

RULES
FOR THE ELECTION OF MEMBERS
TO THE D.C. RETIREMENT BOARD

CHAPTER I
GENERAL

100 DEFINITIONS

- 100.1 The term “Act” means the District of Columbia Retirement Reform Act approved November 17, 1979 (Public Law 96-122, 93 Stat. 866) as amended (D.C. Official Code §§ 1-701 et. seq.).
- 100.2 The term “Replacement 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.).
- 100.3 The term “Board” means the District of Columbia Retirement Board established by Section 121(a) of the Act.
- 100.4 The term “Chairman” means the Chairman of the D.C. Retirement Board.
- 100.5 The term “program for Police and Firefighters’ Retirement and Disability” is the District of Columbia Police Officers and Firefighters’ Retirement Plan established under the Replacement Act that applies to retirement benefits accrued after June 30, 1997 and is codified at D.C. Official Code §§ 5-701 et seq.
- 100.6 The term “program for Retirement of Public School Teachers” is the District of Columbia Teachers’ Retirement Plan established under the Replacement Act that applies to retirement benefits accrued after June 30, 1997 and is codified at D.C. Official Code §§ 38-2021.01 et seq.
- 100.7 The term “qualified voter” means a member of one of the following categories as reflected in the records of the applicable human resources office, payroll office, or retirement benefits administrator at the time they provide information to the Board:
- (a) active fire fighter – a sworn member or officer of the District of

Columbia Fire and Emergency Medical Services Department (FEMS) who is a participant in the program for Police and Firefighters' Retirement and Disability;

- (b) retired fire fighter – a sworn member or officer of the FEMS who has retired under an optional, disability or deferred retirement under the provisions of the program for Police and Firefighters' Retirement and Disability;
- (c) active police officer – a sworn member or officer of the District of Columbia Metropolitan Police Department (MPD) who is a participant in the program for Police and Firefighters' Retirement and Disability;
- (d) retired police officer – a sworn member or officer of the MPD who has retired under an optional, disability or deferred retirement pursuant to the program for Police and Firefighters' Retirement and Disability;
- (e) active teacher – an employee who serves in a salary class position ET 1-15 under the District of Columbia Public Schools (DCPS) and is a participant in the program for Retirement of Public School Teachers;
- (f) retired teacher – a DCPS system employee (salary class position ET 1-15) who has retired under a voluntary, involuntary, disability or deferred retirement under the provisions of the program for Retirement of Public School Teachers.

100.8 The term “election official” means any person appointed by the Board to undertake the activities specified in Chapters III and IV of these rules. The election official must be experienced or qualified in conducting elections and may be an officer or employee of the Board, an officer, employee, or agency of the District of Columbia Government, or an individual, partnership, firm, or corporation. A qualified voter of any category may not be an election official.

100.9 The term “day” means a calendar day unless expressly stated otherwise. Any day on which a submission is due or another action occurs must be on a scheduled business day of the District of Columbia Government.

100.10 A pronoun referring to either the male or female gender refers to the other gender as well.

100.11 The term “eligible candidate” means a qualified voter who submits a valid

Statement of Candidacy and meets the qualifications to be a candidate as defined under these rules.

101 UNCONTESTED ELECTION

101.1 If no qualified voter submits a valid statement of candidacy, the election official shall:

- (a) repeat the notification of qualified voters procedure;
- (b) include a notice that the distribution is being repeated because no valid candidacy statements were received; and
- (c) use the same list of eligible voters.

101.2 If only one qualified voter submits a valid statement of candidacy:

- (a) the election official shall notify the Board of this fact;
- (b) consistent with Section 101.2(c) below, the Board shall proceed with the certification of election results pursuant to procedures specified in Section 408 as if the candidate had received the highest number of votes; and
- (c) in lieu of Section 408.4, within seven days after the results are published in the District of Columbia Register, any qualified voter may challenge, in writing and with specific information that the winner is an eligible candidate.

