is eligible for the program based on verification of information received within the sixty (60) days prior to issuance and after the family has attended an oral briefing.

5301.14 Vouchers will be issued to eligible applicants immediately following the mandatory briefing.

5301.15 The DCHA should have sufficient funds to house an applicant before issuing a voucher. If funds are insufficient to house the family at the top of the waiting list, the DCHA must wait until it has adequate funds before it calls another family from the list.

5301.16 Prior to issuing any vouchers, the DCHA will determine whether it has sufficient funding.

5301.17 If the DCHA determines that there is insufficient funding after a voucher has been issued, the DCHA may rescind the voucher and place the affected family back on the waiting list.

5301.18 The voucher term will be one hundred eighty (180) calendar days.

5301.19 The family must submit a Request for Tenancy Approval and proposed lease within the one hundred eighty (180) day period unless the DCHA grants an extension.

5301.20 DCHAs must approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose.

5301.21 The family must be notified in writing of the DCHA's decision to approve or deny an extension. The DCHA's decision to deny a request for an extension of the voucher term is not subject to informal review.

5301.22 DCHA may consider extensions of the term. The written request must be accompanied by either a Housing Search Log or email proof of denied rental application(s).

5301.23 The DCHA may consider extensions after the term of the voucher only in the following circumstances:

(a) It is necessary as a reasonable accommodation for a person with disabilities.

(b) It is necessary due to reasons beyond the family's control, as determined by the DCHA. Following is a list of extenuating circumstances that the DCHA may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:

(1) Whether the family has already submitted requests for tenancy approval that were not approved by the DCHA; and

(2) Whether family size or other special circumstances make it difficult to find a suitable unit.

5301.24 All requests for extensions to the voucher term must be made in writing and submitted to the DCHA prior to the expiration date of the voucher (or extended term of the voucher).

5301.25 The DCHA will decide whether to approve or deny an extension request within ten (10) business days of the date the request and supporting documentation (including independent DCHA verification) is received, and will provide the family written notice of its decision.

5301.26 The DCHA must provide for suspension of the initial or any extended term of the voucher from the date the family submits a request for DCHA approval of the tenancy until the date the DCHA notifies the family in writing whether the request has been approved or denied.

5301.27 Once a family's housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive assistance, the DCHA may require that the family reapply, or may place the family on the waiting list with a new application date but without requiring reapplication. Such a family does not become ineligible for the program on the grounds that it was unable to locate a unit before the voucher expired.

5301.28 If an applicant family's voucher term or extension expires before the DCHA has approved a tenancy, the DCHA will require the family to reapply for assistance.

5301.29 Within 10 business days after the expiration of the voucher term or any extension, the DCHA will notify the family in writing that the voucher term has expired and that the family must reapply when the waiting list is open in order to be placed on the waiting list.

Chapter 54, VERIFICATION PROCEDURES, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 54

INCOME AND SUBSIDY DETERMINATIONS

5400 ANNUAL INCOME

5400.1 "Annual income" means all amounts, monetary or not, which:

(a) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member;

(b) Are anticipated to be received from a source outside the family during the twelve (12) month period following admission or annual reexamination effective date;

(c) Which are not specifically excluded in 24 CFR § 5.609(c); or

(d) Amounts derived (during the twelve (12) month period) from assets to which any member of the family has access.

5400.2 This § 5400 describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately. In this plan, however, the discussions of income inclusions and exclusions are integrated by topic.

5400.3 Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(c)(2)].
Head, spouse, or co-head Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included. All applicable regulations apply to full-time students approved pursuant to §5120.
Full-time students 18 years of age or older (not head, spouse, or co-head)	Employment income above $480/year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

	All applicable regulations apply to full-time students approved pursuant to §5120.

5400.4 The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

5400.5 Generally an individual who is or is expected to be absent from the assisted unit for one hundred twenty (120) consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than one hundred twenty (120) consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

5400.6 When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to DCHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

5400.7 Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

5400.8 If a child has been placed in foster care, DCHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

5400.9 An employed head, spouse, or co-head absent from the unit more than one hundred twenty (120) consecutive days due to employment will continue to be considered a family member.

5400.10 If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted.

5400.11 DCHA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

5400.12 When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or co-head qualifies as an elderly person or a person with disabilities.

5400.13 Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family fifty percent (50%) or more of the time.

5400.14 When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, DCHA will make the determination based on available documents such as court orders, school records, or an IRS return showing which family has claimed the child for income tax purposes.

5400.15 The approval of a caretaker is at the owner and DCHA's discretion and subject to the owner and DCHA's screening criteria. If neither a parent nor a designated guardian remains in a household receiving HCV assistance, DCHA will take the following actions:

(a) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made;

(b) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for ninety (90) days. After the ninety (90) days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases DCHA will extend the caretaker's status as an eligible visitor;

(c) At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker; and

(d) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

5400.16 DCHA is required to count all income "anticipated to be received from a source outside the family during the twelve (12) month period following admission or annual reexamination effective date."

5400.17 DCHA generally will use current circumstances to determine anticipated income for the coming twelve (12) month period. HUD authorizes DCHA to use other than current circumstances to anticipate income when:

(a) An imminent change in circumstances is expected;

(b) It is not feasible to anticipate a level of income over a twelve (12) month period (e.g., seasonal or cyclic income); and

(c) DCHA believes that past income is the best available indicator of expected future income.

5400.18 DCHA is required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance.

5400.19 HUD allows DCHA to use tenant-provided documents (pay stubs) to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where DCHA does not determine it is necessary to obtain additional third-party data.

5400.20 When EIV is obtained and the family does not dispute the EIV employer data, DCHA will use current tenant-provided documents to project annual income. When the tenant-provided documents are pay stubs, DCHA will make every effort to obtain current and consecutive pay stubs dated within the last sixty (60) days.

5400.21 DCHA will obtain written and/or oral third-party verification in accordance with the verification requirements in the following cases:

(a) If EIV or other UIV data is not available;

(b) If the family disputes the accuracy of the EIV employer data; or

(c) If DCHA determines additional information is needed.

5400.22 In such cases, DCHA will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how DCHA annualized projected income.

5400.23 When DCHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), DCHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

5400.24 Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the

family may present information and documentation to DCHA to show why the historic pattern does not represent the family's anticipated income.

5400.25 If DCHA verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the twelve (12) month period.

Example: An employer reports that a full-time employee who has been receiving $8/hour will begin to receive $8.25/hour in the eighth week after the effective date of the reexamination. In such a case DCHA would calculate annual income as follows: ($8/hour × 40 hours × 7 weeks) + ($8.25 × 40 hours × 45 weeks).

5400.26 The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases DCHA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if DCHA's policy on reexaminations does not require interim reexaminations for other types of changes.

5400.27 When tenant-provided third-party documents are used to anticipate annual income, they will be dated within the last sixty (60) days of the reexamination interview date.

5400.28 In HUD's EIV webcast of January 2008, HUD made clear that PHAs are not to use EIV quarterly wages to project annual income.

5400.29 The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income.

5400.30 For persons who regularly receive bonuses or commissions, DCHA will verify and then average amounts received for the one-year preceding admission or reexamination. If only a one-year history is available, DCHA will use the prior year amounts. In either case the family may provide, and DCHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, DCHA will count only the amount estimated by the employer. The file will be documented appropriately.

5400.31 All regular pay, special pay, and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

5400.32 This type of income (including gifts) is not included in annual income. Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than one hundred eighty (180) days.

5400.33 Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.

5400.34 Employment income earned by children (including foster children) under the age of eighteen (18) years is not included in annual income.

5400.35 Earnings in excess of Four Hundred Eighty Dollars ($480) for each full-time student eighteen (18) years old or older (except for the head, spouse, or co-head) are not counted. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program.

5400.36 Income earned by a live-in aide is not included in annual income.

5400.37 Income from some federal programs is specifically excluded from consideration as income, including:

(a) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. § 5044(g), 5058);

(b) Awards under the federal work-study program (20 U.S.C. § 1087 uu);

(c) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. §3056(f));

(d) Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. § 12637(d)); and

(e) Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

5400.38 Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed Two Hundred Dollars ($200) per individual per month) received by a resident for performing a service for DCHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of DCHA's governing board. No resident may receive more than one such stipend during the same period of time.

5400.39 Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts

excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program.

5400.40 DCHA defines "training program" as "a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to:

(a) classroom training in a specific occupational skill;

(b) on-the-job training with wages subsidized by the program; or

(c) basic education.

5400.41 DCHA defines "incremental earnings and benefits" as the difference between:

(a) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program; and

(b) the total amount of welfare assistance and earnings of the family member after enrollment in the program.

5400.42 In calculating the incremental difference, DCHA will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.

5400.43 End of participation in a training program must be reported in accordance with DCHA's interim reporting requirements.

5400.44 Amounts received under training programs funded in whole or in part by HUD are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

5400.45 To qualify as a training program, the program must meet the definition of "training program" provided above for state and local employment training programs.

5400.46 Earned income tax credit (EITC) refund payments received on or after January 1, 1991, are excluded from annual income. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the

year. The prorated share of the annual EITC is included in the employee's payroll check.

5400.47 [RESERVED]

5400.48 The earned income disallowance (EID) encourages people with disabilities to enter the work force by not including the full value of increases in earned income for a period of time. Eligibility criteria and limitations on the disallowance are summarized below.

5400.49 This disallowance applies only to individuals in families already participating in the HCV program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

(a) Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. "Previously unemployed" includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by five hundred (500) hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage;

(b) Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families; or

(c) New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six (6)-month period must be at least Five Hundred Dollars ($500).

5400.50 Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with their "baseline income." The family member's baseline income is their income immediately prior to qualifying for the EID. The family member's baseline

income remains constant throughout the period that they are participating in the EID.

5400.51 During the initial exclusion period of twelve (12) consecutive months, the full amount (100%) of any increase in income attributable to new employment or increased earnings is excluded.

5400.52 The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

5400.53 During the second exclusion period of twelve (12) consecutive months, DCHA must exclude at least fifty percent (50%) of any increase in income attributable to employment or increased earnings.

5400.54 During the second twelve (12) month exclusion period, DCHA will exclude one hundred percent (100%) of any increase in income attributable to new employment or increased earnings.

5400.55 The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends twenty-four (24) months later. During the twenty-four (24) month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance.

5400.56 Annual income includes "the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family."

5400.57 Net income is "gross income less business expense."

5400.58 To determine business expenses that may be deducted from gross income, DCHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses, unless a topic is addressed by HUD regulations or guidance as described below.

5400.59 HUD regulations do not permit DCHA to deduct from gross income expenses for business expansion.

5400.60 "Business expansion" is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

5400.61 HUD regulations do not permit DCHA to deduct from gross income the amortization of capital indebtedness.

5400.62 "Capital indebtedness*"* is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means DCHA will allow as a business expense interest, but not principal, paid on capital indebtedness.

5400.63 If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

5400.64 HUD regulations require DCHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

5400.65 Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of Two Thousand Dollars $2,000 to help a business get started, DCHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

5400.66 If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

5400.67 There is no asset limitation for participation in the HCV program. However, HUD requires that DCHA include in annual income the anticipated "interest, dividends, and other net income of any kind from real or personal property." This section discusses how the income from various types of assets is determined. For most types of assets, DCHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

(a) How the value of the asset will be determined; and

(b) How income from the asset will be calculated.

5400.68 DCHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes DCHA to use other than current circumstances to anticipate income when:

(a) an imminent change in circumstances is expected;

(b) it is not feasible to anticipate a level of income over twelve (12) months; or

(c) DCHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, DCHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

5400.69 Under the authority granted to DCHA under its Moving to Work (MTW) status, DCHA will require families to declare assets only if the total value of all assets is Fifteen Thousand Dollars ($15,000) or more. If the total value of all assets is less than Fifteen Thousand ($15,000), DCHA will accept the family's certification of the value of assets. DCHA will not include income from assets in its income calculation unless the total value of all assets is Fifteen Thousand Dollars ($15,000) or more.

5400.70 Anytime current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to DCHA to show why the asset income determination does not represent the family's anticipated asset income.

5400.71 The calculation of asset income sometimes requires DCHA to make a distinction between an asset's market value and its cash value:

(a) The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).

(b) The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

5400.72 Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions.

5400.73 Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account).

5400.74 When net family assets are Five Thousand Dollars ($5,000) or less, DCHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of Five Thousand Dollars ($5,000), DCHA will include in annual income the greater of:

(a) the actual income derived from the assets; or

(b) the imputed income.

Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by DCHA.

5400.75 DCHA must review its passbook rate annually to ensure that it remains within seventy-five hundredths of a percent (0.75%) of the national average.

5400.76 DCHA initially set the imputed asset passbook rate at the national rate established by the Federal Deposit Insurance Corporation (FDIC).

5400.77 DCHA will review the passbook rate annually. The rate will not be adjusted unless the current PHA rate is no longer within seventy-five hundredths of a percent (0.75%) of the national rate. If it is no longer within seventy-five hundredths of a percent (0.75%) of the national rate, the passbook rate will be set at the current national rate.

5400.78 The effective date of changes to the passbook rate will be determined at the time of the review.

5400.79 It may or may not be necessary for DCHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

5400.80 Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the

family from a retirement investment plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement investment plan.

5400.81 [RESERVED]

5400.82 If an asset is owned by more than one person and any family member has unrestricted access to the asset, DCHA will count the full value of the asset. A family member has unrestricted access to an asset when they can legally dispose of the asset without the consent of any of the other owners.

5400.83 If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, DCHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, DCHA will prorate the asset evenly among all owners.

5400.84 HUD regulations require DCHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

5400.85 DCHA is permitted to set a threshold below which assets disposed of for less than fair market value will not be counted.

5400.86 DCHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than One Thousand Dollars ($1,000).

5400.87 When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

5400.88 Assets placed by the family in nonrevocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

5400.89 The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

5400.90 All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary

terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

5400.91 Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

5400.92 Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. DCHA may verify the value of the assets disposed of if other information available to DCHA does not appear to agree with the information reported by the family.

5400.93 For regular checking accounts and savings accounts, "cash value" has the same meaning as "market value." If a checking account does not bear interest, the anticipated income from the account is zero.

5400.94 In determining the value of checking account and savings accounts, DCHA will use the current balance.

5400.95 In determining the anticipated income from an interest-bearing checking or savings account, DCHA will multiply the value of the account by the current rate of interest paid on the account.

5400.96 Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

5400.97 In determining the market value of an investment account, DCHA will use the value of the account on the most recent investment report.

5400.98 How anticipated income from an investment account will be calculated depends on whether the rate of return is known.

5400.99 For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings).

5400.100 When the anticipated rate of return is not known (e.g., stocks), DCHA will calculate asset income based on the earnings for the most recent reporting period.

5400.101 Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset

and reasonable costs (such as broker fees) that would be incurred in selling the asset.

5400.102 In determining the equity, DCHA will determine market value by examining recent sales of at least three properties in the surrounding or similar neighborhood that possess comparable factors that affect market value.

5400.103 DCHA will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, DCHA will use the basic loan balance information to deduct from the market value in the equity calculation.

5400.104 Equity in real property and other capital investments is considered in the calculation of asset income except for the following types of assets:

(a) Equity accounts in HUD homeownership programs;

(b) The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first ten (10) years after the purchase date of the home;

(c) Equity in owner-occupied cooperatives and manufactured homes in which the family lives;

(d) Equity in real property when a family member's main occupation is real estate. This real estate is considered a business asset, and income related to this asset will be calculated as described in this § 5400;

(e) Interests in Indian Trust lands; and

(f) Real property and capital assets that are part of an active business or farming operation.

5400.105 DCHA must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value minus the balance of the loan (mortgage) minus the expenses to convert to cash.

5400.106 For the purposes of calculating expenses to convert to cash for real property, DCHA will use ten percent of the market value of the home.

5400.107 A family may have real property as an asset in two ways:

(a) owning the property itself; and

(b) holding a mortgage or deed of trust on the property.

In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

5400.108 In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

5400.109 In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless DCHA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

5400.110 A "trust" is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

5400.111 If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset. Any income earned because of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

5400.112 In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate.

5400.113 In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, DCHA must know whether the money is accessible before retirement.

5400.114 While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset.

5400.115 After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate, except to the extent that it represents funds invested in the account by the family member. The balance in the account is counted as an asset only if it remains accessible to the family member.

5400.116 IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty.

5400.117 Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset.

5400.118 In determining the value of personal property held as an investment, DCHA will use the family's estimate of the value. DCHA may obtain an appraisal to confirm the value of the asset if there is reason to believe that the family's estimated value is off by Fifty Dollars ($50) or more. The family must cooperate with the appraiser, but cannot be charged any costs related to the appraisal.

5400.119 Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

5400.120 Necessary items of personal property are not considered assets.

5400.121 Necessary personal property consists of only those items not held as an investment, and may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

5400.122 The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

5400.123 Periodic payments are forms of income received on a regular basis. The following are periodic payments that are included in annual income:

(a) Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions; however, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family; and

(b) Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum.

5400.124 Most lump-sums received because of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic Social Security or Supplemental Security Income (SSI) payments are not counted as income. Additionally, any deferred disability benefits that are received in a lump-sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income.

5400.125 When a delayed-start payment is received and reported during the period in which DCHA is processing an annual reexamination, DCHA will adjust the family share and PHA subsidy retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with DCHA.

5400.126 DCHA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, DCHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

(a) Effective the day after SSA has announced the COLA, DCHA is required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1st or later of the upcoming year.

(b) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone). Kinship guardianship assistance payments (Kin-GAP) and other similar guardianship payments are treated the same as foster care payments and are likewise excluded from annual income.

5400.127 DCHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency.

(a) Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home.

(b) Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. § 1626(c)).

(c) Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. § 9858q).

(d) Earned Income Tax Credit (EITC) refund payments (26 U.S.C. § 32(j)). *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.

(e) Lump-sums received because of delays in processing Social Security and SSI payments.

(f) Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA).

5400.128 Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts.

5400.129 Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments.

5400.130 DCHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

5400.131 The families "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a State or other public agency ('welfare agency') under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance."

5400.132 When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, DCHA must include in annual income "imputed" welfare income. DCHA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced because of the sanction.

5400.133 This requirement does not apply to reductions in welfare benefits:

(a) At the expiration of the lifetime or other time limit on the payment of welfare benefits;

(b) If a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements; or

(c) Because a family member has not complied with other welfare agency requirements.

5400.134 The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero.

5400.135. Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with an assisted family.

5400.136 DCHA must count alimony or child support amounts awarded as part of a divorce.

5400.137 DCHA shall count court-awarded amounts for alimony and child support unless DCHA verifies that the payments have not been made in the last six (6) months.

5400.138 If the amounts received for child support or alimony are not received on a regular basis, DCHA shall anticipate income by performing an average of the last twelve (12) complete months. The average shall include months in which no payments were received and months in which lump sum amounts were received to catch up for prior missed payments.

5400.139 DCHA will count court-awarded amounts for alimony and child support unless DCHA verifies that:

(a) the payments are not being made; and

(b) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments.

5400.140 Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

5400.141 DCHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family. Temporary, nonrecurring, or sporadic income and gifts are not counted.

5400.142 Examples of regular contributions include:

(a) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments);

(b) cash or other liquid assets provided to any family member on a regular basis; and

(c) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.

5400.143 Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by DCHA. For contributions that may vary from month to month (e.g., utility payments), DCHA will include an average amount based upon past history.

5400.144 In 2005, Congress passed a law (for Section 8 programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.

5400.145 The regulation requiring the inclusion of certain student financial assistance applies only to students who satisfy all the following conditions:

(a) They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965;

(b) They are seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the HCV program, the project-based voucher program, or the moderate rehabilitation program; and

(c) They are under twenty-four (24) years of age or they have no dependent children.

5400.146 For students who satisfy these three (3) conditions, any financial assistance in excess of tuition and any other required fees and charges received:

(a) under the 1965 HEA;

(b) from a private source; or

(c) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

5400.147 To determine annual income in accordance with the above requirements, DCHA will use the definitions of "dependent child," "institution of higher education," and "parents" in Chapter 102 of this Title, along with the following definitions:

(a) "Assistance under the Higher Education Act of 1965" includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the

Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.

(b) "Assistance from private sources" means assistance from non-governmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.

(c) "Tuition and fees" are defined in the same manner in which the Department of Education defines "tuition and fees":

(1) This is the amount of tuition and required fees covering a full academic year most frequently charged to students;

(2) The amount represents what a typical student would be charged and may not be the same for all students at an institution;

(3) If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an academic year is used to estimate average tuition;

(4) Required fees include all fixed-sum charges that are required of a large proportion of all students. Examples include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program); and

(5) Expenses related to attending an institution of higher education must not be included as tuition. Examples include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed-sum charges.

5400.148 Any student financial assistance not subject to inclusion under 24 CFR§ 5.609(b)(9) is fully excluded from annual income under 24 CFR § 5.609(c)(6), whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

(a) Students residing with parents who are seeking or receiving Section 8 assistance;

(b) Students who are enrolled in an educational institution that does not meet the 1965 HEA definition of "institution of higher education";

(c) Students who are over twenty-three (23) and have at least one (1) dependent child; and

(d) Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

5400.149 Other exclusions contained in 24 CFR §5.609(c) that have not been discussed earlier in this chapter include the following:

(a) Reimbursement of medical expenses;

(b) Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program;

(c) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(d) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(e) Adoption assistance payments in excess of $480 per adopted child;

(f) Refunds or rebates on property taxes paid on the dwelling unit;

(g) Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; and

(h) Amounts specifically excluded by any other federal statute. HUD publishes an updated list of these exclusions periodically. It includes:

(1) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. § 2017 (b));

(2) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC;

(3) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. §§ 5044(g), 5058);

(4) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. § 1626(c));

(5) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. § 459e);

(6) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. § 8624(f));

(7) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. § 2931);

(8) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts;

(9) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04);

(10) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. § 1774f(b));

(11) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al.* v. *Ken Salazar et al.,* for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010;

(12) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. §§ 1407-1408);

(13) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs);

(14) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. § 3056(f));

(15) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(16) Payments received under 38 U.S.C. § 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida;

(17) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. § 1721);

(18) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. § 9858q);

(19) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. § 32(j));

(20) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);

(21) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109–249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR § 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. § 1437a(b)(3)(E) (Pub. L. 109–249);

(22) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. § 12637(d));

(23) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. § 10602);

(24) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002;

(25) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013–30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. § 117b(a));

(26) Major disaster and emergency assistance received under the Robert T. Stafford Disaster;

(27) Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations; and

(28) Distributions from an ABLE account, and actual or imputed interest on the ABLE account balance.

5401 ADJUSTED INCOME

5401.1 DCHA shall deduct from annual income any of the following mandatory deductions for which a family qualifies with the resulting amount is being the family's adjusted income:

(a) Four Hundred Eighty Dollars ($480) for each dependent;

(b) Four Hundred Dollars ($400) for any elderly family or disabled family;

(c) The sum of the following, to the extent the sum exceeds three percent (3%) of annual income:

(1) Unreimbursed medical expenses of any elderly family or disabled family;

(2) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are eighteen (18) years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and

(d) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

5401.2 Generally, DCHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g.,child care

during school and non-school periods and cyclical medical expenses), DCHA will estimate costs based on historic data and known future costs.

5401.3 If a family has an accumulated debt for medical or disability assistance expenses, DCHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. DCHA may require the family to provide documentation of payments made in the preceding year.

5401.4 "Dependent" is defined as any family member other than the head, spouse, or co-head who is under the age of eighteen (18) or who is eighteen (18) or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents.

5401.5 An "elderly family" is a family whose head, spouse, co-head, or sole member is sixty-two (62) years of age or older, and a "disabled family" is a family whose head, spouse, co-head, or sole member is a person with disabilities.

5401.6 Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent (3%) of annual income.

5401.7 The medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least sixty-two (62) or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted.

5401.8 "Medical expenses," including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.

5401.9 The most current IRS Publication 502, "Medical and Dental Expenses", will be used as a reference to determine the costs that qualify as medical expenses.

5401.10 When expenses anticipated by a family could be defined as either medical or disability assistance expenses, DCHA will consider them medical expenses unless the expenses are incurred exclusively to enable a person with disabilities to work.

5401.11 Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they:

(a) Are necessary to enable a family member eighteen (18) years or older to work;

(b) Are not paid to a family member or reimbursed by an outside source;

(c) In combination with any medical expenses, exceed three percent (3%) of annual income; and

(d) Do not exceed the earned income received by the family member who is enabled to work.

5401.12 A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work.

5401.13 The disability expense deduction is capped by the amount of "earned income received by family members who are eighteen (18) years of age or older and who are able to work" because of the expense. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

5401.14 The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, DCHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

5401.15 When DCHA determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes.

5401.16 "Auxiliary apparatus" are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work."

5401.17 Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost-of-service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

5401.18 The family determines the type of attendant care that is appropriate for the person with disabilities.

5401.19 Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

5401.20 Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

5401.21 If the care attendant also provides other services to the family, DCHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not a person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

5401.22 No disability assistance expenses may be deducted for payments to a member of an assisted family. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

5401.23 The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

5401.24 DCHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, DCHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and DCHA will consider, the family's justification for costs that exceed typical costs in the area.

5401.25 This policy applies only to families in which the head or spouse is sixty-two (62) or older or is a person with disabilities.

5401.26 When expenses anticipated by a family could be defined as either medical or disability assistance expenses, DCHA will consider them medical expenses unless the expenses are incurred exclusively to enable a person with disabilities to work.

5401.27 "Childcare expenses" are amounts anticipated to be paid by the family for the care of children under thirteen (13) years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

5401.28 Childcare expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household. However, childcare expenses for foster children that are living in the assisted family's household are included when determining the family's childcare expenses.

5401.29 The family must identify the family member(s) enabled to pursue an eligible activity. The term "eligible activity" in this section means any of the activities that may make the family eligible for a childcare deduction (seeking work, pursuing an education, or being gainfully employed).

5401.30 In evaluating the family's request, DCHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child,

and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

5401.31 If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the childcare expense being allowed by DCHA.

5401.32 If the childcare expense being claimed is to enable a family member to further their education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the childcare claimed.

5401.33 If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that childcare is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

5401.34 When a family member looks for work or furthers their education, there is no cap on the amount that may be deducted for childcare – although the care must still be necessary and reasonable. However, when childcare enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income.

5401.35 The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

5401.36 When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above Four Hundred Eighty Dollars ($480) is excluded, childcare costs related to enabling a family member to work may not exceed the portion of the person's earned income that is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only Five Thousand Dollars ($5,000) is included in annual income, child care expenses are limited to Five Thousand Dollars ($5,000).

5401.37 DCHA must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working.

5401.38 When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, DCHA

generally will limit allowable childcare expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

5401.39 The type of care to be provided is determined by the assisted family. DCHA may not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare.

5401.40 For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare.

5401.41 The costs of general housekeeping and personal services are not eligible. Likewise, childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare to relatives who do not live in the unit are eligible.

5401.42 If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, DCHA will prorate the costs and allow only that portion of the expenses that is attributable to childcare for eligible activities. For example, if the care provider also cares for a child with disabilities who is thirteen (13) or older, the cost of care will be prorated. Unless otherwise specified by the childcare provider, the calculation will be based upon the number of hours spent in each activity or the number of persons under care.

5401.43 Childcare expenses will be considered necessary if:

(a) a family adequately explains how the care enables a family member to work, actively seek employment, or further their education; and

(b) the family certifies, and the childcare provider verifies, that the expenses are not paid or reimbursed by any other source.

5401.44 Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

5401.45 To establish the reasonableness of childcare costs, DCHA will use the schedule of childcare costs from a qualified local entity that either subsidizes child care costs or licenses child care providers. Families may present, and DCHA will consider, justification for costs that exceed typical costs in the area.

5402 CALCULATING FAMILY SHARE AND PHA SUBSIDY

5402.1 Total tenant payment (TTP) is the highest of the following amounts, rounded to the nearest dollar:

(a) Thirty percent (30%) of the family's monthly adjusted income (adjusted income is defined in § 5401);

(b) Ten percent (10%) percent of the family's monthly gross income (annual income divided by twelve (12));

(c) The welfare rent (in as-paid states only); or

(d) A minimum rent between Zero Dollars ($0) and Fifty Dollars ($50) that is established by DCHA.

5402.2 DCHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in this Chapter.

5402.3 The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

5402.4 Welfare rent does not apply in this locality.

5402.5 The minimum rent for this locality is Zero ($0).

5402.6 If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds DCHA's applicable payment standard: (a) the family will pay more than the TTP, and (b) at initial occupancy DCHA may not approve the tenancy if it would require the family share to exceed forty percent (40%) percent of the family's monthly adjusted income. The income used for this determination must have been verified no earlier than sixty (60) days before the family's voucher was issued.

5402.7 DCHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (a) the applicable payment standard for the family minus the family's TTP, or (b) the gross rent for the family's unit minus the TTP.

5402.8 When DCHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits DCHA to pay the reimbursement to the family or directly to the utility provider.

5402.9 DCHA will make utility reimbursements to the family.

5402.10 DCHA may make all utility reimbursement payments to qualifying families monthly or may make quarterly payments when the monthly reimbursement

amount is Fifteen Dollars ($15.00) or less. Reimbursements must be made once per calendar-year quarter and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. DCHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship.

5402.11 DCHA will issue all utility reimbursements monthly.

5402.12 The financial hardship rules described below do not apply in this jurisdiction because DCHA has established a minimum rent of Twenty-Five Dollars ($25).

5402.13 If DCHA establishes a minimum rent greater than Zero Dollars ($0), DCHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

5402.14 The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If DCHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

5402.15 Financial hardship includes the following situations:

(a) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996;

(b) The family would be evicted because it is unable to pay the minimum rent;

(c) Family income has decreased because of changed family circumstances, including the loss of employment;

(d) A death has occurred in the family; or

(e) The family has experienced other circumstances determined by DCHA.

5402.16 When a family requests a financial hardship exemption, DCHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

5402.17 DCHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

5402.18 When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption Assume DCHA has established a minimum rent of $50.	
Family Share – No Hardship	**Family Share – With Hardship**
$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent	$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent
Minimum rent applies. TTP = $50	Hardship exemption granted. TTP = $15

5402.19 If DCHA determines there is no financial hardship, DCHA will reinstate the minimum rent and require the family to repay the amounts suspended.

5402.20 If DCHA determines that a qualifying financial hardship is temporary, DCHA must suspend the minimum rent for the ninety (90) day period beginning the first of the month following the date of the family's request for a hardship exemption.

5402.21 At the end of the ninety (90) day suspension period, the family must resume payment of the minimum rent and must repay DCHA the amounts suspended. HUD requires DCHA to offer a reasonable repayment agreement, on terms and conditions established by DCHA. DCHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

5402.22 If DCHA determines that the financial hardship is long-term, DCHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

5402.23 DCHA's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of DCHA's payment standards.

5402.24 "Payment standard" is defined as "the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)".

5402.25 The payment standard for a family is the lower of (a) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under DCHA's subsidy standards, or (b) the payment standard for the size of the dwelling unit rented by the family.

5402.26 If DCHA has established an exception payment standard for a designated part of a zip code area or FMR area and a family's unit is in the exception area, DCHA must use the appropriate payment standard for the exception area.

5402.27 DCHA is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of (a) the payment standard for the family minus the family's TTP, or (b) the gross rent for the family's unit minus the TTP.

5402.28 If during the term of the HAP contract for a family's unit, the owner lowers the rent, DCHA will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit.

5402.29 When DCHA revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations.

5402.30 If DCHA changes its payment standard schedule, resulting in a lower payment standard amount, during the term of a HAP contract, DCHA is not required to reduce the payment standard used to calculate subsidy for families under HAP contract if the HAP contract remains in effect.

5402.31 However, if DCHA does choose to reduce the payment standard for families currently under HAP contract, the initial reduction to the payment standard may not be applied any earlier than the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount. At that point, DCHA may either reduce the payment standard to the current amount in effect on DCHA's payment standard schedule, or may reduce the payment standard to another amount that is higher than the normally applicable amount on the schedule. DCHA may also establish different policies for designated areas within their jurisdiction (e.g., different zip code areas).

5402.32 In any case, DCHA must provide the family with at least twelve (12) months' notice that the payment standard is being reduced before the effective date of the change. DCHA's policy on decreases in the payment standard during the term of the HAP contract apply to all families under HAP contract at the time of the effective date of the decrease in the payment standard within the designated area.

5402.33 If DCHA changes its payment standard schedule resulting in a lower payment standard amount, during the term of a HAP contract, DCHA will decide as to when the new, lower payment standard will be applied at the time the change is made.

5402.34 DCHA will not establish different policies for decreases in the payment standard for designated areas within their jurisdiction.

5402.35 If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

5402.36 Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination.

5402.37 Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

5402.38 If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, DCHA is allowed to establish a higher payment standard for the family of not more than one hundred twenty percent (120%) of the published FMR.

5402.39 A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. A family's utility allowance is determined by the size of dwelling unit leased by a family or the voucher unit size for which the family qualifies using PHA subsidy standards, whichever is the lowest of the two.

5402.40 [RESERVED]

5402.41 On request from a family that includes a person with disabilities, DCHA must approve a utility allowance which is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible and usable by the family member with a disability.

5402.42 Further, DCHA may grant requests for individual relief from charges in excess of the utility allowance on reasonable grounds, such as special factors not within control of the resident, as DCHA deems appropriate. The family must request the higher allowance and provide DCHA with an explanation of the need for individual relief and an explanation about the amount of additional allowance required.

5402.43 DCHA should develop criteria for granting individual relief, notify residents about the availability of individual relief, and notify participants about the availability of individual relief programs (sometimes referred to as "Medical Baseline discounts") offered by the local utility company.

5402.44 The family must request the higher allowance and provide DCHA with information about the amount of additional allowance required.

5402.45 DCHA will consider the following criteria as valid reasons for granting individual relief:

(a) The family's consumption was mistakenly portrayed as excessive due to defects in the meter or errors in the meter reading.

(b) The excessive consumption is caused by a characteristic of the unit or owner-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation. The allowance should be adjusted to reflect the higher consumption needs associated with the unit until the situation is remedied. The resident should be granted individual relief until the allowance is adjusted.

(c) The excessive consumption is due to special needs of the family that are beyond their control, such as the need for specialized equipment in the case of a family member who is ill, elderly, or who has a disability.

5402.46 In determining the amount of reasonable accommodation or individual relief, DCHA will allow a reasonable measure of additional usage as necessary. To arrive at the amount of additional utility cost of specific equipment, the family may provide information from the manufacturer of the equipment, or the family or PHA may conduct an internet search for an estimate of usage or additional monthly cost.

5402.47 Information on reasonable accommodation and individual relief for charges more than the utility allowance will be provided to all families at admission as part of the information on payment standards and utility allowances in the briefing packet. DCHA will also provide information on utility relief programs or medical discounts (sometimes referred to as "Medical Baseline discounts") that may be available through local utility providers.

5402.48 At its discretion, DCHA may reevaluate the need for the increased utility allowance at any regular reexamination.

5402.49 If the excessive consumption is caused by a characteristic of the unit or PHA-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation, the individual relief to the resident will cease when the situation is remedied.

5402.50 At reexamination, DCHA must use the current utility allowance schedule.

5402.51 Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

5402.52 HUD regulations prohibit assistance to ineligible family members. A "mixed family" is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. DCHA must prorate the assistance provided to a mixed family. DCHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that are eligible. For example, if DCHA subsidy for a family is calculated at Five Hundred Dollars ($500) and two of four family members are ineligible, DCHA subsidy would be reduced to Two Hundred Fifty Dollars ($250).

Chapter 55, PORTABILITY, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 55

VERIFICATION

5500 GENERAL VERIFICATION REQUIREMENTS

5500.1 The family must supply any information that DCHA or HUD determines is necessary to the administration of the program and must consent to DCHA verification of that information.

5500.2 It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and DCHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

5500.3 If any family member who is required to sign a consent form fails to do so, DCHA will deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with DCHA procedures.

5500.4 HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires

DCHA to use the most reliable form of verification that is available and to document the reasons when DCHA uses a lesser form of verification.

5500.5 In order of priority, the forms of verification that DCHA will use are:

(a) Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system;

(b) Up-front Income Verification (UIV) using a non-HUD system;

(c) Written Third-Party Verification (may be provided by applicant or participant);

(d) Written Third-party Verification Form;

(e) Oral Third-party Verification; and

(f) Self-Certification.

5500.6 Each of the verification methods is discussed in subsequent sections below.

5500.7 Any documents used for verification must be dated within sixty (60) days of DCHA request. The documents must not be damaged, altered or in any way illegible.

5500.8 Any family self-certifications must be made in a format acceptable to DCHA and must be signed by the family member whose information or status is being verified.

5500.9 DCHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that DCHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

5500.10 DCHA will document, in the family file, the following:

(a) Reported family annual income;

(b) Value of assets;

(c) Expenses related to deductions from annual income; and

(d) Other factors influencing adjusted income.

5500.11 When DCHA is unable to obtain third-party verification, DCHA will document in the family file the reason that third-party verification was not available.

5500.12 Up-front income verification (UIV) refers to DCHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to DCHA.

5500.13 There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until DCHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of DCHA.

5500.14 [RESERVED]

5500.15 DCHA's must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income in accordance with 24 CFR §5.236 and administrative guidance issued by HUD. The EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. The following policies apply to the use of HUD's EIV system.

5500.16 The data shown on income and income validation tool (IVT) reports is updated quarterly. Data may be between three (3) and six (6) months old at the time reports are generated.

5500.17 DCHA will obtain income and IVT reports for biennial/triennial reexaminations on a regular basis.

5500.18 Income and IVT reports will be compared to family-provided information as part of the biennial/triennial reexamination process. Income reports may be used in the calculation of annual income. Income reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between income reports and family-provided information will be resolved as described in this §5500.

5500.19 Income and IVT reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify earned income, and to verify and calculate unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

5500.20 Income and IVT reports will be retained in participant files with the applicable annual or interim reexamination documents.

5500.21 When DCHA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken.

5500.22 The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on social security number, name, and date of birth.

5500.23 DCHA's are required to use EIV's Identity Verification Report monthly to improve the availability of income information in EIV.

5500.24 When identity verification for a participant fails, a message will be displayed within the EIV system, and no income information will be displayed.

5500.25 DCHA will identify participants whose identity verification has failed by reviewing EIV's Identity Verification Report monthly.

5500.26 DCHA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When DCHA determines that discrepancies exist due to DCHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

5500.27 In addition to mandatory use of the EIV system, HUD encourages DCHA's to utilize other upfront verification sources.

5500.28 DCHA will inform all applicants and participants of its use of the following UIV resources during the admission and reexamination process:

(a) HUD's EIV system;

(b) Work Number, when utilized; and

(c) Other resources as available.

5500.29 HUD's current verification hierarchy defines two types of written third-party verification. The preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to DCHA by the family. If written third-party verification is not available, DCHA must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

5500.30 Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

5500.31 Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

5500.32 DCHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

5500.33 DCHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

5500.34 Third-party documents provided by the family must be dated within sixty (60) days of DCHA request date.

5500.35 If DCHA determines that third-party documents provided by the family are not acceptable, DCHA will explain the reason to the family and request additional documentation.

5500.36 As verification of earned income, DCHA will require the family to provide up to six of the most current, consecutive pay stubs. At DCHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), DCHA may request additional paystubs or a payroll record.

5500.37 When upfront verification is not available and the family is unable to provide written third-party documents, DCHA must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of family-provided third-party documents.

5500.38 DCHA's may mail, fax, or email third-party written verification form requests to third-party sources.

5500.39 DCHA will send third-party verification forms directly to the third party.

5500.40 Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by DCHA.

5500.41 For third-party oral verification, DCHA's contact sources, identified by UIV techniques or by the family, by telephone or in person.

5500.42 Oral third-party verification is mandatory if neither form of written third-party verification is available.

5500.43 Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time - e.g., ten (10) business days.

5500.44 DCHA's should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

5500.45 In collecting third-party oral verification, DCHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

5500.46 When any source responds verbally to the initial written request for verification DCHA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

5500.47 Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

5500.48 If the family cannot provide original documents, DCHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

5500.49 The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost.

5500.50 Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

5500.51 HUD permits DCHA's to accept a self-certification from a family as verification of assets disposed of for less than fair market value.

5500.52 DCHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

5500.53 For families with net assets totaling Five Thousand Dollars ($5,000) or less, DCHA may accept the family's declaration of asset value and anticipated asset income. However, DCHA is required to obtain third-party verification of all assets regardless of the amount during the intake process and at least every three years thereafter.

5500.54 Under the authority granted to DCHA under its Moving to Work (MTW) status, DCHA will require families to declare assets only if the total value of all assets is Fifteen Thousand Dollars ($15,000) or more. If the total value of all assets is less than Fifteen Thousand Dollars ($15,000), DCHA will accept the family's certification of the value of assets. DCHA will not include income from assets in its income calculation unless the total value of all assets is Fifteen Thousand Dollars ($15,000) or more.

5500.55 All family members eighteen (18) years of age and older must sign the family's declaration.

5500.56 DCHA will use third-party documentation for assets if the total value of all assets is Fifteen Thousand Dollars ($15,000) or more, or if DCHA receives information indicating the family's certification of total asset value being less than Fifteen Thousand Dollars ($15,000) is incorrect.

5500.57 When HUD requires third-party verification, self-certification or "tenant declaration," is used as a last resort when DCHA is unable to obtain third-party verification.

5500.58 Self-certification, however, is an acceptable form of verification when:

(a) A source of income is fully excluded;

(b) Net family assets total Five Thousand Dollars ($5,000) or less and DCHA has adopted a policy to accept self-certification at annual recertification, when applicable; and

(c) DCHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income.

5500.59 When DCHA was required to obtain third-party verification but instead relies on a tenant declaration for verification of income, assets, or expenses, the family's file must be documented to explain why third-party verification was not available.

5500.60 When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to DCHA.

5500.61 DCHA may require a family to certify that a family member does not receive a particular type of income or benefit.

5500.62 The self-certification must be made in a format acceptable to DCHA and must be signed by the family member whose information or status is being verified.

5501 PART II: VERIFYING FAMILY INFORMATION

5501.1 DCHA will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicles identification card U.S. military discharge (DD 214) Current U.S. passport Current government employer identification card with picture	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records

5501.2 If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

5501.3 If none of these documents can be provided and at DCHA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to DCHA and must be signed by the family member whose information or status is being verified.

5501.4 Legal identity will be verified for all applicants at the time of eligibility determination and in cases where DCHA has reason to doubt the identity of a person representing themselves to be a participant.

5501.5 The family must provide documentation of a valid social security number (SSN) for each member of the household, except for individuals who do not contend eligible immigration status. Exemptions also include existing program participants who were at least sixty-two (62) years of age as of January 31, 2010, and had not previously disclosed an SSN.

5501.6 Note that an individual who previously declared to have eligible immigration status may not change their declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

5501.7 DCHA must accept the following documentation as acceptable evidence of the social security number:

(a) An original SSN card issued by the Social Security Administration (SSA);

(b) An original SSA-issued document, which contains the name and SSN of the individual; or

(c) An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual.

5501.8 DCHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

5501.9 DCHA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to DCHA within 30 days.

5501.10 In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within ninety (90) calendar days from the date of admission into the program. DCHA must grant one additional ninety (90) day extension if it determines that the applicant's failure to comply was due to circumstances that were beyond the applicant's control and could not have been reasonably foreseen.

5501.11 DCHA will grant one additional ninety (90) day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, DCHA will terminate the individual's assistance.

5501.12 If an applicant family includes a child under six (6) years of age who joined the household within the six (6) months prior to the date of voucher issuance, an otherwise eligible family may be admitted to the program and the family must provide documentation of the child's SSN within ninety (90) days of the effective date of the initial HAP contract. A ninety (90) day extension will be granted if DCHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control.

5501.13 DCHA will grant one additional ninety (90) day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

5501.14 When a participant requests to add a new household member who is at least six (6) years of age, or who is under the age of six (6) and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. DCHA may not add the new household member until such documentation is provided.

5501.15 When a participant requests to add a new household member who is under the age of six (6) and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within ninety (90) calendar days of the child being added to the household. A ninety (90) day extension will be granted if DCHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period DCHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

5501.16 DCHA will grant one additional ninety (90) day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

5501.17 Social security numbers must be verified only once during continuously assisted occupancy.

5501.18 DCHA will verify each disclosed SSN by:

(a) Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers; and

(b) Making a copy of the documentation submitted, returning it to the individual, and retaining a copy in the file folder.

5501.19 Once the individual's verification status is classified as "verified," DCHA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

5501.20 Once an individual's status is classified as "verified" in HUD's EIV system, DCHA will not remove and destroy copies of documentation accepted as evidence of social security numbers.

5501.21 A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

5501.22 If an official record of birth or evidence of social security retirement benefits cannot be provided, DCHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

5501.23 Age must be verified only once during continuously assisted occupancy.

5501.24 Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

5501.25 Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

5501.26 Certification by the head of household is normally sufficient verification. If DCHA has reasonable doubts about a marital relationship, DCHA will require the family to document the marriage.

5501.27 A marriage certificate generally is required to verify that a couple is married.

5501.28 In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

5501.29 Certification by the head of household is normally sufficient verification. If DCHA has reasonable doubts about a separation or divorce, DCHA will require the family to provide documentation of the divorce or separation.

5501.30 A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

5501.31 A copy of a court-ordered maintenance or other court record is required to document a separation.

5501.32 If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill), if DCHA so requests.

5501.33 Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

5501.34 DCHA requires families to provide information about the student status of all students who are eighteen (18) years of age or older. This information will be verified only if:

(a) The family reports full-time student status for an adult other than the head, spouse, or co-head.

(b) The family reports childcare expenses to enable a family member to further their education.

(c) The family includes a student enrolled in an "institution of higher education."

5501.35 This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

5501.36 DCHA will determine whether the student is exempt from the restrictions in 24 CFR § 5.612 by verifying any one of the following exemption criteria:

(a) The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965;

(b) The student is at least twenty-four (24) years old;

(c) The student is a veteran;

(d) The student is married;

(e) The student has at least one dependent child; or

(f) The student is a person with disabilities and was receiving assistance prior to November 30, 2005.

5501.37 If DCHA cannot verify at least one of these exemption criteria, DCHA will conclude that the student is subject to the restrictions on assistance at 24 CFR §5.612. In addition to verifying the student's income eligibility, DCHA will then proceed to verify either the student's parents' income eligibility or the student's independence from their parents (see below).

5501.38 DCHA will verify a student's independence from their parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

(a) Either reviewing and verifying previous address information to determine whether the student has established a household separate from their parents for at least one year, or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of "independent student";

(b) Reviewing the student's prior year income tax returns to verify the student is independent or verifying the student meets the U.S. Department of Education's definition of independent student; and

(c) Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is Zero Dollars ($0), except in cases in which DCHA determines that the student is a "vulnerable youth."

5501.39 DCHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. DCHA is not permitted to inquire about the nature or extent of a person's disability. DCHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If DCHA receives a verification document that provides such information, DCHA will not place this information in the tenant file. Under no circumstances will DCHA request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at http://www.hhs.gov/ocr/privacy/.

5501.40 The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities:

(a) Inquiry into an applicant's ability to meet the requirements of ownership or tenancy;

(b) Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability;

(c) Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability;

(d) Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance; or

(e) Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.

5501.41 Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions.

5501.42 For family members claiming disability who receive disability benefits from the SSA, DCHA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, DCHA will request a current (dated within the last sixty (60) days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), DCHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter they will be required to provide it to DCHA.

5501.43 Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability.

5501.44 For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

5501.45 Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and DCHA verification requirements related to citizenship status.

5501.46 The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously assisted occupancy.

5501.47 HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member eighteen (18) or older and by a guardian for minors.

5501.48 DCHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

5501.49 Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless DCHA receives information indicating that an individual's declaration may not be accurate.

5501.50 All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

5501.51 The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance.

5501.52 For family members age sixty-two (62) or older who claim to be eligible immigrants, proof of age is required. No further verification of eligible immigration status is required.

5501.53 For family members under the age of sixty-two (62) who claim to be eligible immigrants, DCHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

5501.54 DCHA will follow all USCIS protocols for verification of eligible immigration status.

5501.55 DCHA must verify any preferences claimed by an applicant that determined placement on the waiting list.

5501.56 DCHA selects from the waiting list based on date and time of application; DCHA has no preferences.

5502 VERIFYING INCOME AND ASSETS

5502.1 Any assets and income reported by the family must be verified. This § 5502 provides DCHA policies that supplement the general verification procedures specified in § 5500.

5502.2 Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

5502.3 As verification of earned income, DCHA will require the family to provide up to six (6) of the most current, consecutive pay stubs. At DCHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), DCHA may request additional paystubs or a payroll record.

5502.4 Business owners and self-employed persons will be required to provide:

(a) If conducted, the audited financial statement for the previous fiscal year. If an audit was not conducted, a profit and loss statement must be submitted and the business owner or self-employed person must certify to its accuracy.

(b) DCHA reserves the right to request all schedules completed for filing federal and local taxes in the preceding year.

(c) If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of straight-line depreciation.

(d) DCHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations. At any reexamination DCHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

(e) If a family member has been self-employed less than three (3) months, DCHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months DCHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

5502.5 [RESERVED]

5502.6 Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.

5502.7 For applicants, since EIV does not contain SS or SSI benefit information, DCHA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the last sixty (60) calendar days) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, DCHA should help the applicant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. DCHA must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

5502.8 For participants, DCHA must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

5502.9 If the participant agrees with the amount reported in EIV, DCHA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as Four Hundred Fifty Dollars ($450.00) and EIV displays the amount as Four Hundred

Fifty Dollars ($450.00) DCHA must use the EIV-reported amount unless the participant disputes the amount.

5502.10 If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, DCHA must request a current SSA benefit verification letter (dated within the last sixty (60) calendar days) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, DCHA should help the participant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. DCHA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.

5502.11 Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

5502.12 The methods DCHA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

5502.13 If the family declares that it receives regular payments, verification will be obtained in the following order of priority:

(a) Copies of the receipts and/or payment stubs for the one year prior to DCHA request;

(b) Third-party verification form from the state or local child support enforcement agency;

(c) Third-party verification form from the person paying the support; and

(d) Family's self-certification of amount received.

5502.14 If the family declares that it receives irregular or no payments, in addition to the verification process listed above, the family must provide a self-certification that it has taken all reasonable efforts to collect amounts due.

5502.15 Note: Families are not required to undertake independent enforcement action.

5502.16 Assets Disposed of for Less than Fair Market Value.

(a) The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. DCHA needs to verify only those certifications that warrant documentation.

5502.17 DCHA will verify the value of assets disposed of only if:

(a) DCHA does not already have a reasonable estimation of its value from previously collected information, or

(b) The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and DCHA verified this amount. Now the person reports that she has given this $10,000 to her son. DCHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.
Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately $5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, DCHA will verify the value of this asset.

5502.18 The family must provide:

(a) A current executed lease for the property that shows the rental amount or certification from the current tenant; and

(b) A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).

5502.19 DCHA may request additional documentation to verify net rental income.

5502.20 If schedule E was not prepared, DCHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

5502.21 DCHA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

5502.22 The type of original document that will be accepted depends upon the family member's retirement status.

5502.23 Before retirement, DCHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

5502.24 Upon retirement, DCHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

5502.25 After retirement, DCHA will accept an original document from the entity holding the account dated no earlier than twelve (12) months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

5502.26 [RESERVED]

5502.27 HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

5502.28 For fully excluded income, DCHA is not required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of a minor, or foster care funds).

5502.29 DCHA's may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, DCHA's have the option of requiring additional verification.

5502.30 For partially excluded income, DCHA is required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student, or income excluded under the earned income disallowance).

5502.31 DCHA will accept the family's self-certification as verification of fully excluded income. DCHA may request additional documentation if necessary to document the income source.

5502.32 DCHA will verify the source and amount of partially excluded income.

5502.33 DCHA will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, and earnings are not being received by families claiming to have zero annual income.

5502.34 Any financial assistance, in excess of amounts received for tuition, fees, and other required charges that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from

an institution of higher education must be considered income unless the student is over the age of twenty-three (23) with dependent children or is residing with parents who are seeking or receiving HCV assistance.

5502.35 For students over the age of twenty-three (23) with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education. Excluded amounts are verified only if, without verification, DCHA would not be able to determine whether or to what extent the income is to be excluded.

5502.36 For a student subject to having a portion of their student financial assistance included in annual income in accordance with 24 CFR § 5.609(b)(9), DCHA will request written third-party verification of both the source and the amount. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

5502.37 In addition, DCHA will request written verification of the student's tuition, fees, and other required charges.

5502.38 If DCHA is unable to obtain third-party written verification of the requested information, DCHA will pursue other forms of verification.

5502.39 If a student enrolled at an institution of higher education is under the age of twenty-four (24), is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from their parents or a vulnerable youth in accordance with DCHA policy.

5502.40 This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

5502.41 If DCHA is required to determine the income eligibility of a student's parents, DCHA will request an income declaration and certification of income from the appropriate parent(s). DCHA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to DCHA. The required information must be submitted (postmarked) within ten (10) business days of the date of DCHA's request or within any extended timeframe approved by DCHA.

5502.42 DCHA reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may

include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

5503 VERIFYING MANDATORY DEDUCTIONS

5503.1 The dependent and elderly/disabled family deductions require only that DCHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

5503.2 DCHA must verify that:

(a) Any person under the age of eighteen (18) for whom the dependent deduction is claimed is not the head, spouse, or co-head of the family and is not a foster child; and

(b) Any person age eighteen (18) or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student.

5503.3 DCHA must verify that the head, spouse, or co-head is sixty-two (62) years of age or older or a person with disabilities.

5503.4 The amount of the deduction will be verified following the standard verification.

5503.5 Medical expenses will be verified through:

(a) Written third-party documents provided by the family, such as Pharmacy printouts or receipts.

(b) DCHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. DCHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming twelve (12) months.

5503.6 Written third-party verification forms if the family is unable to provide acceptable documentation.

5503.7 If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming twelve (12) months.

5503.8 In addition, DCHA must verify that:

(a) The household is eligible for the deduction;

(b) The costs to be deducted are qualified medical expenses;

(c) The expenses are not paid for or reimbursed by any other source; and

(d) Costs incurred in past years are counted only once.

5503.9 The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least sixty-two (62), or a person with disabilities. DCHA must verify that the family meets the definition of an elderly or disabled.

5503.10 To be eligible for the medical expenses deduction, the costs must qualify as medical expenses.

5503.11 To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

5503.12 The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

5503.13 When anticipated costs are related to on-going payment of medical bills incurred in past years, DCHA will verify:

(a) The anticipated repayment schedule;

(b) The amounts paid in the past, and

(c) Whether the amounts to be repaid have been deducted from the family's annual income in past years.

5503.14 The amount of the deduction will be verified following the standard verification.

5503.15 Expenses for attendant care will be verified through:

(a) Written third-party documents provided by the family, such as receipts or cancelled checks;

(b) Third-party verification form signed by the provider, if family-provided documents are not available; and

(c) If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming twelve (12) months.

5503.16 Expenses for auxiliary apparatus will be verified through:

(a) Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming twelve (12) months;

(b) Third-party verification form signed by the provider if family-provided documents are not available; and

(c) If third-party verification is not possible, written family certification of estimated apparatus costs for the upcoming twelve (12) months.

5503.17 In addition, DCHA must verify that:

(a) The family member for whom the expense is incurred is a person with disabilities (as described above);

(b) The expense permits a family member, or members, to work; and

(c) The expense is not reimbursed from another source.

5503.18 To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. DCHA will verify that the expense is incurred for a person with disabilities.

5503.19 [RESERVED]

5503.20 DCHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

5503.21 DCHA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work. This documentation may be provided by the family.

5503.22 If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

5503.23 To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

5503.24 The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

5503.25 The amount of the childcare expenses deduction will be verified following the standard verification procedures. In addition, DCHA must verify that:

(a) The child is eligible for care (twelve (12) years old or younger);

(b) The costs claimed are not reimbursed;

(c) The costs enable a family member to work, actively seek work, or further their education;

(d) The costs are for an allowable type of childcare; and

(e) The costs are reasonable.

5503.26 To be eligible for the childcare deduction, the costs must be incurred for the care of a child under the age of thirteen (13). DCHA will verify that the child being cared for (including foster children) is under the age of thirteen (13).

5503.27 To be eligible for the childcare deduction, the costs must not be reimbursed by another source.

5503.28 The family (and the care provider) will be required to certify that the childcare expenses are not paid or reimbursed to the family from any source.

5503.29 DCHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are pursuing those activities.

5503.30 DCHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

5503.31 Whenever possible DCHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases DCHA will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to DCHA any reports provided to the other agency.

5503.32 In the event third-party verification is not available, DCHA will provide the family with a form on which the family member must record job search efforts. DCHA will review this information at each subsequent reexamination for which this deduction is claimed.

5503.33 DCHA will request third-party documentation to verify that the person permitted to further their education by the childcare is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

5503.34 DCHA will seek third-party verification of the work schedule of the person who is permitted to work by the childcare. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

5503.35 The type of care to be provided is determined by the family but must fall within certain guidelines.

5503.36 DCHA will verify that the type of childcare selected by the family is allowable.

5503.37 DCHA will verify that the fees paid to the childcare provider cover only childcare costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

5503.38 DCHA will verify that the childcare provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

5503.39 Only reasonable childcare costs can be deducted.

5503.40 The actual costs the family incurs will be compared with DCHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

5503.41 If the family presents a justification for costs that exceed typical costs in the area, DCHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

Chapter 56, DEBTS AND REPAYMENT AGREEMENTS, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 56

HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

5600 PHYSICAL STANDARDS

5600.1 The performance and acceptability standards for HCV-assisted housing cover the following areas:

(a) Sanitary facilities;

(b) Food preparation and refuse disposal;

(c) Space and Security;

(d) Thermal Environment;

(e) Illumination and electricity;

(f) Structure and materials;

(g) Interior Air Quality;

(h) Water Supply;

(i) Lead-based paint;

(j) Access;

(k) Site and neighborhood;

(l) Sanitary condition; and

(m) Smoke Detectors.

5600.2 DCHA is required to enforce minimum Housing Quality Standards (HQS) but also recognizes that certain judgments about the acceptability of the unit are left to the family. For example, DCHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic appearance of the facilities is acceptable.

5600.3 Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained.

5600.4 Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG).

5600.5 Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to DCHA for review.

5600.6 DCHA may impose variations to the HQS as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to the HQS. HUD approval is not required if the variations are clarifications of HUD's acceptability criteria or performance standards.

5600.7 DCHA must define a "healthy living environment" for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

5600.8 The heating system must be capable of maintaining an interior temperature of 68 degrees Fahrenheit between October 15 and May 15.

5600.9 DCHA has adopted the following specific requirements that elaborate on HUD standards:

(a) In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced;

(b) Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced;

(c) Windows must be weather-stripped as needed to ensure a weather-tight seal;

(d) Window screens must be in good condition (applies only if screens are present);

(e) All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold;

(f) All interior doors must have no holes, have all trim intact, and be openable without the use of a key;

(g) All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be resecured and made level. If they cannot be leveled, they must be replaced;

(h) All floors must be in a finished state. Raw wood or unsealed concrete is not permitted;

(i) All floors should have some type of base shoe, trim, or sealing for a "finished look." Vinyl base shoe is permitted;

(j) All sinks and commode water lines must have shut off valves, unless faucets are wall mounted;

(k) All sinks must have functioning stoppers;

(l) All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly; and

(m) If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

5600.10 HUD requires DCHA to define life-threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within twenty-four (24) hours of DCHA notification.

5600.11 The following are considered life-threatening conditions:

(a) Any condition that jeopardizes the security of the unit;

(b) Major plumbing leaks or flooding, waterlogged ceiling, or floor in imminent danger of falling;

(1) Natural or LP gas or fuel oil leaks. (i.e., a fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking or a strong odor is detected with potential for explosion or fire or that results in a health risk if inhaled);

(c) Any electrical problem or condition that could result in shock or fire. The following are examples of an electrical problem or condition:

(1) A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed;

(2) A light fixture is hanging by its wires;

(3) A light fixture has a missing or broken bulb, and the open socket is readily accessible to the tenant during the day-to-day use of the unit;

(4) A receptacle (outlet) or switch is missing or broken and electrical connections or wires are exposed;

(5) An open circuit breaker position is not appropriately blanked off in a panel board, main panel board, or other electrical box that contains circuit breakers or fuses;

(6) A cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections;

(7) Any nicks, abrasions, or fraying of the insulation that exposes conducting wire;

(8) Exposed bare wires or electrical connections;

(9) Any condition that results in openings in electrical panels or electrical control device enclosures;

(10) Water leaking or ponding near any electrical device; or

(11) Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition;

(d) Absence of a working heating system when outside temperature is below 50 degrees Fahrenheit;

(e) Utilities not in service, including no running hot water;

(f) Conditions that present the imminent possibility of injury;

(g) Obstacles that prevent safe entrance or exit from the unit, i.e.,

(1) Any components that affect the function of the fire escape are missing or damaged;

(2) Stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency; or

(3) The building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in a fire or other emergency;

(h) Absence of a functioning toilet in the unit;

(i) Inoperable or missing smoke detectors;

(j) Missing or inoperable carbon monoxide detector;

(k) Missing, damaged, discharged, overcharged, or expired fire extinguisher (where required); or

(l) Gas/oil-fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney venting, i.e.,

(1) The chimney or venting system on a fuel-fired water heater is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting or gases;

(2) A gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside;

(3) A fuel-fired space heater is not properly vented or lacks available combustion air;

(4) A non-vented space heater is present;

(5) Safety devices on a fuel-fired space heater are missing or damaged;

(6) The chimney or venting system on a fuel-fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting of gas; or

(7) Deteriorating paint as defined at 24 CFR § 35.110 in a unit built before 1978 that is to be occupied by a family with a child under six (6) years of age if it would prevent the family from moving into the unit.

5600.12 If an owner fails to correct life-threatening conditions as required by DCHA, DCHA will enforce the HQS in accordance with HUD requirements.

5600.13 If a family fails to correct a family-caused life-threatening condition as required by DCHA, DCHA will enforce the family obligations.

5600.14 The owner will be required to repair an inoperable smoke detector unless DCHA determines that the family has intentionally disconnected it (by removing batteries

or other means). In this case, the family will be required to repair the smoke detector within twenty-four (24) hours.

5600.15 The family is responsible for correcting the following HQS deficiencies:

(a) Tenant-paid utilities not in service.

(b) Failure to provide or maintain appliances owned by the family.

(c) Damage to the unit or premises caused by a household member or guest beyond normal wear and tear that results in a breach of the HQS. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

5600.16 The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (i.e., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

5600.17 If DCHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than six (6) years of age, living in an HCV-assisted unit has been identified as having an elevated blood lead level, DCHA must complete an environmental investigation of the dwelling unit within fifteen (15) calendar days after being notified by a public health department or other medical health care provider. The environmental investigation must be completed in accordance with program requirements, and the result of the environmental investigation must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

5600.18 Within thirty (30) days after receiving the environmental investigation report from DCHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations. If the owner does not complete the “hazard reduction” as required, the dwelling unit is in violation of HQS and DCHA will take action.

5600.19 [RESERVED]

5600.20 A dwelling unit must:

(a) Provide adequate space and security for the family; and

(b) Have at least one (1) bedroom or living/sleeping room for each two (2) persons.

5600.21 A unit that does not meet these HQS space standards is defined as "overcrowded."

5600.22 A living room may be used as sleeping (bedroom) space, but no more than two (2) persons may occupy the space. A bedroom or living/sleeping room must have at least:

(a) One window; and

(b) Two (2) electrical outlets in proper operating condition (permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets).

5600.23 If DCHA determines that a unit is overcrowded because of an increase in family size or a change in family composition, DCHA must issue the family a new voucher, and the family and DCHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, DCHA must terminate the HAP contract in accordance with its terms.

5601 THE INSPECTION PROCESS

5601.1 DCHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

(a) Initial Inspections. DCHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program.

(b) Annual/Biennial Inspections. HUD requires DCHA to inspect each unit under lease at least annually or biennially, depending on DCHA policy, to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.

(c) Special Inspections. A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.

(d) Quality Control Inspections. HUD requires that a sample of units be inspected by a supervisor or other qualified individual to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the HQS.

5601.2 DCHA must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a DCHA-owned unit. A DCHA-owned unit is defined as a unit that is owned by DCHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by DCHA). The independent agency must communicate the results of each inspection to the family and DCHA. The independent agency must be approved by HUD and may be the unit of general local government for DCHA jurisdiction (unless DCHA is itself the unit of general local government or an agency of such government).

5601.3 Under the authority granted to DCHA under its Moving-to-Work (MTW) status, DCHA may conduct its own inspections of some DCHA-owned units.

5601.4 DCHA may not charge the family for unit inspections or reinspections. In the case of inspections of DCHA-owned units, DCHA may compensate the independent agency from ongoing administrative fee for inspections performed. DCHA and the independent agency may not charge the family any fee or charge for the inspection.

5601.5 DCHA may not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit. However, DCHA may charge a reasonable fee to owners for reinspections in two situations: when the owner notifies DCHA that a repair has been made but the deficiency has not been corrected, and when the time for repairs has elapsed and the deficiency has not been corrected. Fees may not be imposed for tenant-caused damages, for cases in which the inspector could not gain access to the unit, or for new deficiencies discovered during a reinspection.

5601.6 The owner may not pass the cost of a reinspection fee to the family. Reinspection fees must be added to DCHA's administrative fee reserves and may only be used for activities related to the provision of tenant-based assistance.

5601.7 DCHA will charge the owner a One Hundred Dollars ($100) fee only if the owner requests a second reinspection of a unit under contract, and requests this third inspection at least ten (10) business days prior to any scheduled effective date of HAP Contract termination.

5601.8 As an alternative to some or all on-site inspections, DCHA may, but is not required to, perform HQS inspections from a remote location using video streaming technology and a proxy at the inspection site.

5601.9 At DCHA's discretion, DCHA may use remote video inspections (RVIs) for all inspection types as an alternative to an onsite inspection. DCHA will not, however, conduct RVIs in pre-1978 units where a child or children under six (6) will reside. For these units, DCHA will conduct an onsite inspection unless the participant requests an RVI as a reasonable accommodation.

5601.10 Before conducting an RVI, both DCHA and impacted party with legal possession of the unit must agree to its use. Prior to conducting any RVI, DCHA will agree with the relevant parties to use an RVI rather than an onsite inspection. For unoccupied units, this agreement will be between DCHA and the owner. For occupied units, the agreement will be between DCHA and the tenant or other adult household member. In either case, if an agreement cannot be reached, DCHA will conduct an onsite inspection.

5601.11 When selecting a proxy, DCHA may rely on the owner, property representative, tenant, or any adult associated with tenancy. The proxy will be selected through a mutual decision between DCHA, owner, and family.

5601.12 When selecting the proxy, DCHA will:

(a) Verify that, for properties built before 1978 where a child under six (6) resides or will reside, the proxy has completed the *HUD Lead-Based Paint Visual Assessment Training Course*;

(b) Ensure the proxy can determine whether there is a smell of natural gas, methane, or other noxious gas; and

(c) Ensure that on the day of the inspection the proxy has a:

(1) Tape measure;

(2) Working flashlight;

(3) Circuit analyzer to test the low-voltage operation of electrical lines;

(4) Means to test smoke and carbon monoxide detectors;

(5) Temperature gun; and

(6) Smartphone or tablet reliable internet connection either through 4G or 5G connectivity and sufficient data or reliable Wi-Fi available onsite. The device must have a high camera resolution (megapixels, sensors, and pixel size).

5601.13 If DCHA cannot identify a proxy that is able to meet the above criteria, DCHA will conduct an in-person inspection.

5601.14 The proxy must follow the directions of the inspector. The proxy will live stream the inspection using DCHA's designated streaming web-based platform. The RVI may not be recorded.

5601.15 During the RVI, the HQS inspector will:

(a) Verify the address and street name outside the unit match that of the unit to be inspected;

(b) Inspect the unit's exterior and adjoining properties in accordance with HQS through the proxy;

(c) Inspect all interior spaces in accordance with HQS through the proxy; and

(d) For pre-1978 properties, follow all national and state lead-based paint requirements.

5601.16 During the RVI, the proxy will:

(a) Examine all sides of a structure, including fences and outbuildings, visually examining paint conditions of all siding, trim, windows, porches, steps, columns, and any other painted areas on the unit's exterior;

(b) Review each room separately and visually examine the paint conditions of walls, ceilings, steps, floors, doors, door frames, and windows, including window troughs; and

(c) Document the amount of deterioration, indicating whether the scale is greater or less than the HUD de minimis amounts for deteriorated paint (including cracked, chipped, or otherwise damaged paint).

5601.17 If at any time it becomes clear that the connection is unreliable, the lighting in the unit is insufficient, the necessary tools are unavailable, the noise level in or outside the unit is unacceptable, or any other circumstances as determined by the inspector, the inspector will record the unit as failed and schedule an in-person inspection.

5601.18 The family must allow DCHA to inspect the unit at reasonable times with reasonable notice.

5601.19 Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than forty-eighty (48) hours. Inspections may be scheduled between 8:00 a.m. and 7:00 p.m. Generally, inspections will be conducted on business days only. In the case of a life-threatening emergency, DCHA will give as much notice as possible, given the nature of the emergency.

5601.20 [RESERVED]

5601.21 When a family occupies the unit at the time of inspection an authorized adult must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

5601.22 At initial inspection of a vacant unit, DCHA will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted but is not required.

5601.23 DCHA may, but is not required to, approve assisted tenancy and start HAP if the unit fails HQS inspection, but only if the deficiencies identified are non-life-threatening. Further, DCHA may, but is not required to, authorize occupancy if a unit passed an alternative inspection in the last twenty-four (24) months.

5601.24 The unit must pass the HQS inspection on or before the effective date of the HAP contract.

5601.25 DCHA will not rely on alternative inspections and will conduct an HQS inspection for each unit prior to executing an HAP contract with the owner.

5601.26 HUD requires PHAs with fewer than one thousand two hundred fifty (1,250) budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within fifteen (15) days of submission of the Request for Tenancy Approval (RTA). For PHAs with one thousand two hundred fifty (1,250) or more budgeted units, to the extent practicable such inspection and determination must be completed within fifteen (15) days. The fifteen (15) day period is suspended for any period during which the unit is not available for inspection.

5601.27 To the extent practicable, DCHA will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within fifteen (15) days of submission of the Request for Tenancy Approval (RTA).

5601.28 If any HQS violations are identified, the owner will be notified of the deficiencies and be given a fourteen (14) days time frame to correct them. A reinspection will be scheduled to take place on the deadline.

5601.29 If requested by the owner, the time frame for correcting the deficiencies may be extended by DCHA for good cause.

5601.30 If the owner notifies DCHA prior to the deadline that the deficiencies have been corrected, DCHA will reinspect the unit as soon as practically possibly after that notification.

5601.31 If the unit fails HQS at the time of the reinspection, DCHA will notify the owner and the family that the unit has been rejected and that the family must search for

another unit. DCHA may agree to conduct a second reinspection, for good cause, at the request of the family and owner. DCHA will not conduct a third reinspection for the same unit.

5601.32 Following a failed reinspection, the family may submit a new Request for Tenancy Approval for the same unit after the owner has made repairs, if they are unable to locate another suitable unit. However, the unit must pass the initial inspection.

5601.33 Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

5601.34 Utilities must be in service at the time of the HQS inspection.

5601.35 Working appliances must be in place at the time of the HQS inspection.

5601.36 Each unit under HAP contract must be inspected biennially within twenty-four (24) months of the last full HQS inspection. DCHA reserves the right to require annual inspections of any unit or owner at any time.

5601.37 DCHA will not rely on alternative inspection standards.

5601.38 If an adult cannot be present on the scheduled date, the family should request that DCHA reschedule the inspection. DCHA and family will agree on a new inspection date that generally should take place within five business days of the originally scheduled date. DCHA may schedule an inspection more than five business days after the original date for good cause.

5601.39 If the family misses the first scheduled appointment without requesting a new inspection date, DCHA will automatically schedule a second inspection. If the family misses two scheduled inspections without DCHA approval, DCHA will consider the family to have violated its obligation to make the unit available for inspection.

5601.40 If a participant or government official reports a life-threatening condition which the owner would be required to repair within twenty-four (24) hours, DCHA must inspect the unit within twenty-four (24) hours of notification. If the reported condition is not life-threatening, DCHA must inspect the unit within fifteen (15) days of notification.

5601.41 During a special inspection, DCHA generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

5601.42 If the biennial inspection has been scheduled or is due within ninety (90) days of the date the special inspection is scheduled DCHA may elect to conduct a full biennial inspection.

5601.43 HUD requires a PHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

5601.44 The unit sample must include only units that have been inspected within the preceding three months. The selected sample should be drawn to represent a cross section of neighborhoods and the work of a cross section of inspectors.

5601.45 The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, DCHA will determine:

(a) Whether or not the failure is a life-threatening condition; and

(b) Whether the family or owner is responsible.

5601.46 When life-threatening conditions are identified, DCHA will immediately notify both parties by telephone or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within twenty-four (24) hours of DCHA's notice.

5601.47 When failures that are not life-threatening are identified, DCHA will send the owner and the family a written notification of the inspection results within five business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally, not more than 30 days will be allowed for the correction.

5601.48 The notice of inspection results will inform the owner that if life-threatening conditions are not corrected within twenty-four (24) hours, and non-life threatening conditions are not corrected within the specified time frame (or any DCHA-approved extension), the owner's HAP will be abated.

5601.49 Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any DCHA-approved extension, if applicable) the family's assistance will be terminated in accordance with DCHA policy.

5601.50 For conditions that are life-threatening, DCHA cannot grant an extension to the twenty-four (24) hour corrective action period. For conditions that are not life-threatening, DCHA may grant an exception to the required time frames for correcting the violation, if DCHA determines that an extension is appropriate.

5601.51 Extensions will be granted in cases where DCHA has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

(a) A repair cannot be completed because required parts or services are not available;

(b) A repair cannot be completed because of weather conditions; or

(c) A reasonable accommodation is needed because the family includes a person with disabilities.

5601.52 The length of the extension will be determined on a case by case basis, but will not exceed sixty (60) days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within fifteen (15) calendar days, once the weather conditions have subsided.

5601.53 DCHA will conduct a reinspection immediately following the end of the corrective period, or any DCHA approved extension.

5601.54 The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, DCHA will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with DCHA policies. If DCHA is unable to gain entry to the unit in order to conduct the scheduled reinspection, DCHA will consider the family to have violated its obligation to make the unit available for inspection.

5601.55 If the owner fails to maintain the dwelling unit in accordance with HQS, DCHA must take prompt and vigorous action to enforce the owner obligations.

5601.56 If an owner fails to correct HQS deficiencies by the time specified by DCHA, HUD requires DCHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension). No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

5601.57 DCHA will make all HAP abatements effective the first of the month following the expiration of DCHA specified correction period (including any extension).

5601.58 To the extent practicable, DCHA will inspect abated units within five business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

5601.59 In the case where the owner agreed to pay a One Hundred Dollar ($100) reinspection fee (payment will not resume until the owner has paid the One Hundred Dollar ($100) fee to DCHA).

5601.60 During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

5601.61 DCHA must decide how long any abatement period will continue before the HAP contract will be terminated. DCHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time and must give the owner reasonable notice of the termination. DCHA will issue a voucher to permit the family to move to another unit.

5601.62 The maximum length of time that HAP may be abated is ninety (90) days. However, if the owner completes corrections and notifies DCHA before the termination date of the HAP contract, DCHA may rescind the termination notice if:

(a) the family still resides in the unit and wishes to remain in the unit; and

(b) the unit passes inspection.

5601.63 Reasonable notice of HAP contract termination by DCHA is thirty (30) days.

5601.64 Families are responsible for correcting any HQS violations. If the family fails to correct a violation within the period allowed by DCHA (and any extensions), DCHA will terminate the family's assistance, according to its policies.

5601.65 If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

5602 RENT REASONABLENESS

5602.1 Except in the case of certain LIHTC- and HOME-assisted units, no HAP contract can be approved until DCHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

5602.2 HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

5602.3 In cases where an HCV family is receiving assistance in a DCHA-owned unit, DCHA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A DCHA-owned unit is defined as a unit that is owned by DCHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by DCHA). The independent agency must communicate the results of the rent reasonableness determination to the family and DCHA. The independent agency must be approved by HUD and may be the unit of general local government for DCHA jurisdiction (unless DCHA is itself the unit of general local government or an agency of such government).

5602.4 DCHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

5602.5 The owner and family first negotiate the rent for a unit. DCHA (or independent agency in the case of DCHA-owned units) will assist the family with the negotiations upon request. At initial occupancy DCHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

5602.6 After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, DCHA may request owners to provide information about the rents charged for other units on the premises, if the premises include more than four (4) units. In evaluating the proposed rents in comparison to other units on the premises DCHA will consider unit size and length of tenancy in the other units.

5602.7 DCHA will determine whether the requested increase is reasonable within fourteen (14) business days of receiving the request from the owner. The owner will be notified of the determination in writing.

5602.8 All rents adjustments will be effective the first of the month following sixty (60) days after DCHA's receipt of the owner's request or on the date specified by the owner, whichever is later.

5602.9 HUD requires DCHA to decide of rent reasonableness (even if the owner has not requested a change) if there is a ten percent (10%) decrease in the fair market rent that goes into effect at least sixty (60) days before the contract anniversary date. HUD also may direct DCHA to decide at any other time. DCHA may decide that a new determination of rent reasonableness is needed at any time.

5602.10 In addition to the instances described above, DCHA will decide of rent reasonableness at any time after the initial occupancy period if:

(a) DCHA determines that the initial rent reasonableness determination was in error; or

(b) DCHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

5602.11 For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance.

5602.12 For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, DCHA must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of:

(a) the reasonable rent as determined from the rent comparability study; or

(b) the payment standard established by DCHA for the unit size involved.

5602.13 HUD requires DCHA to take into consideration the factors listed below when determining rent comparability. DCHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

(a) Location and age;

(b) Unit size including the number of rooms and square footage of rooms;

(c) The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise);

(d) The quality of the units including the quality of the original construction, maintenance and improvements made; and

(e) Amenities, services, and utilities included in the rent.

5602.14 Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate

(BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance.

5602.15 [RESERVED]

5602.16 The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than four (4) units.

5602.17 By accepting DCHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give DCHA information regarding rents charged for other units on the premises.

5602.18 DCHA will collect and maintain data on market rents in DCHA's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis and rent information that is more than twelve (12) months old will be eliminated from the database.

5602.19 The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area, and, where appropriate, to information provided by owners on the Request for Tenancy Approval for rents charged for other unassisted comparable units on the premises (if the premises include more than four (4) units.

5602.20 Typically, units may be similar, but not exactly like the unit proposed for HCV assistance. Therefore, DCHA may make upward and downward dollar adjustments for differences between the proposed HCV unit and the comparables to determine the reasonable rent for the HCV unit.

5602.21 The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas).

5602.22 Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

5602.23 The adjustment must reflect the rental value of the difference - not its construction costs (e.g., it might cost Twenty Thousand Dollars ($20,000) to put on a new roof,

but the new roof might not make any difference in what a tenant would be willing to pay because rental units are presumed to have functioning roofs).

5602.24 When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of Five Hundred Dollars ($500) per month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $500 x 11 months = 5500/12 months = actual monthly rent of $488.

5602.25 DCHA will notify the owner of the rent DCHA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. DCHA will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within five business days of DCHA's request for information or the owner's request to submit information.

Chapter 57, RENTAL ASSISTANCE DEMONSTRATION ADMINISTRATIVE PLAN, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 57

GENERAL LEASING POLICIES

5700 GENERAL LEASING POLICIES

5700.1 DCHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy.

5700.2 DCHA may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of DCHA's policies with regard to screening applicant families for program eligibility.

5700.3 The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before DCHA approval of the tenancy, DCHA must inform the owner that screening and selection for tenancy is the responsibility of the owner. DCHA must also inform the owner or manager or their rights and obligations under the Violence against Women Act of 2013 (VAWA).

5700.4 DCHA must provide the owner with the family's current and prior address (as shown in DCHA records) and the name and address (if known to DCHA) of the landlord at the family's current and prior address.

5700.5 DCHA is permitted, but not required, to offer the owner other information in DCHA's possession about the tenancy history or drug trafficking of family members.

5700.6 DCHA's policy on providing information to the owner must be included in the family's briefing packet.

5700.7 DCHA may not disclose to the owner any confidential information provided by the family in response to a DCHA request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation.

(a) DCHA will not screen applicants for family behavior or suitability for tenancy.

(b) DCHA will not provide additional screening information to the owner.

5700.8 After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request DCHA to approve the assisted tenancy in the selected unit.

5700.9 The owner and the family must submit two documents to DCHA:

(a) Completed Request for Tenancy Approval (RTA) – Form HUD-52517; and

(b) Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A.

5700.10 The RTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for DCHA to determine whether to approve the assisted tenancy in this unit.

5700.11 Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

5700.12 Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless DCHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

5700.13 For units constructed prior to 1978, owners must either:

(a) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or

(b) attach a lead-based paint disclosure statement.

5700.14 Both the RTA and the proposed lease must be submitted no later than the expiration date stated on the voucher.

(a) The RTA must be signed by both the family and the owner;

(b) The owner may submit the RTA on behalf of the family;

(c) Completed RTA (including the proposed dwelling lease) must be submitted electronically through DCHA's portal, except for purposes of reasonable accommodation;

(d) The family may not submit, and DCHA will not process, more than one (1) RTA at a time;

(e) When the family submits the RTA DCHA will review the RTA for completeness;

(f) If the RTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RTA, DCHA will notify the family and the owner of the deficiencies;

(g) Any missing or incomplete documents must be (re)submitted electronically through DCHA's portal;

(h) When the family submits the RTA and proposed lease, DCHA will also review the terms of the RTA for consistency with the terms of the proposed lease;

(i) If the terms of the RTA are not consistent with the terms of the proposed lease, DCHA will notify the family and the owner of the discrepancies;

(j) Any corrected documents must be resubmitted electronically through DCHA's portal; and

(k) Because of the time sensitive nature of the tenancy approval process, DCHA will communicate with the owner and family electronically on the status of the RTA.

5700.15 DCHA does not formally approve an owner to participate in the HCV program. However, there are several criteria where DCHA may deny approval of an

assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. There are also criteria for which DCHA must disapprove an owner. No owner has a right to participate in the HCV program.

5700.16 [RESERVED]

5700.17 There are several criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in DCHA's jurisdiction. This includes the dwelling unit they are currently occupying.

5700.18 DCHA may not assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under Section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

5700.19 Otherwise eligible units that are owned or substantially controlled by DCHA issuing the voucher may also be leased in the voucher program. In order for a DCHA-owned unit to be leased under the voucher program, the unit must not be ineligible housing and DCHA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a DCHA-owned unit without any pressure or steering by DCHA.

5700.20 DCHA does have eligible DCHA-owned units available for leasing under the voucher program.

5700.21 HUD regulations permit, but do not generally require, DCHA to permit families to use voucher assistance in several special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option.

