D.C. DEPARTMENT OF HUMAN RESOURCES

NOTICE OF FINAL RULEMAKING

The Director of the D.C. Department of Human Resources, with the concurrence of the City Administrator, pursuant to Mayor's Order 2008-92, dated June 26, 2008; and in accordance with the provisions of Chapter XVIII of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-618.01 *et seq.*) (2012 Repl. & 2013 Supp.), hereby gives notice that final rulemaking action was taken to adopt the following rules to amend in its entirety Chapter 18, Employee Conduct, of Subtitle B of Title 6, Government Personnel, of the District of Columbia Municipal Regulations (DCMR).

The main purpose of amending the rules is to ensure the provisions reflect changes resulting from the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 ("Ethics Act "), effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*), and the District of Columbia Government Comprehensive Merit Personnel Amendment Act of 2012 ("Act"), effective March 14, 2012 (D.C. Law 19-115; 59 DCR 461 (January 27, 2012)). Specifically, the rules have been amended to reference the Board of Ethics and Government Accountability ("BEGA") as the primary District government entity responsible for the enforcement of ethics-related matters; to add a new Section 1806, Restrictions on the Employment of Relatives (Nepotism); and to amend Section 1899, Definitions, to add definitions for the terms "*Agency,*" "*Code of Conduct,*" "*Days,*" "*Filers,*" "*Former Government Employee,*" "*Particular government matter involving a specific party,*" "*Public official,*" "*Relative,*" "*Remedial action,*" and "*Special government employee,*" and to amend the term "*Employee*". Additional changes were made throughout the chapter.

Comments were received from the Board of Ethics and Government Accountability following publication of the Notice of Proposed Rulemaking on January 3, 2014 at 61 DCR 000091. Based on those comments specific non-substantive changes were made to the notice. Those revisions include the change of "BEGA Act" to "Ethics Act ;" "Director of Government Ethics" to "District of Columbia Office of Government Ethics;" and the "Board of Ethics and Government Accountability" to "Office of Government Ethics", throughout the chapter. In addition, non-substantive changes were made to correct typographical errors in Subsections 1810.4 (c) and (d).

The rules were adopted as final on April 7, 2014 and will become effective upon publication in the *D.C. Register*.

Chapter 18, Employee Conduct, of Subtitle B of Title 6 (Government Personnel) of the District of Columbia Municipal Regulations, is amended to read as follows:

1800 APPLICABILITY AND BASIC EMPLOYEE OBLIGATIONS

1800.1 This chapter applies to the ethical responsibilities of all employees pursuant to Chapter XVIII of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979, as amended (D.C. Law 2-139; D.C. Official Code § 1-618.01 *et seq.*).

1800.2 Each employee has a responsibility to the District of Columbia and its citizens to place loyalty to the laws and ethical principles above private gain. To ensure that every citizen can have complete confidence in the integrity of the District government, each employee shall respect and adhere to the principles of ethical conduct set forth in this section, as well as the District of Columbia Employee Ethics Pledge and in supplemental agency regulations and policies.

1800.3 The following general principles apply to every employee and form the basis for the standards contained in this chapter. Where a situation is not specifically covered by another provision of law or policy, employees shall apply the following principles set forth in this section in determining whether their conduct is proper:

(a) Government service is a public trust, requiring employees to place loyalty to the laws and ethical principles above private gain.

(b) Employees shall not hold financial interests that conflict with the conscientious performance of duty.

(c) Employees shall not engage in financial transactions using nonpublic government information or allow the improper use of such information to further any private interest.

(d) An employee shall not, except as permitted by Section 1803 of this chapter, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

(e) Employees shall put forth honest effort in the performance of their duties.

(f) Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the government.

(g) Employees shall not use public office or position for private gain.

(h) Employees shall act impartially and not give preferential treatment to any private organization or individual.

(i) Employees shall protect and conserve government property and shall not use it for other than authorized activities.

(j) Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with their official government duties and responsibilities.

(k) Employees shall report credible violations of the District Code of Conduct and this chapter to appropriate authorities.

(l) Employees shall satisfy in good faith their lawful obligations, including all just financial obligations to federal, state, District and local governments.

(m) Employees shall adhere to all federal, state, and local laws and regulations.

(n) Employees shall not take actions creating the appearance that they are violating the law or the ethical standards set forth in this chapter. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

1800.4 An employee may not do indirectly what he or she may not do directly under this chapter.

1801 EMPLOYEE COOPERATION

1801.1 Employees shall immediately and directly report credible violations of the District Code of Conduct and violations of this chapter to the District of Columbia Office of Government Ethics, the District of Columbia Office of the Inspector General, or both.

1801.2 An employee shall not interfere with or obstruct any investigation conducted by a District or federal agency.

1801.3 An employee shall fully cooperate with any investigation, enforcement action, or other official function of the Office of Government Ethics.

1801.4 Coercive, harassing, or retaliatory action shall not be taken against any employee acting in good faith under this section.

1802 REMEDIAL ACTION

1802.1 A violation of this chapter or supplemental agency regulations and policies shall be cause for appropriate corrective or disciplinary action to be taken under the procedures applicable to the employee.

1802.2 It is the responsibility of the employing agency to initiate appropriate remedial, corrective, or adverse action in individual cases. Such action may be in addition to any other action or penalty prescribed by law.

1802.3 An employee who violates the Code of Conduct shall be subject to applicable civil and criminal penalties pursuant to Section 221 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform

Amendment Act of 2011 (D.C. Law 19-124; D.C. Official Code § 1-1162.21). Penalties imposed by BEGA are separate and apart from any corrective or disciplinary action taken by the employing agency.