CHAPTER II AUTHORITY

200 DELEGATION OF AUTHORITY

- 200.1 The Board is responsible under the Act for conducting the election of Board members.
- 200.2 The Board may enter into an agreement with an election official to delegate certain functions and responsibilities of the Board under these rules.

CHAPTER III
CANDIDACY FOR ELECTION TO THE BOARD

300 QUALIFICATION OF CANDIDATES

- 300.1 To qualify as an eligible candidate for election to the Board and have his or her name printed on the ballot, such person:
- (a) must be a qualified voter in the category from which such person is a candidate for election to the Board;
 - (b) may not be an “elected official” nor be a candidate for the office of an elected official in the District of Columbia as defined at D.C. Official Code §1-1001.02(13);
 - (c) must otherwise qualify to serve as a fiduciary to the retirement Funds pursuant to the Act; and
 - (d) must file with the Board a valid statement of candidacy in accordance with this Chapter.

301 NOTIFICATION OF QUALIFIED VOTERS

- 301.1 The election official shall distribute the following to all qualified voters no later than 20 days before the due date for submitting a statement of candidacy to the election official:
- (a) information concerning the qualifications, duties, responsibilities, and compensation of Board members;
 - (b) a statement of candidacy form;
 - (c) instructions for filling out and submitting the statement of candidacy form to include the date, time, and location for submission.
- 301.2 The election official shall distribute the above by mail in an envelope that, on its face, specifies:
- (a) that the mailing is on behalf of the District of Columbia Retirement Board;
 - (b) the category of qualified voter to which the mailing is addressed; and
 - (c) that the mailing contains a nomination notice.
- 301.3 The statement of candidacy form and the information and instructions shall be available upon request from the election official.

301.4 The Board will strive to obtain a list of qualified voters as of a payroll or pension roll that is paid within 31 days, but no more than 60 days, of the scheduled distribution date.

302 STATEMENTS OF CANDIDACY

302.1 A Statement of candidacy shall be on a form developed by the Board. The form shall include the following:

- (a) a blank section for the candidate's name, residential and business address and telephone numbers;
- (b) identification of the category of qualified voters to which the prospective candidate must belong;
- (c) a declaration, to be signed and dated by the prospective candidate, that the statement of candidacy, including the qualifications statement filed with the statement of candidacy, is true and correct to the best of the knowledge and belief of the prospective candidate; and
- (d) an oath to be signed and dated by the prospective candidate that, if elected, he or she understands and agrees to comply with the duties and responsibilities of members of the Board.

303 QUALIFICATIONS STATEMENTS

303.1 Each prospective candidate for election shall file a qualifications statement with the statement of candidacy form. The qualifications statement shall be typed or printed on a form provided to the prospective candidate or on a blank sheet of paper. The prospective candidate shall submit the qualifications statement in the same envelope as the statement of candidacy. The qualifications statement presents the candidate's self-described qualifications to be a member of the Board.

303.2 Qualifications statements may not exceed fifty (50) words in length. Abbreviations and Arabic numerals in series shall be counted as one word. The election official will disregard that portion of any qualifications statement that exceeds fifty (50) words in length when the election official prints the list as provided for in Section 400.1(b).

303.3 Each candidate who attends the meeting described at Section 401.6(b) may proofread and correct transcription errors in their qualifications statement.

304 VALIDITY OF STATEMENTS OF CANDIDACY

- 304.1 A statement of candidacy shall be considered valid if it satisfies all of the following conditions:
- (a) the statement is received at the place and time designated pursuant to Section 301.1(d);
 - (b) the statement is on a form provided or authorized by the Board;
 - (c) the statement contains the prospective candidate=s full residential address (excluding zip code);
 - (d) the statement is filed by a person who is a qualified voter under Section 300;
 - (e) the statement is accompanied by a qualifications statement; and
 - (f) the statement contains a signed declaration and oath as specified in Sections 302.1(c) and (d).
- 304.2 After receipt of a statement of candidacy, the election official shall determine whether the statement is valid or invalid. If the election official determines that the statement is invalid, the election official shall notify the prospective candidate specified on the statement, by first class mail, of the rejection of the statement of candidacy and the specific reasons for the rejection.
- 304.3 The determination of the election official as to the validity of statements of candidacy shall be final and not subject to further administrative review. Any prospective candidate whose statement of candidacy is rejected for a reason other than late receipt, as defined in Section 304.1(a), may file one new or amended statement of candidacy, which must be received at the place, date, and time specified by the election official. The due date for the amended statement of candidacy shall be at least ten days after the notice of rejection is distributed.

