

**Comparative Committee Print  
BEGA Amendment Act of 2018  
Committee on the Judiciary and Public Safety  
May 8, 2018**

**Section 2**

**D.C. Official Code § 1-603.01. Definitions.**

For the purpose of this chapter unless otherwise required by the context:

(1) The term “agency” means 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 to administer any law, rule, or any regulation adopted under authority of law. The term “agency” shall also include any unit of the District of Columbia government created by the reorganization of 1 or more of the units of an agency and any unit of the District of Columbia government created or organized by the Council of the District of Columbia as an agency. The term "agency" shall not include the Council.

(1A) The term “Attorney General” means the Attorney General for the District of Columbia.

(2) The term “boards and commissions” means bodies established by law or by order of the Mayor of the District of Columbia consisting of appointed members to perform a trust or execute official functions on behalf of the District of Columbia government. Compensation or reimbursement of expenses, if any, to such members shall be provided according to § 1-611.08; provided, however, that full-time employees shall be paid in accordance with the provisions of § 1-611.04 or § 1-611.11.

(3) The term “Career Service” means positions in the District of Columbia government as provided for in subchapter VIII of this chapter and § 1-602.04.

(4) The term “Council” means the Council of the District of Columbia, created pursuant to § 1-204.01.

(5) The term “District” means the District of Columbia government (§ 1-102).

(5A) The term “domestic partner” shall have the same meaning as provided in § 32-701(3).

(5B) The term “domestic partnership” shall have the same meaning as provided in § 32-701(4).

(5C) The term “domicile” means:

(A) Physical presence in the District of Columbia; and

(B) An intent to abandon any and all former domiciles and remain in the District of Columbia during the duration of the appointment.

(6) The term “educational employee” means an employee of the District of Columbia Board of Education or of the Board of Trustees of the University of the District of Columbia, except persons employed in any of the following types of positions:

(A) Clerical, stenographic, or secretarial positions;

(B) Custodial, building maintenance, building engineer, general maintenance, or general engineering positions;

(C) Bus drivers and other drivers involved in the transportation of persons, equipment, materials or inventory;

(D) Cooks, dieticians, and other positions involved in direct planning, preparation, service, and conditions of preparation and service of food;

(E) Technicians involved in the operation or maintenance of machinery, vehicles, equipment or the processing of materials and inventory; or

(F) Positions the major duties in which consist of the supervision of employees covered in subparagraphs (A) through (E) of this definition: provided, however, that this subparagraph shall not be deemed to include heads of academic units at the School of Law or the University of the District of Columbia.

(7) The term “employee” means, except when specifically modified in this chapter, an individual who performs a function of the District government and who receives compensation for the performance of such services.

(8) The term “Excepted Service” means positions in the District of Columbia government as provided for in subchapter IX of this chapter.

(8A) The term “exceptional circumstances” means conditions or facts that are uncommon, deviate from or do not conform to the norm, or are beyond willful control, which are presented to the personnel authority by an agency hiring an individual to fill a position in the Excepted and Executive Services, and which shall be considered by the personnel authority in determining the reasonableness of granting a waiver of the domicile requirement pursuant to §§ 1-609.06 and 1-610.59.

(9) The term “Executive Service” means any subordinate agency head whom the Mayor is authorized to appoint in accordance with subchapter X-A of this chapter.

(9A) “Gender identity or expression” shall have the same meaning as provided in § 2-1401.02(12A).

(10) The term “grievance” means any matter under the control of the District government which impairs or adversely affects the interest, concern, or welfare of employees, but does not include adverse actions resulting in removals, suspension of 10 days or more, or reductions in grade, reductions in force or classification matters. This definition applies to matters which are subject to procedures established pursuant to section § 1-616.53 and is not intended to restrict matters that may be subject to a negotiated grievance and arbitration procedure in a collective bargaining agreement between the District and a labor organization representing employees.

(10A) The term “hard to fill position” means a position so designated by the personnel authority on the basis of demonstrated recruitment and retention problems inherent in the position due to the uniqueness of the duties and responsibilities and the unusual combination of highly specialized qualification requirements for the position.

(11) The term “head” means the highest ranking executive official of an agency.

(12) The term “holidays” means any day established as a legal holiday pursuant to subchapter XII of this chapter.

(13) The term “independent agency” means any board or commission of the District of Columbia government not subject to the administrative control of the Mayor, including, the Board of Trustees of the University of the District of Columbia, the Board of Library Trustees, the Armory Board, the ~~Board of Elections and Ethics~~ Board of Elections, Board of Ethics and Government Accountability, the Public Service Commission, the Zoning Commission for the District of Columbia, the Public Employee Relations Board, the District of Columbia Retirement Board, and the Office of Employee Appeals. For the purposes of this chapter, the Office of the Attorney General for the District of Columbia shall be considered an independent agency of the District of Columbia. For the purposes of subchapter XXVIII of this chapter, the Washington Metropolitan Area Transit Commission shall be considered an independent agency of the District.

(13A) The term “Legal Service” means positions in the District of Columbia government as provided for in subchapter VIII-B of this chapter.

(13B) The term “Management Supervisory Service” means positions in the District of Columbia government as provided for in subchapter IX-A of this chapter.

(13C) The term “nonschool-based personnel” means any employee of the District of Columbia Public Schools who is not based at a local school or who does not provide direct services to individual students.

(14) The term “personnel authority” means an individual with the authority to administer all or part of a personnel management program as provided in subchapter IV of this chapter.

(14A) “Public official” means:

(A) A candidate for nomination for election, or election, to public office;

(B) The Mayor, Chairman, and each member of the Council of the District of Columbia holding office under Chapter 2 of this title [§ 1-201.01 et seq.];

(C) The Attorney General;

(D) A Representative or Senator elected pursuant to § 1-123;

(E) An Advisory Neighborhood Commissioner;

(F) A member of the State Board of Education;

(G) A person serving as a subordinate agency head in a position designated as within the Executive Service;

(H) A member of a board or commission listed in § 1-523.01(e); and

(I) 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 the appearance of a conflict of interest; and any additional employees designated by rule by the ~~Ethics Board~~ Board of Ethics and Government Accountability 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 the appearance of a conflict of interest.

[...]

**D.C. Official Code § 1-604.04. Issuance of rules and regulations affecting personnel for employees of the District of Columbia.**

(a) The Mayor shall issue rules and regulations to implement the provisions of subchapters II, IV, VII, VIII, VIII-B, IX, IX-A, X-A, XI, XII, XIII, XIII-A, XV, XVI-A, XVII, XVIII, XIX, XX, XX-A, XXI, XXII, XXIII, XXIV, XXV, XXVI, XXVII, XXVIII, XXIX, XXX, XXXI, XXXII, and XXXIV of this chapter, for all employees of the District of Columbia, except as may be otherwise provided in this subchapter.

(a-1)(1) The Attorney General shall issue rules and regulations to implement the provisions of subchapters VII, VIII, IX, IX-A, XI, XII, XIII, XIII-A, XIV-A, XVI-A, XVII, XIX, XXIV, XXVII, and XXXI of this chapter for employees under the jurisdiction of the Attorney General.

(2) The rules and regulations promulgated pursuant to subsection (a) of this section shall apply to employees under the jurisdiction of the Attorney General unless the Attorney General has issued a superseding rule or regulation.

(b) The District of Columbia Board of Education and the Board of Trustees of the University of the District of Columbia shall each issue rules and regulations to implement the provisions of subchapter VIII-A of this chapter.

(c)(1) The District of Columbia Board of Education shall issue rules and regulations to implement the provisions of subchapters VII, XIII, XIX, XXIV, and XXVII of this chapter, and §§ 1-602.03, 1-604.03 and 1-611.11 for educational employees under its respective jurisdictions.

(2) The Board of the University of the District of Columbia shall issue rules and regulations to implement the provisions of subchapters VII and XXVII of this chapter, and §§ 1-602.03, 1-604.03, and 1-611.11 for educational employees under its jurisdiction.

(3) Repealed.

(d) The District of Columbia Board of Education and the Board of Trustees of the University of the District of Columbia shall each issue rules and regulations to implement the provisions of subchapters XII, XIII-A, XVI-A, XVII, XXV, and XXXI of this chapter, and § 1-602.02(2) for all employees under their respective jurisdictions.