5700.22 The regulations do require DCHA to permit use of any special housing type if needed as reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

5700.23 A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

(a) Public or Indian housing assistance;

(b) Other Section 8 assistance (including other tenant-based assistance);

(c) Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);

(d) Section 101 rent supplements;

(e) Section 236 rental assistance payments;

(f) Tenant-based assistance under the HOME Program;

(g) Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);

(h) Any local or State rent subsidy;

(i) Section 202 supportive housing for the elderly;

(j) Section 811 supportive housing for persons with disabilities;

(k) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or

(l) Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

5700.24 In order to be eligible, the dwelling unit must be in decent, safe, and sanitary condition. This determination is made using HUD’s HQS.

5700.25 In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family.

5700.26 In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be more than rents charged by the owner for comparable, unassisted units on the premises.

5700.27 Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the family share cannot exceed forty percent (40%) of the family's adjusted monthly income. The term "family share" refers to the amount the family pays toward rent and utilities. The gross rent for the unit minus the total housing assistance payment (HAP) for the unit equals the family share.

5700.28 The family and the owner must execute a written dwelling lease agreement for the assisted unit. This written lease is a contract between the tenant family and the owner; DCHA is not a party to this contract.

5700.29 The tenant must have legal capacity to enter a lease under District law. "Legal capacity" means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

5700.30 If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease for the assisted tenants is in such standard form.

5700.31 All provisions in the HUD-required Tenancy Addendum must be added word-for-word to the owner's standard lease form. The Tenancy Addendum includes the HUD requirements for the tenancy. Because it is a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner. If there is a conflict between the owner's lease and the Tenancy Addendum, the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

5700.32 DCHA does not provide a model or standard dwelling lease for owners to use in the HCV program.

5700.33 The assisted dwelling lease must contain all of the required information as listed below:

(a) The names of the owner and the tenant;

(b) The unit rented (address, apartment number, and any other information needed to identify the contract unit);

(c) The term of the lease (initial term and any provisions for renewal);

(d) The amount of the monthly rent to owner; and

(e) A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family.

5700.34 The initial term of the assisted dwelling lease must be for at least one (1) year. The initial lease term is also stated in the HAP contract.

5700.35 The HUD program regulations permit DCHA to approve a shorter initial lease term if certain conditions are met.

5700.36 DCHA will not approve an initial lease term of less than one (1) year.

5700.37 During the initial term of the lease, the owner may not raise the rent to owner.

5700.38 Any provisions for renewal of the dwelling lease will be stated in the dwelling lease. There are no HUD requirements regarding any renewal extension terms, except that they must be stated in the dwelling lease if they exist.

5700.39 DCHA may execute the HAP contract even if there is less than one (1) year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC.

5700.40 The owner may collect a security deposit from the tenant. DCHA may prohibit security deposits more than private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if DCHA chooses to do so, language to this effect must be added to Part A of the HAP contract.

5700.41 DCHA will restrict the security deposit amount to no more than one month's contract rent.

5700.42 Owners may not demand or accept any rent payment from the family in excess of the rent to the owner as approved by DCHA minus DCHA's housing assistance payments to the owner.

5700.43 The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises.

(a) DCHA permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

(b) Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner

and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

(c) Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

(d) The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

(e) Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

5700.44 DCHA will review the dwelling lease for compliance with all applicable requirements.

5700.45 If the dwelling lease is incomplete or incorrect, DCHA will notify the owner of the deficiencies. Any missing or incomplete documents must be resubmitted electronically through DCHA's portal. Corrected documents must be submitted electronically via the online portal. DCHA will not accept missing and corrected information over the phone.

5700.46 DCHA is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if DCHA determines that the lease does not comply with State or local law.

5700.47 DCHA will not review the owner's lease for compliance with state/local law.

5700.48 After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, DCHA must promptly notify the family and owner whether the assisted tenancy is approved.

5700.49 Prior to approving the assisted tenancy and execution of a HAP contract, DCHA must ensure that all required actions and determinations, discussed in this § 5700 have been completed.

5700.50 These actions include ensuring that the unit is eligible; the unit has been inspected by DCHA and meets the HQS; the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must is reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed forty percent (40%) of the family's monthly adjusted income; the owner is an eligible owner, not disapproved by DCHA, with no conflicts of interest; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information.

5700.51 DCHA will complete its determination within ten (10) business days of receiving all required information.

(a) If the terms of the RTA/proposed lease are changed for any reason, including but not limited to negotiation with DCHA, DCHA will obtain corrected copies of the RTA and proposed lease, signed by the family and the owner.

(b) Corrections to the RTA/proposed lease will only be accepted through DCHA's electronic portal. DCHA will not accept corrections over the phone.

(c) If DCHA determines that the tenancy cannot be approved for any reason, the owner and the family will be notified in writing and given the opportunity to address any reasons for disapproval. DCHA will instruct the owner and family of the steps that are necessary to obtain approval of the tenancy.

(1) Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

(2) If the tenancy is not approvable due to rent affordability or rent reasonableness, DCHA will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

5700.52 The HAP contract is a written agreement between DCHA and the owner of the dwelling unit. Under the HAP contract, DCHA agrees to make housing assistance payments to the owner on behalf of the family, and the owner agrees to comply with all program requirements as stated in the HAP contract.

5700.53 The HAP contract form is prescribed by HUD.

5700.54 If DCHA has given approval for the family of the assisted tenancy, the owner and DCHA must execute the HAP contract.

5700.55 The term of the HAP contract must be the same as the term of the lease.

5700.56 DCHA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

5700.57 DCHA must make its best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than sixty (60) calendar days from the beginning of the lease term.

5700.58 DCHA may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, DCHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of sixty (60) days).

5700.59 Any HAP contract executed after the sixty (60) day period is void, and DCHA may not pay any housing assistance payment to the owner.

5700.60 Owners who have not previously participated in the HCV program must attend a virtual meeting with DCHA in which the terms of the Tenancy Addendum and the HAP contract will be explained. DCHA may waive this requirement on a case-by-case basis, if it determines that the owner is sufficiently familiar with the requirements and responsibilities under the HCV program.

5700.61 The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to DCHA.

5700.62 The owner and DCHA will execute the HAP contract. DCHA will not execute the HAP contract until the owner has submitted IRS form W-9. DCHA will ensure that the owner receives a copy of the executed HAP contract.

5700.63 As required under VAWA 2013, once the initial HAP contract and lease have been executed and the family has been admitted to the program, DCHA will notify families of their rights under VAWA by providing all families with a copy of the domestic violence certification form (HUD-5382) as well as the VAWA notice of occupancy rights (form HUD-5380).

5700.64 [RESERVED]

5700.65 If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give DCHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

5700.66 Generally, DCHA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, the execution of a new lease and HAP contract are required. These circumstances include:

(a) Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances.

(b) Changes in lease provisions governing the term of the lease.

(c) The family moves to a new unit, even if the unit is in the same building or complex.

(d) In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RTA) along with a new dwelling lease containing the proposed changes. A new tenancy must then be approved in accordance with this chapter.

5700.67 Where the owner is changing the amount of the rent to the owner, the owner must notify DCHA at least 60 days before any such changes go into effect. DCHA will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or terminate the tenancy in accordance with the terms of the lease.

5700.68 No rent increase is permitted during the initial term of the lease.

5700.69 DCHA will determine whether the requested increase is reasonable within 14 business days of receiving the request from the owner. The owner will be notified of the determination in writing. All rents adjustments will be effective the first of the month following sixty (60) days after DCHA's receipt of the owner's request or on the date specified by the owner, whichever is later.

Chapter 58, OWNER EVICTION GUIDELINES AND GROUNDS FOR TERMINATION FROM THE HOUSING CHOICE VOUCHER PROGRAM, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 58

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

5800 MOVING WITH CONTINUED ASSISTANCE

5800.1 The six (6) regulatory conditions under which an assisted family is allowed to move to a new unit with continued assistance, and DCHA permission, are listed below:

(a) The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease. If the family terminates the lease on notice to the owner, the family must give DCHA a copy of the notice at the same time;

(b) The lease for the family's unit has been terminated by mutual agreement of the owner and the family. If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give DCHA a copy of the termination agreement;

(c) The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family. The family must give DCHA a copy of any owner eviction notice;

(d) The family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member. This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to DCHA, if the family or family member who is the victim reasonably believed that they were imminently threatened by harm from further violence if they remained in the unit.

(1) If a family requests permission to move with continued assistance or for an external transfer to another covered housing program operated by DCHA based on a claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, DCHA will request that the resident request the emergency transfer using form HUD-5383, and DCHA will request other documentation as well.

(2) DCHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family or family member will suffice. In such cases DCHA will document the waiver.

(3) DCHA may choose to provide a voucher to facilitate an emergency transfer of the victim without first terminating the assistance of the perpetrator.

(4) Before granting an emergency transfer, DCHA will ensure the victim is eligible to receive continued assistance based on the citizenship or immigration status of the victim.

(5) DCHA has adopted an emergency transfer plan;

(e) DCHA has terminated the HAP contract for the family's unit for the owner's breach; or

(f) DCHA determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, DCHA must issue the family a new voucher, and the family and DCHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, DCHA must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which DCHA gives notice to the owner.

5800.2 A family's right to move is generally contingent upon the family's compliance with program requirements. HUD specifies two (2) conditions under which DCHA may deny a family permission to move and two (2) ways in which DCHA may restrict moves by a family.

5800.3 DCHA may deny a family permission to move under the following conditions:

(a) DCHA may deny a family permission to move either within or outside DCHA's jurisdiction if DCHA does not have sufficient funding for continued assistance. However, Notice PIH 2016-09 significantly restricts the ability of DCHA to deny permission to move due to insufficient funding and places further requirements on DCHA regarding moves denied due to lack of funding. The requirements found in this notice are mandatory.

(1) DCHA will deny a family permission to move on grounds that DCHA does not have sufficient funding for continued assistance if:

(i) The move is initiated by the family, not the owner or DCHA;

(ii) DCHA can demonstrate that the move will, in fact, result in higher subsidy costs;

(iii) DCHA can demonstrate that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs; and

(iv) for portability moves, the receiving PHA is not absorbing the voucher.

(2) If DCHA does not have sufficient funding for continued assistance, but the family must move from their unit (e.g., the unit failed HQS), the family may move to a higher cost unit if the move is within DCHA's jurisdiction. DCHA, however, will not allow the family to move under portability in this situation if the family wishes to move to a higher cost area.

(3) For both moves within DCHA's jurisdiction and outside under portability, DCHA will not deny a move due to insufficient funding if DCHA previously approved the move and subsequently experienced a funding shortfall if the family cannot remain in their current unit. DCHA will rescind the voucher in this situation if the family will be allowed to remain in their current unit.

(4) DCHA will create a list of families whose moves have been denied due to insufficient funding. DCHA will keep the family's request open indefinitely, and when funds become available, the families on this list will take precedence over families on the waiting list. DCHA will use the same procedures for notifying families with open requests to move when funds become available as it uses for notifying families on the waiting list.

(5) DCHA will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

(b) DCHA may deny a family permission to move if it has grounds for denying or terminating the family's assistance. If DCHA has grounds for denying or terminating a family's assistance, DCHA will act on those grounds in accordance with the regulations and policies set forth herein. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances.

(c) DCHA is permitted to prohibit any elective move by a participant family during the family's initial lease term. They also permit DCHA to prohibit more than one elective move by a participant family during any twelve

(12) month period. However, such prohibitions, if adopted, do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member. In addition, DCHA may not establish a policy permitting moves only at reexamination.

(1) DCHA will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within DCHA's jurisdiction or outside it under portability.

(2) DCHA will also deny a family permission to make more than one elective move during any twelve (12) month period. For elective moves during the twelve (12) month period, DCHA will only allow a new lease to begin on the first of the month. This policy applies to all assisted families residing in DCHA's jurisdiction.

(3) DCHA will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs), to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency over which a family has no control.

(4) In addition, DCHA will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities.

5800.4 If a family wishes to move to a new unit, the family must notify DCHA and the owner before moving out of the old unit or terminating the lease on notice to the owner. If the family wishes to move to a unit outside DCHA's jurisdiction under portability, the notice to DCHA must specify the area where the family wishes to move. The notices must be in writing.

5800.5 Upon receipt of a family's notification that it wishes to move, DCHA will determine whether the move is approvable. DCHA will notify the family in writing of its determination within fourteen (14) business days following receipt of the family's notification.

5800.6 For families approved to move to a new unit within DCHA's jurisdiction, DCHA will not perform a new biennial/triennial reexamination unless the biennial/triennial reexamination is due with the effective date of the move.

5800.7 For families moving into, or families approved to move out of, DCHA's jurisdiction under portability, DCHA will follow the policies set forth in this § 5800.

5800.8 Families approved to move to a new unit within DCHA's jurisdiction are required to attend an online transfer briefing. Post-attendance, the family will be electronically provided with their voucher.

5800.9 DCHA will follow the policies on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and DCHA approves. Otherwise, the family will lose its assistance.

5800.10 For families moving into or families approved to move out of DCHA's jurisdiction under portability, DCHA will follow the policies set forth in this § 5800.

5800.11 When a family moves out of an assisted unit, DCHA may not make any housing assistance payment to the owner for any month after the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

5800.12 If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

5800.13 A participant who is not receiving any subsidy, but whose HAP contract is still in force, may request a voucher to move to a different unit. DCHA must issue a voucher to move unless it has grounds to deny assistance under the program regulations. However, if DCHA determines no subsidy would be paid at the new unit, DCHA may refuse to enter a HAP contract on behalf of the family.

5800.14 If a zero HAP family requests to move to a new unit, the family may request a voucher to move. However, if no subsidy will be paid at the unit to which the family requests to move, DCHA will not enter into a HAP contract on behalf of the family for the new unit.

5801 PART II: PORTABILITY

5801.1 Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as

portability. The PHA that issues the voucher is called the initial PHA**.** The PHA that has jurisdiction in the area to which the family wants to move is called the receiving PHA.

5801.2 The receiving PHA has the option of administering the family's voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA provides all housing services for the family and bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance with its own program funds, and the initial PHA has no further relationship with the family. The initial PHA must contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the initial PHA's voucher. Based on the receiving PHA's response, the initial PHA must determine whether they will approve or deny the portability request.

5801.3 PHAs commonly act as both the initial and receiving PHA because families may move into or out of their jurisdiction under portability. Each role involves different responsibilities. DCHA will follow the rules and policies in this § 5800 when it is acting as the initial PHA for a family and when it is acting as the receiving PHA for a family.

5801.4 In administering portability, the initial PHA and the receiving PHA must comply with financial procedures required by HUD, including the use of HUD-required forms.

5801.5 PHAs must also comply with billing and payment deadlines. HUD may reduce an administrative fee to an initial or receiving PHA if DCHA does not comply with HUD portability requirements.

5801.6 A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program. If there is more than one PHA in the area, the initial PHA provides the family with the contact information for the receiving PHAs that serve the area, and the family selects the receiving PHA. The family must inform the initial PHA which receiving PHA it has selected. If the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family.

5801.7 Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside DCHA's jurisdiction under portability. HUD regulations and DCHA policy determine whether a family qualifies.

5801.8 Under HUD regulations, most applicant families qualify to lease a unit outside DCHA's jurisdiction under portability. However, HUD gives DCHA discretion to deny a portability move by an applicant family for the same two (2) reasons that it may deny any move by a participant family: insufficient funding and grounds for

denial or termination of assistance. If DCHA intends to deny a family permission to move under portability due to insufficient funding, DCHA must notify HUD within ten (10) business days of the determination to deny the move.

5801.9 In determining whether to deny an applicant family permission to move under portability because DCHA lacks sufficient funding or has grounds for denying assistance to the family, the initial PHA will follow the policies established this § 5800. If DCHA does deny the move due to insufficient funding, DCHA will notify HUD in writing within ten (10) business days of DCHA's determination to deny the move.

5801.10 In addition, the initial PHA may establish a policy denying the right to portability to nonresident applicants during the first twelve (12) months after they are admitted to the program.

5801.11 If neither the head of household nor the spouse/co-head of an applicant family had a domicile (legal residence) in the initial PHA's jurisdiction at the time that the family's initial application for assistance was submitted, the family must lease a unit within the initial PHA's jurisdiction for at least twelve (12) months before requesting portability.

5801.12 DCHA will consider exceptions to this policy for purposes of reasonable accommodation or reasons related to domestic violence, dating violence, sexual assault, or stalking.

5801.13 The initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease. The Violence against Women Act of 2013 (VAWA) creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed they were imminently threatened by harm from further violence if they remained in the unit.

5801.14 DCHA will determine whether a participant family may move out of DCHA's jurisdiction with continued assistance in accordance with the regulations and policies set forth in this § 5800. DCHA will notify the family of its determination in accordance with the approval policy set forth in this § 5800.

5801.15 An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area. The family must specify the area to which the family wishes to move.

5801.16 The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move. If the applicant family is

not income eligible in that area, DCHA must inform the family that it may not move there and receive voucher assistance.

5801.17 The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under portability.

5801.18 No new reexamination of family income and composition is required for an applicant family.

5801.19 For a participant family approved to move out of its jurisdiction under portability, DCHA generally will conduct a reexamination of family income and composition. DCHA will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

5801.20 DCHA is required to provide information on portability to all applicant families that qualify to lease a unit outside DCHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

5801.21 No formal briefing will be required for a participant family wishing to move outside DCHA's jurisdiction under portability. However, DCHA will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program.

5801.22 DCHA will provide the name, address, and phone of the contact for DCHA in the jurisdiction to which they wish to move. If there is more than one PHA with jurisdiction over the area to which the family wishes to move, DCHA will advise the family that the family selects the receiving PHA and notify the initial PHA of which receiving PHA was selected. DCHA will provide the family with contact information for all of the receiving PHAs that serve the area. DCHA will not provide any additional information about receiving PHAs in the area. DCHA will further inform the family that if the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family. In this case, DCHA will not provide the family with information for all receiving PHAs in the area.

5801.23 DCHA will advise the family that they will be under the receiving PHA's policies and procedures, including screening, subsidy standards, voucher extension policies, and payment standards.

5801.24 An applicant family has no right to portability until after the family has been issued a voucher.

5801.25 For participating families approved to move under portability, DCHA will issue a new voucher within ten (10) business days of DCHA's written approval to move. The initial term of the voucher will be sixty (60) days.

5801.26 The initial PHA will approve no extensions to a voucher issued to an applicant or participant family porting out of DCHA's jurisdiction except under the following circumstances:

(a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA;

(b) the family decides to return to the initial PHA's jurisdiction and search for a unit there; or

(c) the family decides to search for a unit in a third PHA's jurisdiction.

In such cases, the policies on voucher extensions, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term, shall apply.

5801.27 To receive or continue receiving assistance under the initial PHA's voucher program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within ninety (90) days following the expiration date of the initial PHA's voucher term (including any extensions).

5801.28 Prior to approving a family's request to move under portability, the initial PHA must contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the family's voucher. Based on the receiving PHA's response, the initial PHA must determine whether it will approve or deny the move.

5801.29 DCHA will use email, when possible, to contact the receiving PHA regarding whether the receiving PHA will administer or absorb the family's voucher.

5801.30 After approving a family's request to move under portability, the initial PHA must promptly notify the receiving PHA via email or other confirmed delivery method to expect the family. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA.

5801.31 Because the portability process is time sensitive, DCHA will notify the receiving PHA by phone, fax, or email to expect the family. The initial PHA will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, email address, and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. DCHA will pass this information along to the family. DCHA will also ask for the name, address, telephone number, fax and email of the person responsible for processing the billing information.

5801.32 The initial PHA is required to send the receiving PHA the following documents:

(a) Form HUD-52665, Family Portability Information, with Part I filled out;

(b) A copy of the family's voucher;

(c) A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058; and

(d) Copies of the income verifications backing up the form HUD-50058, including a copy of the family's current EIV data.

In addition to these documents, DCHA will provide the following information, if available, to the receiving PHA: Social security numbers (SSNs)

5801.33 DCHA will notify the family in writing regarding any information provided to the receiving PHA.

5801.34 The deadline for submission of initial billing is ninety (90) days following the expiration date of the voucher issued to the family by the initial PHA. In cases where suspension of the voucher delays the initial billing submission, the receiving PHA must notify the initial PHA of delayed billing before the billing deadline and document the delay is due to the suspension. In this case, the initial PHA must extend the billing deadline by thirty (30) days.

5801.35 If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must notify the receiving PHA in writing. The initial PHA may report to HUD the receiving PHA's failure to comply with the deadline.

5801.36 If the initial PHA will honor the late billing, no action is required.

5801.37 The initial PHA's decision as to whether to accept late billing will be based on internal PHA factors, including the initial PHA's leasing or funding status. If DCHA has not received an initial billing notice from the receiving PHA within the billing deadline and does not intend to honor the late billing, it will contact the receiving PHA to inform them that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. In this case, DCHA will send the receiving PHA a written confirmation of its decision by email or efax.

5801.38 Among other considerations as to whether to accept late billing will be if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

5801.39 If the receiving PHA is administering the family's voucher, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. When reimbursing for administrative fees, the initial PHA must promptly reimburse the receiving PHA for the lesser of eighty percent (80%) of the initial PHA ongoing administrative fee or one hundred percent (100%) of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill.

5801.40 The initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within thirty (30) calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be received by the receiving PHA no later than the fifth (5^{th}) business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

5801.41 The initial PHA may not terminate or delay making payments under existing portability billing arrangements because of over leasing or funding shortfalls. DCHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

5801.42 The initial PHA will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies the initial PHA that direct deposit is not acceptable to them.

5801.43 If the initial PHA extends the term of the voucher, the receiving PHA's voucher will expire thirty (30) calendar days from the new expiration date of the initial PHA's voucher.

5801.44 If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family's annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family. The initial PHA must continue paying the receiving PHA based on the last form HUD-50058 received, unless instructed otherwise by HUD. The initial PHA may seek absorption of the vouchers by following steps outlined in Notice PIH 2016-09.

5801.45 At any time, either the initial PHA or the receiving PHA may decide to deny or terminate assistance with the family.

5801.46 If a family has a right to lease a unit in the receiving PHA's jurisdiction under portability, the receiving PHA must provide assistance for the family. HUD may determine in certain instances that a PHA is not required to accept incoming portable families, such as a PHA in a declared disaster area. However, DCHA must have approval in writing from HUD before refusing any incoming portable families.

5801.47 Administration of the voucher must be in accordance with the receiving PHA's policies. This requirement also applies to policies of Moving to Work agencies. The receiving PHA procedures and preferences for selection among eligible applicants do not apply to the family, and the receiving PHA waiting list is not used. The family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA, and the receiving PHA's policies on extensions of the voucher term apply.

5801.48 The receiving PHA must respond via email or other confirmed delivery method to the initial PHA's inquiry to determine whether the family's voucher will be billed or absorbed. If the receiving PHA informs the initial PHA that it will be absorbing the voucher, the receiving PHA cannot reverse its decision later without consent of the initial PHA.

5801.49 DCHA will use email or eFax, when possible, to notify the initial PHA whether it will administer or absorb the family's voucher.

5801.50 Under the authority granted to DCHA under its Moving to Work status, DCHA does not administer the Family Self-Sufficiency (FSS) Program for port-in families. Therefore, DCHA will also notify the initial PHA that the initial PHA should address the status of an FSS family's escrow account.

5801.51 When a family moves into DCHA's jurisdiction under portability, the family is responsible for promptly contacting DCHA and complying with DCHA's procedures for incoming portable families. The family's failure to comply may result in denial or termination of the receiving PHA's voucher.

5801.52 If the voucher issued to the family by the initial PHA has expired, the receiving PHA must contact the initial PHA to determine if it will extend the voucher. An informal hearing is not required when a voucher has expired without the family leasing a unit.

5801.53 If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing.

5801.54 HUD allows the receiving PHA to require a briefing for an incoming portable family if the requirement does not unduly delay the family's search.

5801.55 DCHA requires the family to attend a virtual briefing. DCHA will provide the family with a briefing packet and inform the family about DCHA's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

5801.56 The receiving PHA does not redetermine eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program. If the receiving PHA opts to conduct a new reexamination for a current participant family, the receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit.

5801.57 For any family moving into its jurisdiction under portability, DCHA will not conduct a new reexamination of family income and composition. The effective date of the HAP Contract/lease is the family's anniversary date.

5801.58 When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA's voucher.

5801.59 HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures.

5801.60 When a family ports into its jurisdiction, DCHA will issue the family a voucher based on the paperwork provided by the initial PHA unless the family's paperwork from the initial PHA is incomplete, the family's voucher from the initial PHA has expired or the family does not comply with DCHA's procedures.

5801.61 The term of the receiving PHA's voucher may not expire 30 calendar days from the expiration of the initial PHA's voucher. If the initial PHA extends the term of the voucher, the receiving PHA's voucher may not expire before thirty (30) days from the new expiration date of the initial PHA's voucher.

5801.62 The receiving PHA's voucher will expire thirty (30) calendars days from the expiration date of the initial PHA's voucher. If the initial PHA extends the term of the voucher, the receiving PHA's voucher will expire thirty (30) calendar days from the new expiration date of the initial PHA's voucher.

5801.63 Once the receiving PHA issues the portable family a voucher, the receiving PHA's policies on extensions of the voucher term apply. The receiving PHA must inform the initial PHA of any extension granted to the term of the voucher. It

must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

5801.64 DCHA generally will not extend the term of the voucher that it issues to an incoming portable family unless DCHA plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.

5801.65 DCHA will consider an exception to this policy as reasonable accommodation to a person with disabilities.

5801.66 If the family submits a request for tenancy approval during the term of the receiving PHA's voucher, DCHA must suspend the term of that voucher. The term of the voucher stops from the date that the family submits a request for PHA approval of the tenancy until the date DCHA notifies the family in writing whether the request has been approved or denied.

5801.67 The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA's voucher. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose.

5801.68 If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA's voucher is only valid for the family's search in the receiving PHA's jurisdiction.

5801.69 To cover assistance for a portable family that was not absorbed, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. The amount of the housing assistance payment for a portable family in the receiving PHA's program is determined in the same manner as for other families in the receiving PHA's program.

5801.70 The receiving PHA may bill the initial PHA for the lesser of eighty percent (80%) percent of the initial PHA's ongoing administrative fee or one hundred percent (100%) of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for

which the receiving PHA may bill (i.e., the receiving PHA may bill for the lesser of eighty percent (80%) of the initial PHA's prorated ongoing administrative fee or one hundred percent (100%) of the receiving PHA's ongoing administrative fee).

5801.71 If both PHAs agree, DCHAs may negotiate a different amount of reimbursement.

5801.72 Unless DCHA negotiates a different amount of reimbursement with the initial PHA, DCHA will bill the initial PHA the maximum amount of administrative fees allowed, ensuring any administrative fee proration has been properly applied.

5801.73 If a portable family's search for a unit is successful and the receiving PHA intends to administer the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) in time that the notice will be received no later than ninety (90) days following the expiration date of the family's voucher issued by the initial PHA. This deadline may be extended for thirty (30) additional days if the delay is due to suspension of the voucher's term. A copy of the family's form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or email.

5801.74 DCHA will send its initial billing notice by eFax or email to meet the billing deadline.

5801.75 If the receiving PHA fails to send the initial billing by the deadline, it is required to absorb the family into its own program unless:

(a) The initial PHA is willing to accept the late submission; or

(b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is over leased).

5801.76 The receiving PHA must send the initial PHA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

5801.77 DCHA will send a copy of the updated HUD-50058 by regular mail no later than ten (10) business days after the effective date of the reexamination.

5801.78 The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family because of:

(a) A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.);

(b) An abatement or subsequent resumption of the HAP payment;

(c) Termination of the HAP contract;

(d) Payment of a damage/vacancy loss claim for the family; or

(e) Termination of the family from the program.

5801.79 The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount. If the receiving PHA fails to send Form HUD-52665 within ten (10) days of effective date of billing changes, the initial PHA is not responsible for any increase prior to notification. If the change resulted in a decrease in the monthly billing amount, the initial PHA will offset future monthly payments until the difference is reconciled.

5801.80 If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between DCHAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

5801.81 In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

5801.82 In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

(a) Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA; and

(b) Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

5801.83 At HUD's discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH 2016-09.

5801.84 At any time, the receiving PHA may decide to deny or terminate assistance to a portable family for family action or inaction.

5801.85 In the case of a termination, DCHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than ten (10) business days following the effective date of the termination of the billing arrangement.

5801.86 If DCHA elects to deny or terminate assistance for a portable family, DCHA will notify the initial PHA within ten (10) business days after the informal review or hearing if the denial or termination is upheld. The receiving PHA will furnish the initial PHA with a copy of the review or hearing decision.

5801.87 The receiving PHA may absorb an incoming portable family into its own program when DCHA executes a HAP contract on behalf of the family or at any time thereafter providing that DCHA has funding available under its annual contributions contract (ACC).

5801.88 If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving PHA.

5801.89 If the receiving PHA absorbs a family after aiding the family under a billing arrangement with the initial PHA, the receiving PHA must send an updated form HUD-52665 to the initial PHA no later than ten (10) business days following the effective date of the termination of the billing arrangement.

5801.90 If DCHA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, DCHA will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

5801.91 If DCHA decides to absorb a family after that, it will provide the initial PHA with thirty (30) days' advance notice, but no later than ten (10) business days following the effective date of the termination of the billing arrangement.

5801.92 Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA's

voucher program, and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability.

Chapter 59, DEFINITIONS, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 59

REEXAMINATIONS – HOUSING CHOICE VOUCHERS AND PROJECT-BASED VOUCHERS

5900 REGULAR REEXAMINATIONS

5900.1 Once an applicant becomes a participating household under the HCV or Project Based Voucher (PBV) programs, their eligibility for continued participation and their contribution towards rent, otherwise known as the "Total Tenant Payment", is reevaluated periodically.

5900.2 Under the authority granted to DCHA under its Moving to Work agreement with HUD, DCHA conducts triennial (every three (3) years) and biennial (every two (2) years) reexaminations.

5900.3 As part of the reexamination process, families are required to provide updated information to DCHA regarding the family's income, assets, deductions, expenses, and composition. A family's failure to comply with DCHA's reexamination process is grounds for terminating assistance.

5900.4 DCHA conducts triennial reexaminations for families with fixed incomes.

5900.5 For households that do not qualify for triennial reexaminations, DCHA conducts biennial reexaminations.

5900.6 DCHA initiates the reexamination process one hundred fifty (150) days before the scheduled effective date. Generally, DCHA will endeavor to schedule effective dates to coincide with the family's anniversary date, which is twenty-four (24) or thirty-six (36) months from the family's last annual examination or the family's initial examination, as applicable. However, DCHA may schedule reexaminations for a date other than the family's anniversary date for administrative purposes.

5900.7 Families will be notified electronically or by mail regarding the biennial/triennial reexamination requirements. The notice shall:

(a) Inform families of all the information that is required to be submitted to the DCHA as a condition for continuing participation in the program including but not limited to a DCHA reexamination form, an Authorization for Release of Information/Privacy Act Notice, and

supporting documents and forms relating to the family's income, assets, deduction, expenses, and family composition; and

(b) Require such information by a specified date.

5900.8 If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination.

5900.9 If adding a new family member to the unit causes overcrowding according to the HQS, the DCHA is required to issue the family a new voucher, and the family and DCHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, DCHA must terminate the HAP contract per its terms.

5900.10 In general, an increase in the family share of the rent that results from a biennial/triennial reexamination will take effect on the family's anniversary date, and the family will be notified at least thirty (30) days in advance.

(a) If less than thirty (30) days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the thirty (30) day notice period.

(b) If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no thirty (30) day notice is required.

(c) If DCHA chooses to schedule a reexamination for completion before the family's anniversary date for administrative purposes, the effective date will be determined by DCHA, but will always allow for the thirty (30) day notice period.

(d) If the family causes a delay in processing the biennial/triennial reexamination, increases in the family share of the rent will be applied retroactively to the scheduled effective date of the reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement.

5900.11 In general, a decrease in the family share of the rent that results from a biennial/triennial reexamination will take effect on the family's anniversary date.

(a) If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

(b) If DCHA chooses to schedule a reexamination for completion before the family's anniversary date for administrative purposes, the effective date will be determined by DCHA.

(c) If the family causes a delay in processing the reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following the completion of the reexamination processing.

5900.12 Delays in reexamination processing are caused by the family if the family fails to provide the information requested by DCHA by the date specified, and this delay prevents DCHA from completing the reexamination as scheduled.

5901 INTERIM REEXAMINATIONS

5901.1 DCHA conducts interim reexaminations of family income and composition outside of the triennial and biennial schedule in the following cases:

(a) There have been changes to the family and household composition;

(b) There have been changes that affect a family's income or expenses;

(c) The participant requests an interim reexamination; and

(d) DCHA determines an interim reexamination is warranted.

5901.2 Households are required to report with supporting documentation all changes in income and household composition within ten (10) days of the date of such change. Households that report a change in income or household composition that is incomplete will be advised to forward written documentation as appropriate. DCHA uses all available resources (HUD EIV and IVT) to obtain an accurate representation of a participant's income and will analyze and verify all information included in the recertification (including income discrepancies such as unreported and underreported income). DCHA will contact the participant to address any income discrepancies. If DCHA does not receive the participant's response to the inquiry regarding the income discrepancy within ten (10) days of the request for additional information, it will commence termination of subsidy proceedings against the participant.

5901.3 In the case of an interim reexamination related to changes in family and household composition, requests to add a family member, other than through birth, adoption, court-ordered custody awards, or changes in household composition pursuant to 14 DCMR §5120, must be submitted in writing and

approved by DCHA prior to the person moving into the unit. DCHA will endeavor to make its determination within fourteen (14) business days of receiving all information required to verify the individual's eligibility. When a new family or household member is added, DCHA must conduct a reexamination to determine if any new income or deductions are associated with the proposed new household member.

(a) DCHA will determine the eligibility of the new member. Based on that information, the DCHA will make appropriate adjustments to the household's total tenant payment and HAP payment.

(b) DCHA will not add a new adult to the family if doing so will result in an increase in family unit size (voucher size). This restriction does not apply to minor children, including the minor children of a newly added adult family member or children permitted by 14 DCMR §5120. Exceptions will be made on a case-by-case basis for purposes of reasonable accommodation.

(c) DCHA will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

(d) If DCHA determines an individual meets DCHA eligibility criteria and documentation requirements, DCHA shall provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued a voucher and will be required to move.

(e) If DCHA determines that an individual does not meet DCHA's eligibility criteria or documentation requirements, DCHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

(f) Families must also obtain the owner's approval to add a new family or household member other than in cases of birth, adoption, the award of the custody of a child by a court, or child permitted to reside in the unit pursuant to 14 DCMR §5120.3.

5901.4 Families must promptly notify DCHA if any family member no longer lives in their unit. Because household members are considered when determining the family unit (voucher) size, the DCHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit. If a household member ceases to reside in the unit, the family must inform DCHA within ten (10) business days. This requirement also applies to:

(1) a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

(2) a minor child permitted to live in the unit pursuant to 14 DCMR §5120.4.

5901.5 DCHA initiates interim reexaminations at any time to correct errors in the initial examination or a previous reexamination, investigate a tenant fraud complaint, address a multiple subsidy report, and for other reasons deemed appropriate by DCHA.

5901.6 DCHA conducts interim reexaminations in each of the following instances:

(a) If the family has reported zero income, DCHA will conduct an interim reexamination every six (6) months as long as the family continues to report that they have no income. Zero income families are families with zero annual income, as calculated under HUD rules. *Example*: A family's only source of income is food stamps. Food stamps are excluded from annual income. This is a zero income family;

(b) If at the time of the biennial/triennial reexamination, it is not feasible to anticipate a level of income for the next twelve (12) months (e.g. seasonal or cyclic income), DCHA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income;

(c) If at the time of the biennial/triennial reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, DCHA will conduct an interim reexamination; and

(d) If at the time of the biennial/triennial reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, DCHA will conduct an interim reexamination.

5901.7 Zero Income families are required to report all increases in income between biennial/triennial reexaminations.

(a) Other than Zero income families, families are not required to report increases in income between biennial/triennial reexaminations.

(b) DCHA only conducts interim reexaminations for zero income families reporting an increase in income.

(c) Families are not required to report any other changes in income or expenses.

5901.8 The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination. DCHA must process the request if the family reports a change that will result in a reduced family income.

(a) If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced.

(b) If a family reports a change that it was not required to report and that would result in an increase in the family share of the rent, DCHA will note the information in the tenant file, but will not conduct an interim reexamination.

(c) If a family reports a change that it was not required to report and that would result in a decrease in the family share of the rent, DCHA will conduct an interim reexamination.

(d) Families may report changes in income or expenses at any time.

5901.9 The family must notify DCHA of changes in writing. If the family provides oral notice, DCHA will also require the family to submit the changes in writing. The family will not be required to attend an interview for an interim reexamination. Based on the type of change reported, DCHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within ten (10) business days of receiving a request from DCHA. This time frame may be extended for good cause with DCHA approval. The DCHA will accept required documentation by mail, by email, in person, or through DCHA's portal.

5901.10 DCHA has determined that the effective dates for changes required due to an interim reexamination are as follows:

(a) If the family share of the rent is to increase:

(1) The increase generally will be effective on the first of the month following thirty (30) days' notice to the family.

(2) If a family fails to report a change within the required time frames or fails to provide all required information within the required time frames, the increase will be applied retroactively to the date it would have been effective had the information been provided on a

timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement.

(b) If the family share of the rent is to decrease, then the decrease will be effective on the first day of the month following the month in which the change was reported, and all required documentation was submitted. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

5902 RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

5902.1 After gathering and verifying the required information for an annual or interim reexamination, DCHA must recalculate the family share of the rent and the subsidy amount, and notify the family and owner of the changes. This § 5902 lays out policies that affect these calculations during a reexamination.

5902.2 To calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the DCHA's calculations.

5902.3 The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of the unit, and the area in which the unit is located.

5902.4 When DCHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

(a) If the DCHA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:

(1) If the payment standard amount has increased, the increased payment standard will be applied at the first annual reexamination following the effective date of the increase in the payment standard.

(2) If the payment standard amount has decreased, during the term of a HAP contract, DCHA is not required to reduce the payment standard if the HAP contract remains in effect. At the family's second annual reexamination, DCHA may, but is not required to, apply the decreased payment standard or may gradually implement the reduced payment standard.

(b) If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current

payment standard applicable to the family will be used when the new HAP contract is processed.

5902.5 If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in DCHA's subsidy standards, the new family unit size must be used to determine the payment standard amount for the family at the family's first annual reexamination following the change in family unit size.

5902.6 The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or the DCHA's utility allowance schedule.

5902.7 When there are changes in the utility arrangement with the owner, DCHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

5902.8 At reexamination, revised utility allowances will be applied to a family's rent and subsidy calculations at the first biennial/triennial reexamination after the allowance is adopted.

5902.9 DCHA must notify the owner and family of any changes in the amount of the HAP payment. The notice must include the following information:

(a) The amount and effective date of the new HAP payment;

(b) The amount and effective date of the new family share of the rent; and

(c) The amount and effective date of the new tenant rent to the owner.

5902.10 The family must be given an opportunity for an informal hearing regarding DCHA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment.

(a) The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment.

(b) The notice will state the family has the right to request an explanation of how the assistance was calculated and if the family disagrees, they have the right to an informal hearing. The notice will include the procedures for requesting an informal hearing.

5902.11 During an annual or interim reexamination, DCHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, DCHA may discover errors made by the

DCHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made.

Chapter 76, HOUSING CHOICE VOUCHER PROGRAM: WAITING LISTS, LOCAL PREFERENCES, AND APPLICANT SELECTION, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 76

TERMINATION OF ASSISTANCE AND TENANCY

7600 TERMINATION OF HCV ASSISTANCE – EVICTION

7600.1 DCHA shall terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease.

7600.2 A family will be considered evicted if the family moves after a legal eviction order has been issued, whether physical enforcement of the order was necessary.

7600.3 If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory.

7600.4 In such cases DCHA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any alternative measures.

7600.5 In making its decision, DCHA will consider the factors described in § 7611 and § 7613. Upon consideration of such factors, DCHA may, on a case-by-case basis, choose not to terminate assistance.

7600.6 For purposes of this § 7600, "serious and repeated lease violations" will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests.

7601 TERMINATION OF HCV ASSISTANCE – FAILURE TO PROVIDE REQUIRED INFORMATION

7601.1 DCHA must terminate assistance if a participant family:

(a) Does not sign and submit any consent form or to provide required documentation they are required to submit for a regular or interim reexamination;

(b) Fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status;

(c) Does not produce evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family;

(d) Knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. In this case, such termination must be for a period of at least twenty-four (24) months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated; or

(e) Does not disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number. DCHA will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of ninety (90) calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

7602 TERMINATION OF HCV ASSISTANCE – METHAMPHETAMINE CONVICTION

7602.1 DCHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

7603 TERMINATION OF HCV ASSISTANCE – REGISTERED SEX OFFENDERS

7603.1 If DCHA discovers that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, DCHA must immediately terminate assistance for the household member.

7603.2 In this situation, DCHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, DCHA must terminate assistance for the household.

7604 TERMINATION OF HCV ASSISTANCE – CERTAIN FULL TIME STUDENTS

7604.1 If a student enrolled at an institution of higher education is under the age of twenty-four (24), is not a veteran, is not married, does not have dependent children, is not residing with their parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, DCHA must the terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

7604.2 If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated but must be issued a voucher to move with continued assistance in accordance with program regulations and DCHA policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

7605 TERMINATION OF HCV ASSISTANCE – DEATH

7605.1 DCHA must immediately terminate program assistance for deceased single member households.

7606 TERMINATION OF HCV ASSISTANCE – CERTAIN DRUG & ALCOHOL USE

7606.1 DCHA will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

7606.2 DCHA will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents. "Currently engaged in" is defined as any use of illegal drugs during the previous three months.

7606.3 DCHA will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

7606.4 A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

7606.5 In making its decision to terminate assistance, DCHA will consider alternatives and other factors described in § 7611 and § 7613. Upon consideration of such alternatives and factors, DCHA may, on a case-by-case basis, choose not to terminate assistance.

7606.6 For purposes of this section, the following definitions apply:

(a) "Drug" means a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. §802).

(b) "Drug-related criminal activity" is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

(c) "Violent criminal activity" means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

7607 TERMINATION OF HCV ASSISTANCE – OTHER GROUNDS

7607.1 DCHA shall terminate HCV assistance in the following instances:

(a) The family has failed to comply with any family obligations under the program.

(b) Any family member has been evicted from federally assisted housing in the last five (5) years.

(c) Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

(d) The family currently owes rent or other amounts to DCHA or any DCHA in connection with Section 8 or public housing assistance under the 1937 Act.

(e) The family has not reimbursed DCHA or any DCHA for amounts the DCHA or any DCHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

(f) The family has breached the terms of a repayment agreement entered into with DCHA.

(g) A family member has engaged in or threatened violent or abusive behavior toward DCHA personnel. "Abusive or violent behavior towards DCHA personnel" includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

"Threatening" refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

(h) If the family is absent from the unit for more than one hundred eighty (180) consecutive calendar days. In this case "absence" means no member of the family is residing in the unit.

(i) In making its decision to terminate assistance, DCHA may consider alternatives as described in § 7613 and other factors described in § 7611. Upon consideration of such alternatives and factors, DCHA may, on a case-by-case basis, choose not to terminate assistance.

7608 TERMINATION OF HCV ASSISTANCE – INSUFFICIENT FUNDS

7608.1 DCHA may terminate HAP contracts it determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

7608.2 DCHA shall determine whether there is sufficient funding to pay for currently assisted families. If DCHA determines there is a shortage of funding, prior to terminating any HAP contracts, DCHA will determine if any other actions can be taken to reduce program costs.

7608.3 In the event that DCHA decides to stop issuing vouchers as a result of a funding shortfall, and DCHA is not assisting the required number of special purpose vouchers (NED families, HUD-Veterans Affairs Supportive Housing (VASH) families, and family unification program (FUP) families), when DCHA resumes issuing vouchers, DCHA will issue vouchers first to the special purpose voucher families on its waiting list until it has reached the required number of special purpose vouchers, when applicable.

7608.4 If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, DCHA will terminate HAP contracts as a last resort.

7608.5 Prior to terminating any HAP contracts, DCHA will inform the local HUD field office. DCHA will terminate the minimum number needed in order to reduce HAP costs to a level within the DCHA's annual budget authority.

7608.6 If DCHA must terminate HAP contracts due to insufficient funding, DCHA will do so in accordance with the following criteria and instructions:

(a) Families who have been assisted in the HCV program the longest will be the first to be terminated, excluding families that include elderly or disabled family members; and

(b) Families comprising the required number of special purpose vouchers, including nonelderly disabled (NED), HUD-Veteran's Affairs Supportive Housing (HUD-VASH), and family unification program (FUP) will be the last to be terminated.

7609 APPROACH TO TERMINATION OF ASSISTANCE

7609.1 Termination of assistance for a participant may include any or all of the following:

(a) Terminating housing assistance payments under a current HAP contract;

(b) Refusing to enter into a new HAP contract or approve a lease; or

(c) Refusing to process a request for or to provide assistance under portability procedures.

7609.2 As a condition of continued assistance, DCHA may require that any household member who participated in or was responsible for an offense no longer resides in the unit. As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon DCHA's request.

7609.3 If a family owes amounts to the DCHA, as a condition of continued assistance, DCHA shall require the family to repay the full amount or to enter into a repayment agreement, within thirty (30) days of receiving notice from DCHA of the amount owed.

7609.4 DCHA shall terminate assistance if a "preponderance of the evidence" indicates that a household member has engaged in criminal activity, regardless of whether the household member has been arrested or convicted. "Preponderance of the evidence" is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

7610 USE OF CONVICTION REGULATIONS AFTER ADMISSION TO PROGRAM

7610.1 HUD regulations do not permit DCHA to access records held by federal law enforcement agencies for lease enforcement and eviction of HCV participants and excludes by omission DCHA's use of records to terminate assistance for participants.

7610.2 The limitations to accessing and using those record, however, do not apply to criminal conviction information searches from non-federal sources (i.e., sources other than the "law enforcement agencies" defined in 24 CFR §5.902(b)). There is no prohibition that bars DCHA from using non-federal sources to conduct criminal background checks of program participants.

7611 CONSIDERATIONS OF CIRCUMSTANCES

7611.1 DCHA may, at its discretion, consider all relevant circumstances when determining whether a family's assistance should be terminated including:

(a) The seriousness of the case, especially with respect to how it would affect other residents' safety or property;

(b) The effects that termination of assistance may have on other members of the family who were not involved in the action or failure to act;

(c) The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or a victim of domestic violence, dating violence, sexual assault or stalking;

(d) The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future; and

(e) While a record or records of arrest will not be used as the sole basis for termination, an arrest may, however, trigger an investigation to determine whether the participant engaged in disqualifying criminal activity. As part of its investigation, DCHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The DCHA may also consider:

(1) Any statements made by witnesses or the participant not included in the police report;

(2) Whether criminal charges were filed;

(3) Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal;

(4) Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity;

(5) Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property;

(6) In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully. DCHA will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully; and

(7) In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family.

7611.2 If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, DCHA shall determine whether the behavior is related to the disability.

7611.3 If so, upon the family's request, DCHA will determine whether alternative measures are appropriate as reasonable accommodation. DCHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance.

7612 VAWA-RELATED CONSIDERATIONS FOR TERMINATION OF ASSISTANCE

7612.1 VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, sexual assault or stalking.

(a) First, VAWA provides that DCHA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to DCHA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed they were imminently threatened by harm from further violence if they remained in the unit;

(b) Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim;

(c) Third, it provides that criminal activity directly related to domestic violence, dating violence, sexual assault or stalking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is

the one engaging in the criminal activity and the tenant or affiliated individual or other individual is the actual or threatened victim of the domestic violence, dating violence, or stalking; and

(d) Fourth, it gives DCHA the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence.

7612.2 VAWA does not limit the authority of DCHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, sexual assault or stalking so long as DCHA does not subject the victim to a more demanding standard than it applies to other program participants.

7612.3 VAWA does not limit the authority of DCHA to terminate the assistance of victim of domestic violence, dating violence, sexual assault or stalking if DCHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance.

7612.4 HUD regulations define "actual and imminent threat" to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

(a) The duration of the risk;

(b) The nature and severity of the potential harm;

(c) The likelihood that the potential harm will occur; and

(d) The length of time before the potential harm would occur.

7612.5 In order to demonstrate an actual and imminent threat, DCHA must have objective evidence of words, gestures, actions, or other indicators.

7612.6 Even when a victim poses an actual and imminent threat, however, HUD regulations authorize DCHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat."

7612.7 In determining whether a program participant who is a victim of domestic violence, dating violence, sexual assault or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, DCHA will consider the following, and any other relevant, factors:

(a) Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault or stalking;

(b) Whether the threat is a physical danger beyond a speculative threat;

(c) Whether the threat is likely to happen within an immediate time frame; and

(d) Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat.

7612.8 If the participant wishes to contest DCHA's determination that they are an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

7612.9 When an individual facing termination of assistance for reasons related to domestic violence, dating violence, sexual assault or stalking claims protection under VAWA, the DCHA will request that the individual provide documentation supporting the claim in accordance.

7612.10 DCHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases DCHA will document the waiver.

7612.11 VAWA does not provide such protection for perpetrators of domestic violence. VAWA gives DCHA the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others" without terminating assistance to "or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant."

7612.12 DCHA will terminate assistance to a family member if DCHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, non-culpable family members.

7612.13 In making its decision, DCHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to DCHA by the victim in accordance with this § 7612. Upon such consideration, DCHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

7612.14 If DCHA does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this § 7600.

7612.15 Whenever a family's assistance will be terminated, DCHA shall:

(a) Issue a written notice of termination to the family and to the owner that states the date the termination will take effect, which generally shall be 30 days from the issuance of the notice, but DCHA may make exceptions when HUD rules or the circumstances require;

(b) Send a form HUD-5382 and form HUD-5380 to the family with the termination notice; and

(c) Advise the owner of their right to offer the family a separate, unassisted lease.

7612.16 If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination must include VAWA information and a form HUD-5382 and form HUD-5380. DCHA will request in writing that a family member wishing to claim protection under VAWA notify the DCHA within fourteen (14) business days.

7612.17 Other notice requirements apply in two (2) situations:

(a) If a criminal record is the basis of a family's termination, the DCHA must provide a copy of the record to the subject of the record and the tenant so that they have an opportunity to dispute the accuracy and relevance of the record; and

(b) If immigration status is the basis of a family's termination the special notice requirements in § 7612 must be followed.

7613 TERMINATION OF TENANCY BY THE OWNER

7613.1 Termination of an assisted tenancy is a matter between the owner and the family; DCHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy. Termination of tenancy for certain reasons will also result in termination of assistance as discussed in this section.

7613.2 During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease (such as failure to pay rent), certain violations of state or local law, or other good cause, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking and the victim is protected from eviction by the Violence against Women Act of 2013.

7613.3 DCHA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

7613.4 The owner is permitted to terminate the tenancy if:

(a) A family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

(b) If any "covered person" - meaning any member of the household, a guest, or another person under the tenant's control - engages in any of the following types of criminal activity:

(1) Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);

(2) Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;

(3) Any violent criminal activity on or near the premises;

(4) Any drug-related criminal activity on or near the premises;

(5) However, in the case of criminal activity directly related to domestic violence, dating violence, sexual assault or stalking, if the tenant or an affiliated individual is the victim, the criminal activity may not be construed as cause for terminating the victim's tenancy.

(c) The owner may terminate tenancy during the term of the lease if any member of the household is:

(1) Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or

(2) Violating a condition of probation or parole imposed under federal or state law.

(d) The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens

the health, safety, or right to peaceful enjoyment of the premises by other residents.

(e) The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction. This is the case except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, sexual assault, or stalking, and the tenant or an affiliated individual is the victim or threatened victim of the domestic violence, dating violence, sexual assault, or stalking.

(f) During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

(g) After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

(1) Failure by the family to accept the offer of a new lease or revision;

(2) The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or

(3) A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

(h) After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

(i) If a property is subject to foreclosure, during the term of the lease, the new owner of the property does not have good cause to terminate the tenant's lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a ninety (90) day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a ninety (90) day notice to vacate.

7613.5 The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not

terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

(a) The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

(b) Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give DCHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the DCHA a copy of any eviction notice.

(c) If the eviction action is finalized in court, the owner must provide DCHA with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

7613.6 An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

(a) The nature of the offending action;

(b) The seriousness of the offending action;

(c) The effect on the community of the termination, or of the owner's failure to terminate the tenancy;

(d) The extent of participation by the leaseholder in the offending action;

(e) The effect of termination of tenancy on household members not involved in the offending activity;

(f) The demand for assisted housing by families who will adhere to lease responsibilities;

(g) The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action; or

(h) The effect of the owner's action on the integrity of the program.

7613.7 The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

7613.8 In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully. For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

7613.9 The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR § 5.105.

7613.10 An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, sexual assault or stalking is limited by the Violence against Women Act of 2013 (VAWA) and the conforming regulations in 24 CFR Part 5, Subpart L.

7613.11 If a termination is not due to a serious or repeated violation of the lease, and if DCHA has no other grounds for termination of assistance, DCHA may issue a new voucher so that the family can move with continued assistance.

7613.12 Following is a listing of a participant family's obligations under the HCV program:

(a) The family must supply any information that the DCHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status;

(b) The family must supply any information requested by the DCHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition;

(c) The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information;

(d) Any information supplied by the family must be true and complete;

(e) The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest. Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit;

(f) The family must allow DCHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan;

(g) The family must not commit any serious or repeated violation of the lease;

(1) DCHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction or an owner's notice to evict, police reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge; and

(2) "Serious and repeated lease violations" will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault or stalking will not be construed as serious or repeated lease violations by the victim;

(h) The family must notify the DCHA and the owner before moving out of the unit or terminating the lease. The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the DCHA at the same time the owner is notified;

(i) The family must promptly give the DCHA a copy of any owner eviction notice;

(j) The family must use the assisted unit for residence by the family. The unit must be the family's only residence;

(k) The composition of the assisted family residing in the unit must be approved by the DCHA. The family must promptly notify the DCHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request DCHA approval to add any other family member as an occupant of the unit. The request to add a family member must be submitted in writing and approved prior to the person moving into the unit;

(l) The family must promptly notify the DCHA in writing if any family member no longer lives in the unit;

(m) If the DCHA has given approval, a foster child or a live-in aide may reside in the unit. DCHA has the discretion to adopt reasonable policies

concerning residency by a foster child or a live-in aide, and to define when DCHA consent may be given or denied;

(n) The family must not sublease the unit, assign the lease, or transfer the unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member;

(o) The family must supply any information requested by the DCHA to verify that the family is living in the unit or information related to family absence from the unit;

(p) The family must promptly notify DCHA when the family is absent from the unit. Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than thirty (30) calendar days. Written notice must be provided to DCHA at the start of the extended absence;

(q) The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease;

(r) The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space);

(s) Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program;

(t) Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises;

(u) Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises;

(v) An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program; and

(w) A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the DCHA has determined (and has notified the owner and the family of such determination) that approving

rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities.

Chapter 83, RENT AND HOUSING ASSISTANCE PAYMENTS, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 83

OWNERS

8300 OWNERS IN THE HCV PROGRAM

8300.1 DCHA's Housing Choice Voucher ("HCV") program is designed to enable very low-income families to have access to all types and ranges of affordable housing in the District, particularly housing outside areas of poverty or minority concentration. Accordingly, DCHA works to recruit housing owners representing all types and ranges of suitable housing in the District to participate in the HCV Program. Owners must provide sufficient proof of ownership of a unit to be considered for assistance.

8300.2 When DCHA conducts outreach events, it shall provide notices and communications in a manner that is effective for persons with hearing, visual, and other communications-related disabilities. DCHA shall also take reasonable steps to ensure meaningful access to programs to persons with limited English proficiency.

8300.3 DCHA outreach to owners includes:

(a) Distributing printed material about the program to property owners and managers;

(b) Contacting property owners and managers by phone or in-person;

(c) Holding ongoing virtual owner information sessions;

(d) Participating in community-based organizations comprised of private property and apartment owners and managers;

(e) Developing working relationships with owners, apartment associations, industry investor groups, and real estate brokers associations; and

(f) To the extent practical, partnering with and attending events hosted by other area agencies to deliver information about the HCV program.

8300.4 DCHA shall evaluate its strategies for owner recruitment and shall adapt its approach as appropriate to meet the needs of program participants.

8300.5 DCHA shall endeavor to design the administration of the HCV Program in a manner that encourages participating owners to remain active in the program. DCHA shall:

(a) Conduct activities that affect an owner's ability to lease a unit as rapidly as reasonably possible, to minimize vacancy losses for owners;

(b) Provide owners with information that explains the program, including HUD and DCHA policies and procedures, in easy-to-understand language online;

(c) Support new owners success in the HCV Program by:

(1) Providing the owner with a designated DCHA contact person;

(2) Coordinating inspection and leasing activities between the DCHA, the owner, and the family;

(3) Initiating contact with the owner to direct them to DCHA's online resources that explain the inspection process and provide other information about HUD housing quality standards;

(4) Creating other written information about how the program operates including answers to frequently asked questions; and

(5) Contacting owners to disseminate information; and

(d) Additional services may be undertaken on an as-needed basis, and as resources permit.

8300.6 DCHA assists families in their housing search by maintaining and disseminating a list of landlords or other parties known to DCHA who have indicated a willingness to lease units to HCV participants, or to help HCV participants find a unit. However, per HUD rules DCHA cannot maintain a list of owners that are pre-qualified to participate in the program. DCHA maintains a listing of willing owners and provides this listing to HCV participants as part of the informational briefing packet.

8300.7 Under the HCV Program, DCHA's responsibilities do not include screening participants for suitability for tenancy. Selection of tenants is the responsibility of the owner.

8300.8 If the owner is willing to rent to a household with an HCV, the family must file the following with DCHA:

(a) A completed Request for Tenancy Approval (RTA, Form HUD 52517) with information from the owner and the family. This constitutes the family's request for assistance in the specified unit and documents the owner's willingness to lease to the family and to follow the program's requirements. It is the first step in the process of obtaining DCHA approval for the family to receive HCV assistance for the unit; and

(b) A copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A).

8300.9 DCHA shall evaluate the family's request to rent a unit considering the following:

(a) The selected unit must be of a type that is eligible for the HCV program under HUD rules and regulations. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions;

(b) The owner must be eligible to participate in the HCV program;

(c) The selected unit must meet HUD's Housing Quality Standards (HQS);

(d) The owner has provided DCHA acceptable documentation of legal ownership (e.g., deed, deed of trust, proof of taxes for most recent year); and

(e) DCHA must determine that the proposed rent for the unit is reasonable under HUD rules and regulations.

8300.10 At initial lease-up of a unit, if the gross rent exceeds the applicable payment standard, DCHA must ensure that the family share does not exceed 40 percent of the family's monthly adjusted income.

8300.11 The dwelling lease must comply with all program requirements. Owners must use the HUD-required Tenancy Addendum word-for-word as a part of the owner's lease.

8300.12 Once DCHA has determined that the unit meets program requirements, DCHA and the owner must execute a Housing Assistance Payment (HAP) Contract (Form HUD-52641).

8300.13 The basic owner responsibilities in the HCV program are fully described in HUD rules and regulations, as well as the HAP contract. Such responsibilities include:

(a) Complying with all of the owner's obligations under the housing assistance payments (HAP) contract and the lease;

(b) Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit;

(c) Maintaining the unit in accordance with HQS, including performance of ordinary and extraordinary maintenance;

(d) Complying with equal opportunity and fair housing requirements;

(e) Preparing and furnishing to DCHA information required under the HAP contract;

(f) Collecting the security deposit, the tenant rent, and any charges for unit damage by the family;

(g) Enforcing tenant obligations under the dwelling lease;

(h) Paying for utilities and services that are not the responsibility of the family as specified in the lease;

(i) Allowing reasonable modifications to a dwelling unit occupied or to be occupied by a disabled person; and

(j) Complying with the Violence against Women Reauthorization Act of 2013 (VAWA) when screening prospective HCV tenants or terminating the tenancy of an HCV family.

8300.14 DCHA shall not approve assistance of a unit if the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct DCHA not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

8300.15 DCHA shall not approve a tenancy if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. HAP contracts in effect on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

8300.16 DCHA has the discretion to make an exception as a reasonable accommodation for a family member with a disability.

8300.17 DCHA must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

(a) Any present or former member or officer of DCHA (except a participant commissioner);

(b) Any employee of DCHA, or any contractor, subcontractor, or agent of the DCHA, who formulates policy or who influences decisions with respect to the programs;

(c) Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs; or

(d) Any member of the Congress of the United States.

8300.18 (a) Such "covered individual" may not have any direct or indirect interest in the HAP contract or in any benefits or payments under the contract (including the interest of an immediate family member of such covered individual) while such person is a covered individual or for one year thereafter.

(b) "Immediate family member" means the spouse, parent (including a stepparent), child (including a stepchild), grandparent, grandchild, sister, or brother (including a stepsister or stepbrother) of any covered individual.

8300.19 In cases where good cause exists, DCHA has the discretion to request a waiver from HUD regarding the conflict-of-interest requirements, except for members of Congress, to permit a requested tenancy to proceed.

8300.20 In considering whether to request a conflict of interest waiver from HUD, DCHA will consider certain factors such as consistency of the waiver with state and local laws, the existence of alternative housing available to families, the individual circumstances of a particular family, the specific duties of individuals whose positions present a possible conflict of interest, the nature of any financial investment in the property and plans for disclosure/divestiture, and the possible appearance of impropriety.

8300.21 If DCHA determines that a waiver request is warranted, it shall submit a waiver request to the HUD Field Office for determination. Any waiver request shall include the following:

(a) Complete statement of the facts of the case;

(b) Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;

(c) Analysis of and statement of consistency with state and local. The local HUD office, the DCHA, or both parties may conduct this analysis. Where appropriate, an opinion by the District's attorney general should be obtained;

(d) Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;

(e) Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;

(f) If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;

(g) If the case involves a public official or member of the governing body, explanation of their duties under state or local law, including reference to any responsibilities involving the HCV program;

(h) If the case involves employment of a family member by DCHA or assistance under the HCV program for an eligible DCHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program; and

(i) If the case involves an investment on the part of a member, officer, or employee of the DCHA, description of the nature of the investment, including disclosure/divestiture plans.

8300.22 Where DCHA has requested a conflict-of-interest waiver from HUD, it is not permitted to execute the HAP contract until HUD has made a decision on the waiver request.

8300.23 DCHA is authorized to disapprove a request for tenancy for various actions and inactions of the owner.

8300.24 If DCHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units.

8300.25 DCHA shall refuse to approve a request for tenancy if it becomes aware of any of the following:

(a) The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. §1437f);

(b) The owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;

(c) The owner has engaged in any drug-related criminal activity or any violent criminal activity;

(d) The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;

(e) The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that:

(1) Threatens the right to peaceful enjoyment of the premises by other residents;

(2) Threatens the health or safety of other residents, of employees of DCHA, or of owner employees or other persons engaged in management of the housing;

(3) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or

(4) Is drug-related criminal activity or violent criminal activity; or

(f) The owner has a history or practice of renting units that fail to meet state or local housing codes.

8300.26 DCHA shall consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others. Upon consideration of such circumstances, DCHA has the discretion to, on a case-by-case basis, choose to approve an owner.

8300.27 The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with DCHA.

8300.28 The owner must cooperate with DCHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with DCHA.

8301 HAP CONTRACTS

8301.1 The HAP contract is the written agreement between DCHA and the owner of the dwelling unit occupied by a HCV assisted family.

8301.2 The HAP contract is used for all HCV tenant-based program tenancies except for assistance under the Section 8 homeownership program, assistance to families that own a manufactured home and use their assistance to lease the space for the manufactured home, and the Project Based Voucher program.

8301.3 When DCHA has determined that the unit meets program requirements and the tenancy is approvable, DCHA and owner must execute the HAP contract.

8301.4 The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

8301.5 In general, the HAP contract cannot be modified. However, DCHA may add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit more than private market practices or in excess of amounts charged to unassisted tenants.

8301.6 Subject to the provisions of the HAP contract, DCHA must make monthly HAP payments to the owner on behalf of the family at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

8301.7 [RESERVED]

8301.8 DCHA must notify the owner and the family in writing of any changes in the HAP payment.

8301.9 HAP payments can be made only during the lease term, and only while the family is residing in the unit.

8301.10 The monthly HAP payment by DCHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant and the HAP payment is equal to the rent to owner as specified in the lease.

8301.11 The family is not responsible for payment of the HAP payment, and DCHA is not responsible for payment of the family share of rent.

8301.12 The family's share of the rent cannot be more than the difference between the rent to owner and the HAP payment.

8301.13 The owner may not:

(a) Demand or accept any rent payment from the tenant in excess of this maximum, or

(b) Charge the tenant extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

8301.14 If the owner receives any excess HAP from DCHA the excess amount must be returned immediately.

8301.15 If DCHA determines that the owner is not entitled to all or a portion of the HAP, DCHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract.

8301.16 Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract.

8301.17 By accepting the monthly check from DCHA, the owner certifies that it is:

(a) Complying with the terms of the HAP contract;

(b) Maintaining the unit and premises in accordance with HQS;

(c) Leasing the contract unit to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence;

(d) Charging the same rent for the contract unit as the rents charged by the owner for comparable unassisted units on the premises; and

(e) Not receiving (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

8301.18 DCHA is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for late penalties if DCHA fails to make the HAP payment on time.

8301.19 Penalties for late HAP payments may only be imposed if:

(a) The penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants;

(b) It is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and

(c) The owner charges the assisted family for late payment of the family's share of the rent.

8301.20 DCHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond DCHA's control. In addition, late payment penalties are not required if DCHA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract.

8301.21 DCHA must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

8301.22 HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

8301.23 If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, DCHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant. In addition, the owner has the following obligations:

(a) The owner must inform DCHA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit;

(b) The owner must inform DCHA when the owner has obtained a court judgment or other process allowing the owner to evict the tenant and provide DCHA with a copy of such judgment or determination; and

(c) After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, DCHA will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform DCHA of the date when the family actually moves from the unit or the family is physically evicted from the unit.

8301.24 Any of the following actions by the owner constitutes a breach of the HAP contract:

(a) If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS;

(b) If the owner has violated any obligation under any other HAP contract under Section 8;

(c) If the owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;

(d) For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulation for the applicable program; or if the owner has committed fraud, bribery, or any other corrupt or criminal act in connection with the mortgage or loan;

(e) If the owner has engaged in drug-related criminal activity; and

(f) If the owner has committed any violent criminal activity.

8301.25 If DHCA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

8301.26 DHCA rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment, or termination of the HAP contract. DHCA may also obtain additional relief by judicial order or action.

8301.27 DCHA must notify the owner of its determination and provide in writing the reasons for the determination.

8301.28 Before DCHA invokes a remedy against an owner, DCHA evaluates all information and documents available to determine if the contract has been breached and, if relevant, shall conduct an audit of the owner records pertaining to the unit or units.

8301.29 If it is determined that the owner has breached the contract, DCHA shall consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance, and the number and seriousness of any prior HAP contract violations.

8301.30 The notice may require the owner to take corrective action by an established deadline. DCHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

8301.31 The term of the HAP contract runs concurrently with the term of the dwelling lease, beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

8301.32 The HAP contract and the housing assistance payments made under the HAP contract terminate if:

(a) The owner or the family terminates the lease;

(b) The lease expires;

(c) DCHA terminates the HAP contract;

(d) DCHA terminates assistance for the family;

(e) The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit;

(f) 180 calendar days have elapsed since DCHA made the last housing assistance payment to the owner;

(g) The family is absent from the unit for longer than the maximum period permitted by DCHA;

(h) The Annual Contributions Contract (ACC) between DCHA and HUD expires; and

(i) DCHA elects to terminate the HAP contract.

8301.33 DCHA may terminate the HAP contract in each of the following situations:

(a) Available program funding is not sufficient to support continued assistance for families in the program;

(b) The unit does not meet HQS size requirements due to change in family composition;

(c) The unit does not meet HQS;

(d) The family breaks up; or

(e) The owner breaches the HAP contract.

8301.34 If DCHA terminates the HAP contract, it shall give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments are authorized under the HAP.

8301.35 DCHA policy provides that in the case of HAP contract determinations:

(a) Generally, the HAP contract terminates at the end of the calendar month that follows the calendar month in which DCHA gives written notice to the owner;

(b) DCHA cannot make any HAP payment for any month after the month the family vacates the unit; and

(c) The owner is not entitled to any housing assistance payment after this period and must return to the DCHA any housing assistance payment received after this period.

8301.36 If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required.

8301.37 When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy.

8301.38 The HAP contract cannot be assigned to a new owner without the prior written consent of DCHA.

8301.39 An owner under a HAP contract must notify DCHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by DCHA.

8301.40 Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that DCHA finds acceptable.

8301.41 The new owner must provide DCHA with a copy of the executed agreement. In addition, the following apply:

(a) Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program;

(b) DCHA must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date

of the assignment to change the HAP payee under an outstanding HAP contract; and

(c) Within 10 business days of receiving the owner's request, DCHA will inform the current owner in writing whether the assignment may take place.

8301.42 The new owner must provide a written certification to DCHA that includes:

(a) A copy of the escrow statement or other document showing the transfer of title and recorded deed;

(b) A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;

(c) The effective date of the HAP contract assignment;

(d) A written agreement to comply with the terms of the HAP contract; and

(e) A certification that the new owner is not prohibited from participating in the HCV Program due to a conflict of interest or other HCV Program requirements.

8301.43 If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, DCHA will terminate the HAP contract with the old owner.

8301.44 If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, DCHA will process the leasing.

8301.45 Families receiving HCV assistance are entitled to certain protections set forth under the Protecting Tenants at Foreclosure Act (PTFA).

8301.46 During the term of the lease, the new owner of the property does not have good cause to terminate the tenant's lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a ninety (90) day notice.

8301.47 In the case where the new owner will occupy the unit as their primary residence, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a ninety (90) day notice to vacate.

8301.48 The new owner assumes interest in the lease between the prior owner and the tenant and to the HAP contract. Any state or local law that provides longer

time periods or other additional protections for tenants also applies. In addition, DCHA applies the following policies:

(a) If a property is in foreclosure, DCHA will make all reasonable efforts to determine the status of the foreclosure and ownership of the property and will continue to make payments to the original owner until ownership legally transfers in accordance with the HAP contract;

(b) DCHA will attempt to obtain a written acknowledgement of the assignment of the HAP contract from the successor in interest. This will include a request for owner information, including a tax identification number and payment instructions from the new owner. Even if the new owner does not acknowledge the assignment of the HAP contract in writing, the assignment is still effective by operation of law;

(c) DCHA will inform the tenant that they must continue to pay rent in accordance with the lease, and if the new owner refuses to accept payment or cannot be identified, the tenant should pay rent into escrow. Failure to pay rent may constitute an independent ground for eviction;

(d) In the event that the DCHA is unable to make HAP payments to the new owner due to an action or inaction by the new owner that prevents such payments (e.g., rejection of payments or failure to maintain the property according to HQS), or due to an inability to identify the new owner, DCHA will either use the funds to pay:

(1) The utilities that are the owner's responsibility after taking reasonable steps to notify the owner; except that if the unit has been or will be rendered uninhabitable due to termination or threat of termination of service, prior notice is not required. In the latter case, DCHA shall notify the owner within a reasonable time after making the utility payment; or

(2) For the family's reasonable moving costs, including security deposit costs; and

(e) DCHA will also refer the tenant, as needed, to the local legal aid office in order to ensure adequate protection of the tenant's rights and enforcement of the successor in interest's performance under the HAP contract.

Chapter 85, HOUSING CHOICE VOUCHER PROGRAM: PARTICIPANT MOVES, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 85

PROGRAM INTEGRITY

8500 PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

8500.1 DCHA is required by HUD to use the Enterprise Income Verification (EIV) system to prevent errors and detect program abuse in accordance with HUD administrative guidance. DCHA is further required to:

(a) Provide applicants and participants with form HUD-52675, "Debts Owed to PHAs and Terminations;" and

(b) Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file.

8500.2 To ensure that DCHA's HCV program is administered according to the highest ethical and legal standards, DCHA will employ a variety of techniques such as:

(a) Discussing program compliance and integrity issues during the voucher briefing sessions described in Chapter 53 of this Title.

(b) Providing each applicant and participant with a copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

(c) Giving each applicant and participant a copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD, require the head of each household to acknowledge receipt of the guide by signing a copy, and retaining the signed guide in the family file.

(d) Placing a warning statement about the penalties for fraud (as described in 18 U.S.C. §§ 1001 and 1010) on key DCHA forms and form letters that request information from a family or owner.

(e) Requiring DCHA staff to review and explain the contents of all HUD- and DCHA-required forms to the applicant or participant prior to requesting family member signatures.

(f) Explaining any changes in HUD regulations or DCHA policy that affect program participants at reexamination.

(g) Obliging first-time owners (or their agents) participating in the HCV program to attend a briefing session on HAP contract requirements.

(h) Issue periodic information and updates about the HCV program to owners, with an emphasis on actions and situations to avoid.

(i) Supplying each DCHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

8500.3 For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitutes a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

8500.4 In addition to taking steps to prevent errors and program abuse, DCHA will use a variety of activities to detect errors and program abuse.

8500.5 Under the Section 8 Management Assessment Program (SEMAP), HUD requires DCHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance.

8500.6 In addition to the DCHA quality control requirements, DCHA will employ a variety of methods to detect errors and program abuse such as:

(a) Routinely use HUD and other non-HUD sources of up-front income verification. This may include The Work Number and any other private or public databases available to DCHA.

(b) At each biennial/triennial reexamination, compares current information provided by the family to information provided at the last reexamination to identify inconsistencies and incomplete information.

(c) Assess family-reported income and expenditures to detect possible unreported income.

8500.7 DCHA is required to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of DCHA activities and notifies DCHA of errors and potential cases of program abuse.

8500.8 DCHA shall regularly analyze relevant information in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the DCHA's error detection and abuse prevention efforts and revises its processes accordingly.

8500.9 DCHA direct staff, program participants, and the public to report possible program abuse.

8500.10 DCHA shall review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for DCHA to investigate, the allegation must contain at least one independently verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

8500.11 DCHA shall investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

8500.12 DCHA may investigate possible instances of error or abuse using all available DCHA and public records. If necessary, DCHA will require HCV families to sign consent forms for the release of additional information.

8500.13 DCHA's evaluations shall be based on a preponderance of the evidence collected during its investigation.

(a) *Preponderance of the evidence,* for purposes of this Chapter, is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

(b) For each investigation, DCHA will determine:

(1) Whether an error or program abuse has occurred;

(2) Whether any amount of money is owed DCHA; and

(3) What corrective measures or penalties will be assessed.

8500.14 All errors and instances of program abuse must be corrected prospectively. Whether DCHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

8500.15 In the case of family-caused errors or program abuse, the PHA will take into consideration:

(a) The seriousness of the offense and the extent of participation or culpability of individual family members;

(b) Any special circumstances surrounding the case;

(c) Any mitigating circumstances related to the disability of a family member; and

(d) The effects of a particular remedy on family members who were not involved in the offense.

8500.16 In the case of owner-caused errors or program abuse, the PHA will take into consideration:

(a) The seriousness of the offense;

(b) The length of time since the violation has occurred; and

(c) The effects of a particular remedy on family members who were not involved in the offense.

8500.17 DCHA will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include:

(a) A description of the error or program abuse,

(b) The basis on which DCHA determined the error or program abuses,

(c) The remedies to be employed, and

(d) The family's right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

8501 CORRECTIVE MEASURES AND PENALTIES

8501.1 A subsidy under or overpayment includes:

(a) An incorrect housing assistance payment to the owner,

(b) An incorrect family share established for the family, and

(c) An incorrect utility reimbursement to a family.

8501.2 Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, DCHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

(a) Increases in the family share will be implemented on the first of the month following a written thirty (30) day notice.

(b) Any decreases in family share will become effective the first of the month following the discovery of the error.

8501.3 Whether the family or owner is required to reimburse DCHA or DCHA is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

8501.4 An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows DCHA to use incorrect information provided by a third party.

8501.5 In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. DCHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, DCHA will terminate the family's assistance in accordance with the policies in Chapter 76.

8501.6 DCHA shall not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

8501.7 An applicant or participant in the HCV program must not knowingly:

(a) Make a false statement to DCHA; or

(b) Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

8501.8 Any of the following will be considered evidence of family program abuse:

(a) Payment to the owner in excess of amounts authorized by DCHA for rent, security deposit, and additional services;

(b) Offering bribes or illegal gratuities to any member of the DCHA Board of Commissioners, employees, contractors, or other DCHA representatives;

(c) Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to DCHA on the family's behalf;

(d) Use of a false name or the use of falsified, forged, or altered documents;

(e) Intentional misreporting of family information or circumstances (e.g., income, family composition);

(f) Omission facts that were obviously known by a family member (e.g., not reporting employment income);

(g) Admission of program abuse by an adult family member; or

(h) DCHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

8501.9 In the case of program abuse caused by a family DCHA may, at its discretion, impose any of the following remedies.

(a) DCHA may require the family to repay excess subsidy amounts paid by DCHA, as described earlier in this section.

(b) DCHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 53 (for applicants) and Chapter 76 (for participants).

(c) DCHA may deny or terminate the family's assistance following the policies set forth in Chapter 53 and Chapter 76 respectively.

(d) DCHA may refer the family for state or federal criminal prosecution as described in this Chapter.

8501.10 Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

8501.11 An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

8501.12 In all cases of overpayment of subsidy caused by the owner, the owner must repay to DCHA any excess subsidy received. DCHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, DCHA may allow the owner to pay in installments over a period of time.

8501.13 In cases where the owner has received excess subsidy, DCHA will require the owner to repay the amount owed in accordance with the policies in Chapter 91 of this Title.

8501.14 An owner participating in the HCV program must not:

(a) Make any false statement to DCHA; or

(b) Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program including.

8501.15 Any of the following will be considered evidence of owner program abuse:

(a) Charging the family rent above or below the amount specified by DCHA;

(b) Charging a security deposit other than that specified in the family's lease;

(c) Charging the family for services that are provided to unassisted tenants at no extra charge;

(d) Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit;

(e) Knowingly accepting incorrect or excess housing assistance payments;

(f) Offering bribes or illegal gratuities to the DCHA Board of Commissioners, employees, contractors, or other DCHA representatives;

(g) Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the PHA;

(h) Residing in the unit with an assisted family;

(i) Committing sexual or other harassment, either quid pro quo or hostile environment, based on the protected classes defined in Chapter 50; or

(j) Retaliating against any applicant or participant reporting/alleging sexual or other harassment, either quid pro quo or hostile environment, based on the protected classes defined in Chapter 50.

8501.16 When DCHA determines that the owner has committed program abuse, DCHA may take any of the following actions:

(a) Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 91.

(b) Terminate the HAP contract.

(c) Bar the owner from future participation in any DCHA programs.

(d) Refer the case to state or federal officials for criminal prosecution as described in this Chapter 85.

8501.17 The responsibilities and expectations of DCHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a DCHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the DCHA personnel policy.

8501.18 DCHA-caused incorrect subsidy determinations include:

(a) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses;

(b) assigning the incorrect voucher size to a family; and

(c) errors in calculation.

8501.19 Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by DCHA staff.

8501.20 DCHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from DCHA's administrative fee reserves.

8501.21 Any of the following will be considered evidence of program abuse by DCHA staff:

(a) Failing to comply with any HCV program requirements for personal gain;

(b) Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner;

(c) Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the DCHA;

(d) Disclosing confidential or proprietary information to outside parties;

(e) Gaining profit as a result of insider knowledge of DCHA activities, policies, or practices;

(f) Misappropriating or misusing HCV funds;

(g) Destroying, concealing, removing, or inappropriately using any records related to the HCV program; or

(h) Committing any other corrupt or criminal act in connection with any federal housing program

8501.22 When DCHA determines that program abuse by an owner, family, or DCHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, DCHA will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG). Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

8501.23 DCHA may retain a portion of program fraud losses that DCHA recovers from a family or owner through litigation, court order, or a repayment agreement [See, 24 CFR 982.163].

8501.24 DCHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. DCHA may retain the greater of:

(a) Fifty percent (50%) of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement; or

(b) Reasonable and necessary costs that DCHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

8501.25 The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR § 982.555.

8501.26 If HUD incurs costs on behalf of DCHA related to the collection, these costs must be deducted from the amount retained by DCHA.

Chapter 89, INFORMAL HEARING PROCEDURES FOR APPLICANTS AND PARTICIPANTS OF THE HOUSING CHOICE VOUCHER AND MODERATE REHABILITATION PROGRAM, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 89

SPECIAL HOUSING TYPES

8900 SINGLE ROOM OCCUPANCY

8900.1 A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an

SRO unit. HCV regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

8900.2 When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Single room occupancy (SRO) housing."

8900.3 The payment standard for SRO housing is seventy-five percent (75%) of the zero-bedroom payment standard amount on the PHA's payment standard schedule.

8900.4 The utility allowance for an assisted person residing in SRO housing is seventy-five percent (75%) of the zero-bedroom utility allowance.

8900.5 The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the Total Tenant Payment (TTP) or the gross rent for the unit minus the TTP.

8900.6 HQS requirements described in Chapter 8 apply to SRO housing except that sanitary facilities and space and security characteristics must meet local code standards for SRO housing. In the absence of applicable local code standards for SRO housing, the following standards apply:

(a) Access: Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.

(b) Fire Safety: All SRO facilities must have a sprinkler system that protects major spaces. "Major spaces" are defined as hallways, large common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.

(c) Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards, the requirements discussed below apply.

(d) Sanitary Facilities: At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to males, flush urinals may be substituted

for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway to all persons sharing them and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.

(e) Space and Security: An SRO unit must contain at least 110 square feet of floor space, and at least four square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.

8900.7 Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

8901 CONGREGATE HOUSING

8901.1 Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom, and bathroom. Food service for residents must be provided.

8901.2 If approved by DCHA, a family member or live-in aide may reside with the elderly person or person with disabilities. DCHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

8901.3 When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: “This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Congregate housing.”

8901.4 The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area for the assisted family. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), DCHA must use the payment standard for a zero-bedroom unit. If the unit has two (2) or more rooms (other than the bathroom and the kitchen), DCHA must use the one-bedroom payment standard.

8901.5 The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

8901.6 The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.

8901.7 HQS requirements as described in Chapter 8 apply to congregate housing except for the requirements stated below. Congregate housing must have a refrigerator of appropriate size in the private living area of each resident, a central kitchen, and dining facilities located within the premises and accessible to the residents, and food service for the residents, that is not provided by the residents themselves.

8901.8 The congregate housing must contain adequate facilities and services for the sanitary disposal of food waste and refuse, including facilities for temporary storage where necessary.