CHAPTER IV VOTING PROCEDURES

400 DISTRIBUTION OF BALLOTS

- 400.1 No later than twenty-seven (27) days before the submission due date for

the ballots, the election official shall mail to each qualified voter the following:

- (a) a ballot for the category of qualified voter from which the person is eligible to elect a representative;
- (b) an alphabetical list by surname that contains the name, the residential and business address, and the qualifications statement of each candidate;
- (c) an envelope in which to enclose the ballot and a ballot return envelope on which has been printed the address to which the ballot must be returned;
- (d) complete instructions for filling out and submitting the ballot;
- (e) complete instructions for electronic balloting, if offered; and
- (f) information concerning the date, time, and place for counting ballots.

400.2 The election official shall distribute the above by mail in an envelope that, on its face, specifies:

- (a) That the mailing is on behalf of the District of Columbia Retirement Board;
- (b) The category of qualified voter to which the mailing is addressed; and
- (c) That the mailing contains a ballot.

400.3 The Board will strive to obtain a list of eligible voters from a payroll or pension roll that is paid within 31 calendar days, but no more than 60 calendar days, of the scheduled mailing date. If the Board cannot obtain this list, then the Board will use the same list as was used to mail the Notification of Qualified Voters.

401 FORM OF BALLOTS

401.1 The Board shall develop a ballot for each category of qualified voter that shall be separate and distinct from the ballot for any other category.

401.2 A paper ballot shall be on a different color paper from the ballot for any other category.

- 401.3 A paper ballot shall have a box immediately to the right of the name of each qualified candidate where the voter may indicate his or her voting choice with a single mark.
- 401.4 Ballot return envelopes shall be preprinted with a unique control number and with the name and address of the voter. The election official shall maintain a record identifying the unique control number of the ballot return envelope sent to each voter.
- 401.5 The names of eligible candidates shall appear on the ballot:
- (a) in the same form as each candidate's name appears on the statement of candidacy filed by the candidate. No titles, ranks, prefixes, or degrees associated with a name shall appear on the ballot; and
 - (b) in the order determined by lot, at a place, time, and date and in a manner determined by the Board. At least seven (7) days prior to this date, the election official shall mail or otherwise notify all qualified candidates as to the place, time, date, and manner for determining the order of names on the ballots. Each qualified candidate may be present during such determination.
- 401.6 If the Board uses electronic balloting, the election official shall conduct balloting in a manner that is consistent with the principles and objectives enumerated above for paper balloting, including safeguards to protect the authenticity and secrecy of the individual ballots.

402 REPLACEMENT BALLOTS

- 402.1 If a qualified voter erroneously marks, defaces, tears, or loses a ballot or envelope, the voter may contact the election official in writing, by facsimile, or by telephone and request the issuance of a replacement ballot. The election official shall maintain a record identifying the voter and the unique control numbers of the voided ballot return envelope and of the replacement ballot return envelope.

403 ELECTION PROCEDURES

- 403.1 Upon receiving any ballot return envelope, the election official shall verify that the receipt is in accordance with Section 400.1(d). The election official shall maintain the ballot return envelope in a secure location. The election

official shall take appropriate safeguards to insure that the secrecy of each ballot is preserved.

- 403.2 The election official shall be in charge of counting the ballots. No person who is a qualified voter may be a vote counter for the category for which he or she is eligible to vote.
- 403.3 Each vote counter shall maintain a record of the number of votes cast for each candidate. After the count is complete, each vote counter shall provide the election official in charge with the voting records.
- 403.4 The election official will produce a report of the ballots submitted by electronic means. The report will identify the number of ballots submitted in total and by candidate.
- 403.5 The election official in charge shall prepare and certify a consolidated report showing the number of votes cast for each candidate.
- 403.6 The Board will strive to count the ballots on the second day after the due date, and six days before the Board meeting at which the Board will certify the results.

