

DISTRICT OF COLUMBIA RETIREMENT BOARD
NOTICE OF FINAL RULEMAKING

The District of Columbia Retirement Board (“DCRB” or the “Board”), pursuant to the authority set forth in § 121(e) of the District of Columbia Retirement Reform Act (“Reform Act”), approved November 17, 1979 (Pub. L. 96-122, 93 Stat. 866; D.C. Official Code § 1-711(e) (2016 Repl.)), hereby gives notice of the adoption of final rulemaking to include the following additions to the Board Rules under Chapter 15 (District of Columbia Retirement Board) of Title 7 (Employment Benefits) of the District of Columbia Municipal Regulations (“DCMR”).

The purpose of the final rules is to extend Chapter 15 to include provisions governing the election of Board Trustees to represent active and retired teachers, police officers, and firefighters. The Board approved the proposed rules on September 26, 2017.

The Board stated its intent to publish the proposed rules as final in the Notice of Proposed Rulemaking published in the *District of Columbia Register* on February 9, 2018 at 65 DCR 01455. No comments were received and no substantive changes were made to the proposed rulemaking. These rules will become final upon publication of this notice in the *District of Columbia Register* and will amend rules in Chapter 15 of Title 7 DCMR.

Chapter 15, DISTRICT OF COLUMBIA RETIREMENT BOARD, of Title 7 DCMR, EMPLOYEMENT BENEFITS, is amended as follows:

To add the following sections to Chapter 15 to read as follows:

1510 DEFINITIONS

- 1510.1 “Board” or “Board of Trustees” means the District of Columbia Retirement Board established by Section 121(a) of the Act (D.C. Official Code § 1-711(b)(1)(A)).
- 1510.2 “Chairman” means the chairman or chairperson, or his or her designee, of the District of Columbia Retirement Board (“DCRB”).
- 1510.3 “Day” means a calendar day unless expressly stated otherwise. Any day on which a submission is due or other action occurs must be a day on which the District of Columbia Government is open for regularly scheduled business.
- 1510.4 “Election cycle” means the timeframe during which an election of a trustee or trustees is conducted. Except in the event of a special election, or where extenuating circumstances result in a delay, an election cycle shall begin on August 1st of any year in which a qualified voter position is eligible for election to the Board.
- 1510.5 “Election official” means the person or entity appointed by the Board to undertake the activities outlined in these Rules. The election official must be independent, experienced and qualified to conduct elections and may be any one, or

combination, of the following:

- (a) an officer or employee of the Board;
- (b) an officer, employee, or agency of District of Columbia Government; or
- (c) an individual, partnership, firm, or corporation.

A qualified voter of any category may not be an election official. An election official will be considered qualified and experienced if the election official has successfully performed independent electoral services of, at least, a similar like, kind and volume as the services described in these Rules.

1510.6 “Eligible candidate” means a qualified voter who has submitted valid Statements of Candidacy and Qualification and meets all of the criteria to be eligible for election to the Board as defined under these Rules.

1510.7 “Executive Director” means the Executive Director, or his or her designee, of the District of Columbia Retirement Board.

1510.8 “Qualified voter” means an active or retired member of the Retirement Plans as reflected in the records of the applicable personnel office, payroll office, or DCRB, as the benefits administrator of the Retirement Plans, at the start of an election cycle.

A qualified voter must be:

- (a) An “active firefighter” who is a sworn member or officer of the District of Columbia Fire and Emergency Medical Services Department (“FEMS”);
- (b) A “retired firefighter” who has retired from FEMS under the provisions of the District of Columbia Police Officers and Firefighters’ Retirement Plan (“Police Officers & Firefighters’ Plan”);
- (c) An “active police officer” who is a sworn member or officer of the District of Columbia Metropolitan Police Department (“MPD”);
- (d) A “retired police officer” who has retired from MPD under the provisions of the Police Officers & Firefighters’ Plan;
- (e) An “active teacher” who is an employee of District of Columbia Public Schools (“DCPS”) in a salary class position ET 1-15 or an employee of a District of Columbia public charter school who is an active member of the District of Columbia Teachers’ Retirement Plan (“Teachers’ Plan”); or
- (f) A “retired teacher” who has retired from DCPS or a District of Columbia public charter school under the provisions of the Teachers’ Plan.