8901.9 The housing quality standards applicable to lead-based paint do not apply unless a child under the age of six is expected to reside in the unit.

8902 GROUP HOME

8902.1 A group home is a state-approved (licensed, certified, or otherwise approved in writing by the state) facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

8902.2 A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents. No more than twelve (12) persons may reside in a group home including assisted and unassisted residents and any live-in aides.

8902.3 If approved by DCHA, a live-in aide may live in the group home with a person with disabilities. DCHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

8902.4 When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following

special housing type under HUD regulations for the Section 8 voucher program: Group home."

8902.5 Unless there is a live-in aide, the family unit size (voucher size) for an assisted occupant of a group home must be zero - or one - bedroom. If there is a live-in aide, the aide must be counted in determining the household's unit size.

8902.6 The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the pro-rata share of the payment standard for the group home size. The pro-rata share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home. The number of persons in the assisted household equals one assisted person plus any DCHA-approved live-in aide.

8902.7 The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

8902.8 The utility allowance for an assisted occupant in a group home is the prorata share of the family unit size to the utility allowance for the group home.

8902.9 The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the pro-rata portion of the reasonable rent for the group home. In determining reasonable rent, DCHA must consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

8902.10 The entire unit must comply with HQS requirements described in Chapter 8, except for the requirements stated below.

(a) Sanitary Facilities: A group home must have at least one bathroom in the facility, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.

(b) Food Preparation and Service: Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.

(c) Space and Security: Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community

space that may be shared with other residents. Doors and windows accessible from outside the unit must be lockable.

(d) Structure and Material: To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.

(e) Site and Neighborhood: Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from disturbing noises and reverberations, and other hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:

(1) Dangerous walks or steps;

(2) Instability;

(3) Flooding, poor drainage;

(4) Septic tank back-ups, sewage hazards;

(5) Mud slides;

(6) Abnormal air pollution;

(7) Smoke or dust;

(8) Excessive noise;

(9) Vibrations or vehicular traffic;

(10) Excessive accumulations of trash;

(11) Vermin or rodent infestation; and

(12) Fire hazards.

8902.11 The housing quality standards applicable to lead-based paint do not apply unless a child under the age of six is expected to reside in the unit.

8903 SHARED HOUSING

8903.1 Families in markets with tight rental conditions or with a prevalence of single-family housing may determine a shared housing living arrangement to be a useful way to secure affordable housing.

8903.2 Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The unit may be a house or an apartment. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

8903.3 An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons.

8903.4 Shared housing may be offered in several ways, including for-profit co-living (such as a boarding house, single bedroom with common living room/kitchen/dining room) run by a private company.

8903.5 The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

8903.6 If approved by DCHA, a live-in aide may reside with the family to care for a person with disabilities. DCHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

8903.7 DCHA will work with local jurisdictions as necessary to identify solutions consistent with fair housing laws and will inform HUD if it encounters barriers to shared housing that conflict with fair housing laws. Families will be advised they can conduct their own internet search. Families will be cautioned to not enter into any rental agreement or pay any deposit or rental payment until the tenancy is approved by DCHA.

8903.8 When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: “This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Shared housing.”

8903.9 The payment standard for a family in shared housing is the lower of the payment standard for the family unit size (voucher size) or the pro-rata share of the payment standard for the shared housing unit size.

8903.10 The pro-rata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private, non-shared space by the total number of bedrooms in the unit.

Example:

Family holds a two-bedroom voucher.
Shared housing unit size: bedrooms available to assisted family: 2
Total bedrooms in the unit: 3
2 Bedrooms for assisted family ÷ 3 Bedrooms in the unit = .667 pro-rata share
2 BR payment standard: $1200
3 BR payment standard: $1695 x .667 (pro-rata share) = $1131
$1131 is lower than the $1200 payment standard for the 2 BR family unit size.
$1131 is the payment standard used to calculate the HAP.

8903.11 The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

8903.12 The utility allowance for an assisted family living in shared housing is the pro-rata share of the utility allowance for the shared housing unit.

Example:

A family holds a 2-bedroom voucher.
The family decides to occupy 3 out of 4 bedrooms available in the unit.
The utility allowance for a 4-bedroom unit equals $200.
The utility allowance for a 2-bedroom unit equals $100.
The pro-rata share of the utility allowance is $150 (3/4 of $200).
The PHA will use the 2-bedroom utility allowance of $100.

8903.13 The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the pro-rata portion of the reasonable rent for the shared unit. In determining reasonable rent, the DCHA may consider whether sanitary and food preparation areas are private or shared.

8903.14 DCHA may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

8903.15 HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below.

(a) Facilities Available for the Family: Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.

(b) Space and Security: The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an

assisted family must not be less than the family unit size (voucher size). A zero-bedroom or one-bedroom unit may not be used for shared housing.

8904 COOPERATIVE HOUSING

8904.1 This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased membership under the HCV homeownership option, or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

8904.2 A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged "rent" a cooperative member is charged a "carrying charge." The monthly carrying charge includes the member's share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. It does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

8904.3 The occupancy agreement or lease and other appropriate documents must provide that the monthly carrying charge is subject to Section 8 limitations on rent to owner, and the rent must be reasonable as compared to comparable unassisted units.

8904.4 When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Cooperative housing."

8904.5 The payment standard and utility allowance are determined according to regular HCV program requirements.

8904.6 The HAP for a cooperative housing unit is the lower of the payment standard minus the TTP or the gross rent (monthly carrying charge for the unit, plus any utility allowance) minus the TTP. The monthly carrying charge includes the member's share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. The carrying charge does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

8904.7 All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements. DCHA remedies described in 24 CFR 982.404 do not apply. Rather, if the unit and premises are not maintained in accordance with HQS, DCHA may exercise all available remedies regardless of whether the family or cooperative is responsible for the breach of HQS.

8904.8 No housing assistance payment can be made unless unit meets HQS and the defect is corrected within the period as specified by DCHA and DCHA verifies correction (see Chapter 8).

8904.9 In addition to regular breaches of HQS, breaches of HQS by the family include failure to perform any maintenance for which the family is responsible in accordance with the terms of the cooperative occupancy agreement [HCV GB].

8905 MANUFACTURED HOMES

8905.1 A manufactured home is a manufactured structure, transportable in one or more parts, that is built on a permanent chassis, and designed for use as a principal place of residence. HCV-assisted families may occupy manufactured homes in three different ways.

(a) A family can choose to rent a manufactured home already installed on a space and DCHA must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VI.D below;

(b) A family can purchase a manufactured home under the Housing Choice Voucher Homeownership program; or

(c) HUD rules permit an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space as well as certain other housing expenses. PHAs may, but are not required to, provide assistance for such families.

8905.2 In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.

8905.3 There is a designated HAP Contract (form HUD-52642) and designated Tenancy Addendum (form HUD 52642-A) for this special housing type.

8905.4 The DCHA payment standard for manufactured homes is determined in accordance with 24 CFR § 982.505 and is the payment standard used for the PHA's HCV program. It is based on the applicable FMR for the area in which the manufactured home space is located.

8905.5 The payment standard for the family is the lower of the family unit size (voucher size) or the payment standard for the number of bedrooms in the manufactured home.

8905.6 DCHA establishes utility allowances for manufactured home space rental. For the first twelve (12) months of the initial lease term only, the allowance must include an amount for a utility hook-up charge if the family actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

8905.7 If the amount of the monthly assistance payment for a family exceeds the monthly rent for the manufactured home space (including the owner's monthly management and maintenance charges), DCHA may pay the remainder to the family, lender, or utility company.

8905.8 The rent for the manufactured home space (including other eligible housing expenses) is the total of:

(a) The rent charged for the manufactured home space;

(b) Owner maintenance and management charges for the space;

(c) The monthly payments made by the family to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes; and

(d) The applicable allowance for tenant-paid unities.

8905.9 The monthly payment made by the family to amortize the cost of purchasing the manufactured home is the debt service established at the time of application to a lender for financing the purchase of the manufactured home if monthly payments are still being made. Any increase in debt service due to refinancing after purchase of the home may not be included in the amortization cost. Debt service for set-up charges incurred by a family may be included in the monthly amortization payments made by the family. In addition, set-up charges incurred before the family became an assisted family may be included in the amortization cost if monthly payments are still being made to amortize the charges.

8905.10 The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the manufactured home space rent (including other eligible housing expenses) minus the TTP.

8905.11 Initially, and at least annually thereafter, DCHA must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. DCHA must consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly housing assistance payment, the owner of the manufactured home space certifies that the rent does not exceed rents charged by

the owner for comparable unassisted spaces in the same manufactured home park or elsewhere.

8905.12 If requested by the DCHA, the owner must give the DCHA information on rents charged by the owner for other manufactured home spaces.

8905.13 Under either type of occupancy described above, the manufactured home must meet the following requirements:

(a) All HQS performance requirements and acceptability criteria; and

(b) A manufactured home must be placed on the site in a stable manner and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.

8906 HOMEOWNERSHIP

8906.1 The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program. DCHA operates its HCV homeownership program in accordance with 14 DCMR Chapter 92. Where this section conflicts with 14 DCMR Chapter 92, 14 DCMR Chapter 92 shall control as the operable regulation and policy of DCHA.

8906.2 DCHA has instituted a minimum homeowner down payment requirement of at least three percent of the purchase price and requires that at least one percent of the purchase price come from the family's personal resources.

8906.3 DCHA will offer the monthly homeownership assistance payments to qualified families.

8906.4 DCHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

8906.5 The family must meet all the requirements listed below before the commencement of homeownership assistance.

(a) The family must have been admitted to the HCV program;

(b) The family must qualify as a first-time homeowner, or may be a cooperative member;

(c) The family may not include any person who has held an ownership interest in a residence during the three (3) years prior to commencement of homeownership assistance except as follows:

(1) Equitable interest in a property under the terms of a lease-purchase agreement prior to exercise of the purchase option; or

(2) A single parent or displaced homemaker who, while married, owned a home with their spouse or resided in a home owned by their spouse.

"Displaced homemaker," as defined in 12 U.S.C. § 12713 means an individual who – (a) is an adult; (b) has not worked full-time, full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and (c) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment. An individual who is now single, but had previously owned a home with his or her former spouse even within the three-year period;

(d) DCHA has established a higher minimum income requirement of Twenty-Five Thousand Dollars ($25,000) in gross annual income per year;

(e) A family that meets the federal minimum income requirement (but not the DCHA's requirement) will be considered to meet the minimum income requirement if it can demonstrate that it has been pre-qualified or pre-approved for financing that is sufficient to purchase an eligible unit;

(f) For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by twelve (12);

(g) For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families;

(h) The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term 'full-time employment' means not less than an average of thirty (30) hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family;

(i) Under the authority granted to DCHA under its Moving to Work (MTW) status, DCHA requires that at least one borrower shall have been employed for at least two (2) continuous years preceding the beginning of homeownership assistance;

(j) Families will be considered "continuously employed" if the break in employment does not exceed four (4) months;

(k) DCHA will count self-employment in a business when determining whether the family meets the employment requirement;

(l) The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, DCHA must grant an exemption from the employment requirement if DCHA determines that it is needed as a reasonable accommodation.;

(m) The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option;

(n) Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home;

(o) Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR § 982.631(c); and

(p) To be eligible to participate in the homeownership option, families must meet the following criteria:

(1) The family has had no family-caused violations of HUD's Housing Quality standards within the past year;

(2) The family is not within the initial one-year period of a HAP Contract;

(3) The family owes no money to DCHA;

(4) The family owes no monies under the lease and has not committed any serious or repeated violations of a DCHA-assisted lease within the past year; and

(5) The family has not committed fraud in connection with the HCV program or any other federal housing program.

8906.6 [RESERVED]

8906.7 [RESERVED]

8906.8 All families must meet eligibility requirements as defined in § 5100.

8906.9 In order for a unit to be eligible, the unit must satisfy all of the following requirements:

(a) The unit must meet HUD's "eligible housing" requirements. The unit may not be any of the following:

(1) A public housing or Indian housing unit;

(2) A unit receiving Section 8 project-based assistance;

(3) A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services;

(4) A college or other school dormitory; or

(5) On the grounds of penal, reformatory, medical, mental, or similar public or private institutions;

(b) The unit must be a one-unit property or a single dwelling unit in a cooperative or condominium;

(c) The unit must have been inspected by DCHA and by an independent inspector designated by the family;

(d) The unit must meet HQS;

(e) For a unit where the family will not own fee title to the real property (such as a manufactured home), the home must have a permanent foundation and the family must have the right to occupy the site for at least forty (40) years;

(f) Families may enter contracts of sale for units not yet under construction. However, DCHA will not commence homeownership assistance for the family for that unit until:

(1) Either the responsible entity completes the environmental review as required by 24 CFR part 58 and HUD approved the

environmental certification and request for release of funds prior to commencement of construction or HUD performed an environmental review under CFR part 50 and notified the PHA in writing of environmental approval of the site prior to construction commencement; and

(2) Construction of the unit has been completed and the unit has passed the required HQS inspection and independent inspection as addressed elsewhere in this chapter;

(g) For DCHA-owned units all of the following conditions must be satisfied:

(1) DCHA informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a DCHA-owned unit is freely selected by the family without DCHA pressure or steering;

(2) The unit is not ineligible housing; and

(3) DCHA obtains the services of an independent agency to inspect the unit for compliance with HQS, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any DCHA provided financing. All of these actions must be completed in accordance with program requirements; and

(h) DCHA must not approve the unit if DCHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation

8906.10 It is the family's responsibility to find a home that meets the criteria for voucher homeownership assistance. DCHA may establish the maximum time that will be allowed for a family to locate and purchase a home and may require the family to report on their progress in finding and purchasing a home. If the family is unable to purchase a home within the maximum time established by DCHA, DCHA may issue the family a voucher to lease a unit or place the family's name on the waiting list for a voucher.

8906.11 Once the PHA has determined the family eligible for the homeownership assistance, the family will attend a homeownership briefing. The family must also meet counseling and education requirements. Upon completion of these steps, the family will be issued a Preliminary Certificate of Assistance. DCHA will also provide a Preliminary Certificate of Assistance document to the family's lender of choice.

8906.12 Once the family has been issued the Preliminary Certificate of Assistance, the family has thirty (30) calendar days to obtain mortgage pre-approval. The family

must submit the pre-approval letter to DCHA within ten (10) calendar days. Once the family provides written proof of being pre-approved for a loan to DCHA, DCHA will issue them a Home Search Authorization. The mortgage pre-approval letter shall reflect the maximum purchase price, first trust mortgage loan amount, interest rate, and term of loan**.**

8906.13 Once the family receives their Home Search Authorization, the family will be allowed one hundred eighty (180) days to identify a unit and submit a sales contract to DCHA for review, and to close on the home. DCHA may grant up to two (2) extensions of three (3) months each for good cause.

8906.14 During these periods, the family will continue to receive HCV rental assistance in accordance with any active lease and HAP contract until the family vacates the rental unit for its purchased home.

8906.15 All requests for extensions must be submitted in writing to DCHA prior to the expiration of the period for which the extension is being requested. DCHA will approve or disapprove the extension request within ten (10) business days. The family will be notified of the DCHA's decision in writing.

8906.16 If the family does not meet one of the time requirements above, and is not receiving rental assistance under a HAP contract at the time the search and purchase time period expires, the family will be issued a voucher to lease a unit, and required to wait one (1) year before they shall be again allowed to participate in the DCHA's Homeownership program.

8906.17 Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by DCHA. HUD suggests the following topics for the DCHA-required pre-assistance counseling:

(a) Home maintenance (including care of the grounds);

(b) Budgeting and money management;

(c) Credit counseling;

(d) How to negotiate the purchase price of a home;

(e) How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing;

(f) How to find a home, including information about homeownership opportunities, schools, and transportation in the PHA jurisdiction;

(g) Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;

(h) Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and

(i) Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

8906.18 DCHA may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

8906.19 DCHA may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If DCHA offers a program of ongoing counseling for participants in the homeownership option, DCHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

8906.20 If DCHA does not use a HUD-approved housing counseling agency to provide the counseling, DCHA shall ensure that its counseling program is consistent with the counseling provided under HUD's Housing Counseling program.

8906.21 Pre-purchase homeownership counseling is provided through the District of Columbia Housing and Community Development Home Purchase Assistance Program (DHCD HPAP). The family must provide DCHA with a copy of the Certificate of Completion provided to them from the DHCD HPAP.

8906.22 Post-purchase homeownership counseling is required by DCHA, provided by DCHA-approved entities. DCHA may require families to attend and complete other post-purchase homeownership counseling as determined necessary by DCHA.

8906.23 DCHA may not commence monthly homeownership assistance payments for a family until DCHA has inspected the unit and has determined that the unit passes HQS:

(a) When the family locates a home they wish to purchase and submits a copy of their purchase offer/contract, DCHA will conduct a HQS inspection within ten (10) business days. Any items found not to meet HQS must be repaired before the unit can be determined eligible for the homeownership program.

(b) Generally, if a unit fails inspection three (3) times, the family must attempt to locate another unit within the term of the homeownership voucher.

DCHA may allow an additional inspection if HQS deficiencies are minor and can be reasonably expected to be addressed within a timely manner.

(c) Whenever possible, DCHA will conduct in-person inspections. If not possible (such as due to federal distancing requirements), DCHA may conduct remote inspections.

8906.24 An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

8906.25 DCHA may not require the family to use an independent inspector selected by DCHA. However, DCHA may establish standards for qualification of inspectors selected by families under the homeownership option:

(a) The family must hire an independent professional inspector, whose report must be submitted to DCHA for review. This inspector must be a member of the American Society of Home Inspectors (ASHI) or other recognized professional society, or a licensed engineer. The inspector cannot be a DCHA employee or contractor.

(b) The family must provide a copy of the inspection report to DCHA within five (5) working days of receiving the report.

8906.26 DCHA may disapprove a unit for assistance based on information in the independent inspector's report, even if the unit was found to comply with HQS:

(a) DCHA will review the professional report in a timely fashion and, based on the presence of major physical problems, may disapprove the purchase of the home.

(b) If DCHA disapproves the purchase of a home, the family will be notified in writing of the reasons for the disapproval.

(c) While the family is receiving homeownership assistance, DCHA will not conduct HQS inspections.

8906.27 Before commencement of monthly homeownership assistance payments, a member or members of the family must enter a contract of sale with the seller of the unit to be acquired by the family. The family must give DCHA a copy of the contract of sale. The contract of sale must:

(a) Specify the price and other terms of sale by the seller to the purchaser;

(b) Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;

(c) Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;

(d) Provide that the purchaser is not obligated to pay for any necessary repairs; and

(e) Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24.

8906.28 A contract for the sale of a unit not yet under construction must meet all above requirements, and the requirements below. Commencement of construction in violation of the below requirements voids the purchase contract:

(a) The purchaser is not obligated to purchase the unit unless an environmental review has been performed and the site received environmental approval prior to commencement of construction in accordance with 24 CFR § 982.628; and

(b) The construction will not commence until the environmental review has been completed and the seller has received written notice from DCHA that environmental approval has been obtained. Environmental approval may be conditioned on the contracting parties' agreement to modification to the unit design or to mitigation actions.

8906.29 In its administrative discretion, DCHA may deny approval of a seller for the same reasons DCHA may disapprove an owner under the regular HCV program.

8906.30 DCHA may establish requirements for financing purchase of a home under the homeownership option. This may include requirements concerning qualification of lenders, terms of financing, restrictions concerning debt secured by the home, lender qualifications, loan terms, and affordability of the debt. DCHA must establish policies describing these requirements in the Plan.

8906.31 DCHA may not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms:

(a) As a check against predatory lending, DCHA will review the financing of each purchase transaction, including estimated closing costs. DCHA will review the loans for features, such as balloon payments, adjustable rate mortgages, and unusually high interest rates, all of which are prohibited.

DCHA also will not approve "seller financing" or "owner-held" mortgages. Beyond these basic criteria, DCHA will rely on the lenders to determine that the loan will be affordable to program participants.

(b) The mortgage the family applies for must require a minimum down payment of at least three percent (3%) of the sales price with one percent (1%) of the down payment coming from the purchaser's personal funds. DCHA will not require that the family have any more than the minimum of one percent (1%) of their own money in the transaction. However, in cases where a lender is requiring a larger amount, the family may be held to the underwriting guidelines set by their lending institution.

(c) DCHA will approve a family's request to utilize its Family Self-Sufficiency escrow account after final disbursement for down payment and/or closing costs when purchasing a unit under the HCV homeownership option.

8906.32 Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, DCHA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to DCHA the homeownership assistance for the month when the family moves out.

8906.33 Before commencement of homeownership assistance, the family must execute a statement of family obligations in the form prescribed by HUD [form HUD-52649]. In the statement, the family agrees to comply with all family obligations under the homeownership option.

8906.34 The family must comply with the following obligations:

(a) The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt;

(b) The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR § 982.551 (h) and (i);

(c) The family must supply information to DCHA or HUD as specified in 24 CFR § 982.551(b). The family must further supply any information required by DCHA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses;

(d) The family shall obtain written approval from DCHA before securing any refinancing on the primary loan, subordinate equity loan or line of credit;

(e) The family must notify DCHA before moving out of the home;

(f) The family must notify DCHA if the family defaults on the mortgage used to purchase the home;

(g) The family must provide DCHA with information on any satisfaction or payment of the mortgage debt;

(h) No family member may have any ownership interest in any other residential property;

(i) The family must comply with the obligations of a participant family described in 24 CFR § 982.551, except for the following provisions which do not apply to assistance under the homeownership option: 24 CFR § 982.551(c), (d), (e), (f), (g) and (j);

(j) DCHA will require families to establish and deposit a minimum of Fifty Dollars ($50) a month into a maintenance reserve account;

(k) The family must attend a DCHA scheduled annual meeting, and provide what documentation is required at that meeting;

(l) DCHA will terminate the family's homeownership assistance if the family's income falls below the minimum annual income requirements for more than twelve (12) consecutive months;

(m) If, during the first ten (10) years of homeownership, the family sells the unit DCHA will recapture a percentage of the homeownership proceeds provided to the family, unless proceeds are invested in purchasing another home under the Homeownership program; and

(n) DCHA shall also recapture a percentage of any proceeds realized upon refinancing that are retained by the household (i.e., during a "cash-out" of the refinanced debt).

8906.35 Sale of the Home**:** In the case of the sale of the home, the recapture amount shall be in the amount equaling the lesser of the following:

(a) The amount of Homeownership assistance provided to the household, adjusted to reflect the automatic reduction provided in "Reduction of Recapture Amount" below; and

(b) The difference between the sales price and the purchase price of the home, minus:

(1) The cost of any documented capital expenditures; and

(2) The cost incurred by the household in the sale of the home, such as brokerage fees or repair and fix-up costs; and

(3) The amount of the difference between the sales price and purchase price that is being used upon sale, toward the purchase of a new home under the Home Ownership Program; and

(4) Any amounts previously recaptured.

8906.36 Refinancing of the Home: In the case of a refinancing of the home, the recapture shall be the amount equaling the lesser of the following:

(a) The amount of Homeownership assistance provided to the household, adjusted to reflect the automatic reduction provided in "Reduction of Recapture Amount" below; or

(b) The difference between the current mortgage debt and the new mortgage debt; minus:

(1) The cost of any documented capital expenditures; and

(2) The cost incurred by the household in the refinancing of the home, such as reasonable and customary closing costs; and

(3) Any amounts previously recaptured.

8906.37 Reduction of Recapture Amount. The amount of the recapture shall be reduced in increments of ten percent (10%) for each full year of receipt of HCV Homeownership Assistance/subsidies with, no recapture required after the end of the tenth (10^{th}) year of participation.

8906.38 At the time of purchase, the household shall execute a Recapture Agreement and Mortgage document which obligates the household to repay a portion of the Subsidy under certain circumstances and secures DCHA's right to recapture Homeownership Assistance Subsidy.

8906.39 Subordinate Lien: The lien securing the recapture may be subordinated to the mortgage lien of the primary loan and other subordinate liens securing repayment of down-payment assistance.

8906.40 Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

(a) Fifteen (15) years, if the initial mortgage incurred to finance purchase of the home has a term of twenty (20) years or longer; or

(b) Ten (10) years, in all other cases.

8906.41 The maximum term described above applies to any member of the family who:

(a) Has an ownership interest in the unit during the time that homeownership payments are made; or

(b) Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.

8906.42 In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

8906.43 If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

8906.44 If the family has received such assistance for different homes, or from different PHAs, the total of such assistance terms is subject to the maximum term described in this part.

8906.45 The monthly homeownership assistance payment is the lower of: the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

8906.46 In determining the amount of the homeownership assistance payment, DCHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described elsewhere in this plan for the HCV program. The payment standard for a family is the greater of:

(a) The payment standard as determined at the commencement of homeownership assistance for occupancy of the home, or

(b) The payment standard at the most recent regular reexamination of family income and composition since the commencement of homeownership assistance for occupancy of the home.

8906.47 [RESERVED]

8906.48 Homeownership expenses (not including cooperatives) must include amounts allowed by DCHA to cover:

(a) Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;

(b) Real estate taxes and public assessments on the home;

(c) Home insurance;

(d) DCHA allowance for maintenance expenses;

(e) DCHA allowance for costs of major repairs and replacements;

(f) DCHA utility allowance for the home;

(g) Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements, or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if DCHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person;

(h) Land lease payments where a family does not own fee title to the real property on which the home is located; and

(i) For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

8906.49 DCHA does not have the discretion to exclude any of the listed homeownership expenses or to add any additional items.

8906.50 Homeownership expenses for a cooperative member include amounts allowed by DCHA to cover:

(a) The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;

(b) Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;

(c) Home insurance;

(d) DCHA allowance for maintenance expenses;

(e) DCHA allowance for costs of major repairs and replacements;

(f) DCHA utility allowance for the home;

(g) Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if DCHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person; and

(h) Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

8906.51 DCHA will use the following amounts for homeownership expenses:

(a) **Monthly homeownership payment**. This includes principal and interest on initial mortgage debt, taxes and insurance, public assessments, and any mortgage insurance premium, if applicable;

(b) **Utility allowance**. DCHA's utility allowance for the unit, based on the current HCV utility allowance schedule;

(c) **Monthly maintenance/major repair/replacement allowance**. A single monthly maintenance/repair/replacement allowance will be provided at Fifty Dollars ($50) per month;

(d) **Monthly co-op/condominium assessments**. If applicable, the monthly amount of co-op or condominium association operation and maintenance assessments;

(e) **Monthly principal and interest on debt for improvements**. Principal and interest for major home repair, replacements, or improvements, if applicable; and

(f) **Land lease payments.** Land lease payments where a family does not own fee title to the real property on which the home is located.

8906.52 DCHA may pay the homeownership assistance payments directly to the family, or at DCHA's discretion, to a lender on behalf of the family. If the assistance

payment exceeds the amount due to the lender, DCHA shall pay the excess directly to the family:

(a) DCHA's housing assistance payment will be paid directly to the family via direct deposit. It will be the family's responsibility to make the entire payment to the lender. DCHA may make an exception if the family requests the payment to go directly to the lender, and this arrangement is acceptable to the mortgage company. If the assistance payment exceeds the amount due to the lender, DCHA must pay the excess directly to the family.

(b) DCHA will require families to establish and deposit a minimum of Fifty Dollars ($50) a month into a maintenance reserve account.

8906.53 Under the authority granted to the PHA under its Moving to Work (MTW) status, homeownership families may not exercise portability.

8906.54 [RESERVED]

8906.55 A family receiving homeownership assistance may move with continued tenant-based assistance or with voucher homeownership assistance.

8906.56 DCHA must determine that all initial requirements have been satisfied if a family that has received homeownership assistance wants to move with continued homeownership assistance. However, the following do not apply:

(a) The requirement that a family must be a first-time homeowner is not applicable; and

(b) The requirement for pre-assistance counseling is not applicable. However, DCHA may require that the family complete additional counseling (before or after moving to a new unit with continued homeownership assistance).

8906.57 Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home. However, when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member (or any family member has been the victim of a sexual assault that occurred on the premises during the ninety (90)-calendar-day period preceding the family's request to move), such family or family member may be assisted with continued tenant-based assistance even if they own any title or other interest in the prior home.

8906.58 DCHA may deny permission to move to a new unit with continued voucher assistance:

(a) If DCHA has insufficient funding to provide continued assistance;

(b) In accordance with 24 CFR § 982.638, regarding denial or termination of assistance. In this case, DCHA must provide written notification to the local HUD Office within ten (10) business days of determining it is necessary to deny moves based on insufficient funding; or

(c) In accordance with DCHA's policy regarding number of moves within a twelve (12)-month period.

8906.59 DCHA must deny the family permission to move to a new unit with continued voucher rental assistance if:

(a) The family defaulted on an FHA-insured mortgage; and

(b) The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and

(c) The family has moved, or will move, from the home within the period established or approved by HUD.

8906.60 For families participating in the homeownership option, requests to move will be approved and/or denied in accordance with DCHA policies in this § 8600. DCHA may require additional counseling of any families who move with continued assistance.

8906.61 At any time, DCHA may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 CFR § 982.552 (Grounds for denial or termination of assistance) or 24 CFR § 982.553 (Crime by family members).

8906.62 DCHA may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts § 982.551 or § 982.633 and in accordance with its own policy.

8906.63 Homeownership assistance for a family automatically terminates one hundred eighty (180) calendar days after the last homeownership assistance payment on behalf of the family. However, a PHA may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

8906.64 In order for DCHA to consider granting relief from the requirement to automatically terminate homeownership assistance one hundred eighty (180) days following DCHA's last housing assistance payment on behalf of the family, the family must submit a written request to DCHA at least thirty (30) days prior to the

date of automatic termination. The request must include an explanation of the circumstances that will cause an extreme hardship for the family (e.g., the imminent loss of income or employment) as well as documentation supporting the request. DCHA will determine on a case-by-case basis whether to grant relief from the requirement and for what period of time. In no case will DCHA postpone termination beyond an additional ninety (90) days.

8906.65 DCHA must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt.

8906.66 (a) DCHA will terminate a family's homeownership assistance if the family violates any of the homeowner obligations listed in § 8900 as well as for any of the reasons listed in Section 2 of form HUD-52649, Statement of Homeowner Obligations Housing Choice Homeownership Voucher Program.

(b) In making its decision to terminate homeownership assistance, the DCHA will consider alternatives and other factors. Upon consideration of such alternatives and factors, DCHA may, on a case-by-case basis, choose not to terminate assistance.

(c) Termination notices will be sent in accordance with the requirements and policies set forth in § 5100.

Chapter 91, HOUSING CHOICE VOUCHER PROGRAM: RENT REFORM DEMONSTRATION PROGRAM, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 91

PROGRAM ADMINISTRATION & INFORMAL HEARINGS

9100 ADMINISTRATIVE FEE RESERVE

9100.1 DCHA maintains administrative fee reserves, or unrestricted net position (UNP) for the program to pay program administrative expenses in excess of administrative fees paid by HUD in a fiscal year. The use of the funds in the reserve is regulated by HUD. Expenditures from the UNP account will be made in accordance with all applicable federal requirements. Expenditures will not exceed Two Hundred Fifty Thousand Dollars ($250,000) per occurrence without the prior approval of DCHA's Board of Commissioners.

9101 SETTING PROGRAM STANDARDS AND SCHEDULES

9101.1 Copies of the payment standard and utility allowance schedules are available for review in the DCHA's offices during normal business hours. Payment standard schedules are also available on the DCHA's website. DCHA will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least three (3) years.

9101.2 [RESERVED]

9101.3 The payment standard sets the maximum subsidy payment a family can receive from the DCHA each month. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area.

9101.4 DCHA will review the appropriateness of the payment standards on an annual basis when the new FMR is published, and at other times as determined necessary.

9101.5 In addition to ensuring the payment standards are always within the "authorized range" DCHA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

(a) DCHA will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. DCHA will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

(b) DCHA will analyze rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than thirty percent (30%) of their monthly adjusted income as the family share. When forty percent (40%) or more of families, for any given unit size, are paying more than thirty percent (30%) of adjusted monthly income as the family share, the DCHA will consider increasing the payment standard. In evaluating rent burdens, the DCHA will not include families renting a larger unit than their family unit size.

(1) DCHA may review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

(2) DCHA may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

(3) DCHA may review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

(4) DCHA may consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

9101.6 Effective dates of changes to payment standard amounts will be determined at the time of update. DCHA will always ensure the payment standards will be within the authorized range.

9101.7 [RESERVED]

9101.8 HUD allows DCHA to establish a HUD-Veterans Affairs Supportive Housing (HUD-VASH) exception payment standard. DCHA may go up to, but no higher than, one hundred twenty percent (120%) percent of the FMR or SAFMR specifically for VASH families. If DCHA wants to establish a VASH exception payment standard over one hundred twenty percent (120%) percent, then DCHA shall request a waiver from HUD.

9101.9 SAFMRs may be voluntarily adopted for one or more zip code areas.

9101.10 Unit-by-unit exceptions to DCHA's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. This type of exception does not affect DCHA's payment standard schedule.

9101.11 DCHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed one hundred twenty percent (120%) percent of the applicable FMR for the unit size.

9101.12 A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, DCHA must determine that:

(a) There is a shortage of affordable units that would be appropriate for the family;

(b) The family's TTP would otherwise exceed forty percent (40%) of adjusted monthly income; and

(c) The rent for the unit is reasonable.

9101.13 If a substantial percentage of families have difficulty finding a suitable unit, DCHA may request a "success rate payment standard" that applies to the entire jurisdiction. If DCHA decides to request a "success rate payment standard," it shall compile information demonstrate that during the most recent six (6) month period for which information is available:

(a) Fewer than seventy-five percent (75%) of families who were issued vouchers became participants;

(b) DCHA had established payment standards for all unit sizes, and for the entire jurisdiction, at one hundred ten percent (110%) percent of the published FMR; and

(c) DCHA had a policy of allowing voucher holders who made sustained efforts to locate units at least ninety (90) days to search for a unit.

9101.14 Although HUD approves the success rate payment standard for all unit sizes in the FMR area, DCHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the DCHA's jurisdiction within the FMR area.

9101.15 DCHA must request HUD approval to establish a payment standard amount that is lower than the basic range.

9101.16 A DCHA-established utility allowance schedule is used in determining family share and DCHA subsidy. DCHA must maintain a utility allowance schedule for

(a) all tenant-paid utilities;

(b) the cost of tenant-supplied refrigerators and ranges; and

(c) other tenant-paid housing services such as trash collection.

9101.17 The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, DCHA must use normal patterns of consumption for the community as a whole, and current utility rates.

9101.18 The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards.

Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

9101.19 In the utility allowance schedule, DCHA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

9101.20 The cost of each utility and housing service must be stated separately by unit size and type.

9101.21 Under its authority as a Moving to Work PHA, DCHA simplified its utility allowance schedule, factoring in air-conditioning into that schedule.

9101.22 On request from a family that includes a person with disabilities, DCHA must approve a utility allowance which is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible and usable by the family member with a disability.

9101.23 DCHA may grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as DCHA deems appropriate. The family must request the higher allowance and provide DCHA with an explanation of the need for the individual relief and information about the amount of additional allowance required.

9101.24 DCHA should develop criteria for granting individual relief and to notify residents about the availability of individual relief, and also to notify participants about the availability of individual relief programs (sometimes referred to as "Medical Baseline discounts") offered by the local utility company.

9101.25 DCHA must review its schedule of utility allowances each year, and must revise the schedule if there has been a change of ten percent (10%) or more in any utility rate since the last time the allowance for that utility was revised.

9101.26 DCHA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

9102 INFORMAL REVIEWS AND HEARINGS

9102.1 Both applicants and participants have the right to disagree with, and appeal, certain decisions of DCHA that may adversely affect them.

9102.2 The process for applicant appeals of DCHA decisions is called the "informal review." For participants (or applicants denied admission because of citizenship issues), the appeal process is called an "informal hearing."

9102.3 Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program but is not yet a participant in the program. Informal reviews are intended to provide a "minimum hearing requirement," and need not be as elaborate as the informal hearing requirements.

9102.4 DCHA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes the following:

(a) Determining a family ineligible to assistance, denying listing on the DCHA waiting list;

(b) Denying or withdrawing a voucher; refusing to process or provide assistance under portability procedures;

(c) Refusing to enter into a HAP contract or approve a lease for reasons unrelated to HQS; or

(d) Owner disapproval.

9102.5 DCHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the DCHA decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

9102.6 A request for an informal review must be made in writing and delivered to DCHA electronically, in person, or by first class mail, by the close of the business day, no later than fourteen (14) business days from the date of the DCHA's denial of assistance.

9102.7 DCHA must schedule and send written notice of the informal review within fourteen (14) business days of the family's request.

9102.8 If the informal review will be conducted remotely, at the time DCHA notifies the family of the informal review, the family will be informed:

(a) Regarding the processes to conduct a remote informal review;

(b) That, if needed, DCHA will provide technical assistance prior to and during the informal review; and

(c) That if the family or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing

the remote informal review, the family may inform DCHA and DCHA will assist the family in either resolving the issues or allow the family to participate in an in-person informal review, as appropriate.

9102.9 The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person. The applicant must be provided an opportunity to present written or oral objections to the decision of DCHA.

9102.10 DCHA has the sole discretion to require that informal reviews be conducted remotely. DCHA will conduct an informal review remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have childcare or transportation that would enable them to attend the informal review, or if the applicant believes an in-person informal review would create an undue health risk. DCHA will consider other reasonable requests for a remote informal review on a case-by-case basis.

9102.11 As with in-person informal reviews, the platform for conducting remote informal reviews must be accessible to persons with disabilities and the informal review must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. DCHA shall never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

9102.12 DCHA is required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal review process.

9102.13 If no method of conducting a remote informal review is available that appropriately accommodates an individual's disability, DCHA may not hold against the individual their inability to participate in the remote informal review, and DCHA should consider whether postponing the remote informal review to a later date is appropriate or whether there is a suitable alternative.

9102.14 Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.

9102.15 As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote informal reviews, including the use of interpretation services and document translation.

9102.16 [RESERVED]

9102.17 As with in-person informal reviews, DCHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal review. The family must also be provided with an accessible means by which to transmit their own evidence.

9102.18 DCHA must ensure that the applicant has the right to hear and be heard. All DCHA policies and processes for remote informal reviews must be conducted in accordance with due process requirements and be in compliance with HUD regulations at 24 CFR § 982.554 and guidance specified in Notice PIH 2020-32.

(a) DCHA will conduct remote informal reviews via a video conferencing platform. This may be via the family's own electronic devices, or through the family utilizing a DCHA customer service center, where an electronic means of attending the informal review will be provided.

(b) At least five (5) business days prior to the scheduled remote review, DCHA will provide the family with login information or conferencing call-in information and an electronic or physical copy of all materials being presented via first class mail or email, or make the materials available through a tenant portal. The notice will advise the family of technological requirements for the review and request the family notify DCHA of any known barriers. DCHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person review.

(c) DCHA will require the family to provide any documents directly relevant to the informal review through the mail or electronically so that they will be received by DCHA at least three (3) business days before the scheduled review. DCHA will provide copies of these documents to DCHA representative(s) the same day.

(d) Documents will be shared electronically whenever possible.

(e) DCHA will follow up the email with a phone call or email to the applicant at least one business day prior to the remote informal review to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform.

(f) DCHA will ensure that all electronic information stored or transmitted with respect to the informal review is secure, including protecting

personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

9102.19 DCHA must notify the applicant of DCHA's decision, including a brief statement of the reasons for the decision.

(a) In rendering a decision, DCHA will evaluate the following matters:

(1) Whether or not the grounds for denial were stated factually in the notice to the family;

(2) The validity of the grounds for denial of assistance. If the grounds for denial are not specified in the regulations/policy, then the decision to deny assistance will be overturned;

(3) The validity of the evidence. DCHA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, DCHA will uphold the decision to deny assistance; and

(4) If the facts prove the grounds for denial, and the denial is discretionary, DCHA will consider the recommendation of the person conducting the informal review in making the decision whether to deny assistance.

(b) DCHA will notify the applicant of DCHA's decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within ten (10) business days of the informal review, to the applicant and their representative, if any, along with proof of mailing. If DCHA's decision is upheld, the notice will advise the applicant that they may request an informal hearing, and include instructions on how to request the informal hearing.

(c) If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

(d) If the family fails to appear for their informal review, the denial of admission will stand, and the family will be so notified.

9102.20 DCHA must offer an informal hearing for certain DCHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the DCHA's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether DCHA'a decisions related to the family's circumstances are in accordance with the law, HUD regulations, and DCHA policies.

9102.21 DCHA is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

(a) Refusing to enter into a HAP contract or approve a lease;

(b) Terminating housing assistance payments under an outstanding HAP contract; or

(c) Refusing to process or provide assistance under portability procedures.

9102.22 Circumstances for which DCHA must give a participant family an opportunity for an informal hearing are as follows:

(a) A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment;

(b) A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the DCHA utility allowance schedule;

(c) A determination of the family unit size under DCHA's subsidy standards;

(d) A determination to terminate assistance for a participant family because of the family's actions or failure to act;

(e) A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under DCHA policy and HUD rules; and

(f) A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account.

9102.23 In accordance with 24 CFR § 982.555(b), DCHA will not provide an informal hearing for the following circumstances:

(a) Discretionary administrative determinations by DCHA;

(b) General policy issues or class grievances;

(c) Establishment of DCHA schedule of utility allowances for families in the program;

(d) DCHA determination not to approve an extension of a voucher term;

(e) DCHA determination not to approve a unit or tenancy;

(f) DCHA determination that a unit selected by the applicant is not in compliance with the HQS;

(g) DCHA determination that the unit is not in accordance with HQS because of family size; or

(h) A determination by DCHA to exercise or not to exercise any right or remedy against an owner under a HAP contract.

9102.24 DCHA will only offer participants the opportunity for an informal hearing when required to by the regulations, and if DCHA denies a request for a reasonable accommodation.

9102.25 (a) DCHA has the sole discretion to require that informal hearings be conducted remotely.

(b) DCHA will conduct an informal hearing remotely upon request as a reasonable accommodation for a person with a disability, if a participant does not have childcare or transportation that would enable them to attend the informal hearing, or if the participant believes an in-person hearing would create an undue health risk. DCHA will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

9102.26 [RESERVED]

9102.27 [RESERVED]

9102.28 If no method of conducting a remote informal hearing is available that appropriately accommodates an individual's disability, DCHA may not hold against the individual their inability to participate in the remote informal hearing, and DCHA should consider whether postponing the remote hearing to a later date is appropriate or whether there is a suitable alternative.

9102.29 Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation will depend on the specific circumstances and requirements.

9102.30 As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote informal hearings, including the use of interpretation services and document translation.

9102.31 Conducting Informal Hearings Remotely

(a) DCHA must ensure that the lack of technology or inability to use technology for remote informal hearings does not pose a disadvantage to families that may not be apparent to DCHA. DCHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal hearing and, if the family does not have the proper technology to fully participate, either postpone the informal hearing or provide an alternative means of access.

(b) As with in-person informal hearings, DCHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

(c) DCHA will conduct remote informal hearings via a video conferencing platform. This may be via the family's own electronic devices, or through the family utilizing a DCHA customer service center, where an electronic means of attending the informal hearing will be provided.

(d) At least five (5) business days prior to scheduling the remote hearing, DCHA will provide the family with login information or conferencing call-in information and an electronic or physical copy of all materials being presented via first class mail or email, and/or make the materials available through a tenant portal. The notice will advise the family of technological requirements for the hearing and request the family notify DCHA of any known barriers. DCHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

(1) The PHA will follow up with a phone call and/or email to the family at least one business day prior to the remote informal hearing to ensure that the family received all information and is comfortable accessing the video conferencing or call-in platform.

(2) The PHA will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

9102.32 When DCHA makes a decision that is subject to informal hearing procedures, DCHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

(a) For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination

of the family unit size, DCHA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

(b) For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to DCHA's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

(c) In cases where DCHA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

(1) The proposed action or decision of DCHA;

(2) A brief statement of the reasons for the decision, including the regulatory or policy reference;

(3) The date the proposed action will take place;

(4) A statement of the family's right to an explanation of the basis for the DCHA's decision, where appropriate;

(5) A statement that if the family does not agree with the decision the family may request an informal hearing of the decision;

(6) A deadline for the family to request the informal hearing;

(7) To whom the hearing request should be addressed; and

(8) A copy of DCHA's hearing procedures.

9102.33 When an informal hearing is required, DCHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

9102.34 A request for an informal hearing must be made in writing and delivered to DCHA electronically, in person, or by first class mail, by the close of the business day, no later than thirty-five (35) calendar days from the date of the DCHA's written notice of the DCHA's decision.

(a) DCHA will send written notification to any family whose request for an informal hearing was received by DCHA after the deadline stating no hearing will be granted.

(b) If the family is being terminated from the HCV program, and the request for informal hearing was received no later than sixty (60) days after written notice of termination of assistance, the family will also be provided notice they may request a good cause hearing to determine whether the family had good cause to miss the deadline. The opportunity for a good cause hearing is not provided if DCHA action is for other than termination of assistance.

(c) If the family requests a good cause hearing, and the hearing officer determines that the family did have good cause to miss the deadline, an informal hearing will be scheduled.

(d) If it is determined that the family did not have good cause, no informal hearing will be scheduled and DCHA's decision to terminate assistance will stand.

(e) DCHA must schedule and send written notice of the informal hearing to the family within fourteen (14) business days of the family's request.

(f) If DCHA hearing will be conducted remotely, at the time the notice is sent to the family, the family will be notified:

(1) Regarding the processes involved in a remote informal hearing;

(2) That DCHA will provide technical assistance prior to and during the informal hearing, if needed; and

(3) That if the family or any individual witness has any technological, resource, or accessibility barriers, the family may inform DCHA and DCHA will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.

(g) The family may request to reschedule a hearing for good cause for failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause for not appearing to a scheduled informal hearing is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, DCHA may request documentation of the "good cause" prior to rescheduling the hearing.

(h) If the family does not appear within twenty (20) minutes of the scheduled time and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact DCHA within twenty-four (24)

hours of the scheduled hearing date, excluding weekends and holidays. DCHA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as reasonable accommodation for a person with disabilities. If the family cannot show good cause for the failure to appear, or a rescheduling is not needed as a reasonable accommodation, DCHA's decision will stand.

9102.35 DCHA will compile a hearing packet, consisting of all documents DCHA intends to produce at the informal hearing. DCHA will deliver copies of the hearing packet to the family, the family's representatives, if any, and the hearing officer at least three days before the scheduled remote informal hearing. The original hearing packet will be in the possession of DCHA representative and retained by DCHA. Documents will be shared electronically whenever possible.

9102.36 If the informal hearing is to be conducted remotely, DCHA will require the family to provide any documents directly relevant to the informal hearing through the mail or electronically so that they will be received by DCHA at least three (3) business days before the scheduled informal hearing. DCHA will provide copies of these documents to the hearing officer and DCHA representative(s) the same day. Documents will be shared electronically whenever possible.

9102.37 At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

9102.38 Informal hearings will be conducted by a person or persons approved by DCHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

9102.39 Hearings may be attended by a hearing officer and the following applicable persons:

(a) A DCHA representative(s) and any witnesses for DCHA;

(b) The participant and any witnesses for the participant;

(c) The participant's counsel or other representative; and

(d) Any other person approved by DCHA as a reasonable accommodation for a person with a disability.

9102.40 The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive, or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

9102.41 DCHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

(a) Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four (4) categories of evidence.

(1) Oral evidence: the testimony of witnesses relevant to the case;

(2) Documentary evidence: a writing which is relevant to the case, for example, a letter written to DCHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof;

(3) Demonstrative evidence: Evidence relevant to the case created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram; and

(4) Real evidence: A tangible item relating directly to the case.

(b) "Hearsay Evidence" is evidence based not on a witness' personal knowledge. In and of itself, hearsay evidence carries no weight when making a finding of fact. The hearing officer may include hearsay evidence when considering their decision if it is corroborated by other evidence. Even though hearsay evidence is generally admissible in a hearing, the hearing officer will not base a hearing decision on hearsay alone unless there is clear probative value and credibility of the evidence, and the party presenting the evidence has met the burden of proof.

(c) The hearing officer has the authority to overrule any objections to evidence.

9102.42 The hearing officer may ask the family for additional information or might adjourn the hearing in order to reconvene at a later date, before reaching a decision.

(a) If the family misses an appointment to provide additional information established by the hearing officer, the hearing officer will decide based on what information/documentation has been received.

(b) If the family misses an appointment to reconvene, the action of DCHA will take effect and another hearing will not be granted.

9102.43 The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing.

(a) In rendering a decision, the hearing officer will consider the following matters:

(1) DCHA Notice to the Family: The hearing officer will determine if the reasons for the DCHA's decision are factually stated in the Notice;

(2) Document Review: The hearing officer will determine if DCHA and the family were given the opportunity to examine any relevant documents in accordance with DCHA policy;

(3) DCHA Evidence to Support the DCHA Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the DCHA's conclusion; and

(4) Validity of Grounds for Termination of Assistance (when applicable): The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and DCHA policies. If the grounds for termination are not specified in the regulations or in compliance with DCHA policies, then the decision of DCHA will be overturned.

(b) The hearing officer will issue a written decision to the family and DCHA no later than fourteen (14) business days after the hearing. The report will contain the following information:

(1) Hearing information:

(i) Name of the participant;

(ii) Date, time and place/type of the hearing;

(iii) Name of the hearing officer;

(iv) Name of the DCHA representative(s); and

(v) Name of family representative (if any);

(2) Background: A brief, impartial statement of the reason for the hearing;

(3) Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that were produced and that are admitted into evidence;

(4) Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. "Preponderance of the evidence" is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence;

(5) Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold DCHA's decision; and

(6) Order: The hearing report will include a statement of whether DCHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct DCHA to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct DCHA to restore the participant's program status.

9102.44 A copy of the hearing must be furnished promptly to the family. The hearing officer will send a "Notice of Hearing Decision" to DCHA, and DCHA will promptly mail the "Notice of Hearing Decision" to the participant. This notice of proposed decision will be sent by first-class mail and email. A copy of the "Notice of Hearing Decision" will be maintained in DCHA's file.

9102.45 DCHA is not bound by the decision of the hearing officer for matters in which DCHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to federal, state, or local laws. If DCHA determines it is not bound by the hearing officer's decision in accordance with HUD regulations, DCHA must promptly notify the family of the determination and the reason for the determination.

9102.46 The Executive Director has the authority to determine that DCHA is not bound by the decision of the hearing officer because DCHA was not required to provide a hearing, the decision exceeded the authority of the hearing officer, the decision

conflicted with or contradicted HUD regulations, requirements, or the decision was otherwise contrary to federal, state, or local laws.

9102.47 The proposed decision will become final on the tenth (l0th) day following the postmark of the proposed decision unless one of the parties has submitted a written request to the Executive Director requesting the Executive Director to reconsider the proposed decision before issuing a final decision. That request must include the basis for such review.

9102.48 If the Executive Director does review the decision of the hearing officer, after the review a "Notice of Final Decision" will be mailed to DCHA and the participant on the same day. The "Notice of Final Decision" will be sent by first-class mail and email. A copy of this notice will be maintained in the DCHA's file.

9102.49 The family has the right to appeal DCHA's final decision to the District of Columbia's Court of Appeals. DCHA shall include within the Hearing Officer's decision (proposed Decision), and the Notice of Final Decision information advising the family of their right to appeal.

9102.50 Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

9102.51 Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the DCHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

9102.52 A decision against a family member, issued in accordance with the USCIS appeal process or the DCHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

9102.53 The notice of denial or termination of assistance for noncitizens must advise the family:

(a) That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance;

(b) The family may be eligible for proration of assistance.

(c) In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families;

(d) That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal;

(e) That the family has a right to request an informal hearing with DCHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal; and

(f) For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

9102.54 When DCHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, DCHA must notify the family of the results of the USCIS verification. The family will have thirty (30) days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide DCHA with a copy of the written request for appeal and the proof of mailing.

(a) DCHA will notify the family in writing of the results of the USCIS secondary verification within fourteen (14) business days of receiving the results.

(b) The family must provide DCHA with a copy of the written request for appeal and proof of mailing within ten (10) business days of sending the request to the USCIS.

9102.55 The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

9102.56 The USCIS will notify the family, with a copy to DCHA, of its decision. When the USCIS notifies DCHA of the decision, DCHA must notify the family of its right to request an informal hearing.

9102.57 DCHA will send written notice to the family of its right to request an informal hearing within fourteen (14) business days of receiving notice of the USCIS decision regarding the family's immigration status.

9102.58 After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that DCHA provide a hearing. The request for a

hearing must be made either within thirty (30) days of receipt of DCHA notice of denial, or within thirty (30) days of receipt of the USCIS appeal decision. The informal hearing procedures for applicant families are described below.

(a) DCHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision;

(b) The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of DCHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing;

(c) The family will be allowed to obtain any documents related to the hearing at no cost. The family must request discovery of DCHA documents no later than 12:00 p.m. on the business day prior to the hearing. Documents will be shared electronically whenever possible;

(d) The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings;

(e) The family must also be provided the opportunity to refute evidence relied upon by DCHA, and to confront and cross-examine all witnesses on whose testimony or information DCHA relies;

(f) The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf;

(g) If needed, the family must request an interpreter for DCHA to provide interpretation services. DCHA will provide competent interpretation services, free of charge;

(h) The family is entitled to have the hearing recorded by audiotape;

(i) If the family desires a transcript, the family must notify DCHA in writing. DCHA will secure the services of a qualified transcriber service. The family is responsible for all costs incurred; and

(j) DCHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within fourteen (14)

calendar days of the date of the informal hearing. The decision must state the basis for the decision.

9102.59 After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request DCHA provide a hearing. The request for a hearing must be made either within thirty (30) days of receipt of DCHA notice of termination, or within thirty (30) days of receipt of the USCIS appeal decision.

9102.60 DCHA must retain for a minimum of five (5) years the following documents that may have been submitted to DCHA by the family, or provided to DCHA as part of the USCIS appeal or the DCHA informal hearing process:

(a) The application for assistance;

(b) The form completed by the family for income reexamination;

(c) Photocopies of any original documents, including original USCIS documents;

(d) The signed verification consent form;

(e) The USCIS verification results;

(f) The request for a USCIS appeal;

(g) The final USCIS determination;

(h) The request for an informal hearing; and

(i) The final informal hearing decision.

9103 OWNER OR FAMILY DEBTS TO DCHA

9103.1 This § 9103 describes DCHA's policies for recovery of monies owed to DCHA by families or owners.

9103.2 When an action or inaction of an owner or participant results in the overpayment of housing assistance, DCHA holds the owner or participant liable to return any overpayments to DCHA.

9103.3 DCHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

9103.4 (a) Any amount due to DCHA by an owner must be repaid by the owner within thirty (30) days of DCHA determination of the debt.

(b) If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, DCHA will reduce the future HAP payments by the amount owed until the debt is paid in full.

(c) If the owner is not entitled to future HAP payments DCHA may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by DCHA.

(d) If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, DCHA will ban the owner from future participation in the program and pursue other modes of collection.

(e) When an owner refuses to repay monies owed to DCHA, DCHA will utilize other available collection alternatives including, but not limited to, the following:

(1) Collection agencies;

(2) Small claims court;

(3) Civil lawsuit; and

(4) State income tax set-off program.

9103.5 Any amount owed to DCHA by an HCV family must be repaid by the family. If the family is unable to repay the debt within thirty (30) days, DCHA will offer to enter into a repayment agreement in accordance with the policies below.

9103.6 The term "repayment agreement" refers to a formal written document signed by a tenant or owner and provided to DCHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

9103.7 DCHA will require no down payment of amounts owed at the time of entering into a repayment agreement with the family.

9103.8 (a) DCHA has established the following thresholds for repayment of debts:

(1) Amounts between Three Thousand Dollars ($3,000) and the federal or state threshold for criminal prosecution must be repaid within thirty-six (36) months;

(2) Amounts between Two Thousand Dollars ($2,000) and Two Thousand Nine Hundred Ninety-Nine Dollars ($2,999) must be repaid within thirty (30) months;

(3) Amounts between One Thousand Dollars ($1,000) and One Thousand Nine Hundred Ninety-Nine Dollars ($1,999) must be repaid within twenty-four (24) months; and

(4) Amounts under One Thousand Dollars ($1,000) must be repaid within twelve (12) months.

(b) If a family can provide evidence satisfactory to DCHA that the threshold applicable to the family's debt would impose an undue hardship, DCHA may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, DCHA will consider all relevant information, including the following:

(1) The amount owed by the family to DCHA;

(2) The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family's control;

(3) The family's current and potential income and expenses;

(4) The family's current family share, as calculated under 24 CFR § 982.515; and

(5) The family's history of meeting its financial responsibilities.

9103.9 Any repayment agreement between DCHA and a family must be signed and dated by DCHA and by the head of household and spouse or co-head (if applicable). If another adult member is responsible for the debt owed, DCHA may require that adult to also sign the repayment agreement.

9103.10 All payments are due by the close of business on the fifteenth (15th) day of the month. If the fifteenth (15th) does not fall on a business day, the due date is the close of business on the first business day after the fifteenth (15th).

9103.11 (a) If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by DCHA, DCHA will send the family a delinquency notice giving the family ten (10) business days to make the late payment.

(b) If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and DCHA will terminate assistance.

(c) If a family receives three (3) delinquency notices for unexcused late payments in a twelve (12) month period, the repayment agreement will be considered in default, and DCHA will terminate assistance.

9103.12 DCHA generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

9103.13 All repayment agreements must be in writing, dated, signed by both the family and DCHA, include the total retroactive rent amount owed, any amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. At a minimum, the following provisions shall be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

(a) A reference to the items in the family briefing packet that state the family's obligation to provide true and complete information at every reexamination and the grounds on which DCHA may terminate assistance because of a family's action or failure to act;

(b) A statement clarifying that each month the family not only must pay to DCHA the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to owner;

(c) A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases; and

(d) A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance.

9104 SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)

9104.1 Under the authority granted to DCHA under its Moving to Work status, is not scored under Section 8 Management Assessment Program (SEMAP).

9104.2 [RESERVED]

9104.3 DCHA must submit the HUD-required SEMAP certification form within sixty (60) calendar days after the end of its fiscal year. The certification must be approved by a DCHA board resolution and signed by the DCHA Executive Director.

9104.4 [RESERVED]

9104.5 Failure of DCHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of "troubled."

9104.6 DCHA's SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

9104.7 [RESERVED]

9104.8 Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. DCHA or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements.

9104.9 [RESERVED]

9104.10 The below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

(a) Indicator 1: Selection from the waiting list; Maximum Points: 15

(1) This indicator shows whether the PHA has written policies in its Plan for selecting applicants from the waiting list and whether the PHA follows these policies when selecting applicants from the waiting list.

(2) Points are based on the percent of families that are selected from the waiting list in accordance with the PHA's written policies, according to the PHA's quality control samples.

(b) Indicator 2: Rent reasonableness; Maximum Points: 20

(1) This indicator shows whether the PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units at the required times.

(2) Points are based on the percent of units for which the PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the PHA's quality control sample.

(c) Indicator 3: Determination of adjusted income; Maximum Points: 20

(1) This indicator measures whether the PHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent.

(2) Points are based on the percent of files that are calculated and verified correctly, according to the PHA's quality control sample.

(d) Indicator 4: Utility allowance schedule; Maximum Points: 5

(1) This indicator shows whether the PHA maintains an up-to-date utility allowance schedule.

(2) Points are based on whether the PHA has reviewed the utility allowance schedule and adjusted it when required, according to the PHA's certification.

(e) Indicator 5: HQS quality control inspections; Maximum Points: 5

(1) This indicator shows whether a PHA supervisor reinspects a sample of units under contract during the PHA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.

(2) Points are based on whether the required quality control reinspections were completed, according to the PHA's certification.

(f) Indicator 6: HQS enforcement; Maximum Points: 10

(1) This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension.

(2) Points are based on whether the PHA corrects all HQS deficiencies in accordance with required time frames, according to the PHA's certification.

(g) Indicator 7: Expanding housing opportunities; Maximum Points: 5

(1) Only applies to PHAs with jurisdiction in metropolitan FMR areas.

(2) This indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the PHA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease

units or help families find units, including units outside areas of poverty or minority concentration.

(3) Points are based on whether the PHA has adopted and implemented written policies in accordance with SEMAP requirements, according to the PHA's certification.

(h) Indicator 8: FMR limit and payment standards; Maximum Points: 5

(1) This indicator shows whether the PHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the PHA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.

(2) Points are based on whether the PHA has appropriately adopted a payment standard schedule(s), according to the PHA's certification.

(i) Indicator 9: Annual reexaminations; Maximum Points: 10

(1) This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months.

(2) Points are based on the percent of reexaminations that are less than two months overdue, according to data from PIC.

(j) Indicator 10: Correct tenant rent calculations; Maximum Points: 5

(1) This indicator shows whether the PHA correctly calculates the family's share of the rent to owner.

(2) Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

(k) Indicator 11: Pre-contract HQS inspections; Maximum Points: 5

(1) This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.

(2) Points are based on the percentage of newly leased units that passed HQS inspection on or before the effective date of the lease and HAP contract, according to data from PIC.

(l) Indicator 12: Annual HQS inspections; Maximum Points: 10

(1) This indicator shows whether the PHA inspects each unit under contract at least annually.

(2) Points are based on the percentage of annual HQS inspections of units under contract that are more than 2 months overdue, according to data from PIC.

(m) Indicator 13: Lease-up; Maximum Points: 20

(1) This indicator shows whether the PHA enters HAP contracts for at least 98 percent of the number of the PHA's baseline voucher units in the ACC for the calendar year ending on or before the PHA's fiscal year, or whether the PHA has expended at least 98 percent of its allocated budget authority for the same calendar year. The PHA can receive 15 points if 95 to 97 percent of vouchers are leased or budget authority is utilized.

(2) Points are based on utilization of vouchers and HAP expenditures as reported in the voucher management system (VMS) for the most recently completed calendar year.

(n) Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances; Maximum Points: 10

(1) Only applies to PHAs with mandatory FSS programs.

(2) This indicator shows whether the PHA has enrolled families in the FSS program as required and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.

(3) Points are based on the percent of mandatory FSS slots that are filled and the percentage of families with escrow account balances, according to data from PIC.

(o) Indicator 15: Success Rate of Voucher Holders; Maximum Points: 5

(1) Only applies to PHAs that have received approval to establish success rate payment standard amounts and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.

(2) This indicator shows whether voucher holders were successful in leasing units with voucher assistance.

(3) Points are based on the percentage of families that were issued vouchers, and that became participants in the voucher program.

(p) Indicator 16: Deconcentration Bonus Indicator; Maximum Points: 5

(1) Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50th percentile rent, starting with the second full PHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50th percentile.

(2) Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.

(3) Points are based on whether the data that is submitted meets the requirements for bonus points.

9105 RECORD KEEPING

9105.1 DCHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request. In addition, DCHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

9105.2 During the term of each assisted lease, and for at least three (3) years thereafter, DCHA must keep:

(a) A copy of the executed lease;

(b) The HAP contract; and

(c) The application from the family.

9105.3 In addition, DCHA must keep the following records for at least three (3) years:

(a) Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;

(b) An application from each ineligible family and notice that the applicant is not eligible;

(c) HUD-required reports;

(d) Unit inspection reports;

(e) Lead-based paint records as required by 24 CFR § 35, Subpart B;

(f) Accounts and other records supporting DCHA budget and financial statements for the program;

(g) Records to document the basis for DCHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and

(h) Other records specified by HUD.

9105.4 DCHA must keep the last three (3) years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three (3) years from the end of participation (EOP) date.

9105.5 DCHA must maintain Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy but for a period not to exceed three (3) years from the EOP date.

9105.6 [RESERVED]

9105.7 DCHA must keep confidential records of all emergency transfers requested by victims of domestic violence, dating violence, sexual assault, and stalking under DCHA's Emergency Transfer Plan, as well as the outcomes of such requests, and retain the records for a period of three (3) years.

9105.8 If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents.

9105.9 (a) All applicant and participant information will be kept in a secure location and access will be limited to authorized DCHA staff.

(b) DCHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

9105.10 The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

9105.11 Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or DCHA may release the information collected.

9105.12 Prior to utilizing HUD's Enterprise Income Verification (EIV) system, DCHA will adopt and implement EIV security procedures required by HUD.

9105.13 DCHA may only disclose the criminal conviction records which DCHA receives from a law enforcement agency to officers or employees of DCHA, or to authorized representatives of DCHA who have a job-related need to have access to the information.

9105.14 DCHA must establish and implement a system of records management that ensures that any criminal record received by DCHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the DCHA action without institution of a challenge or final disposition of any such litigation.

9105.15 DCHA must establish and implement a system of records management that ensures that any sex offender registration information received by DCHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the DCHA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained. This requirement does not apply to information that is public information or is obtained by a PHA other than under 24 CFR § 5.905.

9105.16 DCHA is not permitted to inquire about the nature or extent of a person's disability. DCHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If DCHA receives a verification document that provides such information, DCHA should not place this information in the tenant file. DCHA should destroy the document.

9105.17 [RESERVED]

9106 REPORTING AND RECORD KEEPING FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL

9106.1 DCHA has certain responsibilities relative to children with elevated blood lead levels that are receiving HCV assistance. This § 9106 deals with the reporting

requirements, and data collection and record keeping responsibilities that DCHA is subject to.

9106.2 The owner must report the name and address of a child identified as having an elevated blood lead level to the public health department within five (5) business days of being so notified by any other medical health care professional. The owner must also notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five (5) business days. DCHA may collaborate with the owner on the notification process, such as by agreeing with the owner to provide the required notifications on the owner's behalf.

(a) District of Columbia Department of Energy and the Environment (DOEE), which is the local authority in charge of collecting all lead blood level tests in the District of Columbia works with DCHA to inform of EBLLs at addresses in DCHA's programs.

(b) When notified by DOEE, medical professionals, or program participants of an EBLL, DCHA provides the owner written notification and holds the owner responsible for performing the required notifications to the District of Columbia Department of Energy and the Environment, the HUD field office, and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five (5) business days.

9106.3 At least quarterly, DCHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and addresses of children less than six (6) years old with an elevated blood lead level.

9106.4 If DCHA obtains names and addresses of elevated blood lead level children from the public health department(s), DCHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, DCHA must carry out the notification, verification, hazard reduction requirements, and the reporting requirement discussed above.

9106.5 At least quarterly, DCHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

9107 DETERMINATION OF INSUFFICIENT FUNDING

9107.1 [RESERVED]

9107.2 DCHA will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current

participants by comparing DCHA's annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, DCHA will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority and funding reserves, or if DCHA cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, DCHA will be considered to have insufficient funding.

9108 VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

9108.1 The Violence against Women Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault and stalking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

9108.2 In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and DCHA policies in three (3) areas: notification, documentation, and confidentiality.

9108.3 As used in VAWA:

(a) The term "bifurcate" means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

(b) The term "dating violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

(1) The length of the relationship;

(2) The type of relationship; and

(3) The frequency of interaction between the persons involved in the relationship.

(c) The term "domestic violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

(d) The term "affiliated individual" means, with respect to a person:

(1) A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or

(2) Any other individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.

(e) The term "sexual assault" means any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent.

(f) The term "stalking" means to engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

9108.4 To help ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA, DCHA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it:

(a) A copy of the notice of occupancy rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380);

(b) A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation;

(c) A copy of the DCHA's emergency transfer plan;

(d) A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383;

(e) The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY); and

(f) Contact information for local victim advocacy groups or service providers.

9108.5 DCHA is required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

9108.6 (a) DCHA will provide all applicants with information about VAWA at the time they apply for housing assistance and as part of the written briefing packet in preparation for admission (lease-up) to the program. DCHA will also include information about VAWA in all notices of denial of assistance.

(b) DCHA will provide all participants with information about VAWA at reexamination. DCHA will also include information about VAWA in notices of termination of assistance.

9108.7 (a) Whenever DCHA has reason to suspect that providing information about VAWA to a participant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, DCHA may decide not to send mail regarding VAWA protections to the victim's unit if DCHA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

(b) When discussing VAWA with the victim, DCHA will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

(c) The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

9108.8 DCHA will provide owners and managers with information about their rights and obligations under VAWA upon request.

9108.9 DCHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or criminal activity related to any of these forms of abuse may - but is not required to - request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least fourteen (14) business days after receipt of the request to submit the

documentation. DCHA may extend this time period at its discretion. The individual may satisfy DCHA's request by providing any one of the following three (3) forms of documentation:

(a) A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim. The form may be filled out and submitted on behalf of the victim;

(b) A federal, state, tribal, territorial, or local police report or court record, or an administrative record; or

(c) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

9108.10 (a) Any request for documentation of domestic violence, dating violence, sexual assault or stalking will be in writing, will specify a deadline of fourteen (14) business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

(b) DCHA may, in its discretion, extend the deadline for ten (10) business days. In determining whether to extend the deadline, DCHA will consider factors that may contribute to the victim's inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by DCHA will be in writing.

(c) Once the victim provides documentation, DCHA will acknowledge receipt of the documentation within ten (10) business days.

9108.11 DCHA must honor any court orders issued to protect the victim or to address the distribution of property.

9108.12 (a) If presented with conflicting certification documents from members of the same household, DCHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR § 5.2007(e) and by following any HUD guidance on how such determinations should be made.

(b) When requesting third-party documents, DCHA will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given thirty (30) calendar days from the date of the request to provide such documentation.

(c) If DCHA does not receive third-party documentation within the required timeframe (and any extensions) DCHA will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, DCHA will hold separate hearings for the applicants or tenants.

(d) Once the third-party documentation is received, it will be reviewed by a designated review panel to determine what further action will be taken by DCHA, if any.

9108.13 DCHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence - i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b).

9108.14 If DCHA accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault or stalking, DCHA will document acceptance of the statement or evidence.

9108.15 In order to deny relief for protection under VAWA, DCHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within fourteen (14) business days from the date of receipt, or such longer time as DCHA may allow, DCHA may deny relief for protection under VAWA.

9108.16 If disclosure is required for use in an eviction proceeding, termination of assistance, or is otherwise required by applicable law, DCHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

Chapter 94, AFFORDABLE HOUSING RENTAL REHABILITATION FINANCIAL ASSISTANCE, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 94

PROJECT-BASED VOUCHERS

9400 GENERAL REQUIREMENTS

9400.1 The project-based voucher (PBV) program allows PHAs that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to twenty percent (20%) of its authorized units and attach the funding to specific units rather than using it for tenant-based assistance.

9400.2 DCHA will administer its PBV program in accordance with its Moving to Work (MTW) Plan: Under the authority granted to DCHA under its MTW status, DCHA is not subject to the PBV cap. However, DCHA will maintain a twenty percent (20%) cap unless the cap is adjusted as approved by the Board of Commissioners.

9400.3 PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing. If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP contract, DCHA is not required to reduce the number of these units if the number of authorized units is subsequently reduced. However, DCHA is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC, regardless of whether DCHA has vouchers available for project-basing.

9400.4 DCHA may project-base an additional ten percent (10%) of its units above the twenty percent (20%) program limit. The units may be distributed among one, all, or a combination of the categories as long as the total number of units does not exceed the ten percent (10%) percent cap.

9400.5 For units under a HAP contract that was first executed on or after April 18, 2017, units qualify under this exception if the units:

(a) Are specifically made available to house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11302) and contained in the Continuum of Care Interim Rule at 24 CFR § 578.3;

(b) Are specifically made available to house families that are comprised of or include a veteran. “Veteran” means an individual who has served in the United States Armed Forces;

(c) Provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR § 5.403; or

(d) Are located in a census tract with a poverty rate of twenty percent (20%) percent or less, as determined in the most recent American Community Survey Five-Year Estimates.

9400.6 PBV units that house eligible youth receiving FUPY/FYI assistance are also covered by this ten percent (10%) percent exception authority if the units are under a HAP contract that became effective after December 27, 2020, and if the unit is occupied by an eligible youth receiving FUPY/FYI assistance. FYI TPVs that were awarded under Notice PIH 2019-20 are not part of this exception since PHAs are prohibited from project-basing FYI TPVs. Units added after December 27, 2020, through an amendment of a HAP contract that became effective after December 27, 2020, are eligible for this ten percent (10%) percent exception authority. In contrast, units added after December 27, 2020, through an amendment of a HAP contract that became effective on or prior to December 27, 2020, are not eligible for this ten percent (10%) percent exception authority.

9400.7 While, under the authority granted to DCHA under its MTW status, DCHA is not subject to the PBV cap, DCHA may project-base up to an additional ten percent (10%) of its authorized units, up to thirty percent (30%), in accordance with standard HUD regulations and requirements.

9400.8 PBV units under the RAD program and HUD-VASH PBV set-aside vouchers do not count toward the twenty percent (20%) percent limitation when PBV assistance is attached to them.

9400.9 In addition, units that were previously subject to certain federal rent restrictions or were receiving another type of long-term housing subsidy provided by HUD are not subject to the cap. The unit must be covered under a PBV HAP contract that first became effective on or after April 18, 2017.

9400.10 DCHA may project-base units not subject to the twenty percent (20%) cap in accordance with HUD regulations and requirements.

9400.11 Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of DCHA policies related to tenant-based assistance also apply to PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR § 983.2.

9400.12 Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, DCHA policies for the tenant-based voucher program contained in this Plan also apply to the PBV program and its participants.

9400.13 Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) and implementing regulations at 49 CFR Part 24.

9400.14 The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. DCHA may not use voucher program funds to cover relocation costs, except that DCHA may use their administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR § 982.155 and other official HUD issuances.

9400.15 The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of DCHA to ensure the owner complies with these requirements.

9400.16 DCHA must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR § 5.105(a). In addition, DCHA must comply with DCHA Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR § 903.7(o).

9401 PBV OWNER PROPOSALS

9401.1 With certain exceptions, DCHA must describe the procedures for owner submission of PBV proposals and for PHA selection of PBV proposals. Before selecting a PBV proposal, DCHA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing, complies with the cap on the number of PBV units per project, and meets the site selection standards. DCHA may not commit PBVs until or unless it has followed the proposal selection requirements defined in 24 CFR § 983.51.

9401.2 DCHA must select PBV proposals by either of the following two (2) methods.

(a) DCHA request for PBV Proposals. DCHA may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to DCHA request. DCHA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites; or

(b) DCHA may select proposal that were previously selected based on a competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the

applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance. DCHA need not conduct another competition.

9401.3 For certain public housing projects where DCHA has an ownership interest or control, DCHA may attach PBV assistance non-competitively without following one of the two processes above. This exception applies when DCHA is engaged in an initiative to improve, develop, or replace a public housing property or site. The public housing units may either currently be in the public housing inventory or may have been removed from the public housing inventory within five years of the date on which DCHA entered the AHAP or HAP.

9401.4 If DCHA is planning rehabilitation or new construction on the project, a minimum threshold of Twenty-Five Thousand Dollars ($25,000) per unit in hard costs must be expended.

9401.5 If DCHA plans to replace public housing by attaching PBV assistance to existing housing in which DCHA has an ownership interest or control, then the Twenty-Five Thousand Dollars ($25,000) per unit minimum threshold does not apply as long as the existing housing substantially complies with HQS.

9401.6 DCHA must include in the Plan what work it plans to do on the property or site and how many PBV units will be added to the site.

9401.7 DCHA may attach PBVs to public housing projects when the following circumstances are met:

(a) DCHA has an ownership interest or control;

(b) DCHA is engaged in an initiative to improve, develop, or replace a public housing property or site; or

(c) DCHA is planning rehabilitation or new construction where at least Twenty-Five Thousand Dollars ($25,000) in hard costs per unit will be expended.

9401.8 DCHA procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by DCHA. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and operated to provide broad public notice. The public

notice of DCHA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

9401.9 DCHA will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in *The Washington Post Sunday Edition,* other minority media, and posting on the DCHA website.

(a) The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

(b) In addition, DCHA will post the RFP and proposal submission and rating and ranking procedures on its website.

(c) DCHA will publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units DCHA estimates that it will be able to assist under the funding DCHA is making available. The deadline date for submission of proposals will be included in the notice.

(d) For the proposal to be considered, the owner must submit the proposal to DCHA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

(e) In addition to including information specific to the development, the RFP will include information regarding the following requirements:

(1) SNS;

(2) Davis-Bacon;

(3) Accessibility;

(4) Subsidy layering reviews; and

(5) Environmental reviews.

(f) In addition, the RFP will clearly state that DCHA will administer the wait list and that the project will be subject to underwriting standards.

(g) DCHA will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

(1) Owner experience and capability to build or rehabilitate housing as identified in the RFP, including experience of the owner and development team in successful completion of one or more mixed income, HUD subsidized residential development projects;

(2) The experience and professionalism of the proposed management company in providing high quality management of innovative projects and the quality of the proposed Management and Maintenance Plan;

(3) Extent to which the project furthers DCHA goal of deconcentrating poverty and expanding housing and economic opportunities;

(4) The convenience of the facilities and amenities of the neighborhood and, if the property is located in a poverty impacted neighborhood, whether a comprehensive neighborhood revitalization strategy is underway or realistically expected to begin implementation in the next three (3) years;

(5) If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property;

(6) To promote partially assisted projects, projects where less than twenty-five percent (25%) percent of the units will be assisted will be rated higher than projects where twenty-five percent (255) or more of the units will be assisted. In the case of projects for occupancy by the elderly, persons with disabilities or families needing other services, DCHA will rate partially assisted projects on the percentage of units assisted. Projects with the lowest percentage of assisted units will receive the highest score;

(7) The owner's ability and commitment to meet unit accessibility requirements as established by HUD and DCHA;

(8) The owner's ability and commitment to meet Labor Standards;

(9) Project financials (to determine if the project needs all of the vouchers);

(10) The owner's Tenant Selection Plan (TSP);

(11) Supportive services offered to the resident populations; and

(12) Such other factors as are published in the announcement.

9401.10 DCHA will advertise its request for proposals (RFP) for existing housing in *The Washington Post Sunday Edition,* other minority media and posting on the DCHA website.

(a) The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

(b) In addition, DCHA will post the notice inviting such proposal submission and the rating and ranking procedures on its website.

(c) DCHA will periodically publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units DCHA estimates that it will be able to assist under the funding DCHA is making available. Owner proposals will be accepted on a first-come first-served basis and will be evaluated using the following criteria:

(1) Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;

(2) Extent to which the project furthers DCHA goal of deconcentrating poverty and expanding housing and economic opportunities;

(3) The convenience of the facilities and amenities of the neighborhood and, if the property is located in a poverty impacted neighborhood, whether a comprehensive neighborhood revitalization strategy is underway or realistically expected to begin implementation in the next three (3) years;

(4) If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property;

(5) Extent to which units are occupied by families that are eligible to participate in the PBV program;

(6) Project financials (to determine if the project needs all of the vouchers);

(7) The owner's Tenant Selection Plan (TSP);

(8) Supportive services offered to the resident populations; and

(9) Such other factors as are published in the announcement.

9401.11 DCHA will accept proposals for PBV assistance on an ongoing basis from owners that were competitively selected under another federal, state, or local housing assistance program, including projects that were competitively awarded nine percent (9%) Low-Income Housing Tax Credits.

(a) Proposals will be reviewed on a first-come first-served basis. DCHA will evaluate each proposal on a quarterly basis, subject to PBV availability.

(b) Proposals will be evaluated on merits using the following factors:

(1) Extent to which the project furthers DCHA goal of deconcentrating poverty and expanding housing and economic opportunities;

(2) Project financials (to determine if the project needs all of the vouchers);

(3) The owner's Tenant Selection Plan (TSP);

(4) Supportive services offered to the resident populations; and

(5) Such other factors as are published in the announcement.

(c) DCHA may directly contact specific owners that have already been selected for Federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

9401.12 A DCHA-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that DCHA-owned units were appropriately selected based on the selection procedures specified in DCHA Plan. This also applies to noncompetitive selections. If DCHA selects a proposal for housing that is owned or controlled by DCHA, DCHA must identify the entity that will review DCHA proposal selection process and perform specific functions with respect to rent determinations, the term of the HAP contract, and inspections.

9401.13 In the case of DCHA-owned units, the term of the HAP contract and any HAP contract renewal must be agreed upon by DCHA and a HUD-approved independent entity. In addition, an independent entity must determine the initial

rent to owner, the redetermined rent to owner, and reasonable rent. Housing quality standards inspections must also be conducted by an independent entity.

9401.14 The independent entity that performs these program services may be the unit of general local government for DCHA jurisdiction (unless DCHA is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

9401.15 DCHA may submit a proposal for project-based housing that is owned or controlled by DCHA. If the proposal for DCHA-owned housing is selected, DCHA will use a HUD-approved independent entity to review DCHA selection process, when required. DCHA will obtain HUD approval of the entity prior to selecting the proposal for DCHA-owned housing.

9401.16 DCHA may only compensate the independent entity from DCHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). DCHA may not use other program receipts to compensate the independent entity for its services. DCHA and independent entity may not charge the family any fee for the appraisal, or the services provided by the independent entity.

9401.17 DCHA must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and operated to provide broad public notice.

(a) Within ten (10) business days of DCHA making the selection, DCHA will notify the selected owner in writing of the owner's selection for the PBV program. DCHA will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

(b) In addition, DCHA will publish its notice for selection of PBV proposals for two consecutive days in the same newspapers and trade journals DCHA used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. DCHA will also post the notice of owner selection on its electronic web site.

(c) DCHA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

9401.18 DCHA may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a housing assistance payments contract that was executed

prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of DCHA's selection, the units substantially comply with HQS. Units for which new construction or rehabilitation began after the owner's proposal submission but prior to the execution of the HAP do not subsequently qualify as existing housing. Units that were newly constructed or rehabilitated in violation of program requirements also do not qualify as existing housing.

9401.19 DCHA must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. DCHA choice of housing type must be reflected in its solicitation for proposals.

9401.20 DCHA may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; and transitional housing. In addition, DCHA may not attach or pay PBV assistance for a unit occupied by an owner and DCHA may not select or enter into an agreement to enter a HAP contract or HAP contract for a unit occupied by a family ineligible for participation in the PBV program. A member of a cooperative who owns shares in the project assisted under the PBV program is not considered an owner for purposes of participation in the PBV program. Finally, PBV assistance may not be attached to units for which construction or rehabilitation has started after the proposal submission and prior to the execution of an AHAP.

9401.21 DCHA may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

(a) A public housing unit;

(b) A unit subsidized with any other form of Section 8 assistance;

(c) A unit subsidized with any governmental rent subsidy;

(d) A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;

(e) A unit subsidized with Section 236 rental assistance payments (except that a PHA may attach assistance to a unit subsidized with Section 236 interest reduction payments);

(f) A Section 202 project for non-elderly with disabilities;

(g) Section 811 project-based supportive housing for persons with disabilities;

(h) Section 202 supportive housing for the elderly;

(i) A Section 101 rent supplement project;

(j) A unit subsidized with any form of tenant-based rental assistance; or

(k) A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or DCHA in accordance with HUD requirements.