(e) The Public Employee Relations Board shall issue rules and regulations to carry out its authority under subchapters V and XVII of this chapter.

(f) The Office of Employee Appeals shall issue rules and regulations to carry out its authority under subchapter VI of this chapter. (e) The Public Employee Relations Board shall issue rules and regulations to carry out its authority under subchapters V and XVII of this chapter.

(g) The District of Columbia ~~Board of Elections and Ethics~~ Board of Elections shall issue rules and regulations to carry out its authority under subchapter XXV of this chapter.

(h) Except where proscribed by law or issued under the authority of subsection (e), (f), or (g) of this section, rules and regulations issued pursuant to this chapter shall not be a bar to collective bargaining during the negotiation process with an exclusively recognized labor organization.

**D.C. Official Code § 1-604.06. Personnel authority.**

[...]

(3A) For the Executive Director of the Office of Advisory Neighborhood Commissions, the personnel authority is the Chairman of the Council;

(4) For employees of the Board of Elections, the personnel authority is the Board of Elections; provided, however, that this authority shall not apply to the Director of Campaign Finance (§ 1-1163.02). For employees in the Office of Director of Campaign Finance, the personnel authority is the Director of Campaign Finance;

(4A) For employees of the Board of Ethics and Government Accountability, the personnel authority is the Board of Ethics and Government Accountability.

(5) For employees of the Public Service Commission, the personnel authority is the Public Service Commission; provided, however, that the People’s Counsel (§ 34-804) shall be appointed according to law and for employees under the direct administrative control of the People’s Counsel, the personnel authority is the People’s Counsel;

[...]

**D.C. Official Code § 1-609.08. Statutory officeholders.**

The following employees of the District shall be deemed to be in the Excepted Service. Their terms of office shall be at the pleasure of the appointing authority, or as provided by statute for a term of years, subject to removal for cause as may be provided in their appointing statute:

(1) City Administrator;

(2) Repealed;

(3) The Director of Campaign Finance, District of Columbia ~~Board of Elections and Ethics~~ Board of Elections;

(4) Repealed;

[...]

**D.C. Official Code § 1-611.08. Compensation – Members of boards and commissions.**

(a) Each member of any board or commission who receives compensation or reimbursement of expenses on January 1, 1980, shall receive such rates of compensation or reimbursement of expenses as are provided in existing law, rule, regulation, or order, or in this chapter, except as may be modified from time to time by rules and regulations published pursuant to subsection (b) of this section.

(a-1) Except as provided in subsection (a) of this section, members of boards and commissions shall not be compensated for time expended in the performance of official duties except as authorized by subsections (b), (c), (c-1), (c-2), and (c-3) of this section.

(b) The Mayor of the District of Columbia is authorized to establish by rule and regulation the rates of compensation or reimbursement of expenses for members of any board or commission, including any board or commission established after January 1, 1980. Any such rules and regulations proposed by the Mayor shall be transmitted to the Council of the District of Columbia

for a 30-day (excluding Saturdays, Sundays, holidays, and days on which the Council of the District of Columbia is on recess) review period. Such rules and regulations shall become effective only if the Council of the District of Columbia does not adopt, within 30 days (excluding Saturdays, Sundays, holidays, and days on which the Council of the District of Columbia is on recess) from the date of the Mayor's submission, a resolution disapproving such rules and regulations in whole or in part. Notwithstanding the provisions of § 1-604.05, rules and regulations published under this subsection shall be effective no earlier than 30 days after their publication in the District of Columbia Register.

(c) Members of the following boards and commissions shall be entitled to compensation in the form of a salary as currently authorized by law:

- (1) Public Service Commission;
- (2) Contract Appeals Board;
- (3) Rental Housing Commission;
- (4) Repealed.
- (5) ~~District of Columbia Board~~ Board of Ethics and Government Accountability;

and

- (6) Full-time members of the Real Property Tax Appeals Commission.

[...]

#### **D.C. Official Code § 1-618.01. Standards of conduct.**

(a) Each employee, member of a board or commission, or a public official of the District government must at all times maintain a high level of ethical conduct in connection with the performance of official duties, and shall refrain from taking, ordering, or participating in any official action which would adversely affect the confidence of the public in the integrity of the District government.

(a-1) As a matter of public policy, each employee, member of a board or commission, or a public official of the District is encouraged to report, pursuant to subchapter XV-A of this chapter, any violation of a law or rule, or the misuse of government resources, as soon as the employee, member of a board or commission, or a public official becomes aware of the violation or misuse of resources.

(a-2)(1) Upon commencement of employment, any person required to file pursuant to §§ 1-1162.24 and 1-1162.25 ("Filers") shall be provided with an ethics manual and information about the Code of Conduct.

(2) No later than 90 days after commencement of employment, Filers shall certify that they have undergone ethics training developed by the ~~District of Columbia Board~~ Board of Ethics and Government Accountability. The required training may be provided electronically, in person, or both as considered appropriate by the ~~District of Columbia Board~~ Board of Ethics and Government Accountability.

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

[...]

### Section 3

#### **D.C. Official Code § 1-1161.01. Definitions.**

~~(1) “Administrative decision” means any activity directly related to action by an executive agency to issue a Mayor’s order, to cause to be undertaken a rulemaking proceeding (which does not include a formal public hearing) under Chapter 5 of Title 2, or to propose legislation or make nominations to the Council, the President, or Congress.~~ “Administrative decision” means any activity directly related to action by an executive agency or official in the executive branch to:

(A) Make any contract, grant, reprogramming, or procurement of goods or services;

(B) Issue a Mayor’s order;

(C) Cause to be undertaken a rulemaking proceeding (which does not include a formal public hearing) under the Administrative Procedure Act; or

(D) Propose of legislation or make nominations to the Council, the President, or Congress.

(2) “Administrative Procedure Act” means Chapter 5 of Title 2 [§ 2-501 et seq.].

(2A) “Affiliated entity” means each business entity that is related to an entity by virtue of one of the following relationships:

(A) One of the entities controls the other; or

(B) The entities share a controller, whether that controller is another entity or an individual.

(3) “Affiliated organization” means:

(A) An organization or entity:

(i) In which the employee serves as officer, director, trustee, general partner, or employee;

(ii) In which the employee or member of the employee’s household is a director, officer, owner, employee, or holder of stock worth \$1,000 or more at fair market value; or

(iii) That is a client of the employee or a member of the employee’s household; or

(B) A person with whom the employee is negotiating for or has an arrangement concerning prospective employment.

(3A) “Board” means the Board of Ethics and Government Accountability established by section 202.

~~(3A)~~ (3B) “Bundled” or “bundling” means to forward or arrange to forward two or more contributions from one or more persons by a person who is not acting with actual authority as an agent or principal of a committee. Hosting a fundraiser, by itself, shall not constitute bundling.

(4) “Business or business entity” means any corporation, partnership, sole proprietorship, firm, nonprofit corporation, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock, trust, and any legal entity through which business is conducted, whether for profit or not.

(4A) “Business contributor” means a business entity making a contribution and all of that entity's affiliated entities.

(5) “Business with which he or she is associated” means any business of which the person or member of his or her household is a director, officer, owner, employee, or holder of stock worth \$1,000 or more at fair market value, and any business that is a client of that person.

(6) “Candidate” means an individual who seeks nomination for election, or election, to office, whether or not the individual is nominated or elected. An individual deemed to be a candidate for the purposes of this chapter shall not be deemed, solely by reason of that status, to be a candidate for the purposes of any other law. For the purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if the individual:

(A) Obtained or authorized any other person to obtain nominating petitions to qualify the individual for nomination for election, or election, to office;

(B) Received contributions or made expenditures, or has given consent to any other person to receive contributions or make expenditures, with a view to bringing about the individual's nomination for election, or election, to office; or

(C) Knows, or has reason to know, that any other person has received contributions or made expenditures for that purpose, and has not notified that person in writing to cease receiving contributions or making expenditures for that purpose; provided, that an individual shall not be deemed a candidate if the individual notifies each person who has received contributions or made expenditures that the individual is only testing the waters, has not yet made any decision whether to seek nomination or election to public office, and is not a candidate. Knows, or has reason to know, that any other person has received contributions or made expenditures for that purpose, and has not notified that person in writing to cease receiving contributions or making expenditures for that purpose; provided, that an individual shall not be deemed a candidate if the individual notifies each person who has received contributions or made expenditures that the individual is only testing the waters, has not yet made any decision whether to seek nomination or election to public office, and is not a candidate.