404 CONTROL OF ACTIVITY IN VOTE COUNTING PLACES

- 404.1 The election official in charge shall have full authority to maintain order in the vote counting place.
- 404.2 The only persons who shall be permitted to be present in a vote-counting place shall be the election official in charge, vote counters, designated representatives of the Board, police officers requested by the Board or the election official, and the authorized watcher of each eligible candidate for the category of ballot being counted.

405 VOTE COUNTING WATCHERS

- 405.1 Each eligible candidate is entitled to have a watcher at the vote-counting place.
- 405.2 A candidate may designate himself or herself as the watcher pursuant to Section 405.1 by presenting valid identification at the vote counting place.
- 405.3 If a candidate will not be present at the vote counting place and wishes to designate another person as his or her watcher, he or she shall notify the election official in writing of the name, address, and telephone number of

the person authorized by the candidate to represent him or her as a watcher. The watcher will conform to the provisions of these rules with respect to watchers and the conduct of the election. Such notice must be received before the election official begins to count the ballots.

405.4 Each authorized watcher shall be issued a badge with space for the watcher's name and, if a representative of a candidate, the name of the candidate represented by the watcher.

405.5 Badges shall be worn in plain view by the authorized watcher at all times when he or she is on duty at the vote counting place.

406 CONDUCT OF WATCHERS

406.1 No watcher shall, at any time do any of the following:

- (a) touch an official record or ballot;
- (b) obstruct or interfere with the progress of the counting; or
- (c) talk to any vote 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.

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

406.3 Any watcher who, in the judgment of the election official in charge, has failed to comply with any of the rules contained in Sections 404, 405 and 406, 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 watcher fails to cease and desist such conduct, the election official in charge may order such watcher to leave the vote-counting place. In such event, the watcher's credentials shall be deemed cancelled, and he shall leave the vote counting place immediately. The election official in charge may request a member of the Metropolitan Police Department of the District of Columbia to evict the watcher or otherwise enforce his or her lawful orders.

407 VALIDITY OF BALLOTS AND VOTES

407.1 The election official will maintain a list of the unique numbers on the

return envelopes, as specified in Section 401.5, for which votes were submitted electronically.

407.2 The following ballots shall be considered invalid and shall not be counted.

- (a) Any ballot which is received after the date and time determined by the election official in accordance with Section 400.1(d) at the place determined by the election official for return of ballots;
- (b) any ballot which is signed, initialed, or otherwise marked in a manner which serves to reveal the identity of the voter;
- (c) any ballot on which the voter has filled in the voting positions for more than one candidate whose name is printed on the ballot (extraneous marks or other matter on a ballot which do not lead to confusion as to the intention of the voter may be disregarded and the ballot considered valid);
- (d) any ballot on which the voter has written in the name of a person other than a qualified candidate whose name is printed on the ballot;
- (e) any ballot which is not an original ballot issued to a voter pursuant to Section 400.1 or Section 402.1 (except for any ballot submitted by an authorized electronic means);
- (f) any ballot which is returned in an envelope other than a ballot return envelope provided with the ballot pursuant to Section 400.1 or 402.1 (except for any ballot submitted by an authorized electronic means);
- (g) any ballot which is not returned within a unique ballot return envelope;
- (h) any ballot return envelope that has the same control number used to cast an electronic ballot.

407.3 No voter shall vote more than once in the election or shall vote in a category other than the category in which he or she is qualified voter.

407.4 Nothing contained in Section 407.2 shall be construed as invalidating any ballot solely because of a voter's failure to follow the instructions for filling out the proper ballot provided pursuant to Section 400.1. If a voter draws an arrow pointing to a candidate's name, circles the candidate's name or the voting box to the right of the candidate's name, places a check, asterisk, or

other mark in front of the candidate=s name, or otherwise marks a ballot 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 candidate.