9401.22 The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

9401.23 HUD requires new construction and rehabilitation housing that will include forms of governmental assistance other than PBVs to undergo a subsidy layering review (SLR) prior to entering into an Agreement to Enter into Housing Assistance Payments Contract (AHAP). Subsidy layering requirements do not apply to existing housing, when PBV is the only governmental assistance, or for projects already subject to a PBV HAP contract, even if the project is recapitalized with outside sources of funding.

9401.24 When a PHA selects a new construction or rehabilitation project, DCHA must require information regarding all HUD and/or other federal, state, or local governmental assistance to be disclosed by the project owner using Form HUD-2880.

9401.25 Either HUD or a HUD-approved housing credit agency (HCA) in DCHA's jurisdiction performs the subsidy layering review. DCHA must request an SLR through their local HUD Field Office or, if eligible, through a participating HCA. If the SLR request is submitted to an approved HCA, and the proposed project-based voucher assistance meets HUD subsidy layering requirements, the HCA must submit a certification to HUD and notify DCHA. DCHA may proceed to execute an AHAP at that time if the environmental approval is received.

9401.26 The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

9401.27 In general, DCHA may not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a project, if the total number of dwelling units

in the project that will receive PBV assistance during the term of the PBV HAP contract is more than the greater of twenty-five (25) units or twenty-five percent (25%) of the number of dwelling units (assisted or unassisted) in the project.

9401.28 As of April 18, 2017, units are not counted against the twenty-five percent (25%) percent or 25 (twenty-five) unit per project cap if:

(a) The units are exclusively for elderly families;

(b) The units are for households eligible for supportive services available to all families receiving PBV assistance in the project; or

(c) If the project is located in a census tract with a poverty rate of twenty percent (20%) or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of twenty-five (25) units or forty percent (40%) percent (instead of twenty-five percent (25%) of the units in the project.

9401.29 The Housing Opportunity Through Modernization Act of 2016 (HOTMA) eliminated the project cap exemption for projects that serve disabled families and modified the exception for supportive services.

9401.30 Under the Fostering Stable Housing Opportunities (FSHO) amendments, units exclusively made available to youth receiving FUPY/FYI assistance may be excepted from the project cap for HAP contracts first effective after December 27, 2020. For more information on excepted units for FUPY.

9401.31 Projects where these caps were implemented prior to HOTMA (HAP contracts executed prior to April 18, 2017) or FSHO (contract in effect on or prior to December 27, 2020) may continue to use the former exceptions and may renew their HAP contracts under the old requirements, unless DCHA and owner agree to change the conditions of the HAP contract. However, this change may not be made if it would jeopardize an assisted family's eligibility for continued assistance in the project.

9401.32 As of April 18, 2017, the project must make supportive services available to all families receiving PBV assistance in the project, but the family does not actually have to accept and receive supportive services for the exception to apply to the unit, although the family must be eligible to receive the supportive services. It is not necessary that the services be provided at or by the project but must be reasonably available to families receiving PBV assistance at the project and designed to help families in the project achieve self-sufficiency or live in the community as independently as possible. DCHA may not require participation in the supportive service as a condition of living in the excepted unit, although such services may be offered.

9401.33 Families will not be required to accept and receive supportive services for the exception to apply to the unit, although they will be required to be eligible to receive supportive services. The following types of services will be provided depending on the needs of the family:

(a) Meal service adequate to meet nutritional needs;

(b) Housekeeping aid;

(c) Personal assistance;

(d) Transportation services;

(e) Health-related services;

(f) Case management;

(g) Child care;

(h) Educational and employment services;

(i) Job training;

(j) Counseling; or

(k) Other services designed to help the recipient live in the community as independently as possible.

9401.34 Subject to approval by the Board of Commissioners, PBVs may be provided for up to one hundred percent (100%) of the units in a qualified property. "Qualified property" is defined as a single-family house or property comprised of units that are specifically for households consisting of elderly families, disabled families, families qualifying for supportive services, to the extent permitted under federal funding restrictions.

9401.35 PBV units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD are exempt from the project cap. In other words, one hundred percent (100%) of the units in these projects may receive PBV assistance.

9401.36 DCHA may establish local requirements designed to promote PBV assistance in partially assisted projects. A "partially assisted project" is a project in which there are fewer units covered by a HAP contract than residential units.

9401.37 DCHA may establish a per-project cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily project

containing excepted units or in a single-family building. DCHA may also determine not to provide PBV assistance for excepted units, or DCHA may establish a per-project cap of less than twenty-five (25) units or twenty-five percent (25%) of units.

9401.38 DCHA will not impose any further cap on the number of PBV units assisted per project.

9401.39 DCHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP contract or HAP contract for units on the site, unless DCHA has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with DCHA Plan under 24 CFR § 903 and DCHA's Plan.

9401.40 In addition, prior to selecting a proposal, DCHA must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR § 982.401(l).

9401.41 It is DCHA's goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal DCHA will seek to approve sites for PBV housing in census tracts with lower poverty concentrations within its jurisdiction. DCHA may also prioritize sites where DCHA determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with higher poverty concentrations, such as sites in:

(a) A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, Choice Neighborhood, or Renewal Community;

(b) A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;

(c) A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;

(d) A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area;

(e) A census tract where there has been an overall decline in the poverty rate within the past five (5) years; or

(f) A census tract where there are meaningful opportunities for educational and economic advancement.

9401.42 DCHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

(a) Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;

(b) Have adequate utilities and streets available to service the site;

(c) Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;

(d) Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and

(e) Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

9401.43 In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

(a) The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;

(b) The site must have adequate utilities and streets available to service the site;

(c) The site must not be located in an area of minority concentration unless DCHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;

(d) The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area;

(e) The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;

(f) The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;

(g) The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and

(h) Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

9401.44 DCHA activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The "responsible entity" is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. § 4321 et seq.). DCHA may not enter an agreement to enter a HAP contract nor enter into a HAP contract until it has complied with the environmental review requirements.

9401.45 In the case of existing housing, the responsible entity that is responsible for the environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR § 58.5.

9401.46 DCHA may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and DCHA, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

9401.47 DCHA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. DCHA must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

9402 DWELLING UNITS

9402.1 This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

9402.2 The HQS for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

9402.3 The physical condition standards at 24 CFR § 5.703 do not apply to the PBV program.

9402.4 The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. §§ 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. §§ 4851-4856), and implementing regulations at 24 CFR Part 35, Subparts A, B, H, and R, and 40 CFR § 745.227, apply to the PBV program.

9402.5 The housing must comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. DCHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

9402.6 Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR § 100.205, as applicable.

9402.7 DCHA must examine the proposed site before the proposal selection date. If the units to be assisted already exist, DCHA must inspect all the units before the proposal selection date and must determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, DCHA may not execute the HAP contract until the units fully comply with HQS.

9402.8 DCHA must inspect each contract unit before execution of the HAP contract. DCHA may not provide assistance on behalf of the family until the unit fully complies with HQS, unless DCHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions, or if the unit passed an alternative inspection.

9402.9 DCHA will not provide assistance on behalf of the family until the unit fully complies with HQS.

9402.10 Before providing assistance to a new family in a contract unit, DCHA must inspect the unit. DCHA may not provide assistance on behalf of the family until the unit fully complies with HQS.

9402.11 At least once every twenty-four (24) months during the term of the HAP contract, DCHA must inspect a random sample consisting of at least twenty percent (20%) of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement. DCHA also has the option in certain mixed finance properties to rely on alternative inspections conducted at least triennially.

9402.12 DCHA will inspect at least once every twenty-four (24) months a random sample consisting of at least twenty percent (20%) of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS.

9402.13 If more than twenty percent (20%) percent of the sample of inspected contract units in a building fail the initial inspection, DCHA must re-inspect one hundred percent (100%) percent of the contract units in the building.

9402.14 DCHA must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. DCHA must take into account complaints and any other information coming to its attention in scheduling inspections.

9402.15 DCHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

9402.16 In conducting supervisory quality control HQS inspections, DCHA should include a representative sample of both tenant-based and project-based units.

9402.17 In the case of DCHA-owned units, the inspections must be performed by an independent entity designated by DCHA and approved by HUD. The independent entity must furnish a copy of each inspection report to DCHA and to the HUD field office where the project is located. DCHA must take all necessary actions in response to inspection reports from the independent entity, including exercise of contractual remedies for violation of the HAP contract by DCHA-owner.

9402.18 As authorized under its Moving to Work (MTW) status, DCHA may conduct HQS inspections of PHA-owned units or PHA-affiliate units.

9403 REHABILITATED AND NEWLY CONSTRUCTED UNITS

9403.1 There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

9403.2 Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

9403.3 In order to offer PBV assistance in rehabilitated or newly constructed units, DCHA must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD. DCHA may not enter into an Agreement if commencement of construction or rehabilitation has commenced after proposal submission. Construction begins when excavation or site preparation (including clearing of the land) begins for the housing. Rehabilitation begins with the physical commencement of rehabilitation activity on the housing.

9403.4 In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and DCHA agrees that upon timely completion of such development in accordance with the terms of the Agreement, DCHA will enter into a HAP.

9403.5 At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

(a) Site and the location of the contract units;

(b) Number of contract units by area (size) and number of bedrooms and bathrooms;

(c) Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;

(d) Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;

(e) An indication of whether or not the design and construction requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement;

(f) Estimated initial rents to owner for the contract units;

(g) Description of the work to be performed under the Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by DCHA, specifications and plans. For new construction units, the description must include the working drawings and specifications; and

(h) Any additional requirements for quality, architecture, or design over and above HQS.

9403.6 The Agreement must be executed promptly after DCHA's notice of proposal selection to the selected owner. DCHA may not enter into the Agreement if construction or rehabilitation has started after proposal submission. Generally, DCHA may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, DCHA may not enter into the Agreement until the environmental review is completed and DCHA has received environmental approval. However, DCHA does not need to conduct a subsidy layering review in the case of a HAP contract for existing housing or if the applicable state or local agency has conducted such a review. Similarly, environmental reviews are not required for existing structures unless otherwise required by law or regulation.

9403.7 DCHA will enter into the Agreement with the owner promptly upon receiving both environmental approvals, notice that subsidy layering requirements have been met, any financial closing requirements have been met, and before construction or rehabilitation work is started.

9403.8 If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

9403.9 The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. DCHA must monitor compliance with labor standards.

9403.10 The Agreement and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

9403.11 The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

9403.12 The Agreement must specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The Agreement must also specify the deadline for submission by the owner of the required evidence of completion.

9403.13 At a minimum, the owner must submit the following evidence of completion to DCHA in the form and manner required by DCHA:

(a) Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; and

(b) Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

9403.14 At DCHA's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

9403.15 DCHA will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV project. DCHA will specify any additional documentation requirements in the Agreement to enter HAP contract.

9403.16 Upon notice from the owner that the housing is completed, DCHA must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. DCHA must also determine if the owner has submitted all required evidence of completion.

(a) If the work has not been completed in accordance with the Agreement, DCHA must not enter the HAP contract.

(b) If DCHA determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, DCHA must submit the HAP contract for execution by the owner and must then execute the HAP contract.

9404 HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

9404.1 DCHA must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. Except for single-family scattered-site projects, a HAP contract shall cover a single project.

If multiple projects exist, each project is covered by a separate HAP contract. The HAP contract must be in the form required by HUD.

9404.2 The HAP contract must specify the following information:

(a) The total number of contract units by number of bedrooms;

(b) The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;

(c) The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;

(d) Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;

(e) Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;

(f) Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;

(g) The HAP contract term;

(h) The number of units in any project that will exceed the 25 percent per project cap, which will be set aside for occupancy by qualifying families (elderly and/or disabled families and families receiving supportive services); and

(i) The initial rent to owner for the first twelve (12) months of the HAP contract term.

9404.3 DCHA may not enter a HAP contract until each contract unit has been inspected and DCHA has determined that the unit complies with the Housing Quality Standards (HQS), unless DCHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions. For existing housing, the HAP contract must be executed promptly after DCHA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after DCHA has inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter HAP, and the owner furnishes all required evidence of completion.

(a) For existing housing, the HAP contract will be executed within ten (10) business days of DCHA determining that all units pass HQS.

(b) For rehabilitated or newly constructed housing, the HAP contract will be executed within ten (10) business days of DCHA determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.

9404.4 DCHA may enter a HAP contract with an owner for an initial term of no less than one year and no more than twenty (20) years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than twenty (20) years. In the case of DCHA-owned units, the term of the HAP contract must be agreed upon by DCHA and the independent entity approved by HUD.

9404.5 The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

9404.6 At the time of the initial HAP contract term or any time before expiration of the HAP contract, DCHA may extend the term of the contract for an additional term of up to twenty (20) years if DCHA determines an extension is appropriate to continue providing affordable housing for low-income families. A HAP contract extension may not exceed twenty (20) years. DCHA may provide for multiple extensions; however, in no circumstances may such extensions exceed twenty (20) years, cumulatively. Extensions after the initial extension are allowed at the end of any extension term, provided that not more than twenty-four (24) months prior to the expiration of the previous extension contract DCHA agrees to extend the term, and that such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Extensions after the initial extension term shall not begin prior to the expiration date of the previous extension term. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension. In the case of DCHA-owned units, any extension of the term of the HAP contract must be agreed upon by DCHA and the independent entity approved by HUD.

9404.7 When determining whether to extend an expiring PBV contract, DCHA will consider several factors including, but not limited to:

(a) The cost of extending the contract and the amount of available budget authority;

(b) The condition of the contract units;

(c) The owner's record of compliance with obligations under the HAP contract and lease(s);

(d) Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and

(e) Whether the funding could be used more appropriately for tenant-based assistance.

9404.8 The HAP contract must provide that the term of DCHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by DCHA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

9404.9 In times of insufficient funding, HUD requires that DCHA first take all cost-saving measures prior to failing to make payments under existing PBV HAP contracts.

9404.10 If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, DCHA may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

9404.11 If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to DCHA. In this case, families living in the contract units must be offered tenant-based assistance.

9404.12 Not less than one year before the HAP contract terminates, or if the owner refuses to renew the HAP contract, the owner must notify DCHA and assisted tenants of the termination. The notice must be provided in the form prescribed by HUD. If the owner does not give timely notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of the owner's inability to collect an increased tenant portion of rent. An owner may renew the terminating contract for a period of time sufficient to give tenants one-year advance notice under such terms as HUD may require.

9404.13 Upon termination or expiration of the contract, a family living at the property is entitled to receive a tenant-based voucher. Tenant-based assistance would not begin until the owner's required notice period ends. DCHA must provide the family with a voucher and the family must also be given the option by DCHA and

owner to remain in their unit with HCV tenant-based assistance as long as the unit complies with inspection and rent reasonableness requirements. The family must pay their total tenant payment (TTP) and any additional amount if the gross rent exceeds the applicable payment standard. The family has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for HCV assistance. The owner may not terminate the tenancy of a family that exercises its right to remain except for serious or repeated lease violations or other good cause. Families that receive a tenant-based voucher at the expiration or termination of the PBV HAP contract are not new admissions to DCHA HCV tenant-based program and are not subject to income eligibility requirements or any other admission requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family's adjusted monthly income.

9404.14 DCHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If DCHA determines that a contract does not comply with HQS, DCHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

9404.15 DCHA will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program.

9404.16 At DCHA's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same project for a previously covered contract unit. Before any such substitution can take place, DCHA must inspect the proposed unit and determine the reasonable rent for the unit.

9404.17 DCHA and owner may amend the HAP contract to add additional PBV contract units in projects that already have a HAP contract without having to fulfill the selection requirements found at 24 CFR § 983.51(b) for those additional PBV units, regardless of when the HAP contract was signed. The additional PBV units, however, are still subject to the PBV program cap and individual project caps. Prior to attaching additional units without competition, DCHA must submit to the local field office information outlined in FR Notice 1/18/17. DCHA must also detail in the Plan their intent to add PBV units and the rationale for adding units to the specific PBV project.

9404.18 DCHA will add units to the contract on a case-by-case basis to ensure the availability of affordable housing as long as the addition of units does not exceed allowable project caps.

9404.19 The HAP contract year is the period of twelve (12) calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

9404.20 The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

9404.21 There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

9404.22 When the owner executes the HAP contract s/he always certifies that at such execution and during the term of the HAP contract:

(a) All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;

(b) The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;

(c) Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by DCHA, and the lease is in accordance with the HAP contract and HUD requirements;

(d) To the best of the owner’s knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family’s only residence;

(e) The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;

(f) The amount of the HAP the owner is receiving is correct under the HAP contract;

(g) The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;

(h) Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit;

(i) The family does not own or have any interest in the contract unit (does not apply to family's membership in a cooperative); and

(j) Repair work on the project selected as an existing project that is performed after HAP execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

9404.23 The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with DCHA and in the lease with each assisted family. In addition, maintenance, replacement, and redecoration must be in accordance with the standard practice for the building as established by the owner.

9404.24 DCHA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the Agreement to enter a HAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

9404.25 DCHA will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. DCHA will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter HAP contract, and the HAP contract.

9404.26 At the discretion of DCHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by DCHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit).

9404.27 DCHA will decide on a case-by-case basis if DCHA will provide vacancy payments to the owner. The HAP contract with the owner will contain any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments.

9405 SELECTION OF PBV PROGRAM PARTICIPANTS

9405.1 Many of the provisions of the tenant-based voucher regulations also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

9405.2 DCHA may select families for the PBV program from those who are participants in DCHA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

9405.3 Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and DCHA, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members. In addition, an applicant family must provide social security information for family members and consent to DCHA's collection and use of family information regarding income, expenses, and family composition. DCHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

9405.4 DCHA will determine an applicant family's eligibility for the PBV program in accordance with the policies in §§ 5100 and 9400.

9405.5 An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by DCHA is considered an "in-place family." These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on DCHA's waiting list. Once the family's continued eligibility is determined (DCHA may deny assistance to an in-place family for the grounds specified in 24 CFR §§ 982.552 and 982.553), the family must be given an absolute selection preference and DCHA must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

9405.6 This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

9405.7 DCHA may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant-based and project-based assistance. DCHA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by DCHA. If DCHA chooses to offer a separate waiting list for PBV assistance, DCHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

9405.8 If DCHA decides to establish a separate PBV waiting list, DCHA may use a single waiting list for DCHA's whole PBV program, or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units. DCHA will use one waiting list for both the tenant-based and project-based voucher programs.

9405.9 Applicants who will occupy units with PBV assistance must be selected from DCHA's waiting list. DCHA may establish selection criteria or preferences for occupancy of particular PBV units. DCHA may place families referred by the PBV owner on its PBV waiting list.

9405.10 Under the authority granted to DCHA under its Moving to Work (MTW) status, public housing residents/applicants requiring accessible units may be offered an appropriate PBV unit.

9405.11 At least seventy-five percent (75%) percent of the families admitted to DCHA's tenant-based and project-based voucher programs during DCHA fiscal year from the waiting list must be extremely low-income families. The income targeting requirement applies to the total of admissions to both programs.

9405.12 When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, DCHA must first refer families who require such features to the owner.

9405.13 Under the authority granted to DCHA under its Moving to Work (MTW) status, public housing residents/applicants requiring accessible units may be offered an appropriate PBV unit.

9405.14 DCHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program, or for occupancy of particular PBV developments or units. DCHA must provide an absolute selection preference for eligible in-place families.

9405.15 DCHA may establish a selection preference for families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units, if that preference is consistent with DCHA plan. DCHA may not, however, grant a preference to a person with a specific disability.

9405.16 In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the services offered as a condition of occupancy.

9405.17 If DCHA has projects with "excepted units" for elderly families or supportive services, DCHA must give preference to such families when referring families to these units.

9405.18 DCHA will provide a selection preference when required by the regulation (e.g., eligible in-place families, impaired persons for accessible units). DCHA will not offer any additional preferences for the PBV program or for particular PBV projects or units.

9405.19 DCHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

(a) Refuse to list the applicant on the waiting list for tenant-based voucher assistance;

(b) Deny any admission preference for which the applicant qualifies;

(c) Change the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under DCHA's selection policy; and

(d) Remove the applicant from the tenant-based voucher waiting list.

9405.20 If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

9405.21 When a family accepts an offer for PBV assistance, DCHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, DCHA must provide a briefing packet that explains how DCHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

9405.22 If an applicant family's head or spouse is disabled, DCHA must assure effective communication, in accordance with 24 CFR § 8.6, in conducting the oral briefing and in providing the written information packet. In addition, DCHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

9405.23 DCHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166.

9405.24 The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's

ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection.

9405.25 During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by DCHA from DCHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on DCHA's subsidy standards.

9405.26 The owner must promptly notify DCHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, DCHA must make every reasonable effort to promptly refer enough families for the owner to fill such vacancies. DCHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

9405.27 The owner must notify DCHA in writing electronically within five business days of learning about any vacancy or expected vacancy. DCHA will make every reasonable effort to refer families to the owner within fourteen (14) business days of receiving such notice from the owner.

9405.28 If any contract units have been vacant for one hundred twenty (120) or more days since owner notice of the vacancy, DCHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period.

9405.29 If any contract units have been vacant for one hundred twenty (120) days, DCHA may give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. DCHA will provide prompt written notice to the owner. The amendment to the HAP contract will be effective the 1st day of the month following the date of DCHA's notice.

9405.30 DCHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, DCHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

9405.31 DCHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

9405.32 DCHA must provide the owner with an applicant family's current and prior address (as shown in PHA records) and the name and address (if known by DCHA) of the family's current landlord and any prior landlords.

9405.33 In addition, DCHA may offer the owner other information DCHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members.

DCHA must provide applicant families a description of DCHA policy on providing information to owners, and DCHA must give the same types of information to all owners.

9405.34 DCHA may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR § 5.2007(a)(4)].

9405.35 DCHA will inform owners of their responsibility to screen prospective tenants and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. DCHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

9405.36 The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

(a) Payment of rent and utility bills;

(b) Caring for a unit and premises;

(c) Respecting the rights of other residents to the peaceful enjoyment of their housing;

(d) Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and

(e) Compliance with other essential conditions of tenancy.

9406 OCCUPANCY

9406.1 After an applicant has been selected from the waiting list, determined eligible by DCHA, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

9406.2 The tenant must have legal capacity to enter a lease under state and local law. "Legal capacity" means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

9406.3 The tenant and the owner must enter into a written lease agreement that is signed by both parties.

(a) If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy

addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

(b) If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a PHA model lease.

(c) DCHA may review the owner's lease form to determine if the lease complies with state and local law. If DCHA determines that the lease does not comply with state or local law, DCHA may decline to approve the tenancy.

(d) DCHA will not review the owner's lease for compliance with state or local law.

9406.4 The lease for a PBV unit must specify all the following information:

(a) The names of the owner and the tenant;

(b) The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);

(c) The term of the lease (initial term and any provision for renewal);

(d) The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;

(e) A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and

(f) The amount of any charges for food, furniture, or supportive services.

9406.5 The tenancy addendum in the lease must state:

(a) The program tenancy requirements;

(b) The composition of the household as approved by DCHA (the names of family members and any DCHA-approved live-in aide); and

(c) All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

9406.6 The initial lease term must be for at least one (1) year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g. month-to-month or year-to-year) or an automatic indefinite extension

of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

(a) The owner terminates the lease for good cause;

(b) The tenant terminates the lease;

(c) The owner and tenant agree to terminate the lease;

(d) DCHA terminates the HAP contract; or

(e) DCHA terminates assistance for the family.

9406.7 If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give DCHA a copy of all changes.

9406.8 The owner must notify DCHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by DCHA and in accordance with the terms of the lease relating to its amendment. DCHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

9406.9 With two (2) exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program. In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

9406.10 The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR § 981.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

9406.11 Housing assistance payments shall continue until the tenant rent equals the rent to owner. The cessation of housing assistance payments at such point will not affect the family's other rights under its lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within one hundred eighty (180) days following the date of the last housing assistance payment by DCHA. After

the one hundred eighty (180) day period, the unit shall be removed from the HAP contract pursuant to 24 CFR § 983.211.

9406.12 Under the authority granted to DCHA under its Moving to Work status, if the amount of assistance provided by DCHA is reduced to zero, the family's assistance automatically terminates twelve months after the last HAP payment. If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify DCHA of the change and request an interim reexamination before the expiration of the one year period.

9406.13 The owner may collect a security deposit from the tenant. DCHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

9406.14 DCHA will allow the owner to collect a security deposit amount the owner determines is appropriate.

9406.15 When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

9406.16 The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

9406.17 If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. DCHA has no liability or responsibility for payment of any amount owed by the family to the owner.

9406.18 If DCHA determines that a family is occupying a wrong size unit, based on DCHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, DCHA must promptly notify the family and the owner of this determination, and DCHA must offer the family the opportunity to receive continued housing assistance in another unit.

9406.19 DCHA will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within fourteen (14) business days of DCHA's determination. DCHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

(a) PBV assistance in the same building or project;

(b) PBV assistance in another project; and

(c) Tenant-based voucher assistance.

9406.20 If DCHA offers the family a tenant-based voucher, DCHA must terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier of the expiration of the term of the family's voucher (including any extension granted by DCHA) or the date upon which the family vacates the unit. If the family does not move out of the wrong-sized unit or accessible unit by the expiration of the term of the family's voucher, DCHA must remove the unit from the HAP contract.

9406.21 If DCHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by DCHA, or both, DCHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by DCHA and remove the unit from the HAP contract.

9406.22 When DCHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given thirty (30) days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this thirty (30) day time frame, DCHA will terminate the housing assistance payments at the expiration of this thirty (30) day period. DCHA may make exceptions to this thirty (30) day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

9406.23 The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to DCHA. If the family wishes to move with continued tenant-based assistance, the family must contact DCHA to request the rental assistance prior to providing notice to terminate the lease.

(a) If the family terminates the lease in accordance with these requirements, DCHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, DCHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

(b) If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

9406.24 Except where special consideration is needed for the project-based voucher program, DCHA will follow VAWA policies as outlined in this Plan, including using the Emergency Transfer Plan as the basis for PBV transfers under VAWA.

9406.25 HUD requires that DCHA include policies that address when a victim has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant-based voucher is available.

(a) When the victim of domestic violence, dating violence, sexual assault, or stalking has lived in the unit for less than one year, DCHA will provide several options for continued assistance.

(b) DCHA will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where DCHA has PBV units. DCHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

(c) If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to either tenant-based rental assistance (HCV) or assistance in DCHA's public housing program. Such a decision will be made by DCHA based on the availability of tenant-based vouchers and/or vacancies in public housing units. Such families must be selected from the waiting list for the applicable program.

(d) If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, DCHA will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where DCHA has PBV units. DCHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

(e) If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to DCHA's public housing program.

9406.26 As of April 17, 2018, DCHA may not pay housing assistance under a PBV HAP contract for more than the greater of twenty-five (25) units or twenty-five percent (25%) of the number of dwelling units in a project unless:

(a) The units are exclusively for elderly families; or

(b) The units are for households eligible for supportive services available to all families receiving PBV assistance in the project.

9406.27 If the project is located in a census tract with a poverty rate of twenty percent (20%) or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of twenty-five (25) units or forty percent (40%) (instead of twenty-five percent (25%)) of the units in the project.

9406.28 If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined by DCHA and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit. However, if the FSS family fails to successfully complete the FSS contract of participation or supportive services objective and consequently is no longer eligible for the supportive services, the family must vacate the unit within a reasonable period of time established by DCHA, and DCHA shall cease paying HAP on behalf of the family.

9406.29 Further, when a family (or remaining members of a family) residing in an excepted unit no longer meets the criteria for a "qualifying family" because the family is no longer an elderly family due to a change in family composition, DCHA has the discretion to allow the family to remain in the excepted unit. If DCHA does not exercise this discretion, the family must vacate the unit within a reasonable period established by DCHA, and DCHA must cease paying housing assistance payments on behalf of the non-qualifying family.

9406.30 Individuals in units with supportive services who choose to no longer participate in a service or who no longer qualify for services they qualified for at the time of initial occupancy cannot subsequently be denied continued housing opportunity because of this changed circumstance. DCHA or owner cannot determine that a participant's needs exceed the level of care offered by qualifying services or require that individuals be transitioned to different projects based on service needs.

9406.31 If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by DCHA.

9406.32 DCHA may allow a family that initially qualified for occupancy of an excepted unit based on elderly family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death of the elderly family member or long-term or permanent hospitalization or nursing care), the elderly family member no longer resides in the unit. In this case, the unit may continue to be counted as an excepted unit for as long as the family resides in that unit. Once the family vacates the unit, to continue as an excepted unit under the HAP contract, the unit must be made available to and occupied by a qualified family.

9406.33 DCHA will allow families who initially qualified to live in an excepted unit to remain when circumstances change due to circumstances beyond the remaining family members' control.

9407 DETERMINING RENT TO OWNER

9407.1 The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

9407.2 During the term of the HAP contract, the rent to owner is redetermined at the owner's request in accordance with program requirements, and at such time that there is a ten percent or greater decrease in the published FMR.

9407.3 Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

(a) An amount determined by DCHA, not to exceed one hundred ten percent (110%) of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance;

(b) The reasonable rent; or

(c) The rent requested by the owner.

9407.4 For certain tax credit units, the rent limits are determined differently than for other PBV units. Different limits apply to contract units that meet all of the following criteria:

(a) The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986;

(b) The contract unit is not located in a qualified census tract;

(c) There are comparable tax credit units of the same bedroom size as the contract unit in the same project, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and

(d) The tax credit rent exceeds one hundred ten percent (110%) of the fair market rent or any approved exception payment standard;

9407.5 For contract units that meet all these criteria, the rent to owner must not exceed the lowest of:

(a) The tax credit rent minus any utility allowance;

(b) The reasonable rent; or

(c) The rent requested by the owner.

9407.6 A qualified census tract is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least fifty percent (50%) percent of households have an income of less than sixty percent (60%) of Area Median Gross Income (AMGI), or where the poverty rate is at least twenty-five percent (25%) and where the census tract is designated as a qualified census tract by HUD.

9407.7 Tax credit rent is the rent charged for comparable units of the same bedroom size in the project that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

9407.8 DCHA must determine reasonable rent in accordable with 24 CFR § 983.303. The rent to owner for each contract unit may at no time exceed the reasonable rent, except in cases where DCHA has elected within the HAP contract not to reduce rents below the initial rent to owner and, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent. However, the rent to owner must be reduced in the following cases:

(a) To correct errors in calculations in accordance with HUD requirements;

(b) If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 24 CFR § 983.55; or

(c) If a decrease in rent to owner is required based on changes in the allocation of the responsibility for utilities between owner and tenant.

9407.9 If DCHA has not elected within the HAP contract to establish the initial rent to owner as the rent floor, the rent to owner shall not at any time exceed the reasonable rent.

9407.10 DCHA may elect within the HAP contract not to reduce rents below the initial level, with the exception of circumstances listed in 24 CFR § 983.302(c)(2) on a case by case basis. If, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent, DCHA will use the higher initial rent to owner amount.

9407.11 When determining the initial rent to owner, DCHA must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, DCHA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, DCHA may for initial rent, use the amounts in effect at any time during the thirty (30) day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the thirty (30) day period immediately before the redetermination date.

9407.12 Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment standard amount for use in the PBV program.

9407.13 Likewise, DCHA may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

9407.14 Upon written request by the owner, DCHA will consider using the FMR or utility allowances in effect during the thirty (30) day period before the start date of the HAP, or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. DCHA will review and make a decision based on the circumstances and merit of each request. In addition to considering a written request from an owner, DCHA may decide to use the FMR or utility allowances in effect during the thirty (30) day period before the start date of the HAP, or redetermination of rent, if DCHA determines it is necessary due to PHA budgetary constraints.

9407.15 While small area FMRs (SAFMRs) do not apply to PBV projects, PHAs that operate a tenant-based program under SAFMRs may apply SAFMRs to all future PBV HAP contracts. If DCHA adopts this policy, it must apply to all future PBV projects and DCHA's entire jurisdiction. DCHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if DCHA subsequently changes its policy.

9407.16 Further, DCHA may apply SAFMRs to current PBV projects where the notice of owner selection was made on or before the effective date of PHA implementation, provided the owner is willing to mutually agree to doing so and the application is prospective. DCHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if DCHA subsequently changes its policy. If rents increase as a result of the use of SAFMRs, the rent increase may not be effective until the first anniversary of the HAP contract.

9407.17 DCHA will not apply SAFMRs to DCHA's PBV program.

9407.18 DCHA must redetermine the rent to owner upon the owner's request or when there is a ten percent (10%) or greater decrease in the published FMR.

9407.19 If an owner wishes to request an increase in the rent to owner from DCHA, it must be requested at the annual anniversary of the HAP contract. The request must be in writing and in the form and manner required by DCHA. DCHA may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

(a) An owner's request for a rent increase must be submitted to DCHA sixty (60) days prior to the anniversary date of the HAP contract and must include the new rent amount the owner is proposing.

(b) DCHA will not approve any increase of rent to owner for any unit within the development unless all inspected units comply with HQS.

9407.20 DCHA may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

9407.21 If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment, except where DCHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

9407.22 The rent to owner is redetermined by written notice by DCHA to the owner specifying the amount of the redetermined rent. DCHA notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of twelve (12) calendar months from the annual anniversary of the HAP contract.

9407.23 DCHA will provide the owner with at least thirty (30) days written notice of any change in the amount of rent to owner.

9407.24 For DCHA-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD. DCHA must use the rent to owner established by the independent entity.

9407.25 At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by DCHA, except where DCHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

9407.26 DCHA must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

(a) There is a ten percent (10%) or greater decrease in the published FMR in effect sixty (60) days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;

(b) DCHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;

(c) The HAP contract is amended to substitute a different contract unit in the same building or project; or

(d) There is any other change that may substantially affect the reasonable rent.

9407.27 The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, DCHA must consider factors that affect market rent. Such factors include the location, quality, size, type, and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

9407.28 For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by DCHA. The comparability analysis may be performed by DCHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining

the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

9407.29 For DCHA-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for DCHA-owned units to DCHA and to the HUD field office where the project is located.

9407.30 By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, DCHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

9407.31 In addition to the rent limits discussed above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance.

9407.32 To comply with HUD subsidy layering requirements, at the discretion of HUD or its designee, a PHA shall reduce the rent to owner because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized funding.

(a) For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

(b) For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

(1) An insured or non-insured Section 236 project;

(2) A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;

(3) A Section 221(d)(3) below market interest rate (BMIR) project;

(4) A Section 515 project of the Rural Housing Service; and

(5) Any other type of federally subsidized project specified by HUD.

9407.33 Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

9407.34 In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

9408 PAYMENTS TO OWNER

9408.1 During the term of the HAP contract, DCHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and DCHA agree on a later date.

9408.2 Except for discretionary vacancy payments, DCHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

9408.3 The amount of the housing assistance payment by DCHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

9408.4 In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

9408.5 If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if DCHA determines that the vacancy is the owner's fault.

9408.6 If DCHA determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, DCHA will notify the landlord of the amount of housing assistance payment that the owner must repay. DCHA will require the owner to repay the amount owed to DCHA.

9408.7 At the discretion of DCHA, the HAP contract may provide for vacancy payments to the owner. DCHA may only make vacancy payments if:

(a) The owner gives DCHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);

(b) The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;

(c) The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and

(d) The owner provides any additional information required and requested by DCHA to verify that the owner is entitled to the vacancy payment.

9408.8 The owner must submit a request for vacancy payments in the form and manner required by DCHA and must provide any information or substantiation required by DCHA to determine the amount of any vacancy payment.

(a) If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified DCHA of the vacancy.

(b) In order for a vacancy payment request to be considered, it must be made within ten (10) business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and DCHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by DCHA within ten (10) business days of DCHA's request, no vacancy payments will be made.

9408.9 The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by DCHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in DCHA notice to the family and owner.

9408.10 The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by DCHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant more than the tenant rent as determined by DCHA. The owner must immediately return any excess payment to the tenant.

9408.11 The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by DCHA.

9408.12 Likewise, DCHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. DCHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. DCHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

9408.13 If the amount of the utility allowance exceeds the total tenant payment, DCHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

9408.14 DCHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If DCHA chooses to pay the utility supplier directly, DCHA must notify the family of the amount paid to the utility supplier. DCHA will make utility reimbursements to the family.

9408.15 With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

9408.16 In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

9408.17 The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

New Chapter 100, PROJECT BASED VOUCHERS (PBV) UNDER THE RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM, of Title 14 DCMR, HOUSING, is added to read as follows:

CHAPTER 100

PROJECT BASED VOUCHERS (PBV) UNDER THE RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM

10000 GENERAL REQUIREMENTS

10000.1 The Rental Assistance Demonstration (RAD) program was authorized in 2012 in order to assess the effectiveness of converting public housing, moderate rehabilitation properties, and units under the rent supplement and rental assistance payments programs to long-term, project-based Section 8 rental assistance. The program's four primary objectives are to:

(a) Preserve and improve public and other assisted housing;

(b) Standardize the administration of the plethora of federally subsidized housing programs and rules. The conversions are intended to promote

operating efficiency by using a Section 8 project-based assistance model that has proven successful and effective for over 30 years. In other words, RAD aligns eligible properties more closely with other affordable housing programs;

(c) Attract private market capital for property renovations. Through the use of this model, properties may be able to leverage private debt and equity to make capital repairs; and

(d) Increase tenant mobility opportunities.

10000.2 DCHA, like other PHAs, may apply to HUD to convert some or all of their public housing units to long-term, project-based Section 8 HAP contracts under either:

(a) Project-based rental assistance (PBRA) under HUD's Office of Multifamily Housing Programs; or

(b) Project-based vouchers (PBVs) under HUD's Office of Public and Indian Housing (PIH).

10000.3 This chapter will focus on public housing conversions to the PBV program under RAD. In order to distinguish between requirements for public housing conversion under RAD and PBV units under the standard PBV program, we will refer to the standard PBV program and the RAD PBV program.

10000.4 [RESERVED]

10000.5 Any non-RAD PBV units located in the covered project are subject to the same waivers and alternative requirements noted in Notice PIH 2019-23 (issued September 5, 2019) and in this Chapter.

10000.6 Otherwise, all regulatory and statutory requirements for the standard PBV program in 24 CFR Part 983 and Section 8(o)(13) of the Housing Act of 1937, and all applicable standing and subsequent Office of Public and Indian Housing (PIH) notices and guidance, including related handbooks, apply to RAD PBV. This includes environmental review, Davis-Bacon, and fair housing requirements.

10000.7 Requirements specific to the RAD program may be found in the following:

(a) Generally, public housing projects converting assistance under RAD are bound by the terms of the notice in effect at the time of closing.

(1) Notice PIH 2019-23 was immediately applicable at the time of closing to all projects converting assistance (notwithstanding execution of a commitment for conversion). Except with respect to

changes in the project eligibility and selection criteria, not included in this policy, which are effective after a 30-day comment period;

(2) Notice PIH 2012-32, REV-3 was applicable to projects that were seeking conversion of assistance through RAD, including those where a CHAP had already been issued when it was published January 12, 2017. Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which were effective after a 30-day comment period; and

(3) Notice PIH 2012-32, REV-2 was applicable to projects that were seeking conversion of assistance through RAD, including those where a CHAP had already been issued when it was published June 15, 2015. Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which are effective after a 30-day comment period;

(b) RAD Quick Reference Guide for Public Housing Converting to PBV Assistance (6/20);

(c) RAD Welcome Guide for New Awardees: RAD 1st Component (3/15);

(d) Notice PIH 2016-17, Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component – Public Housing Conversions. This Notice applies to all projects that have applied for RAD conversion but have not yet converted as of November 10, 2016;

(e) Notice PIH 2014-17, Relocation Requirements under the RAD Program, Public Housing in the First Component. This notice may apply to projects that have converted to RAD prior to November 10, 2016, AND who have requested and received approval from HUD to be governed by this notice. See PIH Notice 2016-17, Section 1, Paragraph 1.3 for applicability;

(f) The policies in this chapter follow Notice PIH 2016-17. If your project falls under PIH 2014-17, applicable policies may be found in Section 18-I.D; and

(g) RAD FAQs (http://www.radresource.net/search.cfm).

DCHA's RAD Projects:

RAD		
Project	**Closing Date**	**RAD Notice**
Colorado Road/Columbia Road	3/14/18	2/17/17
Fairlawn Marshall	7/16/18	

Apartments		
Matthews Memorial Terrace	7/16/18	
Montana Terrace	Summer 2023	8/21/20
Elvans Road	Summer 2023	8/21/20
Lincoln Road	Summer 2023	8/21/20
The Villager	Summer 2023	8/21/20
Ontario Road	Summer 2023	8/21/20
Wheeler Creek	Fall/Winter 2023	4/13/21
Judiciary House	December 2023	7/6/20
Henson Ridge	FY2023	TBD
Kelly Miller	FY2023	TBD
Potomac Gardens - Family and Senior Mid-Rise	Summer 2024	TBD
Greenleaf Senior	FY2024	TBD
LeDroit Senior	FY2024	TBD
James Apartments	FY2024	TBD
Horizon House	FY2024	TBD
Capper Senior I	FY2024	TBD
Langston Terrace	FY2025	TBD
Langston Additions	FY2025	TBD
Claridge Towers	FY2028	TBD
Potomac Gardens - 3-Story Family Low-Rise	TBD	TBD
The Bixby	TBD	TBD
Highland Dwellings	TBD	TBD
Capitol Gateway	TBD	TBD
Nannie Helen Burroughs	TBD	TBD
Faircloth to RAD via Initiative 25-Local Blended Subsidy		
Project	**Closing Date**	**RAD Notice**
Kenilworth 166	March 2024	TBD
Barry Farm 108	June 2025	TBD
Park Morton - Phase I	December 2025	TBD
Sursum Corda Turnkey & Sibley Townhomes	TBD	TBD

10000.8 MTW agencies can apply activities impacting the PBV program that are approved in the MTW Plan to properties converting under RAD, provided they do not conflict with RAD requirements.

10000.9 Except as otherwise noted in this chapter, DCHA policies related to tenant-based assistance also apply to RAD PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

10000.10 Except as otherwise noted in this chapter, or unless specifically prohibited by RAD PBV program regulations, DCHA policies for the PBV program contained in this Plan also apply to the RAD PBV program and its participants. This chapter is intended to address requirements specific to the RAD PBV program only. See Exhibit 18-1 for information on projects to which DCHA has attached RAD PBV assistance.

10000.11 For projects that apply for conversion of assistance under the First Objective of RAD and will convert November 10, 2016 or later, the following applies:

(a) In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed. Any non-RAD PBV units located in the same project are also subject to the right to return;

(b) Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements, and other requirements which may be applicable such as Section 104(d) of the Housing and Community Development Act of 1974, as amended. Sample informing notices are provided in Appendices 2–5 of Notice PIH 2014-17. A written relocation plan is required if the RAD conversion involves permanent relocation (including a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than a year. While DCHA is not required to have a written relocation plan for temporary relocation lasting one year or less, HUD strongly encourages PHAs to prepare one. Appendix II of Notice PIH 2016-17 contains recommended contents for a relocation plan;

(c) In addition, DCHA must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. The obligation due to relocating residents under RAD are broader than URA relocation assistance and payments;

(d) Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to either:

(1) a unit at the development once rehabilitation or construction is completed, provided the resident's household is not under-housed; or

(2) a unit in the development which provides the same major features as the resident's unit in the development prior to the implementation of the RAD conversion;

(e) Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete;

(f) If DCHA's proposed plans for conversion would preclude a resident from returning to the development, the resident must be given an opportunity to comment and/or object to such plans. DCHA must alter the project plans to accommodate the resident's right to return to the development if the resident would be precluded from returning to the development;

(g) Examples of project plans that may preclude a resident from returning to the development include, but are not limited to:

(1) Changes in the development's bedroom distribution that decrease the size of the units, resulting in the resident being under-housed;

(2) The resident cannot be accommodated in the remaining assisted units due to a reduction in the number of assisted units at the development;

(3) Income limit eligibility requirements associated with the LIHTC program or another program; and

(4) Failure to provide a reasonable accommodation, in violation of applicable law, where reasonable accommodation may include installation of accessibility features that are needed by the resident;

(h) Residents of a development undergoing conversion that would be precluded from returning to the development may voluntarily accept DCHA's or owner's offer to permanently relocate to alternative housing, and thereby waive their right to return to the development after rehabilitation or construction is completed. In this event, DCHA must secure the resident's written consent to a voluntary permanent relocation in lieu of returning to the development. DCHA is prohibited from employing any tactics to pressure residents into relinquishing their right to return or accepting other housing options. Additionally, DCHA may not

terminate a resident's lease if DCHA fails to obtain the resident's consent and the resident seeks to exercise the right to return;

(i) In the case of multi-phase RAD transactions, the resident has a right to return to the development or to other converted phases of the development that are available for occupancy at the time the resident is eligible to exercise their right of return. Generally, the resident's right to return must be accommodated within the development associated with the resident's original unit, however, DCHA may treat multiple converted developments on the same site as one for purposes of right to return. Should DCHA seek to have the resident exercise the right to return at a future phase, DCHA must secure the resident's consent in writing; and

(j) Alternative housing options may involve a variety of housing options, including but not limited to:

(1) Transfers to public housing;

(2) Admission to other affordable housing properties subject to the applicable program rules;

(3) Housing choice voucher (HCV) assistance;

(4) Homeownership programs subject to the applicable program rules; and

(5) Other options identified by DCHA.

10000.12 For projects that applied for conversion prior to November 10, 2016, the following applies for some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another.

(a) RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed.

(b) Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements. DCHA is not required to have a written relocation plan.

(c) In addition, DCHA must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD

will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24.

(d) Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to an assisted unit at the development once rehabilitation or construction is completed. Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete. Residents of a development undergoing conversion of assistance may voluntarily accept DCHA's or owner's offer to permanently relocate to another assisted unit, and thereby waive their right to return to the development after rehabilitation or construction is completed.

10000.13 RAD conversions are governed by the same civil rights authorities that govern HUD-assisted activities in general. DCHA must comply with all applicable fair housing and civil rights laws, including but not limited to the Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973, when conducting relocation planning and providing relocation assistance.

10001 PBV PROJECT SELECTION

10001.1 Unlike in the standard PBV program, projects selected for assistance under RAD PBV are selected in accordance with the provisions in Notice PIH 2019-23. Therefore, 24 CFR 983.51 does not apply.

10001.2 For projects governed by Notice PIH 2019-23, the following language applies:

(a) Under the PBV program, the contract administrator and the owner listed on the contract cannot be the same legal entity (i.e., DCHA cannot execute a contract with itself). To avoid this situation, DCHA may either:

(1) Transfer the ownership of the project to a nonprofit affiliate or instrumentality of DCHA (including to a "single-purpose entity" that owns nothing other than the property, which will typically be a requirement of a lender or investor), or

(2) DCHA can form a related entity that is responsible for management and leasing and can serve as the owner for purposes of the Section 8 HAP contract; in this scenario, the HAP is then executed between DCHA (as the contract administrator) and DCHA's related entity (as the owner for HAP contract purposes). Note that in the second scenario, both DCHA and the entity serving as the owner for HAP contract purposes will be required to sign the RAD Use Agreement;

(b) Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or nonprofit entity. HUD may also allow ownership of the project to be transferred to a tax credit entity controlled by a for-profit entity to facilitate the use of tax credits for the project, but only if HUD determines that DCHA or a nonprofit entity preserves an interest in the profit. The requirement for a public or nonprofit entity, or preservation of an interest by a PHA or nonprofit in a property owned by a tax credit entity controlled by a for-profit entity, is satisfied if a public or nonprofit entity (or entities), directly or through a wholly owned affiliate:

(1) Holds a fee simple interest in the property;

(2) Is the lessor under a ground lease with the property owner;

(3) Has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units,

(4) Owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable;

(5) Owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD;

(6) Owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or

(7) Demonstrates other ownership and control arrangements approved by HUD; and

(c) Control may be established through the terms of the project owner's governing documents or through a Control Agreement, provided that in either case amendment of the terms of control requires consent from HUD.

10001.3 For projects subject to the requirements of Notice PIH 2012-32, REV-3, the following language applies:

(a) Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or nonprofit entity. The

requirement for a public or nonprofit entity is satisfied if a public or nonprofit entity (or entities), directly or through a wholly owned affiliate:

(1) Holds a fee simple interest in the property;

(2) Is the lessor under a ground lease with the property owner;

(3) Has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units;

(4) Owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable;

(5) Owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD;

(6) Owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or

(7) Has other ownership and control arrangements approved by HUD.

(b) If low-income housing tax credits are used, HUD may allow ownership of the property to be transferred to a tax credit entity controlled by a for-profit entity if HUD determines that DCHA preserves its interest in the property. Preservation of DCHA interest in the property includes but is not limited to the following:

(1) DCHA, or an affiliate under its sole control, is the general partner or managing member;

(2) DCHA retains fee ownership and leases the real estate to the tax credit entity pursuant to a long-term ground lease;

(3) DCHA retains control over leasing the property and determining program eligibility;

(4) DCHA enters into a control agreement by which DCHA retains consent rights over certain acts of the project owner and retains certain rights over the project; or

(5) Other means that HUD finds acceptable.

10001.4 For projects that converted assistance prior to the implementation of Notice PIH 2012-32, REV-3, the following language applies:

(a) During both the initial term and renewal terms of the HAP contract, ownership must be either of the following:

(1) A public or nonprofit entity that has legal title to the property. The entity must have the legal authority to direct the financial, legal, beneficial, and other interests of the property; or

(2) A private entity, if the property has low-income tax credits. DCHA must maintain control via a ground lease.

10001.5 If the project is DCHA-owned, rent-setting and inspection functions set out in 24 CFR 983.59 must be conducted by an independent entity approved by HUD.

10001.6 The definition of *ownership or control* provided under Notice PIH 2019-23 (listed above) is used specifically to determine whether a PHA retains control over a project for purposes of HUD's requirement for ownership or control of the covered project under RAD. For purposes of determining whether an independent entity will perform certain functions for the project, the definition of *PHA-owned* under Notice PIH 2017-21 is used. This is the same definition used for standard PBV units. In some cases, a project may meet the RAD definition of *ownership or control* but may not be considered PHA-owned for purposes of requiring an independent entity.

10001.7 The independent entity that performs the program services may be the unit of general local government for DCHA jurisdiction (unless DCHA is itself the unit of general local government or an agency of such government), or another HUD-approved public or private independent entity.

10001.8 DCHA may compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). DCHA may not use other program receipts to compensate the independent entity for its services. DCHA, and the independent entity, may not charge the family any fee for the services provided by the independent entity.

10001.9 If units converted to PBV under RAD are PHA-owned housing, DCHA will use an entity approved by HUD for rent setting activities. Under the authority granted to DCHA in its Moving to Work status, DCHA conducts its own HQS inspections.

10001.10 For projects governed by Notice PIH 2019-23, the following language applies:

(a) In the case of a PHA that will no longer have ACC units as a result of the pending or simultaneous closing, or have less than 50 units remaining and

have initiated procedures to dispose of their final ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project or projects though the conversion. However, DCHA must estimate and plan for outstanding liabilities and costs and must follow Notice PIH 2016-23 or a successor notice regarding the administrative activities required to terminate the ACC if it has no plans to develop additional public housing;

(b) In the case where DCHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review; and

(c) Following execution of the HAP contract, DCHA is authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, DCHA may not contribute public housing program funds to the covered project unless those funds have been identified in the RCC and converted at closing for Section 8 RAD purposes.

10001.11 For projects governed by Notice PIH 2012-32, REV-3, the following language applies:

(a) In the case when DCHA is converting all of its ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project at closing; DCHA may convey all program funds to the covered projects. To cover the cost of administrative activities required to terminate the ACC, once it no longer has units under the ACC and has no plans to develop additional public housing, DCHA may:

(1) Designate that a reserve associated with the project be available to fund any public housing closeout costs (such as an operating deficit reserve or a specific PHA closeout reserve). Any funds not needed for public housing closeout costs would remain in such reserve or may be transferred to another reserve associated with the project (such as the replacement reserve). Thereafter, these funds may be used at the project pursuant to the authorized use of the applicable reserve; or

(2) Retain funds under the public housing program for this purpose. However, HUD will recapture any public housing funds that DCHA does not expend for closeout costs;

(b) In the case where DCHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory; and

(c) Following execution of the HAP contract, PHAs are authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, a PHA may not contribute public housing program funds to the covered project unless such funding has been identified in the approved financing plan and included in the approved "sources and uses" attached to the RCC.

10001.12 For projects governed by the requirements of Notice PIH 2012-32, REV-2, the following language applies:

(a) In the case when DCHA is converting all of its ACC units on a project, there is no restriction on the amount of public housing funds that may be contributed to the covered project at closing; DCHA may convey all program funds to the covered project. HUD will recapture any public housing funds that a PHA has not expended once it no longer has units under ACC. In the case where DCHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.

10001.13 Covered projects do not count against the maximum amount of assistance a PHA may utilize for the PBV program, which under the standard PBV program is set at 20 percent of the authorized units allocated to a PHA under the HCV program. To implement this provision, HUD is waiving section 8(o)(13)(B) of the 1937 Act as well as 24 CFR 983.6.

10001.14 Projects that are governed by REV-2 of Notice PIH 2012-32, the cap on the number of PBV units in the project is increased to 50 percent. In these projects, however, provided units met certain exception criteria, DCHA may have converted a larger number of units to RAD PBV. For projects governed by the requirements of Notice PIH 2012-32, REV-2 **only**, the following language applies:

(a) In general, DCHA may not provide PBV assistance for units in a project if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than 50 percent of the number of dwelling units (assisted or unassisted) in the project. However, PHAs may exceed the 50 percent limitation when units in the project are occupied by elderly and/or disabled families or families that will receive supportive services. These units are known as "excepted units" and do not count toward the project cap;

(b) For projects governed by the requirements of Notice PIH 2012-32, REV-2 choosing to include excepted units, additional policy decisions may be required; and

(c) For projects governed by Notice PIH 2012-32, REV-2, DCHA may provide RAD PBV assistance for excepted units.

10001.15 Site selection requirements set forth in 24 CFR 983.57 apply to RAD PBV, except for 983.57(b)(1) and (c)(2). To facilitate the uniform treatment of residents and units, any non-RAD PBV units located in the same project are subject to the terms of this provision.

10001.16 HUD will conduct a front-end civil rights review of DCHA's proposed site in certain circumstances. For RAD PBV conversions that involve new construction located in an area of minority concentration (whether on the existing public housing site or on a new site) HUD will determine whether it meets one of the exceptions that would allow for new construction in an area of minority concentration.

10001.17 DCHA must ensure that its RAD PBV conversion, including any associated new construction, is consistent with its certification to affirmatively further fair housing and complies with civil rights laws.

10001.18 HUD cannot approve an applicant's financing plan submission unless and until the required environmental review has been completed for the applicant's proposed conversion project and found to meet environmental review requirements.

10002 DWELLING UNITS

10002.1 This part identifies the special housing quality standards that apply to the RAD PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

10002.2 The housing quality standards (HQS) for the tenant-based program generally apply to the PBV program except when conflicting with this Chapter. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

10002.3 Uniform physical condition standards (UPCS) at 24 CFR 5.703 do not apply to the PBV program.

10002.4 The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, and 40 CFR 745.227, apply to the PBV program.

10002.5 Federal accessibility requirements apply to all conversions, whether they entail new construction, alternations, or existing facilities. The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. DCHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

10002.6 Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

10002.7 Under standard PBV regulations at 24 CFR 983.103(b), a PHA may not enter into a HAP contract until DCHA has determined all units comply with HQS. It is the responsibility of the contract administrator to perform this initial inspection (unless units are PHA-owned). In order to accommodate projects in which repairs are conducted, however, HUD has waived this requirement when units are undergoing rehabilitation. In this case, units must meet HQS by the date indicated in the RAD Conversion Commitment (RCC).

10002.8 Before aiding a new family in a contract unit, DCHA must inspect the unit. DCHA may not aid on behalf of the family until the unit fully complies with HQS.

10002.9 At least once every twenty-four (24) months during the term of the HAP contract, DCHA must inspect a random sample consisting of at least twenty (20) percent of the contract units in each building, to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement.

(a) If more than twenty (20) percent of the sample of inspected contract units in a building fail the initial inspection, DCHA must re-inspect one hundred (100) percent of the contract units in the building.

10002.10 DCHA must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. DCHA must take into account complaints and any other information coming to its attention in scheduling inspections.

10002.11 DCHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

10002.12 In conducting supervisory quality control HQS inspections, DCHA should include a representative sample of both tenant-based and project-based units.

10002.13 In the case of DCHA-owned units, all required inspections must be performed by an independent entity designated by DCHA and approved by HUD. The independent entity must furnish a copy of each inspection report to DCHA and to the HUD field office where the project is located. DCHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by DCHA-owner.

10003 HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT

10003.1 Public housing projects converting under RAD do not employ the PBV Agreement to Enter into a Housing Assistance Payments (AHAP) contract. Instead, following the execution of all requirements contained in the Commitment to Enter into a HAP (CHAP) contract and the RAD Conversion Commitment (RCC), a project is converted immediately to the RAD PBV HAP contract following the closing of any construction financing. Owners of public housing projects converted to PBV assistance via RAD enter into a HAP contract with DCHA that will administer the PBV assistance. Units assisted under a RAD PBV

HAP contract must be subject to long-term, renewable use and affordability restrictions.

10003.2 The RAD PBV program uses the PBV HAP contract for new construction or rehabilitated housing (Form HUD-52530A), as modified by the RAD rider (Form HUD-52621). For closings on or after January 1, 2018, HUD incorporated the RAD rider directly into the standard PBV HAP contract. For closing that occurred prior to January 1, 2018, the RAD rider must be attached to the PBV HAP contract.

10003.3 The distinction between "existing housing" and "rehabilitated and newly constructed housing" is overridden by RAD requirements. The project must also have an initial RAD use agreement. All public housing RAD conversion properties financed with LIHTC are also required to include an LIHTC rider.

10003.4 RAD PBV projects do not employ an Agreement to Enter into a Housing Assistance Payments (AHAP) contract like in the standard PBV program. Rather, when the conditions of the CHAP and the RCC are met and the conversion has closed, DCHA executes the HAP contract. Project owners may select the effective date of the HAP contract as the first day of either of the two months following the completed closing.

10003.5 The initial term of the HAP contract may not be for less than 15 years and may be for a term of up to 20 years upon request of the owner and with approval of the administering voucher agency. Upon expiration of the initial term of the contract, and upon each renewal term of the contract, the owner must accept each offer to renew the contract, for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to DCHA and HUD approval, at another site through a future transfer of assistance. Contracts are subject to the terms and conditions applicable at the time of each offer and further subject to the availability of appropriations for each year of each such renewal.

10003.6 For public housing conversions to PBV, there will be no agreement to enter into a Housing Assistance Payments (AHAP) contract. Therefore, all regulatory references to the Agreement (AHAP), including regulations under 24 CFR Part 983 Subpart D, are waived. The definitions for proposal selection date, new construction, rehabilitation, and existing housing are not applicable.

10003.7 By statue, upon contact expiration, the agency administering the vouchers will offer, and DCHA will accept, renewal of the contract for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to PHA and HUD approval, at another site through a future transfer of assistance. The contract is subject to the terms and conditions applicable at the time of renewal and the availability of

appropriations each year for such renewal. Consequently 24 CFR 983.205(b), governing DCHA discretion to renew the contract, will not apply.

10003.8 In the event that the HAP contract is removed due to breach, non-compliance, or insufficiency of appropriations, for all units previously covered under the HAP contract, new tenants must have incomes at or below 80 percent of the area median income at the time of admission and rents may not exceed 30 percent of 80 percent of median income for an appropriate size unit for the remainder of the term of the RAD use agreement.

10003.9 DCHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS.

10003.10 If DCHA determines that a contract unit does not comply with HQS, DCHA may exercise any of its remedies under the HAP contract, for any or all of the contract units.

10003.11 DCHA will abate and terminate PBV HAP contracts for noncompliance with HQS in accordance with Chapter 56 of this Title.

10003.12 Upon request of the owner to the voucher agency that will administer the project, HUD will permit assistance to float among units within the project that are the same bedroom size. The unit to which assistance is floated must be comparable to the unit being replaced in quality and amenities.

10003.13 DCHA may float assistance among unoccupied units within the project. Tracking of the number and type of units at the property, as well as identification of comparable units when assistance is floated, will be maintained by each property.

10003.14 Project owners are required to make available for occupancy by eligible tenants the number of assisted units under the terms of the HAP contract.

10003.15 DCHA may not reduce the number of assisted units without written HUD approval.

10003.16 If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, DCHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, DCHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207, or where the development has "floating" units.

10003.17 The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

10003.18 The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. There is a single annual anniversary date for all units under a particular HAP contract.

10003.19 When the owner executes the HAP contract, they always certify that at such execution and during the term of the HAP contract:

(a) All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;

(b) The owner is providing all services, maintenance, equipment, and utilities as agreed to under the HAP contract and the leases;

(c) Each contract unit for which the owner is receiving HAP is leased to an eligible family referred by DCHA, and the lease is in accordance with the HAP contract and HUD requirements;

(d) To the best of the owner's knowledge, the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;

(e) The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;

(f) The amount of the HAP the owner is receiving is correct under the HAP contract;

(g) The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;

(h) Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit;

(i) The family does not own or have any interest in the contract unit (this does not apply to the family's membership in a cooperative); and

(j) Repair work on the project selected as an existing project that is performed after HAP contract execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

10003.20 At the discretion of DCHA, the HAP contract may provide for vacancy payments to the owner for period of vacancy determined by DCHA extending from the

beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by DCHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner, including amounts available from the tenant's security deposit.

10003.21 DCHA may provide vacancy payments to the owner. The HAP contract with the owner will contain any amount of the vacancy payment and the period for which the owner will qualify for these payments.

10004 SELECTION OF PBV PROGRAM PARTICIPANTS

10004.1 Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program except when conflicting with this Chapter. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

10004.2 Current households cannot be excluded from occupancy at the covered project based on any rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. Post-conversion, the tenure of all residents of the covered project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified by Notice PIH 2019-23 (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR 982.201, concerning eligibility and targeting, will not apply for current households. Once that remaining household moves out, the unit must be leased to an eligible family. Existing residents at the time of conversion may not be rescreened for citizenship status or have their social security numbers reverified.

10004.3 Further, to facilitate the right to return to the assisted property, this provision must apply to current public housing residents of the converting project that will reside in non-RAD PBV units placed in a project that contain RAD PBV units. Such families and such contract units will otherwise be subject to all requirements of the applicable program, specifically 24 CFR 983 for non-RAD PBV. Any non-RAD PBV units located in the same project are also subject to the right to return.

10004.4 For the RAD PBV program, *in-place family* means a family who lived in a pre-conversion property at the time assistance was converted from public housing to PBV under RAD.

10004.5 [RESERVED]

10004.6 DCHA will determine an applicant family's eligibility for the RAD PBV program in accordance with Chapter 51 of this Title.

10004.7 [RESERVED]

10004.8 DCHA will establish and manage separate waiting lists for individual projects or buildings that are receiving RAD PBV assistance.

(a) For any applicants on the public housing waiting list that are likely to be ineligible for admission to a covered project converting to PBV because the household's TTP is likely to exceed the RAD gross rent, DCHA will consider transferring such household, consistent with program requirements for administration of waiting lists, to DCHA's remaining public housing waiting lists or to another voucher waiting list, in addition to transferring such household to the waiting list for the covered project.

(b) To the extent any wait list relies on the date and time of application, the applicants shall have priority on the wait lists to which their application was transferred in accordance with the date and time of their application to the original waiting list.

(c) DCHA will maintain the project-specific waiting list in accordance with all applicable civil rights and fair housing regulations found at 24 CFR 903.7(b)(2)(ii)-(iv). DCHA will provide applicants full information about each development, including an estimate of the wait time, location, occupancy, number and size of accessible units, and amenities like day care, security, transportation, and training programs at each development with a site-based waiting list. The system for selection will be consistent with all applicable civil rights and fair housing laws and regulations and may not conflict with any imposed or pending court order, settlement agreement, or complaint brought by HUD.

(d) DCHA will give priority to participants moving under a VAWA emergency transfer from one PBV development to another in accordance with §§10005.41-42.

10004.9 After conversion to RAD PBV, applicants who will occupy units with RAD PBV assistance must be selected from DCHA's waiting list. DCHA may establish selection criteria or preferences for occupancy of particular PBV units.

10004.10 At least 75 percent of the families admitted to DCHA's tenant-based and project-based voucher programs during DCHA fiscal year from the waiting list must be extremely low income families. The income targeting requirement applies to the total of admissions to both programs.

10004.11 Families in place at the time of the conversion are exempt from income targeting requirements. New admissions follow standard PBV requirements. Any non-RAD PBV units located in the same project are also subject to these requirements.

10004.12 When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, DCHA must first refer families who require such features to the owner.

10004.13 [RESERVED]

10004.14 DCHA will not offer any preferences for the RAD PBV program. However, DCHA will give priority to participants moving under a VAWA emergency transfer from one PBV development to another in accordance with § 10005.

10004.15 DCHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

(a) Refusing to list the applicant on the waiting list for tenant-based voucher assistance;

(b) Denying any admission preference for which the applicant qualifies;

(c) Changing the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under DCHA's selection policy; or

(d) Removing the applicant from the tenant-based voucher waiting list.

10004.16 If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

10004.17 When a family accepts an offer for PBV assistance, DCHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, DCHA must provide a briefing packet that explains how DCHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

10004.18 If an applicant family's head or spouse is disabled, DCHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. In addition, DCHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

10004.19 DCHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Chapter 51 of this Title.

10004.20 The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection.

10004.21 During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by DCHA from DCHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on DCHA's subsidy standards.

10004.22 [RESERVED]

10004.23 The owner must notify DCHA in writing electronically within five business days of learning about any vacancy or expected vacancy. DCHA will make every reasonable effort to refer families to the owner within 14 business days of receiving such notice from the owner.

10004.24 DCHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. DCHA will not conduct screening to determine a PBV applicant family's suitability for tenancy. DCHA shall only screen for eligibility.

10004.25 DCHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. DCHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

10004.26 The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

(a) Payment of rent and utility bills;

(b) Caring for a unit and premises;

(c) Respecting the rights of other residents to the peaceful enjoyment of their housing;

(d) Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and

(e) Compliance with other essential conditions of tenancy.

10005 OCCUPANCY

10005.1 After an applicant has been selected from the waiting list, determined eligible by DCHA, referred to an owner, and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

10005.2 The tenant must have legal capacity to enter into a lease under District of Columbia Law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

10005.3 The tenant and the owner must enter into a written lease agreement that is signed by both parties. The tenancy addendum must include, word-for-word, all provisions required by HUD.

10005.4 The lease for a PBV unit must specify all of the following information:

(a) The names of the owner and the tenant;

(b) The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);

(c) The term of the lease (initial term and any provision for renewal);

(d) The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;

(e) A specification of the services, maintenance, equipment, and utilities that will be provided by the owner;

(f) The amount of any charges for food, furniture, or supportive services; and

(g) For any family admitted following conversion, the lease must specify what will happen if the family elects to remain in its unit after increasing its income such that it requires zero HAP. Specifically, the lease must make clear how the tenant rent will be calculated, and it must address the transition to a new lease. DCHA must include resident procedural rights for termination notification and grievance procedures in the owner's lease. These requirements are not part of the regular PBV program but are required under RAD.

10005.5 The tenancy addendum in the lease must state:

(a) The program tenancy requirements; and

(b) The composition of the household as approved by DCHA (the names of family members and any PHA-approved live-in aide).

10005.6 All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

10005.7 Leases for residents who will remain in place (i.e., who will not be relocated solely because of conversion) must have an effective date that coincides with—and must be signed on or before—the effective date of the RAD PBV HAP contract.

10005.8 The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g., month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

(a) The owner terminates the lease for good cause;

(b) The tenant terminates the lease;

(c) The owner and tenant agree to terminate the lease;

(d) DCHA terminates the HAP contract; or

(e) DCHA terminates assistance for the family.

10005.9 If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give DCHA a copy of all changes.

10005.10 The owner must notify DCHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by DCHA and in accordance with the terms of the lease relating to its amendment. DCHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of change.

10005.11 With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Chapter 76 and 24 CFR 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

10005.12 Projects converting from public housing to PBV under RAD have additional procedural rights that do not apply to the standard PBV program. These procedural rights must be included in the owner's lease as well as DCHA's Plan. In addition to the regulations at 24 CFR 983.257 related to project owner termination of tenancy and eviction (which MTW agencies may not alter) the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease, which may not be less than:

(a) A reasonable period of time, but not to exceed 30 days:

(1) If the health or safety of other tenants, PHA employees, or persons residing in the immediate vicinity of the premises is threatened; or

(2) In the event of any drug-related or violent criminal activity or any felony conviction;

(b) Not less than 14 days in the case of nonpayment of rent; and

(c) Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply.

10005.13 These provisions apply to non-RAD PBV units located in the project as well.

10005.14 The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 982.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

10005.15 Current residents living in the property prior to conversion are placed on and remain under the HAP contract when TTP equals or exceeds gross rent. In this case, until such time as the family's TTP falls below the gross rent, the family will pay the owner the lesser of their TTP minus the utility allowance or any applicable maximum rent under the LIHTC program. The family will continue to pay this amount until/if circumstances change, and HAP is paid on their behalf. In other words, assistance may subsequently be reinstated if the tenant becomes eligible for assistance. In such cases, the resident is still considered a program participant. All of the family obligations and protections under RAD and standard PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP contract. Any non-RAD PBV units located in the same project are also subject to these requirements.

10005.16 Unless a waiver is requested and approved, following conversion, 24 CFR 983.53(d) applies, and any new admission referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program. DCHA may request a waiver from HUD in order to admit otherwise eligible families whose TTP exceeds gross rent and to allow the units those families occupy to remain under the HAP contract even if DCHA has not paid HAP for the family in 180 days.

10005.17 Further, for any new families admitted after the conversion, assistance will be terminated 180 days after the last housing assistance payment on their behalf. The cessation of housing assistance payments does not affect the family's other rights under its lease, nor does it preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within the 180-day window. If a family's assistance is terminated as a result of their zero HAP status, DCHA must remove the unit from the HAP contract. If the project is fully assisted, DCHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, DCHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207.

10005.18 Per the RAD Use Agreement, the owner may charge the family a rent that does not exceed 30 percent of 80 percent of the area median income. If a unit is removed from the RAD PBV HAP contract, then the lease terminates automatically, as stated in the tenancy addendum, as though the RAD PBV HAP contract had been terminated. The tenant must be offered a new lease, which must reflect the new tenant rent. A tenant in this circumstance is no longer a program participant and therefore no longer benefits from any of the rights or protections specific to RAD, or to the PBV program. Should the family subsequently lose employment, the owner may choose to reduce the family's rent, but if the family wishes to be admitted to the HCV/PBV program, then it must be admitted through the waiting list like any other applicant.

(a) DCHA will not request a waiver from HUD to allow families whose TTP initially exceeds gross rent to occupy units.

(b) Under the authority granted to DCHA under its Moving to Work status, if the amount of assistance provided by DCHA is reduced to zero, the family's assistance terminates automatically twelve months after the last HAP payment.

(c) If a participating family who was admitted after the RAD conversion receive zero assistance and subsequently experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify DCHA of the change and request an interim reexamination before the expiration of the one year period.

10005.19 Owners are permitted to recognize security deposit amounts that have been previously provided by tenants who are in-place at the time of the RAD conversion. If a tenant residing in a converting project has not previously provided a security deposit, then the owner may collect a security deposit at the time of initial lease execution. Otherwise, the security deposit requirements for standard PBV apply.

10005.20 The owner may collect a security deposit from the tenant. DCHA will allow the owner to collect a security deposit amount the owner determines is appropriate and such that it does not exceed limit under District of Columbia law.

10005.21 When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

10005.22 The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

10005.23 If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. DCHA has no liability or responsibility for payment of any amount owed by the family to the owner.

10005.24 Current PH FSS participants will continue to participate in DCHA's FSS program, and PHAs will be allowed to use any PH FSS funds granted previously or pursuant to the current fiscal year (FY) PH FSS notice of funding availability (NOFA) to serve those FSS participants who live in units converted to RAD and who will as a result be moving to the HCV FSS program. A PHA must convert the PH FSS program participants at the covered project to their HCV FSS program.

10005.25 Residents who were converted from the PH FSS program to the HCV FSS program through RAD may not be terminated from the HCV FSS program or have HCV assistance withheld due to the participant's failure to comply with the contract of participation. Consequently, 24 CFR 984.303(b)(5)(iii) does not apply to FSS participants in converted properties.

10005.26 At the completion of the FSS grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. If DCHA continues to run an FSS program that serves PH and/or HCV participants, DCHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding.

10005.27 Current Resident Opportunities and Self-Sufficiency–Service Coordinators (ROSS–SC) program grantees will be able to finish out their current ROSS–SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future public housing ROSS–SC grants.

10005.28 At the completion of the ROSS-SC grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be a nonprofit or local resident association and this consequence of a RAD conversion may impact those entities.

10005.29 Any non-RAD PBV units located in the same project are also subject to these requirements.

10005.30 Residents of covered projects converting assistance to PBVs will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding.

10005.31 All in-place tenants at the time of conversion are eligible to remain in the project. Over-housed families should be moved into appropriately sized units if such units are available in the new or rehabbed project. If appropriately sized units are not available, the existing tenants may continue to be over-housed until an appropriately sized unit becomes available or until the tenant leaves the project. Once the unit turns over, it must be leased to an appropriately sized family. Any non-RAD PBV units located in the same project are also subject to these requirements.

10005.32 Following conversion, the standard PBV regulations apply. If DCHA determines that a family is occupying a wrong-size unit, based on DCHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, DCHA must promptly notify the family and the owner of this determination, and DCHA must offer the family the opportunity to receive continued housing assistance in another unit.

10005.33 DCHA will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 14 business days of DCHA's determination. DCHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

(a) PBV assistance in the same building or project; or

(b) PBV assistance in another project.

10005.34 If DCHA offers the family a tenant-based voucher, DCHA must terminate the housing assistance payments for a wrong-size or accessible unit at the earlier of the expiration of the term of the family's voucher, including any extension granted by DCHA, or the date upon which the family vacates the unit. If the family does not move out of the wrong-size unit or accessible unit by the expiration of the term of the family's voucher, DCHA must remove the unit from the HAP contract.

10005.35 If DCHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by DCHA, or both, DCHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by DCHA and remove the unit from the HAP contract.

(a) When DCHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, DCHA will terminate the housing assistance payments at the expiration of this 30-day period.

(b) DCHA may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

10005.36 The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to DCHA.

10005.37 Under RAD PBV, the choice mobility option provides families with the opportunity to move with continued assistance any time after 12 months of occupancy. All residents in converted properties should be aware of their housing mobility rights and of their options in a range of neighborhoods.

(a) To ensure that residents are fully aware of and understand their rights under choice mobility, DCHA will inform families of their rights under the choice mobility option and the benefits to moving to lower poverty areas, and provide a summary of the steps necessary to exercise this option, at the time the family signs the lease for the RAD PBV unit and during their annual recertification.

(b) Information on choice mobility will be made accessible to persons with disabilities, ensuring any information, electronic or otherwise, is accessible for persons with vision, hearing, and other disabilities. This information will also be made available in accordance with Limited

English Proficiency (LEP) requirements, including document translation and user of interpretation services as described in Chapter 50 of this Title.

10005.38 If the family wishes to move with continued tenant-based assistance under choice mobility, the family must contact DCHA to request rental assistance prior to providing notice to terminate the lease. If the family terminates the lease in accordance with lease requirements, DCHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If a voucher or other comparable tenant-based assistance is not immediately available, DCHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

10005.39 Families are eligible to move with continued assistance under choice mobility after 12 months of occupancy. If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

(a) Prior to providing notice to the owner to terminate the lease, the family may submit a written request to DCHA for a choice mobility voucher at any time after completing the 12-month occupancy requirement.

(b) The family will remain eligible to request a choice mobility voucher as long as they continue living at the same covered project. If a family moves from one covered project to another covered project prior to completing their 12-month occupancy requirement, their 12-month clock will reset. The family must wait 12 months from the date of move to the new property before they may request another choice mobility voucher. If a family transfers to a different unit within the same covered project, the 12-month clock does not reset.

(c) DCHA will maintain a combined, agency-wide waiting list for all standard PBV and RAD PBV families wishing to exercise mobility after one year of tenancy. This list will be maintained separately from the tenant-based HCV list. Families on the choice mobility waiting list will be given priority over families on the tenant-based waiting list. The choice mobility waiting list will be organized by date and time of the family's written request to exercise choice mobility. The list will also identify whether families live in standard or RAD PBV units.

(d) DCHA will not subject RAD PBV families applying for choice mobility vouchers to any additional rescreening requirements in order to receive a tenant-based voucher.

(e) Families exercising choice mobility will not be required to vacate their units before a lease has been entered into using their tenant-based voucher.

At the time DCHA issues a choice mobility voucher, DCHA will notify the family of their right to remain in their unit if they are unable find a rental unit using the tenant-based voucher.

10005.40 If because of RAD, the total number of PBV units (including RAD PBV units) administered by DCHA exceeds 20 percent of DCHA's authorized units under its HCV ACC with HUD, DCHA may establish a turnover cap. DCHA is not required to provide more than three-quarters of its turnover vouchers in any single year to the residents of covered projects. If DCHA chooses to establish a turnover cap and the cap is implemented, DCHA must create and maintain a waiting list in the order requests from eligible households were received.

(a) At such point that, as a result of RAD, the total number of PBV units (including RAD PBV units) administered by DCHA exceeds 20 percent of DCHA's authorized units under its HCV ACC with HUD, DCHA will establish a choice mobility cap. In this case, DCHA will not provide more than three-quarters of its turnover vouchers in a single year to residents of covered projects.

(b) Families who requested a choice mobility voucher and are denied due to the cap will be given priority the following year when choice mobility vouchers are again issued since the choice mobility list will be organized by the date and time of the family's request.

10005.41 Except where special consideration is needed for the project-based voucher program, DCHA will follow VAWA policies as outlined in Chapter 91 of this Plan, including using the Emergency Transfer Plan as the basis for PBV transfers under VAWA.

10005.42 HUD requires that DCHA include policies that address when a victim has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant-based voucher is available.

(a) When the victim of domestic violence, dating violence, sexual assault, or stalking has lived in the unit for less than one year, DCHA will provide several options for continued assistance.

(b) DCHA will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where DCHA has PBV units. DCHA will expedite the administrative processes in this case to conduct the transfer as quickly as possible. If assistance is transferred to another development, DCHA will give priority to the participant on the other development's waiting list.

(c) If no units are available for an internal transfer to a PBV development or if there is reasonable cause to believe that such a transfer would put the

victim in jeopardy, the participant may receive continued assistance through an external transfer to either tenant-based rental assistance (HCV) or assistance in DCHA's public housing program. Such a decision will be made by DCHA based on the availability of tenant-based vouchers and/or vacancies in public housing units. Such families must be selected from the waiting list for the applicable program.

(d) If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, DCHA will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where DCHA has PBV units. DCHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

(e) If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to DCHA's public housing program. DCHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, and stalking as part of the public housing ACOP in order to expedite this process.

10005.43 A family living in a unit converted from public housing to RAD PBV may retain its certification date. Unless a family's annual reexamination is due at the same time as the effective date of the RAD PBV HAP contract, DCHA does not need to recertify tenants at the point of conversion. For each family residing in a unit undergoing conversion of assistance under RAD, the administering PHA will have to submit a form HUD-50058 reflecting the family's admission to the voucher program. The effective date of the new admission will be the same as the effective date of the RAD PBV HAP contract. The form should include the same information previously found on the public housing form 50058, including the next annual reexamination date.

10005.44 Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR 5.617. Upon the expiration of the EID for such families, the rent adjustment will not be subject to rent phase-in; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time. Any non-RAD PBV units located in the same project are also subject to these requirements.

10005.45 Under the HCV program, the EID exclusion is limited to only persons with disabilities [24 CFR 5.617(b)]. In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in section 5.617(b) limiting EID to only persons with disabilities is

waived. The waiver and resulting alternative requirement only applies to tenants receiving the EID at the time of conversion. No other tenant, such as tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion (e.g., due to loss of employment), tenants that move into the property following conversion, etc., is covered by this waiver.

10005.46 HUD is incorporating additional termination notification requirements for public housing projects that convert assistance under RAD to PBV and to non-RAD PBV units located in the same project beyond those for the standard PBV program. In addition to the regulations at 24 CFR 983.257 related to owner termination of tenancy and eviction (which MTW agencies may not alter), the termination procedure for RAD conversions to PBV requires that PHAs provide adequate written notice of termination of the lease, which is:

(a) A reasonable period of time, but not to exceed 30 days:

(1) If the health or safety of other tenants, project owner employees, or persons residing in the immediate vicinity of the premises is threatened; or

(2) In the event of any drug-related or violent criminal activity or any felony conviction.

(b) Not less than 14 days in the case of nonpayment of rent; and

(c) Not less than 30 days in any other case, except that if a state or local law provides for a shorter period, such shorter period will apply.

10005.47 In addition to reasons for an informal hearing listed at 24 CFR 982.555(a)(1)(i)–(v) (See Chapter 91. Informal Hearings for Participants), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to an owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.

(a) For any hearing required under 24 CFR 982.555(a)(1)(i)–(v), the contract administrator will perform the hearing in accordance with Chapter 16 Part III: Informal Reviews and Hearings, as is the current standard in the program.

(b) For any additional hearings required under RAD, DCHA (as owner) will perform the hearing.

10005.48 An informal hearing will not be required for class grievances or for disputes between residents not involving DCHA (as owner) or contract administrator. This hearing requirement does not apply to and is not intended as a forum for initiating

or negotiating policy changes between a group or groups of residents and DCHA (as owner) or contract administrator.

10005.49 The owner must give residents notice of their ability to request an informal hearing as outlined in 24 CFR 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR 982.555(a)(1)(i)–(v). (See Chapter 91)

10005.50 The owner must provide an opportunity for an informal hearing before an eviction.

10006 DETERMINING CONTRACT RENT

10006.1 RAD conversions are intended to be cost-neutral, and therefore, should not exceed current public housing funding as adjusted for unit size. Since public housing units do not currently have contract rents, HUD provides an estimate of current contract rents for each DCHA's public housing units based on current funding as adjusted by bedroom size. Current funding includes operating subsidy, tenant rents, capital funds, replacement housing factor funds (RHF), and demolition disposition transitional funding (DDTF). The funding may limit the amount of initial rent for a property. A detailed explanation of the determination of current funding may be found in Attachment 1C of Notice PIH 2019-23. Once the current funding amount is calculated, the amount is adjusted by bedroom size to determine the current funding rent. HUD uses the same bedroom adjustment factors as in the metropolitan FMR schedules where the project is located.

10006.2 PHAs may adjust subsidy (and contract rents) across multiple projects as long as DCHA does not exceed the aggregate subsidy for all of the projects DCHA has submitted for conversion under RAD.