(7) “Code of Conduct” means those provisions contained in the following:

(A) For members and employees of the Council, the Code of Official Conduct of the Council of the District of Columbia, as adopted by the Council;

(B) Sections 1-618.01 through 1-618.02;

(C) Chapter 7 of Title 2 [§ 2-701 et seq.];

(D) Section 2-354.16;

(E) For employees and public officials who are not members or employees of the Council, Chapter 18 of Title 6B of the District of Columbia Municipal Regulations;

(E-i) Chapter 11B of this title [§ 1-1171.01 et seq.];

(F) Parts C, D, and E of subchapter II, and part F of subchapter III of this chapter for the purpose of enforcement by the Elections Board of violations of § 1-1163.38 that are subject to the penalty provisions of § 1-1162.21.

(G) Section 1-329.01, concerning gifts to the District of Columbia.

(8) “Commodity” means commodity as defined in section 1a of the Commodity Exchange Act, approved September 21, 1922 (42 Stat. 998; 7 U.S.C. § 1a).

(9) “Compensation” means any money or an exchange of value received, regardless of its form, by a person acting as a lobbyist.

(10)(A) “Contribution” means



(i) A gift, subscription (including any assessment, fee, or membership dues), loan (except a loan made in the regular course of business by a business engaged in the business of making loans), advance, or deposit of money or anything of value (including contributions in cash or in kind), made for the purpose of financing, directly or indirectly:

(I) The nomination or election of a candidate;

(II) Any operations of a political committee or political action committee; or

(III) The campaign to obtain signatures on any initiative, referendum, or recall measure, or to bring about the ratification or defeat of any initiative, referendum, or recall measure;

(ii) A transfer of funds between:

(I) Political committees;

(II) Political action committees;

(III) A political committee and a political action committee; or

(IV) Candidates.

(iii) The payment, by any person other than a candidate, a political committee, political action committee, or independent expenditure committee of compensation for the personal services of another person that are rendered to such candidate or committee without charge or for less than reasonable value, or the furnishing of goods, advertising, or services to a candidate's campaign without charge or at a rate which is less than the rate normally charged for such services.

(B) Notwithstanding subparagraph (A) of this paragraph, the term "contribution" does not include:

(i) Personal or other services provided without compensation by a person (including an accountant or an attorney) volunteering a portion or all of the person's time to or on behalf of a candidate, political committee, political action committee, or independent expenditure committee;

(ii) Communications by an organization other than a political party solely to its members and their families on any subject;

(iii) Communications (including advertisements) to any person on any subject by any organization that is organized solely as an issue-oriented organization, which communications neither endorse nor oppose any candidate for office;

(iv) Normal billing credit for a period not exceeding 30 days;

(v) Services of an informational or polling nature, designed to seek the opinion of voters concerning the possible candidacy of a qualified elector for public office, before such qualified elector becomes a candidate;

(vi) The use of real or personal property, and the costs of invitations, food, and beverages voluntarily provided by a person to a candidate in rendering voluntary personal services on the person's residential premises for related activities; provided, that expenses do not exceed \$500 with respect to the candidate's election; and

(vii) The sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if the charge for use in a candidate's

campaign is at least equal to the cost of such food or beverage to the vendor; provided, that expenses do not exceed \$500 with respect to the candidate's election.

(10A) "Control" or "controlling interest" means the practical ability to direct or cause to be directed the financial management policies of an entity. An ownership interest of 51% shall constitute a rebuttable presumption of control.

(10B) "Coordinate" or "coordination" means to take an action, including making an expenditure:

(A) At the request or suggestion of a candidate or public official, a political committee affiliated with a candidate or public official, or an agent of a candidate or public official or of a political committee affiliated with the candidate or public official; or

(B) With the material involvement of a candidate or public official, a political committee affiliated with a candidate or public official, or an agent of a candidate or public official or of a political committee affiliated with a candidate or public official.

(11) "Direct and predictable effect" means there is:

(A) A close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest;

(B) A real, as opposed to a speculative possibility, that the matter will affect the financial interest; and

(C) The effect is more than de minimis.

(12) "Director of Campaign Finance" means the Director of Campaign Finance of the Elections Board created by § 1-1163.02.

(13) "Director of Government Ethics" means the Director of Government Ethics created by § 1-1162.06.

(13A) "Director of Open Government" means the Director of Open Government created by section 206.

(14) "Domestic partner" shall have the same meaning as provided in § 32-701(3).

(15) "Election" means a primary, general, or special election held in the District of Columbia for the purpose of nominating an individual to be a candidate for election to office, or for the purpose of electing a candidate to office, or for the purpose of deciding an initiative, referendum, or recall measure, and includes a convention or caucus of a political party held for the purpose of nominating such a candidate.

(16) "Election Code" means subchapter I of Chapter 10 of this title [§ 1-1001.01 et seq.].

(17) "Elections Board" means the District of Columbia Board of Elections established under the Election Code, and redesignated by § 1-1163.05.

(18) "Employee" means, unless otherwise apparent from the context, a person who performs a function of the District government and who receives compensation for the performance of such services, or a member of a District government board or commission, whether or not for compensation.

(18A) "Entity" shall have the same meaning as provided in § 29-101.02.

~~(19) "Ethics Board" means the District of Columbia Board of Ethics and Government Accountability established by § 1-1162.02.~~

(20) "Executive agency" means:

(A) A department, agency, or office in the executive branch of the District government under the direct administrative control of the Mayor;

(B) The State Board of Education or any of its constituent elements;

(C) The University of the District of Columbia or any of its constituent elements;

(D) The Elections Board; and

(E) Any District professional licensing and examining board under the administrative control of the executive branch.

(21)(A) “Expenditure” means:

(i) A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of financing, directly or indirectly,:

(I) The nomination or election of a candidate;

(II) Any operations of a political committee, political action committee, or independent expenditure committee; or

(III) The campaign to obtain signatures on any initiative, referendum, or recall petition, or to bring about the ratification or defeat of any initiative, referendum, or recall measure;

(ii) A transfer of funds between:

(I) Political committees;

(II) Political action committees;

(III) A political committee and a political action committee; or

(IV) Candidates.

(B) Notwithstanding subparagraph (A) of this paragraph, the term “expenditure” does not include incidental expenses (as defined by the Elections Board or ~~Ethics Board~~ the Board of Ethics and Government Accountability) made by or on behalf of a person in the course of volunteering that person's time on behalf of a candidate, political committee, or political action committee or the use of real or personal property and the cost of invitations, food, or beverages voluntarily provided by a person to a candidate in rendering voluntary personal services on the person's residential premises for candidate-related activity; provided, that the aggregate value of such activities by such person on behalf of any candidate does not exceed \$500 with respect to any election.

[...]

(31) “Legislative action” includes any activity conducted by an official in the legislative branch in the course of carrying out his or her duties as such an official, and relating to the introduction, passage, or defeat of ~~any legislation in the Council~~ any legislation in the Council, including measures that review or consider any contracts, grants, reprogrammings, or procurement decisions.

[...]

(39) ~~“Open Government Office” means the District of Columbia Open Government Office established by § 2-592.~~

[...]

(47) “Public official” means:

(A) A candidate for nomination for election, or election, to public office;

(B) The Mayor, Chairman, and each member of the Council of the District of Columbia holding office under Chapter 2 of this title;

(C) The Attorney General;

(D) A Representative or Senator elected pursuant to § 1-123;

(E) An Advisory Neighborhood Commissioner;

(F) A member of the State Board of Education;

(G) A person serving as a subordinate agency head in a position designated as within the Executive Service;

(G-i) Members of the Washington Metropolitan Area Transit Authority Board of Directors appointed by the Council pursuant to § 9-1107.01(5)(a);

(G-ii) A Member or Alternate Member of the Washington Metrorail Safety Commission appointed by the District of Columbia pursuant to Article III.B. of the Metrorail Safety Commission Interstate Compact [§ 9-1109.11(III)(B)];

(H) A member of a board or commission listed in § 1-523.01(e);

(I) A District of Columbia Excepted Service employee, except an employee of the Council, 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 the ~~Ethics Board~~ Board of Ethics and Government Accountability 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; and

(J) An employee of the Council paid at a rate equal to or above the midpoint rate of pay for Excepted Service 9.