1803 GIFTS FROM OUTSIDE SOURCES

1803.1 This section contains standards that prohibit an employee from soliciting or accepting any gift from a prohibited source or given because of the employee's official position unless the item is excluded from the definition of a gift or falls within one of the exceptions set forth in this section.

1803.2 Except as otherwise provided in this section, an employee shall not, directly or indirectly, solicit or accept a gift:

(a) From a prohibited source; or

(b) Given because of the employee's official position or duties.

1803.3 Notwithstanding any exception provided in this section, an employee shall not:

(a) Accept a gift in return for being influenced in the performance or nonperformance of an official act;

(b) Solicit or coerce the offering of a gift; or

(c) Accept gifts from the same or different sources on a basis so frequent that a reasonable person would be led to believe the employee is using his or her public office for private gain.

1803.4 For purposes of this section, the following meanings apply:

(a) "Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of training, transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. It does not include:

(1) Modest items of food and refreshments, such as soft drinks, coffee and donuts, offered other than as part of a meal;

(2) Greeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, which are intended solely for presentation;

(3) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;

(4) Unsolicited items received by employees for the purposes of evaluation or review, provided the employee has no beneficial personal interest in the eventual use or acquisition of the item by the employee's agency;

(5) Food and beverages, of nominal value, consumed at hosted receptions where attendance is related to the employee's official duties;

(6) Admission to and the cost of food and beverages consumed at events sponsored by or in conjunction with a civic, charitable, governmental or community organization, when the admission, food and beverages are of a nominal value;

(7) Unsolicited gifts from dignitaries from the federal government, a state or territory, or a foreign country that are of a nominal value and intended to be personal in nature and, in the case of a foreign country, are permitted under 5 U.S.C. § 7342;

(8) Loans from banks and other financial institutions on terms generally available to the public;

(9) Opportunities and benefits, including favorable rates and commercial discounts, available to the public or to a class consisting of all government employees or all uniformed members of the Metropolitan Police Department and/or Fire and Emergency Medical Services Department, whether or not restricted on the basis of geographic considerations;

(10) Rewards and prizes given to competitors in contests or events, including random drawings, open to the public unless the employee's entry into the contest or event is required as part of his official duties;

(11) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer;

(12) Anything which is paid for by the District or secured by the District under a District contract;

(13) Any gift accepted by the District government under specific statutory authority; or

(14) Anything for which market value is paid by the employee.

(b) "Prohibited source" means any person or entity who:

(1) Is seeking official action by the employee's agency;

(2) Does business or seeks to do business with the employee's agency;

(3) Conducts activities regulated by the employee's agency;

(4) Has interests that may be substantially affected by performance or nonperformance of the employee's official duties; or

(5) Is an organization in which the majority of its members are described in subparagraphs (1) through (4) of this subsection.

(c) A gift is accepted or solicited because of the employee's position if it is from a person other than an employee and would not have been solicited, offered, or given had the employee not held the status, authority or duties associated with his District government position.

(d) A gift which is accepted or solicited indirectly includes a gift:

(1) Given with the employee's knowledge and acquiescence to his parent, sibling, spouse, child, or dependent relative because of that person's relationship to the employee, or

(2) Given to any other person or entity, including any charitable organization, on the basis of designation, recommendation, or other specification by the employee.

1803.5 The prohibitions set forth in this section do not apply to gifts accepted under the circumstances described in paragraphs (a) through (e) of this subsection, and an employee's acceptance of a gift in accordance with one of those paragraphs will be deemed not to violate the principles set forth in Section 1800.

(a) An employee may accept unsolicited gifts having a market value of $10 or less per source per occasion, provided that the aggregate market value of individual gifts received from any one person under the authority of this paragraph shall not exceed $20 in a calendar year, except when the offer of the gift would appear to a reasonable person to be intended to influence the employee in his or her official duties.

(b) An employee may accept a gift given under circumstances which make it clear that the gift is motivated by a family relationship or personal friendship rather than the position of the employee.

(c) An employee may accept meals, lodgings, transportation and other benefits:

(1) Resulting from the business or employment activities of an employee's spouse or domestic partner when it is clear that such benefits have not been offered or enhanced because of the employee's official position; or

(2) Resulting from the employee's authorized outside business or employment activities when it is clear that such benefits have not been offered or enhanced because of the employee's official status.

(d) When an employee is assigned to participate as a speaker or panel participant or otherwise to present information on behalf of the agency at a conference or other event, his acceptance of an offer of free attendance at the event on the day of his presentation is permissible when provided by the sponsor of the event. The employee's participation in the event on that day is viewed as a customary and necessary part of his performance of the assignment and does not involve a gift to him or to the agency. Any such assignment must be made by the employee's agency head, or other designee, in writing.

(e) When an employee's attendance is in the interest of the agency, as determined by the Mayor or designee, in writing, because it will further agency programs and operations, the employee may accept an unsolicited gift of free attendance at all or appropriate parts of a widely attended gathering of mutual interest to a number of parties from the sponsor of the event or, if more than 50 persons are expected to attend the event and the gift of free attendance has a market value of $350 or less, from a person other than the sponsor of the event. A gathering is widely attended if it is expected that a large number of persons will attend and that persons with a diversity of views or interests will be present, for example, if it is open to members from throughout the interested industry or profession or if those in attendance represent a range of persons interested in a given matter. For employees subject to a leave system, attendance at the event shall be on the employee's own time or, if authorized by the employee's agency, without charge to the employee's leave account.