10006.3 Notwithstanding HUD's calculation of the initial contract rent based on the project's subsidy under the public housing program and any modifications made to the initial contact rent, the initial rents are set at the lower of:

(a) An amount determined by DCHA, not to exceed 110 percent of the fair market rent (FMR) or DCHA's exception payment standard approved by HUD, or the alternate rent cap in a PHA's MTW agreement minus any utility allowance;

(b) The reasonable rent; or

(c) The rent requested by the owner.

10006.4 The owner will request a contract rent adjustment from DCHA who administers the contract within 120 days, but no less than 60 days, prior to the HAP contract

anniversary date by submitting a completed OCAF rent adjustment worksheet (Form HUD-9624).

10006.5 The independent entity will validate the data on the form and determine whether the rent exceeds the reasonable rent charged for comparable unassisted units in the private market, in accordance with 24 CFR 983.303.

10006.6 If rents would be unreasonable following application of the requested OCAF, then the rent will only be increased up to the reasonable rent. The independent entity will notify DCHA who administers the contract in writing of the results of its review of the rent adjustment request. DCHA who administers the contract will retain a copy of the worksheet and any other records necessary to demonstrate how the OCAF was used to make rent adjustments for audit purposes.

10006.7 The approved rent adjustment will go into effect via written notice from DCHA that administers the project to the owner. This notice will constitute an amendment to the rents specified on Exhibit A of the RAD PBV HAP contract. The new rents to the owner will take effect on the date of the contract anniversary.

10006.8 Rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

10006.9 When contract rent amounts are set initially, the amount does not include a utility allowance. In general, the utility allowances that are used on the initial HAP contract at closing are the public housing utility allowances that are in effect prior to conversion. The HAP must be updated prior to conversion to reflect current public housing utility allowances. At its discretion, a PHA may use the FMRs and utility allowances in effect during the 30-day period immediately before the beginning date of the HAP contract.

10006.10 After conversion, DCHA that administers the contract must maintain the utility allowance schedule. DCHA may either maintain a utility allowance schedule for tenant-paid utilities in accordance with standard PBV and HCV utility allowance regulations at 24 CFR 983.301(f)(2)(ii) and 24 CFR 982.517, respectively, or DCHA may instead apply site-specific utility allowances. HUD waived the requirement for the standard PBV program that the HCV utility allowance be used. If a site-specific utility allowance is used, the utility allowance is applicable to non-RAD PBV units in the project and is calculated consistent with Notice H 2015-04.

10006.11 Each family transitions to the new utility allowance at their first recertification following conversion. DCHA will determine on a case-by-case basis whether to use the HCV utility allowance schedule for a RAD PBV development or whether a site-specific utility allowance will be used.

10006.12 At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by DCHA, except rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

10006.13 The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, DCHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

10006.14 For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by DCHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

10006.15 For PHA-owned units, the amount of the reasonable rent must be determined by an independent entity approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for PHA-owned units to DCHA and to the HUD field office where the project is located.

10007 PAYMENTS TO OWNER

10007.1 During the term of the HAP contract, DCHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and DCHA agree on a later date.

10007.2 Except for discretionary vacancy payments, DCHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

10007.3 The amount of the housing assistance payment by DCHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

10007.4 In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

10007.5 If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if DCHA determines that the vacancy is the owner's fault.

10007.6 If DCHA determines that the owner is responsible for a vacancy and as a result is not entitled to the keep the housing assistance payment, DCHA will notify the landlord of the amount of housing assistance payment that the owner must repay. DCHA will require the owner to repay the amount owed in accordance with Chapter 91.

10007.7 At the discretion of DCHA, the HAP contract may provide for vacancy payments to the owner. DCHA may only make vacancy payments if:

(a) The owner gives DCHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);

(b) The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;

(c) The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and

(d) The owner provides any additional information required and requested by DCHA to verify that the owner is entitled to the vacancy payment.

10007.8 The owner must submit a request for vacancy payments in the form and manner required by DCHA and must provide any information or substantiation required by DCHA to determine the amount of any vacancy payment.

10007.9 If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified DCHA of the vacancy in accordance with the policy in §§ 10004.20-23 regarding filling vacancies. In order for a vacancy payment request to be considered, it must be made within 10 business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and DCHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by DCHA within 10 business days of DCHA's request, no vacancy payments will be made.

10007.10 The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by DCHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in DCHA notice to the family and owner.

10007.11 The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by DCHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by DCHA. The owner must immediately return any excess payment to the tenant.

10007.12 For the initial certification, DCHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate HAP and tenant rent for the PBV program. DCHA will use this amount until the effective date of the earlier of the family's first regular or interim recertification following the conversion. At that point, DCHA will use the family's TTP based on the recertification and the applicable utility allowance (HCV or RAD PBV site-based, as applicable) to determine PBV HAP and tenant rent. Any non-RAD PBV units located in the same project are subject to the same requirements.

10007.13 The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by DCHA.

10007.14 Likewise, DCHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. DCHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. DCHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

10007.15 If the amount of the utility allowance exceeds the total tenant payment, DCHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

10007.16 DCHA will make utility reimbursements directly to the family.

10007.17 For in-place tenants, if the amount the tenant would pay for rent and utilities (TTP) would increase by more than the greater of 10 percent or $25 purely as a result of conversion, the rent increase will be phased in over three years. For families who were on EID at the time of conversion to RAD PBV, upon the expiration of the EID, the rent adjustment is not subject to rent phase-in.

10007.18 DCHA must communicate this policy in writing to affected residents. Any non-RAD PBV units located in the same covered project are subject to the terms of the phase-in provisions.

10007.19 DCHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate the family's tenant rent in PBV.

(a) DCHA will implement a five-year phase-in for in-place families whose TTP increases by more than the greater of 10 percent or $25 purely as a result of the conversion as follows:

(1) Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion: 20 percent of difference between the most recently paid TTP or flat rent and the standard TTP;

(2) Year 2: Year 2 any recertification (interim or annual) prior to Year 3 AR: 25 percent of the difference between the most recently paid TTP and the calculated PBV TTP;

(3) Year 3: Year 3 any recertification (interim or annual) prior to Year 4 AR: 33 percent of the difference between the most recently paid TTP and the calculated PBV TTP;

(4) Year 4: Year 4 any recertification (interim or annual) prior to Year 5 AR: 50 percent of the difference between the most recently paid TTP and the calculated PBV TTP; and

(5) Year 5 Annual recertification and all subsequent recertifications: Full calculated TTP.

(b) Once the standard TTP is equal to or less than the previous TTP, the phase-in ends, and tenants will pay full TTP from that point forward.

(c) If the family's income falls during the phase-in period such that the currently calculated PBV TTP falls below the amount that would otherwise be the phased-in rent, the family pays the currently calculated PBV TTP and the phase-in ends.

(d) DCHA will communicate DCHA's phase-in policy in writing to the family at the time DCHA first determines that the family qualifies for a rent phase-in.

(e) Any non-RAD PBV units located in the same project are also subject to rent phase-in requirements.

10007.20 With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

10007.21 In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

10007.22 The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

New Chapter 101, SPECIAL PURPOSE VOUCHERS, of Title 14 DCMR, HOUSING, is added to read as follows:

CHAPTER 101

SPECIAL PURPOSE VOUCHERS

10100 FAMILY UNIFICATION PROGRAM (FUP)

10100.1 The Family Unification Program (FUP) was authorized by Congress in 1990 to help preserve and reunify families. PHAs that administer the program provide vouchers to two different populations—FUP families and FUP youth.

10100.2 Families eligible for FUP are families for whom the lack of adequate housing is a primary factor in:

(a) The imminent placement of the family's child or children in out-of-home care; or

(b) The delay in the discharge of the child or children to the family from out-of-home care.

10100.3 There is no time limitation on FUP family vouchers, and the family retains their voucher as long as they are HCV-eligible. There is no requirement for the provision of supportive services for FUP family vouchers.

10100.4 Youth eligible for FUP are those who:

(a) Are at least 18 years old and not more than 24 years of age;

(b) Have left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act at age 16 and older; and

(c) Are homeless or at risk of becoming homeless.

10100.5 FUP youth vouchers are limited by statute to a period between 36 and 60 months of housing assistance. Supportive services must also be provided to FUP-eligible youth by the Public Child Welfare Agency (PCWA) or by another agency or organization under contract with the PCWA for the period defined in the notice or Notice of Funding Availability/Opportunity (NOFA/O) for which funding was made available.

10100.6 PHAs that wish to administer FUP vouchers must apply to HUD by submitting an application under an active Notice of Funding Opportunity (NOFO). While the FUP program is administered in accordance with HCV regulations, the FUP NOFOs issued by HUD provide specific program information and requirements.

10100.7 In order to administer the program, DCHA must also form a partnership with a local PCWA who is responsible for determining the family or youth meets FUP eligibility requirements and referring them to DCHA. Once the referral is received, DCHA is responsible for placing the FUP family or youth on DCHA's waiting list and determining whether they are eligible to receive assistance under DCHA's HCV program.

10100.8 [RESERVED]

10100.9 DCHA has not designated any specific number or percentage of FUP vouchers for youths or families. DCHA will serve all referrals that meet program eligibility requirements, up to DCHA's FUP voucher allocation.

10100.10 Families and youth do not apply directly to DCHA for FUP vouchers. They are instead referred by a PCWA with whom DCHA has entered into a Memorandum of Understanding (MOU). The partnering PCWA initially determines whether the family or youth meets the FUP program eligibility requirements listed in 19-I.C. and 19-I.D. and then refers those families or youths to DCHA.

10100.11 HUD strongly encourages PHAs and PCWAs to make decisions collaboratively on the administration of the program and to maintain open and continuous communication. The PCWA must have a system for identifying FUP-eligible youth within the agency's caseload and for reviewing referrals from a Continuum of Care (COC) if applicable.

10100.12 DCHA has entered into an MOU with the District of Columbia Child and Family Services Agency (CFSA).

10100.13 The PCWA must provide supportive services for the period of time defined in the notice or NOFA/O for which the funding was made available to all FUP-eligible youth regardless of their age. The MOU between DCHA and the PCWA should identify the period of time in which supportive services will be provided.

10100.14 The PCWA will provide supportive services for all FUP youth for a period of 36 months.

10100.15 Supportive services may be provided to FUP-eligible youth by the PCWA or by another agency or organization under agreement or contract with the PCWA, including DCHA. The organization providing the services and resources must be identified in the MOU. The following services must be offered:

(a) Basic life skills information or counseling on money management, use of credit, housekeeping, proper nutrition or meal preparation, and access to health care (e.g., doctors, medication, and mental and behavioral health services);

(b) Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance or referrals for assistance on security deposits, utility hook-up fees, and utility deposits;

(c) Providing such assurances to owners of rental property as are reasonable and necessary to assist a FUP-eligible youth to rent a unit with a FUP voucher;

(d) Job preparation and attainment counseling (where to look and how to apply, dress, grooming, relationships with supervisory personnel, etc.);

(e) Educational and career advancement counseling regarding attainment of general equivalency diploma (GED), or attendance or financing of education at a technical school, trade school, or college, including successful work ethic and attitude models; and

(f) In Addition to the services required in (a)-(e), additional supportive services may be offered.

10100.16 A FUP-eligible youth cannot be required to participate in these services as condition of receipt of the FUP voucher.

10100.17 FUP family assistance is reserved for eligible families that the PCWA has certified are a family for whom a lack of adequate housing is a primary factor in:

(a) The imminent placement of the family's child or children in out-of-home care, or

(b) The delay in the discharge of the child or children to the family from out-of-home care.

10100.18 *Lack of adequate housing* means the family meets any one of the following conditions:

(a) Living in substandard housing, which refers to a unit that meets any one of the following conditions:

(1) Does not have operable indoor plumbing;

(2) Does not have a usable flush toilet inside the unit for the exclusive use of a family or youth;

(3) Does not have a usable bathtub or shower inside the unit for the exclusive use of a family or youth;

(4) Does not have electricity, or has inadequate or unsafe electrical service;

(5) Does not have a safe or adequate source of heat;

(6) Should, but does not, have a kitchen;

(7) Has been declared unfit for habitation by an agency or unit of government, or in its present condition otherwise endangers the health, safety, or well-being of the family or youth; or

(8) Has one or more critical defects, or a combination of intermediate defects in sufficient number or to the extent that it requires considerable repair or rebuilding. The defects may result from original construction, from continued neglect or lack of repair, or from serious damage to the structure;

(b) Being homeless as defined in 24 CFR 578.3;

(c) Living in a unit where the presence of a household member with certain characteristics (i.e., conviction for certain criminal activities) would result in the imminent placement of the family's child or children in out-of-home care, or the delay in the discharge of the child or children to the family from out-of-home care;

(d) Living in housing not accessible to the family's disabled child or children due to the nature of the disability; or

(e) Living in an overcrowded unit, which is defined as living in a unit where one of the following conditions has been met:

(1) The family is separated from its child or children and the parents are living in an otherwise standard housing unit, but, after the family is reunited, the parents' housing unit would be overcrowded for the entire family and would be considered substandard; or

(2) The family is living with its child or children in a unit that is overcrowded for the entire family and this overcrowded condition may result, in addition to other factors, in the imminent placement of its child or children in out-of-home care.

(3) For purposes of this definition, the determination as to whether the unit is overcrowded is made in accordance with DCHA subsidy standards in Chapter 53 of this Title.

10100.19 Since HUD does not define *imminent placement*, the partnering PCWA may use its discretion to determine whether the potential out of home placement of the family's child or children is imminent [FUP FAQs].

10100.20 While FUP family vouchers operate as regular HCVs after the family is referred from the PCWA, there are several aspects of the FUP youth vouchers that make them distinct from the FUP family vouchers and from regular HCVs.

10100.21 A FUP-eligible youth is a youth the PCWA has certified:

(a) Is at least 18 years old and not more than 24 years of age (has not yet reached their 25th birthday); The FUP youth must be no more than 24 years old at the time the PCWA certifies them as eligible and at the time of HAP contract execution;

(b) Has left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act; Foster care placement can include, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, childcare institutions, and pre-adoptive homes in accordance with 24 CFR 5.576;

(c) Is homeless or at risk of becoming homeless at age 16 or older; *At risk of being homeless* is fully defined at 24 CFR 576.2.

(1) This includes a person that is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution).

(2) Therefore, youth being discharged from an institution may be eligible for a FUP voucher [FUP FAQs];

(d) Has an annual income at or below 30 percent of area median income; and

(e) Does not have sufficient resources or support networks (e.g., family, friends, faith-based or other social networks) immediately available to prevent them from moving to a supervised publicly or privately operated shelter designed to provide temporary living arrangements.

10100.22 Although there is no time limit on FUP family vouchers, FUP youth vouchers are limited by statute. Unless the FUP youth meets an exception outlined below, after 36 months of assistance, the FUP youth voucher must be terminated. However, any period of time for which no subsidy (HAP) is being paid on behalf of the youth does not count toward the 36-month limitation.

10100.23 If the FUP youth does meet the requirements outlined below, the statutory limit on FUP assistance is a total of 60 months of FUP voucher assistance [FR Notice 1/24/22].

10100.24 FUP youth who first leased or lease a unit after December 27, 2020, may be eligible for an extension of assistance up to 24 months beyond the 36-month time limit (for a total of 60 months of assistance).

10100.25 While FUP youth cannot be required to participate in the Family Self-Sufficiency (FSS) program as a condition of receipt of assistance, an eligible youth who participates in the FSS program and is in compliance with the applicable terms and conditions of the program is entitled to receive assistance for up to an additional 24 months. A FUP youth must accept an FSS slot if it is offered to them prior to the 36-month mark in order to receive an extension of assistance (unless the youth meets one of the statutory exceptions described below).

10100.26 A FUP youth will be entitled to receive an extension of assistance for up to 24 months beyond the 36-month time limit without participating in DCHA's FSS program if they certify that they meet one of the exceptions below:

(a) The FUP youth is a parent or other household member responsible for the care of a dependent child under the age of six or for the care of an incapacitated person.

(1) As defined under the Code of the District of Columbia 21-2401.2, DCHA defines *incapacitated person* as an adult for whom a guardian has been appointed.

(2) DCHA will apply this exception in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

(3) The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

(4) The child or incapacitated person is not required to reside in the household in order for the youth to certify they meet this exception. For example, a child in a joint custody arrangement under the age of six who resides in the household only part-time may qualify the youth for this exception;

(b) The FUP youth is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program.

(1) DCHA will define *regular and active participation* in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

(2) The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit; or

(c) The FUP youth is a person who is incapable of complying with the requirement to participate in a FSS program as described above or engage in education, workforce development, or employment activities as described below, as applicable, due to a documented medical condition.

(1) DCHA will apply this requirement in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with statutory requirements.

(2) The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

10100.27 A FUP youth that meets one of the above exceptions must still be offered an opportunity to enroll in DCHA's FSS program (if it is available to them) and receive any supportive services available to FUP youth. A FUP youth may choose

to participate in an FSS program or engage in education, workforce development, or employment activities, even if they meet one of the above statutory exceptions.

10100.28 If a PHA that carries out an FSS program is unable to offer a FUP youth an FSS slot during their first 36 months of receiving FUP youth assistance, the youth is considered to have been "unable to enroll" in the program and may have their voucher extended by meeting the education, workforce development, or employment criteria described below:

(a) The youth was engaged in obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent.

(1) DCHA will use the definitions of *recognized postsecondary credential* and *secondary school diploma or its recognized equivalent* under the Workforce Innovation and Opportunity Act (WIOA). WIOA defines a *recognized postsecondary credential* as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the state involved or federal government, or an associate or baccalaureate degree (29 U.S.C. 3102). Examples of a recognized postsecondary credential include, but are not limited to, an associate degree, bachelor's degree, occupational licensure, or occupational certification (see U.S. Department of Labor, Training and Employment Guidance Letter No. 10–16, Change 1). For the purpose of WIOA, the U.S. Department of Labor defines a *secondary school diploma or its recognized equivalent* as a secondary school diploma (or alternate diploma) that is recognized by a state and that is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). A secondary school equivalency certification signifies that a student has completed the requirement for a high school education. Examples of a secondary school diploma or its recognized equivalent include, but are not limited to, obtaining certification of attaining passing scores on a state-recognized high school equivalency test, earning a secondary school diploma or state-recognized equivalent, or obtaining certification of passing a state-recognized competency-based assessment;

(b) The youth was enrolled in an *institution of higher education*, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or an institution that meets the definition of a *proprietary institution of higher education* or a *postsecondary vocational institution* under sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1) and (c)(1)), respectively.

(1) Youth must be enrolled in educational activities on at least a half-time basis, as defined by the institution that they attend. However, DCHA may make exceptions to this requirement if the youth is unable to enroll in a sufficient number of classes due to a lack of course offerings by the educational institution where the youth is enrolled;

(c) The youth was participating in a career pathway, as such term is defined in Section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102). The term *career pathway* means a combination of rigorous and high-quality education, training, and other services that:

(1) Aligns with the skill needs of industries in the economy of the state or regional economy involved;

(2) Prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships registered under the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.) (referred to individually in this Act as an *apprenticeship*, except in section 3226 of this title);

(3) Includes counseling to support an individual in achieving the individual's education and career goals;

(4) Includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;

(5) Organizes education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable;

(6) Enables an individual to attain a secondary school diploma or its recognized equivalent, and at least one recognized postsecondary credential; and

(7) Helps an individual enter or advance within a specific occupation or occupational cluster; or

(d) The youth was employed.

(1) DCHA will consider the youth to be employed if they work a minimum of 20 hours per week. DCHA may make exceptions to

this requirement if the youth's hours are reduced due to circumstances beyond their control or the youth must temporarily reduce their work hours due to a verified family emergency.

10100.29 If the FUP youth has not been provided an opportunity to enroll in the FSS program during the first 24 months of FUP assistance, DCHA will remind the youth at their second regular reexam of the education, workforce development, and employment requirements described above.

10100.30 If an FSS slot becomes available between the 36-month and 48-month mark:

(a) DCHA must offer the slot to a FUP youth who had their voucher extended based on meeting the education, workforce development, or employment requirement listed above, or one of the statutory exceptions listed above (even if the youth previously declined an FSS slot because they met one of the statutory exceptions);

(b) DCHA must work with the youth to determine whether enrollment in FSS is feasible and in their best interest given any education, workforce development, or employment activities that the youth is engaged in and any statutory exceptions that apply to the youth, as well as the remaining time on their voucher; and

(c) If the FUP youth accepts the FSS slot, DCHA must work with the youth to establish Contract of Participation goals and an Individual Training and Services Plan (ITSP) that can be accomplished within the time period left on the voucher.

10100.31 If the FUP youth is offered an FSS slot prior to the 36-month mark, the youth:

(a) Will be required to enroll in the FSS program in order to receive an extension of assistance at the end of the 36-month time period (unless they meet one of the statutory exceptions described above).

(b) Will not be considered to have been "unable to enroll" in the FSS program as described above, and as a result, will not be eligible to receive an extension of assistance based on meeting the education, workforce development, or employment requirements described above.

10100.32 If an FSS enrollment slot becomes available between the 48 and 60-month marks, DCHA will not offer the FSS slot to a FUP youth, since the youth will have already received their second and final extension.

10100.33 At the 36-month and 48-month reexamination, DCHA must extend FUP youth assistance if the youth is participating in and in compliance with the FSS program as long as the youth is still eligible for the HCV program.

10100.34 In any case, the FUP youth cannot receive more than a total of 60 months of FUP youth voucher assistance, even if the FSS Contract of Participation time period extends beyond the voucher 60-month mark.

10100.35 If a PHA does not carry out an FSS program or the FUP youth has been unable to enroll in the program during the first 36 months of receiving FUP assistance, the FUP youth is entitled to receive an extension of assistance for up to two successive 12-month periods beyond the 36-month time limit provided that the youth engaged in at least one of the education, workforce development, or employment activities described above for not less than nine months of the 12-month period preceding each extension. In order to meet the nine months out of the preceding 12 months requirement, the youth may have engaged in one of the education, workforce development, or employment activities described above or a combination of these activities.

10100.36 In order to provide an extension of assistance, DCHA must verify compliance with the above requirements in this Chapter at the end of the 36-month time period and the 48-month time periods.

(a) DCHA will verify compliance with the education, workforce development, or employment requirement, or one of the statutory exceptions, at the end of the 36-month and 48-month time periods prior to the FUP youth's scheduled annual reexamination. DCHA will not verify compliance at the end of the 60-month time period.

(b) DCHA will provide each FUP youth on DCHA's program with a written notification informing them that they may receive an extension of their FUP assistance if they meet conditions outlined in this chapter and providing them with instructions on how they may demonstrate compliance at least 60 days prior to their scheduled annual reexam date. When necessary, DCHA will provide this notification in a format accessible to FUP youth with disabilities and in a translated format for FUP youth with limited English proficiency in accordance with Chapter 50 of this Title.

(c) DCHA will use the following verification methods to verify a FUP youth's eligibility for voucher extensions:

(1) To verify compliance with the FSS requirement, DCHA will examine its records to confirm, or obtain confirmation from DCHA's FSS program staff, that the FUP youth participant is in compliance with FSS program requirements and has not been terminated from the FSS program;

(2) To meet the education, workforce development, or employment requirement, DCHA will verify that the FUP youth was engaged in at least one education, workforce development, or employment activity for at least nine months of the 12-month period immediately preceding the end of 36-month or 48-month time period, as applicable;

(3) Due to the timing of when DCHA verifies compliance and conducts the annual reexamination, the FUP youth may have not yet met the nine-month requirement but may be able to demonstrate that they will meet the nine-month requirement as of the end of the 36-month or 48-month time period. In such cases, the FUP/FYI youth will still be considered to have met the requirements; and

(4) In order for the FUP youth to meet one of the statutory exceptions described above, the youth must submit a certification to DCHA that they meet one of these exceptions. This certification is the only documentation that the FUP youth must submit in order to demonstrate that they meet one of the statutory exceptions.

10100.37 A FUP youth who received an extension of voucher assistance at the end of the 36-month time period based on meeting one of the conditions described in this chapter does not have to meet the same conditions when they reach the end of the 48-month time period. The FUP youth may demonstrate that they meet a different condition in order to receive an extension of their assistance.

10100.38 If DCHA determines that the youth meets one of the statutory conditions, DCHA would then conduct an annual reexamination. If the annual reexamination determines that the youth is still eligible for the HCV program, DCHA must provide the FUP youth the extension of voucher assistance.

10100.39 Failure of the FUP youth to meet one of the above conditions will only impact their ability to receive subsequent extensions of assistance. It will not serve as a basis for terminating the FUP assistance prior to the annual reexam.

10100.40 If the FUP youth does not meet any of the conditions described in in this chapter, the youth is subject to the statutory time limit of 36 months or the time limit of any extension that the youth has already received, and the FUP youth voucher must be terminated once the youth reaches this time limit. The calculation of the time limit begins from the date the first HAP contract is signed (for tenant-based vouchers) or from the date the youth entered into the initial lease agreement (for project-based vouchers). The number of months is calculated based on the number of months that HAP subsidy is being paid on behalf of the youth, not the number of months that the youth is in the FUP youth program. Prior to termination,

DCHA must offer the FUP youth the opportunity to request an informal hearing, in accordance with Chapter 91.

10100.41 The PCWA must establish and implement a system to identify FUP-eligible families and youths within the agency's caseload and make referrals to DCHA. The PCWA must certify that the FUP applicants they refer to DCHA meet FUP eligibility requirements. DCHA is not required to maintain full documentation that demonstrates the family's or youth's FUP eligibility as determined by the PCWA but should keep the referral or certification from the PCWA.

(a) As part of the MOU, DCHA and PCWA have identified staff positions to serve as lead FUP liaisons. These positions will be responsible for transmission and acceptance of FUP referrals. The PCWA must commit sufficient staff and resources to ensure eligible families and youths are identified and determined eligible in a timely manner.

(b) When FUP vouchers are available, DCHA liaison responsible for acceptance of referrals will contact the PCWA FUP liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than 10 business days from the date the PCWA receives this notification, the PCWA liaison will provide DCHA with a list of eligible referrals including the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating the youth or family is FUP-eligible.

(c) DCHA will maintain a copy of the referral or certification from the PCWA in the participant's file along with other eligibility paperwork.

10100.42 A PHA must serve any referrals (youths or families) that meet all program eligibility requirements. If a PHA determines that it has received a sufficient number of referrals from the PCWA so that DCHA will be able to lease all FUP vouchers awarded, DCHA may request that the PCWA suspend transmission of referrals. If DCHA determines that additional referrals will be needed after it has made such a request, DCHA may request that the PCWA resume transmission of referrals.

10100.43 A family that is already participating in the regular HCV program cannot be transferred to a FUP voucher.

10100.44 Once a referral is made, DCHA must compare the list of PCWA referrals to its HCV waiting list to determine if any applicants on the PCWA's referral list are already on DCHA's HCV waiting list. Applicants already on DCHA's HCV waiting list retain the order of their position on the list. Applicants not already on DCHA's HCV waiting list must be placed on the HCV waiting list.

10100.45 If DCHA's HCV waiting list is closed, DCHA must open its HCV waiting list in order to accept new FUP applicants. If necessary, DCHA may open its waiting list solely for FUP applicants, but this information must be included in DCHA's notice of opening its waiting list (see Chapter 52 of this Title, Opening and Closing the Waiting List).

10100.46 Within 10 business days of receiving the referral from the PCWA, DCHA will review the HCV waiting list and will send the PCWA a list confirming whether or not referrals are on the waiting list.

(a) Referrals who are already on the list will retain their position and the list will be notated to indicate the family or youth is FUP-eligible.

(b) For those referrals not already on the waiting list, DCHA will work with the PCWA to ensure they receive and successfully complete a pre-application or application, as applicable. Once the pre-application or application has been completed, DCHA will place the referral on the HCV waiting list with the date and time of the original referral and an indication that the referral is FUP-eligible.

10100.47 DCHA selects FUP-eligible families or youths based on DCHA's regular HCV waiting list selection policies in Chapter 52 of this Title, including any preferences that may apply.

10100.48 Once a FUP-eligible family or youth is selected from the HCV waiting list, DCHA must determine whether the family or youth meets HCV program eligibility requirements. Applicants must be eligible under both FUP family or youth eligibility requirements, as applicable, and HCV eligibility requirements as outlined in Chapter 51 of this Title.

10100.49 The PCWA may, but is not obligated to, provide information to DCHA on the family's criminal history.

(a) Subject to privacy laws, the PCWA will provide any available information regarding the applicant's criminal history to DCHA.

(b) DCHA will consider the information in making its eligibility determination in accordance with DCHA's policies on eligibility in accordance with Chapter 51 of this Title.

10100.50 For FUP family vouchers, the family must remain FUP-eligible through lease-up.

(a) If, after a family is referred by the PCWA but prior to issuing a family FUP voucher, DCHA discovers that the lack of adequate housing is no longer a primary factor for the family not reunifying, the FUP voucher may not be issued to the family.

(b) Similarly, if the FUP voucher has already been issued before DCHA discovers that the reunification will not happen, but the family has not yet leased up under the voucher, DCHA must not execute the HAP contract, as the family is no longer FUP-eligible.

10100.51 FUP-eligible youth must be no more than 24 years old both at the time of PCWA certification and at the time of the HAP execution. If a FUP youth is 24 at the time of PCWA certification but will turn 25 before the HAP contract is executed, the youth is no longer eligible for a FUP youth voucher.

(a) Any applicant that does not meet the eligibility criteria for the HCV program listed in Chapter 51 or any eligibility criteria listed in this section will be notified by DCHA in writing following policies in Chapter 51, including stating the reasons the applicant was found ineligible and providing an opportunity for an informal review.

10100.52 Once DCHA determines that the family or youth meets HCV eligibility requirements, the family or youth will be issued a FUP voucher in accordance with PHA policies.

10100.53 During the family briefing, DCHA must inform the FUP youth of:

(a) The extension of assistance provisions and requirements;

(b) The availability of the FSS program and offer them an FSS slot, if available, or offer to place them on the FSS waiting list (provided DCHA has an FSS program); and

(c) Supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FUP youth assistance.

(1) Eligible applicants will be notified by DCHA in writing following policies in Chapter 51 of this Title. FUP families will attend a standard HCV briefing in accordance with Chapter 53 of this Title. FUP youth will be briefed individually. DCHA will provide all aspects of the written and oral briefing as outlined in Part I of Chapter 53 but will also provide an explanation of the required items listed above, as well as discussing supportive services offered by the PCWA.

(2) For both FUP youth and FUP families, vouchers will be issued in accordance with PHA policies in Chapter 53 of this Title, except that DCHA will consider one additional 30-day extension beyond

the first automatic extension for any reason, not just those listed in the policy in 14 DCMR § 5300.

(d) Once the family or youth locate a unit, DCHA conducts all other processes relating to voucher issuance and administration per HCV program regulations and DCHA's policies (including, but not limited to: HQS inspection, determination of rent reasonableness, etc.).

10100.54 With the exception of terminations of assistance for FUP youth after the statutorily required time period, terminations of FUP assistance are handled in the same way as the regular HCV program. Termination of a FUP voucher must be consistent with regulations for termination in 24 CFR Part 982, Subpart L and be in compliance with Chapter 76.

10100.55 If the person who qualifies for the FUP voucher passes away, the family retains the FUP voucher. In the case of a FUP-youth voucher, assistance will terminate after the statutorily required time period, even if the FUP-eligible youth is no longer included in the household.

10100.56 If the person who qualifies for the FUP voucher moves, the remaining family members may keep the FUP voucher based on DCHA policy on remain members of the household after family breakup (see Chapter 51).

10100.57 If parents lose their parental rights or are separated from their children after voucher lease-up (or their children reach adulthood), the family is still eligible to keep their FUP assistance, as the regulations do not permit HCV termination for a family losing parental rights or the children reaching adulthood. However, DCHA may transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household.

(a) Depending on the availability of housing choice vouchers and FUP vouchers, DCHA may transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household and there is no prospect of any minor child being returned to the household.

(b) If DCHA intends to transfer the assistance of the FUP family voucher holder to regular HCV assistance but has no regular HCV vouchers available at the time this determination is made, including if no vouchers are available due to lack of funding, DCHA will issue the family the next available regular HCV voucher after those being issued to families residing in PBV units claiming Choice Mobility.

10100.58 A PHA cannot terminate a FUP youth's assistance for noncompliance with PCWA case management, nor may DCHA terminate assistance for a FUP youth for not accepting services from the PCWA.

10100.59 DCHA may not transfer the assistance of a FUP youth voucher holder to regular HCV assistance upon the expiration of the statutorily required time period. However, DCHA may issue a regular HCV to FUP youth if they were selected from the waiting list in accordance with PHA policies. DCHA will not provide a selection preference on DCHA's HCV waiting list for FUP youth who are terminated due to the time limit on assistance.

10100.60 Upon the expiration of the statutorily required time period, a FUP youth voucher holder who has children and who lacks adequate housing may qualify for a FUP family voucher provided they are referred by the PCWA as an eligible family and meet the eligibility requirements for DCHA's HCV program.

10100.61 Portability for a FUP family or youth is handled in the same way as for a regular HCV family. A PHA may not restrict or deny portability for a FUP family or youth for reasons other than those specified in the HCV program regulations.

10100.62 A FUP family or youth does not have to port to a jurisdiction that administers FUP.

10100.63 If the receiving PHA administers the FUP voucher on behalf of the initial PHA, the voucher is still considered a FUP voucher regardless of whether the receiving PHA has a FUP program.

10100.64 If the receiving PHA absorbs the voucher, the receiving PHA may absorb the incoming port into its FUP program (if it has one) or into its regular HCV program (if the receiving PHA has vouchers available to do so) and the family or youth become regular HCV participants. In either case, when the receiving PHA absorbs the voucher, a FUP voucher becomes available to the initial PHA.

10100.65 If the voucher is a FUP youth voucher and remains such upon lease-up in the receiving PHA's jurisdiction, termination of assistance must still take place once the youth has received assistance for the statutorily required time period. If the receiving PHA is administering the FUP youth voucher on behalf of the initial PHA, the two PHAs must work together to initiate termination upon expiration of the statutorily required time period.

10100.66 DCHA will not project-base FUP vouchers. All FUP vouchers will be used to provide tenant-based assistance.

10101 FOSTER YOUTH TO INDEPENDENCE INITIATIVE

10101.1 The Foster Youth to Independence (FYI) initiative was announced in 2019. The FYI initiative allows PHAs who partner with a Public Child Welfare Agency (PCWA) to request targeted HCVs to serve eligible youth with a history of child welfare involvement that are homeless or at risk of being homeless. Rental

assistance and supportive services are provided to qualified youth for a period of between 36 and 60 months.

10101.2 Funding is available either competitively through an FYI NOFA or noncompetitively on a rolling basis in accordance with the application requirements outlined in Notice PIH 2020-28 or Notice PIH 2021-26, as applicable. Under the noncompetitive process, PHAs are limited to 25 vouchers in a fiscal year with the ability to request additional vouchers for those PHAs with 90 percent or greater utilization or utilization of its FUP and/or FYI vouchers, as applicable. For competitive awards, the number of vouchers is dependent on PHA program size and need.

10101.3 DCHA must enter into a partnership agreement with a PCWA in DCHA's jurisdiction in the form of a Memorandum of Understanding (MOU) or letter of intent. DCHA will implement a Foster Youth to Independence (FYI) program in partnership with the Child and Family Services Agency (CFSA).

10101.4 The PCWA is responsible for:

(a) Identifying FYI-eligible youth;

(b) Developing a system of prioritization based on the level of need of the youth and the appropriateness of intervention;

(c) Providing a written certification to DCHA that the youth is eligible; and

(d) Providing or securing supportive services for 36 months.

10101.5 In addition to the PCWA, DCHA will implement the FYI program in partnership with District of Columbia Continuum of Care (CoC).

10101.6 The PCWA is responsible for certifying that the youth has prior qualifying foster care involvement. As determined by the PCWA, eligible youth:

(a) Are at least 18 years of age and not more than 24 years of age (have not yet reached their 25th birthday); Youth must be no more than 24 years of age at the time the PCWA certifies them as eligible and at the time of HAP contract execution;

(b) Have left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act; Placements can include, but are not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, childcare institutions, and pre-adoptive homes in accordance with 24 CFR 576; and

(c) Are homeless or at risk of becoming homeless at age 16 and older; *At risk of being homeless* is fully defined at 24 CFR 576.2. This includes a person that is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution). Therefore, youth being discharged from an institution may be eligible for an FYI voucher [FYI FAQs].

10101.7 Eligibility is not limited to single persons. For example, pregnant and/or parenting youth are eligible to receive assistance assuming they otherwise meet eligibility requirements.

10101.8 Supportive services may be provided by DCHA, PCWA or a third party. The PCWA must provide or secure a commitment to provide supportive services for participating youth for the period of time defined in the NOFA/O for which the funding was made available. At a minimum, the following supportive services must be offered:

(a) Basic life skills information/counseling on money management, use of credit, housekeeping, proper nutrition/meal preparation, and access to health care (e.g., doctors, medication, and mental and behavioral health services);

(b) Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance/referrals for assistance on security deposits, utility hook-up fees, and utility deposits;

(c) Providing such assurances to owners of rental property as are reasonable and necessary to assist eligible youth to rent a unit with a voucher;

(d) Job preparation and attainment counseling (where to look/how to apply, dress, grooming, relationships with supervisory personnel, etc.); and

(e) Educational and career advancement counseling regarding attainment of general equivalency diploma (GED) or attendance/financing of education at a technical school, trade school, or college, including successful work ethic and attitude models.

(f) Additional supportive services may be offered.

10101.9 Since participation in supportive services is optional, but strongly encouraged, an FYI participant may decline supportive service.

10101.10 The PCWA is responsible for certifying that the youth has prior qualifying foster care involvement. Once the PCWA sends DCHA the referral certifying the youth is program-eligible, DCHA determines HCV eligibility.

10101.11 The PCWA must have a system for identifying eligible youth within the agency's caseload and reviewing referrals from other partners, as applicable. The PCWA must also have a system for prioritization of referrals to ensure that youth are prioritized for an FYI voucher based upon their level of need and appropriateness of the intervention.

10101.12 Referrals may come from other organizations in the community who work with the population, but the PCWA must certify that the youth meets eligibility requirements, unless the PCWA has vested another organization with this authority.

10101.13 DCHA is not required to maintain full documentation that demonstrates the youth's eligibility as determined by the PCWA but should keep the referral or certification from the PCWA. The PCWA is not required to provide DCHA with HCV eligibility documents.

(a) DCHA and PCWA have identified staff positions to serve as lead FYI liaisons. These positions will be responsible for transmission and acceptance of referrals. The PCWA must commit sufficient staff and resources to ensure eligible youths are identified, prioritized, and determined eligible in a timely manner.

(b) When vouchers are available, DCHA liaison responsible for acceptance of referrals will contact the PCWA liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than 10 business days from the date the PCWA receives this notification, the PCWA liaison must provide DCHA with a list of eligible referrals, a completed release form, and a written certification for each referral indicating the referral is eligible. The list will include the name, address, and contact phone number for each adult individual who is being referred.

(c) DCHA will maintain a copy of each certification from the PCWA in the participant's file along with other eligibility paperwork.

10101.14 DCHA must use the HCV waiting list for the FYI program. Youth already on the HCV program may not be transferred to an FYI voucher since they are not homeless or at-risk of homelessness.

10101.15 Once a referral is made, DCHA must compare the list of PCWA referrals to its HCV waiting list to determine if any applicants on the PCWA's referral list are already on DCHA's HCV waiting list. Applicants already on DCHA's HCV waiting list retain the order of their position on the list. Applicants not already on DCHA's HCV waiting list must be placed on the HCV waiting list.

10101.16 If DCHA's HCV waiting list is closed, DCHA must open its HCV waiting list in order to accept new referrals. DCHA may reopen the waiting list to accept an FYI eligible youth without opening the waiting list for other applicants; however, the requirements at 24 CFR 982.206 for giving public notice when opening and closing the waiting list apply in accordance with Chapter 52 of this Title.

10101.17 Within 10 business days of receiving the referral from the PCWA, DCHA will review the HCV waiting list and will send the PCWA a list confirming whether or not referrals are on the waiting list.

(a) Referrals who are already on the list will retain their position and the list will be notated to indicate the applicant is FYI-eligible.

(b) For those referrals not already on the waiting list, DCHA will work with the PCWA to ensure they receive and successfully complete a pre-application or application, as applicable. Once the pre-application or application has been completed, DCHA will place the referral on the HCV waiting list with the date and time of the original referral and an indication that the referral is FYI-eligible.

10101.18 DCHA selects eligible youths based on DCHA's regular HCV waiting list selection policies in Chapter 52, including any preferences that may apply.

10101.19 Once an eligible youth is selected from the HCV waiting list, DCHA must determine whether the youth meets HCV program eligibility requirements. Applicants must be eligible under both FYI eligibility requirements and HCV eligibility requirements as outlined in Chapter 3 of this policy.

10101.20 The PCWA may, but is not obligated to, provide information to DCHA on the youth's criminal history.

(a) Subject to privacy laws, the PCWA will provide any available information regarding the applicant's criminal history to DCHA.

(b) DCHA will consider the information in making its eligibility determination in accordance with DCHA's policies in Chapter 3, Part III.

10101.21 Youth must be no more than 24 years old both at the time of PCWA certification and at the time of the HAP execution. If a youth is 24 at the time of PCWA certification but will turn 25 before the HAP contract is executed, the youth is no longer eligible for a FYI voucher.

10101.22 Any applicant that does not meet the eligibility criteria for the HCV program listed in Chapter 51 or any eligibility criteria listed in this section will be notified by DCHA in writing following policies in Chapter 51, including stating the

reasons the applicant was found ineligible and providing an opportunity for an informal review.

10101.23 Once DCHA determines that the family or youth meets HCV eligibility requirements, the youth will be issued an FYI voucher in accordance with PHA policies.

10101.24 During the family briefing, PHAs must inform the FYI voucher holder of:

(a) The extension of assistance provisions and requirements;

(b) The availability of the FSS program and offer them an FSS slot, if available, or offer to place them on the FSS waiting list (provided DCHA has an FSS program); and

(c) The supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FYI assistance.

10101.25 Eligible applicants will be notified by DCHA in writing following policies in Chapter 51 of this Title. FYI youth will be briefed individually. DCHA will provide all aspects of the written and oral briefing as outlined in Part I of Chapter 53. Vouchers will be issued in accordance with DCHA policies in Chapter 53, except that DCHA will consider one additional 30-day extension beyond the first automatic extension for any reason, not just those listed in Chapter 53.

10101.26 Once the youth locates a unit, DCHA conducts all other processes relating to voucher issuance and administration per HCV program regulations and DCHA policy in Chapter 57.

10101.27 Should a youth fail to use the voucher, DCHA may issue the voucher to another eligible youth if one has been identified.

10101.28 For PHAs awarded FYI Tenant Protection Vouchers (TPVs) under Notice PIH 2019-20 where the recipient of the FYI TPV leaves the program, DCHA may request an FYI voucher under the requirements of Notice PIH 2021-26.

10101.29 For PHAs awarded FYI vouchers under Notices PIH 2020-28 and PIH 2021-26, where the recipient of the FYI voucher leaves the program, DCHA must continue to use the FYI voucher for eligible youth upon turnover. Where there are more eligible youth than available FYI turnover vouchers, DCHA may request an FYI voucher under the requirements of Notice PIH 2021-26. If another eligible youth is not available, DCHA must notify HUD, and HUD will reduce DCHA's HCV assistance to account for the removal of the FYI assistance from DCHA's HCV baseline.

10101.30 Vouchers are limited by statute to a total of between 36 months and 60 months of housing assistance. At the end of the statutory time period, assistance must be terminated. However, any period of time for which no subsidy (HAP) is being paid on behalf of the youth does not count toward the limitation. It is not permissible to reissue another FYI TPV to the same youth upon expiration of their FYI assistance.

10101.31 Participants do not "age out" of the program. A participant may continue with the program until they have received the period of assistance for which they are eligible. Age limits are only applied for entry into the program.

10101.32 FYI voucher holders who first leased or lease a unit after December 27, 2020, may be eligible for an extension of assistance up to 24 months beyond the 36-month time limit (for a total of 60 months of assistance).

10101.33 While FYI voucher holders cannot be required to participate in the Family Self-Sufficiency (FSS) program as a condition of receipt of assistance, an eligible youth who participates in the FSS program and is in compliance with the applicable terms and conditions of the program is entitled to receive assistance for up to an additional 24 months. A FYI voucher holders must accept an FSS slot if it is offered to them prior to the 36-month mark in order to receive an extension of assistance (unless the youth meets one of the statutory exceptions described below).

10101.34 FYI voucher holders will be entitled to receive an extension of assistance for up to 24 months beyond the 36-month time limit without participating in DCHA's FSS program if they certify that they meet one of the exceptions below:

(a) The FYI voucher holder is a parent or other household member responsible for the care of a dependent child under the age of six or for the care of an incapacitated person.

(1) As defined under the Code of the District of Columbia 21-2401.2, DCHA defines *incapacitated person* as an adult for whom a guardian has been appointed.

(2) DCHA will apply this exception in a manner that provides extensions of FYI assistance to the broadest population possible consistent with the statutory requirements.

(3) The FYI voucher holder will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FYI voucher holder must submit.

(4) The child or incapacitated person is not required to reside in the household in order for the FYI voucher holder to certify they meet this exception. For example, a child in a joint custody arrangement under the age of six who resides in the household only part time may qualify the FYI voucher holder for this exception;

(b) The FYI voucher holder is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program.

(1) DCHA will define *regular and active participation* in a manner that provides extensions of FYI voucher holder assistance to the broadest population possible consistent with the statutory requirements.

(2) The FYI voucher holder will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FYI voucher holder must submit; or

(c) The FYI voucher holder is a person who is incapable of complying with the requirement to participate in a FSS program as described above or engage in education, workforce development, or employment activities as described below, as applicable, due to a documented medical condition.

(1) DCHA will apply this requirement in a manner that provides extensions of FYI voucher holder assistance to the broadest population possible consistent with statutory requirements.

(2) The FYI voucher holder will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FYI voucher holder must submit.

10101.35 An FYI voucher holder that meets one of the above exceptions must still be offered an opportunity to enroll in DCHA's FSS program (if it is available to them) and receive any supportive services available to FYI voucher holders. An FYI voucher holder may choose to participate in an FSS program or engage in education, workforce development, or employment activities, even if they meet one of the above statutory exceptions.

10101.36 If a PHA that carries out an FSS program is unable to offer a FYI voucher holder an FSS slot during their first 36 months of receiving FYI assistance, the FYI voucher holder is considered to have been "unable to enroll" in the program and may have their voucher extended by meeting the education, workforce development, or employment criteria described below:

(a) The FYI voucher holder was engaged in obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent.

(1) DCHA will use the definitions of *recognized postsecondary credential* and *secondary school diploma or its recognized equivalent* under the Workforce Innovation and Opportunity Act (WIOA). WIOA defines a *recognized postsecondary credential* as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the state involved or federal government, or an associate or baccalaureate degree (29 U.S.C. 3102). Examples of a recognized postsecondary credential include, but are not limited to, an associate's degree, bachelor's degree, occupational licensure, or occupational certification (see U.S. Department of Labor, Training and Employment Guidance Letter No. 10–16, Change 1). For the purpose of WIOA, the U.S. Department of Labor defines a *secondary school diploma or its recognized equivalent* as a secondary school diploma (or alternate diploma) that is recognized by a state and that is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). A secondary school equivalency certification signifies that a student has completed the requirement for a high school education. Examples of a secondary school diploma or its recognized equivalent include, but are not limited to, obtaining certification of attaining passing scores on a state-recognized high school equivalency test, earning a secondary school diploma or state-recognized equivalent, or obtaining certification of passing a state-recognized competency-based assessment;

(b) The FYI voucher holder was enrolled in an *institution of higher education*, as such term is defined in Section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or an institution that meets the definition of a *proprietary institution of higher education* or a *postsecondary vocational institution* under Sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1) and (c)(1)), respectively.

(1) The FYI voucher holder must be enrolled in education activities on at least a half-time basis, as defined by the institution which they attend. However, DCHA may make exceptions to this requirement if the FYI voucher holder is unable to enroll in a sufficient number of classes due to a lack of course offerings by the educational institution where they are enrolled;

(c) The FYI voucher holder was participating in a career pathway, as such term is defined in Section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102); or

(d) The FYI voucher holder was employed.

(1) DCHA will consider the FYI voucher holder to be employed if they work a minimum of 20 hours per week. DCHA may make exceptions to this requirement if the FYI voucher holder's hours are reduced due to circumstances beyond their control or the FYI voucher holder must temporarily reduce their work hours due to a verified family emergency.

10101.37 If the FYI voucher holder has not been provided an opportunity to enroll in the FSS program during the first 24 months of FYI assistance, HUD encourages DCHA to remind the FYI voucher holder at the 24-month reexamination of the education, workforce development, and employment requirements described above so that they have enough time to meet these requirements prior to the expiration of the 36-month time period for FYI assistance. If the FYI voucher holder has not been provided an opportunity to enroll in the FSS program during the first 24 months of FYI assistance, DCHA will remind the FYI voucher holder at their second regular reexam of the education, workforce development, and employment requirements described above.

10101.38 If an FSS slot becomes available between the 36-month and 48-month mark:

(a) DCHA must offer the slot to an FYI voucher holder who had their voucher extended based on meeting the education, workforce development, or employment requirement listed above, or one of the statutory exceptions listed above (even if the FYI voucher holder previously declined an FSS slot because they met one of the statutory exceptions);

(b) DCHA must work with the FYI voucher holder to determine whether enrollment in FSS is feasible and in their best interest given any education, workforce development, or employment activities that the FYI voucher holder is engaged in and any statutory exceptions that apply to the FYI voucher holder, as well as the remaining time on their voucher; and

(c) If the FYI voucher holder accepts the FSS slot, DCHA must work with them to establish Contract of Participation goals and an Individual Training and Services Plan (ITSP) that can be accomplished within the time period left on the voucher.

10101.39 If the FYI voucher holder is offered an FSS slot prior to the 36-month mark, the FYI voucher holder:

(a) Will be required to enroll in the FSS program in order to receive an extension of assistance at the end of the 36-month time period (unless they meet one of the statutory exceptions described above).

(b) Will not be considered to have been "unable to enroll" in the FSS program, and as a result, will not be eligible to receive an extension of assistance based on meeting the education, workforce development, or employment requirements described above.

10101.40 DCHA may, but is not required, to offer an FYI voucher holder an FSS slot that becomes available between the 48-month mark and the 60-month mark, since the FYI voucher holder will have already received their second and final extension. If an FSS slot becomes available between the 48 and 60-month marks, DCHA will not offer the FSS slot to an FYI voucher holder.

10101.41 At the 36-month and 48-month reexamination, DCHA must extend FYI assistance if the FYI voucher holder is participating in and in compliance with the FSS program as long as the FYI voucher holder is still eligible for the HCV program.

10101.42 In any case, the FYI voucher holder cannot receive more than a total of 60 months of FYI assistance even if the FSS Contract of Participation time period extends beyond the voucher 60-month mark.

10101.43 If a PHA does not carry out an FSS program or the FYI voucher holder has been unable to enroll in the program during the first 36 months of receiving FYI assistance, the FYI voucher holder is entitled to receive an extension of assistance for up to two successive 12-month periods beyond the 36-month time limit provided that the FYI voucher holder engaged in at least one of the education, workforce development, or employment activities described above for not less than nine months of the 12-month period preceding each extension. In order to meet the nine months out of the preceding 12 months requirement, the FYI voucher holder may have engaged in one of the education, workforce development, or employment activities described above or a combination of these activities.

10101.44 In order to provide an extension of assistance, DCHA must verify compliance with the above requirements at the end of the 36-month time period and the 48-month time periods. DCHA does not need to verify compliance with these requirements at the end of the 60-month time period since the maximum length of assistance is 60 months.

10101.45 To verify compliance with the education, workforce development, or employment requirement or one of the statutory exceptions, DCHA must provide the FYI voucher holder written notification informing them that they may receive an extension of their FYI assistance and providing instructions on how the FYI voucher holder may demonstrate that they meet one of these conditions. This

notification must be provided sufficiently in advance of the end of the 36-month or 48-month time periods, as applicable, to allow the FYI voucher holder to demonstrate that they meet the education, workforce development, or employment requirement, or one of the statutory exceptions, and for DCHA to conduct an annual reexamination prior to the expiration of the FYI assistance.

(a) DCHA will verify compliance with the education, workforce development, or employment requirement, or one of the statutory exceptions, at the end of the 36-month and 48-month time periods prior to the FYI voucher holder's scheduled annual reexamination. DCHA will not verify compliance at the end of the 60-month time period.

(b) DCHA will provide each FYI voucher holder on DCHA's program with a written notification informing them that they may receive an extension of their FYI assistance if they meet conditions outlined in this chapter and providing them with instructions on how they may demonstrate compliance at least 60 days prior to their scheduled annual reexam date. When necessary, DCHA will provide this notification in a format accessible to FYI voucher holders with disabilities and in a translated format for FYI voucher holders with limited English proficiency in accordance with Chapter 50.

(c) DCHA will use the following verification methods to verify an FYI voucher holder's eligibility for voucher extensions:

(1) To verify compliance with the FSS requirement, DCHA will examine its records to confirm, or obtain confirmation from DCHA's FSS program staff, that the FYI participant is in compliance with FSS program requirements and has not been terminated from the FSS program;

(2) To meet the education, workforce development, or employment requirement, DCHA will verify that the FYI voucher holder was engaged in at least one education, workforce development, or employment activity for at least nine months of the 12-month period immediately preceding the end of the 36-month or 48-month time period, as applicable. Due to the timing of when DCHA verifies compliance and conducts the annual reexamination, the FYI voucher holder may have not yet met the nine-month requirement but may be able to demonstrate that they will meet the nine-month requirement as of the end of the 36-month or 48-month time period. In such cases, the FYI voucher holder will still be considered to have met the requirements; and

(3) In order for the FYI voucher holder to meet one of the statutory exceptions described above, the FYI voucher holder must submit a

certification to DCHA that they meet one of these exceptions. This certification is the only documentation that the FYI voucher holder must submit in order to demonstrate that they meet one of the statutory exceptions.

10101.46 An FYI voucher holder who received an extension of voucher assistance at the end of the 36-month time period based on meeting one of the conditions described in this chapter does not have to meet the same conditions when they reach the end of the 48-month time period. The FYI voucher holder may demonstrate that they meet a different condition in order to receive an extension of their assistance.

10101.47 If DCHA determines that the FYI voucher holder meets one of the statutory conditions, DCHA would then conduct an annual reexamination. If the annual reexamination determines that the FYI voucher holder is still eligible for the HCV program, DCHA must provide the FYI voucher holder the extension of voucher assistance.

10101.48 Failure of the FYI voucher holder to meet one of the above conditions will only impact their ability to receive subsequent extensions of assistance. It will not serve as a basis for terminating the FYI assistance prior to the annual reexam.

10101.49 If the FYI voucher holder does not meet any of the statutory conditions described in in this chapter, the youth is subject to the statutory time limit of 36 months or the time limit of any extension that the youth has already received, and the FYI voucher must be terminated once they reach this time limit. The calculation of the time limit begins from the date the first HAP contract is signed (for tenant-based vouchers) or from the date the FYI voucher holder entered into the initial lease agreement (for project-based vouchers). The number of months is calculated based on the number of months that HAP subsidy is being paid on behalf of the FYI voucher holder, not the number of months that they are in the FYI program. Prior to termination, DCHA must offer the FYI voucher holder the opportunity to request an informal hearing, in accordance with Chapter 91.

10101.50 Termination of a FYI voucher is handled in the same way as with any HCV; therefore, termination of a FYI voucher must be consistent with HCV regulations at 24 CFR Part 982, Subpart L and PHA policies in Chapter 76. Given the statutory time limit that requires FYI vouchers to sunset, a DCHA must terminate the youth's assistance once the limit on assistance has expired.

10101.51 A PHA cannot terminate a FYI youth's assistance for noncompliance with PCWA case management, nor may DCHA terminate assistance for a FYI youth for not accepting services from the PCWA.

10101.52 DCHA may not transfer the assistance of FYI voucher holders to regular HCV assistance upon the expiration of the limit on assistance. However, DCHA may issue a regular HCV to FYI voucher holders if they were selected from the

waiting list in accordance with PHA policies. DCHA may also adopt a waiting list preference for FYI voucher holders who are being terminated for this reason. DCHA will not provide a selection preference on DCHA's HCV waiting list for FYI voucher holders who are terminated due to the time limit on assistance.

10101.53 Portability for an FYI youth is handled in the same way as for a regular HCV family. A PHA may not restrict or deny portability for an FYI youth for reasons other than those specified in the HCV program regulations.

10101.54 An FYI youth does not have to port to a jurisdiction that administers FYI vouchers.

10101.55 If the receiving PHA absorbs the voucher, DCHA may absorb the youth into its regular HCV program if it has vouchers available to do so. If the receiving PHA absorbs the youth into its regular HCV program, that youth becomes a regular HCV participant with none of the limitations of an FYI voucher.

10101.56 The initial and receiving PHA must work together to initiate termination of assistance upon expiration of the time limit on assistance.

10101.57 DCHA may project-base certain FYI vouchers without HUD approval in accordance with all applicable PBV regulations and PHA policies in Chapter 17. This includes FYI vouchers awarded under Notices PIH 2020-28 and PIH 2021-26. Assistance awarded under Notice PIH 2019-20 is prohibited from being project-based. DCHA will not project-base FYI vouchers. All FYI vouchers will be used to provide tenant-based assistance.

10102 VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH) PROGRAM

10102.1 Since 2008, HCV program funding has provided rental assistance under a supportive housing program for homeless veterans. The Veterans Affairs Supportive Housing (VASH) program combines HCV rental assistance with case management and clinical services provided by the Department of Veterans Affairs (VA) at VA medical centers (VAMCs) and Community-Based Outpatient Clinics (CBOCs), or through a designated service provider (DSP) as approved by the VA Secretary. Eligible families are homeless veterans and their families that agree to participate in VA case management and are referred to the VAMC's partner PHA for HCV assistance. The VAMC or DSP's responsibilities include:

(a) Screening homeless veterans to determine whether they meet VASH program participation criteria;

(b) Referring homeless veterans to DCHA; The term *homeless veteran* means a veteran who is homeless (as that term is defined in subsection (a) or (b) of Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302)). See 38 U.S.C. 2002;

(c) Providing appropriate treatment and supportive services to potential VASH participants, if needed, prior to DCHA issuance of a voucher;

(d) Providing housing search assistance to VASH participants;

(e) Identifying the social service and medical needs of VASH participants, and providing or ensuring the provision of regular ongoing case management, outpatient health services, hospitalization, and other supportive services as needed throughout the veterans' participation period; and

(f) Maintaining records and providing information for evaluation purposes, as required by HUD and the VA.

10102.2 VASH vouchers are awarded noncompetitively based on geographic need and PHA administrative performance. Eligible PHAs must be located within the jurisdiction of a VAMC and in an area of high need based on data compiled by HUD and the VA. When Congress funds a new allocation of VASH vouchers, HUD invites eligible PHAs to apply for a specified number of vouchers.

10102.3 Generally, the HUD-VASH program is administered in accordance with regular HCV program requirements. However, HUD is authorized to waive or specify alternative requirements to allow PHAs to effectively deliver and administer VASH assistance. Alternative requirements are established in the HUD-VASH Operating Requirements, which were originally published in the Federal Register on May 6, 2008, and updated September 27, 2021. Unless expressly waived by HUD, all regulatory requirements and HUD directives regarding the HCV program are applicable to VASH vouchers, including the use of all HUD-required contracts and other forms, and all civil rights and fair housing requirements. In addition, DCHA may request additional statutory or regulatory waivers that it determines are necessary for the effective delivery and administration of the program.

10102.4 The VASH program is administered in accordance with applicable Fair Housing requirements since civil rights requirements cannot be waived under the program. These include applicable authorities under 24 CFR 5.105(a) and 24 CFR 982.53 including, but not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Age Discrimination Act and all DCHA policies as outlined in Chapter 50 & Chapter 74 of this Title.

10102.5 When HUD-VASH recipients include veterans with disabilities or family members with disabilities, reasonable accommodation requirements in Part II of Chapter 2 of this policy apply.

10102.6 VAMC case managers will screen all families in accordance with VA screening criteria and refer eligible families to DCHA for determination of program eligibility and voucher issuance. DCHA has no role in determining or verifying the veteran's eligibility under VA screening criteria, including determining the veteran's homelessness status. DCHA must accept referrals from the partnering VAMC and must maintain written documentation of referrals in VASH tenant files. Upon turnover, VASH vouchers must be issued to eligible veteran families as identified by the VAMC.

(a) In order to expedite the screening process, DCHA will provide all forms and a list of documents required for the VASH application to the VAMC. Case managers will work with veterans to fill out the forms and compile all documents prior to meeting with DCHA and submitting an application. When feasible, the VAMC case manager should email or fax copies of all documents to DCHA prior to the meeting in order to allow DCHA time to review them and start a file for the veteran.

(b) After the VAMC has given DCHA a complete referral, DCHA will perform an eligibility screening within five business days of receipt of a VAMC referral.

10102.7 Eligible participants are homeless veterans and their families who agree to participate in case management from the VAMC.

(a) A *VASH Veteran* or *veteran family* refers to either a single veteran or a veteran with a household composed of two or more related persons. It also includes one or more eligible persons living with the veteran who are determined to be important to the veteran's care or well-being.

(b) A veteran for the purpose of VASH is a person whose length of service meets statutory requirements, and who served in the active military, naval, or air service, was discharged or released under conditions other than dishonorable, and is eligible for VA health care.

10102.8 Under VASH, PHAs do not have authority to determine family eligibility in accordance with HCV program rules and PHA policies. The only reasons for denial of assistance by DCHA are failure to meet the income eligibility requirements and/or that a family member is subject to a lifetime registration requirement under a state sex offender registration program. Under portability, the receiving PHA must also comply with these VASH screening requirements.

10102.9 When verifying Social Security numbers (SSNs) for homeless veterans and their family members, an original document issued by a federal or state government agency, which contains the name and SSN of the individual along with other identifying information of the individual, is acceptable in accordance with Chapter 55 of this Title.

10102.10 In the case of the homeless veteran, DCHA must accept the Certificate of Release or Discharge from Active Duty (DD-214) or the VA-verified Application for Health Benefits (10-10EZ) as verification of SSN and cannot require the veteran to provide a Social Security card. A VA-issued identification card may also be used to verify the SSN of a homeless veteran.

10102.11 The DD-214 or 10-10EZ must be accepted as proof of age in lieu of birth certificates or other PHA-required documentation as outlined in Chapter 55 of this Title. A VA-issued identification card may also be used to verify the age of a homeless veteran.

10102.12 A VA-issued identification card must be accepted in lieu of another type of government-issued photo identification. These cards also serve as verification of SSNs and date of birth.

10102.13 DCHA must determine income eligibility for VASH families in accordance with 24 CFR 982.201 and policies in Chapter 51. If the family is over-income based on the most recently published income limits for the family size, the family will be ineligible for HCV assistance.

10102.14 While income-targeting does not apply to VASH vouchers, DCHA may include the admission of extremely low-income VASH families in its income targeting numbers for the fiscal year in which these families are admitted.

10102.15 While income-targeting requirements will not be considered by DCHA when families are referred by the partnering VAMC, DCHA will include any extremely low-income VASH families that are admitted in its income targeting numbers for the fiscal year in which these families are admitted.

10102.16 DCHA may not screen any potentially eligible family members or deny assistance for any grounds permitted under 24 CFR 982.552 and 982.553 with one exception: DCHAs is still required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. Accordingly, with the exception of denial for registration as a lifetime sex offender under state law and PHA policies on how sex offender screenings will be conducted, DCHA policies in 14 DCMR §5115 do not apply to VASH. The prohibition against screening families for anything other than lifetime sex offender status applies to all family members, not just the veteran.

10102.17 If a family member is subject to lifetime registration under a state sex offender registration program, the remaining family members may be served if the family agrees to remove the sex offender from its family composition. This is true unless the family member subject to lifetime registration under a state sex offender

registration program is the homeless veteran, in which case the family would be denied admission to the program.

10102.18 Once a veteran is referred by the VAMC, DCHA must either issue a voucher or deny assistance. If DCHA denies assistance, it must provide the family with prompt notice of the decision and a brief statement of the reason for denial in accordance with 14 DCMR §5115. Like in the standard HCV program, the family must be provided with the opportunity for an informal review in accordance with policies in 14 DCMR §5115. In addition, a copy of the denial notice must be sent to the VAMC case manager.

10102.19 When adding a family member after the family has been admitted to the program, DCHA policies 14 DCMR §5115 apply. Other than the birth, adoption, or court-awarded custody of a child, DCHA must approve additional family members and will apply its regular screening criteria in doing so.

10102.20 If the homeless veteran dies while the family is being assisted, the voucher would remain with the remaining members of the tenant family. DCHA may use one of its own regular vouchers, if available, to continue assisting this family and free up a VASH voucher for another VASH-eligible family. If a regular voucher is not available, the family would continue utilizing the VASH voucher. Once the VASH voucher turns over, however, it must go to a homeless veteran family.

10102.21 In the case of divorce or separation, since the set-aside of VASH vouchers is for veterans, the voucher must remain with the veteran. This overrides DCHA's policies in Chapter 51 on how to determine who remains in the program if a family breaks up.

10102.22 DCHA does not have the authority to maintain a waiting list or apply local preferences for HUD–VASH vouchers. Policies in Chapter 52 relating to applicant selection from the waiting list, local preferences, special admissions, cross-listing, and opening and closing the waiting list do not apply to VASH vouchers.

10102.23 To assist VASH participants in finding affordable housing, especially in competitive markets, HUD allows PHAs to establish a HUD-VASH exception payment standard. PHAs may go up to but no higher than 120 percent of the published area-wide fair market rent (FMR) or small area fair market rent (SAFMR) specifically for VASH families. PHAs who want to establish a VASH exception payment standard over 120 percent must still request a waiver from HUD through the regular waiver process outlined in Notice PIH 2018-16.

10102.24 Unlike the standard HCV program which requires an initial voucher term of at least 60 days, VASH vouchers must have an initial search term of at least 120 days. PHA policies on extensions as outlined in Chapter 53 will apply.

10102.25 All VASH vouchers will have an initial term of 180 calendar days. The family must submit a Request for Tenancy Approval and proposed lease within the 180-day period unless DCHA grants an extension.

10102.26 DCHA must track issuance of HCVs for families referred by the VAMC or DSP in PIC as required in Notice PIH 2011-53.

10102.27 Unlike in the standard HCV program, VASH voucher holders may enter into an initial lease that is for less than 12 months. Accordingly, DCHA policy in Chapter 57, Term of Assisted Tenancy, does not apply.

10102.28 Unlike in the standard HCV program, VASH families are permitted to live on the grounds of a VA facility in units developed to house homeless veterans. This applies to both tenant-based assistance and PBV. Therefore, 24 CFR 982.352(a)(5) and 983.53(a)(2), which prohibit units on the physical grounds of a medical, mental, or similar public or private institution, do not apply to VASH for this purpose only. Accordingly, PHA policy in Chapter 57, Ineligible Units, does not apply for this purpose only.

10102.29 To expedite the leasing process, PHAs may pre-inspect available units that veterans may be interested in leasing in order to maintain a pool of eligible units. If a VASH family selects a unit that passed an HQS inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval (Form HUD-52517), the unit may be approved if it meets all other conditions under 24 CFR 982.305. However, the veteran must be free to select their unit and cannot be steered to these units.

10102.30 To expedite the leasing process, DCHA may pre-inspect available units that veterans may be interested in leasing to maintain a pool of eligible units. If a VASH family selects a unit that passed a HQS pre-inspection (without intervening occupancy) within 45 days of the date of the RTA, the unit may be approved provided that it meets all other conditions under 24 CFR 982.305. The veteran will be free to select their unit.

10102.31 When a pre-inspected unit is not selected, DCHA will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for both initial and any required reinspections.

10102.32 Portability policies under VASH depend on whether the family wants to move within or outside of the initial VA facility's catchment area (the area in which the VAMC or DSP operates). In all cases, the initial VA facility must be consulted prior to the move and provide written confirmation that case management will continue to be provided in the family's new location. VASH participant families may only reside in jurisdictions that are accessible to case management services, as determined by case managers at the partnering VAMC or DSP.

10102.33 Under VASH, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied. As a result, DCHA policies in Chapter 58 about nonresident applicants do not apply.

10102.34 If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply.

10102.35 A VASH family can move within the VAMC's catchment area as long as case management can still be provided, as determined by the VA. If the initial PHA's partnering VAMC will still provide the case management services, the receiving PHA must process the move in accordance with portability procedures:

(a) If the receiving PHA has been awarded VASH vouchers, it can choose to either bill the initial PHA or absorb the family if it has a VASH voucher available to do so.

(1) If DCHA absorbs the family, the VAMC or DSP providing the initial case management must agree to the absorption and the transfer of case management.

(b) If the receiving PHA does not administer a VASH program, it must always bill the initial PHA.

10102.36 If a family wants to move to another jurisdiction where it will not be possible for the initial PHA's partnering VAMC or DSP to provide case management services, the initial VAMC or DSP must first determine that the VASH family could be served by another VAMC or DSP that is participating in the VASH program, and the receiving PHA has an available VASH voucher.

10102.37 In these cases, the family must be absorbed by the receiving PHA either as a new admission or as a portability move-in, as applicable. Upon absorption, the initial PHA's VASH voucher will be available to lease to a new VASH-eligible family, and the absorbed family will count toward the number of VASH slots awarded to the receiving PHA.

10102.38 Veterans who request to port beyond the catchment area of the VAMC or DSP where they are receiving case management to protect the health or safety of a person who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and who reasonably believes they are threatened with imminent harm from further violence by remaining in the unit may port prior to receiving approval from the receiving VAMC or DSP. PHAs may require verbal self-certification or a written request from a participant seeking a move beyond the catchment area of the VAMC or DSP.

10102.39 The verbal self-certification or written request must include either a statement expressing why the participant reasonably believes that there is a threat of imminent harm from further violence if they were to remain in the same unit or a statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-day period preceding the participants request for the move.

10102.40 The participant must still port to a PHA that has a VASH program. If the receiving PHA does not have a VASH voucher available to lease, they may bill the initial PHA until a VASH voucher is available, at which point the porting veteran must be absorbed into the receiving PHA's program.

10102.41 Except for terminations for failure to receive case management, HUD has not established any alternative requirements for termination of assistance for VASH participants. However, prior to terminating VASH participants, HUD strongly encourages PHAs to exercise their discretion under 24 CFR 982.552(c)(2) as outlined in Chapter 76 of this Title and consider all relevant circumstances of the specific case. This includes granting reasonable accommodations for persons with disabilities, as well as considering the role of the case manager and the impact that ongoing case management services can have on mitigating the conditions that led to the potential termination.

10102.42 VASH participant families may not be terminated after admission for a circumstance or activities that occurred prior to admission and were known to DCHA but could not be considered at the time of admission due to VASH program requirements. DCHA may terminate the family's assistance only for program violations that occur after the family's admission to the program.

10102.43 As a condition of receiving HCV rental assistance, a HUD-VASH-eligible family must receive case management services from the VAMC or DSP. A VASH participant family's assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC or DSP.

10102.44 However, a VAMC or DSP determination that the participant family no longer requires case management is not grounds for termination of voucher or PBV assistance. In such a case, at its option, DCHA may offer the family continued assistance through one of its regular vouchers. If DCHA has no voucher to offer, the family will retain its VASH voucher or PBV unit until such time as DCHA has an available voucher for the family.

10102.45 When a veteran's family member is receiving protection under VAWA because the veteran is the perpetrator of domestic violence, dating violence, sexual assault, or stalking, the victim must continue to be assisted. Upon termination of the perpetrator's VASH assistance, the victim must be given a regular HCV if one is available, and the perpetrator's VASH voucher must be used to serve another

eligible veteran family. If a regular HCV is not available, the perpetrator must be terminated from assistance and the victim will continue to use the VASH voucher.

10102.46 PHAs are authorized to project-base their tenant-based VASH vouchers without additional HUD review or approval in accordance with Notice PIH 2017-21 and all PBV program requirements provided that the VAMC will continue to make supportive services available. In addition, since 2010, HUD has awarded VASH vouchers specifically for project-based assistance in the form of PBV HUD-VASH set-aside vouchers. While these vouchers are excluded from the PBV program cap as long as they remain under PBV HAP contract at the designated project, all other VASH vouchers are subject to the PBV program percentage limitation discussed in Chapter 94 of this Title. Note that VASH supportive services only need to be provided to VASH families receiving PBV assistance in the project, not all families receiving PBV assistance in the project. If a VASH family does not require or no longer requires case management, the unit continues to count as an excepted PBV unit if the family resides in the unit.

10102.47 If DCHA project-bases VASH vouchers, DCHA must consult with the partnering VAMC or DSP to ensure approval of the project or projects. PHAs may project-base VASH vouchers in projects alongside other PBV units and may execute a single HAP contract covering both the VASH PBVs and the other PBVs. DCHA must refer only VASH families to PBV units exclusively made available to VASH families and to PBV units funded through a HUD set-aside award.

10102.48 If a VASH family is referred to DCHA and there is an available PBV unit that is not exclusively made available to VASH families, DCHA may offer to refer the family to the owner if allowable under the selection policy for that project, and the owner and PHA may amend the HAP contract to designate the PBV unit as a VASH PBV unit.

10102.49 DCHA and owner may agree to amend a PBV HAP contract to redesignate a regular PBV unit as a unit specifically designated for VASH families so long as DCHA first consults with the VAMC or DSP. Additionally, DCHA and owner may agree to amend a PBV HAP contract to redesignate a unit specifically designated for VASH families as a regular PBV unit, so long as the unit is not funded through a VASH PBV set-aside award and is eligible for regular PBV (i.e., the unit is not on the grounds of a medical facility and the unit is eligible under DCHA's program and project caps).

10102.50 Policies for VASH PBV units will generally follow PHA policies for the standard PBV program as listed in Chapter 94 of this Title, except for the policies listed below.

10102.51 Upon notification by the VAMC or DSP of the family's failure to participate, without good cause, in case management, DCHA must provide the family a reasonable time to vacate the unit. DCHA must terminate assistance to the family

at the earlier of either the time the family vacates or the expiration of the reasonable time period given to vacate.

10102.52 Upon notification by the VAMC or DSP that a VASH PBV family has failed to participate in case management without good cause, DCHA will provide written notice of termination of assistance to the family and the owner within 10 business days. The family will be given 60 days from the date of the notice to move out of the unit.

10102.53 DCHA may make exceptions to this 60-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

10102.54 If the family fails to vacate the unit within the established time, the owner may evict the family. If the owner does not evict the family, DCHA must remove the unit from the HAP contract or amend the HAP contract to substitute a different unit in the project if the project is partially assisted. DCHA may add the removed unit to the HAP contract after the ineligible family vacates the property.

10102.55 When a VASH PBV family is eligible to move from its PBV unit in accordance with Chapter 94 of this policy, but there is no other comparable tenant-based rental assistance, the following procedures must be implemented:

(a) If a VASH tenant-based voucher is not available at the time the family wants (and is eligible) to move, DCHA may require a family who still requires case management to wait for a VASH tenant-based voucher for a period not to exceed 180 days;

(b) If a VASH tenant-based voucher is still not available after that period, the family must be allowed to move with its VASH voucher. Alternatively, DCHA may allow the family to move with its VASH voucher without having to meet this 180-day period. In either case, DCHA is required to replace the assistance in the PBV unit with one of its regular vouchers, unless DCHA and owner agree to temporarily remove the unit from the HAP contract; and

(c) If a VASH veteran is determined to no longer require case management, DCHA must allow the family to move with the first available tenant-based voucher if no VASH voucher is immediately available and cannot require the family to wait for a VASH voucher to become available.

10102.56 Mainstream vouchers assist non-elderly persons with disabilities and their families in the form of either project-based or tenant-based voucher assistance.

10102.57 Aside from separate funding appropriations and serving a specific population, Mainstream vouchers follow the same program requirements as standard

vouchers. DCHA does not have special authority to treat families that receive a Mainstream voucher differently from other applicants and participants. For example, DCHA cannot apply different payment standards, establish conditions for allowing portability, or apply different screening criteria to Mainstream families.

10102.58 The Mainstream voucher program, (previously referred to as the Mainstream 5-Year program or the Section 811 voucher program) was originally authorized under the National Affordable Housing Act of 1990. Mainstream vouchers operated separately from the regular HCV program until the passage of the Frank Melville Supportive Housing Investment Act of 2010. Funding for Mainstream voucher renewals and administrative fees was first made available in 2012. In 2017 and 2019, incremental vouchers were made available for the first time since the Melville Act (in addition to renewals and administrative fees), and PHAs were invited to apply for a competitive award of Mainstream vouchers under the FY17 and FY19 NOFAs. In 2020, Notice PIH 2020-22 provided an opportunity for any PHA administering an HCV program to apply for Mainstream vouchers noncompetitively, while Notice PIH 2020-09 authorized an increase in Mainstream voucher units and budget authority for those PHAs already awarded Mainstream vouchers under the FY17 and FY19 NOFAs.

10102.59 Funds for Mainstream vouchers may be recaptured and reallocated if DCHA does not comply with all program requirements or fails to maintain a utilization rate of 80 percent for DCHA's Mainstream vouchers.

10102.60 All Mainstream vouchers must be used to serve non-elderly persons with disabilities and their families, defined as any family that includes a person with disabilities who is at least 18 years old and not yet 62 years old as of the effective date of the initial HAP contract. The eligible disabled household member does not need to be the head of household.

10102.61 The definition of person with disabilities for purposes of Mainstream vouchers is the statutory definition under section 3(b)(3)(E) of the 1937 Act, which is the same as is used for allowances and deductions in the HCV program and is provided in Exhibit 3-1 of this policy.

10102.62 Existing families receiving Mainstream vouchers, where the eligible family member is now age 62 or older, will not "age out" of the program as long as the family was eligible on the day it was first assisted under a HAP contract.

10102.63 DCHA may not implement eligibility screening criteria for Mainstream vouchers that is different from that of the regular HCV program.

10102.64 PHAs are encouraged but not required to establish formal and informal partnerships with a variety of organizations that assist persons with disabilities to help ensure eligible participants find and maintain stable housing.

10102.65 DCHA will implement a Mainstream program in partnership with District of Columbia's Department of Aging and Community Living (DACL) and the District of Columbia's Department of Behavioral Health. DCHA may identify other partners within the community as appropriate.

10102.66 PHAs must not have a separate waiting list for Mainstream voucher assistance since DCHA is required by the regulations to maintain one waiting list for tenant-based assistance. All PHA policies on opening, closing, and updating the waiting list, as well as waiting list preferences in Chapter 52, apply to the Mainstream program.

10102.67 When DCHA is awarded Mainstream vouchers, these vouchers must be used for new admissions to DCHA's program from the waiting list. DCHA must lease these vouchers by pulling the first Mainstream-eligible family from its tenant-based waiting list. PHAs are not permitted to reassign existing participants to the program to make regular tenant-based vouchers available. Further, DCHA may not skip over Mainstream-eligible families on the waiting list because DCHA is serving the required number of Mainstream families.

10102.68 Upon turnover, vouchers must be provided to Mainstream-eligible families. If a Mainstream turnover voucher becomes available, DCHA must determine if the families at the top of the waiting list qualify under program requirements.

10102.69 If DCHA claimed points for a preference in a NOFA application for Mainstream vouchers, DCHA must adopt a preference for at least one of the targeted groups identified in the NOFA.

10102.70 DCHA selects families from the waiting list based on date and time of application.

10102.71 Mainstream voucher participants are eligible for portability under standard portability rules and all PHA policies regarding portability in Chapter 10, Part II apply to Mainstream families.

10102.72 The following special considerations for Mainstream vouchers apply under portability:

(a) If the receiving PHA has a Mainstream voucher available, the participant may remain a Mainstream participant:

(1) If the receiving PHA chooses to bill the initial PHA, then the voucher will remain a Mainstream voucher; and

(2) If the receiving PHA chooses to absorb the voucher, the voucher will be considered a regular voucher, or a Mainstream voucher if

the receiving PHA has a Mainstream voucher available, and the Mainstream voucher at the initial PHA will be freed up to lease to another Mainstream-eligible family; and

(b) If the receiving PHA does not have a Mainstream voucher available, the participant may receive a regular voucher.

10102.73 DCHA may project-base Mainstream vouchers in accordance with all applicable PBV regulations and PHA policies in Chapter 94 of this Title. PHAs are responsible for ensuring that, in addition to complying with project-based voucher program requirements, the project complies with all applicable federal nondiscrimination and civil rights statutes and requirements. This includes, but is not limited to, Section 504 of the Rehabilitation Act (Section 504), Titles II or III of the Americans with Disabilities (ADA), and the Fair Housing Act and their implementing regulations at 24 CFR Part 8; 28 CFR Parts 35 and 36; and 24 CFR Part 100. Mainstream vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A.

10102.74 NED vouchers help non-elderly disabled families lease suitable, accessible, and affordable housing in the private market. Aside from separate funding appropriations and serving a specific population, NED vouchers follow the same program requirements as standard vouchers. DCHA does not have special authority to treat families that receive a NED voucher differently from other applicants and participants.

10102.75 Some NED vouchers are awarded to PHAs through competitive NOFAs. The NOFA for FY2009 Rental Assistance for NED made incremental funding available for two categories of NED families:

(a) Category 1 vouchers enable non-elderly persons or families with disabilities to access affordable housing on the private market; and

(b) Category 2 vouchers enable non-elderly persons with disabilities currently residing in nursing homes or other healthcare institutions to transition into the community. PHAs with NED Category 2 vouchers were required to partner with a state Medicaid or health agency or the state Money Follows the Person (MFP) Demonstration agency.

10102.76 Since 1997, HCVs for NED families have been also awarded under various special purpose HCV programs: Rental Assistance for Non-Elderly Persons with Disabilities in Support of Designated Housing Plans (Designated Housing), Rental Assistance for Non-Elderly Persons with Disabilities Related to Certain Types of Section 8 Project-Based Developments (Certain Developments), One-Year Mainstream Housing Opportunities for Persons with Disabilities, and the Project Access Pilot Program (formerly Access Housing 2000).

10102.77

(a) Designated Housing vouchers enable non-elderly disabled families, who would have been eligible for a public housing unit if occupancy of the unit or entire project had not been restricted to elderly families only through an approved Designated Housing Plan, to receive rental assistance. These vouchers may also assist non-elderly disabled families living in a designated unit/project/building to move from that project if they so choose. The family does not have to be listed on DCHA's voucher waiting list. Instead, they may be admitted to the program as a special admission. Once the impacted families have been served, DCHA may begin issuing these vouchers to non-elderly disabled families from their HCV waiting list. Upon turnover, these vouchers must be issued to non-elderly disabled families from DCHA's HCV waiting list.