- 1510.9 “Reform Act” means the District of Columbia Retirement Reform Act, Pub. Law 96-122, Nov. 17, 1979, as amended (codified in D.C. Official Code §§ 1-701 et seq.).
- 1510.10 “Replacement Plan Act” means the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998 (D.C. Official Code §§ 1-901.01 et seq.).
- 1510.11 “Retirement Plans” means the following:
- (a) District of Columbia Police Officers and Firefighters’ Retirement Plan (“Police Officers & Firefighters’ Plan”), which includes the benefits established under the Replacement Plan Act that applies to service accrued after June 30, 1997 (D.C. Official Code §§ 5-701 et seq.) and the benefits in place under Title XI of the Balanced Budget Act of 1997, Pub. Law 105-33, Aug. 5, 1997 (codified in D.C. Official Code §§ 1-801.01 et seq.), that apply to service accrued on or before June 30, 1997 (former D.C. Official Code §§ 4-601 et seq.).
 - (b) District of Columbia Teachers’ Retirement Plan (“Teachers’ Plan”), which includes the benefits established under the Replacement Plan Act that applies to service accrued after June 30, 1997 (D.C. Official Code §§ 38-2021.01 et seq.) and the benefits in place under Title XI of the Balanced Budget Act of 1997, Pub. Law 105-33, Aug. 5, 1997 (codified in D.C. Official Code §§ 1-801.01 et seq.) that apply to service accrued on or before June 30, 1997 (former D.C. Official Code §§ 31-1221 et seq.).

1511 ELECTION OF TRUSTEES

- 1511.1 In accordance with the Reform Act, the Board of Trustees is responsible for and shall conduct elections to allow qualified voters to elect:
- (a) One (1) active member representative and one (1) retired member representative from FEMS;
 - (b) One (1) active member representative and one (1) retired member representative from MPD;
 - (c) One (1) active member representative and one (1) retired member representative from DCPS.
- 1511.2 The Board is authorized to act as the election official or to enter into an agreement with an election official to delegate certain functions and responsibilities vested in the Board by the Reform Act. The election official shall adhere to these Rules without partiality toward any candidate.

- 1511.3 The election official shall be the primary point of contact for all matters pertaining to a Board election during an election cycle. To avoid the appearance of a conflict of interest or partiality, the Board and Board staff shall refrain from communicating with qualified voters, including prospective or eligible candidates, on matters related to a Board election during an election cycle and shall direct any inquiries or concerns to the attention of the election official immediately.
- 1511.4 The election official shall prepare a schedule for conducting the election of a trustee or trustees during each election cycle. The election schedule shall include:
- (a) The date on which Statement of Candidacy forms shall be made available to qualified voters by the election official;
 - (b) The date on which completed Statement of Candidacy forms must be submitted to the election official by qualified voters;
 - (c) The date on which the election official will distribute ballots to qualified voters;
 - (d) The last date on which the completed ballots must be received by the election official from qualified voters; and
 - (e) The date on which the election results are to be presented to the Board for certification.
- 1511.5 Timing.
- (a) The election schedule shall:
 - (1) Allow for no fewer than twenty (20) days for qualified voters to complete and submit a Statement of Candidacy form;
 - (2) Provide for notification to nominated qualified voters of their eligibility or ineligibility to stand for election no later than ten (10) days after the due date for submission of Statement of Candidacy forms has passed and the forms have been validated;
 - (3) Allow qualified voters no less than thirty (30) days to complete and submit election ballots; and
 - (4) Allow eligible candidates no fewer than seven (7) days to request a recount of the election ballots after the publication of the certified election results in accordance with Section 1523 of these Rules.
- 1511.6 Method of Delivery.
- (a) Election materials, which include any related schedules and notices, shall be provided in a manner that is contemplated to reach the greatest number

of qualified voters, including, but not limited to, mail, electronic mail, and publication on the Board's website or other Board communication portal, provided that the method of distribution allows qualified voters a reasonable time to comply with the dates included in the election schedule for an election cycle.

- (b) The method or methods used to distribute election materials shall clearly and prominently state:
 - (1) That the communication is made on behalf of the Board;
 - (2) The category of qualified voter to which the communication is addressed; and
 - (3) That the communication contains election materials.

1511.7 Any substantive amendment to election materials, which impacts any date included in the election schedule for an election cycle, must be made available to qualified voters as soon as administratively possible in the same manner provided for in Section 1511.6 of these Rules.

1511.8 The election official shall provide election materials to qualified voters. The Board shall make available to the election official a list of qualified voters. The list shall be comprised of qualified voters included in the payroll or pension roll paid within thirty (30) days, but no more than sixty (60) days, prior to the distribution of election notices.

1511.9 Election materials may also be made available by the election official upon request from a qualified voter.

1512 ELECTION NOTICE

1512.1 During any election cycle, the election official must notify all qualified voters of the impending election of a trustee or trustees within the timeframe provided in the election schedule.