**D.C. Official Code § 1-1162.02. Establishment of the ~~District of Columbia Board~~ Board of Ethics and Government Accountability.**

(a) There is ~~established a District of Columbia Board of Ethics and Government Accountability~~ established, as an independent agency of the District government, a Board of Ethics and Government Accountability, whose purpose shall be to:

(1) Administer and enforce the Code of Conduct;

(2) Appoint a ~~Director of the Open Government Office~~ Director of Open Government;

(3) Appoint a ~~Director of the Ethics Board~~ Director of Government Ethics;

(4) Receive, investigate, and adjudicate violations of the Code of Conduct;

(5) Conduct mandatory training on the Code of Conduct;

(6) Produce ethics training materials, including summary guidelines for all applicable laws and regulations;

(7) Produce a plain-language ethics guide;

(8) Issue rules and regulations governing the ethical conduct of employees and public officials; and

(9) Establish an anonymous and confidential telephone hotline for the purpose of receiving information related to violations of the Code of Conduct or other information with regard to the administration or enforcement of the Code of Conduct.

~~(b) The Ethics Board shall conduct a detailed assessment of ethical guidelines and requirements for employees and public officials to include a review of national best practices of government ethics law, and produce, within 240 days of April 27, 2012, recommendations for amending the Code of Conduct. Thereafter, the Ethics Board shall submit recommendations on December 31 of each year. The recommendations shall include:~~

~~(1) Whether to adopt local laws that are similar in nature to federal ethics laws;~~

~~(2) Whether to adopt post-employment restrictions;~~

~~(3) Whether to adopt ethics laws pertaining to contracting and procurement;~~

~~(4) Whether to adopt nepotism and cronyism prohibitions;~~

~~(5) Whether to criminalize violations of ethics laws;~~

~~(6) Whether to expel a member of the Council for certain violations of the Code of Conduct;~~

~~(7) Whether to regulate campaign contributions from affiliated or subsidiary corporations; and~~

~~(8) Any other matter as determined by the Ethics Board By December 31 of each year, the Board shall submit a report to the Mayor and Council with recommendations on improving the District's government ethics and open government and transparency laws, including:~~

~~(1) An assessment of ethical guidelines and requirements for employees and public officials;~~

~~(2) A review of national and state best practices in open government and transparency; and~~

~~(3) Amendments to the Code of Conduct, Open Meetings Act, and Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 et seq.).~~

#### **D.C. Official Code § 1-1162.03. Composition; term; qualifications; removal.**

(a) The ~~Ethics Board~~ Board shall consist of 5 members, no more than 3 of whom shall be of the same political party, appointed by the Mayor, with the advice and consent of the Council. Members shall be appointed to serve for terms of 6 years, except the members first appointed. Of the members first appointed, one member shall be appointed to serve for a 2-year term, 2 members shall be appointed to serve for a 4-year term, and 2 members shall be appointed to serve for a 6-year term, as designated by the Mayor. The terms of the 5 initial members shall begin on July 1, 2012.

(b)(1) The Mayor shall submit a nomination for membership on the ~~Ethics Board~~ Board to the Council for a 90-day period of review, excluding days of Council recess. If the Council does

not approve or disapprove the nomination, by resolution, within the 90-day review period, the nomination shall be deemed disapproved.

(2) Within 45 days of April 27, 2012, the Mayor shall submit to the Council for its review pursuant to paragraph (1) of this subsection the nominations for initial appointment to the Ethics Board.

(c) The Mayor shall designate the ~~Chairperson of the Ethics Board~~ Board's Chairperson.

(d) Any person appointed to fill a vacancy on the ~~Ethics Board~~ Board shall be appointed only for the unexpired term of the member whose vacancy he or she is filling. The terms of the 5 initial members shall begin on July 1, 2012.

(e) A vacancy shall be noticed in the District of Columbia Register.

(f) A member may be reappointed, and, if not reappointed, the member may serve until the member's successor has been appointed and approved.

(g) ~~When appointing and approving a member of the Ethics Board, the Mayor and Council shall consider whether the individual possesses demonstrated integrity, independence, and public credibility, and whether the individual has particular knowledge, training, or experience in government ethics or in public transparency~~ When appointing and confirming a member of the Board, the Mayor and Council shall consider whether the individual possesses demonstrated integrity, independence, and public credibility, and whether the individual has particular knowledge, training, or experience in government ethics or in open government and transparency. At least one member of the Board shall have particular experience in open government and transparency.

(h) A person shall not be a member of the ~~Ethics Board~~ Board unless he or she:

(1) Is a duly registered voter;

(2) Has resided in the District continuously since the beginning of the one-year period ending on the day he or she is appointed; and

(3) Holds no other office or employment in the District government.

(i) An ~~Ethics Board~~ Board member shall not:

(1) Act as a leader or hold any office in a District political organization;

(2) Make speeches for a District political organization or candidate, or publicly endorse or oppose a District of Columbia candidate for public office;

(3) Solicit funds for, pay an assessment to, or make a contribution to a District political organization or candidate, or attend or purchase a ticket for a dinner or other event sponsored by a District of Columbia political organization or candidate;

(4) Be a lobbyist;

(5) Use his or her status as a member to directly or indirectly attempt to influence any decision of the District government relating to any action that is not within the ~~Ethics Board's~~ Board's purview; or

(6) During the member's tenure on the ~~Ethics Board~~ Board, be convicted of having committed a felony in the District of Columbia, or if the crime is committed elsewhere, convicted of an offense that would have been a felony if it had been committed in the District of Columbia.

(j) A member of the ~~Ethics Board~~ Board may be removed for good cause, including engaging in any activity prohibited by subsections (h) or (i) of this section, in accordance with the following procedure:

(1) When the Mayor believes that there is good cause to remove a member, the Mayor shall notify the member in writing by personal service or by certified or registered mail, setting out the alleged cause and advising the member that he or she has 7 days in which to request a hearing before the Council.

(2) If the member fails to request a hearing within 7 days after receiving the notice, the Mayor may remove the member and appoint a new member to serve until the expiration of the term of the member removed.

(3) If within 7 days of receiving notice from the Mayor, the member requests a hearing, the Mayor shall promptly notify the Council, and the Council shall convene the hearing within 30 calendar days after receiving notice from the Mayor that a member has requested a hearing.

(4) At the conclusion of the hearing, the Council shall vote on whether to remove the member. If 2/3rds of the Council votes to remove a member, the member shall be removed and the Mayor shall appoint a new member to serve until the expiration of the term of the member removed.

(5) If less than 2/3rds of the Council votes to remove a member, the member shall not be removed.

#### **D.C. Official Code § 1-1162.04. Meetings.**

(a) The ~~Ethics Board~~ Board shall hold regular monthly meetings in accordance with a schedule to be established by the Ethics Board. Additional meetings may be called as needed by the ~~Ethics Board~~ Board.

(b) The ~~Ethics Board~~ Board shall provide notice of meetings and shall conduct its meetings in compliance with subchapter IV of Chapter 5 of Title 2.

#### **D.C. Official Code § 1-1162.05. Compensation.**

(a) Each member of the ~~Ethics Board~~ Board, excluding the Chairperson, shall receive compensation, as provided in § 1-611.08, while actually in the service of the ~~Ethics Board~~ Board, for a sum not to exceed \$12,500 per annum.

(b) The Chairperson of the ~~Ethics Board~~ Board shall receive compensation, as provided in § 1-611.08, while actually in the service of the ~~Ethics Board~~ Board, for a sum not to exceed \$26,500 per annum.

#### **D.C. Official Code § 1-1162.05a. Establishment of the Office of Government Ethics.**

There is established within the Board an Office of Government Ethics. The Office of Government Ethics shall be headed by the Director of Government Ethics, who shall report directly to the Board.

#### **D.C. Official Code § 1-1162.05b. Establishment of the Office of Open Government.**

There is established within the Board an Office of Open Government to promote open governance in the District of Columbia. The Office of Open Government shall be headed by the Director of Open Government, who shall report directly to the Board.