1803.6 Whenever an employee accepts a contribution, award or payment in accordance with Paragraphs 1803.5(d) or (e), the agency shall maintain the following records for a period of no less than two (2) years:

(a) The name of the recipient;

(b) The name of the organization;

(c) The amount and nature of the contribution, award, or payment and the purpose for which it is to be used; and

(d) A copy of the written authorization.

1803.7 An employee who receives a gift that cannot be accepted under the provisions of this section shall inform the person offering the gift that District government ethics rules do not permit acceptance of gifts, and:

(a) Return the gift to the donor, donate the gift to a tax exempt organization pursuant to 26 U.S.C. § 501(c)(3), or reimburse the donor the market value of the gift; or

(b) If the gift is perishable and it would not be practical to return it to the donor, donate the gift to charity, share it with office staff, or destroy it.

(c) The actions set forth in (a) and (b) above may be taken one time only with respect to any donor.

1803.8 In accordance with 18 U.S.C. § 209, an employee shall not receive any salary or anything of monetary value from a private source as compensation for his or her services to the government.

1804 GIFTS BETWEEN EMPLOYEES

1804.1 Except as provided in Subsection 1804.6, this section contains standards that prohibit an employee from giving, donating to, or soliciting contributions for, a gift to an official superior and from accepting a gift from a co-worker receiving less pay than the employee, unless the item is excluded from the definition of a gift or falls within one of the exceptions set forth in this section.

1804.2 Except as otherwise provided in this section, an employee may not:

(a) Directly or indirectly, give a gift to or make a donation toward a gift for an official superior; or

(b) Solicit a contribution from another employee for a gift to their official superior or the other employee's official superior.

1804.3 Except as provided in this section, an employee may not, directly or indirectly, accept a gift from an employee receiving less pay than themself unless:

(a) The two employees are not in a subordinate-official superior relationship;

(b) There is a personal relationship between the two employees that would justify the gift; and

(c) The gift was not given or solicited to gain or induce any professional advantage.

1804.4 Notwithstanding any exception provided in this section, an official superior shall not coerce a subordinate to make or contribute to a gift.

1804.5 For purposes of this section, the following meanings apply:

(a) "Gift" has the meaning set forth in Section 1803. For purposes of that definition an employee will be deemed to have paid market value for any benefit received as a result of their participation in any carpool or other such mutual arrangement involving another employee or other employees if he or she bears their fair proportion of the expense or effort involved.

(b) "Official superior" means any other employee including but not limited to an immediate supervisor, whose official responsibilities include directing or evaluating the performance of the employee's official duties or those of any other official superior of the employee. For purposes of this section, an employee is considered to be the subordinate of any of his official superiors.

(c) "Solicit" means to request contributions by personal communication or by general announcement.

(d) "Voluntary contribution" means a contribution given freely, without pressure or coercion. A contribution is not voluntary unless it is made in an amount determined by the contributing employee, except that where an amount for a gift is included in the cost for a luncheon, reception or similar event, an employee who freely chooses to pay a proportionate share of the total cost in order to attend will be deemed to have made a voluntary contribution. Except in the case of contributions for a gift included in the cost of a luncheon, reception or similar event, a statement that an employee may choose to contribute less or not at all shall accompany any recommendation of an amount to be contributed for a gift to an official superior.

1804.6 The prohibitions set forth in Subsections 1804.2 and 1804.3 do not apply to a gift given or accepted under the circumstances established in Paragraphs (a) and (b) of this subsection. A contribution or the solicitation of a contribution that would otherwise violate Subsections 1804.2 and 1804.3 may only be made in accordance with Paragraph (c) of this subsection.

(a) On an occasional basis, including any occasion on which gifts are traditionally given or exchanged, the following may be given to an official superior or accepted from a subordinate or other employee receiving less pay:

(1) Items, other than cash, with an aggregate market value of $10 or less per occasion;

(2) Items such as food and refreshments to be shared in the office among several employees;

(3) Personal hospitality provided at a residence which is of a type and value customarily provided by the employee to personal friends; and

(4) Items given in connection with the receipt of personal hospitality if of a type and value customarily given on such occasions.

(b) A gift appropriate to the occasion may be given to an official superior or accepted from a subordinate or other employee receiving less pay:

(1) In recognition of infrequently occurring occasions of personal significance such as marriage, illness, or the birth or adoption of a child; or

(2) Upon occasions that terminate a subordinate-official superior relationship, such as retirement, resignation, or transfer.

(c) An employee may solicit voluntary contributions of nominal amounts from fellow employees for an appropriate gift to an official superior and an employee may make a voluntary contribution of a nominal amount to an appropriate gift to an official superior:

(1) On a special, infrequent occasion as described in paragraph (b) of this section; or

(2) On an occasional basis, for items such as food and refreshments to be shared in the office among several employees.

(d) An employee may accept such gifts to which a subordinate or other employee receiving less pay than himself or herself has contributed.

1804.7 For the purposes of Subsections 1804.3 and 1804.4 of this section, the term nominal means an individual cash donation of no more than ten dollars ($10) or an individual voluntary gift of no more than ten dollars ($10) in market value.

1805 FINANCIAL INTERESTS AND DISCLOSURES

1805.1 It is the policy of the District government to avoid conflicts of interest concerning the award, implementation, monitoring, and performance of contracts for services. Accordingly, as a means of assisting District government agencies to evaluate real or potential conflicts of interest in this area, each employee will be required to disclose to his or her employing agency upon appointment, such previous

employment relationships (whether in the private or public sectors) as the employing agency may direct, including full disclosure of any ongoing economic benefits to the employee from previous employment relationships.

1805.2 For the purposes of this section, the following terms apply:

(a) "Ongoing economic benefit from a former employer" shall include any pension, annuity, stock option, bonus, cash or in-kind distribution in satisfaction of equitable interest, payment of all or a portion of the premiums on a life or health insurance policy, or any other comparable benefit.