1512.2 The election notice shall include:

- (a) A copy of the election schedule;
- (b) A Statement of Candidacy form (or location where such a form may be accessed), which includes:
 - (1) The category of qualified voter slated for trustee election;
 - (2) An explanation of the qualifications, duties, responsibilities, and

compensation of Board trustees;

- (3) A blank section for input of a prospective candidate's name (written how he or she would like his or her name to be listed on the ballot), address, and contact information. By providing an email address, the prospective candidate consents to receiving official communication by email to the email address provided;
 - (4) Instructions for the submission and completion of the Qualifications Statement;
 - (5) An oath, signed and dated by the prospective candidate, attesting that the candidate meets the qualifications for holding the office sought and, if elected, he or she understands and agrees to comply with the duties and responsibilities of Board trustees;
 - (6) A declaration, signed and dated by the prospective candidate, affirming that all of the information included in and with the Statement of Candidacy form, is true and correct to the best knowledge and belief of the prospective candidate; and
 - (7) Instructions for filling out and submitting the Statement of Candidacy form, including the date, time, location, and method(s) of submission.
- (c) A reference to where qualified voters may access these Rules in their entirety; and
 - (d) Any other information the election official considers necessary for qualified voters to fully understand the purpose and procedures of the election.

1512.3 The election notices shall be distributed to qualified voters in a manner consistent with Section 1511.6 of these Rules.

1513 ELIGIBILITY OF CANDIDATES

1513.1 A prospective candidate must be nominated by a qualified voter in the category in which the prospective candidate is seeking election to be eligible for election. A qualified voter in the category for which the trustee election is being held may nominate himself or herself for election.

1513.2 To qualify as an eligible candidate for election to the Board and have his or her name printed on a ballot, a prospective candidate must:

- (a) be a qualified voter in the category in which the prospective candidate is seeking election;

- (b) qualify to serve as a fiduciary to the District of Columbia Police Officers and Fire Fighters' and the Teachers' Retirement Funds (the "Funds") pursuant to D.C. Code §1-744(a);
- (c) file with the election official a valid Statement of Candidacy form in accordance with Section 1514 of these Rules; and
- (d) not be an "elected official" or be a candidate for the office of an elected official in the District of Columbia, as defined in D.C. Code §1001.02(13).

1514 VALIDATION OF STATEMENTS OF CANDIDACY

1514.1 A Statement of Candidacy shall be considered valid if it satisfies all of the following conditions:

- (a) the Statement of Candidacy is received by the election official on or before the date and time designated by the election official;
- (b) the Statement of Candidacy is on a form provided or authorized by the Board and all sections have been completed in legible font or print;
- (c) the Statement of Candidacy is filed by a person who is a qualified voter in the category for which the trustee election is being held;
- (d) the Statement of Candidacy is accompanied by a valid Qualifications Statement; and
- (e) the Statement of Candidacy contains a signed oath and declaration.

1514.2 A Qualifications Statement shall be considered valid if it satisfies all of the following conditions:

- (a) The Qualifications Statement shall be submitted with the Statement of Candidacy form pursuant to Section 1512.2(b)(4) of these Rules; either typed or printed on the Statement of Candidacy form or on a separate blank sheet of paper.
- (b) The Qualifications Statement shall identify the eligible candidate and the qualified voter category for which the candidate is seeking election. The statement may also state the candidate's qualifications and experience, and outline his or her plans and goals if elected.
 - (1) A Qualifications Statement shall not include an endorsement of any kind.
- (c) The Qualifications Statement shall not exceed two hundred and fifty (250)

words in length. For purposes of this section, the following rules shall apply to the counting of words in a Qualifications Statement:

- (1) Punctuation is not counted;
- (2) Each word shall be counted as one (1) word, except as specified in this subsection;
- (3) All geographical names shall be considered as one (1) word; for example, "District of Columbia" shall be counted as one (1) word;
- (4) Each abbreviation of a word, phrase, or expression shall be counted as one (1) word;
- (5) Hyphenated words that appear in any generally available dictionary shall be considered as one (1) word. Each part of all other hyphenated words shall be counted as a separate word;
- (6) Dates consisting of a combination of words and digits shall be counted as two (2) words; for example, "December 31, 2017" shall be counted as two (2) words. Dates consisting of only a combination of digits shall be counted as one (1) word; for example, "12/31/2017" shall be counted as one (1) word; and
- (7) Any number consisting of a digit or digits shall be considered one (1) word. For example, any number which is spelled, such as "one," shall be considered as a separate word or words. "One" shall be counted as one (1) word whereas "one hundred" shall be counted as two (2) words. The number one hundred "100" expressed in digits shall be counted as one (1) word.

1514.3 The election official shall exclude from print on the ballot or other election materials any portion of a Qualifications Statement that exceeds the maximum word limitation, is interpreted to be an endorsement, or that includes a statement that is false or misleading. The election official may, but is not required to, allow a candidate the opportunity to correct a false or misleading statement included within a Qualifications Statement.

1514.4 The election official may, but is not required to, provide acknowledgement of receipt of a prospective candidate's Statement of Candidacy.