**D.C. Official Code § 1-1162.05c. Director of Open Government.**

(a) The Director of Open Government shall:

(1) Issue advisory opinions pursuant to section 409(g) of the Open Meetings Act;

(2) Provide training to public bodies, as that term is defined in section 404 of the Open Meetings Act, public officials, and employees related to the Open Meetings Act; and

(3) Issue rules to implement the provisions of the Open Meetings Act.

(b) The Office of Open Government may bring suit to enforce the Open Meetings Act pursuant to section 409 of the Open Meetings Act.

(c) The Office of Open Government shall issue advisory opinions on the implementation of the Freedom of Information Act of 1976, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 et seq.).”.

(d) If an advisory opinion is issued by the Director of Open Government to a request for an advisory opinion, the requesting employee or public official may appeal the opinion for consideration by the Board.

**D.C. Official Code § 1-1162.06. Professional staff.**

~~(a) The Ethics Board shall select, employ, and fix the compensation for a Director of Government Ethics and such staff as the Ethics Board considers necessary, subject to the pay limitations of § 1-611.16. The Director of Government Ethics shall serve at the pleasure of the Ethics Board. The Ethics Board shall provide to the Director of Government Ethics employees to carry out the powers and duties of the Director of Government Ethics. Employees assigned to the Director of Government Ethics, while so assigned, shall be under the direction and control of the Director of Government Ethics and may not be reassigned without the concurrence of the Director of Government Ethics~~ (1) The Board shall select, employ, and fix the compensation for a Director of Government Ethics, a Director of Open Government, and such staff as the Board considers necessary, subject to the pay limitations of section 1117 of the Merit Personnel Act. The Director of Government Ethics and the Director of Open Government shall serve terms of 5 years, may be reappointed, and may only be removed for cause.

(2) Notwithstanding any other law, an employee assigned to:

(A) The Office of Government Ethics shall be under the Director of Government Ethics’ direction and control and may not be transferred to the Office of Open Government without the concurrence of the Director of Government Ethics; and

(B) The Office of Open Government shall be under the Director of Open Government’s direction and control and may not be transferred to the Office of Government Ethics without the concurrence of the Director of Open Government.

~~(b) The Director of Government Ethics shall be a District resident and failure to maintain District residency shall result in forfeiture of the position~~ The Director of Government Ethics and



the Director of Open Government shall be District residents throughout their term and failure to maintain District residency shall result in forfeiture of the position.

(c) The staff of the ~~Ethics Board~~ Board shall be subject to the Code of Conduct, and the ~~Ethics Board~~ Board shall promulgate such regulations as may be necessary to ensure that all persons responsible for the proper administration of this subchapter maintain a position of strict impartiality and refrain from any activity that would imply support or opposition to ~~an Ethics Board~~ a Board investigation.

#### **D.C. Official Code § 1-1162.07. Budget.**

(a) The Director of Government Ethics and the Director of Open Government, with approval by ~~Ethics Board~~ Board, shall prepare and submit to the Mayor, for inclusion in the annual budget of the District of Columbia under part D of subchapter IV of Chapter 2 of this title [§ 1-204.41 et seq.] for the year, annual estimates of the expenditures and appropriations necessary for the operation of their respective offices for the year. All such estimates shall be forwarded by the Mayor to the Council for its action pursuant to §§ 1-204.46 and 1-206.03(c), in addition to the Mayor's recommendations.

(b) Before Fiscal Year 2013, upon the request of any member of the ~~Ethics Board~~ Board, the Mayor shall provide the ~~Ethics Board~~ Board with suitable office space in a publicly owned or leased building for the administration and enforcement of this subchapter. Furnishings, information technology services and equipment, and supplies to this office space shall also be provided upon request.

#### **D.C. Official Code § 1-1162.08. Quorum; delegation.**

(a) ~~Two members of the Ethics Board~~ A majority of the sitting members of the Board shall constitute a quorum for the transaction of business.

(b) The ~~Ethics Board~~ Board may delegate to an individual member or to the Director of Government Ethics its power to investigate or hold a hearing.

#### **D.C. Official Code § 1-1162.09. Rules.**

(a) The ~~Ethics Board~~ Board, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], shall issue rules to implement the provisions of this subchapter, including rules for the administration of preliminary investigations, formal investigations, and hearings related to violations of the Code of Conduct or other provisions of this subchapter.

(b)(1) The ~~Ethics Board~~ Board shall submit to the Council for its consideration proposed legislation amending § 1-1161.01(7) to establish a revised Code of Conduct, which shall be explicitly applicable to all employees and public officials serving the District of Columbia, its instrumentalities, subordinate and independent agencies, the Council of the District of Columbia, boards and commissions, and Advisory Neighborhood Commissions, but excluding the courts.

(2) The ~~Ethics Board~~ Board shall issue rules to implement the provisions of a comprehensive Code of Conduct established pursuant to paragraph (1) of this subsection. The

proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed disapproved.

**D.C. Official Code § 1-1162.10. Board of Ethics and Government Accountability Fund Ethics Fund.**

~~(a) There is established as a nonlapsing fund the Board of Ethics and Government Accountability Fund (“Accountability Fund”), which shall be administered by the Ethics Board. The funds in the Accountability Fund shall be used exclusively by the Ethics Board. All fines collected under § 1-1162.21 and part E of this subchapter shall be deposited into the Accountability Fund~~ There is established as a special fund the Ethics Fund (“Fund”), which shall be administered by the Board in accordance with this section.

~~(b) All funds deposited into the Accountability Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in this subchapter without regard to fiscal year limitation, subject to authorization by Congress~~ Revenue from all fines collected under section 221 and Subtitle E of Title II shall be deposited into the Fund.

(c) Money in the Fund shall be used for the operations and personnel of the Office of Government Ethics.

(d)(1) The money deposited into the Fund shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

(2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

**D.C. Official Code § 1-1162.10a. Open Government Fund.**

(a) There is established as a special fund the Open Government Fund (“Fund”), which shall be administered by the Board in accordance with this section.

(b) Revenue from all fines and reasonable attorney’s fees and costs collected pursuant to section 409 of the Open Meetings Act shall be deposited in the Fund.

(c) Money in the Fund shall be used for the operations and personnel of the Office of Open Government.

(d)(1) The money deposited into the Fund shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

(2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

#### **D.C. Official Code § 1-1162.11. Powers of the Director of Government Ethics.**

The Director of Government Ethics, approved by the ~~Ethics Board~~ Board, shall have the power to:

(1) Require any person to submit, within a reasonable period and under oath or otherwise as the Director of Government Ethics may determine, written reports and answers to questions that the Director of Government Ethics may propound relating to the administration and enforcement of this subchapter;

(2) Administer oaths;

(3) Require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of the ~~Ethics Board's~~ Board's duties; provided, that subpoenas issued under this paragraph shall be issued by the Director of Government Ethics only upon approval of a majority of the ~~Ethics Board~~ Board and served either personally or by certified or registered mail;

[...]

#### **D.C. Official Code § 1-1162.12. Preliminary investigations.**

(a) The Director of Government Ethics shall conduct a preliminary investigation of a possible violation of the Code of Conduct or of this subchapter brought to the attention of the Director of Government Ethics or the ~~Ethics Board~~ Board through the following sources:

(1) The media;

(2) A tip received through the hotline; or

(3) Documents filed with the ~~Ethics Board~~ Board.

(b) If during or after the preliminary investigation, the Director of Government Ethics has reason to believe that a violation of the Code of Conduct or of this subchapter may have occurred, the Director of Government Ethics shall present evidence of the violation to the ~~Ethics Board~~ Board. Upon presentation of evidence, the ~~Ethics Board~~ Board may authorize a formal investigation and the issuance of subpoenas if it finds reason to believe a violation has occurred.

(c) A preliminary investigation may be dismissed by the Director of Government Ethics or the ~~Ethics Board~~ Board if insufficient evidence exists to support a reasonable belief that a violation has occurred.

(d) The identity of an individual who is the subject of the preliminary investigation shall not be disclosed without the individual's consent unless or until the ~~Ethics Board~~ Board has found reason to believe that the individual has committed a violation and the ~~Ethics Board~~ Board finds that disclosure would not harm the investigation.