(b) A "former employer" is any person or organization:

(1) For whom or for which the employee has, within the one (1) year preceding his or her employment by the District government, served as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee; or

(2) From whom or from which the employee receives an ongoing economic benefit.

1805.3 The employing agency shall inform each new hire of the requirement to disclose employment relationships as described in Subsection 1805.1. A new hire with employment relationships to disclose shall so inform his or her immediate supervisor and a person designated by the agency head, and complete D.C. Standard Form 36, Previous Employment Relationships, within thirty (30) days of the effective date of the new appointment.

1805.4 The head of the employing agency will communicate the information required to be disclosed under this subsection to each new hire, and advise the employee in writing of the restrictions imposed by this subsection.

(a) For one (1) year after the date of initial employment with the District government, an employee required to make a disclosure under this section will be screened from and shall not participate in any manner, in the District government's decision to enter into, extend, modify, or renew a contract or consultancy engagement with the employee's former employer (hereafter, "procurement action").

(b) The one-year (1-year) restriction from participation in any procurement action prescribed in paragraph (a) will be extended for as long as the employee receives an ongoing economic benefit from a former employer. It will be the employee's responsibility to advise his or her immediate supervisor and a person designated by the agency head of the continued receipt of the ongoing economic benefit from a former employer.

1805.5 Notwithstanding the prohibitions set forth in Subsection 1805.4, the head of the employing agency may authorize an employee, required to make a disclosure under this section, to do any of the following as part of the employee's official duties:

(a) Participate in the oversight or review of the work-product or performance of a former employer that is currently a contractor or consultant with the District government;

(b) Serve as the District government's liaison with the former employer; or

(c) Otherwise communicate with the former employer on matters pending before the employee's employing agency.

1805.6 The determination to require an employee to perform any of the duties listed in Subsection 1805.5 shall be based upon a written determination of the agency head, made in light of all relevant circumstances, that the interest of the District government in the employee's participation outweighs the concern that a reasonable person might question the integrity of the District government's programs or operations. Applying this standard, the agency head may determine that the employee's participation reasonably may be permitted in certain activities involving the employee's former employer, but not in others. In all instances under this section in which the employee is prohibited from participation, the employee will be screened from the receipt of any information regarding the former employer's matter that is pending before the District government.

1805.7 An agency head may delegate the responsibility for making any of the determinations prescribed in this section to other personnel in the agency. The person in the agency making any such determinations may consult with the Board of Government Ethics and Accountability.

1805.8 No District government employee or any member of his or her immediate household shall knowingly:

(a) Acquire any stocks, bonds, commodities, real estate, or other property, whether held individually or in concert with others, the possession of which could unduly influence or give the appearance of unduly influencing the employee in the conduct of his or her official duties and responsibilities as a District government employee; or

(b) Acquire an interest in or operate any business or commercial enterprise which is in any way related, directly or indirectly, to the employee's official duties, or which might otherwise be involved in an official action taken or recommended by the employee, or which is in any way related to

matters over which the employee could wield any influence, official or otherwise.

1805.9 A District government employee who is called upon to act for or on behalf of the District government in a matter relating to or involving a non-governmental entity in which the employee or a member of the employee's immediate family has a financial interest, shall make this fact known to his or her immediate supervisor and a person designated by the agency head, in writing, at the earliest possible moment. Unless a waiver of the conflict of interest is granted by BEGA pursuant to D.C. Official Code § 1-1162.23(b), the head of the employing District government agency subsequently shall determine whether or not the employee must divest him or herself of such interest, or merely disqualify him or herself from taking part in any official decision or action involving the matter.

1805.10 Nothing contained in this chapter shall preclude the Mayor from serving as an honorary chair or honorary member of a nonprofit entity's fundraising event, so long as the entity for which funds are raised supports a nongovernmental bona fide charitable activity benefiting the District of Columbia. Use of the Mayor's name or title in fundraising solicitations or announcements of general circulation shall be in accordance with such terms and limitations as the Mayor may prescribe by Mayor's order or by direction in particular cases. The authority granted by this subsection shall not extend to the use of the Mayor's name or title in solicitations made by or on behalf of the Mayor directly to individual contributors.

1806 RESTRICTIONS ON THE EMPLOYMENT OF RELATIVES (NEPOTISM)

1806.1 In accordance with the District of Columbia Government Comprehensive Merit Personnel Amendment Act of 2012, effective March 14, 2012 (D.C. Law 19-115, D.C. Official Code § 1-618.04); and the Civil Service Act of 1967, effective October 13, 1978, as amended (Pub.L. 90-206, 5 U.S.C. § 3110), this section restricts the hiring and advancing of relatives by public officials.

1806.2 For purposes of this section, the following meanings apply:

(a) "Public official" means an officer, employee, or any other individual in whom authority by law, rule, or regulation is vested, or to whom the authority has been delegated to select, appoint, employ, promote, reassign, demote, separate, or recommend individuals for any of these actions.

(b) A "hiring decision" means selecting, appointing, employing, promoting, reassigning, advancing, or advocating a personnel action.

1806.3 A public official may not directly or indirectly make a hiring decision regarding a position within his or her own agency with respect to a relative. Specifically, a public official may not appoint, employ, promote, evaluate, interview, or advance

(or advocate for such actions) any individual who is a relative in an agency in which the public official serves or exercises jurisdiction or control. A violation of this subsection shall constitute disciplinary cause and subject the public official to disciplinary action, up to, and including removal.