1514.5 Upon receipt of Statement of Candidacy forms, the election official shall determine whether the statements are valid. The election official shall document how the eligibility or ineligibility of each candidate was determined and provide a report, including each candidate's Statement of Candidacy form, to the Executive Director no later than three (3) days after the date Statements of Candidacy are due to the election official.

- 1514.6 The determination by the election official of the validity of Statements of Candidacy, including Qualifications Statements, shall be final and only subject to further administrative review at the discretion of the Executive Director. A determination of eligibility or ineligibility shall be based solely on information contained in the Statements of Candidacy and upon information contained in other public records and documents available to the election official. The Executive Director may reverse a determination of eligibility at any point prior to the certification of election results based upon evidence that was not known to the election official at the time of the initial determination of eligibility or upon evidence of a change in circumstances.
- 1514.7 The election official shall provide notification to a prospective candidate of his or her ineligibility to stand for election no later than ten (10) days after the due date for the submission of Statement of Candidacy forms has passed and the statements have been validated.
- (a) A prospective candidate who is ineligible for election because his or her Statement of Candidacy is rejected for reasons other than those outlined in Sections 1513.2 and 1514.1(a) of these Rules, may submit one (1) new or amended Statement of Candidacy, which must be received by the election official no later than five (5) days after the date his or her notice of deficiency was mailed.
- 1514.8 Once all eligible candidates have been identified, a notification of eligibility, including a copy of the eligible candidate's Qualifications Statement, shall be provided to each eligible candidate no fewer than seven (7) days prior to the scheduled date of the drawing of lots to determine ballot position. The notification of eligibility shall include:
- (a) The time, date, and location for drawing lots; and
- (b) Notification of the eligible candidate's sole opportunity to proofread and correct any transcription errors, such as spelling and grammatical errors, which may be included in the eligible candidate's Qualifications Statement, with instructions on how to make any such corrections.
- 1514.9 A candidate may withdraw his or her candidacy only by written notice to the election official. A candidate is presumed to have withdrawn from the election if he or she fails to submit a new or amended Statement of Candidacy, upon request, pursuant to Section 1514.7(a) of these Rules. A withdrawal shall be irrevocable only for the election cycle in which it occurs. The election official shall inform the Executive Director of any withdrawals. Where a withdrawal impacts the accuracy of information included on the ballots, after ballots have been printed or made available to qualified voters, the election official shall provide notice to all qualified voters within the impacted qualified voter category as soon as administratively possible in accordance with Section 1511.6 of these Rules.

- 1514.10 If the election official determines that there are no prospective candidates eligible to stand for election, the election official shall:
- (a) Terminate the election for which no candidate is eligible to be placed on the ballot;
 - (b) Promptly prepare a new election schedule in substantial conformity with Section 1511.4 of these Rules;
 - (c) Proceed, if applicable, with any other election of trustees with more than one eligible candidate; and
 - (d) Conduct an election for the impacted qualified voter category in accordance with the new election schedule.

A new election schedule required under this section may result in a delay in the start date of an elected trustee's term.

1514.11 Uncontested Election – One Eligible Candidate in a Category

- (a) If an election official certifies that only one (1) eligible candidate exists in a qualified voter category, the election official shall:
 - (1) Declare an uncontested election and discontinue the election process for the qualified voter category; and
 - (2) Distribute a notice informing impacted qualified voters that they will not receive an election ballot due to an uncontested election and that the results of the uncontested election shall be certified with the election results of the other qualified voter categories included in the election cycle, in accordance with Section 1522 of these Rules.
- (b) If an election cycle does not include another qualified voter category for election, the Board shall proceed with certifying the results of the uncontested election in accordance with Section 1522 of these Rules.

1515 CAMPAIGNING

- 1515.1 A candidate must behave in an ethical and professional manner when engaged in any activities related to his or her candidacy.
- 1515.2 A candidate may not campaign or otherwise advance his or her candidacy for election in any way prior to receiving notice from the election official that he or she is eligible for election.
- 1515.3 No staff, officer, or trustee of the Board shall campaign on behalf of, or endorse,

any candidate in preference to any other candidate. Nor shall any staff, officer, or trustee of the Board use their official authority or influence to interfere with or affect the result of any election.

1515.4 A candidate may not engage in any unfair campaign practice, including, but not limited to: libeling or slandering another candidate; maliciously disrupting another candidate's campaign; making verbally or in writing, actual or potentially defamatory or discriminatory remarks or comments; or otherwise violate any provisions of Section 1515 of these Rules.

1515.5 A candidate may not, in connection with his or her candidacy, make or repeat any statement that is untruthful, deceptive, or misleading, or that omits material information that renders a statement untruthful or misleading.

1515.6 A candidate may not imply that the way a qualified voter votes will result in any reward or retaliation of any funding, benefit or opportunity under the Retirement Plans.

1515.7 A candidate may not use any Board or District government resources for campaign purposes, including any such resources that are exclusively available to the candidate in his or her capacity as a trustee, officer, appointee or representative of the Board.