#### **D.C. Official Code § 1-1162.13. Formal investigation.**

(a) A formal investigation shall be initiated upon:

(1) Receipt of a written complaint transmitted to the ~~Ethics Board~~ Board;

(2) A finding by the Office of the Inspector General or District of Columbia Auditor of waste, fraud, abuse of government resources, or a violation of the Code of Conduct; or

(3) A finding by a court of competent jurisdiction of liability in a civil proceeding, indictment, or information in a criminal proceeding with respect to acts or offenses that may constitute violations of the Code of Conduct or of this subchapter.

[...]

(e) Within 30 business days of the initiation of a formal investigation, the Director of Government Ethics shall cause evidence concerning the complaint to be presented to the ~~Ethics Board~~ Board, with the potential for a 15-business-day extension to be granted by the ~~Ethics Board~~ Board. If the ~~Ethics Board~~ Board decides that there is reasonable belief that a violation has occurred, the ~~Ethics Board~~ Board may authorize the issuance of subpoenas.

#### **D.C. Official Code § 1-1162.14. Hearings.**

(a)(1) After determining that there is reason to believe a violation has occurred based upon the presentation of evidence by the Director of Government Ethics pursuant to § 1-1162.12(b) or § 1-1162.13(e), the ~~Ethics Board~~ Board shall conduct an open and adversarial hearing at which the Director of Government Ethics shall present evidence of the violation. A hearing need not be conducted if a matter is dismissed pursuant to § 1-1162.16(a).

(2) If the Director of Government Ethics fails to present a matter, or advises the ~~Ethics Board~~ Board that insufficient evidence exists to present a matter or that an additional period of time is needed to investigate a matter further, the ~~Ethics Board~~ Board may order the Director of Government Ethics to present the matter as provided in paragraph (1) of this subsection.

(b) Any hearing under this section shall be of record and shall be held in accordance with Chapter 5 of Title 2.

(c) Any witness has a right to refuse to answer a question that might tend to incriminate the witness by claiming his or her Fifth Amendment privilege against self-incrimination.

#### **D.C. Official Code § 1-1162.15. Disposition.**

(a) Following the presentation of evidence to the ~~Ethics Board~~ Board by the Director of Government Ethics in an adversary proceeding and an open hearing, the ~~Ethics Board~~ Board may take one or more of the following actions:

(1) Levy a penalty in accordance with § 1-1162.21;

(2) Refer the matter to the United States Attorney for the District of Columbia for enforcement or prosecution;

(3) Refer the matter to the Attorney General of the District of Columbia for enforcement or prosecution; or

(4) Dismiss the action.

(b) The ~~Ethics Board~~ Board may not refer information concerning an alleged violation of the Code of Conduct or of this subchapter to the United States Attorney for the District of Columbia or the Attorney General of the District of Columbia without the presentation of evidence by the Director of Government Ethics as provided in § 1-1162.14(a).

**D.C. Official Code § 1-1162.16. Dismissal of meritless claim, complaint, or request for investigation.**

(a) The ~~Ethics Board~~ Board may dismiss, at any stage of the proceedings, any claim, complaint, request for investigation, investigation, or portion of an investigation that the ~~Ethics Board~~ Board finds to be without merit.

(b) The ~~Ethics Board~~ Board may require a person who made or caused to be made a claim, complaint, or request for investigation in bad faith and without merit to pay reasonable fees for time spent reviewing or investigating the claim, complaint, or requests for investigation.

**D.C. Official Code § 1-1162.17. Appeals.**

Appeals of any order or fine made by the ~~Ethics Board~~ Board in accordance with this subchapter shall be made to the Superior Court of the District of Columbia.

**D.C. Official Code § 1-1162.18. Enforcement of subpoena.**

The Superior Court of the District of Columbia may, upon petition by the ~~Ethics Board~~ Board, in case of refusal to obey a subpoena or order of the ~~Ethics Board~~ Board issued under § 1-1162.11(3), issue an order requiring compliance; and any failure to obey the order of the court may be treated by the court as contempt.

**D.C. Official Code § 1-1162.19. Advisory opinions.**

(a) Upon application made by an employee or public official subject to the Code of Conduct, the Director of Government Ethics shall, within a reasonable period of time, provide an advisory opinion as to whether a specific transaction or activity inquired of would constitute a violation of a provision of the Code of Conduct over which the ~~Ethics Board~~ Board has primary jurisdiction.

(a-1)(1) The Director of Government Ethics may issue, on his or her own initiative, an advisory opinion on any general question of law he or she considers of sufficient public importance concerning a provision of the Code of Conduct over which the ~~Ethics Board~~ Board has primary jurisdiction.

(2) Before an advisory opinion is issued under this subsection, the Director of Government Ethics shall publish a notice of the proposed advisory opinion in the District of Columbia Register and provide a public-comment period of at least 30 days, during which a person may submit information or comment on the proposed advisory opinion. An advisory opinion that does not meet the procedural requirements of this paragraph shall be void ab initio.

(b) An advisory opinion shall be published in the District of Columbia Register within 30 days of its issuance; provided, that the identity of a person requesting an advisory opinion shall not be disclosed in the District of Columbia Register without the person's prior consent in writing.

(c)(1) If an advisory opinion is issued by the Director of Government Ethics to a request for an advisory opinion, the requesting employee or public official may appeal the opinion for consideration by the ~~Ethics Board~~ Board.

(2) If the Director of Government Ethics issues an advisory opinion on his or her own initiative, an employee or public official aggrieved by the opinion may appeal the opinion for consideration by the Ethics Board.

(d) There shall be no enforcement of a violation of the Code of Conduct taken against an employee or public official who relied in good faith upon an advisory opinion requested by that employee or public official; provided, that the employee or public official, in seeking the advisory opinion, made full and accurate disclosure of all relevant circumstances and information.

#### **D.C. Official Code § 1-1162.20. Reports.**

(a) The Director of Government Ethics shall produce a quarterly report detailing:

(1) The posture of each complaint it received, including whether an investigation was initiated, is ongoing, or has concluded;

(2) The referrals made to and from the ~~Ethics Board~~ Board;

(3) Fines and penalties imposed by the ~~Ethics Board~~ Board;

(4) Allegations dismissed by the ~~Ethics Board~~ Board; and

(5) Other action taken with regard to an allegation of a violation of the Code of Conduct.

(b) The quarterly report shall be posted online.

#### **D.C. Official Code § 1-1162.21. Penalties.**

(a)(1) In accordance with paragraph (2) of this subsection and except as provided in subsection (b) of this section, the ~~Ethics Board~~ Board may assess a civil penalty for a violation of the Code of Conduct of not more than \$5,000 per violation, or 3 times the amount of an unlawful contribution, expenditure, gift, honorarium, or receipt of outside income for each violation. Each occurrence of a violation of this subchapter and each day of noncompliance with a requirement of this subchapter or an order of the ~~Ethics Board~~ Board shall constitute a separate offense.

(2) A civil penalty shall be assessed by the ~~Ethics Board~~ Board by order only after the person charged with a violation has been given an opportunity for a hearing, and after the ~~Ethics Board~~ Board has determined, by a decision incorporating its findings of facts, that a violation occurred.

(3) Notwithstanding the provisions of paragraph (2) of this subsection, the ~~Ethics Board~~ Board may issue a schedule of fines for violations of this subchapter, which may be imposed ministerially by the Director of Government Ethics. A civil penalty imposed under the authority of this paragraph may be appealed to the ~~Ethics Board~~ Board in accordance with the provisions of paragraph (2) of this subsection. The aggregate set of penalties imposed against each person under the authority of this paragraph may not exceed \$5,000.

(4)(A) In addition to any civil penalty imposed under this subchapter, a violation of the Code of Conduct may result in the following:

(i) Remedial action in accordance with the Merit Personnel Act;  
(ii) A public censure imposed by the ~~Ethics Board~~ Board;  
(iii) A non-public, informal admonition imposed by the Director of Government Ethics for low-level violations of the Code of Conduct such as:

(I) A one-time, minor misuse of government property;  
(II) A non-habitual time and leave issue that does not have a specific harmful impact;

(III) A non-uniform application of a regulation or policy by a supervisor, where it is not a regular occurrence and was not for an unlawful purpose;

(IV) A relatively minor action based, at least in part, on advice or guidance sought in good faith from another, such as a supervisor, and given in good faith, though erroneous; or

(V) A minor, incidental ethics violation for which the person made amends and rectified the situation;

(iv) A finding of a violation and a period of probation after which a respondent may seek expungement of the violation upon successful completion of any probationary terms imposed by the Director of Government Ethics or the ~~Ethics Board~~ Board; or

(v) Any negotiated disposition of a matter offered by the Director of Government Ethics, and accepted by the respondent, subject to approval by the ~~Ethics Board~~ Board.