- 407.5 If any vote counter determines that a ballot is invalid or is uncertain as to the validity of any ballot, he or she shall refer the ballot to the election official in charge. If any watcher believes that a ballot is invalid, he or she shall request the vote counter to refer the ballot to the election official in charge and the vote counter shall so refer such ballot.
- 407.6 If the election official in charge determines that any ballot referred to him or her is invalid, he or she shall mark the ballot as invalid and sign the ballot below the mark. Such ballot shall be maintained in the custody of the election official in charge in a secure location, separate from other ballots.
- 407.7 The determination of the election official in charge as to the validity of any ballot shall be final and not subject to further administrative review.
- 407.8 Except as provided in Section 407.6 no election official, other than the election official in charge, shall make any mark on any ballot.

408 CERTIFICATION OF ELECTION RESULTS

- 408.1 Upon receiving the consolidated report from the election official in charge, the Board shall announce the winner of the election for each category of qualified voter in accordance with Sections 408.2 and 408.3. The Board shall certify the results of the election for each category in writing and publish such results in the District of Columbia Register.
- 408.2 The candidate receiving the highest number of votes in each category shall be declared the winner of the election for that category.
- 408.3 In the event of a tie vote, the resolution of which shall affect the outcome of the election, the election official shall recount the ballots cast for all candidates. If the recount validates the tie vote, then the candidates receiving the tie votes shall cast lots by “drawing straws” before the Board, on such date, at such time and place, and in such manner as the Board may determine. The candidate to whom the lot shall fall shall be declared the winner. For purposes of casting lots, any candidate may appear in person or by his or her authorized representative. To the extent that the

candidate seeks to use a representative, the candidate shall notify the Board in writing, of the name of his or her representative prior to the date determined by the Board for casting lots. If any candidate receiving a tie vote fails to appear in person or by authorized representative at the place determined by the Board, the Board shall cast lots for him or her.

- 408.4 Within seven days after the Board publishes the results of an election, any eligible candidate for election in that category may petition the Board in writing to have the votes cast in that category recounted. The Board shall order such recount upon receipt of the petition and deposit by the petitioner of the estimated cost of conducting the recount, the amount of which deposit will be fixed by the Board. In the event that the cost of the recount is less than the amount deposited, the Board shall refund the difference to the petitioner. If the winner of the election changes as a result of the recount, the Board shall re-certify the results of the election and refund the entire amount deposited by the petitioner. A petitioner shall not be required to make a deposit of the estimated cost of recount or pay the cost of any recount, where the difference in the number of votes received by the candidate certified as the winner of the election and by the petitioner, as reflected in the consolidated report, is less than one (1) per centum of the votes cast or fifty (50) votes, whichever is less.
- 408.5 If a person who is certified as the winner of the election in a category is determined by the Board to be ineligible for election pursuant to Sections 300.1, the Board shall declare the results of the election in that category void. In such case, the Board shall conduct a new election for that category.
- 408.6 The Board may declare the results of the election in any category void and conduct a new election for that category, where the Board determines that there was bribery, intimidation, or interference with voters in that category, tampering with ballots in that category, fraud, or 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.
- 408.7 A full counting shall be made of the election, including for each category the following:
- (a) the number of ballots issued;
 - (b) the number of replacement ballots issued;

- (c) the number of ballots issued, but not cast;
- (d) the number of ballots returned and counted;
- (e) the number of ballots cast electronically;
- (f) the number of unused ballots returned;
- (g) the number of spoiled ballots returned; and
- (h) the number of ballots returned and invalidated.

408.8 The election official shall conduct a recount if the sum of the ballot counts for all candidates does not equal the number of ballots returned and counted, unless the difference is minor and is unlikely to change the election winner.

408.9 Following certification of the results of the election, all election materials, including all unissued and returned ballots and the statements of candidacy shall be transferred to a secure and locked storage location, where they shall remain until the expiration of the time for judicial review has passed or until a court orders them released or until the Board orders them released for purposes of a recount.

408.10 In the absence of requests for a recount, the election results will become final and unappealable thirty (30) days after publishing the certification by the Board.