1515.8 Each candidate is responsible for activity that another undertakes on his or her behalf, as if the candidate is undertaking the activity himself or herself, unless the candidate sincerely and affirmatively discourages such activity publicly.

1515.9 A candidate may organize and/or attend an event for the purpose of allowing qualified voters to "meet & greet" the candidate in accordance with Section 1515 of these Rules.

1515.10 A candidate may create a website or use other forms of social media to promote his or her candidacy in accordance with this Section. Upon its creation or use for campaign purposes, the candidate must notify the election official and provide the election official with a link to the website or social media page.

1516 DRAWING OF LOTS FOR BALLOT ORDER

1516.1 In each election cycle, for each qualified voter category, the election official shall determine, by drawing lots, the order of eligible candidate names on the ballots.

1516.2 Drawing lots shall be conducted by the election official in the following manner:

- (a) The name of each eligible candidate shall be typed or written on separate slips of paper and placed in a container in a manner such that the names on the slips of paper shall be hidden from the view of the individual drawing.

- (b) The election official shall draw from the container one slip of paper at a time until all names have been drawn.
- (c) The eligible candidate whose name is pulled first from the container shall have his or her name appear first on the ballot. The eligible candidate whose name is pulled second shall have his or her name placed second on the ballot. This order shall continue until all eligible candidate ballot positions have been determined.
- (d) In the event of the withdrawal or disqualification of an eligible candidate prior to the printing of the ballots, the position of each eligible candidate that appears beneath the name of the former candidate shall be raised to the next higher position. The election official shall make reasonable efforts to remove or strike from the ballots the name of an eligible candidate who has withdrawn or been disqualified after the ballots have been printed.

1516.3 Upon approval by the Executive Director, where appropriate and available, the election official may utilize an electronic method which closely resembles the in-person lottery outlined in this section, provided that the election official attests, in writing, that the method used is confidential, secure, reliable and results in a randomized order of eligible candidates on the ballots.

1516.4 An eligible candidate, or his or her designated authorized representative, may view the drawing of lots. An eligible candidate must notify the election official of their intent to view the drawing of lots, in writing, no later than twenty-four (24) hours prior to the scheduled date of the drawing of lots.

1517 BALLOT CONTENT AND FORM

1517.1 The election official shall provide official ballots to qualified voters for the purpose of selecting an eligible candidate preference in an election. The Board shall make available to the election official a list of qualified voters. The list shall be comprised of qualified voters included in the payroll or pension roll paid within thirty (30) days, but no more than sixty (60) days, prior to the distribution official ballots.

1517.2 Ballots shall be distributed or made available to each qualified voter no fewer than thirty (30) days before the date balloting shall be completed.

1517.3 Official ballots shall include the following information:

- (a) Instructions for completing and submitting ballots drafted specifically for any form or method of balloting being used;
- (b) The category of qualified voter from which the person is eligible to elect a representative; and

- (c) The name and Qualifications Statement of each eligible candidate. Qualifications Statements need not be printed on, but must be included with, the ballots. Names of eligible candidates shall appear on the ballot:
 - (1) in the same form as each eligible candidate's name appears on his or her Statement of Candidacy form. No titles, ranks, prefixes, or degrees associated with a name shall appear on the ballot; and
 - (2) in the order determined by the drawing of lots conducted in accordance with Section 1516 of these Rules.

1517.4 A qualified voter may contact the election official to request the issuance of a replacement ballot. The election official shall maintain a record identifying the voter to ensure that the issuance of a replacement ballot does not result in unauthorized or duplicate balloting. When a qualified voter requests a replacement ballot within fewer than five (5) days before the date balloting is scheduled to be completed, the qualified voter shall only have the option of submitting an electronic or telephone ballot.

1517.5 An individual who did not receive a ballot due to his/her name not being included on the list of qualified voters at the time such list was provided to the election official, may contact the election official to request the issuance of a provisional ballot. The election official shall maintain a record identifying the voter to ensure that the issuance of a provisional ballot does not result in unauthorized or duplicate balloting. When an individual requests a provisional ballot within fewer than five (5) days before the date balloting is scheduled to be completed, the individual shall only have the option of submitting an electronic or telephone ballot.

- (a) The Executive Director shall have an individual verified as a qualified voter in the applicable qualified voter category prior to the completion of ballot counting. The election official shall not count as valid any provisional ballot submitted by an individual who has not been verified to be a qualified voter in the applicable qualified voter category.

1517.6 The election official shall not issue more than three (3) ballots, one (1) original and two (2) replacements, to any qualified voter during an election cycle. At the time the election official issues a replacement ballot, the election official shall inform the qualified voter of the qualified voter's limited remaining replacement ballots.