(B) A non-public, informal admonition imposed under subparagraph (A)(iii) of this paragraph may be appealed to the ~~Ethics Board~~ Board.

(5)(A) If the person against whom a civil penalty is assessed fails to pay the penalty, the Ethics Board may file a petition for enforcement of its order assessing the penalty in the Superior Court of the District of Columbia. The petition shall designate the person against whom the order is sought to be enforced as the respondent. A copy of the petition shall be sent by registered or certified mail to the respondent and the respondent's attorney of record, if any, and the Ethics Board shall certify and file with the court the record upon which the order sought to be enforced was issued.

(B) The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside, in whole or in part, the order and the decision of the ~~Ethics Board~~ Board or it may remand the proceedings to the ~~Ethics Board~~ Board for such further action as it may direct. The court may determine de novo all issues of law, but the ~~Ethics Board's~~ Board's findings of fact, if supported by substantial evidence, shall be conclusive.

(C) Any failure to obey the order of the court may be treated by the court as contempt.

(b)(1) Any person who commits a violation of the Code of Conduct that substantially threatens the public trust shall be fined not more than \$25,000, or shall be imprisoned for not longer than one year, but not both.

(2)(A) Prosecutions of violations of this subsection shall be brought by the Attorney General of the District of Columbia; provided, that if the conduct also violates criminal provisions that could be prosecuted by the United States Attorney of the District of Columbia, the United

States Attorney of the District of Columbia consents to the prosecution by the Attorney General of the District of Columbia.

(B) Notwithstanding subparagraph (A) of this paragraph, no prosecution for a violation of paragraph (1) of this subsection shall be made until the ~~Ethics Board~~ Board has conducted its study pursuant to § 1-1162.02(b) and the Council has, by law, specified violations of the Code of Conduct that substantially threaten the public trust.

(c) The provisions of this subchapter shall in no manner limit the authority of the United States Attorney for the District of Columbia.

(d) All actions of the ~~Ethics Board~~ Board, the Attorney General of the District of Columbia, or of the United States Attorney for the District of Columbia to enforce the provisions of this subchapter must be initiated within 5 years of the discovery of the alleged violation.

(e) Notwithstanding any other provision in this subchapter, all equitable remedies at law shall be available for violations of the Code of Conduct, which may be in addition to any civil penalty prescribed in this subchapter.

(f) The penalties set forth in this section shall not apply to part E of this subchapter.

#### **D.C. Official Code § 1-1162.22. Additional penalties for public officials.**

(a) In addition to the penalties set forth in § 1-1162.21, the ~~Ethics Board~~ Board may censure a public official for a violation of the Code of Conduct that the ~~Ethics Board~~ Board finds to substantially threaten the public trust.

(b) The ~~Ethics Board~~ Board may recommend in such censure that the Council suspend or remove a Councilmember's committee chairmanship, if any, committee membership, if any, or vote in any committee.

#### **D.C. Official Code § 1-1162.23. Conflicts of interest.**

(a) No employee shall use his or her official position or title, or personally and substantially participate, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter, or attempt to influence the outcome of a particular matter, in a manner that the employee knows is likely to have a direct and predictable effect on the employee's financial interests or the financial interests of a person closely affiliated with the employee.

(b) An employee other than an elected official may seek a waiver, and the prohibition in subsection (a) of this section shall not apply, if the employee:

(1) Advises the employee's supervisor and the ~~Ethics Board~~ Board of the nature and circumstances of the particular matter;

(2) Makes full disclosure of the financial interest; and

(3) Receives in advance a written determination made by both the supervisor and the ~~Ethics Board~~ Board that:

(A) The interest is not so substantial as to be deemed likely to affect the integrity of the services that the government may expect from the employee; or



(B) Another legally cognizable basis for waiver exists.

(c)(1) Any elected official who, in the discharge of the elected official's official duties, would be required to act in any matter prohibited under subsection (a) of this section shall make full disclosure of the financial interest, prepare a written statement describing the matter and the nature of the potential conflict of interest, and deliver the statement to:

(A) In the case of a member of the Council, the Council Chairman; or

(B) In the case of an elected official other than a member of the Council, the ~~Ethics Board~~ Board.

(2) Any employee other than an elected official who, in the discharge of the employee's official duties, would be required to act in any matter prohibited under subsection (a) of this section shall:

(A) Make full disclosure of the financial interest:

(B) Prepare a written statement describing the matter and the nature of the potential conflict of interest; and

(C) Deliver the statement to the employee's supervisor and to the ~~Ethics Board~~ Board.

(3) During a proceeding in which an elected official would be required to take action in any matter that is prohibited under subsection (a) of this section, the Chairman shall:

(A) Read the statement provided in paragraph (1) of this subsection into the record of proceedings; and

(B) Excuse the elected official from votes, deliberations, and other actions on the matter.

(4) No Councilmember excused from votes, deliberations, or other actions on a matter shall in any way participate in or attempt to influence the outcome of the particular matter, in a manner that is likely to have a direct and predictable effect on the employee's financial interests or the financial interests of a person closely affiliated with the employee.

(5) Upon receipt of the statement provided in paragraph (2) of this subsection, the employee's supervisor shall assign the matter to another employee who does not have a potential conflict of interest.

(d)(1) An employee shall not receive any compensation, salary, or contribution to salary, gratuity, or any other thing of value from a source other than the District government for the employee's performance of official duties.

(2) No employee or member of the employee's household may knowingly acquire:

(A) Stocks, bonds, commodities, real estate, or other property, whether held individually or jointly, the acquisition 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; or

(B) An interest in a business or commercial enterprise that is related directly 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 related to matters over which the employee could wield any influence, official or otherwise.

**D.C. Official Code § 1-1162.24. Public reporting.**

(a)(1) Public officials, except Advisory Neighborhood Commissioners and candidates for nomination for election, or election, to public office, who are not otherwise required to file pursuant to this paragraph, shall file with the ~~Ethics Board~~ Board a public report containing a full and complete statement of:

(A) The name of each business entity, including sole proprietorships, partnerships, trusts, nonprofit organizations, and corporations, whether or not transacting any business with the District of Columbia government, in or from which the public official or his or her spouse, domestic partner, or dependent children:

(i) Has a beneficial interest, including, whether held in such person's own name, in trust, or in the name of a nominee, securities, stocks, stock options, bonds, or trusts, exceeding in the aggregate \$1,000, or that produced income of \$200;

(ii) Receives honoraria and income earned for services rendered in excess of \$200 during a calendar year, as well as the identity of any client for whom the official performed a service in connection with the official's outside income if the client has a contract with the government of the District of Columbia or the client stands to gain a direct financial benefit from legislation that was pending before the Council during the calendar year. The report required by this part shall include a narrative description of the nature of the service performed in connection with the official's outside income;

(iii) Serves as an officer, director, partner, employee, consultant, contractor, volunteer, or in any other formal capacity or affiliation; or

(iv) Has an agreement or arrangement for a leave of absence, future employment, including date of agreement, or continuation of payment by a former employer;

(B) Any outstanding individual liability in excess of \$1,000 for borrowing by the public official or his or her spouse, domestic partner, or dependent children from anyone other than a federal or state insured or regulated financial institution, including any revolving credit and installment accounts from any business enterprise regularly engaged in the business of providing revolving credit or installment accounts, or a member of the person's immediate family;

(C) All real property located in the District (and its actual location) in which the public official or his or her spouse, domestic partner, or dependent children, has an interest with a fair market value in excess of \$1,000, or that produced income of \$200; provided, that this provision shall not apply to personal residences occupied by the public official, his or her spouse, or domestic partner;

(D) All professional or occupational licenses issued by the District of Columbia government held by a public official or his or her spouse, domestic partner, or dependent children;

(E) All gifts received year by a public official from a prohibited source in an aggregate value of \$100 in a calendar;

(F) An affidavit stating that the public official has not caused title to property to be placed in another person or entity for the purposes of avoiding the disclosure requirements of this subsection; and

(G) A certification that the public official has:

- (i) Filed and paid his or her income and property taxes;
- (ii) Diligently safeguarded the assets of the taxpayers and the

District;

(iii) Reported known illegal activity, including attempted bribes, to the appropriate authorities;

(iv) Not accepted any bribes;

(v) Not directly or indirectly received government funds through illegal or improper means;

(vi) Not raised or received funds in violation of federal or District law; and

(vii) Not received or been given anything of value, including a gift, favor, service, loan gratuity, discount, hospitality, political contribution, or promise of future employment, based on any understanding that the public official's official actions or judgment or vote would be influenced.