(b) Certain Developments vouchers enable non-elderly families having a person with disabilities, who do not currently receive housing assistance in certain developments where owners establish preferences for, or restrict occupancy to, elderly families, to obtain affordable housing. These non-elderly families with a disabled person do not need to be listed on DCHA's HCV waiting list in order to be offered and receive housing choice voucher rental assistance. It is sufficient that these families' names are on the waiting list for a covered development at the time their names are provided to DCHA by the owner. Once the impacted families have been served, DCHA may begin issuing these vouchers to non-elderly disabled families from their HCV waiting list. Upon turnover, these vouchers must be issued to non-elderly disabled families from DCHA's HCV waiting list.

(c) One-Year Mainstream Housing Opportunities for Persons with Disabilities (One-Year Mainstream) vouchers enable non-elderly disabled families on DCHA's waiting list to receive a voucher. After initial leasing, turnover vouchers must be issued to non-elderly disabled families from DCHA's voucher waiting list.

10102.78 Only eligible families whose head of household, spouse, or cohead is non-elderly (under age 62) and disabled may receive a NED voucher. Families with only a minor child with a disability are not eligible.

10102.79 In cases where the qualifying household member now qualifies as elderly due to the passage of time since the family received the NED voucher, existing NED participant families do not "age out," as the family was eligible on the day it was first assisted under a housing assistance payments (HAP) contract.

10102.80 The definition of person with disabilities for purposes of NED vouchers is the statutory definition under Section 3(b)(3)(E) of the 1937 Act, which is the same as is used for allowances and deductions in the HCV program.

10102.81 DCHA may not implement eligibility screening criteria for NED vouchers that is different from that of the regular HCV program.

10102.82 In addition to being eligible for DCHA's regular HCV program and a non-elderly person with a disability, to receive a Category 2 voucher, the family's head, spouse, cohead, or sole member must be transitioning from a nursing home or other healthcare institution and provided services needed to live independently in the community.

10102.83 Nursing homes or other healthcare institutions may include intermediate care facilities and specialized institutions that care for those with intellectual disabilities, developmentally disabled, or mentally ill, but do not include board and care facilities (e.g., adult homes, adult day care, adult congregate living).

10102.84 DCHA cannot limit who can apply to just those persons referred or approved by a Money Follows the Person (MFP) Demonstration agency or state health agency. Other individuals could be placed on the waiting list if they can show, with confirmation by an independent agency or organization that routinely provides such services (this can be the MFP or partnering agency, but need not be), that the transitioning individual will be provided with all necessary services, including care or case management.

10102.85 For each Category 2 family, there must be documentation (e.g., a copy of a referral letter from the partnering or referring agency) in the tenant file identifying the institution where the family lived at the time of voucher issuance.

10102.86 Families must be selected for NED vouchers from DCHA's waiting list in accordance with all applicable regulations and PHA policies in Chapter 52 of this Title.

10102.87 Regardless of the number of NED families DCHA is required to serve, the next family on the waiting list must be served. Further, DCHA may not skip over NED-eligible families on the waiting list because DCHA is serving the required number of NED families.

10102.88 For NED Category 2 families, the partnering agency may make referrals of eligible families to DCHA for placement on the waiting list. DCHA will then select these families from the waiting list for voucher issuance. Because language in the NOFA established that vouchers awarded under the NOFA must only serve non-elderly disabled families transitioning from institutions, DCHA does not need to establish a preference to serve these families ahead of other families on DCHA's waiting list.

10102.89 PHAs must accept applications from people living outside their jurisdiction or from people being referred from other Medicaid or MFP service agencies in their state.

10102.90 If DCHA's waiting list is closed, DCHA must reopen its waiting list to accept referrals from its partnering agency. When opening the waiting list, PHAs must advertise in accordance with 24 CFR 982.206 and DCHA policies in Chapter 52. In addition, DCHA must ensure that individuals living in eligible institutions are aware when DCHA opens its waiting list by reaching out to social service agencies, nursing homes, intermediate care facilities and specialized institutions in the local service area.

10102.91 All NED turnover vouchers must be reissued to the next NED family on DCHA's waiting list with the following exception: A Category 2 voucher must be issued to another Category 2 family upon turnover if a Category 2 family is on DCHA's waiting list. If there are no Category 2 families on DCHA's waiting list, DCHA must contact its partnering agency as well as conduct outreach through appropriate social service agencies and qualifying institutions to identify potentially eligible individuals. Only after all means of outreach have been taken to reach Category 2 families can DCHA reissue the voucher to another Category 2 NED family on DCHA's waiting list. Any subsequent turnover of that voucher must again be used for a Category 2 family on DCHA's waiting list, and DCHA is under the same obligation to conduct outreach to Category 2 families if no such families are on DCHA's waiting list.

10102.92 For PHAs that received both Category 1 and Category 2 vouchers, if at any time DCHA is serving fewer Category 2 families than the number of Category 2 HCVs awarded under the NOFA, when a Category 2 family applies to the waiting list and is found eligible, DCHA must issue the next NED voucher to that family. HUD monitors the initial leasing and reissuance of Category 2 HCVs. These vouchers may be recaptured and reassigned if not leased properly and in a timely manner.

10102.93 All NED vouchers should be affirmatively marketed to a diverse population of NED-eligible families to attract protected classes least likely to apply. If at any time following the turnover of a NED HCV a PHA believes it is not practicable to assist NED families, DCHA must contact HUD.

10102.94 In addition to providing families with a disabled person a list of accessible units known to DCHA, HUD encourages, but does not require, PHAs to provide additional resources to NED families as part of the briefing.

10102.95 In addition to providing families with a disabled person a list of accessible units known to DCHA, DCHA will provide a list of local supportive service and disability organizations that may provide such assistance as counseling services and funding for moving expenses or security deposits in the briefing packet.

These organizations include state protection and advocacy agencies, Centers for Independent Living, state Medicaid agencies, and disability advocacy groups that represent individuals with a variety of disabilities.

10102.96 Further, if other governmental or non-governmental agencies provide available resources such as housing search counseling, moving expenses, security deposits, and utility deposits, DCHA will include this information in the briefing packet.

10102.97 DCHA will also offer specialized housing search assistance to families with a disabled person to locate accessible units if requested. Trained PHA staff or a local supportive service or disability organization may be able to provide this service.

10102.98 While DCHA is not required to establish different policies for the initial term of the voucher for NED vouchers, HUD has encouraged PHAs with NED vouchers to be generous in establishing reasonable initial search terms and subsequent extensions for families with a disabled person.

10102.99 All NED vouchers will have an initial term of 180 calendar days.

10102.100 The family must submit a Request for Tenancy Approval and proposed lease within the 180-day period unless DCHA grants an extension.

10102.101 All other policies on extensions and suspension of vouchers in Chapter 53 will apply.

10102.102 DCHA must permit the use of a special housing type if doing so provides reasonable accommodation so that the program is readily accessible to and usable by a person with disabilities.

10102.103 Such special housing types include single room occupancy housing, congregate housing, group homes, shared housing, cooperative housing, and manufactured homes when the family owns the home and leases the manufactured home space.

10102.104 Persons with disabilities transitioning out of institutional settings may choose housing in the community that is in a group or shared environment or where some additional assistance for daily living is provided for them on site. Under HUD regulations, group homes and shared housing are considered special housing types and are not excluded as an eligible housing type in the HCV program. Assisted living facilities are also considered eligible housing under the normal HCV program rules, as long as the costs for meals and other supportive services are not included in the housing assistance payments (HAP) made by DCHA to the owner, and as long as the person does not need continual medical or nursing care.

10102.105 NED voucher participants are eligible for portability under standard portability rules and all PHA policies regarding portability in Chapter 58, apply to NED

families. However, DCHA may, but is not required to, allow applicant NED families to move under portability, even if the family did not have legal residency in the initial PHA's jurisdiction when they applied.

(a) If neither the head of household nor the spouse or cohead of a NED applicant family had a domicile (legal residence) in DCHA's jurisdiction at the time that the family's initial application for assistance was submitted, the family must lease a unit within the initial PHA's jurisdiction for at least 12 months before requesting portability.

(b) DCHA will consider exceptions to this policy for purposes of reasonable accommodation or reasons related to domestic violence, dating violence, sexual assault, or stalking.

10103 STABILITY VOUCHER PROGRAM

10103.1 DCHA has applied for SVs. Until such time as DCHA is awarded SVs, the below policies do not apply.

10103.2 The Consolidated Appropriations Act, 2021 (Public Law 116-260) (2021 Act) provided new incremental funding for voucher assistance through Stability Vouchers (SVs) for households who are:

(a) Homeless, as defined in Section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a));

(b) At-risk of homelessness;

(c) Those fleeing or attempting to flee domestic violence dating violence, sexual assault, stalking, or human trafficking; and

(d) Veterans and families that include a veteran family member that meet one of the above criteria.

10103.3 HUD may waive certain statutory and regulatory provisions to administer the SVs (except for requirements related to tenant rights and protections, rent setting, fair housing, nondiscrimination, labor standards, and the environment) upon a finding that any such waivers or alternative requirements are necessary to facilitate the use of funds made available for SVs. Unless expressly waived below, all statutory and regulatory requirements and HUD directives regarding the HCV program are applicable to SVs, including the use of all HUD required contracts and other forms. A PHA may request additional good cause regulatory waivers as established in Notice PIH 2018-16 in connection with the use of the SVs, which HUD will consider and assess upon the request of DCHA.

10103.4 SV funding is only awarded to PHAs that partner with eligible Continuums of Care (CoCs) or other entities that serve the targeted population, such as Victim Service Providers (VSPs) and Veteran Service Organizations (VSOs) serving the targeted population in DCHA's jurisdiction to implement coordinated approaches to reduce the prevalence of homelessness, improve service engagement, and promote housing stability while ensuring geographical need of assistance.

10103.5 DCHA must enter into a Memorandum of Understanding (MOU) with the CoC to establish a partnership with the CoC to pair SVs with CoC-funded supportive services, and to collaborate with the CoC and other stakeholders to develop a prioritization plan for these vouchers.

10103.6 In general, families are issued SVs as the result of either:

(a) The direct referral process from the CoC or other partnering organizations; or

(b) A situation where DCHA makes an SV available in order to facilitate an emergency transfer for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking.

10103.7 The primary responsibility of the CoC under the MOU is to make direct referrals of qualifying individuals and families to DCHA and to identify any CoC-funded available supportive services that may be paired with SVs.

10103.8 The CoC or other partnering agency must certify that the SV applicants they refer to DCHA meet the definition of a qualifying individual or family for SV assistance.

10103.9 The referring agency must provide documentation to DCHA of the referring agency's verification that the family meets one of the four eligible categories for SV assistance. DCHA must retain this documentation as part of the family's file.

10103.10 DCHA must also take direct referrals from outside the CoC process if:

(a) The CoC does not have enough eligible families to refer to DCHA; or

(b) The CoC does not identify families that may be eligible for SV assistance because they are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking.

10103.11 If a direct referral is taken from outside of the CoC, DCHA must enter into a partnership to receive direct referrals from another entity, assuming there are such additional organizations that can certify that an individual or family is eligible for an SV.

10103.12 DCHA must enter into an MOU with a partnering referral agency or may add the partnering referral agency to the MOU between DCHA and CoC.

10103.13 The regulation that requires DCHA to admit applicants as waiting list admissions or special admissions in accordance with admission policies in Chapter 52 does not apply to PHAs operating the SV program. Direct referrals are not added to DCHA's HCV waiting list.

10103.14 DCHA must inform families on the HCV waiting list of the availability of SVs by, at a minimum, either by posting the information to their website or providing public notice in their respective communities in accordance with the requirements listed in Notice PIH 2022-24.

10103.15 The HCV regulations requiring DCHA to operate a single waiting list for admission to the HCV program do not apply to PHAs operating the SV program. Instead, when the number of applicants referred by the CoC or partnering agency exceeds the SVs available, DCHA must maintain a separate waiting list for SV referrals. Upon turnover, SV vouchers must continue to remain available for eligible families.

10103.16 Further, the SV waiting list is not subject to DCHA policies in Chapter 52 regarding opening and closing the HCV waiting list. DCHA will work directly with its CoC and other referral agency partners to manage the number of referrals and the size of the SV waiting list.

10103.17 If local preferences are established by DCHA for HCV in Chapter 52, they do not apply to SVs. However, if DCHA has a homelessness preference or a preference for survivors of domestic violence, dating violence, sexual assault, stalking, or human trafficking for the regular HCV program, DCHA must refer any applicant on the waiting list that indicated they qualified for this preference to the CoC, or the applicable partnering referral agency.

10103.18 Except for a residency preference, which may not be applied to DCHA's SV waiting list, DCHA may choose, in coordination with the CoC and other referral partners, to establish separate local preferences for SVs, or may simply choose to not establish any local preferences for the SV waiting list. The preference system may not prohibit SV admissions from any of the four qualifying categories of eligibility.

10103.19 The CoC or referring agency determines whether the individual or family meets any one of the eligibility criteria described in Notice PIH 2022-24 and then refers the family to DCHA. DCHA determines that the family meets other eligibility criteria for the HCV program, as modified for the SV program and outlined below.

10103.20 In order to be eligible for an SV, a household must meet one of four eligibility criteria:

(a) Homeless, as defined in section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a)) and 24 CFR 578.3;

(b) At-risk of homelessness as defined in 24 CFR 5.78.3;

(c) Those fleeing or attempting to flee domestic violence dating violence, sexual assault, stalking, or human trafficking; and

(d) Veterans [as defined in 38 U.S.C. 101(2); 38 CFR 3.1(d)] and families that include a veteran family member that meet one of the above criteria.

10103.21 HUD waived 24 CFR 982.552 and 982.553 in part for the SV applicants and established alternative requirements for mandatory and permissive prohibitions of admissions. Except where applicable, PHA policies regarding denials in Chapter 3 of this policy do not apply to screening individuals and families for eligibility for an SV. Instead, the SV alternative requirement listed in this section will apply to all SV applicants.

10103.22 The mandatory and permissive prohibitions listed in Notice PIH 2022-24 and in this chapter, however, apply only when screening the individual or family for eligibility for an SV. When adding a family member after the family has been placed under a HAP contract with SV assistance, the regulations at 24 CFR 982.551(h)(2) apply. Other than the birth, adoption, or court-awarded custody of a child, DCHA must approve additional family members and may apply its regular HCV screening criteria in Chapter 3 in doing so.

10103.23 Under alternative requirements for the SV program, mandatory denials for SV applicants include:

(a) 24 CFR 982.553(a)(1)(ii)(C), which prohibits admission if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing; and

(b) 24 CFR 982.553(a)(2)(i), which prohibits admission to the program if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

10103.24 DCHA will also deny assistance to household members already receiving assistance from another program.

10103.25 DCHA must deny admission to the program if any member of the family fails to sign and submit consent forms for obtaining information as required by 24 CFR

982.552(b)(3) but should notify the family of the limited SV grounds for denial of admission first.

10103.26 Notice PIH 2022-24 lists permissive prohibitions for which DCHA may, but is not required to, deny admission to SV families. The notice also lists prohibitions that, while allowable under the HCV program, may not be used to deny assistance for SV families.

10103.27 If DCHA intends to establish permissive prohibition policies for SV applicants, DCHA must first consult with its CoC partner to understand the impact that the proposed prohibitions may have on referrals and must take the CoC's recommendations into consideration.

10103.28 The requirement to obtain third-party verification of income in accordance with Notice PIH 2018-18 does not apply to the SV program applicants at admission, and alternatively, PHAs may consider self-certification the highest form of income verification at admission. As such, PHA policies related to the verification of income in Chapter 55 of this Title do not apply to SV families at admission. Instead, applicants must submit an affidavit attesting to their reported income, assets, expenses, and other factors that would affect an income eligibility determination.

10103.29 Additionally, applicants may provide third-party documentation that represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of DCHA's request.

10103.30 PHAs may accept income calculations and verifications from third-party providers or from an examination that DCHA conducted on behalf of the family for another subsidized housing program in lieu of conducting an initial examination of income as long as:

(a) The income was calculated in accordance with rules outlined at 24 CFR Part 5 and within the last six months; and

(b) The family certifies there has been no change in income or family composition in the interim.

10103.31 At the time of the family's annual reexamination, DCHA must conduct the annual reexamination of income as outlined at 24 CFR 982.516 and DCHA policies in Chapter 59 of this Title.

10103.32 Once HUD makes the EIV data available to PHAs under this waiver and alternative requirement, DCHA must:

(a) Review the EIV Income and Income Validation Tool (IVT) reports to confirm and validate family-reported income within 90 days of the PIC submission date;

(b) Print and maintain copies of the EIV Income and IVT Reports in the tenant file; and

(c) Resolve any income discrepancy with the family within 60 days of the EIV Income or IVT Report dates.

10103.33 Prior to admission, PHAs must continue to use HUD's EIV system to search for all household members using the Existing Tenant Search in accordance with PHA policies in Chapter 3.

10103.34 If a PHA later determines that an ineligible family received assistance, DCHA must take steps to terminate that family from the program in accordance with Chapter 12.

10103.35 For the SV program, DCHA is not required to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the SV program. Instead, PHAs may adopt policies to admit SV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. As an alternative requirement, such individuals must provide the required documentation within 180 days of admission to be eligible for continued assistance, pending verification, unless DCHA provides an extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

10103.36 If a PHA determines that an ineligible family received assistance, DCHA must take steps to terminate that family from the program.

10103.37 PHAs may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available. If self-certification is used, DCHA must obtain a higher level of verification within 90 days of admission or verify the information in EIV.

10103.38 If a PHA determines that an ineligible family received assistance, DCHA must take steps to terminate that family from the program.

10103.39 DCHA must determine income eligibility for SV families in accordance with 24 CFR 982.201 and PHA policy in Chapter 51 of this Title; however, income targeting requirements do not apply for SV families. DCHA may still choose to include the admission of extremely low-income SV families in its income targeting numbers for the fiscal year in which these families are admitted.

10103.40 SV vouchers shall have an initial search term of at least 180 days. PHA policies on extensions as outlined in Chapter 53 will apply.

10103.41 To expedite the leasing process, PHAs may pre-inspect available units that SV families may be interested in leasing to maintain a pool of eligible units.

10103.42 Unlike in the standard HCV program, SV voucher holders may enter into an initial lease that is for less than 12 months, regardless of DCHA policy in Chapter 57 of this Title, Term of Assisted Tenancy.

10103.43 The normal HCV portability procedures and requirements outlined in Chapter 58 of this title generally apply to SVs. Exceptions are addressed below.

(a) Under SV, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied;

(b) A receiving PHA cannot refuse to assist an incoming SV family, regardless of whether DCHA administers SVs under its own ACC;

(c) If the SV family moves under portability to another PHA that administers SVs under its own ACC:

(1) The receiving PHA may only absorb the incoming SV family with an SV (assuming it has an SV voucher available to do so);

(2) If DCHA does not have an SV available to absorb the family, it must bill the initial PHA. The receiving PHA must allow the family to lease the unit with SV assistance and may not absorb the family with a regular HCV when the family leases the unit; and

(3) Regardless of whether the receiving PHA absorbs or bills the initial PHA for the family's SV assistance, the SV administration of the voucher is in accordance with the receiving PHA's SV policies; and

(d) If the SV family moves under portability to another PHA that does not administer SVs under its own ACC, the receiving PHA may absorb the family into its regular HCV program or may bill the initial PHA.

10103.44 In addition to the applicable family briefing requirements at 24 CFR 982.301(a)(2) as to how portability works and how portability may affect the family's assistance, the initial PHA must inform the family how portability may impact the special SV services and assistance that may be available to the family.

10103.45 The initial PHA is required to help facilitate the family's portability move to the receiving PHA and inform the family of this requirement in writing, taking reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP).

10103.46 For the SV program, HUD has waived the regulation requiring a single payment standard for each unit size. Instead, DCHA may, but is not required to, establish separate higher payment standards for SVs. Lower SV payment standards are not permitted. If DCHA is increasing the regular HCV payment standard, DCHA must also increase the SV payment standard if it would be otherwise lower than the new regular HCV payment standard. The separate SV payment standard must comply with all other HCV requirements except for the alternative requirements discussed below.

10103.47 Further, if DCHA chooses to establish higher payments standards for SVs, HUD has provided other regulatory waivers:

(a) Defining the "basic range" for payment standards as between 90 and 120 percent of the published Fair Market Rent (FMR) for the unit size (rather than 90 to 110 percent); and

(b) Allowing a PHA that is not in a designated Small Area FMR (SAFMR) area or has not opted to voluntarily implement SAFMRs to establish exception payment standards for a ZIP code area above the basic range for the metropolitan FMR based on the HUD-published SAFMRs. DCHA may establish an exception payment standard up to 120 percent (as opposed to 110 percent) of the HUD published Small Area FMR for that ZIP code area. The exception payment standard must apply to the entire ZIP code area.

10103.48 The requirement that DCHA apply increased payment standards at the family's first regular recertification on or after the effective date of the increase does not apply to SV. DCHA may, but is not required to, establish an alternative policy on when to apply the increased payment standard, provided the increased payment standard is used to calculate the HAP no later than the effective date of the family's first regular reexamination following the change.

10103.49 All tenant-based SV awards can be converted to Project-Based Vouchers (PBV) at any time after award without HUD approval provided all the established PBV regulations and requirements are followed.

10103.50 All PBV requirements in 24 CFR Part 983 and in Chapter 94 apply to project-based SVs with the exception of 24 CFR 983.251(c)(1), which requires PHAs to select families for project-based units from its HCV or PBV waiting list. HUD is waiving this requirement and establishing an alternative requirement that PHAs

receive SV referrals from CoC partners for vouchers as well as project-based assistance.

New Chapter 199, DEFINITIONS, of Title 14 DCMR, HOUSING, is added to read as follows:

CHAPTER 199

DEFINITIONS

19900 INTRODUCTION

This Chapter 199 defines terms and acronyms described in the District of Columbia's Plan which constitutes the following Chapters in Title 14 Housing: Chapters 49 through 59 and Chapters 76, 83, 85, 89, 91, 94, and 100, 101, and 199 of this title of the DCMR.

19901 ACRONYMS

AAF Annual adjustment factor (published by HUD in the *Federal Register* and used to compute annual rent adjustments).

ACC Annual contributions contract.

ADA Americans with Disabilities Act of 1990.

AIDS Acquired immune deficiency syndrome.

BR Bedroom.

CDBG Community Development Block Grant (Program).

CFR Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as "the regulations").

CPI Consumer price index (published monthly by the Department of Labor as an inflation indicator).

EID Earned income disallowance.

EIV Enterprise Income Verification.

FDIC Federal Deposit Insurance Corporation.

FHA Federal Housing Administration (HUD Office of Housing).

FHEO Fair Housing and Equal Opportunity (HUD Office of).

FICA Federal Insurance Contributions Act (established Social Security taxes).

FMR Fair market rent.

FR Federal Register.

FSS Family Self-Sufficiency (Program).

FY Fiscal year.

FYE Fiscal year end.

GAO Government Accountability Office.

GR Gross rent.

HA Housing authority or housing agency.

HAP Housing assistance payment.

HCV Housing choice voucher.

HQS Housing quality standards.

HUD Department of Housing and Urban Development.

HUDCLIPS HUD Client Information and Policy System.

IPA Independent public accountant.

IRA Individual retirement account.

IRS Internal Revenue Service.

IVT Income Validation Tool.

JTPA Job Training Partnership Act.

LBP Lead-based paint.

LEP Limited English proficiency.

MSA Metropolitan statistical area (established by the U.S. Census Bureau).

MTCS Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system).

MTW Moving to Work.

NOFA Notice of funding availability.

OGC HUD's Office of General Counsel.

OIG HUD's Office of Inspector General.

OMB Office of Management and Budget.

PASS Plan to Achieve Self-Support.

PHA Public housing agency.

PIC PIH Information Center.

PIH (HUD Office of) Public and Indian Housing.

PS Payment standard.

QC Quality control.

REAC (HUD) Real Estate Assessment Center.

RFP Request for proposals.

RFTA Request for tenancy approval.

RIGI Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level).

SEMAP Section 8 Management Assessment Program.

SRO Single room occupancy.

SSA Social Security Administration.

SSI Supplemental security income.

SWICA State wage information collection agency.

TANF Temporary assistance for needy families.

TPV Tenant protection vouchers.

TR Tenant rent.

TTP Total tenant payment.

UA Utility allowance.

UFAS Uniform Federal Accessibility Standards.

UIV Upfront income verification.

URP Utility reimbursement payment.

VAWA Violence Against Women Reauthorization Act of 2013.

19902 GLOSSARY OF SUBSIDIZED HOUSING TERMS

Absorption. In portability: the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

Accessible. The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

Adjusted income. Annual income, less allowable HUD deductions and allowances.

Administrative fee. Fee paid by HUD to DCHA for administration of the program.

Administrative Plan (or Plan). The plan that describes DCHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by DCHA's Board of Commissioners and included as a supporting document to the PHA Plan.

Admission. The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

Affiliated individual. With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual.

Amortization payment. In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

Annual. Happening once a year.

Annual contributions contract (ACC). The written contract between HUD and DCHA under which HUD agrees to provide funding for a program under the 1937 Act, and DCHA agrees to comply with HUD requirements for the program.

Annual income. The anticipated total income of an eligible family from all sources for the twelve (12) month period following the date of determination of income, computed in accordance with the regulations.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

Area exception rent. An amount that exceeds the published FMR.

As-paid states. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See *net family assets.*)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

Biennial. Happening every two (2) years.

Bifurcate. With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

Budget authority. An amount authorized and appropriated by the Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

Child. *A* member of the family other than the family head or spouse who is under eighteen (18) years of age.

Childcare expenses. Amounts anticipated to be paid by the family for the care of children under thirteen (13) years of age during the period for which annual income is computed, but only where such care is necessary to enable a family

member to actively seek employment, be gainfully employed, or to further their education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Citizen. *A* citizen or national of the United States.

Co-head. An individual in the household who is equally responsible for the lease with the head of household. A family may have a co-head or spouse but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

Common space. In shared housing, the space available for use by the assisted family and other occupants of the unit.

Computer match. The automated comparison of databases containing records about individuals.

Confirmatory review. An on-site review performed by HUD to verify the management performance of a PHA.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Congregate housing. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type.

Contiguous MSA. In portability: An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

Continuously assisted. An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

Contract authority. The maximum annual payment by HUD to a PHA for a funding increment.

Cooperative (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association

has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type.

Covered families. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

(a) The length of the relationship;

(b) The type of relationship; and

(c) The frequency of interaction between the persons involved in the relationship.

Dependent. A member of the family (except foster children and foster adults) other than the family head or spouse, who is under eighteen (18) years of age, or is a person with a disability, or is a full-time student.

Dependent child. In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

Disability assistance expenses. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Disabled family. A family whose head, co-head, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled person. See *person with disabilities.*

Disallowance. Exclusion from annual income.

Displaced family. A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed because of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

Domestic violence. Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Domicile. The legal residence of the household head or spouse as determined in accordance with state and local law.

Drug-related criminal activity. The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

Economic self-sufficiency program. Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)).

Elderly family. A family whose head, co-head, spouse, or sole member is a person who is at least sixty-two (62) years of age; two (2) or more persons who are at least sixty-two (62) years of age living together; or one or more persons who are at least sixty-two (62) years of age living with one or more live-in aides.

Elderly person. An individual who is at least sixty-two (62) years of age.

Eligible family. A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR. See also *family*.

Employer identification number (EIN). The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

Evidence of citizenship or eligible status. The documents which must be submitted as evidence of citizenship or eligible immigration status.

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or thirty percent (30%) percent of the median income for the area, whichever number is higher. Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than thirty percent (30%) of median income if HUD finds such variations are necessary due to unusually high or low family incomes.

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

Fair Housing Act. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

Fair market rent (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

Family. Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in PHA policy:

(a) A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size);

(b) An elderly family or a near-elderly family;

(c) A displaced family;

(d) The remaining member of a tenant family; and

(e) A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Family rent to owner. In the voucher program, the portion of rent to owner paid by the family.

Family self-sufficiency program (FSS program). The program established by a PHA within its jurisdiction to promote self-sufficiency among participating

families, including the coordination of supportive services to these families (24 CFR § 984.103).

Family share. The portion of rent and utilities paid by the family. For calculation of family share, see 24 CFR § 982.515(a).

Family unit size. The appropriate number of bedrooms for a family, as determined by DCHA under DCHA subsidy standards.

Federal agency. A department of the executive branch of the federal government.

Foster childcare payment. A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

Full-time student. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended).

Funding increment. Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

Gender identity. Actual or perceived gender-related characteristics.

Gross rent. The sum of the rent to owner plus any utility allowance.

Group home. A dwelling unit that is licensed by a state as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). (A special housing type).

Handicap. Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*.)

HAP contract. The housing assistance payments contract. A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Household. A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

Housing agency (HA). See *public housing agency.*

Housing assistance payment. The monthly assistance payment by a PHA, which includes: (a) A payment to the owner for rent to the owner under the family's lease; and (b) An additional payment to the family if the total assistance payment exceeds the rent to owner.

Housing quality standards (HQS). The HUD minimum quality standards for housing assisted under the voucher program.

HUD. The U.S. Department of Housing and Urban Development.

Imputed asset. An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

Imputed asset income. The PHA-established passbook rate multiplied by the total cash value of assets. The calculation is used when net family assets exceed Five Thousand Dollars ($5,000).

Imputed welfare income. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income. Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

Income for eligibility. Annual income.

Income information means information relating to an individual's income, including:

(a) All employment income information known to current or previous employers or other income sources;

(b) All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law;

(c) Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received;

(d) Unearned IRS income and self-employment, wages, and retirement income; and

(e) Wage, social security, and supplemental security income data obtained from the Social Security Administration.

Individual with handicaps. See *person with disabilities.*

Initial PHA. In portability, the term refers to both: (a) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (b) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

Initial payment standard. The payment standard at the beginning of the HAP contract term.

Initial rent to owner. The rent to owner at the beginning of the HAP contract term.

Institution of higher education. An institution of higher education as defined in 20 U.S.C. 1001 and 1002. See Exhibit 3-2 in this Administrative Plan.

Jurisdiction. The area in which the PHA has authority under state and local law to administer the program.

Landlord. Either the owner of the property or their representative, or the managing agent or their representative, shall be designated by the owner.

Lease. A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

Live-in aide. A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

(a) Is determined to be essential to the care and well-being of the persons;

(b) Is not obligated for the support of the persons; and

(c) Would not be living in the unit except to provide the necessary supportive services.

Living/sleeping room. A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space. A bedroom or living/sleeping room must have at least one window and two electrical outlets in proper operating condition. See HCV GB p. 10-6 and 24 CFR 982.401.

Local preference. A preference used by the PHA to select among applicant families.

Low-income family. A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

Manufactured home. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence and meets the HQS. (A special housing type: see 24 CFR 982.620 and 982.621.)

Manufactured home space. In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624.

Medical expenses. Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance (a deduction for elderly or disabled families only). These allowances are given when calculating adjusted income for medical expenses in excess of 3 percent of annual income.

Minor. A member of the family household other than the family head or spouse, who is under 18 years of age.

Mixed family. *A* family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly adjusted income. One twelfth of adjusted income.

Monthly income. One twelfth of annual income.

Mutual housing. Included in the definition of *cooperative.*

National. *A* person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Near-elderly family. A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

Net family assets. Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity

accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(a) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.

(b) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received, therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Noncitizen. *A* person who is neither a citizen nor national of the United States.

Notice of funding availability (NOFA). For budget authority that HUD distributes by competitive process, the *Federal Register* document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

Office of General Counsel (OGC). The General Counsel of HUD.

Overcrowded. A unit that does not meet the following HQS space standards: (1) Provide adequate space and security for the family; and (2) Have at least one bedroom or living/sleeping room for each two persons.

Owner. Any person or entity with the legal right to lease or sublease a unit to a participant.

PHA Plan. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

PHA's quality control sample. An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see 24 CFR 985.3.

Participant (participant family). A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

Payment standard. The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

Person with disabilities. *For the purposes of program eligibility*. A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

Portability. Renting a dwelling unit with a Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

Premises. The building or complex in which the dwelling unit is located, including common areas and grounds.

Previously unemployed. With regard to the earned income disallowance, a person with disabilities who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Private space. In shared housing, the portion of a contract unit that is for the exclusive use of an assisted family.

Processing entity. The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the HCV program, the "processing entity" is the "responsible entity."

Project owner. The person or entity that owns the housing project containing the assisted dwelling unit.

Public assistance. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

Public housing agency (PHA). Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

Qualified family (under the earned income disallowance). A family participating in an applicable assisted housing program or receiving HCV assistance:

(a) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

(b) Whose annual income increases because of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(c) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance--provided that the total amount over a six-month period is at least $500.

Qualified census tract. Regarding certain tax credit units, any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent, and where the census tract is designated as a qualified census tract by HUD.

Reasonable rent. A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

Reasonable accommodation. A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

Receiving PHA. In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

***Recertification*.** Sometimes called *reexamination.* The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

***Remaining member of the tenant family*.** The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Rent to owner. The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

Residency preference. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See *residency preference area*).

Residency preference area. The specified area where families must reside to qualify for a residency preference.

***Responsible entity*.** For the public housing and the Section 8 tenant-based assistance, project-based voucher assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

***Secretary*.** The Secretary of Housing and Urban Development.

***Section 8*.** Section 8 of the United States Housing Act of 1937.

Section 8 covered programs. All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under Section 202 of the Housing Act of 1959.

Section 214. Section 214 of the Housing and Community Development Act of 1980, as amended.

Section 214 covered programs. The collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in 24 CFR 5.500.

Security deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

Set-up charges. In a manufactured home space rental, charges payable by the family for assembling, skirting, and anchoring the manufactured home.

Sexual assault. Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a)).

Sexual orientation. Homosexuality, heterosexuality or bisexuality.

Shared housing. A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. (A special housing type: see 24 CFR 982.615–982.618.)

Single person. A person living alone or intending to live alone.

Single room occupancy housing (SRO). A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. (A special housing type: see 24 CFR 982.602–982.605.)

Small rural public housing agency (PHA). Section 38 defines the term "small public housing agency" as a public housing agency "for which the sum of the number of public housing dwelling units administered by the agency and the number of vouchers under section 8(o) administered by the agency is 550 or fewer" and "that predominantly operates in a rural area, as described in Section 1026.35(b)(2)(iv)(A) of Title 12, Code of Federal Regulations." After consideration of the public comments discussed above, HUD is interpreting "predominantly operates in a rural area" to mean a small PHA that:

(1) Has a primary administrative building with a physical address in a rural area as described in 12 CFR 1026.35(b)(2)(iv)(A); or

(2) More than 50 percent of its combined public housing units and voucher units under section 8(o) are in rural areas as described in 12 CFR 1026.35(b)(2)(iv)(A). HUD also clarifies that voucher units under section 8(o) include those in the tenant-based Housing Choice Voucher (HCV) program and the Project-Based Voucher (PBV) program.

Social security number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Special admission. Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

Special housing types. See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

Specified welfare benefit reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

Stalking. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

State wage information collection agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Subsidy standards. Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Suspension. The term on the family's voucher stops from the date the family submits a request for PHA approval of the tenancy, until the date the PHA notifies the family in writing whether the request has been approved or denied. This practice is also called *tolling.*

Tax credit rent. With regard to certain tax credit units, the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Tenancy addendum. For the housing choice voucher program, the lease language required by HUD in the lease between the tenant and the owner.

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent to owner. See *family rent to owner*.

Term of lease. The amount of time a tenant agrees in writing to live in a dwelling unit.

Total tenant payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Unit. Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

Utilities. Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

Utility hook-up charge. In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical, and sewer lines.

Very low-income family. A low-income family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

Veteran. A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

Violence Against Women Reauthorization Act (VAWA) of 2022. Prohibits denying admission to the program to an otherwise qualified applicant or

terminating assistance on the basis that the applicant or program participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Voucher *(housing choice voucher).* A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

Voucher holder. A family holding a voucher with an unexpired term (search time).

Voucher program. The housing choice voucher program.

Waiting list. A list of families organized according to HUD regulations and PHA policy who are waiting for a unit to become available.

Waiting list admission. An admission from the PHA waiting list.

Welfare assistance. Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, childcare or other services for working families. For the FSS program (24 CFR 984.103), *welfare assistance* includes only cash maintenance payments designed to meet a family's ongoing basic needs. Does not include nonrecurring short term benefits designed to address individual crisis situations, work subsidies, supportive services such as childcare and transportation provided to families who are employed, refundable earned income tax credits, contributions to and distributions from Individual Development Accounts under TANF, services such as counseling, case management, peer support, childcare information and referral, financial empowerment, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support, amounts solely directed to meeting housing expenses, amounts for health care, Supplemental Nutrition Assistance Program (SNAP) and emergency rental and utilities assistance, SSI, SSDI, or social security, and child-only or non-needy TANF grants made to or on behalf of a dependent child solely on the basis of the child's need and not the need of the child's current non-parental caretaker.

All persons desiring to comment on these proposed rules must submit comments in writing, no later than thirty (30) days after the date of publication of this notice in the *District of Columbia*

Register, to the following: District of Columbia Housing Authority, Office of the General Counsel, 1133 North Capitol Street, N.E., Suite 210, Washington, D.C. 20002-7599 or in the alternative email comments to PublicationComments@dchousing.org. Copies of these proposed regulations may be obtained without charge at the above-described address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2024-067
May 3, 2024

SUBJECT: Reappointments — District of Columbia Developmental Disability State Planning Council

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), and in accordance with Mayor's Order 2009-165, dated September 25, 2009, as amended by Mayor's Order 2018-039, dated April 10, 2018, and Mayor's Order 2021-137, dated November 3, 2021, it is hereby **ORDERED** that:

1. The following individuals are reappointed as community members with a developmental disability or representative of a District resident with a developmental disability to the District of Columbia Developmental Disability State Planning Council (the "Council"), for terms to end January 1, 2027:

   a. **LINDSEY WILKES;**
   b. **DERRICK SIMMS;**
   c. **LARAVEN GAYMON;** and
   d. **ZOE GROSS.**

2. **BERTA MATA** is reappointed as a representative from a local non-profit organization concerned with services for District residents with developmental disabilities to the Council, for a term to end January 1, 2027.

3. **JANE BROWN** is reappointed as a representative from a District-designated protection and advocacy organization to the Council, for a term to end January 1, 2023, and for a subsequent term to end January 1, 2026.

4. **EFFECTIVE DATE:** Paragraphs 1 and 2 of this Order shall be effective *nunc pro tunc* to January 1, 2024. Paragraph 3 of this Order shall be effective *nunc pro tunc* to January 1, 2020.

MURIEL BOWSER
MAYOR

ATTEST: Kimberly A. Bassett
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2024-068
May 7, 2024

SUBJECT: Reappointments — Lactation Commission

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), and pursuant to Mayor's Order 2017-177, dated July 28, 2017, it is hereby **ORDERED** that:

1. The following persons are reappointed to the Lactation Commission for terms to end April 30, 2027:

   a. **DR. JENNIFER TENDER,** as a neonatologist or pediatrician member; and

   b. **GWENDOLYN WEST,** as an individual with a background in breastfeeding and lactation studies member.

2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to July 13, 2023.

MURIEL BOWSER
MAYOR

ATTEST: Kimberly A. Bassett
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2024-069
May 7, 2024

SUBJECT: Appointments — Opioid Abatement Advisory Commission

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), and pursuant to section 102 of the Opioid Litigation Proceeds Amendment Act of 2022, effective March 10, 2023, D.C. Law 24-315, D.C. Official Code § 7-3212, it is hereby **ORDERED** that:

1. **DR. LAVERNE ADAMS** is appointed as the family member of a person or decedent who experienced opioid use disorder and co-occurring substance use and mental health disorders member of the Opioid Abatement Advisory Commission (the "Commission"), for a term to end October 2, 2024, and for a subsequent term to end October 2, 2027.

2. **DR. SENORA SIMPSON** is appointed as the member with professional expertise and educational background in mental health services member of the Commission, for a term to end October 2, 2024, and for a subsequent term to end October 2, 2027.

3. **DR. NNEMDI ELIAS** is appointed as the member with professional expertise and educational background in medicine member of the Commission, for a term to end October 2, 2025.

4. **JUANITA PRICE** is appointed as the member with experience in providing prevention, recovery, treatment, or harm reduction services for opioid use disorder and co-occurring substance use and mental health disorders member of the Commission, for a term to end October 2, 2025.

5. **DEMETRIUS JONES** is appointed as the member who has experienced opioid use disorder and co-occurring substance use and mental health disorders and recovery member of the Commission, for a term to end October 2, 2026.

6. The following individuals are appointed as members of the Commission to serve at the pleasure of the Mayor:

   a. **LINDSEY APPIAH,** as the Deputy Mayor for Public Safety and Justice;
   b. **DR. BARBARA BAZRON**, as the Director of the Department of Behavioral Health;
   c. **DR. AYANNA BENNETT,** as the Director of the Department of Health;
   d. **DR. FRANCISCO DIAZ,** as the Chief Medical Examiner; and
   e. **WAYNE TURNAGE,** as the Deputy Mayor for Health and Human Services and the Director of the Department of Health Care Finance.

7. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to October 1, 2023.

MURIEL BOWSER
MAYOR

ATTEST: Kimberly A. Bassett
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2024-070
May 7, 2024

SUBJECT: Appointment — Board of Architecture, Interior Design, and Landscape Architecture

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), pursuant to section 1002 of the Second Omnibus Regulatory Reform Amendment Act of 1998, effective April 20, 1999, D.C. Law 12-261 D.C. Official Code § 47-2853.06(a)(1), and in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142, D.C. Official Code § 1-523.01, it is hereby **ORDERED** that:

1. **ASHA SHAGLE,** pursuant to the Board of Architecture, Interior Design, and Landscape Architecture Asha Shagle Confirmation Resolution of 2024, effective April 6, 2024, PR25-0638**,** is appointed as a professional landscape architect licensed in the District member of the Board of Architecture, Interior Design, and Landscape Architecture, filling a vacant seat, for a term to end November 17, 2026.

2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to April 6, 2024.

MURIEL BOWSER
MAYOR

ATTEST: Kimberly A. Bassett
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2024-071
May 8, 2024

SUBJECT: Appointment — Acting Director of the Department of For-Hire Vehicles

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), and pursuant to section 6 of the Department of For-Hire Vehicles Establishment Act of 1985, effective June 22, 2016, D.C. Law 21-124, D.C. Official Code § 50-301.05, and in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142, D.C. Official Code § 1-523.01, it is hereby **ORDERED** that:

1. **JONATHAN M. ROGERS** is appointed as Acting Director of the Department of For-Hire Vehicles and shall serve in that capacity at the pleasure of the Mayor.

2. This Order supersedes Mayor's Order 2023-088, dated July 28, 2023.

3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to April 25, 2024.

MURIEL BOWSER
MAYOR

ATTEST: Kimberly A. Bassett
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2024-072
May 8, 2024

SUBJECT: Appointment — Acting Director, Homeland Security and Emergency Management Agency

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), pursuant to section 2 of An Act To authorize the District of Columbia government to establish an Office of Civil Defense, and for other purposes, approved August 11, 1950, 64 Stat. 438, Pub. L. 81-686, D.C. Official Code § 7-2202, and in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142, D.C. Official Code § 1-523.01 it is hereby **ORDERED** that:

1. **WILLIAM ("CLINT") OSBORN** is appointed Acting Director of the Homeland Security and Emergency Management Agency to serve at the pleasure of the Mayor.

2. This Order supersedes Mayor's Order 2023-129, dated October 19, 2023.

3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to April 25, 2024.

MURIEL BOWSER
MAYOR

ATTEST: Kimberly A. Bassett
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2024-073
May 8, 2024

SUBJECT: Appointment — Rental Housing Commission

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), pursuant to section 201 of the Rental Housing Act of 1985, effective July 17, 1985, D.C. Law 6-10, D.C. Official Code § 42-3502.01, and in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142, D.C. Official Code § 1-523.01, it is hereby **ORDERED** that:

1. **ADAM R. HUNTER,** pursuant to the Rental Housing Commission Mr. Adam R. Hunter Confirmation Resolution of 2024, effective May 7, 2024, PR25-0639, is appointed as Chief Administrative Judge and Chairperson of the Rental Housing Commission, for a term to end July 18, 2025.

2. This Mayor's Order supersedes Mayor's Order 2024-032, dated February 15, 2024.

3. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to May 7, 2024.

MURIEL BOWSER
MAYOR

ATTEST: Kimberly A. Bassett
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2024-074
May 8, 2024

SUBJECT: Reappointment — Rental Housing Commission

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), pursuant to section 201 of the Rental Housing Act of 1985, effective July 17, 1985, D.C. Law 6-10, D.C. Official Code § 42-3502.01, and in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979, D.C. Law 2-142, D.C. Official Code § 1-523.01, it is hereby **ORDERED** that:

1. **LISA M. GREGORY,** pursuant to the Rental Housing Commission Lisa M. Gregory Confirmation Resolution of 2024, effective May 7, 2024, PR25-0663**,** is reappointed as a member of the Rental Housing Commission, for a term to end July 18, 2026.

2. **EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to May 7, 2024.

MURIEL BOWSER
MAYOR

ATTEST: Kimberly A. Bassett

KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ALCOHOLIC BEVERAGE AND CANNABIS BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, MAY 15, 2024
2000 14TH STREET, N.W., SUITE 400S
WASHINGTON, D.C. 20009

Donovan W. Anderson, Chairperson
Members: James Short, Silas Grant, Jr.

Protest Hearing (Status) **10:30 AM**

Case # 24-PRO-00024
Hen Quarter, LLC, t/a Hen Quarter Riverpoint DC
2121 1st Street SW
License #124468
Retailer CR
ANC 6D
Substantial Change (Entertainment Endorsement for Live Entertainment Inside of the Premises and Outside in the Summer Garden)

Show Cause Hearing (Status) **10:30 AM**

Case # 23-CIT-00829
President & Director Georgetown College t/a Leavy Center
3800 Reservoir Road NW
License #12331
Retailer CR
ANC 2E
Failed to File Quarterly Statement

Show Cause Hearing (Status) **10:30 AM**

Case # 24-CMP-00011
Bee Hive, LLC, t/a Sticky Rice/Sing Sing Karaoke Palace
1222-1224 H Street NE
License #72783
Retailer CR
ANC 6A
Failed to File Quarterly Statement

Show Cause Hearing **10:30 AM**

Case # 22-CMP-00080
Capitol City Brewing Company, LLC, t/a Capitol City Brewing Company
1100 New York Ave NW
License #16838
Retailer CT
ANC 2C
No ABC Manager on Duty, Made False or Misleading Statements to ABRA Investigators

Show Cause Hearing **10:30 AM**

Case # 22-CMP-00104
Visionary Management Association, LLC, t/a Aurora Market
500 Irving Street NW
License #121619
Retailer B
ANC 1E
Permitted the Consumption of Alcohol Beverages on the Licensed Premises Under an Off-Premises License, Expansion to Another Floor

BOARD RECESS AT 12:00 PM

ADMINISTRATIVE AGENDA AT 1:00 PM

Show Cause Hearing **1:30 PM**

Case # 23-CMP-00006
Bee Hive, LLC, t/a Sticky Rice/Sing Sing Karaoke Palace
1222-1224 H Street NE
License #72783
Retailer CR
ANC 6A
Failed to File Quarterly Statement

Protest Hearing **1:30 PM**

Case # 23-PRO-00094
MGBK, LLC, t/a Marte Bar & Lounge
4815 Georgia Ave NW
License #125774
Retailer CT
ANC 4D
Substantial Change (Request for Change of Hours and Entertainment Endorsement to Provide Live indoor Entertainment)

All of the ABC Board's public hearings are conducted virtually and are livestreamed on ABCA's YouTube channel which can be found here: *https://www.youtube.com/@alcoholicbeverageregulatio5683*.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF FUNDING AVAILABILITY

FY2025 Community-Based Grant Programs

The Office of the Attorney General (OAG) of the District of Columbia (District) is seeking proposals from non-profit Community-Based Organizations (CBOs) interested in operating a FY25 *Cure the Streets (CTS), Domestic Workers Employment Rights, Leaders of Tomorrow: Youth Violence Prevention, or Workplace Rights* grant program. Please note, to serve more than one CTS site, grantees may apply for more than one grant).

OAG enforces the laws of the District, provides legal advice to the District's government agencies, and promotes the interests of the District's citizens. The Attorney General for the District of Columbia is the District's chief legal officer. The D.C. Charter gives the Attorney General responsibility for charge and conduct of all the District's legal affairs. The Attorney General is responsible for upholding the public interest.

Cure the Streets

Purpose: In the summer of 2018, in response to an uptick in homicides in the District, Attorney General Karl Racine launched the Cure the Streets (CTS) pilot project at two District program sites. Cure the Streets has since expanded to 10 program sites. The Cure the Streets initiative is based on the Cure Violence Global public health approach to violence reduction used in over 100 locations across the world. The Cure Violence Global model of violence reduction has proven to reduce shootings and homicides in sites when implemented with fidelity to the model.

Background: Cure the Streets (CTS) is a public safety program aimed at reducing gun violence in the neighborhoods in which it operates. CTS uses a data-driven, public-health approach to gun violence by treating it as a disease that can be interrupted, treated, and stopped from spreading.

Cure the Streets employs local, credible individuals who have deep ties to the neighborhood in which they work. These Violence Interrupters and Outreach Workers detect and resolve conflicts that are likely to lead to shootings and respond to shootings to prevent retaliation. CTS staff also cultivate relationships with high-risk individuals who are likely to engage in gun violence, counsel them to consider prosocial lifestyle changes, and link them with resources such as education and job training. The CTS teams also develop public education strategies that raise awareness of, and denounce, gun violence. Additionally, the Outreach Workers and Violence Interrupters provide support to victims of gun violence and endeavor to change community norms. They speak out against a culture of violence that has (in some cases) become socially accepted. This involves social media, mass media, and community outreach.

Estimated Available Funds: Through this Notice of Funding Availability, OAG will make up to $814,000 available (per program site) in grant funding for Fiscal Year 2025 to be awarded through the Cure the Streets grant program. Funding is allocated annually, and subject to

appropriations and funds' availability. Selected grantees will implement the Cure Violence Global model, which is a public-safety program that aims to reduce gun violence and employs local, credible individuals who have deep ties to the ten identified target neighborhoods.

Domestic Workers Employment Rights

Purpose: Domestic workers' rights should be extended and protected to ensure dignity, respect, fairness, and a safe working environment. This grant will provide support to organizations working to develop educational materials for domestic workers and hiring entities, including safety and health information. According to Title I of the Domestic Worker Employment Rights Amendment Act of 2022, Sec. 103, this grant may be used to do the following:

- Based on the input of an expert or experts in the field of health and safety, develop guidance for domestic workers and hiring entities to address the most common hazards domestic workers encounter in their workplaces and how to mitigate them; or
- Conduct education and outreach to domestic workers, hiring entities, and the public about the rights of domestic workers.

Background: OAG, through its grant-making authority, will issue program grants to community- based organizations to provide outreach and worker education, safety guidance or a combination of outreach, worker education, and guidance related to employment laws protecting domestic workers.

Estimated Available Funds: Through this Notice of Funding Availability, OAG will make up to $75,000 in funding available per grant award and grant initiative, with no more than $150,000 awarded per organization for Fiscal Year 2025.

Total grant funding will not exceed $260,000. Funding is allocated annually, and subject to appropriation and funds' availability. Grant Award amounts vary as determined by the scope of the projects.

CBOs are eligible to submit applications for either initiative, or a combination of both. CBOs interested in applying for both grant initiatives must submit separate budget and workplan documents.

Leaders of Tomorrow: Youth Violence Prevention

Purpose: OAG prioritizes public safety and positive youth development as a core pillar to its mission. As the District's chief prosecutor for crimes committed by juveniles, the Attorney General works to make the city safer through smart prosecution and innovative, evidence-informed initiatives. OAG's public safety efforts aim to stop violence before it happens and address the root causes of crime to prevent justice-involved young people from reoffending.

Recognizing the pivotal role community-based organizations play in strengthening and implementing protective factors for youth, OAG will provide financial assistance to support

eligible organizations that have demonstrated a commitment to working with this vulnerable population.

Background: OAG, through its grant-making authority, will issue program grants to community- based organizations that are actively engaged in delivering crucial programs and services aimed at fostering positive youth development in the District. OAG recognizes the importance of providing financial support to local non-profits dedicated to identifying and mitigating risk factors associated with youth violence. OAG understands that these organizations play a crucial role in developing strategies that align with promising and evidence-based approaches, ultimately contributing to the long-term well-being and success of young individuals.

Estimated Available Funds: Through this Notice of Funding Availability, OAG announces the availability of up to $100,000 in funding per grant per organization for Fiscal Year 2025 to eligible organizations. Total grant funding will not exceed $500,000. Funding is allocated annually, and subject to appropriation and funds' availability.

Eligible organizations are defined as CBOs who were previously awarded a FY24 Leaders of Tomorrow: Youth Violence Prevention grant from OAG or CBOs who are invited by OAG, in writing, to apply.

Workplace Rights

Purpose: The Workplace Rights Grant Program Act of 2021 established the Workplace Rights Grant Program at the OAG, for the purpose of providing grants to the District's community-based organizations to educate and assist District workers with employment laws and to inform OAG's work-related employment laws. This grant program replaced the Workplace Leave Navigators grant program, which was administered by the District's Department of Employment Services (DOES).

The goals of the Workplace Rights Grant Program are to:

- Conduct outreach that provides worker education or legal services to individuals who work in the District. These services include information related to employment laws (workplace leave laws) and minimum wage, unemployment, wage collection, and other federal laws.
- Engage the community by providing information about essential resources that keep District workers informed about employment laws; and,
- Inform OAG's work related to employment laws.

Background: OAG, through its grant-making authority, will issue program grants to community- based organizations to provide outreach and worker education, outreach and legal services, or a combination of outreach, worker education, and legal services related to employment laws. In this context, *Legal services* means the provision of legal advice, assistance, or representation regarding an individual's rights or responsibilities related to a particular matter or more general matters.

Employment laws means workplace leave laws that enable eligible individuals (i.e., individuals who work in the District) to take leave from their employment and protect individuals' rights to do so, and include the:

- Accrued Sick and Safe Leave Act of 2008, effective May 13, 2008 (D.C. Law 17-152; D.C. Official Code § 32-531.01 et seq.);
- Universal Paid Leave Amendment Act of 2016, effective April 7, 2017 (D.C. Law 21- 264; D.C. Official Code § 32-541.01 et seq.);
- District of Columbia Family and Medical Leave Act of 1990, effective October 3, 1990 (D.C. Law 8-181; D.C. Official Code § 32-501 et seq.); and
- Protecting Pregnant Workers Fairness Act of 2014, effective March 3, 2015 (D.C. Law 20-168; D.C. Official Code § 32-1231.01 et seq.).

In addition:

- The Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9- 248; D.C. Official Code § 32-1001 et seq.).
- An Act To provide for the payment and collection of wages in the District of Columbia, approved August 3, 1956 (70 Stat. 976; D.C. Official Code § 32-1301 et seq.).
- The District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 946; D.C. Official Code § 51-101 et seq.); and
- Federal laws that relate to or provide similar rights as the laws identified in subparagraphs (A) through (C) of this paragraph, including the Fair Labor Standards Act of 1938, approved June 25, 1938 (52 Stat. 1060; 29 U.S.C. § 201 et seq.), and the Family and Medical Leave Act of 1993, approved February 5, 1993 (107 Stat. 6; 29 U.S.C. § 2611 et seq.).

Estimated Available Funds: Through this Notice of Funding Availability, OAG will make up to $750,000 available in grant funding for Fiscal Year 2025 to be awarded through the Workplace Rights grant program. OAG will award funds to at least two qualified community-based organizations. No award shall be less than $100,00 per year, per grant. Funding is allocated annually, and subject to appropriation and funds' availability. Grant Award amounts vary as determined by the scope of the projects. Selected grantees will work to educate and support employees as they navigate their rights and responsibilities granted by various employment laws and programs.

Application Requirements

Organizations that meet the following eligibility requirements at the time of application may apply.

Eligible Applicants: Nonprofit, community-based organizations with an IRS 501(c)(3) or 501(c)(4) determination.

Period of Performance: October 1, 2024, through September 30, 2025**.**

Pre-Solicitation Conferences: For each grant program**,** OAG will hold both an in-person and virtual pre-solicitation conference. Once confirmed, details about the pre-solicitation conferences will be posted with the RFA on OAG's website at https://oag.dc.gov/jobs-partner-opportunities/doing-business-oag.

Request for Application (RFA) Release Date: Monday, June 3, 2024. The RFA for this competitive grant program will be available on OAG's website at https://oag.dc.gov/jobs-partner-opportunities/doing-business-oag. Applications will be evaluated based on the scoring criteria set forth in the RFA.

Deadlines:

Electronic Submission: Applications are due by **2:00 PM EST, Friday, July 12, 2024**, and must be submitted through ZoomGrants, OAG's online grant management system.

Paper Submission: Applications must be received by OAG no later than **2:00 P.M. EST, Friday, July 12, 2024.** Non-electronic applications should be mailed or delivered to:

Office of the Attorney General
Attn: Gabrielle Stevens
400 6th St. N.W.
Washington, D.C. 20001

For more information on the FY24 Community-Based Grant Programs, please email the OAG Grant Management Unit at OAG.Grants@dc.gov.

DC DEPARTMENT OF BEHAVIORAL HEALTH (DBH)

NOTICE OF FUNDING AVAILABILITY (NOFA)

Opioid Abatement Strategic Impact Grant

The District of Columbia, Department of Behavioral Health (DBH) is soliciting applications from qualified applicants for services in the program and service areas described in this Notice of Funding Availability (NOFA). This announcement is to provide public notice of the DBH's intent to make funds available for the purpose described herein. The applicable Request for Application (RFA) will be released under a separate announcement with guidelines for submitting the application, review criteria, and DBH terms and conditions for applying for and receiving funding.

General Information:

Funding Opportunity Title:	Opioid Abatement Strategic Impact Grant
Funding Opportunity Number:	RM0 SIG050124
Opportunity Category:	Competitive
DBH Branch/Division Unit:	Adult Services Divison
DBH Administrative Unit	Office of Opioid Abatement, Adult Services Division
Program Contact:	Orlando Barker 202-597-2904 Orlando.barker@dc.gov
Program Description:	This RFA identifies funding opportunities for organizations in the District of Columbia to conduct opioid remediation activities based on the fourteen recommended areas of focus made by the Opioid Abatement Advisory Commission (See Attachment H).
Eligible Applicants:	Eligible entities who can apply for grant funds under this RFA are/have: 1. Organizations located in the District of Columbia providing services to District residents; and 2. 501(c)(3) non-profit status; or 3. For-profit organization status.
Anticipated Number of Awards:	Unlimited
Anticipated Amount Available:	This RFA will make available a total of $7,000,000 for the implementation of all recommended opioid abatement areas of focus.
Floor Award Amount:	$20,000
Ceiling Award Amount:	$1,000,000

Funding Authorization:

Legislative Authorization:	Opioid Litigation Proceeds Amendment Act of 2022
Cost Sharing/Match Required?	No
RFA Release Date:	Wednesday, May 1, 2024
Pre-Application Conference (Date):	Friday, May 10, 2024
Pre-Application Conference (Times):	11:00 AM ET
Pre-Application Conference (Microsoft Teams Access):	**Please find web link access information in Request for Application.**
Application Deadline Date:	Rolling deadline, final date of submission no later than Wednesday, June 12, 2024. First Application Reviews will begin on Wednesday, May 22, 2024.
Application Deadline Time:	12:00 PM ET
Links to Additional Information about this Funding Opportunity:	Serve DC: https://communityaffairs.dc.gov/content/community-grant-program#4 DBH RFA Opportunities: https://dbh.dc.gov/page/request-applications-001

Notes:

A. **DBH reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.**
B. **Awards are contingent upon the availability of funds.**
C. **Individuals are not eligible for DBH grant funding.**
D. **Applicants must have a UEI#, Tax ID#, and be registered in the federal Systems for Award Management (SAM).**
E. **Contact the program manager assigned to this funding opportunity for additional information.**

BRIDGES PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Bridges Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 solicits proposals for SY24-25 for the following services:

- Janitorial Services

For the full RFP, please email bids@bridgespcs.org. Potential vendors may attend a walkthrough on May 16, 2024, at 10am at Bridges PCS. Proposals should be submitted in PDF format to bids@bridgespcs.org no later than **5:00 pm Friday, May 24, 2024.**

CHILD AND FAMILY SERVICES AGENCY
CITIZEN REVIEW PANEL
Notice of Public Meeting
Tuesday, May 14, 2024
6:30 to 8:30 PM

Zoom Meeting link:
https://us02web.zoom.us/j/85365764771?pwd=azhCb2dTdW5BNjVZaUxBUnFRaGcxZz09

Agenda

6:30 – 6:40 PM	Welcome/Introductions • Introductions of members, presenters and observers • Determination of quorum • Satisfaction of Public Notice • Approval of Minutes from March 2024 • Approval and/or modification of tonight's agenda	Pierrea Wallace Chairperson
6:40 – 7:10	Update on DC budget hearings and legislation	Tami Weerasingha-Cote Senior Supervising Policy Attorney Leah Castelaz- Policy Attorney Children's Law Center
7:10 -7:40	Facilitator Report and Updates • Updates on MOTA and Council • Discussion of CRP and public advocacy • Annual final report	Margie Chalofsky Facilitator
7:40-7:50	Workgroup status and needs Open conversation	Pierrea Wallace Chairperson
7:50 – 8:05	Member Sharing	Wanda Thompson Panel Member

8:05- 8:10	Fiscal report	Toni Carr Facilitator Administrative Support (In Treasurer's absence)
8:10- 8:20	New business	Pierrea Wallace Chairperson
8:20 – 8:25	Public comments	Pierrea Wallace Chairperson
8:25– 8:30	Closing and Adjournment	Pierrea Wallace Chairperson

Future CRP Meetings	
Date	***Location**
July 9, 2024	Zoom
September 10, 2024	Zoom
November 12, 2024 **	Zoom

*Location subject to change
** Election day- date to be confirmed

Questions: Pierrea Wallace, Chairperson <pierreanaketa@gmail.com>

'This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice @ dc.gov."3 DCMR § 10409.2.

OFFICE OF THE DISTRICT OF COLUMBIA CLEMENCY BOARD

NOTICE OF CLOSED MEETING

On Friday, May 10, 2024, following the public comment portion of the open meeting, which begins at 10:30 a.m., the District of Columbia Clemency Board will hold a closed meeting for the purpose of discussing Board composition, pursuant to the Open Meetings Act, Section 2-757(b)(10).

The meeting will be held via WebEx. This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.

For additional information, please contact Lisa M. Brannock, Executive Assistant at (202) 724-7681 or lisa.brannock@dc.gov.

D.C. BILINGUAL PUBLIC CHARTER SCHOOL

NOTICE: FOR REQUEST FOR PROPOSAL

D.C. Bilingual Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 solicits proposals for vendors to provide the following services for FY 2024-2025:

- SpED Services

Proposal Submission

A Portable Document Format (pdf) election version of your proposal must be received by the school no later than **4:00 p.m. EST on Tuesday, May 21, 2024.** Questions, proposals, and full RFP request should be emailed to bids@dcbilingual.org.

No phone call submission or late responses please. Interviews, samples, demonstrations will be scheduled at our request after the review of the proposals only.

DC SCHOLARS PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Branding, Marketing, and Communication Strategies/Materials Services

DC Scholars Public Charter School solicits written proposals for qualified firms with expertise in K-12 education to provide branding, marketing, and communications strategies and materials.

The Request for Proposals (RFP) specifications, such as scope and responsibilities, can be obtained after Friday, May 10, 2024 from Kiara Allen via finance@dcscholars.org.

All questions should be in writing by email. Please put "Branding and Marketing RFP" in the subject heading. No phone calls regarding this RFP will be accepted.

Proposals (bids) must be received by Friday, May 24, 2024 at 5:00 PM to fiance@dcscholars.org.

Any bids not addressing all areas as outlined in the RFP specifications may not be considered.

GIRLS GLOBAL ACADEMY PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

School Substitute Teacher Services

Girls Global Academy Public Charter School located in Washington DC invites proposals for School Substitute Teacher Services. The selected firm will be responsible for supplying substitute teachers on an as needed basis to ensure continuity of instruction in the event of teacher absences. Submission deadline is 12:00 PM Eastern Time on June 14, 2024.

To request full scope and/or seek additional information, please email:

RFP Coordinator
rfp@girlsglobalacademy.org

DEPARTMENT OF HEALTH

PUBLIC NOTICE

The District of Columbia Board of Professional Counseling ("Board") hereby gives notice of the cancellation of its upcoming meeting pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, D.C. Official Code § 3-1204.05 (b)).

The Board meets monthly on the third Friday of each month from 10:00 AM to 1:00 PM. However, due to unanticipated schedule conflict, the next meeting, previously scheduled for May 17, 2024, canceled.

The next meeting will be on Friday, June 21, 2024 by videoconference:

Meeting number: 475 199 633
Password: b5aXwWhTi49
https://dcnet.webex.com/dcnet/j.php?MTID=m0d5d7c16ea055f3350294ef4e11c3f95

By phone:
1-650-479-3208 Call-in toll number (US/Canada)
Access code: 475 199 633

The agenda is available at https://dchealth.dc.gov/page/board-professional-counseling-open-session-agendas. For additional information, contact the Health Licensing Specialist at dcbopc@dc.gov or (202) 727-1611.

DEPARTMENT OF HEALTH CARE FINANCE
NOTICE OF PUBLIC MEETING

Department of Health Care Finance Pharmacy and Therapeutics Committee

The Department of Health Care Finance (DHCF) Pharmacy and Therapeutics Committee (Committee), pursuant to the requirements of Mayor's Order 2007-46, dated January 23, 2007, hereby announces a public meeting of the Committee to obtain input on the review and maintenance of a Preferred Drug List (PDL) for the District of Columbia. The meeting will be held virtually on **Thursday June 6th, 2024**, at **2:30 PM** via Zoom.

Please note in order to attend the meeting, you will have to register at the website: https://primetherapeutics.zoom.us/webinar/register/WN_l9UmmWdgS6quoi-ITSieeQ

Once you have registered you will receive an email with instructions on how to attend.

The Committee will receive public comments from interested individuals on issues relating to the topics or class reviews to be discussed at this meeting. The clinical drug class review for this meeting will include:

Acne Agents, Topical
Analgesics, Narcotics Long Acting & Tramadol Like agents
Antibiotics, Inhaled
Antihistamines, Minimally Sedating
Antimigraine Agents, Triptans and Others
Bronchodilators, Beta Agonists
COPD Agents
Epinephrine, Self-Injected
Fertility Agents
Glucocorticoids, Inhaled
Intranasal Rhinitis Agents
Leukotriene Modifiers
NSAIDs
Ophthalmic Antibiotics
Ophthalmic Antibiotic-Steroid Combinations
Ophthalmics for Allergic Conjunctivitis
Ophthalmics, Anti-Inflammatories
Ophthalmics, Anti-Inflammatories-Immunomodulators
Ophthalmics, Glaucoma Agents
Opiate Dependence Treatments
Otic Antibiotics
Otic Anti-Inflammatories
PAH Agents, Oral and Inhaled
Skeletal Muscle Relaxants
Smoking Cessation Agents
Steroids, Topical High
Steroids, Topical Low
Steroids, Topical Medium
Steroids, Topical Very High
Stimulants and Related Agents

Any person or organizations who wish to make a presentation to the DHCF P&T Committee should furnish his or her name, address, telephone number, and name of organization represented by calling (202) 442-9076 **no later than 4:45 PM on Thursday, May 30th, 2024**. The person or organization may also submit the aforementioned information via e-mail to Charlene Fairfax (charlene.fairfax@dc.gov). Once we have the above information, the presenter will be sent instructions on how to sign-up as a presenter during the June P&T webinar.

An individual wishing to make an oral presentation to the Committee will be limited to three (3) minutes.

A person wishing to provide written information should supply a copy of the written information to the Committee **no later than 4:45 PM on Thursday, May 30th, 2024. Handouts are limited to no more than two standard 8-1/2 by 11-inch pages of "bulleted" points (or one sheet front and back).** The ready-to-disseminate, written information should be emailed to charlene.fairfax@dc.gov **to arrive no later than Thursday, May 30th,2024.**

DEPARTMENT OF HEALTH CARE FINANCE

PUBLIC NOTICE OF PROPOSED AMENDMENT TO THE DISTRICT OF COLUMBIA STATE PLAN FOR MEDICAL ASSISTANCE GOVERNING PAYMENT TO SPECIALTY HOSPITALS FOR INPATIENT HOSPITAL SERVICES

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in an Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat.744; D.C. Official Code §1-307.02) and the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.01 *et seq.*), hereby gives notice of the intent to submit amendments to the District of Columbia State Plan for Medical Assistance (State Plan) to the federal Centers for Medicare and Medicaid Services (CMS) for review and approval.

The District reimburses public inpatient specialty hospitals based on a methodology that is fair and reasonable. Public specialty hospitals are reimbursed based on Medicaid's share of the actual costs incurred by the specialty hospital in providing services to Medicaid beneficiaries. DHCF is submitting a SPA to request that this methodology be added to the Payment to Specialty Hospitals for Inpatient Hospital Services section of the State Plan.

Reimbursement for Public Inpatient Specialty Hospitals

Specialty hospitals also consist of public hospitals that provide inpatient hospital specialty services in the District of Columbia, including psychiatric hospitals which deliver inpatient specialty services. Such hospitals are reimbursed based on Medicaid's share of actual costs incurred in providing healthcare services to Medicaid beneficiaries. No reimbursement in excess of Medicaid's share of actual costs shall be allowed.

As a result of this change, DHCF projects no fiscal impact in Fiscal Year 2025 or Fiscal Year 2026. The effective date for this SPA is May 15, 2024

If you have any questions, please contact Mario Ramsey, Associate Director, Division of Regulation and Policy Management, Health Care Policy and Research Administration, Department of Health Care Finance, at 441 4th Street, Suite 900S, Washington, DC 20001, mario.ramsey@dc.gov or 202-899-3652.

DISTRICT OF COLUMBIA
HISTORIC PRESERVATION REVIEW BOARD

NOTICE OF HISTORIC LANDMARK AND HISTORIC DISTRICT DESIGNATIONS

The D.C. Historic Preservation Review Board hereby provides public notice of its decision to designate the following property as a historic landmark in the D.C. Inventory of Historic Sites. The property is now subject to the D.C. Historic Landmark and Historic District Protection Act of 1978.

Designation Case No. 24-05: Old Chinese Legation
2001 19th Street NW (Square 2555, Lot 45)
Designated April 25, 2024
Applicant: Chinese Embassy Condo Association and D.C. Preservation League
Affected Advisory Neighborhood Commission: 1C

Listing in the D.C. Inventory of Historic Sites provides recognition of properties significant to the historic and aesthetic heritage of the nation's capital city, fosters civic pride in the accomplishments of the past, and assists in preserving important cultural assets for the education, pleasure and welfare of the people of the District of Columbia.

The D.C. Historic Preservation Review Board hereby provides public notice of its decision to amend the designation of the following historic landmark in the D.C. Inventory of Historic Sites, adding to its documentation.

Designation Case No. 24-07: On Leong Chinese Merchants Association
618-620 H Street NW (Square 454, Lot 50)
Applicant: D.C. Preservation League
Affected Advisory Neighborhood Commission: 2C

INGENUITY PREP PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS – FURNITURE

Ingenuity Prep Public Charter School solicits proposals for the following services:

- Class and school related furniture

Full RFP available by request. All proposals must be submitted in PDF format and emailed to bids@ingenuityprep.org no later than 5:00 PM on May 21st, 2024. No phone calls please.

INGENUITY PREP PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS – GROUNDS MAINTENANCE

Ingenuity Prep Public Charter School solicits proposals for the following services:

- Grounds Maintenance

Full RFP available by request. All proposals must be submitted in PDF format and emailed to bids@ingenuityprep.org no later than 5:00 PM on May 21st, 2024. No phone calls please.

INGENUITY PREP PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS – SHIRTS

Ingenuity Prep Public Charter School solicits proposals for the following services:

- Shirts

Full RFP available by request. All proposals must be submitted in PDF format and emailed to bids@ingenuityprep.org no later than 5:00 PM on May 21st, 2024. No phone calls please.

KIPP DC PUBLIC CHARTER SCHOOLS

REQUEST FOR PROPOSALS

ELA Books for K-12 Students

KIPP DC is soliciting proposals from qualified vendors for ELA Books for K-12 Students. The RFP can be found on KIPP DC's website at www.kippdc.org/procurement. Proposals should be uploaded to the website no later than 5:00 PM EST on May 21, 2024. Questions should be addressed to melissa.colon@kippdc.org.

Employee Titling, Job Description & Compensation Consulting Services

KIPP DC is soliciting proposals from qualified vendors for Employee Titling, Job Description & Compensation Consulting Services. The RFP can be found on KIPP DC's website at www.kippdc.org/procurement. Proposals should be uploaded to the website no later than 5:00 PM EST on May 21, 2024. Questions should be addressed to rebecca.maltzman@kippdc.org.

Performance Review Design Services

KIPP DC is soliciting proposals from qualified vendors for Performance Review Design Services. The RFP can be found on KIPP DC's website at www.kippdc.org/procurement. Proposals should be uploaded to the website no later than 5:00 PM EST on May 21, 2024. Questions should be addressed to rebecca.maltzman@kippdc.org.

Student Uniform Design, Production, and Sales Management Services

KIPP DC is soliciting proposals from qualified vendors for Student Uniform Design, Production, and Sales Management Services. The RFP can be found on KIPP DC's website at www.kippdc.org/procurement. Proposals should be uploaded to the website no later than 5:00 PM EST on May 21, 2024. Questions should be addressed to irene.holtzman@kippdc.org.

Substitute Teacher and Support Staff Services

KIPP DC is soliciting proposals from qualified vendors for Substitute Teacher and Support Staff Services. The RFP can be found on KIPP DC's website at www.kippdc.org/procurement. Proposals should be uploaded to the website no later than 5:00 PM EST on May 21, 2024. Questions should be addressed to rebecca.maltzman@kippdc.org.

MAYOR'S OFFICE ON LATINO AFFAIRS

NOTICE OF FUNDING AVAILABILITY

FY 2024 Multicultural Summer Youth Employment Program

A. BACKGROUND INFORMATION

The Executive Office of Mayor Muriel Bowser and The Mayor's Office on Latino Affairs (MOLA) are soliciting grant applications for its FY 2024 Multicultural Summer Youth Employment Program (SYEP) from qualified Community-Based Organizations (CBOs) serving the District of Columbia's Latino Youth community.

The grant is intended to provide District of Columbia youth ages 14-24 with meaningful and structured summer experience and career readiness opportunities and services with a variety of community-based partner organizations for the duration of the SYEP.

Since 1976, MOLA has served the Latino community of the District of Columbia. MOLA's mission is to improve the quality of life of the District's Latino residents by addressing a broad range of social and economic needs through strategic management of public and private partnerships, expertise on policy, community relations, civic engagement, and community-based grants and to ensure Latinos have access to vital programs and services offered by DC in the areas of human services, health, education, housing, economic development, and employment opportunities.

B. FUNDING PRIORITIES

To qualify for the FY 2024 SYEP grant, applicants must provide services in at least one of the following funding priorities listed below:

1. Downtown Comeback

We have the opportunity to **reimagine a Downtown** where residents, workers, and visitors can live, work, and play in vibrant centers of activity for all. Looking to **DC's Future**, the District of Columbia will continue to position itself as a global and forward-thinking leader in the way we choose to serve our residents.

2. Public Safety

Public safety serves as a foundation for living a healthy and happy life. We want to create significant, lasting change and not just to reverse these rising trends, but to reduce any type of violence, **including gun violence**, and ultimately end it.

3. Recreation & All Students on Pathways to Success

Recreational activities such as sports, arts, civic engagement, and youth engagement, will impact the health and well-being of our residents.

Schools are the heartbeat of our communities, and every community deserves a great school. Every child should have the opportunity to reach their full potential and to pursue their dreams. This starts with the basics, such as reading and math.

4. Work Force Development

Empowering the District of Columbia to remain a city for people of all ages and at all stages of life, means **fighting to protect the middle class**. When Washingtonians have access to job opportunities and can afford to build a good life for themselves and their loved ones in the District, our residents and communities are stronger.

5. Highlight East of the River

Programs that support our residents in the East of the River through investments in education, housing, economic development, public safety, art, and recreation to increase the quality of life.

6. More Democracy

As the Nation's capital for democracy, District residents should be empowered to utilize their voices and rights to be heard.

C. TARGET POPULATION

The target population for the use of these funds is youth Latino residents ages 14 - 24 in the District of Columbia.

D. ELIGIBILITY CRITERIA

Applicants shall meet the following minimum requirements to be considered for the FY24 SYEP Grant:

1. The organization is a community-based organization with a Federal 501(c)(3) tax-exempt status and is licensed as a business with the District of Columbia's Department of Licensing and Consumer Protection (DLCP).

2. The organization's principal place of business must be located in the District of Columbia; if the business is a national or regional organization, it must have a location in the District through which it provides services.

3. The organization must provide direct services to District Latino residents or collaborate with an organization that provides services to District Latino residents.

4. All services and programming funded by the grant must be provided within the District of Columbia; and

5. The organization must be currently registered and in good standing with DLCP and the Office of Tax and Revenue (OTR). Applicants must maintain their good standing status with the aforementioned entities throughout the pre-award process and the grant's performance period.

6. Applicants shall provide an affidavit regarding any debarments, suspensions, or default with the Office of Contract and Procurement (OCP).

7. *(This requirement applies only to current MOLA grantees*) Current grantees must be:
   a. current on MOLA reporting obligations for the FY24 grant cycle.
   b. in good standing with the District's legal requirements, including those imposed by any grants or contracts; and
   c. progress reports must reflect substantial progress towards the goals of the grant agreement.

E. IMPORTANT DATES

Release Date of RFA:	Friday, May 3, 2024
Availability of RFA:	The RFA will be posted on the Mayor's Office of Community Affairs website and the Mayor's Office on Volunteerism & Partnerships (Serve DC's) and electronic grant clearinghouse: https://communityaffairs.dc.gov
Amount of Awards:	Eligible organizations can be awarded up to $15,000 for operational costs plus funding for the youth participant stipend.
Application Deadline:	Applications must be submitted via ZoomGrants by Friday, May 31, 2024, at 5:00 PM EST
Length of Awards:	Grant awards are for FY 24, June 17, 2024 – August 23, 2024
Pre-Bidder's Conference:	Saturday, May 11, 2024, 10:00 am - 12:00 pm Frank D. Reeves Municipal Building 2000 14th Street NW, Second Floor, Washington, DC 20009
Points of Contact:	Ricardo Espitia, Grants Management Specialist Lucy Hernandez, Grants Monitor Phone: 202-714-4769 or 202-600-1807 Email: grants.ola@dc.gov

DEPARTMENT OF LICENSING AND CONSUMER PROTECTION

District of Columbia Combat Sports Commission

Monthly Meeting (Virtual)
May 15, 2024, at 12 p.m.

1. Call to Order – 12:00 pm

2. Members Present

3. Staff Present

4. Comments from the Commission

5. Comments from the Public

   Motion - Executive Session, which is closed to the public, in order to consult with our attorneys to seek legal advice; to discuss disciplinary matters; and to deliberate upon decisions in adjudication actions and proceedings, as provided by D.C. Code § 2-575(b)(4)(A), § 2-575(b)(9), and § 2-575(b)(13). We will resume the public portion of the meeting at the conclusion of the executive session. Please stand by for our return if you are participating online.

6. Approval of Minutes

7. Old Business

8. New Business

9. Adjourn

10. Next Scheduled Commission Meeting – March 13, 2024, via Webex.

Call-in number (US/Canada): 1-650-479-3208
Access code: 2304 715 0242
Password: May2024 (6292024 from phones)

https://dcnet.webex.com/dcnet/j.php?MTID=mce411dd1f6a3c1bd618219bf5ef666a3

***** This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.***

DEPARTMENT OF LICENSING AND CONSUMER PROTECTION

District of Columbia Real Estate Appraisers

Monthly Meeting (Virtual)
May 15, 2024, at 10 a.m.

1. Call to Order – 10:00 a.m.
2. Attendance
3. Comments from the Public
4. Approval of Meeting Minutes
5. Recommendations – Education Committee Report
6. Correspondence
7. Old Business
8. New Business
9. Motion – Executive Session (Closed to the Public) to consult with an attorney pursuant to D.C. Official Code § 2-575(b)(4)(A); D.C. Official Code § 2-575(b)(9) to discuss complaints/legal matters, applications, and legal counsel report.
10. Recommendations
    a. Applications
    b. Legal recommendations for complaints and legal matters
11. Adjourn – Next Scheduled Meeting – June 12, 2024

To Join the Meeting

Call: 1-650-479-3208
Access code: 2314 479 0535
Link to Join:
https://dcnet.webex.com/dcnet/j.php?MTID=m0bf9b1d7a19078d40343483183aceaed

***** This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.***

DEPARTMENT OF LICENSING AND CONSUMER PROTECTION

District of Columbia Real Estate Commission

Monthly Meeting (Virtual)
May 14, 2024, at 10 a.m.

1. Call to Order – 10:00 am
2. Attendance (Start of Public Session)
3. Comments from the Public
4. Minutes – Draft, April 9, 2024
5. Recommendation – Education Committee Recommendations
6. Budget Update
7. Correspondence
8. Old Business
9. New Business
10. Executive Session {Closed to the Public} – to consult with an attorney pursuant to D.C. Official Code § 2-575(b) (4) (A); D.C. Official Code § 2-575(b) (9) to discuss complaints/legal matters, applications, and legal counsel report.
11. Recommendations
    a. Applications for Licensure
        i. Administratively Approved Applications
        ii. Technical Applications
    b. Legal Recommendations for complaints and Legal Matters
12. Adjourn

Call: 1-650-479-3208
Access code: 2317 532 2943
Password: RealEstate (73253782 from phones and video systems)
WebEx Link:
https://dcnet.webex.com/dcnet/j.php?MTID=m75eb17bdc0585283e95ce81f40a4d984

Next Scheduled Regular Meeting, Tuesday, June 11, 2024; via Webex Conferencing

***** This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.***

OFFICE OF OUT OF SCHOOL TIME GRANTS AND YOUTH OUTCOMES

NOTICE OF PUBLIC MEETING

Commission on Out of School Time Grants and Youth Outcomes (OST Commission) Public Meeting Washington, DC – The Commission on Out of School Time Grants and Youth Outcomes will hold a virtual meeting on **Thursday, May 23, 2024,** from 6:00 pm to 7:30 pm. The OST Commission will hear updates from the Office of Out of School Time Grants and Youth Outcomes and the OST Commission. Register to attend here.

Individuals and representatives of organizations who wish to comment at a public meeting are required to notify the OST Office in advance by email at learn24@dc.gov. Individuals must furnish their names, addresses, telephone numbers, and organizational affiliation, if any, and submit one electronic copy of their testimony by the close of business on **Tuesday, May 21, 2024** at 5:00 pm.