1517.7 Completed ballots shall be received by the election official on or before the date and time designated on the ballot.

1517.8 The Executive Director shall authorize the election official to use a balloting system that consists of paper ballots, telephonic ballots, electronic ballots, or any combination thereof, provided that the election official shall conduct the balloting in a manner that is consistent with the principles and objectives enumerated in these Rules. The election official shall take every reasonable precaution to safeguard the authenticity and secrecy of the balloting system and process, as well as

individual ballots.

- 1517.9 The election official shall distribute or make available an official ballot for each qualified voter category that shall be separate and distinct from the ballot for any other qualified voter category in an election cycle. Each ballot shall contain a unique control number and be readily identifiable from the ballot for any other qualified voter category. The election official shall maintain a record identifying the unique control number for each ballot.
- 1517.10 A ballot shall have a selection method immediately next to the name of each eligible candidate included on the ballot where a qualified voter must indicate his or her choice with a single mark.
- 1517.11 If applicable, paper ballots shall be returned to the election official in pre-addressed, postage paid return envelopes, preprinted with the unique control number included on the ballot.

1518 VALIDITY OF BALLOTS AND VOTES

- 1518.1 Only official ballots shall be validated and counted. Improper ballots or votes shall be deemed invalid and not counted. Improper ballots or votes shall include, but are not limited to:
- (a) Any ballot which is received by the election official after the date and time determined by the election official for return of ballots, except for those ballots postmarked prior to the deadline but delayed in the mail and received prior to the date in which ballot counting begins;
 - (b) Any ballot which is not an original, replacement, or provisional ballot issued by the election official to a qualified voter;
 - (c) Any ballot cast in which the qualified voter fails to mark a choice;
 - (d) Any ballot which is signed, initialed, or otherwise marked in a manner which serves to reveal the identity of the qualified voter;
 - (e) Any ballot on which the qualified voter has filled in the voting positions for more than one eligible candidate name included on the ballot (extraneous marks or other matter on a ballot which do not lead to confusion as to the intention of the qualified voter, may be disregarded and the ballot considered valid);
 - (f) Any ballot on which a qualified voter has written in the name of a person other than an eligible candidate whose name is pre-printed on the ballot; and

- (g) Any paper ballot which is not returned within a pre-addressed, postage paid return envelope with a unique control number corresponding with the unique control number included on the ballot (except for any ballot submitted by an authorized electronic means).
- 1518.2 No qualified voter shall cast more than one ballot, in any form, in an election or vote in a category other than the category in which he or she is a qualified voter. Duplicate or unauthorized ballots or votes shall be deemed improper and not counted.
- 1518.3 Nothing contained in Section 1518.1 of these Rules shall be construed as invalidating any ballot solely because of a voter's failure to follow the instructions for filling out an official ballot provided pursuant to Section 1517.3(a) of these Rules. If a voter draws an arrow pointing to an eligible candidate's name, circles an eligible candidate's name or the voting box next to an eligible candidate's name, places a check, asterisk, or other mark in such a manner that clearly indicates his or her intended choice, the ballot shall be considered valid and shall be counted as a vote for such eligible candidate.
- 1518.4 The election official shall make determinations of the validity of ballots or votes. The determination of the election official in charge as to the validity of any ballot or vote shall be final and only subject to further administrative review at the discretion of the Executive Director.
- 1518.5 Any ballot counter or authorized watcher who is uncertain whether a ballot or vote is valid shall refer the ballot to the election official in charge for a determination.
- 1518.6 No ballot counter shall mark on any ballot. The election official in charge may only mark a ballot to denote that the ballot has been determined to be invalid. The election official in charge shall initial the ballot below his or her marking. A ballot determined to be invalid shall remain in the custody of the election official in charge and stored in a secure location, separate from ballots deemed valid.

1519 BALLOTING SYSTEM STANDARDS AND TESTING

- 1519.1 The election official shall allow the Executive Director the opportunity to review and approve proofs of final election materials, including official ballots, prior to their printing or distribution to qualified voters.
- 1519.2 The election official shall use a balloting system that a qualified voter can quickly and easily use to cast a ballot for the eligible candidate of the qualified voter's choice. The balloting system shall be capable of:
- (a) Creating an accurate record of every ballot and vote cast;
 - (b) Generating a final report of the election, as well as interim reports, as necessary;

- (c) Identifying errors, including system errors, which impact qualified voters' ability to cast ballots or which impact the overall validity of the election;
 - (d) Allowing secured voting in absolutely secrecy; and
 - (e) Providing a confirmation of the vote cast by a qualified voter, except in the case of paper balloting.
- 1519.3 The election official shall allow the Executive Director to conduct testing of any telephonic or electronic balloting system before the use of such system for an election.
- 1519.4 The testing shall ensure that the balloting system:
- (a) Contains correct ballot information, including the names and Qualifications Statements of all eligible candidates;
 - (b) Records votes accurately, consistently and securely; and
 - (c) Is free of any evidence of malfunction.
- 1519.5 The balloting system configuration tested and approved during the testing period shall be the same configuration used during the balloting period.
- 1519.6 The election official shall immediately correct any errors or deficiencies identified in or with the balloting system during the testing or balloting period.