1806.4 Any hiring decision secured or effectuated in violation of this section shall be rescinded immediately.

1806.5 In addition to any other remedies available pursuant to law, including penalties imposed by the Office of Government Ethics, a public official who violates Subsection 1806.3 shall pay restitution to the District of Columbia for any gains received by the relative.

1806.6 When the agency contemplates making a hiring decision concerning a relative of a public official within the same agency, the public official must file a written recusal, which shall be included in the relative's official personnel file along with the subject personnel action.

1806.7 In the event of emergencies resulting from natural or manmade disasters, the Mayor may suspend the prohibitions of this section, as permitted by the District of Columbia Government Comprehensive Merit Personnel Amendment Act of 2012, effective March 14, 2012 (D.C. Law 19-115; D.C. Official Code § 1-618.04); and the Civil Service Act of 1967, effective October 13, 1978, as amended (Pub.L. 90-206; 5 U.S.C. § 3110(d)).

1807 OUTSIDE EMPLOYMENT AND PRIVATE REPRESENTATIONS

1807.1 A District government employee shall not engage in any outside employment or other activity incompatible with the full and proper discharge of his or her duties and responsibilities. Activities or actions that are not compatible with government employment include, but are not limited to the following:

(a) Engaging in any outside employment, private business activity, or other interest that is reasonably likely to interfere with the employee's ability to perform his or her job, or which may impair the efficient operation of the District government;

(b) Using government time or resources for other than official business, or government approved or sponsored activities;

(c) Ordering, directing, or requesting subordinate officers or employees to perform during regular working hours any personal services not related to official District government functions and activities;

(d) Maintaining financial or economic interest in or serving (with or without compensation) as an officer or director of an outside entity if there is any

likelihood that such entity might be involved in an official government action or decision taken or recommended by the employee;

(e) Engaging in any outside employment, private business activity, or interest which permits an employee, or others, to capitalize on his or her official title or position;

(f) Divulging any official government information to any unauthorized person or in advance of the time prescribed for its authorized issuance, or otherwise making use of or permitting others to make use of information not available to the general public;

(g) Engaging in any outside employment, private business activity, or other interest which might impair an employee's mental or physical capacity to such an extent that he or she can no longer carry out his or her duties and responsibilities as a government employee in a proper and efficient manner;

(h) Serving in a representative capacity or as an agent or attorney for any outside entity involving any matter before the District of Columbia, except as permitted by Subsection 1807.6 or 1807.7; or

(i) Engaging in any outside employment, private business activity, or other interest which is in violation of federal or District law.

1807.2 A District government employee may receive compensation for engaging in teaching activities, writing for publication, consultative activities, and speaking engagements that are not prohibited by law, regulation, or agency standards, only if such activities are conducted outside of regular working hours, or while the employee is on annual leave, compensatory leave, exempt time off, or leave without pay.

1807.3 The information used by an employee engaging in an activity under Subsection 1807.2 of this section shall not draw on official data or ideas which have not become part of the body of public information, except nonpublic information that has been made available on request for use in such capacity, or unless the agency head gives written authorization for use on the basis that its use is in the public interest.

1807.4 If the employee receives compensation or anything of monetary value for engaging in an activity under Subsection 1807.2 of this section, the subject matter shall not be devoted substantially to the responsibilities, programs, or operations of his or her agency, to his or her official duties or responsibilities, or to information obtained from his or her government employment.

1807.5 An employee who is employed for not more than one hundred thirty (130) days during any period of three hundred sixty-five (365) consecutive days, to perform temporary duties, either on a full-time or intermittent basis, shall be subject to Subsection 1807.1(h) of this section only in relation to a particular matter involving specific parties in which he or she has at any time participated personally and substantially as a District government employee, or which is pending before his or her employing agency.

1807.6 Nothing in this section shall prevent an employee from acting without compensation as agent or attorney for another District employee who is the subject of any personnel action, if not inconsistent with his or her duties.

1807.7 Nothing in this chapter shall prevent an employee from acting, with or without compensation, as agent or attorney for his or her parent(s), spouse, domestic partner, child, or any person for whom, or for any estate for which, he or she is serving as guardian, executor, administrator, trustee, or other personal fiduciary except in those matters in which he or she has participated personally and substantially as a government employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which are the subject of the employee's official responsibility, provided that the government official responsible for appointment to the employee's position approves. This provision shall not abridge a government attorney's responsibilities under the District of Columbia Rules of Professional Conduct.

1808 GOVERNMENT PROPERTY

1808.1 An employee has a duty to protect and conserve government property and shall not use such property, or allow its use, for other than authorized purposes.

1808.2 For purposes of this section the following definitions apply:

(a) "Government property" includes any form of real or personal property in which a federal, District, state, or local government agency or entity has an ownership, leasehold, or other property interest as well as any right or other intangible interest that is purchased with government funds, including the services of contractor personnel. The term includes office supplies, telephone and other telecommunications equipment and services, the government mails, automated data processing capabilities, printing and reproduction facilities, government records, and government vehicles.

(b) "Authorized purposes" are those purposes for which government property is made available to members of the public or those purposes authorized by an agency head in accordance with law or regulation.

1809 ADDITIONAL STANDARDS

1809.1 Each subordinate and independent agency of the District government may prescribe additional standards of ethical conduct and reporting requirements that are appropriate to the particular functions and activities of the agency, which are not inconsistent with law or this chapter.

1809.2 Additional standards of ethical conduct must be approved prior to implementation as follows:

(a) Proposed standards shall be submitted to the Director of Government Ethics in writing for comment, if any;

(b) Following receipt of any comments from the Director of Government Ethics, or the expiration of no fewer than fifteen business (15) days, the proposed standards shall be submitted to the Department of Human Resources electronically for approval;

(c) Once approved, the proposed standards shall be transmitted to any implicated labor organization for review; and

(d) Following approval by the Department of Human Resources and any appropriate review by a labor organization, the standards shall be published to the impacted employees.