Below is the draft agenda for the meeting.

I. Call to Order
II. Announcement of a Quorum
III. Approval of the Agenda/Minutes
IV. Committee and Government Updates
V. Public Comments & Response
VI. Strategic Discussion & Collaboration
VII. Adjournment

The Office of Out of School Time Grants and Youth Outcomes (OST Office) and the OST Commission support the equitable distribution of high-quality, out-of-school-time programs to District of Columbia youth through coordination among government agencies, grant-making, data collection and evaluation, and the provision of technical assistance to service providers. The OST Commission's purpose is to develop a District-wide strategy for equitable access to out-of-school-time programs and to facilitate interagency planning and coordination for out-of-school time programs and funding.

Date: **Thursday, May 23, 2024**
Time: 6:00 p.m. – 7:30 p.m.
Location: **Register Here**
Contact: Shanna Samson
Supervisory Grants Management Specialist
Office of Out of School Time Grants and Youth Outcomes
Office of the Deputy Mayor for Education
(202) 341-4910
shanna.samson@dc.gov

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.

DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD

NOTIFICATION OF CHARTER AMENDMENT

SUMMARY: The District of Columbia Public Charter School Board (DC PCSB) announces an opportunity for the public to comment on a request from Creative Minds International Public Charter School (Creative Minds PCS) to amend its charter by modifying its goals and academic achievement expectations (charter goals). The school submitted its request on April 8, 2024.[1]

Currently in its 12th year of operation, Creative Minds PCS educates 584 students in grades pre-kindergarten 3 through 8 at a single campus located in Ward 5. The school's mission is to "cultivate within all of our students the mindset, skills, creativity, and commitment to equity essential in becoming globally aware and independently minded citizens."

Creative Minds PCS seeks to revise its ELA progress goal, remove its accreditation goal, and add business rules for all charter goals. If approved, the proposed changes will take effect beginning in school year (SY) 2024 – 25. The school's current ELA progress and accreditation goals and its proposed revisions are provided in the chart below.

Current Goal	Proposed Goal
Grades K – 2 On a yearly basis, at least 75% of kindergarten through second grade students will either demonstrate one year of progress (instructional levels) between fall and spring administration of the Developmental Reading assessment as determined by the attached growth chart or score on grade level or higher (instructional level) on the Developmental Reading assessment. (K = Level 3; 1st grade = Level 16; 2nd grade = Level 28.)	**Grades K – 8** At least 70% of all students in grades K – 8 will achieve at or above the 40th percentile or meet/exceed their spring growth target in ELA based on NWEA MAP national norms by June of each year.
Creative Minds International PCS will start the accreditation process in its 3rd year of operation (school year 2014-15) with the goal of completing the accreditation process by the school's sixth year of operation, school year 2017-18.	**Remove goal; the school achieved its International Primary Curriculum accreditation in SY 2017 – 18.**

PUBLIC MEETINGS: The public hearing will be on May 20, 2024 at 6 p.m. The vote will be on June 24, 2024 at 6 p.m. Please check www.dcpcsb.org to register to attend the virtual meetings.

PUBLIC COMMENT INSTRUCTIONS: Comments must be submitted on or before May 20, 2024.[2] You may submit comments by any one of the methods listed below.

1. Submit a written comment identified by "Creative Minds PCS - Notice of Petition to Amend Charter – Goals" via:
   a) E-mail: public.comment@dcpcsb.org
   b) Mail, Hand Delivery, or Courier: Attn: Public Comment, DC Public Charter School Board, 100 M Street SE, Suite 400, Washington, DC 20003
2. Sign up to testify during the public hearing by e-mailing a request to public.comment@dcpcsb.org no later than noon on May 20, 2024.
3. Submit voicemail testimony by phone: Call 202-328-2660 and select option 2. (You will have up to five minutes to record your testimony. Please note that all comments will be transcribed and made available to the public upon receipt.)

FOR FURTHER INFORMATION, CONTACT: Starling Temp, a Specialist in the School Performance Department, at stemp@dcpcsb.org.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED ISSUANCE OF STOCK OR EVIDENCES OF INDEBTEDNESS

FORMAL CASE NO. 1177, IN THE MATTER OF THE APPLICATION OF WASHINGTON GAS LIGHT COMPANY FOR A CERTIFICATE OF AUTHORITY AUTHORIZING IT TO ISSUE DEBT SECURITIES,

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to D.C. Code §§ 2-505, 34-502, and 34-503,[1] that it intends, in not less than thirty (30) days from the date of publication of this Notice in the *D.C. Register*, to take final action on the Application of the Washington Gas Light Company (WGL or Company) for a certificate authorizing the Company to issue and sell long-term debt securities in an aggregate amount not to exceed $475 million.[2]

2. In its Application, filed on April 24, 2024, WGL requests authority to issue long-term debt securities in an aggregate amount not to exceed $475 million at a rate no higher than 475 basis points above comparable U.S. Treasury Securities for the period of January 1, 2025, through December 31, 2026.[3] The Company states that it plans to use the proceeds from the financing for four primary purposes: (1) refunding of maturing long-term debt; (2) advance refunding of long-term debt as market conditions permit; (3) general corporate purposes, including capital expenditures, working capital requirements, and retirement of short-term debt; and (4) reimbursement of funds actually expended for any of those purposes.[4] WGL further states that there are two (2) primary capital structure considerations: the Company endeavors to issue competitively priced short and long-term debt, and Commission Order No. 19396, which required WGL to maintain a 12-month rolling average common equity ratio of between 48 and 55 percent, provided this range is consistent with future orders.[5] Lastly, pursuant to Order No. 21601, WGL included the following additional information in its Application: (1) Status of the debt issued under the prior authorization; (2) assumptions, workpapers, and data analysis supporting the Company's proposed basis point spread; (3) Statements of Income for the prior three (3) years and three (3) and six (6) month statements for the current year, if applicable; (4) Balance Sheets as of December 31 of the prior two (2) years and three (3) and six (6) month sheets for the current year,

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1 D.C. Code §§ 2-505; 34-502 and 503.

2 *Formal Case No. 1177, In the Matter of the Application of Washington Gas Light Company for a Certificate of Authority to Issue Debt Securities* (*Formal Case No. 1177*), Washington Gas Light Company's Application for Authority to Issue and Sell Long-Term Debt Securities, filed April 24, 2024 (WGL's Application).

3 WGL's Application at 2, 5, 11.

4 WGL's Application at 2-3.

5 WGL's Application at 3. *See also, Formal Case No. 1142, In the Matter of the Merger of Atlagas Ltd. and WGL Holdings, Inc.*, Order No. 19396, Appendix A at 11, rel. June 29, 2018.

if applicable; (5) Statements of Cash Flows for the prior three (3) years and three (3) and six (6) month statements for the current year, if applicable; (6) External Financing Requirements for the years for which authorization is requested; (7) Proposed Financing for the years for which authorization is requested, including a detailed breakdown of internally generated funds by year; (8) Estimated Capital Requirements for the years for which authorization is requested both system-wide and for the District of Columbia; (9) Estimated Capitalization including long-term debt, short-term debt, equity, and overall capital structure for each year of the proposed authorization; and (10) the current status of debt authorization in Maryland and Virginia.[6] WGL also seeks an expedited review of its Application under the Commission's expedited review process in Chapter 35 of the Commission's rules.[7]

3. WGL's Application and supporting documentation are on file with the Commission and may be viewed on the Commission's website by visiting www.dcpsc.org. and, under the "eDocket System" tab, select "Search Current Dockets" and type "FC 1177" in the field labeled "Select Case Number." Copies of the Application are available upon request at a per-page reproduction fee.

4. Any person desiring to comment on the Application or object to the expedited handling of the Application shall file written comments or objections stating the reasons for the objections no later than thirty (30) days from the date of publication of this Notice in the *D.C. Register* addressed to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005 and sent electronically on the Commission's website at https://edocket.dcpsc.org/public/public_comments. Persons with questions concerning WGL's Application should call (202) 626-5150 or send an email to psccommissionsecretary@dc.gov. Any responses to comments or objections shall be filed within 35 days from the date of publication of this Notice in the *D.C. Register*. Once the comment period expires, the Commission will take final action.

A TRUE COPY: **BY DIRECTION OF THE COMMISSION:**

CHIEF CLERK: **BRINDA WESTBROOK-SEDGWICK**
COMMISSION SECRETARY

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[6] WGL's Application at 8-10. *See also, Formal Case No. 1174, In the Matter of Washington Gas Light Company's Application for Authority to Issue Debt Securities*, Order No. 21601, ¶ 25, rel. April 24, 2023.

[7] WGL's Application at 1. 15 DCMR §§ 3500-3505 (2000). More specifically, Subsection 3501.1 states: "An application for authority to issue or amend tariffs or issue stock or evidences of indebtedness that are payable in more than one year shall be approved by the Commission within thirty days after the publication date in the D.C. Register, provided that: (1) no objection is filed within thirty (30) days after the date of publication; and (2) the Commission does not order additional time for review of the application."

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED TARIFF

WGPOR-2024-01, IN THE MATTER OF THE INVESTIGATION INTO THE ESTABLISHMENT OF A PURCHASE OF RECEIVABLES PROGRAM FOR NATURAL GAS SUPPLIERS AND THEIR CUSTOMERS IN THE DISTRICT OF COLUMBIA,

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Section 34-802 of the District of Columbia Code and in accordance with Section 2-505 of the District of Columbia Code,[1] of its intent to act upon the proposed amendments to Firm Delivery Service Gas Supplier Agreement – Rate Schedule No. 5, Purchase of Receivables Discount Rate Calculations of Washington Gas Light Company's (WGL or Company) General Regulations Tariff in not less than thirty (30) days from the date of publication of this Notice of Proposed Tariff (NOPT) in the *D.C. Register*.[2]

2. In Order No. 19772, the Commission directed WGL to track and report all revenues of the Purchase of Receivables (POR) program at the end of the first year of operation and annually file POR discount rate calculations and new tariff pages reflecting the updated discount rates.[3] In Order No. 20734, the Commission directed WGL to include in all future annual POR discount rate calculation filings the supporting schedules and work papers for all the components of the POR discount rate.[4] In addition, the Company was directed to submit with its 2022 POR discount rate filing and, in every annual filing thereafter, a tariff that includes the proposed POR discount rate in the tariff.[5] On April 5, 2024, WGL submitted its 2024 POR tariff with proposed changes to Rate Schedule No. 5 of its General Regulations Tariff.[6]

3. WGL's POR tariff filing consists of: (1) WGPOR 2024 Purchase of Receivables Discount Rate Calculation; (2) WGPOR 2024 - Year 5 Implementation Cost Calculation; (3) WGPOR 2024 – Reconciliation Factor; (4) Year 5 - 3rd Party Marketer

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1 D.C. Code § 2-505 and D.C. Code § 34-802.

2 *Formal Case No. 1140*, *In the Matter of the Investigation into the Establishment of a Purchase of Receivables Program for Natural Gas Suppliers and Their Customers in the District of Columbia* (*Formal Case No. 1140*), Order No. 19719, rel. October 17, 2018.

3 *Formal Case No. 1140*, Order No. 19772, rel. December 13, 2018.

4 *WGPOR-2021-01*, *In the Matter of the Investigation into the Establishment of a Purchase of Receivables Program for Natural Gas Suppliers and Their Customers in the District of Columbia*, Order No. 20734, rel. May 6, 2021 (Order No. 20734).

5 Order No. 20734, ¶¶ 1, 3-4.

6 *WGPOR-2024-01*, Washington Gas Light Company – Annual Purchase of Receivables Discount Rate and Calculations, filed April 5, 2024 (Tariff filing).

Revenue Lag; (5) WGPOR 2024 – Commodity Billed Revenues Five Year Average; (6) WGPOR 2024 – Year 4 Implementation Cost Calculation; (7) Year 4 – 3rd Party Marketer Revenue Lag; (8) WGPOR 2024 Utility Cost of Capital – Overall and Pretax Returns Effective January 16, 2024 from *Formal Case No. 1169* Approved Order; (9) WGPOR 2024 – Class Allocation Factors; (10) WGPOR 2024 – Calculation of the 3rd Party Marketer AR LagWG; and (11) Determination of Operating Revenues Composite Days Lag.[7]

4. The WGPOR 2024 POR Discount Rate Calculation includes the following components: (1) Component No. 1 Bad Debt Expense $231,233; (2) Sub-Component No. 1 Late Payment Revenues ($188,038); (3) Component No. 1 - Bad Debt Expense - Net Late Payment Revenues of $43,195 [*i.e.*, Component 1 plus Sub-Component No.1]; (4) Component No. 2 - Implementation Costs, $108,508; (5) Component No. 3 - Incremental Collection Costs, $38,178; (6) Component No. 4 – Cash Working Capital Costs, $243,321; (7) Component No. 5 – Risk Factor, $0; (8) Component No. 6 - Reconciliation Factor $225,751; (9) Total Annual Costs, $658,954; (10) Commodity Billed by WGL on Behalf of 3rd Party Marketers, 2014 for first-year calculation, $30,816,628; and (11) POR Discount Rate – Residential 7.718%; Non-Residential 0.478%.[8] Accordingly, WGL proposes to amend the following tariff page:[9]

GENERAL SERVICES TARIFF, P.S.C.-D.C. No. 3
(Former) Third Revised Page No. 27GG
(New) Fourth Revised Page No. 27GG

5. Any person interested in commenting on the subject matter of this proposed tariff may submit written comments not later than thirty (30) days after publication of this Notice in the *D.C. Register* addressed to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005, and sent electronically on the Commission's website at https://edocket.dcpsc.org/public/public_comments. Copies of the proposed tariff may be obtained by visiting the Commission's website at www.dcpsc.org. Once at the website, open the "eDocket" tab, click on "Search Current Dockets," and input "WGPOR" as the case number. Copies may also be purchased at cost by contacting the Commission Secretary at the address provided above. Persons with questions concerning this NOPT should call (202) 626-5150 or send an email to psc-commissionsecretary@dc.gov. After the comment period has expired, the Commission will take final action on the tariff.

[7] Tariff filing at 1-19.

[8] Tariff filing at 1.

[9] Tariff filing at 275.

A TRUE COPY: **BY DIRECTION OF THE COMMISSION:**

CHIEF CLERK: **BRINDA WESTBROOK-SEDGWICK**
COMMISSION SECRETARY

DISTRICT OF COLUMBIA RETIREMENT BOARD
NOTICE OF CLOSED MEETING

Board of Trustees
May 16, 2024, 9:00 a.m.
900 7th Street, N.W., 2nd Floor
Washington, D.C 20001

The District of Columbia Retirement Board (DCRB) will hold a closed meeting on Thursday, May 16, 2024, at 9:00 a.m. for the purpose of training and developing members of a public body and staff pursuant to D.C. Code § 2-575(b)(12).

This meeting will be held virtually via WebEx. The entire meeting will be closed pursuant to D.C. Code § 2-575(b)(12) for training.

For additional information, please contact Johniece Harris, Board Liaison, at (202) 343-3200 or johniece.harris@dc.gov, or visit https://dcrb.dc.gov/page/agendas-board-committee-meetings.

AGENDA

I.	Call to Order and Roll Call	Chair Bress
II.	Move to enter into closed session to train and develop members of a public body and staff pursuant to DC Code § 2-575(b)(12)	Chair Bress
III.	Move to end closed session and adjourn the meeting	Chair Bress

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.

DISTRICT OF COLUMBIA RETIREMENT BOARD

NOTICE OF INVESTMENT COMMITTEE MEETING

May 16, 2024
10:00 a.m.
900 7th Street, N.W.
2nd Floor, DCRB Boardroom
Washington, D.C 20001

The District of Columbia Retirement Board (DCRB) will hold an Investment Committee meeting on Thursday, May 16, 2024, at 10:00 a.m. to consider investment matters. This meeting will be held virtually via WebEx. A general agenda for the open portion of the meeting is outlined below.

Please call one (1) business day prior to the meeting to ensure the meeting has not been cancelled or rescheduled. For additional information, please contact Johniece Harris, Board Liaison, at (202) 343-3200 or johniece.harris@dc.gov.

AGENDA

I.	Call to Order and Roll Call	Committee Chair Weers
II.	Approval of Investment Committee Meeting Minutes	Committee Chair Weers

Agenda items III through V will be in closed session in accordance with D.C. Code §2-575(b)(1), (2), and (11) and §1-909.05(e) to deliberate and make decisions on investments matters, the disclosure of which would jeopardize the ability of DCRB to implement investment decisions or to achieve investment objectives.

III.	Chair's Comments	Committee Chair Weers
IV.	Chief Investment Officer's Report	Mr. Sahm
V.	Other Business	Committee Chair Weers
VI.	Adjournment	

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.

DISTRICT OF COLUMBIA RETIREMENT BOARD
NOTICE OF PUBLIC MEETING

Board of Trustees
May 16, 2024, 1:30 p.m.
900 7th Street, N.W.
2nd Floor, DCRB Boardroom
Washington, D.C. 20001

The District of Columbia Retirement Board (DCRB) will hold a virtual Open Board meeting on Thursday, May 16, 2024, at 1:30 p.m. via WebEx. The meeting's general agenda is below.

WebEx Meeting	Telephone: 650-479-3208	Conference Access Code: 2312 308 1234	Meeting Password: CqkhvGqJ532

Please call one (1) business day prior to the meeting to ensure the meeting has not been cancelled or rescheduled. For additional information, please contact Johniece Harris, Board Liaison, at (202) 343-3200 or johniece.harris@dc.gov, or visit https://dcrb.dc.gov/page/agendas-board-committee-meetings.

AGENDA

I.	Call to Order and Roll Call	Board Chair Bress
II.	Approval of Board Meeting Minutes	Board Chair Bress
III.	Chair's Comments	Board Chair Bress
IV.	Executive Director's Report	Mr. Balestrieri
V.	Investment Committee Report	Committee Chair Weers
VI.	Operations Committee Report	Committee Chair Saunders
VII.	Benefits Committee Report	Committee Chair Gregg
VIII.	Legislative Committee Report	Committee Chair Blanchard
IX.	Audit Committee Report	Committee Chair Harris
X.	Other Business	Board Chair Bress
XI.	Adjournment	

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Finance and Budget Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Finance and Budget Committee will hold a meeting via Microsoft Teams on Thursday, May 23, 2024, at 9:30 a.m. This meeting will **not** be held in the Board Room (2nd floor) at 1385 Canal Street, S.E. The Chief Executive Officer and General Manager invites the public to attend the meeting via Microsoft Teams. Below is the draft agenda for this meeting. Please see the final agenda posted to DC Water's website at www.dcwater.com, which will include remote access information for this meeting.

For additional information, please contact Michelle Rhodd, Board Secretary at (202) 787-2331 or Michelle.Rhodd@dcwater.com.

DRAFT AGENDA

1. Call to Order	Committee Chairperson
2. April 2024 Financial Report	Vice President, Budget
3. Action Items	CFO and EVP, Finance and Procurement
4. Agenda for June 2024 Committee Meeting	Committee Chairperson
5. Executive Session	Committee Chairperson
6. Adjournment	Committee Chairperson

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA Application No. 20687-A
Lloyd and Margaret Belcher
1127 G Street, NE (Square 983, Lot 57)

HEARING DATE (20687):	April 20, 2022
DECISION DATE (20687):	April 20, 2022
ORDER ISSUANCE DATE (20687):	April 27, 2022
DECISION DATE (20687-A):	April 24, 2024

SUMMARY ORDER ON REQUEST FOR MODIFICATION OF CONSEQUENCE

Pursuant to notice, at its April 24, 2024 public meeting, the Board of Zoning Adjustment ("**Board**" or "**BZA**") deliberated on a request for modification of consequence to BZA Order No. 20687 to construct a new detached two-story accessory garage with a second story artist studio in RF-1 zone. The Board considered the request for modification of consequence under Subtitle Y § 703 of Title 11 of the DCMR (Zoning Regulations of 2016, the "**Zoning Regulations**" to which all references are made unless otherwise specified). For the reasons stated below, the Board **APPROVES** the request for modification.

ORIGINAL APPLICATION. In Application No. 20687, the Board approved the request by Lloyd and Margaret Belcher (the "**Applicant**") for special exception relief from the lot occupancy requirements of Subtitle E § 304.1, the accessory building area requirements of Subtitle E § 5003.1, and from the matter-of-right uses of Subtitle U § 301. The Board issued Order No. 20687 on April 27, 2022. (Exhibit 4 of the record for Case No. 20687-A.)

PROPOSED MODIFICATION. On February 6, 2024, the Applicant submitted a request for modification of consequence to Order No. 20687. (Exhibits 1-11.) The Applicant proposed to change the second floor of the accessory structure from a dwelling unit to an artist studio, as well as design changes to the structure. The Applicant submitted revised plans reflecting these modifications. (Exhibit 3.)

NOTICE OF THE REQUEST FOR MODIFICATION. Pursuant to Subtitle Y §§ 703.8-703.9, the Applicant provided proper and timely notice of the request for modification of consequence. (Exhibit 1.)

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commission ("**ANC**") 6A.

ANC REPORT. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on April 11, 2024, at which a quorum was present, the ANC voted to support the modification. (Exhibit 13.) The ANC report raised no issues or concerns.

OFFICE OF PLANNING ("OP") REPORT. OP submitted a report recommending approval of the modification. (Exhibit 12).

DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT. DDOT did not submit a report to the record.

CONCLUSIONS

The Board determines that the Applicant's request complies with Subtitle Y § 703.4, which defines a modification of consequence as a "proposed change to a condition cited by the Board in the final order, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Board." Based upon the record, the Board concludes that in seeking a modification of consequence, the Applicant has met its burden of proof under Subtitle Y § 703.4.

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form where granting an application when there was no party in opposition. As a summary order, it does not constitute binding legal precedent on the Board and shall not be considered by the Board in evaluating future applications.

DECISION

It is therefore **ORDERED** that this application for a modification of consequence of BZA Order No. 20687 is hereby **APPROVED** consistent with the plans shown in Exhibit 3 of the record, as required under Subtitle Y §§ 604.9 and 604.10.

In all other respects, Order No. 20687 remains unchanged.

VOTE: **4-0-1** (Lorna L. John, Carl H. Blake, Chrishaun S. Smith, and Tammy M. Stidham to APPROVE; Frederick L. Hill not present, not participating)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: April 26, 2024

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

BOARD OF ZONING ADJUSTMENT

BZA Application No. 21013(1)
Southern Veterinary Partners
7150 12th Street, N.W. (Square 2950, Lot 3)

HEARING DATE: December 20, 2023
DECISION DATE: December 20, 2023

CORRECTED SUMMARY ORDER[1]

RELIEF REQUESTED. The application requests the following relief in order to construct an animal care and boarding establishment in an existing, detached, six-story, mixed use building in the WR-2 zone:

- Special Exception under the special exception uses of Subtitle K § 915.2(a), pursuant to Subtitle X § 901.2

The zoning relief requested in this case was self-certified. (Exhibit 45 (Final)[2]; Exhibit 24 (Revised); Exhibit 4 (Original).)

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commission ("**ANC**") 4A, the "affected ANC" pursuant to Subtitle Y §§ 101.8 and 403.5(b) of the Zoning Regulations (Title 11 of the DCMR, Zoning Regulations of 2016, to which all references are made unless otherwise specified).

NOTICE OF THE APPLICATION AND PUBLIC HEARING. The Board of Zoning Adjustment (the "**Board**") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

ANC REPORT. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on October 3, 2023, at which a quorum was present, the ANC voted to support the application. (Exhibit 32.) The ANC report raised no issues or concerns.

OFFICE OF PLANNING ("OP") REPORT. OP submitted a report recommending approval of the application. (Exhibit 42.)

[1] The Order has been corrected to include the accurate record lot number associated with the subject application (Square 2950, Lot 3). The original order included an air rights lot number not relevant to this BZA application.

[2] Exhibit 45 clarified that the Applicant requested relief from Subtitle K § 915.2. *See also*, Updated Burden of Proof (Exhibit 41 at p. 2) specifically referencing § 915.2**(a)**.

DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT. DDOT did not submit a report to the record for this application.

CONCLUSIONS

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form where granting an application when there was no party in opposition. As a summary order, it does not constitute binding legal precedent on the Board and shall not be considered by the Board in evaluating future applications.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested special exception relief can be granted because:

- It is in harmony with the general purpose and intent of the Zoning Regulations and Map;
- It will not tend to affect adversely the use of neighboring property; and
- Pursuant to Subtitle X § 901.2(c), the relief satisfies the specified conditions for special exception relief.

DECISION

Based on the case record and the testimony at the hearing, the Board concludes that the applicant has satisfied the burden of proof for the requested relief:

- Special Exception under the special exception uses of Subtitle K § 915.2(a), pursuant to Subtitle X § 901.2

Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown in Exhibit 6 of the record,[3] as required under Subtitle Y §§ 604.9 and 604.10.

VOTE: **5-0-0** (Frederick L. Hill, Lorna L. John, Chrishaun S. Smith, Carl H. Blake, and Anthony J. Hood to APPROVE)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

[3] Self-Certification. The zoning relief requested in this case was self-certified, pursuant to Subtitle Y § 300.6. In granting the requested self-certified relief subject to the plans submitted with the Application, the Board makes no finding that the requested relief is either necessary or sufficient to authorize the proposed construction project described in the Application and depicted on the approved plans. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any such application that would require additional or different zoning relief from what is granted by this Order.

A majority of the Board members approved the issuance of this order
FINAL DATE OF ORDER: April 26, 2024

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF BUILDINGS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA Application No. 21094
Chari and Delwyn Voss
235 10th Street, N.E. (Square 964, Lot 811)

HEARING DATE: **April 24, 2024**
DECISION DATE: **April 24, 2024**

SUMMARY ORDER

RELIEF REQUESTED. The application requests the following relief in order to construct a two-story rear addition to an existing attached two-story principal dwelling unit with cellar in the RF-1 zone:

- Special Exception from the lot occupancy requirements of Subtitle E § 210.1, pursuant to Subtitle E § 5201 and Subtitle X § 901.2

The zoning relief requested in this case was self-certified. (Exhibit 4.)

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commission ("**ANC**") 6A, the "affected ANC" pursuant to Subtitle Y §§ 101.8 and 403.5(b) of the Zoning Regulations (Title 11 of the DCMR, Zoning Regulations of 2016, to which all references are made unless otherwise specified).

NOTICE OF THE APPLICATION AND PUBLIC HEARING. The Board of Zoning Adjustment (the "**Board**") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

ANC REPORT. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on April 11, 2024, at which a quorum was present, the ANC voted to support the application. (Exhibit 23.) The ANC report raised no issues or concerns.

OFFICE OF PLANNING ("OP") REPORT. OP submitted a report recommending approval of the application. (Exhibit 18.)

DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT. DDOT submitted a report indicating that it had no objection to the application because it concluded that the relief would not result in any adverse impacts to the District's transportation network. (Exhibit 20.)

PERSONS IN SUPPORT. The Board received three letters from neighbors in support of the application. (Exhibits 12, 13, and 19.) The Board also received a letter in support from the Capitol Hill Restoration Society. (Exhibit 22.)

CONCLUSIONS

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form where granting an application when there was no party in opposition. As a summary order, it does not constitute binding legal precedent on the Board and shall not be considered by the Board in evaluating future applications.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested special exception relief can be granted because:

- It is in harmony with the general purpose and intent of the Zoning Regulations and Map;
- It will not tend to affect adversely the use of neighboring property; and
- Pursuant to Subtitle X § 901.2(c), the relief satisfies the specified conditions for special exception relief.

DECISION

Based on the case record and the testimony at the hearing, the Board concludes that the applicant has satisfied the burden of proof for the requested relief:

- Special Exception from the lot occupancy requirements of Subtitle E § 210.1, pursuant to Subtitle E § 5201 and Subtitle X § 901.2

Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown in Exhibit 6 of the record,[1] as required under Subtitle Y §§ 604.9 and 604.10.

VOTE: **4-0-1** (Lorna L. John, Carl H. Blake, Chrishaun S. Smith, and Tammy M. Stidham to APPROVE; Frederick L. Hill not present, not participating)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: April 29, 2024

[1] Self-Certification. The zoning relief requested in this case was self-certified, pursuant to Subtitle Y § 300.6. In granting the requested self-certified relief subject to the plans submitted with the Application, the Board makes no finding that the requested relief is either necessary or sufficient to authorize the proposed construction project described in the Application and depicted on the approved plans. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any such application that would require additional or different zoning relief from what is granted by this Order.

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF BUILDINGS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

ZONING COMMISSION ORDER NO. 03-12Z/03-13Z
Z.C. Case No. 03-12Z/03-13Z
District of Columbia Housing Authority
(Five-Year Time Extension for PUD
@ Square 739, Lot 800-802, Square 767, Lot 44-47 and Square 768, Lot 19-22)
January 25, 2024

Pursuant to notice, at a public meeting of the Zoning Commission for the District of Columbia (the "Commission") held on January 25, 2024, the Commission approved the request of the District of Columbia Housing Authority ("DCHA") for a five-year time extension of the December 18, 2023 deadline to file applications for second-stage planned unit development ("PUD") approval established by Z.C. Order No. 03-12/03-13 (the "Original Order"), as extended by Z.C. Order Nos. 03-12I/03-13I, 03-12R/03-13R, and 03-12X/03-13X for Lots 800-802 in Square 739, Lots 44-47 in Square 767, and Lots 19-22 in Square 768[1] (collectively, the "Property"), together with a waiver of the time limitations of Subtitle Z §§ 705.3 and 705.5 (the "Application"). The Commission reviewed the Application pursuant to the Commission's Rules of Practice and Procedure, which are codified in Subtitle Z of Title 11 of the District of Columbia Municipal Regulations (the "Zoning Regulations," to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. Background

1. By the Original Order, effective on October 8, 2004, the Commission granted Capper Carrollsburg Venture, LLC, DCHA, and Square 769, LLC (collectively, the "Applicant") preliminary PUD approval for the Property, together with other properties located in the southeast quadrant of Washington, D.C. (collectively with the Property, the "PUD Site").

2. The parties to the Original Order were the Applicant and Advisory Neighborhood Commissions ("ANC") 6B and 6D.

3. The Original Order required the filing of the first second-stage PUD application for those portions of the PUD Site for which the Original Order only granted preliminary PUD approval by April 8, 2006, and all remaining second-stage PUD applications by October 8, 2008.

4. The Applicant filed its first second-stage PUD application in Z.C. Case 03-12A/03-13A on April 29, 2005, prior to the April 8, 2006, deadline of the Original Order.

5. On June 26, 2009, in Z.C. Order No. 03-12I/03-13I, the Commission extended the October 8, 2008, deadline to file second-stage PUD applications for Squares 739, 767, and 768 to December 31, 2013.

[1] Although the Application included Lot 77 in Square 882, this lot is subject to the second-stage PUD approval of Z.C. Order No. 03-12G/03-13G, as extended by Z.C. Order Nos. 03-12L/03-13L and 03-12P/03-13P, and so is not properly part of this approval.

6. On April 24, 2015, in Z.C. Order No. 03-12R/03-13R, the Commission further extended the December 31, 2013, deadline to file second-stage PUD applications for Squares 739, 767, and 768 to December 18, 2018.

7. On August 30, 2019, in Z.C. Order No. 03-12X/03-13X, the Commission further extended the December 18, 2018, deadline to file second-stage PUD applications for Squares 739, 767, and 768 to December 18, 2023.

II. The Application

8. On December 15, 2023, prior to the expiration of Z.C. Order No. 03-12X/03-13X, DCHA filed an application for a five-year extension of the December 18, 2023, deadline to file a second-stage PUD application for the Property by December 18, 2028.

9. The Application also requested waivers of Subtitle Z § 705.5's limit of two extensions and maximum one-year term for the second extension and Subtitle Z § 705.3's maximum two-year term for extensions. The Application, as requested, would allow a fourth time extension and the extension would be for five years.

10. The Application asserted that the extension request met the requirements of Subtitle Z § 705.2.

11. The Application included a Certificate of Service attesting to service on all parties, ANCs 6B and 6D, Capper Carrollsburg Venture, LLC, and Square 769, LLC, on December 15, 2023. (Exhibit ["Ex."] 2.) The Application was also served on ANC 8F[2]. (*Id*.)

12. The Application asserted that no substantial change had occurred in any of the material facts on which the Commission had relied in approving the preliminary PUD approval for the Property in the Original Order.

13. The Application justified the requested five-year extension due to the inability to obtain sufficient financing to develop the remaining Properties, despite its good faith efforts. In particular, DCHA is committed to bringing back all 707 of the public housing units originally on the site and financing of those affordable units is difficult due to the fact that the PUD's federal funding has been depleted and the Property has lost its designation as a Difficult Development Area for purposes of the Low-Income Housing Tax Credit ("LIHTC") Investment. Continued financing resource difficulties, and the changing conditions in the area since the original PUD approval in 2004 led DCHA to commission a Master Plan to assess the development plans for the remaining Properties, which was completed in October 2021 and resulted in the following schedule for the development of the remaining Properties:
    - Developer Selection for 767 and 768 in FY 24;

[2] ANC 8F is now an affected ANC under Subtitle Z § 101.8.

- Developer Selection for 739 in FY 25;
- Stage 2 PUD 767 and 768 in FY 25;
- Stage 2 PUD for 739 in FY 26;
- Financing and tax credit application in 767 and 768 in FY 27; and
- Financing and tax credit application in 739 in FY 28.

14. The Application asserted that good cause exists to grant waivers from the time limitations in Subtitle Z §§ 705.3 and 705.5 to allow DCHA additional time to fulfill the housing, economic and social goals sought to be achieved by the PUD approved by the Original Order, including the creation of sorely needed affordable housing.

15. The Office of Planning ("OP") submitted a January 19, 2024, report recommending approval of the Application (the "OP Report"), including waivers from the time limitations of Subtitle Z §§ 705.3 and 705.5. (Ex. 5.) The OP Report concluded that DCHA satisfied the requirements of Subtitle Z § 705.2. OP also noted that there have been no changes to the Comprehensive Plan or other planning documents to indicate that the original PUD approval is no longer consistent with land use expectations for these sites.

16. ANCs 6B and 6D, Capper Carrollsburg Venture, LLC, and Square 769, LLC did not submit responses to the Application and neither did ANC 8F.

CONCLUSIONS OF LAW

1. Subtitle Z §§ 705.2 authorizes the Commission to extend the time period of an order approving a PUD upon determining that the time extension request demonstrated satisfaction of the requirements of Subtitle Z §§ 705.2 and compliance with the limitations of Subtitle Z §§ 705.3, 705.5, and 705.6.

2. The Commission concludes that DCHA timely filed the Application on December 15, 2023, prior to the December 18, 2023, deadline for filing second-stage PUD applications that the time extension seeks to extend.

3. Subtitle Z § 705.2(a) requires that an Applicant serve the extension request on all parties and that all parties are allowed 30 days to respond.

4. The Commission concludes that DCHA has satisfied Subtitle Z § 705.2(a) by demonstrating that it had served all parties – ANCs 6B, 6D, and 8F, Capper Carrollsburg Venture, LLC and Square 769. LLC – and that all were given 30 days to respond from the December 15, 2023 date of service. The Commission notes that none of the parties filed responses to the Application.

5. Subtitle Z § 705.2(b) requires that the Commission find that there is no substantial change in any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the PUD.

6. The Commission concludes that the Application satisfied Subtitle Z § 705.2(b) based on the Application and the OP Report, which stated that no substantial change had occurred to the material facts upon which the Commission had relied in issuing the Original Order.

7. Subtitle Z § 705.2(c) requires that an application demonstrate with substantial evidence one or more of the following criteria:

(1) An inability to obtain sufficient project financing for the development, following an applicant's diligent good faith efforts to obtain such financing because of changes in economic and market conditions beyond the applicant's reasonable control;
(2) An inability to secure all required governmental agency approvals for a development by the expiration date of the PUD order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or
(3) The existence of pending litigation or such other condition, circumstance or factor beyond the applicant's reasonable control that renders the applicant unable to comply with the time limits of the order.

8. The Commission concludes that the Application met the standard of Subtitle Z § 705.2(c)(1) because DCHA has diligently pursued financing to develop the remaining Properties but has been unable to obtain financing due to market conditions outside of its reasonable control.

9. Subtitle Z § 101.9 authorizes the Commission to waive any of the provisions of Subtitle Z if, in the judgment of the Commission, the Applicant demonstrates good cause for the waiver and the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.

10. The Commission concludes that the Applicant demonstrated good cause to waive Subtitle Z § 705.5's limit of two extensions and maximum one-year term for the second extension and Subtitle Z § 705.3's maximum two-year term for extensions because DCHA has continued to move forward with development plans for the remaining Properties despite the financing setbacks and granting the extension would allow the approved development to occur on the Properties including the creation of sorely needed affordable housing. The Commission determined that granting the waiver will not prejudice the rights of any party nor is it otherwise prohibited by law.

"Great Weight" to the Recommendations of OP

11. The Commission is required to give "great weight" to the recommendations of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990. (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.).) and Subtitle Z § 405.8 (*Metropole Condo. Ass'n v. District of Columbia Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)

12. The Commission found OP's recommendations to approve the Application and the waivers persuasive and concurred in that judgment.

"Great Weight" to the Written Report of the ANC

13. The Commission must give "great weight" to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.).) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase "issues and concerns" to "encompass only legally relevant issues and concerns." (*Wheeler v. District of Columbia Bd. of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (D.C. 1978) (citation omitted).)

14. None of the affected ANCs, 6B, 6D, or 8F, submitted a written response to the Application; therefore, the Commission has nothing to which it can give "great weight."

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Applicant's request for:

- Waivers from Subtitle Z §§ 705.3 and 705.5; and
- A five-year time extension to extend the deadline for second-stage PUD applications to be filed for Squares 739, 767, and 768, as originally established in Z.C. Order No. 03-12/03-13 and as previously extended by Z.C. Order Nos. 03-12I/03-13I,03-12R/03-13R, and 03-12X/03-13X, to **December 18, 2028**.

VOTE (January 25, 2024): (4-0-1) (Anthony J. Hood, Tammy Stidham, Robert E. Miller, Joseph S. Imamura to **APPROVE**; 3rd Mayoral Appointee seat vacant)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 03-12Z/03-13Z shall become final and effective upon publication in the *District of Columbia Register*; that is, on May 10. 2024.

BY ORDER OF THE D.C. ZONING COMMISSION
A majority of the Commission members approved the issuance of this Order.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL

APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

ZONING COMMISSION ORDER NO. 12-01G
Z.C. Case No. 12-01G
The Catholic University of America
(Amendment to and Further Processing of an Approved Campus Plan)
March 7, 2024

Pursuant to notice, at its March 7, 2024 public hearing, the Zoning Commission for the District of Columbia (the "Commission") deliberated upon the application (the "Application") of The Catholic University of America (the "Applicant" or "University") for the following relief under the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all subsequent citations refer unless otherwise specified):

- An amendment of the University's 2012-2027 Campus Plan (the "Campus Plan") approved by Z.C. Order No. 12-01 ("Original Order"), as amended by Z.C. Order Nos. 12-01A, 12-01B, 12-01C, 12-01D, 12-01E, and extended by Z.C. Order No. 12-01F (collectively, the "Order"), pursuant to Subtitle X §101.1, 101.14, and 101.16; and
- A further processing pursuant to Subtitle X § 101.9 for Lot 44 in Square 3821 ("Main Campus") (the "Property") in the RA-1 zone to construct temporary housing on the Main Campus (the "Project").

The Commission reviewed the Application pursuant to the Commission's Rules of Practice and Procedures, which are codified in Subtitle Z. For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

PARTIES

1. The following were automatically parties in this proceeding pursuant to Subtitle Z § 403.5:
   a. The Applicant;
   b. Advisory Neighborhood Commission ("ANC") 5A, in which the district the Property is located and so an "affected" ANC pursuant to Subtitle Z § 101.8; and
   c. ANCs 5B, 5E and 5F, which districts are located across a street from the Property, and so also "affected" ANCs pursuant to Subtitle Z § 101.8.

2. The Commission received no requests for party status.

PRIOR APPROVALS

3. Pursuant to Z.C. Order No. 12-01, effective May 25, 2012, the Commission approved the University's Campus Plan for 2012-2027.

4. Pursuant to Z.C. Order No. 12-01A, effective September 7, 2018, to permit the construction of a service building and surface parking lot on the North Campus, the Commission approved:
   a. A modification of the Campus Plan, including a modification of Condition Nos. 3, 8, 10, 13 of the Original Order, pursuant to Subtitle X § 101.16;
   b. A further processing pursuant to Subtitle X § 101.9; and

c. A special exception from the surface parking lot screening requirements of Subtitle C § 714.

5. Pursuant to Z.C. Order No. 12-01B, effective January 3, 2020, to permit the relocation of the University's dining hall and an increase in its size, the Commission approved:
   a. A modification to the Campus Plan, including adding a new Condition No. 18 to the Original Order, pursuant to Subtitle X § 101.16; and
   b. A further processing pursuant to Subtitle X § 101.9.

6. Pursuant to Z.C. Order No. 12-01C, effective May 14, 2021, to permit the construction of an enlarged Residence Hall/Chapel, the Commission approved:
   a. A modification to the Campus Plan, including adding a new Condition No. 19 to the Original Order, pursuant to Subtitle X § 101.16; and
   b. A further processing pursuant to Subtitle X § 101.9.

7. Pursuant to Z.C. Order No. 12-01D, effective May 21, 2021, to permit the construction of the new Conway School of Nursing, the Commission approved:
   a. A modification of the Campus Plan; and
   b. A further processing pursuant to Subtitle X § 101.9.

8. Pursuant to Z.C. Order No. 12-01E, effective March 25, 2022, to permit the construction of a solar facility on the West Campus, the Commission approved:
   a. A modification of the Campus Plan; and
   b. A further processing pursuant to Subtitle X § 101.9.

9. Pursuant to Z.C. Order No. 12-01F, effective September 15, 2023, the Commission approved an extension of its approval of the Residence Hall/Chapel in Order No. 12-01C pursuant to Subtitle Z §§ 705.2 and 705.3.

NOTICE

10. Pursuant to Subtitle Z §§ 302.6 and 302.7, the University mailed a Notice of Intent to file the Application (Exhibit ("Ex.") 3D and 3D1) on September 8, 2023, more than 45 days prior to filing the Application, to:
    a. ANCs 5A, 5B, 5E, and 5F; and
    b. The owners of all property within 200 feet of the Property.

11. Pursuant to Subtitle Z § 402.1, the Office of Zoning ("OZ") sent notice on January 19, 2024 of the March 7, 2024 public hearing to: (Ex. 6, 6A.)
    a. ANCs 5A, 5B, and 5F;
    b. ANC 5A04, Single Member District Commissioner, in whose district the Property is located;
    c. ANC 5A05, ANC 5B05, ANC 5F01, and ANC 5F02;
    d. The Office of ANC;
    e. The Office of Planning ("OP");
    f. The District Department of Transportation ("DDOT");

g. The Department of Building ("DOB");
h. The Department of Energy and Environment ("DOEE");
i. The Office of Zoning Legal Division ("OZLD")
j. The Councilmember for Ward 5, in whose district the Property is located;
k. The Chairman of the Council and the At-Large Councilmembers; and
l. The owners of all property within 200 feet of the Property.

12. OZ also published notice of the March 7, 2024 public hearing, in the January 26, 2024, *District of Columbia Register* (71 DCR 001087 *et seq*.), as well as the Commission's calendar on the OZ website. (Ex. 6A.)

13. The Applicant provided evidence that it had posted and maintained notice of the public hearing on the Property in compliance with Subtitle Z § 402. (Ex. 8, 14.)

THE PROPERTY

14. The Property is located on the Main Campus of the University on the northern side and is set back at least 400 feet from Harewood Road, N.E. (Ex. 3.)

15. The Property is designated on the Campus Plan for student housing. (Ex.3.)

16. The Property is located in the RA-1 Zone District. (Ex. 3.)

17. The Project is proposed for Curley Court, which is the location formerly improved with 26 prefabricated modular temporary housing units; and the temporary housing units will utilize a locational address on Divinity Way. (Ex. 3; March 7, 2024 Public Hearing Transcript ["Tr."] at 8.)

II. THE APPLICATION

18. On December 21, 2023, the University filed the Application. The Application proposed to install prefabricated temporary modular student housing units with approximately 125 beds for students and resident advisors ("RAs"). Nineteen, one story, two- bedroom units, will provide approximately 75 beds. Two, one story buildings, with 12 bedrooms in each will provide approximately 50 beds. This residential complex has been designed to form a small village. The buildings have sloped roofs and porches and have been sited to provide open landscaped courtyards with interconnecting pathways. The modular units have been sensitively arranged around the Community Garden to maintain this important feature of the University community. Additionally, a small utility shed, approximately 13'x15', will be needed to house the electrical switchgear equipment for the temporary complex. (Ex. 3-4.)

19. The proposed temporary housing would remain within the .39 Floor Area Ratio ("FAR") allowed under the Campus Plan and the maximum 1.8 FAR permitted in the RA-1 zone by Subtitle X § 101.5. (Ex. 3.)

RELIEF REQUESTED

20. To construct the proposed temporary student housing, the Applicant requested the following relief as a special exception pursuant to Subtitle X §§ 101.9 and 901.2:
    a. An amendment of the Campus Plan to authorize the temporary housing; and
    b. A further processing to authorize construction of the temporary housing.

JUSTIFICATION FOR RELIEF

21. The Application asserted that it satisfied the requirements for a special exception because:
    a. It met the special exception standards of Subtitle X-901.2, for both the amendment to the Campus Plan and the further processing thereof pursuant to Subtitle X §§ 101.2, 101.5, 101.8, 101.10 and 101.11, because the temporary housing would not have an adverse effect on neighboring properties since:
        (i) The Property is sufficiently set back from nearby residential properties;
        (ii) The setback will sufficiently buffer any noise or visual intrusions created by the units; and
        (iii) The Project does not include parking and will not modify circulation patterns;
    b. The temporary housing will comply with the 1.8 FAR limit for campuses in the RA-1 Zone District established by Subtitle X §§ 101.5 and 101.12; and
    c. The temporary housing will be generally consistent with the parameters of the Campus Plan, although it was not specifically called for in the Campus Plan. It will not alter the Campus Plan's compliance with the requirements of Subtitle X § 101; and the University satisfied the conditions of the Original Order. (Ex. 3.)

22. On February 16, 2024, the University submitted a supplemental statement, including more detailed plans for the temporary housing uses, with the following updates:
    a. Adjusting the positions of the two 12-bedroom buildings, in the same general area, to increase the spacing between the buildings to 30 feet to provide improved daylighting and ventilation, and moving them to the south to reduce the amount of grading required;
    b. A shared ADA ramp has been incorporated between the 12-bedroom buildings, replacing the individual ramps to each building and reducing the amount of paved sidewalks;
    c. The height to the ridge of the front porch gables of the 12-bedroom units has changed from 17'-6" to 18'-0";
    d. Minor adjustments in the positions of the 19 two-bedroom units, in the same general layout, to provide additional space for pedestrian circulation through the complex;
    e. Adjustments to the proposed bioretention areas to accommodate the above noted plan adjustments; and
    f. Minor adjustments to the positions of windows and porches to work better with the interior layouts of the units. (Ex. 11-11B.)

23. At the March 7, 2024 public hearing, the University:
    a. Presented the Application to the Commission with expert testimony from Debra Nauta-Rodriguez on behalf of the University; and

b. Explained the Application's consistency with the Campus Plan, the need for the temporary housing, including the security concerns and desire to house students on-campus and the financial considerations for doing so. (Ex. 16; Tr. at 8-17.)

Additionally, in response to questions from the Commission, the University explained its intent to minimize waste at deconstruction of the temporary housing and its intent to hold a community liaison committee meeting in Spring 2024. (Tr. 17-19.)

III. RESPONSES TO THE APPLICATION

OP

24. OP submitted a report on February 26, 2024 ("OP Report") that concluded that the Application meets the applicable standards for amendments and further processing of an Campus Plan pursuant to Subtitle X § 101 because the temporary housing would:
    a. Not be inconsistent with the approved Campus Plan, which called for student housing in the location of the Project;
    b. Have no significant impacts on surrounding neighborhoods because:
        (i) It is setback from the adjacent community;
        (ii) It will not modify existing circulation patterns;
        (iii) It will not generate a significant amount of noise;
    c. Would not be inconsistent with the Comprehensive Plan and would advance Comprehensive Plan goals of the Educational Facilities and Land Use Elements;
    d. Have a relatively minimal impact on Comprehensive Plan racial equity goals and policies; therefore, the OP Report did not include disaggregated race and ethnicity data for the Planning Area in which the Property is located; and
    e. For these reasons, the OP Report recommended approval of the Application. (Ex. 13; Tr. at 22-24.)

25. At the public hearing, OP testified in support of the application and explained that it did not include disaggregated race and ethnicity for the Planning Area because there would be little to no racial equity impact given the limited scope of the Project. (Tr. at 22-24.)

DDOT

26. DDOT submitted a report dated February 26, 2024 ("DDOT Report") that concluded the proposal would not have adverse impacts on the District's transportation network. It further noted that the area to be redeveloped has several trees the size of Special Trees that should be preserved and protected in coordination with the Ward 5 Arborist. DDOT noted no objection to the proposal. (Ex. 12.)

27. DDOT did not testify at the public hearing.

ANC

28. ANC 5A submitted a report dated February 28, 2024 ("ANC 5A Report") stating that at its duly noticed public meetings on November 29, 2023 and February 28, 2024, at which a quorum of commissioners was present, the University presented the proposal. At the February 28, 2024 meeting, the ANC voted 7-0 to support the Application. The ANC noted

that the Project is consistent with the use designated for the Property in the Campus Plan and that the temporary housing is needed to meet the University's enrollment needs. It further noted that the 15-year term for the temporary housing would provide an adequate amount of time to pursue a permanent solution. (Ex. 15.)

29. ANC 5A did not testify at the public hearing and neither did the other affected ANCs, 5B, 5E, and 5F.

UNDECLARED TESTIMONY

30. Rosemary Lynch testified as "undeclared" on behalf of Father David Smith, the local superior of the Marian Fathers of the Immaculate Conception ("Fathers"), which neighbors the Property. Ms. Lynch's testimony cited concerns about noise, sunbathing, and deliveries up and down Harewood Road resulting in damage to utility pipes. To remedy these concerns, Ms. Lynch suggested that soundproofing/noise reduction measures be incorporated both in the temporary units and in surrounding landscaping; that water drain off from Marist Hill be addressed across their driveway and section of Harewood Road; and that any broken water pipes resulting from traffic be repaired at the University's cost. Finally, Ms. Lynch requested to be provided with notice of future community liaison committee meetings, to which the University agreed. (Tr. at 25-32.)

31. The PowerPoint presentation the University presented at the public hearing and submitted into the record included a landscape plan to reflect, in part, its efforts to address concerns raised by its neighbors, the Fathers, regarding potential noise generated by the students residing in the new units. The landscape plan proposed plantings will be chosen and located with the intent to mitigate noise generated by students. (*See* Ex. 16, Sheet 11.) In addition, during the public hearing the University testified that it had met with its adjacent neighbors that are embedded in the campus, the Fathers, and committed to a line of open communication in mitigating any of their concerns around construction impacts, visual screening, and noise. (Tr. at 11.) The University's commitment is a condition of this Order.

CONCLUSIONS OF LAW

1. The Commission is authorized under the Zoning Act, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Repl.).) to approve a Campus Plan consistent with the requirements set forth in Subtitle X § 101 and Subtitle Z § 302.

2. Pursuant to Subtitle X § 101, the Commission shall evaluate an application for an amendment of a campus plan and further processing as a special exception:

> *Education use by a college or university shall be permitted as a special exception subject to review and approval by the Zoning Commission under Subtitle X, Chapter 9 after its determination that the use meets the applicable standards and conditions of this chapter. (Subtitle X § 101.1.)*
>
> *The further processing of specific buildings, structures, and uses within an approved campus plan shall be processed as a special exception unless the campus*

plan approval was included in an order granting a first-stage planned unit development (PUD) for the campus, in which case the further processing shall be in the form of second-stage planned unit development applications filed consistent with the conditions of the approved campus plan/PUD. (Subtitle X § 101.9.)

Approval of a campus plan shall be based on the determination by the Zoning Commission that the application will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and will not tend to affect adversely the use of neighboring property, in accordance with the Zoning Regulations and Zoning Maps, subject to the special conditions specified in this section. (Subtitle X § 101.14.)

3. Section 8 of the Zoning Act (*see also* Subtitle X § 901.2.) establishes that the Commission may grant special exception upon its determination that the special exception:
   - *Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map;*
   - *Will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map; and*
   - *Complies with the special conditions specified in the Zoning Regulations.*

4. For the special exception requested by the Application, the "specific conditions" are those of Subtitle X § 101, specifically:
   - *Application requirements — sufficiency of plans and FAR certification* (Subtitle X §§ 101.8, 101.12.);
   - *Limits on height and density of all buildings in a campus in an R, RF, RA, or RC-1 zone* (Subtitle X §§ 101.5 - 101.7, 101.12.);
   - *Limits on commercial activities* (Subtitle X §§ 101.3, 101.4.);
   - *Limits on college/university uses off-campus* (Subtitle X § 101.10.);
   - *The uses shall be located so that they are not likely to become objectionable to neighboring property because of noise, traffic, parking, number of students, or other objectionable conditions* (Subtitle X § 101.2.);
   - *In reviewing and deciding a campus plan application or new building construction pursuant to a campus plan, the Zoning Commission shall consider, to the extent they are relevant, the policies of the District Elements of the Comprehensive Plan*. (Subtitle X § 101.11.)

5. Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the relief requested are met. In reviewing an application for special exception relief, the Commission's discretion is limited to determining whether the proposed exception satisfies the requirements of the regulations and "if the applicant meets its burden, the [Commission] ordinarily must grant the application." (*First Washington Baptist Church v. D.C. Bd. of Zoning Adjustment, 423 A.2d 695, 701 (D.C. 1981.) (quoting Stewart v. D.C. Bd. of Zoning Adjustment, 305 A.2d 516, 518 (D.C. 1973).)*

Specific Special Exception Requirements

6. Based on the case record and the Findings of Facts above, the Commission concludes that the Application satisfied the specific special exception requirements for the requested amendments to the Campus Plan and the further processing thereof as discussed below.

7. The Commission concludes that the Application included the site plan to satisfy the requirements of Subtitle X §§ 101.5-101.7, and 101.12. (Ex. 11A1-11A3.)

8. The Commission concludes that the proposed temporary housing complies with the height limits for a building in a campus in the RA-1 zone given that the maximum height of the housing will be approximately 18 feet.

9. The Commission concludes that the Application satisfied the limits on commercial uses for a college or university of Subtitle X §§ 101.3-101.4 because the amendments to the Campus Plan do not propose any commercial uses incidental to a university use as described in these subsections.

10. The Commission concludes that the Application satisfied the limits of college/university uses off-campus of Subtitle X § 101.10 because the amendments to the Campus Plan do not propose any off-campus interim or permanent uses as described in this subsection.

11. The Commission concludes that the Application satisfies Subtitle X § 101.2's requirement that the Campus Plan locate the temporary housing to not be objectionable to neighboring properties because:
    - The Property is set back from adjacent properties;
    - The facility will not generate significant noise; and
    - Will not modify existing circulation patterns.

12. The Commission concludes, pursuant to Subtitle X § 101.11, that the requested Campus Plan amendment and further processing are not inconsistent with the relevant District Elements of the Comprehensive Plan as the proposal will further policies of the Comprehensive Plan's Educational Facilities and Land Use Elements. The Commission finds that any racial equity impacts resulting from the proposal would be minimal; therefore, disaggregated race and ethnicity data for the Property's Planning Area was not relevant to the Commission's Comprehensive Plan consistency evaluation of this Application.

General Special Exception Standards (Subtitle X § 101.1, 101.14, 901.2.)

13. Based on the case record and the Findings of Facts above, the Commission concludes that the Application satisfies the general special exception standards for the requested amendments to the Campus Plan and the further processing thereof because:
    - The requested Campus Plan amendments and further processing are in harmony with the purpose and intent of the Zoning Regulations pursuant to Subtitle X § 901.2(a) because the proposed temporary housing is consistent with the University's and the

city's goals to locate university housing on campus and minimize impacts on adjacent communities;

- The requested relief is further in harmony with the purpose and intent of the Zoning Regulations because the proposed density and height are within permitted height and bulk as set forth in the approved Campus Plan; and
- The requested Campus Plan amendments and further processing will not tend to affect adversely the use of neighboring property pursuant to Subtitle X § 901.2(b) for the reasons discussed above.

"Great Weight" to the Recommendations of OP

14. The Commission must give "great weight" to the recommendations of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990, (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001).) and Subtitle Z § 405.8. (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)

15. The Commission finds OP's recommendation that the Commission approve the Application persuasive and concurred in that judgment.

"Great Weight" to the Written Report of the ANC

16. The Commission must give "great weight" to the issues and concerns raised in a written report of an affected ANC that was approved by the full ANC at a properly noticed meeting that was open to the public pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.).) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase "issues and concerns" to "encompass only legally relevant issues and concerns." (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).)

17. The Commission concurs in the ANC 5A Report's support for the Application. The Commission notes the ANC Report's conclusion that the temporary housing will support the University's goals to house students on campus, minimizing impacts on adjacent residential communities.

18. ANCs 5B, 5E and 5F did not submit written responses to the Application, and as such, there is nothing to which the Commission can give "great weight."

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the University has satisfied its burden of proof and therefore **APPROVES** the Application's request for:

- An amendment, pursuant to Subtitle X §§ 101.1, 101.14, and 101.16, to The Catholic University's 2012-2027 Campus Plan approved by Z.C. Order No. 12-01, as modified by Z.C. Orders No. 12-01A, 12-01B, 12-01C, 12-01D, 12-01E, and extended by Z.C. Order No. 12-01F (collectively the "Order"); and
- A further processing approval, pursuant to Subtitle X § 101.9, to authorize the construction of temporary housing. The conditions of the Order as amended by the Orders referenced above shall remain in full force and effect, except that new Condition Nos. 23 and 24 shall be added, to read as follows:

23. The Campus Plan shall be amended to authorize the construction of temporary housing units in accordance with the plans marked as Exhibit 11A1-11A3 of the record in Z.C. Case No. 12-01G. The University shall file an application for a building permit to construct the temporary housing units within two years after the effective date of this Order pursuant to Subtitle Z § 702.2, with construction to begin within three years after the effective date of this Order pursuant to Subtitle Z § 702.3. The temporary housing units shall be permitted for a maximum period of 15 years from the date of issuance of the certificate occupancy for the temporary housing units.

24. The University will provide the Fathers with a point of contact who will be available to discuss concerns regarding noise mitigation measures, stormwater drainage issues and damage caused to the Fathers' property by the construction of the modular units approved herein. The University will also include the Fathers in its outreach to provide information concerning the date and time of its community liaison committee meetings, as required in Condition No. 5 of Order No. 12-01.

Final Action
Vote (March 7, 2024): 4-0-1 (Joseph S. Imamura, Tammy Stidham, Anthony J. Hood and Robert E. Miller to approve; 3rd Mayoral Appointee seat vacant, not voting.)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 12-01G shall become final and effective upon publication in the *District of Columbia Register*; that is, on May 10, 2024.

BY THE ORDER OF THE D.C. ZONING COMMISSION
A majority of the Commission members approved the issuance of this Order.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL

APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 15-27G
Z.C. Case No. 15-27G
350 MORSE CPK OWNER C2, LLC
(Modification of Significance to 1st and 2nd Stage PUD @ Square 3587, Lot 834)
November 13, 2023

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on November 13, 2023, to consider an application ("Application") from 350 MORSE CPK OWNER C2, LLC ("Applicant") for a modification of significance to an approved first- and second-stage planned unit development ("PUD"), previously approved in Z.C. Order No. 15-27, as modified in Z.C. Order No. 15-27B(2), for property located at Square 3587, Lot 834 (the "Property") to convert the approved use of Building C2 from an office building with ground floor retail to a residential building with ground floor retail (the "Project").

The Commission considered the Application pursuant to the Commission's Rules of Practice and Procedures, which are codified in Subtitle Z of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR" or "Zoning Regulations" and to which all subsequent section references refer unless otherwise specified). For the reasons stated below, the Commission hereby **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

The Overall PUD Site and the Property

1. Pursuant to Z.C. Order No. 15-27, effective July 21, 2017 ("Original Order"), the Commission approved a consolidated PUD, a first-stage PUD, and a related Zoning Map amendment from the C-M-1 zone to the C-3-C zone (now MU-9) for Lots 805, 814, and 817 (part of Record Lot 6) in Square 3587 (the "Overall PUD Site").[1]

2. The Overall PUD Site has a total land area of approximately 208,671 square feet and is bounded by York Avenue, N.E. to the north, 4th Street, N.E. to the northeast, Morse Street, N.E. to the southeast, Florida Avenue to the southwest, and the Amtrak and Metrorail rail lines to the west. At the time that the Original Order was approved, the Overall PUD Site was improved with one-story industrial warehouse buildings previously used for wholesale distribution. As of the date of this Order, all of the industrial buildings on the Overall PUD Site have been razed, and all of the buildings on the individual development sites within

[1] Z.C. Order No. 15-27 was approved pursuant to the 1958 Zoning Regulations. Under the 2016 Zoning Regulations, which repealed and replaced the 1958 Zoning Regulations on September 6, 2016, the C-M-1 zone was re-designated to the PDR-1 zone and the C-3-C zone was re-designated to the MU-9 zone.
Following approval of Z.C. Order No. 15-27, new Assessment & Taxation ("A&T") lots were established for the Overall PUD Site to correspond with the individual development parcels. Accordingly, the Overall PUD Site is now known as Lots 819, 833-835, and 838-840. Lots 833-835 and 838-840 represent the individual development sites, and Lot 819 represents District-owned property that operates as the private streets and alleys surrounding the development sites. Lot 819 is not included in the Overall PUD Site's land area.

the Overall PUD Site have been constructed, other than "Building C2," which will be located on the Property. (Exhibit ["Ex."] 3.)

3. The Property is located on the east side of the Overall PUD Site and has approximately 21,290 square feet of land area. The Property is bounded by Neal Place to the north, a private alley to the east, and Union Street to the west. To the south of the Property is Lot 833, which is improved with "Building C1," which together with Building C2 will be considered a single building for zoning purposes. (Ex. 3.)

Prior Approvals for the Overall PUD Site and the Property

4. Prior Approvals for the Overall PUD Site. Pursuant to the Original Order, the Commission approved development of the Overall PUD Site with four buildings ("Building A," "Building B," "Building C," and "Building D") containing residential, retail, office, and optional hotel uses (the "Overall Project"). The Overall Project was approved to be constructed in two phases. Phase I was the consolidated PUD and included the southern portion of Building A ("Building A1"), Building B, and the southern portion of Building C (Building C1, defined above). Phase II was the first-stage PUD and included development of the northern portion of Building A ("Building A2"), the northern portion of Building C (Building C2, to be located on the Property), and Building D. (Ex. 3.)

5. Pursuant to the Original Order, the Overall Project was approved to have an aggregate density of approximately 7.1 floor area ratio ("FAR") with approximately 1,091,201 square feet of gross floor area ("GFA") devoted to residential use, approximately 52,968 square feet of GFA devoted to retail use, and approximately 217,558 square feet of GFA devoted to office use. (*See* Z.C. Order No. 15-27, Decision No. A(2).) The approved Overall Project included approximately 1,103 residential units and 682 parking spaces, with maximum building heights ranging from 78 to 130 feet. (Ex. 3.)

6. The affordable housing proffer approved for the Overall Project was 11% of the residential GFA within each residential building, with half reserved for households earning up to 50% of the median family income ("MFI") (approximately 62 units) and half reserved for households earning up to 80% of the MFI (approximately 62 units). (Ex. 3.)

7. Following issuance of the Original Order, the Commission approved subsequent applications for the individual development parcels within the Overall PUD Site as follows:
   a. Z.C. Order No. 15-27A (effective March 20, 2020) – First-stage PUD modification and second-stage PUD for Building A2;
   b. Z.C. Order No. 15-27B(1) (effective October 30, 2020) – Modification of significance to approved consolidated PUD for Building C1;
   c. Z.C. Order No. 15-27B(2) (effective October 22, 2021) – Modification of significance to approved first-stage PUD and second-stage PUD for Building C2;
   d. Z.C. Order No. 15-27D (effective February 21, 2020) – Modification of consequence to approved consolidated PUD for Building C1;
   e. Z.C. Order No. 15-27E (effective June 11, 2021) – Second-stage PUD for Building D; and

f. Z.C. Order No. 15-27F (effective September 4, 2020) – Modification of consequence to approved second-stage PUD for Building A2.

(Ex. 3.)

8. Prior First-Stage PUD for the Property. As part of the first-stage PUD in Z.C. Case No. 15-27, the Commission approved the Property to be developed with a new mixed-use building at 130 feet tall containing approximately 211,784 square feet of GFA devoted to residential use (approximately 232 residential units, plus or minus 10%), approximately 9,200 square feet of GFA devoted to retail use, and approximately 90 on-site parking spaces. The affordable housing proffer approved for Building C2 was 11% of the residential GFA, which resulted in approximately 11,648 square feet of GFA (13 units) reserved for households earning up to 50% of the MFI and approximately 11,648 square feet of GFA (13 units) reserved for households earning up to 80% of the MFI. (Ex. 3.)

9. Prior Modification to the First-Stage PUD and Second-Stage PUD for the Property. Pursuant to Z.C. Order No. 15-27B(2), effective October 22, 2021, the Commission approved a modification of significance to the first-stage PUD and a second-stage PUD for Building C2 on the Property. The approval converted the primary use of Building C2 from residential to office use, with approximately 225,398 square feet of GFA devoted to office use, approximately 6,532 square feet of GFA devoted to retail use, and approximately 132 parking spaces. The approval also included special exception relief pursuant to Subtitle C § 1500.3(c) to permit restaurant/bar uses within the penthouse. Because Building C2 was converted to office use, the affordable housing proffer was revised to a contribution of $1.5 million to the Housing Production Trust Fund, rather than the dedication of Inclusionary Zoning ("IZ") units within the building, which was no longer possible since it was converted to office use. (Ex. 3.)

10. The subject Application requested to modify the approved first- and second-stage PUDs for the Property to reinstate Building C2 as a residential building with ground floor retail. In doing so, Building C2 would revert back to the number of residential units approved in the first-stage PUD, i.e., approximately 232 units, plus or minus 10%. However, the affordable housing proffer would be enhanced such that 11% of the residential GFA in Building C2 would be devoted to IZ units, with half reserved for households earning up to 50% of the MFI and half reserved for households earning up to 60% of the MFI. (Ex. 3.)

Parties

11. Pursuant to Subtitle Z § 403.5(a), the Applicant is automatically a party to the Application.

12. Pursuant to Subtitle Z §§ 101.8 and 403.5(b), Advisory Neighborhood Commission ("ANC") 5D is automatically a party to the Application as the "affected" ANC.

13. The Commission received no requests for party status.

Notice and Setdown

14. Pursuant to Subtitle Z §§ 300.7 and 300.8, on December 22, 2022, the Applicant sent ANC 5D and the owners of all property within 200 feet of the Property a "Notice of Intent" to file the Application. (Ex. 3F.)

15. Pursuant to Subtitle Z §§ 400.9-400.12, on July 13, 2023, at its duly noticed public meeting the Commission considered the Application and voted to set the case down for a public hearing. (Transcript ["Tr."] of July 13, 2023 Regular Public Meeting at pp. 39-40.)

16. Pursuant to Subtitle Z §§ 402.1-402.2 and 402.6, on July 24, 2023, the Office of Zoning ("OZ") sent notice of the November 13, 2023, public hearing concerning the Application to:
    a. The Applicant
    b. ANC 5D;
    c. The ANC 5D01 Single Member District ("SMD") Commissioner, whose district includes the Property;
    d. The Ward 5 Councilmember, in whose Ward the Property is located;
    e. The Office of ANCs;
    f. The Office of Planning ("OP");
    g. The District Department of Transportation ("DDOT");
    h. The Department of Buildings ("DOB");
    i. The Zoning Commission Legal Department ("OZLD");
    j. The District Department of Energy & Environment ("DOEE");
    k. The Chair and At-Large Members of the DC Council; and
    l. The owners of all property within 200 feet of the Property.

    (Ex. 19, 20.)

17. Pursuant to Subtitle Z § 402.1(a), OZ published notice of the November 13, 2023 public hearing, concerning the Application in the August 4, 2023, issue of the *District of Columbia Register* (70 DCR 010814 *et seq.*) as well as on the calendar on OZ's website. (Ex. 18, 19.)

18. Pursuant to Subtitle Z §§ 402.3-402.4, 402.8-402.10, on September 29, 2023, the Applicant submitted evidence that it had posted notices of the public hearing on the Property on September 27, 2023, and on November 7, 2023, the Applicant submitted evidence that it had thereafter maintained such notices. (Ex. 22, 27-27C.)

Current Zoning

19. The underlying zoning for the Overall PUD Site, including the Property, is PDR-1 (C-M-1 under the 1958 Zoning Regulations under which the Overall PUD Site was originally approved). Pursuant to the Original Order approval, the Overall PUD Site, including the Property, was granted a PUD related map amendment to the MU-9 zone (C-3-C under the 1958 Zoning Regulations). (Ex. 3.)

Comprehensive Plan (Title 10-A DCMR)

20. The Comprehensive Plan Future Land Use Map ("FLUM") designates the Overall PUD Site, including the Property, as mixed-use (High Density Commercial / High Density

Residential / Production, Distribution and Repair ("PDR")). The Comprehensive Plan's Framework Element provides that:

a. The High-Density Commercial designation "is used to define the central employment district, other major office centers, and other commercial areas with the greatest scale and intensity of use in the District. Office and mixed office/retail buildings with densities greater than a FAR of 6.0 are the predominant use, although high-rise residential and many lower scale buildings (including historic buildings) are interspersed. The MU-9, D-3, and D-6 Zone Districts are consistent with the High-Density Commercial category, and other zones may also apply"; (10-A DCMR § 227.13)

b. The High-Density Residential designation "is used to define neighborhoods and corridors generally, but not exclusively, suited for high-rise apartment buildings. Pockets of less dense housing may exist within these areas. Density is typically greater than a FAR of 4.0, and greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The RA-4 and RA-5 Zone Districts are consistent with the High-Density Residential category, and other zones may also apply"; and (10-A DCMR § 227.8.)

c. The PDR designation "is used to define areas characterized by manufacturing, warehousing, wholesale and distribution centers, transportation services, food services, printers and publishers, tourism support services, and commercial, municipal, and utility activities which may require substantial buffering from housing and other noise, air-pollution- and light-sensitive uses. This category is also used to denote railroad rights-of-way, switching and maintenance yards, bus garages, and uses related to the movement of freight, such as truck terminals. It is important to ensure that adequate, appropriate land is provided for these PDR uses that are critical to supporting the retail, transportation and service needs of the city. A variety of zone districts apply within PDR areas, recognizing the different intensities of use and impacts generated by various PDR activities. The corresponding zone category is PDR, and the present density and height limits set in these districts are expected to remain for the foreseeable future. Other districts may also apply where the PDR map designation is striped with other land uses. In an area striped to include PDR, development must include PDR space, and on sites containing existing PDR space the amount of PDR space on-site should be substantially preserved.". (10-A DCMR § 227.14.)

21. The Comprehensive Plan Generalized Policy Map ("GPM") designates the Overall PUD Site, including the Property, as a Multi-Neighborhood Center.[2] The Framework Element states that Multi-Neighborhood Centers "are generally found at major intersections and along key transit routes. These centers might include supermarkets, general merchandise stores, drug stores, restaurants, specialty shops, apparel stores, and a variety of service-oriented businesses. These centers also may include residential and office space for small businesses, although their primary function remains retail trade." (10-A DCMR § 225.17.)

[2] The GPM also identifies part of the Overall PUD Site as within the New York Avenue, N.E. Corridor Future Planning Analysis Area (FPAA). As noted by OP in its reports, the Commission may consider the present Application prior to a planning study being completed since the Property is part of a PUD and is also governed by a Small Area Plan. (S*ee* 10-A DCMR §§ 2503.2-2503.3; Ex. 13, 25.)

"Mixed-use infill development at these centers should be encouraged to provide new retail and service uses, and additional housing and job opportunities. Infrastructure improvements to allow safe access by all transportation modes to these centers are also important for increasing equitable access." (10-A DCMR § 225.18.)

22. The Comprehensive Plan designates the Overall PUD Site, including the Property, within the Upper Northeast Area Element.

23. The Overall PUD Site, including the Property, is also subject to the Florida Avenue Market Study ("FAMS"), a Small Area Plan adopted by the D.C. Council on October 6, 2009, and the Ward 5 Works Industrial Land Transformation Study ("Ward 5 Works Study").

24. Pursuant to 10-A DCMR §§ 2501.4-2501.6, 2501.8, the Commission is tasked with evaluating the Application's consistency with the Comprehensive Plan through a racial equity lens. The Comprehensive Plan Framework Element states that equity is achieved by targeted actions and investments to meet residents where they are, to create equitable opportunities, but is not the same as equality. (10-A DCMR § 213.6.)

Further, "[e]quitable development is a participatory approach for meeting the needs of underserved communities through policies, programs and/or practices [and] holistically considers land use, transportation, housing, environmental, and cultural conditions, and creates access to education, services, healthcare, technology, workforce development, and employment opportunities." (10-A DCMR § 213.7.) The District applies a racial equity lens by targeting support to communities of color through policies and programs focusing on their needs and eliminating barriers to participate and make informed decisions. (10-A DCMR § 213.9.) In addition, 10-A DCMR § 2501.8 suggests to prepare and implement tools to use as a part of the Commission's evaluation process. Consistent with Comprehensive Plan guidance, the Commission utilizes a Racial Equity Analysis Tool (the "Tool") in evaluating zoning actions through a racial equity lens; the Commission released a revised Tool on February 3, 2023. The revised Tool requires submissions from applicants and OP analyzing the zoning action's consistency with the Citywide and Area Elements of the Comprehensive Plan, and Small Area Plans, if applicable (Part 1); a submission from applicants including information about their community outreach and engagement efforts regarding the zoning action (Part 2); and a submission from OP including disaggregated race and ethnicity data for the Planning Area affected by the zoning action (Part 3).

II. THE APPLICATION

The Project – Building C2

25. The first-stage PUD for Building C2, approved pursuant to the Original Order, approved the Property to be developed with a primarily residential building with ground floor retail. The second-stage PUD for Building C2, approved pursuant to Z.C. Order No. 15-27B(2), approved the Property to be developed with a primarily commercial office building with ground floor retail. The subject Application proposed to modify the first- and second-stage PUDs for the Property to convert Building C2 back to its originally approved use as a primarily residential building with ground floor retail. (Ex. 3.)

26. As modified in the subject Application, Building C2 would have approximately 223,142 square feet of GFA devoted to residential use (approximately 232 residential units, plus or minus 10%) and approximately 5,645 square feet of GFA devoted to retail use, of which approximately 1,125 square feet of GFA would be devoted to "Maker Space" as that term is defined in the Original Order. Building C2 would continue to have a maximum building height of 130 feet and an overall density of approximately 228,787 square feet of GFA (10.75 FAR across the Property). (Ex. 3.)

27. Approximately 143 parking spaces[3] would be located in Building C2 in three levels of below-grade parking accessed from the private alley to the east. One loading berth and one service/delivery space would be located on the ground floor and also accessed from the private alley. Approximately 79 long-term bicycle parking spaces would be located in a bicycle storage room on the ground floor, and approximately 16 short-term bicycle parking spaces would be provided on the perimeter of the Property. (Ex. 3, 11, 11A.)

28. The architectural design of Building C2 has a modern vocabulary with subtle references to the history of the neighborhood. The two street facing façades (north and west) are activated through playfully arranged balconies that contribute to the building's active character and provide access to outdoor spaces and natural light. The balconies are comprised of bronze colored metal detailing and high-performance glass, which together offer a unique architectural expression. The building elevations along the private alley (east) and south façades are comprised of contrasting punched windows set in a metal panel façade system. (Ex. 3.) At the request of OP, the Applicant added a total of 24 additional balconies to the alley-facing façade. (Ex. 28; Tr. of November 13, 2023 Public Hearing at pp. 10-11.)

29. The ground floor contains the majority of the building's amenities and lobby and serves as the social center for building residents. The primary residential entry to Building C2 is located on Union Street, with pedestrian access to the retail space provided from both Union Street and from the private alley to the east. Access to the Maker Space, parking, loading, and the ground floor long-term bicycle storage room is provided from the private alley. (Ex. 3.)

30. The rooftop contains both interior and exterior communal recreation and amenity space for building residents. The habitable portions of the penthouse are clad in metal panels and are punctuated by floor-to-ceiling glass. The upper penthouse parapet walls are solid and serve to screen the mechanical equipment. At the request of OP, the Applicant added a total of 500 square feet of solar panels to the upper penthouse parapet walls facing east and south. (Ex. 28; Tr. of November 13, 2023 Public Hearing at p. 11; Ex. 3.)

31. Building C2 will achieve LEED Gold certification under the LEED for Building Design + Construction: Multifamily Midrise v4 rating standards. Sustainable features will include

[3] The Application initially proposed 95 vehicle parking spaces, but the Applicant increased the number of spaces to 143 after further discussions with its transportation consultants. (Ex. 11, 11A.)

green roof areas, water-efficient landscaping, construction waste management techniques, recycled and sustainable materials, energy-efficient building design and systems, and high-density development in a transit-rich location. As noted, a minimum of 500 square feet of solar panels will be provided at the penthouse level. (Ex. 3.)

Applicant's Submissions and Testimony

32. Initial Application. On February 9, 2023, the Applicant filed its initial application materials, which included the following:
    a. A Statement in Support of the Application that provided an overview of the Project and justifications relating to the PUD evaluation criteria;
    b. An initial set of architectural plans and elevations;
    c. An analysis of how the Application is not inconsistent with the Comprehensive Plan, as viewed through a racial equity lens, as further discussed below; and
    d. Procedural materials required by the Zoning Regulations.

    (Ex. 1, 2, 3, 3A-3H.)

33. Supplemental Filing. On March 30, 2023, the Applicant filed a letter and corresponding architectural drawing sheets showing the addition of a third level of below-grade garage parking at Building C2. (Ex. 11-11A.) The letter stated that after working with its transportation consultants and market experts, the Applicant determined that the anticipated parking demand for Building C2 generated a need to add a third level of parking and an increase in the number of vehicle parking spaces from 95 to 143. The drawing sheets attached to the letter replaced and superseded the corresponding sheets previously submitted as part of the initial application. (*Id*.)

34. Prehearing Submission. On July 14, 2023, the Applicant filed a Prehearing Submission and supporting materials responding to comments raised by OP in its June 29, 2023, Setdown Report. The Commission did not have any specific comments or requests for additional information at the July 13, 2023 public meeting. The comments raised by OP and the Applicant's responses thereto are summarized as follows:
    a. The Applicant should add more balconies facing the alley and quantify the percentage of units with balconies:
        - The Applicant's Prehearing Submission stated that it would study adding more balconies and provide more information prior to the hearing. At the time, 23% of the units within the building had balconies;
    b. The Applicant should coordinate with DOEE to determine if LEED v4.1 is more appropriate for Building C2, and is encouraged to include renewable energy generation on-site:
        - The Applicant's Prehearing Submission stated that the Building C2 would achieve LEED Gold certification under the LEED for Building Design + Construction: Multifamily Midrise v4 rating standards, which produces an optimum tenant experience, emphasizes on-site inspections and air sealings, and maximizes energy efficiency for each unit. LEED for Multifamily Midrise does not yet have a v4.1, and accordingly, the Applicant stated that it would not pursue that standard. The Applicant also stated that it would study adding renewable energy generation and provide more information prior to the hearing; and

c. The Applicant should consider more Maker Space in the building:
   - The Applicant responded that it would provide a minimum of 1,125 square feet dedicated to Maker Space, and that additional space was not available due to the limited area for commercial use. However, a total of 4,500 square feet of maker space will be provided across the Overall PUD Site, all of which will be marketed at a reduced rent by a retail broker with experience marketing to and securing a variety of tenant types, including makers.

The Prehearing Submission also included (i) a summary of the Applicant's continued engagement with ANC 5D, including a reference to the ANC resolution dated June 2, 2023 (Ex. 12.), in which the ANC stated that it voted in support of the Application at its regularly scheduled and duly noticed public meeting of May 8, 2023 (vote of 6-0 with one abstention); and (ii) other materials required by the Zoning Regulations. (Ex. 14-15C.)

35. Applicant's Transportation Report. On October 2, 2023, the Applicant filed a Comprehensive Transportation Review ("CTR") Report, which included a draft Transportation Demand Management ("TDM") plan and Loading Management Plan ("LMP"). The CTR concluded that the TDM plan would adequately promote non-vehicular modes and carry through the previous commitments of existing approvals; that the LMP would ensure efficient operation of the loading facilities, which would be accessed from the private alley to limit impacts of loading in public space, and that the Project would not have a detrimental impact on the surrounding transportation network. (Ex. 23-23A.)

36. Applicant's Supplemental Prehearing Submission. On October 24, 2023, the Applicant filed a Supplemental Prehearing Submission, which responded to the two outstanding issues raised in OP's Setdown Report and included a fully revised set of architectural plans and elevations (the "Building C2 Plans"). The Building C2 Plans showed the updates requested by OP and replaced and superseded all other architectural plans and elevations previously submitted to the case record. Specifically, the Building C2 Plans showed the following:
   a. The addition of 12 new balconies on the alley-facing building façade, in response to OP's request to incorporate additional balconies in this location; and
   b. The addition of a minimum of 250 square feet of solar panels on the south façade of the penthouse, in response to OP's request to include renewable energy generation on-site.

   (Ex. 24-24A4.)

37. Applicant's Direct Presentation. In advance of the November 13, 2023 public hearing, the Applicant filed a PowerPoint presentation. (Ex. 28.) At the public hearing the Applicant presented the Application as follows:
   a. The Applicant did not provide testimony from any witnesses, but it did provide a response to comments raised in the OP Hearing Report (hereinafter defined) as follows:
      (i) The Applicant added 12 additional new balconies (24 total new balconies added) on the alley-facing building façade, as shown on Sheets 407 and 516 of the PowerPoint (Ex. 28.);

(ii) The Applicant agreed to double the amount of previously proposed solar panels on the project, increasing the minimum square footage from 250 square feet to 500 square feet, as shown on Sheets 516-517 of the PowerPoint (Ex. 28.); and

(iii) The Applicant provided a summary of its further engagement with DOEE regarding the project's LEED proffer. The Applicant stated it met with DOEE and confirmed it is utilizing the right LEED standard, which is LEED for Building Design + Construction: Multifamily Midrise v4;

b. The Applicant's presentation also included a commitment agreeing to both of the conditions set forth in the DDOT Report (hereinafter defined); and

c. The Applicant's presentation included architectural drawing sheets illustrating its additional commitments since the Building C2 Plans were filed with the Supplemental Prehearing Submission. The supplemental sheets (Sheets 407, 501-504, 506, 516-517, and 801 of the PowerPoint) combined with the Building C2 Plans are referred to herein as the "Approved C2 Plans."