1520 BALLOT COUNTING

- 1520.1 The election official shall designate an election official in charge who shall be responsible for the direct supervision and oversight of the ballot counting process. The election official shall also designate ballot counters authorized to count and tally ballots. No person who is a qualified voter may be a ballot counter for the category in which he or she is eligible to vote.
- 1520.2 The election official shall strive to count the ballots and complete its official voting record for the Board within three (3) days after the date that balloting is completed, but no later than seven (7) days after such date.
- 1520.3 The election official shall maintain returned ballots by secure means and shall use appropriate safeguards to ensure that the security of each ballot is preserved.
- 1520.4 When paper ballots are counted by hand, the election official in charge shall have full authority to maintain order in the designated ballot counting location.
- 1520.5 The only persons permitted to be present in a designated ballot counting location while ballots are being counted shall be the election official in charge, ballot

counters, designated representatives of the Board, police officers requested by the Board and authorized watchers.

- 1520.6 The election official shall count the number of valid ballots cast for each eligible candidate in each qualified voter category by every form or method of balloting used in an election.
- 1520.7 The eligible candidate receiving the highest number of votes in each qualified voter category included in an election shall be declared the winner for that category.
- 1520.8 Following the tally of all ballots, the election official shall provide the Board with an official voting record for each category of qualified voter. The record shall identify for each qualified voter category:
- (a) The method or methods of balloting used;
 - (b) The number of ballots cast and counted for each eligible candidate;
 - (c) The total number of ballots issued;
 - (d) The total number of replacement and provisional ballots issued;
 - (e) The total number of ballots issued, but not cast;
 - (f) The total number of ballots cast and counted;
 - (g) The total number of ballots cast in each method of balloting, if more than one method is used;
 - (h) The total number of blank ballots returned;
 - (i) The total number of ballots returned and invalidated or voided;
 - (j) Any claims of discrepancy or error in the counting of the ballots made during the balloting process; and
 - (k) The results of the election.
- 1520.9 The election official in charge shall attest that the ballots and balloting procedures used in the election conform with the requirements set forth in Sections 1517, 1518, 1519, and 1520 of these Rules.
- 1520.10 The election official shall securely maintain and provide ballots and other election materials to DCRB at a place and time, and in a manner, determined by DCRB for recordkeeping and storage purposes. Election materials developed during, or in support of, an election cycle shall be the property of DCRB.
- 1520.11 The Board may declare the results of any election in any qualified voter category void and conduct a new election for that category, where the Board determines the

winner to be ineligible for service on the Board due to:

- (a) fraud, bribery, intimidation, or interference with voting in that category;
- (b) tampering with ballots in that category;
- (c) violation of the campaigning rules included in Section 1515 of these Rules;
or
- (d) any other mistake or defect serious enough to vitiate the election in that category as a fair expression of the will of the voters voting therein.

A new election conducted under this Section may result in a delay in the start date of an elected trustee's term.

1521 AUTHORIZED WATCHERS

1521.1 When paper ballots are counted by hand, an eligible candidate shall be notified of his or her right to be present to observe the counting of ballots in person as an authorized watcher, or to designate another to act as an authorized watcher to attend the ballot counting on his or her behalf.

- (a) Eligible candidates shall be notified of the time, date, and location of the counting of ballots no fewer than five (5) days before the date of ballot counting.
- (b) An eligible candidate must notify the election official, in writing, of their intent to be, or designate, an authorized watcher no later than twenty-four (24) hours prior to the scheduled date of the ballot counting.

1521.2 An authorized watcher shall be required to show a valid form of photo identification to enter the ballot counting location.

1521.3 Each authorized watcher shall be issued a badge with space for the watcher's name and, if a designee of an eligible candidate, the name of the eligible candidate represented by the authorized watcher.

1521.4 Badges shall be worn in plain view by the authorized watcher at all times, when he or she is inside the ballot counting location while ballot counting is being conducted.

1521.5 An authorized watcher shall comply with any measures put in place by the election official in charge to maintain order in the ballot counting place and shall conform to the provisions of Section 1521 of these Rules.

1521.6 No authorized watcher shall, at any time during the ballot counting process, do any

of the following:

- (a) touch any official record or ballot;
- (b) obstruct or interfere with the progress of the counting; or
- (c) talk to any ballot counter while the count is under way, except to request that a ballot be referred to the election official in charge for a determination as to its validity.

1521.7 If an authorized watcher has any questions, or claims any discrepancy or error in the counting of the vote, the authorized watcher shall direct the question or complaint to the election official in charge.