1810 PUBLIC REPORTING AND CONFIDENTIAL DISCLOSURE OF FINANCIAL INTERESTS

1810.1 This section implements the financial interest disclosure requirements set forth in Section 224 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 ("Ethics Act"), effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code §§ 1-1162.24 and 1-1162.25).

1810.2 At the time of hire, each personnel authority shall provide each employee with a copy, whether in hard copy or electronic form, of the BEGA ethics manual, inclusive of the Code of Conduct.

(a) No later than 90 days after commencement of employment, all required filers, as defined in Section 1899, shall certify that they have undergone ethics training developed or approved by the Board of Government Ethics and Accountability.

(b) Filers shall certify on an annual basis that they have completed at least one ethics training program within the previous year.

1810.3 In accordance with Sections 1804 and 1806, no employee shall engage in outside employment or private business activity or have any direct or indirect financial

interest that conflicts or would appear to conflict with the fair, impartial, and objective performance of officially assigned duties and responsibilities.

1810.4 For purposes of public reporting and confidential financial disclosures:

(a) Each agency head shall provide to BEGA, no later than March 1st of each year, a list of all public officials within the agency, as defined by the Ethics Act. The list shall include the name, title, position, grade, home address, work email address (or personal email address if available and the employee no longer works for the agency), and work telephone number (or personal telephone number if available and the employee no longer works for the agency).

(b) Each agency head shall identify any employee other than a public official, who advises, makes decisions or participates substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, policy-making, regulating or auditing, or acts in areas of responsibility that may create a conflict of interest or appearance of a conflict of interest as determined by the appropriate agency head. Advisory Neighborhood Commissioners shall also file the report required by this section.

(c) On or before April 15th of each year, each agency head shall notify each designated person ("designees") in the agency of their requirement to submit a confidential disclosure of financial information ("confidential report") pursuant to Paragraph (a) of this subsection.

(d) On or before May 1st of each year, each agency head shall supply the list of designees to the Office of Government Ethics.

(e) Each designee shall file with their agency head a report containing a full and complete statement of the information required by D.C. Official Code § 1-1162.24 on or before May 15th of each year.

1810.5 When an agency head questions whether a specific individual should be designated pursuant to Subsection 1810.4, the matter shall be referred to the Director of Government Ethics for final resolution.

1810.6 Designees shall be notified in writing of the following:

(a) That he or she has been designated; and

(b) That he or she may request a review of the designation by the agency head within five (5) days.

1810.7 Designees may request a review of their designation as follows:

(a) An employee may submit a written request for review to the agency head within five (5) days of written notification of the designation;

(b) The agency head shall make a redetermination, in writing, within five (5) days of receipt of the request; and

(c) The agency head's redetermination denying requested relief shall be appealable, in writing, within five (5) days of receipt of the notice of denial to the Director of Government Ethics.

1810.8 The decision of the Director of Government Ethics respecting the designation shall be in writing and shall be issued within five (5) days of receipt and shall be final.

1810.9 The agency head or his or her designee shall review each employee's confidential report and each supplementary statement and, on or before June 1st of each year, shall certify or otherwise report to the Office of Government Ethics, indicating whether or not designees have filed the required report, and if not, shall provide a list of those designees who have failed to submit the required report. This report shall include information about successful and pending designation appeals.

1810.10 Confidential reports of employees shall be reviewed by the agency head or his or her designee. Any apparent violation of the Code of Conduct shall immediately be forwarded to the Office of Government Ethics.

1810.11 Confidential reports constitute a record and shall be maintained by the BEGA for a period no less than six (6) years.

1810.12 An employee who has been designated to submit a confidential report shall provide the information specified in this section.

1810.13 Each employee required to submit a confidential report shall be provided with the statement and its instructions by the person designated by the agency head.

1810.14 Notwithstanding the filing of the annual statement required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflict-of-interest provisions of 18 U.S.C. § 208 or this chapter.

1810.15 The interest (that is, any reportable interest specified in Subsections 1810.17 through 1810.21 of this section) of a member of an employee's immediate household shall be considered to be an interest of the employee.

1810.16 If any information required to be included on a confidential report or supplementary statement, including holdings placed in trust, is not known to the

employee but is known to another person, the employee shall request that other person to submit information on his or her behalf.

1810.17 A person who is providing services to a District agency without compensation under the provisions of Section 4000 (Utilization of Voluntary Services) of these regulations shall be required to submit a confidential report if it is determined by the agency head that the volunteer's assignment is comparable to a position covered by this chapter requiring the submission of a confidential report.

1810.18 Each designated employee shall provide the following information pertaining to creditors:

(a) The names and addresses of his or her creditors other than those to whom he or she may be indebted by reason of a mortgage on property which he or she occupies as a personal residence or to whom he or she may be indebted for current and ordinary household and living expenses such as household furnishings, automobile, education, vacation, and similar expenses; and

(b) The character of the indebtedness, for example, personal loan, note, or security.

1810.19 Each designated employee shall provide the following information pertaining to interest in real property:

(a) List his or her interest in real property or rights in lands, other than property which he or she occupies as a personal residence;

(b) State the nature of the interest, for example, ownership, mortgage, lien, vestment, or trust;

(c) Identify the type of property, for example, residence, hotel, apartment, farm, or undeveloped land; and

(d) Give the address of the property (if rural, give RFD, county, and state).