38. Draft Findings of Fact and Conclusions of Law. On November 27, 2023, the Applicant filed draft findings of fact and conclusions of law. (Ex. 30, 30A.)

III. APPLICANT'S JUSTIFICATION FOR RELIEF

Relief Requested

39. The Application requested that the Commission approve a modification of significance to the approved first- and second-stage PUDs for the Property. The proposed modifications would revert the approved use of Building C2 from office use back to residential use, while maintaining approximately the same overall GFA and building height. Building C2 would continue to have approximately 232 residential units (plus or minus 10%), which was the same number of units approved in the Original Order. Building C2 would have 143 total parking spaces, which is a minor increase from the 132 spaces approved in the second-stage PUD. Building C2 would have slightly less retail space than originally approved and would contain 1,125 square feet of Maker Space, as required by Z.C. Order No. 15-27B(2). (Ex. 3, 3D.)

40. The Application explained that the first-stage PUD approval for Building C included zoning flexibility under the 1958 Zoning Regulations from (i) the loading berth size requirements to provide a 30-foot berth where a 55-foot berth was required; (ii) the building lot control requirements; and (iii) the rear yard depth requirements to provide a rear yard depth of 24 feet for Building C, whereas a rear yard depth of 27 feet, one inch was required. The Application further explained that the 2016 Zoning Regulations (i) do not require a 55-foot-deep loading berth, so Building C2 no longer needed flexibility from the loading berth size requirements; and (ii) the 2016 Zoning Regulations allow for multiple primary buildings to be erected on a single record lot (Subtitle C § 302.4.), so Building C2 no longer needed flexibility from the building lot control requirements. However, the Application requested continued flexibility from the rear yard depth requirements. The Application did not request any additional or new flexibility or development incentives. (Ex. 3, 3D.)

41. The Application requested various design flexibility as are set forth in the Conditions of this Order. (Ex. 3, 3D.)

PUD Balancing Test (Subtitle X § 304.3.)

42. The Application asserted that the development incentives requested, and potential impacts of the Project are appropriate and fully justified given the public benefits, project amenities, and positive impacts of the PUD, as discussed below. (Ex. 3, 3D.)

Not Inconsistent with Comprehensive Plan and Other Public Policies (Subtitle X § 304.4(a).)

43. The Application asserted that the Project is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site. In granting the Original Order, the Commission found that the consolidated and first-stage PUDs and related Zoning Map amendment for the Overall PUD Site were not inconsistent with the Comprehensive Plan for the National Capital, adopted in 2006, as amended, including the Overall PUD Site's designation on the 2013 FLUM as mixed-use (High Density Commercial / High Density Residential / PDR), and on the 2013 GPM as a Multi-Neighborhood Center. *See* Z.C. Order No. 15-27, Finding of Fact ("FF") No. 88, 91-106. The Commission further found that the PUD advanced numerous goals and policies of the written elements of the Comprehensive Plan and other District planning goals for the immediate area (*see* Z.C. Order No. 15-27, Conclusion of Law ("CL") No. 10) and was consistent with FAMS and the Ward 5 Works Study (*see* Z.C. Order No. 15-27, Findings of Fact ["FF"] No. 126-131 and 133-135). The Commission also found that the PUD would implement the purposes of the 1958 Zoning Regulations to encourage well-planned developments that would offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right standards. (*See* Z.C. Order No. 15-27, Conclusion of Law ["CL"] No. 5.)

44. The Application acknowledged that the Comprehensive Plan was updated in 2022, with a significant emphasis placed on reviewing all zoning actions through a racial equity lens as part of the overall Comprehensive Plan consistency analysis. Accordingly, the Application provided a full and complete analysis of how Building C2, as modified, would be not inconsistent with the current Comprehensive Plan, including when evaluated through a racial equity lens. (Ex. 3D and 28.)

45. The Applicant stated that the PUD, as amended by the Application, remains not inconsistent with the Comprehensive Plan for the following reasons:

a. FLUM. The PUD remains not inconsistent with the mixed-use (High Density Commercial / High Density Residential / PDR) FLUM designation. The approved PUD included a related map amendment to the C-3-C zone under the 1958 Zoning Regulations, which is equivalent to the MU-9 zone under the 2016 Zoning Regulations. The Framework Element describes the MU-9 zone as consistent with the High-Density Commercial designation. (10-A DCMR § 227.13.) The Project will consist of a residential building having an FAR of 10.75 across the Property which is not inconsistent with the densities contemplated by the High-Density Residential designation. (10-A DCMR § 227.8.) In addition, the Applicant stated that Building C2

will include 1,125 square feet of Maker Space, which is not inconsistent with the intent of the PDR designation;

b. GPM. The PUD remains not inconsistent with the Multi-Neighborhood Center designation on the GPM. The proposed modification of Building C2 from an office use to a mixed-use residential and retail use is consistent with the intent of this designation, which encourages a mix of uses that includes both residential and retail. (10-A DCMR § 225.18.) The Project will add variety to the Florida Avenue Market Area, increasing its residential capacity and providing additional retail options for the neighborhood. Additionally, the inclusion of the Maker Space creates an opportunity for unique retail offerings, contributing to the distinctive neighborhood character;

c. Citywide Elements. The Application stated that the Project remains not inconsistent with the Land Use, Transportation, Housing, Environmental Protection, Urban Design, Economic Development, Community Services and Facilities, and Infrastructure Elements as it will provide residential, retail, and maker space uses on a vacant site, is consistent and compatible with adjacent uses, and will provide a number of benefits to the immediate neighborhood and to the city as a whole;

d. Upper Northeast Area Element. The Application stated that the Project will further the goals of the Area Element by redeveloping a vacant site in close proximity to transit and numerous other neighborhood amenities with a new mixed-use development. The Upper Northeast Area Element encourages compatible infill development (Policy UNE-1.1.2), Metrorail station development (Policy UNE-1.1.3), streetscape improvements (Policy UNE-1.2.1), and environmental quality improvements (Policy UNE-1.2.9), all of which are policies and goals that the Project directly supports. The Project will provide much-needed new infill housing, retail, maker space, and employment opportunities, while protecting the nearby lower density residences and increasing pedestrian accessibility and safety in the area; (Policies UNE-1.1.6, 1.2.5.)

e. Florida Avenue Market Study. The Application stated that the FAMS encourages new residential, office, and retail uses that create a vibrant, mixed-use destination that retains a revitalized wholesale/retail market and incorporates a mix of densities, ranging from moderate- to medium- to high-density, designed to be integrated into surrounding development and community fabric. The PUD's architecture, open spaces, and overall site plan will retain and improve the character of the Florida Avenue Market Area and will provide a mix of densities that are appropriate for the Property and integrate well into the surrounding community. In particular, the proposed PUD modification will be consistent with the FAMS, which encourages a mix of uses at a variety of densities, and will result in a significantly enhanced public realm providing connectivity throughout the PUD that activates the sidewalks and establishes a sense of place;

f. Ward 5 Works Industrial Land Transformation Study. The Application stated that the Project will subsidize business incubator spaces that will be dedicated exclusively to makers. The proposed ground-floor retail and Maker Space provide an opportunity for certain creative; start-up maker uses that complement the food-focused retail of the Market Area, consistent with the goals of the Study; and

Racial Equity

g. The Application made the following observations and conclusions about the surrounding neighborhood in its response to the Community Outreach and Engagement component of the Commission's revised Racial Equity Tool:

- *Community Outreach and Engagement:* The Applicant has been working with ANC 5D since filing the Application, including meeting with the ANC's Zoning Committee on February 16, 2023; meeting with the ANC's Committee of the Whole on March 27, 2023; meeting with the ANC Chair individually on April 27, 2023; and presenting the Application at the regularly scheduled and duly noticed public meetings of the ANC on April 10 and May 8, 2023. The Applicant has also continued to engage with the owner of the property located to the east of the Overall PUD Site, which was in support of the original PUD application. In addition, the Applicant asserted that the proposed PUD modification advances racial equity by virtue of the Project's location in a highly transit-accessible area, as well as through the provision of several benefits. The Project will provide a significant number of new market rate and affordable dwelling units within close proximity to Metrorail, Metrobus, bicycle trails and lanes, and in a walkable area providing neighborhood-serving retail and grocery stores. The overall PUD includes significant open space and consists of extensive landscaping and stormwater improvements. In addition, there will be no direct physical displacement of residents, as the Property was previously occupied by a warehouse and is currently vacant. (Ex. 3, 3D, 15.)

Potential CP Inconsistencies

46. The Application acknowledged that the proposed Project may be viewed as potentially inconsistent with certain policies of the Comprehensive Plan, specifically Policy H-1.6.5: Net-Zero, Energy Efficient Housing and Policy E-3.2.2: Net-Zero Buildings, since the Project will not generate net-zero housing. However, the Applicant asserted that these potential inconsistencies are outweighed by the Application's overall consistency with the Comprehensive Plan, FAMS, and the Ward 5 Works Industrial Land Transformation Study, as discussed above. (Ex. 3.)

No Unacceptable Project Impacts on the Surrounding Area or the Operation of City Services (Subtitle X § 304.4(b).)

47. The Application asserted that the Project would not result in unacceptable impacts on the surrounding area or on city services that are not mitigated or acceptable given the quality of the public benefits of the Project. The Application requested approval to reinstate residential use for Building C2, as approved in the Original Order, with the same overall bulk, building height, and approximate number of residential units. Pursuant to Z.C. Order No. 15-27, CL Nos. 8 and 9, the Commission previously found that the impact of the PUD was acceptable given the quality of the public benefits provided. The Commission further found that the impact of the PUD on the surrounding area and the operation of city services was not unacceptable, and agreed with the conclusions of the Applicant's traffic expert and DDOT that the PUD would not create adverse traffic, parking, or pedestrian impacts on the surrounding community, and that the application would be approved with conditions to

ensure that any potential adverse effects on the surrounding area from the development would be mitigated. *See* Z.C. Order No. 15-27, CL No. 9; Ex. 3.)

Public Benefits and Project Amenities (Subtitle X § 304.4(c).)

48. The Application asserted that the Project includes specific public benefits and project amenities that are not inconsistent with the Comprehensive Plan or with other adopted public policies and active programs related to the subject site.

49. In the Original Order, the Commission found that the approved PUD "includes significant public benefits and amenities that warrant the high-density development." (*See* Z.C. Order No. 15-27, FF No. 130.) In making this determination, the Commission "judged, balanced, and reconciled the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects, and conclude[d] approval is warranted." (*Id*. at CL No. 6.) The approved public benefits fell within the categories of exceptional urban design, architecture and open space; housing and affordable housing; environmental benefits; employment benefits; transportation benefits; and uses of special value to the neighborhood and to the District as a whole. (*Id.* at FF Nos. 69-87.)

50. The Application did not propose any changes to the approved public benefits, other than to enhance the affordable housing proffer for Building C2 by deepening the affordability level such that the IZ units would be provided at 50% and 60% of the MFI, instead of at 50% and 80% of the MFI, as approved in the Original Order. The Application did not request additional flexibility or development incentives that would warrant a re-balancing. Therefore, the Applicant has not changed any proffers in the subject Application other than to increase the affordable housing proffer approved in Z.C. Order No. 15-27. (Ex. 3.)

IV. RESPONSES TO THE APPLICATION

OP

51. On June 29, 2023, OP filed a setdown report recommending that the Commission set down the Application for a public hearing ("OP Setdown Report"). (Ex. 13.) The OP Setdown Report included the following comments on the Application:
    a. The Application "would not be inconsistent with the maps and policies of the Comprehensive Plan, including when viewed through a racial equity lens" and the "proposal to change the use of the site from office to residential would not be inconsistent with the Comprehensive Plan, including the Plan's land use maps and written policies." OP also found that the proposed modification is consistent with the FAMS' call for high density development and greater building heights on the west side of 4th Street. In light of the trends noted in the Ward 5 Works Study, OP supports the inclusion of maker space in the Project but encourages the Applicant to provide additional space for PDR uses. In addition, OP found that the proposed modification would help fulfill the goals of the Mayor's Order on housing by revising the IZ proffer to include more deeply affordable units;
    b. The Application would further various Comprehensive Plan policy and action objectives from the Upper Northeast Area Element (Policy UNE-1.1.6; Policy UNE-

1.1.8; Policy UNE-1.1.9; Action UNE-1.1.B; Policy UNE-1.2.5; Section 2411.3, Policy UNE-2.1.2; Policy UNE-2.1.4; Action UNE-2.1.A; Policy UNE-2.3.2) as well as the Land Use (Policy LU-1.4.1; Policy LU-1.4.3; Action LU-1.4.C; Policy LU-1.5.1; Policy LU-2.1.1; Policy LU-2.2.4; Policy LU-2.4.1; Policy LU-2.4.2; Policy LU-2.4.6; Section 315.1; Section 315.6; Policy LU-3.2.3; Policy LU-3.2.10; Action LU-3.2.E), Transportation (Policy T-1.4.1; Action T-2.3.B; Policy T-2.4.1), Housing (Policy H-1.1.1; Policy H-1.1.2; Policy H-1.1.3; Policy H-1.1.4; Policy H-1.2.1; Policy H-1.2.2; Policy H-1.2.7; Policy H-1.3.1), Environmental Protection (Policy E-1.1.2; Policy E-4.1.2), Economic Development (Policy ED-2.2.3; Policy ED-2.2.4; Policy ED-2.2.5; Section 711; Policy ED-2.5.2; Policy ED-3.1.1), and Urban Design (Policy UD-2.1.1; Policy 2.1.6; Policy UD-3.2.5; Policy UD-4.2.1; Policy UD-4.2.2; Policy UD-4.2.6; Policy UD-4.3.4) Elements;

c. The OP Setdown Report noted that the "Commission previously found that the benefits proffered with the overall PUD were commensurate with the amount of flexibility requested by the application. The present modification would not change the proffered benefits associated with the PUD, other than to lower the IZ MFI levels provided in Building C2. Also, the present case does not propose any additional flexibility which would necessitate re-balancing the flexibility and benefits associated with the PUD." In addition, OP found that "[t]he present case also has the same number of residential units as the original residential building, the same height, and essentially the same floor area and massing" and therefore the Project should not create any negative impacts not capable of being mitigated;

d. The OP Setdown Report encouraged the Applicant to (1) incorporate additional balconies on the alley side and quantify the percentage of units with balconies; (2) coordinate with DOEE to determine if LEED v4.1 is more appropriate and include renewable energy generation on site; and (3) consider additional PDR space in the building in addition to the 1,125 square feet already proffered. The Applicant responded to these comments in its prehearing submission, as discussed above; and

Racial Equity

e. Disaggregated Race and Ethnicity Data: In response to Part 3 of the revised Tool, the OP Setdown Report included a discussion of disaggregated race and ethnicity data for the Upper Northeast Planning Area, which indicated that for the 2017-2021 period, home ownership rates, home rental rates, poverty, median household income, and educational attainment data shows a significant disparity between White and Black populations. OP concluded that the proposed housing development could help to alleviate some degree of inequity, especially regarding housing costs and the number of families that are housing cost burdened and help to increase access to opportunities because of the proximity to employment and transportation.

(Ex. 13.)

52. On November 3, 2023, OP filed a hearing report recommending that the Commission approve the Application ("OP Hearing Report"), and largely reiterating the findings and conclusions from the OP Setdown Report. (Ex. 25.) The OP Hearing Report made the following conclusions:

a. The modified Project, including the proposal to change the use of the Property from office to residential, would not be inconsistent with the maps and policies of the

Comprehensive Plan, including when viewed through a racial equity lens. (Ex. 25.) Several Comprehensive Plan policies would potentially be advanced by the requested modification, as summarized in the OP Setdown Report;

Racial Equity

b. The OP Hearing Report's racial equity analysis included additional disaggregated race and ethnicity data and concluded the following in response to the revised Tool:
   (i) Disaggregated Race and Ethnicity Data: Data for the Upper Northeast Planning Area indicates that the area had a majority minority population with 65% of its residents being Black and 10% of its residents being Hispanic in the 2017 to 2021 period. Though in the majority, the Black population has decreased from 71.4% of the population to 65% between 2012 and 2021, which is reflective of the District-wide trend. In contrast, the White population increased from 18.4% to 21% during the same period;
   (ii) In terms of specific factors examined by the Tool, OP concluded that the zoning action would have no impact on direct or indirect residential displacement. There would be no direct displacement, as the Property is currently vacant, and OP does not anticipate indirect displacement as a result of this zoning action. The provision of a large quantity of market rate and affordable housing could help to ease upward pressure on housing costs in the vicinity. Research shows that there is a positive relationship between the provision of more housing and the ability of Black populations to remain in a neighborhood. The proposed zoning action would have a positive impact on the quantity of housing and affordable housing, and would help to meet housing goals of the Comprehensive Plan as well as housing goals set by the Mayor. The revised IZ proffer for a deeper MFI has the potential to narrow the income disparity between White and Black populations in the Planning Area;
   (iii) The IZ units created by the development would provide increased opportunity for lower-income families to remain in the District and the Planning Area. Given the income data disaggregated by race, it can be inferred that the families benefiting the most from the IZ housing on the Property would be Black or other minority groups, which could impact the present trends of declining Black population in the Planning Area; and
   (iv) As of January 2023, according to DC's Comeback Plan, the Upper Northeast Planning Area has only achieved 53.4 percent of its 2025 affordable housing production goal of 1,350 units. This Project should help alleviate some of that shortfall. The Applicant has revised the original IZ proffer so that instead of 50% and 80% MFI units, the building would include 50% and 60% MFI units, and a number of units would also contain three bedrooms. The proposed modification to change to residential uses would help to fulfill the goals of the Mayor's Order on Housing; and

c. OP remains supportive of the overall design of the Project.

(Ex. 25.)

53. The OP Hearing Report also made the following recommendations to the Applicant:
    a. OP continues to recommend that the design of the building incorporate additional balconies on the alley side, where significant amounts of "free" space appears available to accommodate balconies;
    b. The ratio of solar panels to roof area seems to be lower than other recent projects, and the Applicant should continue to study ways to include more solar energy generation on the Property;
    c. The Applicant should continue to coordinate with DOEE to determine if LEED v4.1 would be more appropriate than the proposed LEED Gold under the LEED v4 standards; and
    d. OP continues to encourage the Applicant to consider additional PDR space in the building in addition to the 1,125 square feet already proffered.

    (Ex. 25.)

54. At the public hearing, OP testified in support of the Application and acknowledged the updates the Applicant made in response to the recommendations raised in the OP Reports, including increasing the number of balconies from 12 to 24 total and increasing the solar panels from 250 square feet to a minimum of 500 square feet. OP noted that it appreciates the Applicant meeting with DOEE and "confirming the appropriate LEED system for the building," which is LEED for Building Design + Construction: Multifamily Midrise v4. OP did not raise any additional information or provide further comments on the Application. (Tr. of November 13, 2023 Public Hearing at pp. 15-16.)

DDOT

55. DDOT submitted a report dated November 3, 2023 (Ex. 26) expressing no objection to the Application. The DDOT Report made the following findings:
    a. There are no proposed changes to vehicle or loading access. Both will continue to be provided from the private alley, consistent with DDOT standards;
    b. The Applicant proposes a revised LMP, modified to account for residential uses, to mitigate the impacts of the Property's loading operations on public space, which DDOT finds appropriate;
    c. DDOT did not require a full Comprehensive Transportation Review ("CTR") study since a CTR was conducted with the initial approval, but a transportation memo was required for this application which showed the new development plan will generate fewer trips; and
    d. The revised TDM plan carries forward commitments from the original PUD. DDOT finds the revised TDM plan is robust to encourage residents to use nonautomotive means of travel.

    (Ex. 26.)

56. The DDOT Report also noted that there is a missing curb ramp on the southwest corner of Neal Place and the private alley that is critical to ADA accessibility and safety in the area. Since this is on private property and there will not be a public space review process, the PUD plans must be updated to show an ADA compliant crossing. (Ex. 26.)

57. The DDOT Report's finding of no objection included the following two conditions:

a. The Applicant will implement the TDM plan and LMP in Attachments 1 and 2 of the DDOT Report, for the life of the Project unless otherwise noted. The revised TDM plan and LMP shall supersede the prior commitments from any of the prior second-stage PUD approvals for Building C2; and
b. The Applicant will install the missing ADA-compliant slope and will update the PUD plans to show an ADA compliant slope or curb ramp on the southwest corner of Neal Place and the private alley to facilitate crossing eastward across the alley. The Applicant's construction work would be limited to the west side of the private alley, as DDOT is in discussions with others to complete the receiving ramps on the east side. At the November 13, 2023, public hearing, the Applicant agreed to this condition and provided an updated plan sheet showing the ADA compliant slope or curb ramp in its PowerPoint presentation. (Ex. 28, Sheet 501; Tr. of November 13, 2023 Public Hearing at p. 11.)

(Ex. 26.)

58. DDOT did not testify at the public hearing.

Other District Agencies

59. No District agencies other than OP and DDOT submitted comments on the Application or testified at the public hearing.

ANC 5D

60. On June 6, 2023, ANC 5D submitted a resolution dated June 2, 2023, stating that at its regularly scheduled and duly noticed meeting on May 8, 2023, with a quorum of commissioners and the public present, ANC 5D voted 6-0 (with one abstention) to support the Application ("ANC Report"). (Ex. 12.)

61. The ANC Report stated that the "ANC believes that there is a greater need for housing, including affordable housing, and supports the design of the building, including the on-site parking which will help to alleviate potential parking demand on public streets." The ANC Report also stated that "given the extensive affordable housing proposed in this project, in addition to substantial benefits package which includes the construction of significant new infrastructure and public spaces, the ANC believes that the zoning action is not inconsistent with the Comprehensive Plan, will not create negative outcomes that cannot be mitigated, and has been developed with specific input from the community to achieve positive outcomes." (Ex. 12.)

62. The ANC Report reiterated the Applicant's continued outreach and engagement, which for the Application included meeting with the ANC's Zoning Committee and the ANC's Committee of the Whole, meeting individually with the ANC Chair, and presenting at multiple public meetings of the ANC. (Ex. 12.)

63. ANC 5D did not testify at the public hearing.

Organizations and Individuals in Support

64. No organizations or individuals filed written comments or testified in support of the Application at the public hearing.

Organizations and Individuals in Opposition

65. No organizations or individuals filed written comments or testified in opposition to the Application at the public hearing.

CONCLUSIONS OF LAW

Authority

1. Pursuant to the authority granted by the Zoning Act of 1938 (June 20, 1938, 52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Repl.)), the Commission may approve a PUD and modifications of significance to an approved PUD consistent with the requirements of Subtitle X, Chapter 3, and Subtitle Z § 704.

2. Pursuant to Subtitle X § 300.1, the purpose of the PUD process is to provide for higher quality development through flexibility in building controls, including building height and density, provided that a PUD:
   a. Results in a project superior to what would result from the matter-of-right standards;
   b. Offers a commendable number or quality of meaningful public benefits; and
   c. Protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan.

3. Pursuant to Subtitle X § 303.1: "As part of the PUD process, the Zoning Commission may grant relief from any building development standard or other standard referenced in the zone reference table with the exception of use regulations. Housing and arts credits are considered use regulations and are not eligible for flexibility through the PUD process."

4. Pursuant to Subtitle X § 304.3, in evaluating a proposed PUD, the Commission shall:
   Judge, balance, and reconcile the relative value of the public benefits and project amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case.

5. Pursuant to Subtitle X § 304.4, to approve a proposed PUD, the Commission must determine that the proposed development:
   a. Is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site;
   b. Does not result in unacceptable project impacts on the surrounding area or on the operation of city services and facilities but instead shall be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project; and
   c. Includes specific public benefits and project amenities of the proposed development that are not inconsistent with the Comprehensive Plan or with other adopted public policies and active programs related to the subject site.

6. A PUD's proposed public benefits must comply with Subtitle X § 305.12:

> *A project may qualify for approval by being particularly strong in only one or a few categories of public benefits but must be acceptable in all proffered categories and superior in many.*

7. The Comprehensive Plan Act of 1984 (D.C. Law 5-75; D.C. Official Code § 1-306.01(b).) established the Comprehensive Plan's purposes as:

1) to define the requirements and aspirations of District residents, and accordingly influence social, economic and physical development;
2) to guide executive and legislative decisions on matters affecting the District and its citizens;
3) to promote economic growth and jobs for District residents;
4) to guide private and public development in order to achieve District and community goals;
5) to maintain and enhance the natural and architectural assets of the District; and
6) to assist in conservation, stabilization, and improvement of each neighborhood and community in the District.

8. In determining whether a PUD is not inconsistent with the Comprehensive Plan, the Commission shall balance the various elements of the Comprehensive Plan. The District of Columbia Court of Appeals discussed this balancing test:

> "The Comprehensive Plan is a 'broad framework intended to guide the future land use planning decisions for the District. *Wisconsin-Newark Neighborhood Coal. v. District of Columbia Zoning Comm'n*, 33 A.3d 382, 394 (D.C. 2011) (internal quotation marks omitted). . . '[E]ven if a proposal conflicts with one or more individual policies associated with the Comprehensive Plan, this does not, in and of itself, preclude the Commission from concluding that the action would be consistent with the Comprehensive Plan as a whole.' *Durant v. District of Columbia Zoning Comm'n*, 65 A.3d 1161, 1168 (D.C. 2013). The Comprehensive Plan reflects numerous 'occasionally competing policies and goals,' and, '[e]xcept where specifically provided, the Plan is not binding.' *Id*. at 1167, 1168 (internal quotation marks omitted). Thus 'the Commission may balance competing priorities' in determining whether a PUD is consistent with the Comprehensive Plan as a whole.' *D.C. Library Renaissance Building/West End Library Advisory Grp. v. District of Columbia Zoning Comm'n*, 73 A.3d 107, 126 (D.C. 2013). . . '[I]f the Commission approves a PUD that is inconsistent with one or more policies reflected in the Comprehensive Plan, the Commission must recognize these policies and explain [why] they are outweighed by other, competing considerations. . .'" *Friends of McMillan Park v. District of Columbia Zoning Comm'n*, 149 A.3d 1027, 1033–35. (D.C. 2016.)

9. Pursuant to Subtitle X § 302.2, "[a] two-stage application has two parts as follows:

- The first-stage application involves general review of the site's suitability as a PUD and any related map amendment; the appropriateness, character, scale, height, mixture of uses, and design of the uses proposed; and the compatibility of the proposed

development with the Comprehensive Plan, and city-wide, ward, and area plans of the District of Columbia, and the other goals of the project; and

- The second-stage application is a detailed site plan review to determine transportation management and mitigation, final building and landscape materials and compliance with the intent and purposes of the first-stage approval, and this title."

10. Pursuant to Subtitle X § 309.2, if the Commission finds the application to be in accordance with the intent and purpose of the Zoning Regulations, the PUD process, and the first-stage approval, the Commission shall grant approval to the second-stage application, including any guidelines, conditions, and standards that are necessary to carry out the Commission's decision.

11. Pursuant to Subtitle Z § 704.3, an application for a modification of a second-stage PUD "shall meet the requirements for, and be processed as, a second-stage PUD application."

12. Pursuant to Subtitle Z § 704.4, the scope of the Commission's hearing to evaluate modifications of significance "shall be limited to the impact of the modification on the subject of the original application and shall not permit the Commission to revisit its original decision."

Not Inconsistent with the Comprehensive Plan and Other Adopted Public Policies Related to the Property (Subtitle X § 304.4(a).)

13. The Commission concludes that the Application results in no changes to the Commission's determination in the Original Order that the Overall Project, including Building C2, is not inconsistent with the Comprehensive Plan for the following reasons:
    a. FLUM. The Commission concludes that the Project, as revised, remains not inconsistent with the FLUM's mixed-use (High Density Commercial/High Density Residential / PDR) designation because the proposed density of 10.75 FAR across the Property is not inconsistent with the densities contemplated by the High Density Commercial and High-Density Residential land use designations. While the Comprehensive Plan calls for existing PDR space to be "substantially preserved" in areas designated PDR, 10-A DCMR § 227.14, the Commission recognizes that the Property is currently vacant and that the Applicant is devoting approximately 1,125 square feet in the Project to Maker Space use as defined in the Original Order, as well as 4,500 square feet of maker space across the entire PUD Site. The Commission acknowledges OP's recommendation that the Applicant consider adding even more PDR space but is persuaded by the Applicant's statement that it cannot add additional space due to the limited amount of commercial area in the Project. Therefore, to the extent that the limited amount of PDR space in the Project is inconsistent with the FLUM's policy regarding the PDR designation, the Commission believes this potential inconsistency is outweighed by the Project's overall consistency with the Comprehensive Plan, especially in light of the Applicant's commitment to provide affordable housing at deeper levels of affordability than previously approved under the Original Order; (FF Nos. 20, 43, 45, 51, 52.)
    b. GPM. The Commission concludes that the Project, as revised, remains not inconsistent with the GPM's Multi-Neighborhood Center designation, as it will bring a mix of

residential, and retail uses to an amenity-rich neighborhood; (FF Nos. 21, 43, 45, 51, 52.)

c. Citywide Elements. The Commission concludes that the Project, as revised, furthers the goals of the Comprehensive Plan's Citywide Elements, including the Land Use, Transportation, Housing, Environmental Protection, Economic Development, and Urban Design Elements. The Commission concurs with OP's findings that the Application is not inconsistent with these Elements because it will enable a mixed-use Project in a transit-accessible area that will complement the neighborhood's existing retail environment; (FF Nos. 43, 45, 51, 52.)

d. Area Element. The Commission concludes the Project, as revised, remains not inconsistent with the Upper Northeast Area Element because it will provide housing, retail, and maker space uses in a neighborhood with access to transit and other amenities; and (FF Nos. 22, 43, 45, 51, 52.)

e. Other Adopted Policies. The Commission concludes the Project, as revised, remains consistent with the goals and objectives of the FAMS as well as the Ward 5 Industrial Land Transformation Study, since the Project will bring a mixed-use development to the Florida Avenue Market Area that incorporates a Maker Space and opportunities for ground-floor retail. (FF Nos. 23, 45, 51.)

Racial Equity

14. The Commission concludes that the Application is not inconsistent with the Comprehensive Plan when evaluated through a racial equity lens. The Commission reaches this conclusion based on the case record and the racial equity analyses provided by the Applicant, inclusive of community outreach and engagement information, and the OP reports, inclusive of disaggregated race and ethnicity data for the Upper Northeast Planning Area: (FF Nos. 24, 43, 45, 51, 52.)

a. Applicant's Racial Equity Analysis. The Commission finds that the racial equity analysis provided by the Applicant addresses the components of the Commission's Racial Equity Tool and that the requested modifications will further Comprehensive Plan racial equity goals, primarily because of its potential to create infill housing and affordable housing, on an underutilized transit-accessible site in an amenity-rich neighborhood:

(i) *Community Outreach and Engagement*. The Applicant's racial equity analysis included evidence that it conducted community outreach and engagement, including meetings with ANC 5D and the owner of adjacent property located to the east of the Overall PUD Site. The Commission notes ANC 5D's support of the Application; and

(ii) *Displacement*. The Applicant noted that the action would not result in any direct displacement of residents as there is no existing residential use on the Property. The Commission agrees that direct displacement will not result from the Project, but acknowledges that indirect displacement in the surrounding area could result. The Commission is hopeful that any indirect displacement impacts will be mitigated by the provision of housing and employment opportunities, and neighborhood serving retail at this transit rich location; and (FF Nos. 43, 45.)

b. OP Racial Equity Analysis. OP's racial equity analysis included disaggregated race and ethnicity data for the Upper Northeast Planning Area showing significant

disparities between the White and Black population for the period of 2017-2021, and an overall decrease in the Black population from 2012 to 2021. The Commission is hopeful that the increased housing and IZ units provided by the requested modification will help mitigate housing cost burdens in the Planning Area and allow lower-income residents to remain in place. The Commission is encouraged by the fact that the Project, as revised, will include more deeply affordable housing units with half reserved for households earning up to 60% MFI, compared to half reserved for 80% MFI households as previously approved under the Original Order. (FF Nos. 51, 52, 54.)

Potential Adverse Impacts of the Project (Subtitle X § 304.4(b).)

15. Based on the case record and the Findings of Fact above, the Commission concludes that the Application will not result in any unacceptable impacts on the surrounding area or on District services or facilities that cannot be mitigated or that are not acceptable given the Overall Project's benefits and amenities. (FF Nos. 47, 51, 52.)

16. As set forth in FF No. 47, the Commission previously found that the impact of the PUD was acceptable given the quality of the public benefits provided, and that the impact of the PUD on the surrounding area and the operation of city services was not unacceptable. (*See* Z.C. Order No. 15-27, CL Nos. 8, 9.) Specifically, the Commission previously found that the PUD would not create adverse traffic, parking, or pedestrian impacts on the surrounding community, and that the Project was approved with conditions to ensure that any potential adverse effects on the surrounding area from the development would be mitigated. (*See* Z.C. Order No. 15-27, CL No. 9.) The subject Application requested to reinstate the prior residential use for Building C2, as approved in the Original Order, with the same overall bulk and building height. Accordingly, the Commission finds that the impacts of the Project, as revised, will not result in unacceptable project impacts on the surrounding area or on the operation of city services and facilities.

17. In terms of the potential transportation, traffic, loading, and parking impacts that may result specifically from Building C2, the Commission concludes that the Applicant's proposed TDM plan and LMP, as reviewed and approved by DDOT, will sufficiently mitigate any potential impacts. (FF Nos. 35, 55-57.)

18. The Commission therefore finds that the Application will not result in a change to the potential adverse impacts of the Overall Project that the Commission considered in the Original Order, and that any new potential impacts will be mitigated or are acceptable given the quality of the public benefits and amenities. (FF Nos. 47, 51, 52.)

PUD Flexibility Balanced Against Public Benefits and Project Amenities (Subtitle X § 304.4(c) and 304.3.)

19. The Commission previously determined that the PUD "includes significant public benefits and amenities that warrant the high-density development." (*See* Z.C. Order No. 15-27, FF No. 130.) In making this determination, the Commission "judged, balanced, and reconciled the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects, and conclude[d] approval is warranted." (*Id*. at CL No. 6.; FF Nos. 48-50.)

20. The Application did not propose any changes to the approved public benefits other than to increase the affordable housing proffer for Building C2 by deepening the affordability level. The Application did not include a request for any additional PUD flexibility[4] that would require the Commission to rebalance the flexibility against the public benefits or require additional public benefits. Therefore, the Applicant has not changed any proffers with this Application other than to enhance the affordable housing proffer approved in Z.C. Order No. 15-27, and the Commission accordingly continues to find that the PUD includes significant public benefits and amenities that warrant the high-density development. (FF Nos. 40, 48-51.)

"Great Weight" to Recommendations of OP

21. The Commission is required to give "great weight" to the recommendation of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.).) and Subtitle Z § 405.8. (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)

22. The Commission finds persuasive OP's analysis of the Application, its conclusion that the Application satisfies the PUD requirements and is not inconsistent with the Comprehensive Plan, including when reviewed through a racial equity lens, and its recommendation to approve the Application persuasive, and concurs with this judgment. (FF Nos. 51, 52, 54.)

"Great Weight" to Written Reports of the Affected ANC

23. The Commission must give "great weight" to the issues and concerns raised in the written report of the affected ANC pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.).) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must acknowledge the ANC's issues and/or concerns, then articulate with particularity and precision the reasons why the affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo.*, 141 A.3d at 1087.) If there are no issues or concerns expressed, then there is nothing to which to give "great weight." (*Id.*)

24. The Commission finds persuasive and concurs with ANC 5D's support for the Application. The Commission notes that the ANC Report did not list any issues or concerns and noted the Applicant's proactive engagement with the community. (FF Nos. 60-62.)

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Commission **ORDERS APPROVAL** of the Application for a modification of significance to an

[4] The Commission notes the Applicant requested flexibility from the rear yard depth requirements for Building C under the first-stage PUD approval and that the Applicant continues to request such flexibility under the 2016 Zoning Regulations.

approved first- and second-stage PUD for the Property, approved pursuant to Z.C. Order No. 15-27 (the "Original Order"), as modified by Z.C. Order No. 15-27B(2) (the "Second-Stage Order"), subject to the following conditions and provisions ("Conditions").

A. MODIFICATIONS TO THE ORIGINAL ORDER

The Conditions of the Original Order, as modified by Z.C. Order Nos. 15-27A, 15-27B(1), 15-27B(2), 15-27D, 15-27E, and 15-27F, remain in full force and effect, except that the following Conditions shall be modified to read as follows (text to be added is shown in **bold and underline** text and text to be deleted is marked in ~~**bold and strikethrough**~~ text.)

A.1 The Project shall be developed in accordance with:

- The Architectural Plans and Elevations dated December 23, 2016 (Ex. 61A1- 61A15.), as supplemented by the revised sheets dated January 26, 2017 (Ex. 72A1- 72A3.), as revised and supplemented by the sheets dated March 13, 2017 (Ex. 75A1-75A2.), as revised by the sheets dated April 7, 2017 (Ex. 76A.) ("Plans"), all in the record of Z.C. Case No. 15-27.);
- As revised by Ex. 14B of Z.C. Case No. 15-27A;
- As modified for the penthouse of Building C1, which shall be developed in accordance with the architectural drawings at Exhibit 1E of Z.C. Case No. 15- 27D, dated October 1, 2019 ("Modified C1 Penthouse Plans"), as modified by the architectural drawings at Exhibit 2C of Z.C. Case No. 15-27B, dated March 15, 2019;
- As revised by the Architectural Plans and Elevations included in Ex. 26A of Z.C. Case No. 15-27B, as revised by Sheets C-2_206, C-2_502, and C-2_505 of the Applicant's Hearing Presentation (Ex. 31A of Z.C. Case No. 15-27B.);
- As revised by the Architectural Plans and Elevations included in Ex. 25A of Z.C. Case No. 15-27E, as revised by Sheets D_503, D_504A, 505, and D_506A-B of the Applicant's Post Hearing Submission (Ex. 33A of Z.C. Case No. 15- 27E.);
- **As revised by the Architectural Plans and Elevations included at Ex. 24A1-A4 of Z.C. Case No. 15-27G;**
- **And as further modified by Sheets 407, 501-504, 506, 516-517, and 801 in the Applicant's PowerPoint Presentation included at Ex. 28 of Z.C. Case No. 15-27G** (collectively, the "Approved Plans"); and
- As modified by the guidelines, conditions, and standards of this Order.

A.2 In accordance with the Plans, the PUD shall be a mixed-use project comprised of four buildings ("Building A," "Building B," "Building C," and "Building D") constructed in two phases. Phase I (consolidated PUD) shall include the southern portion of Building A ("Building A1"), Building B, and the southern portion of Building C ("Building C1"). Phase II (first-stage PUD) shall include the northern portion of Building A ("Building A2"), the northern portion of Building C ("Building C2"), and Building D. ~~**Upon completion of all buildings, the Project shall have an aggregate density of approximately 7.1 FAR. Approximately 897,127 square feet of total gross floor area will be devoted to residential use, approximately 54,151 square feet of total gross floor area will be devoted to retail use (including Maker Space), and approximately 444,008**~~

~~**square feet of total gross floor area will be devoted to office use. Building heights shall range from approximately 78 feet to approximately 130 feet. The Project will include a total of approximately 719 off-street parking spaces**~~.[5]

B.1.[6] Prior to the issuance of a Certificate of Occupancy for ~~**each residential building**~~ **Building C2** and for the life of ~~**the Project**~~ **Building C2**, the Applicant shall demonstrate to the Zoning Administrator the following:

a. For the life of ~~**the Project**~~ **Building C2**, the Applicant shall:

(i) Provide a total of approximately ~~**897,127**~~ **223,142** square feet of residential Gross Floor Area ("GFA") of housing;

(ii) Set aside no less than 11% of the residential GFA, equaling not less than ~~**98,684**~~ **24,546** square feet, as inclusionary units as follows:

- ~~**49,342**~~ **12,272** square feet of GFA as inclusionary units for households earning equal to or less than 50% of the Area Median Income ("AMI") ("50% AMI Units");
- ~~**49,342**~~ **12,272** square feet of GFA as inclusionary units for households earning equal to or less than ~~**80%**~~ **60%** of the AMI ("~~**80%**~~ **60%** AMI Units"); and
- **Additional square footage devoted to 50% and 60% AMI Units generated by residential space within building projections pursuant to Subtitle C § 1003.5(a)(2); and**
- ~~**Additional GFA devoted to 50% AMI Units in Building A2 generated by habitable penthouse space, as required by Z.C. Order No. 15-27A;**~~
- ~~**Additional GFA devoted to 50% AMI Units in Building D generated by habitable penthouse space, subject to the following chart:**~~

~~**b. The distribution of the affordable housing units shall be in accordance with:**~~

- ~~**Sheets 122-130 of the Plans dated March 13, 2017 (Ex. 75A2 of Z.C. Case No. 15-27);**~~
- ~~**As modified by approved architectural drawings for Building A2 in Z.C. Case No. 15-27A; and**~~
- ~~**As modified for Building D by Sheet D_505 of Exhibit 33A (Applicant's Post Hearing Submission) in Z.C. Case 15-27E;**~~

c. The Inclusionary Zoning Covenant required by D.C. Official Code §§ 6-1041.05(A)(2) (2012 Repl.) shall include a provision or provisions requiring compliance with all the terms of this condition.~~ **and**~~

[5] References to the total development numbers (GFA, parking count, etc.) for the Overall Project have been deleted, as all buildings other than Building C2 have been delivered as of the issuance of this Order. The development standards for Building C2 are included at Decision No. C.2 herein.

[6] In Z.C. Order No. 15-27, Condition B.1. stated the affordable requirements for all of the residential buildings in the PUD, and the condition language was updated, as needed, with modifications to the PUD. All residential buildings in the PUD, except Building C2, are now constructed and PUD and IZ covenants are recorded for those buildings; therefore, the Condition B.1. language in this Order only references Building C2 and none of the other residential buildings in the PUD.

~~**d. Prior to the issuance of the first certificate of occupancy for above-grade space in Building C2, the Applicant shall demonstrate to the Zoning Administrator that it has contributed $1,500,000 to the Housing Production Trust Fund.**~~

B. APPLICABLE CONDITIONS OF THE ORIGINAL ORDER TO BUILDING C2

The Application shall continue to be subject to the following conditions approved in the Original Order applicable to Building C2. Text to be added is shown in **bold and underline** text and text to be deleted is marked in ~~**bold strikethrough**~~ text. Whenever compliance is required prior to, on, or during a certain time, the timing of the obligation is noted in **bold text**:

B.4 **Prior to the issuance of a Certificate of Occupancy for each building in the …[7] second-stage PUD**, each building owner shall have the individual obligation to furnish a copy of the associated LEED certification application submitted to the USGBC for that building. The application shall indicate that the subject building has been designed to include at least the minimum number of points necessary to be consistent with the USGBC LEED-Gold for New Construction v2009 rating standards**, except that Building C2 shall be designed to include at least the minimum number of points necessary to be consistent with the USGBC LEED-Gold for Building Design + Construction: Multifamily Midrise v4 rating standards**.

B.5 **Prior to the issuance of a Certificate of Occupancy for each building within the consolidated PUD and the first-stage PUD**, each building owner shall have the individual obligation to demonstrate to the Zoning Administrator that it has executed and submitted a First Source Employment Agreement to DOES for the subject building, consistent with the First Source Employment Agreement Act of 1984 and the Apprenticeship Requirements Amendment Act of 2004.

B.22 For the purposes of Conditions B.23 through B.25 the term "Makers Uses" means uses within the following use list: production, sale, and/or distribution of food and beverages (provided that the on-site consumption of food and beverages shall be permitted only as an accessory use of such production, sale, and/or distribution user); small-scale production and repair of goods and related sales; media/communications production and distribution; arts and entertainment; traditional crafts and trades; specialty sports and recreation uses (not including traditional gyms or fitness clubs); engineering and design; and technology design and production);

B.24 **Prior to the issuance of a Certificate of Occupancy for Building C2 and Building D**, the building owner shall have the individual obligation to demonstrate to the Zoning Administrator that:

a. It has dedicated a minimum of 2,250 total square feet for Makers Uses in Buildings C2 and D, or located in either Building C2 or D);

[7] The use of this and other ellipses indicate that other provisions exist in the subsection being amended and that the amendment of the provisions does not signify an intent to repeal.

b. It is marketing the Maker Spaces at 10% less rent than the average base rent charged for leased retail space across the PUD Site at the time that each Maker space is leased; and
c. It has and/or is in the process of marketing the 2,250 total square feet of Makers space to Makers Uses by retaining a retail broker with experience marketing to and securing a variety of tenant types, including Makers.

B.25 **For the life of the Project**, a minimum of 4,500 square feet of gross floor area shall be reserved in Buildings A1, B, C2 and/or D for Maker Spaces, consistent with the immediately preceding condition.

C. SECOND-STAGE PUD FOR BUILDING C2 – PROJECT DEVELOPMENT

1. Building C2 shall be developed in accordance with the approved plans described in Condition No. A.1 of Z.C. Order No. 15-27 to the extent that they apply to Building C2, as modified by:
   a. The Building C2 Plans included in the Applicant's Supplemental Prehearing Submission (Ex. 24A1-A4.); and
   b. As modified by Sheets 407, 501-504, 506, 516-517, and 801 included in the Applicant's PowerPoint Presentation (Ex. 28.) (together, the "Approved C2 Plans").

2. In accordance with the Approved C2 Plans, Building C2 shall have:
   - A maximum height of 130 feet;
   - Approximately 223,142 square feet of GFA devoted to residential use and approximately 5,645 square feet of GFA devoted to retail use, of which a minimum of 1,125 square feet of GFA shall be devoted to Maker Space;
   - 143 zoning compliant parking spaces; and
   - One loading berth at 30 feet deep, one loading platform at 100 square feet, and one service/delivery space at 20 feet deep.

3. The Applicant shall have flexibility with the design of Building C2 in the following areas:
   a. To be able to provide a range in the number of residential units of plus or minus 10%;
   b. To vary the number, location, and arrangement of parking spaces, provided that the total number is not reduced below the minimum number of parking spaces required by the Zoning Regulations;
   c. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building;
   d. To vary the sustainable design features of the Project, provided the total number of LEED points achievable for Building C2 is not below the total number of LEED points equivalent to the USGBC LEED-Gold for Building Design + Construction: Multifamily Midrise v4 rating standards;
   e. To vary the final selection of the exterior materials within the color ranges of the material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details,

locations, and dimensions, including: window mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings, canopies and trim, such that the refinements do not substantially change the external configuration or appearance of the building;

f. In the retail and service areas, flexibility to vary the location and design of the ground floor components of the Project in order to comply with any applicable District of Columbia laws and regulations, including the D.C. Department of Health, that are otherwise necessary for licensing and operation of any retail or service use and to accommodate any specific tenant requirements; and to vary the size of the retail area;

g. To vary the features, means and methods of achieving the code-required Green Area Ratio ("GAR") of 0.20; and

h. To vary the location and placement of the solar panels on the penthouse of Building C2, so long as a minimum of 500 square feet of solar panels are provided.

D. SECOND-STAGE PUD REQUIREMENTS FOR BUILDING C2

1. **Prior to the issuance of the final Certificate of Occupancy for Building C2**, the Applicant shall demonstrate to the Zoning Administrator that a minimum of 500 square feet of solar panels have been installed and are operative on Building C2's penthouse, as shown on Sheets 516-517 of Exhibit 28 of the record in Z.C. Case No. 15-27G.

E. SECOND-STAGE PUD TRANSPORTATION MITIGATION MEASURES FOR BUILDING C2

1. **For the life of Building C2**, unless otherwise noted, the Applicant shall:
   a. Unbundle the cost of vehicle parking from the lease or purchase agreement for each residential unit and charge a minimum rate based on the average market rate within a quarter mile;
   b. Identify Transportation Coordinators for the planning, construction, and operations phases of development. The Transportation Coordinators shall:
      (i) Act as the point of contact with DDOT, goDCgo, and Zoning Enforcement and will provide their contact information to goDCgo;
      (ii) Conduct an annual commuter survey of building employees and residents on-site and report TDM activities and data collection efforts to goDCgo once per year;
      (iii) Develop, distribute, and market various transportation alternatives and options to residents, including promoting transportation events (e.g., Bike to Work Day, National Walking Day, Car Free Day) on the property website and in any internal building newsletters or communications; and
      (iv) Subscribe to goDCgo's residential newsletter and receive TDM training from goDCgo to learn about the transportation conditions for this project and available options for implementing the TDM Plan.
      (v) For retail uses, will post "getting here" information in a visible and prominent location on the website with a focus on non-automotive travel modes. Also, links will be provided to goDCgo.com, CommuterConnections.com, transit agencies around the metropolitan area, and instructions for discouraging parking on-street in Residential Permit Parking (RPP) zones;

(vi) For retail uses, distribute information on the Commuter Connections Guaranteed Ride Home (GRH) program, which provides commuters who regularly carpool, vanpool, bike, walk, or take transit to work with a free and reliable ride home in an emergency;

(vii) For retail uses, demonstrate to goDCgo that tenants with 20 or more employees are in compliance with the DC Commuter Benefits Law and participate in at least one of the three transportation benefits outlined in the law (employee-paid pre-tax benefit, employer-paid direct benefit, or shuttle service), as well as any other commuter benefits related laws that may be implemented in the future;

(viii) For retail uses, provide employees who wish to carpool with detailed carpooling information and refer to other carpool matching services sponsored by the Metropolitan Washington Council of Governments (MWCOG) or other comparable service if MWCOG does not offer this in the future;

c. Offer a free SmarTrip card to each new resident or employee for the first year;

d. Ensure that long-term bicycle storage rooms will accommodate non-traditional sized bikes including cargo and tandem bikes;

e. Provide electric vehicle charging to a minimum of six parking spaces in the garage;

f. Install a Transportation Information Center Display (electronic screen) within the building lobby containing information related to local transportation alternatives;

g. Offer annual Capital Bikeshare memberships to each resident and retail employee 16 years of age or older during the initial three years after the building opens;

h. Require retail employers to participate in the Capital Bikeshare Corporate membership program and offer discounted annual memberships to employees;

i. Provide additional short and long-term bicycle parking spaces above requirements of the Zoning Regulations;

j. Not lease unused surplus parking spaces to anyone aside from tenants of the building or Market Terminal PUD unless the other building provides zero on-site parking;

k. Provide a bicycle repair station in the long-term bicycle storage room;

l. Provide one (1) collapsible shopping cart (utility cart) for every 50 residential units, for a total of five (5), to encourage residents to walk to the grocery store and run errands;

m. Provide an accessible connection from the sidewalk to the alley near the corner of Neal Place adjacent to Building C2;

n. Following the issuance of a certificate of occupancy for Building C2, the Transportation Coordinator shall submit documentation from DOB summarizing compliance with the transportation and TDM conditions of the Order (including, if made available, any written confirmation from the Office of the Zoning Administrator) to the Office of Zoning for inclusion in the IZIS case record of the case;

o. Following the issuance of a certificate of occupancy for Building C2, the Transportation Coordinator shall submit a letter to the Zoning Administrator, DDOT, and goDCgo every five years (as measured from the final certificate of occupancy for Building C2) summarizing continued compliance with the transportation and TDM conditions in the Order;

p. Contribute $25,000 to the DDOT Transportation Mitigation Fund in lieu of installing the turn lane and making traffic signal adjustments. This money will be used by DDOT within ANC 5D (the ANC of Union Market) to fund these roadway geometric changes, other traffic flow improvements, traffic calming, bike/ped improvements, and/or improved transit connections.
q. Provide at least 16 short- and 79 long-term residential bicycle parking spaces across the Building C2 Property, exceeding ZR16 minimum requirements for at least 14 short- and 65 long-term bicycle parking spaces;
r. Ensure that the 79 long-term residential bicycle parking spaces additionally meet the requirements of DCMR 18-1214 to provide at least one space per three residential units; and
s. Accommodate non-traditional sized bikes including cargo, tandem, and kids bikes in the residential long-term bicycle storage room, with a minimum of four spaces that will be designed for longer cargo/tandem bikes (10 feet by 3 feet), a minimum of eight spaces that will be designed with electrical outlets for the charging of electric bikes and scooters, and a minimum 40 spaces that will be placed horizontally on the floor; and
t. Comply with the Loading Management Plan included as Attachment 2 to the DDOT Report in Z.C. Case No. 15-27G. (Ex. 26.)

2. **Prior to the issuance of the final Certificate of Occupancy for Building C2**, the Applicant shall demonstrate to the Zoning Administrator that it has:
a. Constructed the interior bicycle parking within Building C2;
b. Exceeded the zoning requirements for bicycle parking for Building C2; and
c. Installed a transit information screen in the lobby of Building C2.

3. **Prior to the issuance of the final Certificate of Occupancy for Building C2**, the Applicant shall demonstrate to the Zoning Administrator that it has installed an Americans with Disabilities Act (ADA) compliant slope or curb ramp on the southwest corner of Neal Place and the private alley as shown on Sheet 501 of the Approved C2 Plans.

F. SECOND-STAGE PUD LOADING MANAGEMENT PLAN FOR BUILDING C2

1. **For the life of Building C2**, unless otherwise noted, the Applicant shall ensure that the following LMP components are implemented:
a. A loading dock manager will be designated by building management who will be on duty during delivery hours. The dock manager will be responsible for coordinating with vendors and tenants to schedule deliveries and will work with the community and neighbors to resolve any conflicts should they arise;
b. The dock manager will monitor inbound and outbound truck maneuvers and will ensure that trucks accessing the loading dock do not block vehicular, bike, or pedestrian traffic along the private alley except during those times when a truck is actively entering or exiting a loading berth;
c. All tenants and retail vendors will be required to schedule deliveries that utilize the loading zone (any loading operation conducted using a truck 20-feet in length or larger);

d. Delivery trucks for the retail tenants will be prohibited from serving the Property between the commuter peak hour times of 8:00 to 10:00 AM and 4:00 to 6:00 PM, Monday through Friday;
e. Retail loading in the 30-foot berth will be restricted to times before 8:00 AM and after 6:00 PM to allow for deliveries to be accessed through the building lobby from the loading berth to the retail space;
f. Outside of these hours, retail tenants may access the loading dock via the sidewalk along the private alley. This is projected to occur no more than five (5) times in a week;
g. Trucks using the loading zone will not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 – Chapter 9, Section 900 (Engine Idling), the goDCgo Motorcoach Operators Guide, and the primary access routes shown on the DDOT Truck and Bus Route Map (godcgo.com/freight);
h. The dock manager will be responsible for disseminating suggested truck routing maps to the building's tenants and to drivers from delivery services that frequently utilize the development's loading dock as well as notifying all drivers of any access or egress restrictions (e.g., no left turn onto Neal Place Extension). The dock manager will also distribute flyer materials, such as the MWCOG Turn Your Engine Off brochure, to drivers as needed to encourage compliance with idling laws. The dock manager will also post these materials and other relevant notices in a prominent location within the loading area.

G. SECOND-STAGE PUD FOR BUILDING C2 – VALIDITY

1. No building permit shall be issued for Building C2 until the Applicant has recorded a covenant in the land records of the District of Columbia, for the benefit of the District of Columbia, that is satisfactory to the Office of Zoning Legal Division and the Zoning Administrator, Department of Buildings. Such covenant shall bind the Applicant and all successors in title to construct and use Building C2 in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.

2. This Second-Stage PUD approved by the Commission shall be valid for a period of two years from the effective date of this Order. Within that time, the Applicant shall file for a building permit for Building C2 and shall begin construction of Building C2 within three years of the effective date of this Order.

VOTE (November 13, 2023): 4-0-1 (Robert E. Miller, Joseph S. Imamura, Anthony J. Hood and Tammy Stidham to **APPROVE**; 3rd Mayoral Appointee seat vacant)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 15-27G shall become final and effective upon publication in the *District of Columbia Register*; that is, on May 10, 2024.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 18-14A
Z.C. Case No. 18-14A
3840 S Capitol, LLC and 3848 Capitol, LLC
(Two-Year Time Extension for Approved PUD @ Square 6129, Lots 77 and 819)
January 25, 2024

Pursuant to notice, at its public meeting on January 25, 2024, the Zoning Commission for the District of Columbia (the "Commission") considered the application (the "Application") of 3840 S Capitol, LLC and 3848 S Capitol, LLC (the "Applicant") for a two-year time extension for the Planned Unit Development ("PUD") and related map amendment approved by Z.C. Order No. 18-14 (the "Approved PUD"). The Approved PUD permitted development of the property at Lots 77 and 819[1] in Square 6129 (the "Property"), with a new four-story, all-affordable residential building with approximately 106 residential units, including 32 three-bedroom units, and below grade parking (the "Project").

The Commission reviewed the Application pursuant to the Commission's Rules of Practice and Procedures, which are codified in Subtitle Z of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. Background

PRIOR APPROVAL

1. Pursuant to Z.C. Order No. 18-14, effective March 27, 2020 (the "Original Order"), the Commission granted a PUD and related map amendment from the RA-1 to the RA-2 zone to construct a four-story all-affordable residential building.

2. Condition D.2 of the Original Order required the Applicant to file an application for a building permit by March 27, 2022, with construction to commence no later than March 27, 2023.

PARTIES AND NOTICE

3. In addition to the Applicant, the other parties to the Original Order were Advisory Neighborhood Commission ("ANC") 8C[2] and ANC 8D, the "affected" ANCs pursuant to Subtitle Z § 101.8.

[1] When Z.C. Order No. 18-14 was approved the Property was designated as Lots 77 and 819 in Square 6129. The Property is now designated as Assessment and Taxation Lots 827 and 828 (both located on Record Lot 89) in Square 6129.

[2] When Z.C. Order No. 18-14 was approved, the Property was located within ANC 8C and ANC 8D was also an affected ANC, being located immediately southeast of the Property. The Property is now within ANC 8D and ANC 8C is no longer an affected ANC.

4. On December 18, 2023, the Applicant served the Application on ANC 8D, the Office of Planning ("OP"), and the District Department of Transportation ("DDOT"), as attested by the Certificate of Service submitted with the Application. (Exhibit ["Ex."] 2.)

II. THE APPLICATION

5. On December 18, 2023, the Applicant filed the Application requesting a two-year extension until March 27, 2025, to start construction of the Project. In addition, the Application requested two waivers. First, a waiver from Subtitle Z § 705.2's requirement that an extension request be filed before the expiration of the approval; and second, a waiver from Subtitle Z § 702.6's requirement that upon expiration of an approval, the zoning shall revert to the pre-existing regulations and map. (Ex. 2.)

6. The Application asserted that it met the requirements, under Subtitle Z § 101.9, for waivers from Subtitle Z §§ 705.2, 702.6. Pursuant to Subtitle Z § 101.9, the Commission may, for good cause shown, waive any of the provisions of this subtitle if, in the judgment of the Commission, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law. The Applicant stated that it failed to file the extension request prior to the expiration date, as required under Subtitle Z § 705.2, due to an administrative oversight. However, the Applicant otherwise continued to diligently progress with the Project by timely filing a building permit application, recording the required PUD covenant, and actively pursuing necessary financing. The Applicant further stated that if the zoning reverts to the pre-existing map, as required under Subtitle Z § 702.6, the Project's development of 106 units of much needed new, affordable and family sized housing, a majority of which will be reserved at deeper affordability levels than required under Inclusionary Zoning ("IZ"), would be derailed. Finally, the Applicant stated that the Commission's granting of the waivers will not prejudice the rights of any party and such waivers are not otherwise prohibited by law. (Ex. 2.)

7. The Application asserted that it met the requirements, under Subtitle Z § 705.2, for the proposed two-year time extension because:
   - The Applicant served the extension request on all parties to the application and all parties were allowed 30 days to respond;
   - There has been no substantial change in any material facts upon which the Commission based its original approval; and

   - Good cause justifies the Commission's granting the time extension because starting construction of the Project has been delayed due to challenges with securing financing beyond the Applicant's reasonable control, including:
     - The Project, which will be financed using Low-Income Housing Tax Credits ("LIHTC"), has an active pending application for tax-exempt bond financing with the District Department of Housing and Community Development ("DHCD") and DC Housing Finance Agency ("DCHFA"). In 2021, the financing application was selected for advancement to the second stage of review. In August 2023, DCHFA notified the Applicant that the Project had fulfilled all of the requirements for the

next stage of application review but would be deferred to a future financing round due to the applicable bond cap having already been exhausted, as evidenced by correspondence from DHCD and DCHFA; and (see Ex. 2C.)

- The Applicant's active and consistent work towards developing the Project continued following approval of the PUD despite the Original Order being issued at the immediate outset of the COVID-19 pandemic and the far-reaching disruptions it caused to the real estate industry and more broadly. (Ex. 2.)

8. The Applicant also stated that this is the first extension request for the Project. Despite being eligible to file for an COVID-related administrative extension of the Original Order, under Subtitle Z § 705.9, instead the Applicant actively worked to file its building permit application within the two-year deadline of the Original Order. (Ex. 2.)

III. RESPONSES TO THE APPLICATION

9. On January 12, 2024, OP submitted a report stating that the Application met the requirements of Subtitle Z § 705.2 for a two-year time extension to start construction; and the requirements of Subtitle Z § 101.9, for waiver from the requirements Subtitle Z § 705.2 to allow for the extension request subsequent to the expiration of the approval and Subtitle Z § 702.6 to retain the PUD-related RA-2 zone. The OP Report recommended approval of the requested two-year time extension. OP also acknowledged that the Applicant is unable to move forward with construction of the Project until the necessary LIHTC financing support is approved. (Ex. 6.)

10. ANC 8D did not submit a written report commenting on the Application.

CONCLUSIONS OF LAW

1. Subtitle Z § 101.9 authorizes the Commission to waive, for good cause shown, any of the provisions of this subtitle, if the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.

2. The Commission concludes that the Applicant has satisfied Subtitle Z § 101.9 by demonstrating good cause for waiver of Subtitle Z § 705.2 to allow for the extension request subsequent to the expiration of the approval and Subtitle Z § 702.6 to retain the PUD-related RA-2 zone because the Project will allow development of 106 units of new, affordable and family sized housing, a majority of which will be reserved at deeper affordability levels than required under IZ, and should not be derailed because of an administrative oversight. Further, the waivers will not prejudice the rights of any party and are not otherwise prohibited by law.

3. Subtitle Z § 705.2 authorizes the Commission to extend the time period of an order upon determining that the time extension request demonstrated satisfaction of the requirements of Subtitle Z § 705.2 and compliance with the limitations of Subtitle Z §§ 705.3, 705.5, and 705.6.

4. Subtitle Z § 705.2(a) requires that an Applicant serve the extension request on all parties and that parties are allowed 30 days to respond.

5. The Commission concludes that the Applicant has satisfied Subtitle Z § 705.2(a) by demonstrating that it served all parties, which in this case is only ANC 8D, on December 18, 2023, and that ANC 8D was given 30 days to respond. The Commission notes that ANC 8D did not file a response to the Application.

6. Subtitle Z § 705.2(b) requires that the Commission find that no substantial change has occurred to any of the material facts upon which the Commission based its original approval that would undermine the Commission's justification for that approval.

7. The Commission concludes that the Application satisfied Subtitle Z § 705.2(b) because there has been no substantial change to the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for that approval.

8. Subtitle Z § 705.2(c) requires that an application requesting extension of the time period(s) of an order demonstrate with substantial evidence one or more of the following criteria:

   (1) An inability to obtain sufficient project financing for the development, following an applicant's diligent good faith efforts to obtain such financing because of changes in economic and market conditions beyond the applicant's reasonable control;
   (2) An inability to secure all required government agency approvals for a development by the expiration date of the PUD order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or
   (3) The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control that renders the applicant unable to comply with the time limits of the order.

9. The Commission concludes that the Application meets the standards of Subtitle Z § 705.2(c)(1) and 705.2(c)(2) because, despite diligent efforts, the Applicant has been unable to secure the necessary LIHTC financing for the Project, due to circumstances beyond its reasonable control. Therefore, the Applicant was unable to start construction of the Project within the time limits established by the Original Order. The Commission concludes there is good cause to extend the time limits of the Original Order to enable delivery of the Project, which will provide much needed affordable housing.

"GREAT WIGHT" TO THE RECOMMENDATION OF OP

10. The Commission is required to give "great weight" to the recommendations of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990. (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.).) and Subtitle Z § 405.8 (*Metropole Condo. Ass'n v. District of Columbia Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)

11. The Commission finds OP's recommendation to approve the Application persuasive and concurs in the judgment.

"GREAT WIGHT" TO THE RECOMMENDATION OF OP

12. The Commission must give "great weight" to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.).) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase "issues and concerns" to "encompass only legally relevant issues and concerns." (*Wheeler v. District of Columbia Bd. of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (D.C. 1978) (citation omitted).)

13. ANC 8D did not file a written report to which the Commission can give great weight.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Applicant's request for:

- Waiver from Subtitle Z § 705.2's requirement that an extension request be filed before the expiration of the approval, and from Subtitle Z § 702.6's requirement that upon expiration of an approval, the zoning shall revert to the pre-existing regulations and map; and
- A two-year time extension of Z.C. Order No. 18-14, with the requirement that the Applicant start construction of the Project no later than March 27, 2025.

VOTE (January 25, 2024): (4-0-1) (Joseph S. Imamura, Robert E. Miller, Anthony J. Hood and Tammy Stidham, to **APPROVE**; 3rd Mayoral Appointee seat vacant)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 18-14A shall become final and effective upon publication in the *District of Columbia Register*, that is, on May 10, 2024.

BY THE ORDER OF THE D.C. ZONING COMMISSION
A majority of the Commission members approved the issuance of this Order.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR,

RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENT OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 85-16C
Z.C. Case No. 85-16C
CLPF-CC Pavilion, LP
(PUD Modification of Consequence @ Square 1661, Lot 2006
(5335 Wisconsin Avenue, N.W.))
January 25, 2024

Pursuant to public notice, at its January 25, 2024 public meeting, the Zoning Commission for the District of Columbia (the "Commission") considered the application of CLPF-CC Pavilion, L.P. ("Applicant") for a Modification of Consequence[1] (the "Application") for the consolidated planned unit development ("PUD") approved by Z.C. Order No. 517 (the "Original Order"), as amended by Z.C. Order Nos. 517-A, 517-B, and 85-16B (collectively, the "Amended Orders"), for Square 1661, Lot 2006 (the "Property"). The Commission reviewed the Application pursuant to the Commission's Rules of Practice and Procedures, which are codified in Subtitle Z of Title 11 of the District of Columbia Municipal Regulations (the "Zoning Regulations", to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. Background

1. By the Original Order, the Commission granted a preliminary and consolidated approval for a PUD (the "Approved PUD") for the Property (the "PUD Site").

2. The Approved PUD is a mixed-use hotel, office and retail project which includes a multi-story atrium that features public pedestrian passageways on each level ("Project"). The proposed modification in the Application only entails the office/retail component.

3. The Approved PUD has been the subject of two minor modifications since 1987:
   - The first approved the addition of a satellite dish to the Project roof in 1990 pursuant to Z.C. Order No. 517-A; and
   - The second modified the Project in 1998 to permit two–way access into the Military Road garage entrance pursuant to Z.C. Order No. 517-B.

4. The Applicant filed an application for a third Modification of Consequence to Z.C. Order 517 to convert the largely vacant, interior retail space around the Project atrium to medical office use to accommodate a large health maintenance organization or other large medical use. That modification was denied by the Commission as exceeding the scope of a modification of consequence pursuant to Z.C. Order 85-16A.

5. In Z.C. Order No. 85-16B, effective December 29, 2023, the Commission granted a Modification of Consequence to the Approved PUD to increase the Project floor area ratio

[1] Originally, the Applicant filed a minor modification application, but then changed the Application to a modification of consequence. The modification of consequence filings in the case record supersedes and replace the original filings dated November 7, 2023.

to convert a portion of the public passageway area on the first floor to retail space and to modify the design of the Wisconsin Avenue façade to accommodate a specialty grocery store use.

Parties and Notice

6. The parties to the Original Order were Advisory Neighborhood Commissions ("ANC") 3E and 3G, the Citizens Coordinating Committee on Friendship Heights, and the Friendship Neighborhood Coalition.

7. On November 23, 2023, the Applicant served the Application on the parties to the Original Order and the Office of Planning ("OP") as attested by the Certificate of Service submitted with the Application. (Exhibit ["Ex. 7"].)

II. The Application

8. On November 24, 2023, the Applicant filed the Application for a Modification of Consequence ("Application") to modify Condition No. 13 of the Original Order to substitute a new Truck Management Plan with an updated truck delivery schedule to appease the concerns of a new specialty grocery store tenant. (Ex. 7.)

9. The Application included a copy of the approved truck management plan (the "Approved Plan") in the Original Order, and a letter from the Zoning Administrator. The letter clarifies that the Approved Plan prohibits truck arrivals and unloading between 7:00 a.m. -9:00 a.m. and 4:30 p.m.-6:00 p.m.; the Approved Plan does not limit the number of trucks that may visit the Project outside of those hours; and the Approved Plan's chart regarding the type of trucks and frequency they can access the site is informational and not a requirement of the PUD.

10. The Application proposed a New Truck Management Plan (the "New Plan") and stated that it has been vetted by the adjacent Courts' Homeowners Association ("Courts HOA") and ANC 3E, and that the Applicant has agreed to the following conditions to the New Plan:
    - Trucks will be turned off in the loading dock once parked;
    - The door to the loading dock will be closed while trucks are parked and unloading;
    - Trucks will arrive and depart via Wisconsin Avenue/Military Road and not proceed down the truck alleyway to Jennifer Street;
    - A loading dock manager will be on site during all delivery hours to ensure that the truck management plan requirements are followed, and the Applicant will provide contact information for two responsible parties who can address in real time any issues which may arise; and
    - The Applicant will pay $10,000 to the adjacent Courts HOA to be used to reimburse costs associated with replacement windows for a townhouse which may be impacted by the proposed truck deliveries.

    (Ex. 7.)

11. The Application stated that it met the qualifications to be considered a Modification of Consequence under Subtitle Z § 703.4 because it is a proposed change to a condition in the final order. The Application also noted that the Approved Plan should be updated because it is over 40 years old and was geared to more typical retail uses that were contemplated at the time as opposed to a grocer which requires frequent deliveries of fresh food. (Ex. 7.)

III. Responses to the Application

12. The Office of Planning ("OP") submitted a report (the "OP Report") on December 4, 2023. The OP Report stated that the Application can appropriately be considered as a Modification of Consequence and recommended approval of the Application. OP stated that the Applicant should clarify whether it agrees to ANC 3E's proposed conditions, that:
- Morning delivery hours be between 6:00-9:00 a.m.; and
- Only deliveries to the grocer will be allowed between 6:00-7:00 a.m. (Ex. 9.)

13. On November 22, 2023, ANC 3E submitted a written report (the "ANC Report") stating that at its properly noticed public meeting on November 9, 2023, the ANC voted unanimously to authorize Commissioners Jonathan Bender and Tom Quinn to submit letters on behalf of the ANC in Z.C. Case No. 85-16C. The ANC Report stated that the ANC only supports the Application to facilitate leasing space to a grocer and its support is nullified if such a tenant is not delivered. The ANC Report noted that the Applicant agreed to five of its requested conditions (noted above in Finding of Fact No. 10) and subsequently agreed to only allowing grocery deliveries between 6:00-7:00 a.m. The ANC requested the following two additional conditions:
- Morning delivery hours between 6:00-9:00 a.m.; and
- Reduce tractor trailer deliveries to 22 per day. (Ex. 8.)

14. On December 6, 2023, the Applicant filed a letter responding to ANC 3E, with an updated New Plan, including the additional conditions requested by ANC 3E. (Ex. 10.)

15. On January 8, 2024, the Applicant submitted a letter responding to the Commission's request at the December 14, 2023 meeting, that the Applicant find an alternative to the proposed condition of approval to make a $10,000 monetary payment to Courts HOA for reimbursement costs associated with townhouse window damage that may result from truck deliveries. The letter stated that the Applicant resolved the issue by entering into a private agreement with Courts HOA. (Ex. 11.)

16. On January 18, 2024, ANC 3E Commissioners Bender and Quinn filed a letter stating that the ANC reviewed the signed private agreement between the Applicant and Courts HOA, requiring the Applicant to make a $10,000 payment to Courts HOA for reimbursement costs, and the ANC found the private agreement consistent with the condition of approval originally suggested by the ANC (see condition 5 in FF No. 10 above.) The letter reiterated that the ANC's support of the Application is nullified if a grocer tenant is not delivered in the space. (Ex. 12.)

CONCLUSIONS OF LAW

1. Subtitle Z § 703.1 authorizes the Commission, in the interest of efficiency to make Modifications of Consequence to final orders and plans without a public hearing.

2. Subtitle Z § 703.3 defines a Modification of Consequence as "a modification to a contested case order or the approved plans that is neither a minor modification nor a modification of significance."

3. Subtitle Z § 703.4 includes "a proposed change to a condition in the final order" as an example of a Modification of Consequence.

4. The Commission concludes that the Application qualifies as a Modification of Consequence within the meaning of Subtitle Z §§ 703.3 and 703.4, as it is a request to modify Condition No. 13 of the Original Order, and therefore can be granted without a public hearing pursuant to Subtitle Z § 703.1.

5. The Commission concludes that the Applicant satisfied the requirement of Subtitle Z § 703.13 to serve the Application on all parties to the original proceeding. The Applicant provided evidence that it served the Application on all parties to the original proceeding-ANCs 3E and 3G, the Citizens Coordinating Committee on Friendship Heights, and the Friendship Neighborhood Coalition and only ANC 3E responded.

6. The Commission concludes that it met the requirement of Subtitle Z § 703.17(c)(2) to provide a timeframe for responses by all parties to the original proceeding as it set a timeframe at its December 14, 2023 meeting and deliberated at its January 25, 2024 meeting.

7. The Commission concludes that the New Plan is consistent with the original PUD approval as it will update the truck management plan and provide clarification on the timing and management of truck deliveries to accommodate both the specialty grocer tenant's needs and the community's requests.

"Great Weight" to the Recommendations of OP

8. Pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001).) and Subtitle Z § 405.8, the Commission must give "great weight" to the recommendations of OP. (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)

9. The Commission finds OP's recommendation that the Commission approve the Application persuasive and concurs in that judgment.

"Great Weight" to the Written Report of the ANCs

10. Pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d).) and Subtitle Z § 406.2, the Commission must give "great weight" to the issues and concerns raised in the written

report of the affected ANC. To satisfy this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase "issues and concerns" to "encompass only legally relevant issues and concerns." (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978).)

11. The Commission notes ANC 3E's support of the Application, subject to conditions of approval to address the ANC concerns, which the Applicant agreed to. The Commission further notes that the ANC's support of the Application is nullified if a grocer tenant is not delivered in the space.

DECISION

In consideration of the case record, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application's request for a Modification of Consequence to modify Condition No. 13 of Z.C. Order No. 517 to substitute a new Truck Management Plan with an updated truck delivery schedule to appease the concerns of a new specialty grocery store tenant.

The conditions in Z.C. Order No. 517, as amended by Z.C. Order Nos. 517-A, 517-B, and 85-16B remain unchanged and in effect, except that Condition No. 13 is amended to read as follows (additions in **bold and underline** text; deletions in ~~**bold and strikeout**~~ text):

13. Loading activity for the PUD site shall be in accordance with the truck management plan filed in the record of ~~**the case and marked as Exhibit No. 82. There shall be no loading activity, including arrivals, departures, or maneuverings, at the PUD loading facility from 7:00 A.M. to 9:00 A.M. or from 4:30 P.M. to 6:00 P.M**~~. **Z.C. case No. 85-16C at Exhibit 10, titled "Proposed New Truck Management Plan" and shall be subject to the following conditions:**
    - **Trucks will be turned off in the loading dock once parked;**
    - **The door to the loading dock will be closed while trucks are parked and unloading;**
    - **Trucks will arrive and depart via Wisconsin Avenue/Military Road and not proceed down the truck alleyway to Jennifer Street;**
    - **A loading dock manager will be on site during all delivery hours to ensure that the truck management plan requirements are followed and the Applicant will provide contact information for two responsible parties who can address in real time any issues which may arise;**
    - **Morning delivery hours are between 6:00-9:00 a.m.;**
    - **Only deliveries to the grocer will be allowed between 6:00-7:00 a.m.; and**
    - **Tractor trailer deliveries are restricted to 22 per day.**

VOTE (January 25, 2024): 4-0-1 (Robert E. Miller, Joseph S. Imamura, Anthony J. Hood and Tammy Stidham to **APPROVE**; 3rd Mayoral Appointee seat vacant, not voting).

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 85-16C shall become final and effective upon publication in the *District of Columbia Register*; that is, on May 10, 2024.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

DISTRICT OF COLUMBIA REGISTER
2024 AGENCY SUBMISSION DEADLINE SCHEDULE

The deadline for submitting notices for publication in the *District of Columbia Register* by District agencies, boards, commissions, and public charter schools is THURSDAY, noon of the PREVIOUS week. For example, the deadline for the Friday, January 12, 2024 *District of Columbia Register* is Thursday, noon on January 4, 2024.

The deadline for a Register to be published during a week that has an official District of Columbia holiday is WEDNESDAY noon of the PREVIOUS week. For example, Monday, January 15, 2024 (Martin Luther King Jr. Day) is an official District of Columbia holiday therefore, the deadline for the Friday, January 19, 2024 *District of Columbia Register* is Wednesday, noon on January 10, 2024.

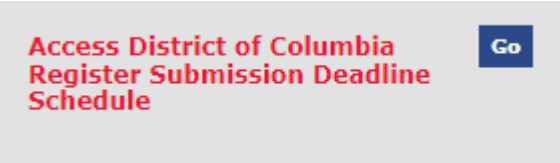
If an official government holiday falls on a Thursday, the deadline for submitting documents is WEDNESDAY. Because Thursday, November 28, 2024 is Thanksgiving Day, the deadline for the December 6, 2024 *District of Columbia Register* is Wednesday, noon on November 27, 2024.

If an official government holiday falls on a Wednesday during a publication week that also has an official government holiday, the deadline for submitting documents is TUESDAY. Because Wednesday, December 25, 2024 is Christmas Day, the deadline for the January 3, 2025 *District of Columbia Register* is Tuesday, noon on December 24, 2024.

Documents that are uploaded after the noon deadline will be published in the next edition of the Register.

The DC Register Submission Deadline Schedule is published at the end of each Register.

The Office of Documents also publishes the Submission Deadline Schedule on the DCRegs Home page:



Below is the 2024 District of Columbia Register Submission Deadline schedule.

OFFICE OF DOCUMENTS AND ADMINSTRATIVE ISSUANCES
DISTRICT OF COLUMBIA REGISTER
2024 AGENCY SUBMISSION DEADLINE SCHEDULE

D.C. Register Issue		Submission Deadline	
Vol. 71/1	January 5, 2024*	Wednesday	December 27, 2023
Vol. 71/2	January 12, 2024	Thursday	January 4, 2024
Vol. 71/3	January 19, 2024*	Wednesday	January 10, 2024
Vol. 71/4	January 26, 2024	Thursday	January 18, 2024
Vol. 71/5	February 2, 2024	Thursday	January 25, 2024
Vol. 71/6	February 9, 2024	Thursday	February 1, 2024
Vol. 71/7	February 16, 2024	Thursday	February 8, 2024
Vol. 71/8	February 23, 2024*	Wednesday	February 14, 2024
Vol. 71/9	March 1, 2024	Thursday	February 22, 2024
Vol. 71/10	March 8, 2024	Thursday	February 29, 2024
Vol. 71/11	March 15, 2024	Thursday	March 7, 2024
Vol. 71/12	March 22, 2024	Thursday	March 14, 2024
Vol. 71/13	March 29, 2024	Thursday	March 21, 2024
Vol. 71/14	April 5, 2024	Thursday	March 28, 2024
Vol. 71/15	April 12, 2024	Thursday	April 4, 2024
Vol. 71/16	April 19, 2024*	Wednesday	April 10, 2024
Vol. 71/17	April 26, 2024	Thursday	April 18, 2024
Vol. 71/18	May 3, 2024	Thursday	April 25, 2024
Vol. 71/19	May 10, 2024	Thursday	May 2, 2024
Vol. 71/20	May 17, 2024	Thursday	May 9, 2024
Vol. 71/21	May 24, 2024	Thursday	May 16, 2024
Vol. 71/22	May 31, 2024 *	Wednesday	May 22, 2024
Vol. 71/23	June 7, 2024	Thursday	May 30, 2024
Vol. 71/24	June 14, 2024	Thursday	June 6, 2024
Vol. 71/25	June 21, 2024*	Wednesday	June 12, 2024
Vol. 71/26	June 28, 2024	Thursday	June 20, 2024
Vol. 71/27	July 5, 2024 *	Wednesday	June 26, 2024
Vol. 71/28	July 12, 2024	Wednesday	July 3, 2024
Vol. 71/29	July 19, 2024	Thursday	July 11, 2024
Vol. 71/30	July 26, 2024	Thursday	July 18, 2024
Vol. 71/31	August 2, 2024	Thursday	July 25, 2024
Vol. 71/32	August 9, 2024	Thursday	August 1, 2024
Vol. 71/33	August 16, 2024	Thursday	August 8, 2024
Vol. 71/34	August 23, 2024	Thursday	August 15, 2024
Vol. 71/35	August 30, 2024	Thursday	August 22, 2024
Vol. 71/36	September 6, 2024*	Wednesday	August 28, 2024
Vol. 71/37	September 13, 2024	Thursday	September 5, 2024
Vol. 71/38	September 20, 2024	Thursday	September 12, 2024
Vol. 71/39	September 27, 2024	Thursday	September 19, 2024
Vol. 71/40	October 4, 2024	Thursday	September 26, 2024
Vol. 71/41	October 11, 2024	Thursday	October 3, 2024
Vol. 71/42	October 18, 2024*	Wednesday	October 9, 2024
Vol. 71/43	October 25, 2024	Thursday	October 17, 2024
Vol. 71/44	November 1, 2024	Thursday	October 24, 2024
Vol. 71/45	November 8, 2024	Thursday	October 31, 2024
Vol. 71/46	November 15, 2024*	Wednesday	November 6, 2024
Vol. 71/47	November 22, 2024	Thursday	November 14, 2024
Vol. 71/48	November 29, 2024*	Wednesday	November 20, 2024
Vol. 71/49	December 6, 2024	Wednesday	November 27, 2024
Vol. 71/50	December 13, 2024	Thursday	December 5, 2024
Vol. 71/51	December 20, 2024	Thursday	December 12, 2024
Vol. 71/52	December 27, 2024*	Wednesday	December 18, 2024
Vol. 72/1	January 3, 2025*	Tuesday	December 24, 2024

*Weeks with District of Columbia Government public holidays.

Last Updated December 6, 2023