1521.8 Any authorized watcher who, in the judgment of the election official in charge, has failed to comply with any of the requirements contained in Section 1521 of these Rules, failed to obey any reasonable order of the election official in charge, or acted in a disorderly manner, shall be warned to cease and desist such conduct. If the authorized watcher fails to cease and desist such conduct, the election official in charge may order such authorized watcher to leave the ballot counting location. In such event, the authorized watcher's credentials shall be deemed cancelled, and he or she shall leave the ballot counting location immediately. The election official in charge may request a member of the Metropolitan Police Department to evict the authorized watcher or otherwise enforce his or her lawful orders.

1522 CERTIFICATION OF ELECTION RESULTS

1522.1 The Board shall certify the results of each election and publish the results in the District of Columbia Register and on the Board's website.

1522.2 The election results shall be deemed final and not subject to further administrative review thirty (30) days after publication in the District of Columbia Register of the certified election results, or any amendment to the certified election results required after a petition for recount, which resulted in a change to an election winner.

1522.3 Following certification of the results of the election, the Board shall retain and store in a secure and locked storage location, all election materials used during the election cycle where they shall remain for at least thirty (30) days after the certified election results have been published in the District of Columbia Register.

1523 RECOUNTS AND RESOLVING TIE VOTES

1523.1 An eligible candidate in any election may, within seven (7) days after the Board certifies the election results and publishes those results in the District of Columbia Register, petition the Board, in writing, for a recount of the ballots cast in that election. Such petition shall explicitly state the justification for a ballot recount.

- 1523.2 Upon receipt of a recount petition, the Board shall direct the election official to conduct a recount, at no cost to any eligible candidate, if the certified election results show a margin of victory for an eligible candidate that is less than one percent (1%) of the total votes cast or fifty (50) votes, whichever is less, for the qualified voter category.
- 1523.3 Upon receipt of a recount petition that does not meet the criteria set forth in Section 1523.2, the Board shall direct the election official to prepare an estimate of the time and cost to perform the recount, which shall be provided to the petitioner in writing.
- 1523.4 If the petitioner chooses to proceed with a recount, the petitioner shall deposit with the Board the estimated cost of the recount within seven (7) days of receipt of the estimate of the time and cost of the recount.
- 1523.5 Deposits shall be paid by certified check or money order made payable to the "District of Columbia Retirement Board." No cash deposit will be accepted.
- 1523.6 At the conclusion of any recount, a report of the recount results shall be presented to the Board and posted on the Board's website.
- 1523.7 If a recount, for which a deposit was made to the Board to cover estimated costs changes the results of the election, the entire amount deposited by the petitioner shall be refunded.
- 1523.8 If the result of the election is not changed, the petitioner is liable for the actual cost of the recount, minus the deposit already made. If the actual cost of the recount is less than the deposit made, the difference shall be refunded to the petitioner.
- 1523.9 There shall only be one (1) recount per election in a qualified voter category. The results of a recount are final and not subject to further administrative review.
- 1523.10 The Board shall not publish an amended certification of election results in the District of Columbia Register, unless the outcome of an election has changed as a result of a recount.
- 1523.11 In the event of a tie vote for a winner of an election, the election official shall conduct an automatic recount, at no cost to any eligible candidate. If the recount confirms the tie vote, the election official shall determine, by drawing lots, the resolution of the tie vote and winner of the election.
- 1523.12 After a recount confirms the tie vote, a notification of the drawing of lots for the resolution of a tie vote, shall be provided to each eligible candidate no fewer than three (3) days prior to the scheduled date of the drawing of lots. The notification shall include the time, date, and location of the drawing of lots.
- 1523.13 An eligible candidate, or his or her designated authorized representative, may view the drawing of lots for the resolution of a tie vote. An eligible candidate must notify the election official of his or her intent to view the drawing of lots, in writing, no later than twenty-four (24) hours prior to the scheduled date of the drawing of

lots.

1523.14 Drawing of lots for the resolution of a tie vote shall be conducted by the election official in the following manner:

- (a) The name of each of the tied eligible candidates shall be typed or written on separate slips of paper and placed in a container in a manner such that the names on the slips of paper shall be hidden from the view of the individual drawing.
- (b) The election official shall draw from the container one slip of paper.
- (c) The eligible candidate whose name is pulled first from the container shall be deemed the winner of the election.

1524 SPECIAL ELECTION FOR VACANCY OF TRUSTEE POSITION DURING TERM

1524.1 In the event of death, resignation, or removal of a Board trustee before completion of his or her term, where the remainder of the term is greater than six (6) months, the Board shall authorize the election official to conduct a special election to elect a successor trustee to serve for the remainder of the trustee's term. The election shall be conducted in substantial conformity with the procedures set forth in these Rules.