1810.20 Each designated employee shall expressly indicate whether any person or entity identified in accordance with Subsections 1810.19 and 1810.20 of this section is (a) engaged in doing business with the District government or (b) regulated by any agency of the District government, except as to any licensing requirement under applicable law. If any change occurs regarding such persons or entities after the filing of an annual statement, the employee shall furnish the updated information by submission of a supplementary statement within ten (10) days of learning of the commencement or cessation of the business activity or the regulatory function.

1810.21 For purposes of Subsection 1810.21 of this section, a person or entity shall be deemed to be doing business with the District government if a contract or agreement has been formally entered into for supplying goods or services, including contracts for construction, to the District, or for extending a leasehold interest to the benefit of the District.

1810.22 If any information is to be supplied by other persons, for example, a trustee, attorney, accountant, or relative, the employee shall indicate the following information:

(a) The name, title, company name (if appropriate), and address of each other person;

(b) The date on which the information was requested by the employee to be supplied; and

(c) The nature of the subject matter involved.

1810.23 In responding to the requests for information required under Subsections 1810.25 through 1810.23 of this section, the employee shall write "none," if applicable.

1810.24 The employee shall sign and date the confidential report, certifying the following:

(a) That he or she has received and read the instructions and the prohibitions pertaining to conflicts of interest as they relate to his or her employment;

(b) That, to the best of his or her knowledge and belief, he or she has no outside employment or other business interest other than the interests specifically listed and identified in accordance with Subsections 1810.19 through 1810.24 of this section; and

(c) That the statements he or she provided are true, complete, and correct to the best of his or her knowledge and belief.

1810.25 Each employee shall submit a supplementary statement disclosing any additional financial interests not previously disclosed in the employee's annual report within ten (10) days of his or her commencement of any previously unreported outside employment, acquisition of financial or real property interests, or agreement of indebtedness, in the same manner and to the same extent as specified for the submission of annual reports required by this section.

1810.26 When an employee identifies a person or entity in accordance with Subsections 1810.21 and 1810.22 of this section as either not engaged in doing business with the District government or not regulated by any agency of the District government and thereafter the person or entity commences either to do business with or to become subject to regulation by the District, the employee, within ten (10) days

after learning of the commencement of the business or regulatory function, shall notify in writing his or her immediate supervisor and submit a supplementary report identifying the change in status.

1810.27 Each employee required by this section to submit an annual statement shall notify his or her immediate supervisor in writing immediately whenever an assignment is given the employee which may directly or indirectly affect any person or entity identified by the employee in accordance with Subsections 1810.19 through 1810.27 of this section.

1810.28 Upon notification under Subsection 1810.28 of this section, the supervisor may reassign the matter in the event of a conflict of interest or the appearance of a conflict of interest when, in the discretion of the supervisor, a reassignment is warranted under the circumstances.

1810.29 After the employee has been notified by the supervisor that reassignment is warranted, the employee shall submit a written recusal from the matter, which shall be maintained by the agency head.

1810.30 An employee may receive a waiver and work on a matter in which he or she has a conflict of interest, if he or she has received a waiver pursuant to Section 223 of the Ethics Act (D.C. Official Code § 1-1162.23) and the written approval of his or her agency head or designee.

1811 POST-EMPLOYMENT CONFLICT OF INTERESTS

1811.1 District employees shall comply with the provisions of 18 U.S.C. § 207 and implementing regulations set forth at 5 C.F.R. Part 2641, Subparts A and B.

1811.2 District government employees and public officials are subject to certain provisions of the federal criminal conflict of interest provisions set forth in 18 U.S.C. §§ 201-216. Questions regarding the application of 18 U.S.C. § 207, 5 C.F.R. Part 2641, or these regulations, to specific factual circumstances, may be addressed to the Board of Government Ethics and Accountability.

1811.3 A former government employee shall be permanently prohibited from knowingly acting as an attorney, agent, or representative in any formal or informal appearance before an agency as to a particular government matter involving a specific party if the employee participated personally and substantially in that matter as a government employee.

1811.4 A former government employee shall be permanently prohibited from making any oral or written communication to an agency with the intent to influence that agency on behalf of another person as to a particular government matter involving a specific party if the employee participated personally and substantially in that matter as a government employee.

1811.5 A former government employee shall be prohibited for two (2) years after terminating District government employment from knowingly acting as an attorney, agent, or representative in any formal or informal matter before an agency if he or she previously had official responsibility for that matter.

1811.6 For purposes of Subsection 1811.5 of this section, a matter for which the former government employee had official responsibility is any matter that was actually pending under the former employee's responsibility within a period of one (1) year before the termination of such responsibility.

1811.7 The two-year (2-year) restriction period in Subsection 1811.5 of this section shall be measured from the date when the former employee's responsibility for a particular matter ends, not from the termination of government service, unless the two (2) occur simultaneously.

1811.8 A former employee shall be prohibited for two (2) years from knowingly representing or aiding, counseling, advising, consulting, or assisting in representing any other person (except the District of Columbia) by personal appearance before an agency as to a particular government matter involving a specific party if the former employee participated personally and substantially in that matter as a government employee.

1811.9 The two-year (2-year) period in Subsection 1811.8 of this section shall be measured from the date of termination of employment in the employee position held by the former employee when he or she participated personally and substantially in the matter involved.

1811.10 A former employee (other than a special government employee who serves for fewer than one-hundred and thirty (130) days in a calendar year) shall be prohibited for one (1) year from having any transactions with the former agency intended to influence the agency in connection with any particular government matter pending before the agency or in which it has a direct and substantial interest, whether or not such matter involves a specific party.

1811.11 The restriction in Subsection 1811.10 of this section is intended to prohibit the possible use of personal influence based on past governmental affiliations to facilitate the transaction of business. Therefore, the restriction shall apply without regard to whether the former employee had participated in, or had responsibility for, the particular matter, and shall include matters which first arise after the employee leaves government service.

1811.12 The restriction in Subsection 1811.10 of this section shall apply whether the former employee is representing another or representing him or herself, either by appearance before an agency or through communications with that agency.

1811.13 Communications from a former government employee shall be exempt from these prohibitions if he or she communicates with his or her agency solely to furnish

scientific or technological information under procedures acceptable to the agency concerned.

1811.14 Nothing in these regulations shall prevent a former government employee from giving testimony under oath, or from making statements required to be made under penalty of perjury.

1811.15 A former government employee may be exempted from the restrictions on post-employment practices if the Mayor (or designee), in consultation with the federal government's Director of the Office of Government Ethics, executes a certification published in the *D.C. Register*. The certification shall state that the former government employee has outstanding qualifications in a scientific, technological, or other technical discipline; is acting with respect to a particular matter which requires such qualifications; and the interest of the District of Columbia would be served by such former government employee's participation.

1811.16 The one-year (1-year) restriction stated in Subsection 1811.10 of this section shall not apply to appearances, communications, or representation concerning new matters by a former employee if the former employee is an elected official of a state or local government and is acting on behalf of that government, or is regularly employed by and acting on behalf of an agency or instrumentality of federal, state, or local government; an accredited, degree-granting institution of higher education; or a non-profit hospital or medical research organization.

1811.17 The one-year (1-year) restriction stated in Subsection 1811.10 of this section shall not apply to appearances or communications by a former employee concerning matters of a personal and individual nature, such as personal income taxes or pension benefits, or the application of these regulations to an undertaking proposed by a former employee. A former employee also may appear *pro se* (on his or her own behalf) in any litigation or administrative proceeding involving the individual's former agency.

1811.18 The one-year (1-year) restriction stated in Subsection 1811.10 of this section shall not prevent a former employee from making or providing a statement, which is based on the former employee's own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received, other than that regularly provided for by law or regulation for witnesses.

1899 DEFINITIONS

1899.1 In this chapter, the following terms have the meaning ascribed:

Agency – any unit of the District of Columbia government required by law, by the Mayor of the District of Columbia, or by the Council of the District of

Columbia to administer any law, rule, or any regulation adopted under authority of law. The term "agency" also includes any unit of the District of Columbia created or organized by the Council of the District of Columbia as an agency.

Code of Conduct – those provisions contained in the following:

(a) The Code of Official Conduct of the Council of the District of Columbia, as adopted by the Council;

(b) Sections 1801 through 1802 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-618.01);

(c) Section 2 of the Official Correspondence Regulations, effective April 7, 1977 (D.C. Law 1-118; D.C. Official Code § 2-701 *et seq.*);

(d) Section 416 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-354.16);

(e) Chapter 18 of Title 6-B of the District of Columbia Municipal Regulations;

(f) Subtitles C, D, and E of Title II of the Ethics Act , and Subtitle F of Title III of the Ethics Act for the purpose of enforcement by BEGA of violations of Section 338 of the Ethics Act that are subject to the penalty provisions of Section 221 of the Ethics Act .

Days – calendar days, unless otherwise specified.

Filers – any person required to file financial disclosure, honoraria, and confidential disclosure of financial interest reports, as applicable, pursuant to D.C. Official Code §§ 1-1162.24 and 1-1162.25.

Former government employee – one who was and no longer is an employee or official of the District government.

Employee/Government Employee - an individual who performs a function of the District government and who receives compensation for the performance of such services (D.C. Official Code § 1-603.01(7)), or a member of a District government board or commission, with or without compensation (D.C. Official Code § 1-602.02(3)). It does not include an individual performing services for the District government as an independent contractor under a personal services contract.

Immediate household – consists of the employee's spouse and blood relations who are full-time residents of the employee's household, and the employee's minor children, irrespective of residence.

Official responsibility – the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, personally or through subordinates, to approve, disapprove, or otherwise direct governmental action.

Particular government matter involving a specific party – any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter in which the District government is a party or has a direct and substantial interest, and which has application to one (1) or more specifically identified persons or entities.

Person – an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

Public official -- a candidate for nomination for election, or election, to public office; the Mayor, Chairman, and each member of the Council of the District of Columbia holding office under the Home Rule Act; the Attorney General; a Representative or Senator elected pursuant to Section 4 of the District of Columbia Statehood Constitutional Convention Initiative of 1979, effective March 10, 1981 (D.C. Law 3-171; D.C. Official Code § 1-123); an Advisory Neighborhood Commissioner; a member of the State Board of Education; a person serving as a subordinate agency head in a position designated as within the Executive Service; a member of a board or commission listed in Section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e)); a District of Columbia Excepted Service employee paid at a rate of Excepted Service 9 or above, or its equivalent, who makes decisions or participates substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, regulating, or auditing, or acts in areas of responsibility that may create a conflict of interest or appearance of a conflict of interest; and any additional employees designated by rule by BEGA who make decisions or participate substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, regulating, or auditing, or act in areas of responsibility that may create a conflict of interest or appearance of a conflict of interest.

Relative - with respect to a public official, an individual who is related to the public official as a father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather,

stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

Remedial action – an action taken for the purpose of correcting a problem or issue.

Special government employee – any officer or employee of an agency who is retained, designated, appointed, or employed to perform temporary duties either on a full-time or intermittent basis, with or without compensation, for not to exceed one hundred and thirty (130) days during any period of three hundred and sixty five (365) consecutive days.