(2) ~~Ethics Board~~ Board may, on a case-by-case basis, exempt a public official from this requirement or some portion of this requirement for good cause shown.

(3)(A) An Advisory Neighborhood Commissioner who is not otherwise required to file a report pursuant to paragraph (1) of this subsection shall file the certification required by paragraph (1)(G) of this subsection for the preceding year.

(B) Effective January 1, 2015, a candidate for nomination for election, or election, to public office who is not otherwise required to file a report pursuant to paragraph (1) of this subsection shall file the certification required by paragraph (1)(G) of this subsection for the preceding year.

(C) A candidate for nomination for election, or election, to public office who, as of May 15, 2014, had not filed a report for calendar year 2013 required by this section and who was not otherwise required to file a report pursuant to paragraph (1) of this subsection shall not be required to do so.

(b) Except as otherwise provided by this section, all papers filed under this section shall be kept by the ~~Ethics Board~~ Board in the custody of the Director of Government Ethics for no less than 6 years. The ~~Ethics Board~~ Board shall publicly disclose before the 2nd day of June each year the names of the candidates, officers, and employees who have filed a report. The Director of Government Ethics shall dispose of papers filed pursuant to this section in accordance with Chapter 17 of Title 2.

(c)(1) Except as otherwise provided in this subsection, reports required by this section shall be filed annually no later than 11:59 p.m. on May 15 of each year. If, before 11:59 p.m. on May 15, a public official ceases to hold an office or position, the occupancy of which imposes upon him or her the reporting requirements set forth in subsection (a) of this section, the public official shall file the report required by subsection (a) of this section within 3 months after leaving the office or position.

(2) Reports required by this section for the Chairman and each member of the Council shall be filed semiannually no later than 11:59 p.m. on May 15 and November 15 of each year. If, before 11:59 p.m. on May 15 or November 15, the Chairman or a member of the Council

ceases to hold an office, the occupancy of which imposes upon him or her the reporting requirements set forth in subsection (a) of this section, the Chairman or member of the Council shall file the report required by subsection (a) of this section within 3 months after leaving the office.

(c-1) The ~~Ethics Board~~ Board shall publish in the District of Columbia Register no later than 11:59 p.m. on June 15 of each year, or in the case of the Chairman or a member of the Council, no later than 11:59 p.m. on June 15 and December 15 of each year, the name of each public official who has:

- (1) Filed a report under this section;
- (2) Sought and received an extension of the filing deadline and the reason for the extension; and
- (3) Not filed a report and the reason for not filing, if known.

(d) Reports required by this section shall be in a form prescribed by the ~~Ethics Board~~ Board. The ~~Ethics Board~~ Board may provide for the grouping of items of income, sources of income, assets, liabilities, dealings in securities or commodities, and purchases and sales of real property, when separate itemization is not feasible or is not necessary for an accurate disclosure of the income, net worth, dealing in securities and commodities, or purchases and sales of rental property of any individual.

(e) All reports filed under this section shall be maintained by the ~~Ethics Board~~ Board as public records.

(f) For the purposes of a report required by this section, a person shall be considered to have been a public official if he or she has served as a public official for more than 30 days during any calendar year in a position for which reports are required under this section.

(g) The Ethics Board shall provide for the annual auditing of all reports filed pursuant to this section.

(h) The Mayor shall develop a list of each business entity transacting any business with the District government, or providing a service to the District for consideration, to include the business name, address, principals, and brief summary of the business transacted within the immediately preceding 6 months. The list shall be available online and published on January 1st and July 1st annually.

(i) Each personnel authority shall compile a list of all public officials, as defined by § 1-1161.01(47), within its respective agency or the Council, and shall supply the list to the ~~Ethics Board~~ Board no later than 11:59 p.m. on March 1 of each year. The list required by this subsection shall include the name, title, position, grade level, home address, work e-mail address, and work telephone number for each public official appearing on the list.

#### **D.C. Official Code § 1-1162.25. Confidential disclosure of financial interest.**

(a)(1) Each employee, other than a public official or a Council employee, 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, shall

file a report containing a full and complete statement of the information required by § 1-1162.24 with the appropriate agency head no later than 11:59 p.m. on May 15 of each year.

(2) Each Council employee who acts in areas of responsibility that may create a conflict of interest or appearance of a conflict of interest, as determined by that employee's personnel authority, shall file a confidential report containing a full and complete statement of the information required by § 1-1162.24 with the General Counsel to the Council no later than 11:59 p.m. on May 15 of each year.

(b) Each personnel authority shall review each confidential financial disclosure statement filed by an employee of its agency or the Council pursuant to subsection (a) of this section no later than 11:59 p.m. on June 1 of each year. Any violation of the Code of Conduct found by the personnel authority shall be forwarded immediately to the ~~Ethics Board~~ Board for review.

(c) Each personnel authority shall compile a list of all employees required to submit a confidential financial disclosure statement within its agency or the Council and shall supply the list to the ~~Ethics Board~~ Board by 11:59 p.m. on March 1 of each year. The list required by this subsection shall include the name, title, position, and grade level for each employee.

(d) A confidential financial disclosure statement filed pursuant to this section shall remain confidential, and shall be retained by the personnel authority for at least 6 years.

(e) For the purposes of this section, the Chairman of the Council may delegate all or a portion of his or her personnel authority, described in § 1-604.06(b)(3)(A)(i), to one or more employees of the Council.

#### **D.C. Official Code § 1-1162.27. Persons required to register.**

[...]

(c)(1) There is established as a nonlapsing fund the Lobbyist Administration and Enforcement Fund ("Lobbyist Fund"), which shall be administered by the ~~Ethics Board~~ Board. The funds in the Lobbyist Fund shall be used by the Ethics Board solely for the purpose of administering and enforcing this subchapter.

(2) All fees collected under subsection (b) of this section by the ~~Ethics Board~~ Board shall be deposited into the Lobbyist Fund. All funds deposited into the Lobbyist Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in paragraph (1) of this subsection without regard to fiscal year limitation, subject to authorization by Congress.

#### **D.C. Official Code § 1-1162.29. Registration form.**

[...]

(c) No later than 10 days after a registrant files a registration form with the Director of Government Ethics, the Director of Government Ethics shall publish on the ~~Ethics Board's~~ Board's website a summary of all information required to be submitted under this section.

**D.C. Official Code § 1-1162.30. Activity reports.**

~~(a) Each registrant shall file with the Director of Government Ethics between the 1st and 10th day of July and January of each year a report signed under oath concerning the registrant's lobbying activities during the previous 6-month period.~~ Each registrant shall file with the Director of Government Ethics between the 1st and 15th day of January, April, July, and October of each year a report signed under oath concerning the registrant's lobbying activities during the previous quarter. If the registrant is not an individual, an authorized officer or agent of the registrant shall sign the form. A registrant shall file a separate activity report for each person from whom he or she receives compensation. The reports shall be public documents and shall be on a form prescribed by the Director of Government Ethics and shall include the following:

(1) A complete and current statement of the information required to be supplied pursuant to § 1-1162.29;

(2)(A) Total expenditures on lobbying broken down into the following categories:

- (i) Office expenses;
- (ii) Advertising and publications;
- (iii) Compensation to others;
- (iv) Personal sustenance, lodging, and travel, if compensated;
- (v) Other expenses;

(B) Each expenditure of \$50 or more shall also be itemized by the date, name, and address of the recipient, and the amount and purpose of the expenditure;

(3) Each political expenditure, loan, gift, honorarium, or contribution of \$50 or more made by the registrant or anyone acting on behalf of the registrant to benefit an official in the legislative or executive branch, a member of his or her staff or household, or a political committee or political action committee established for the benefit of the official, be itemized by date, beneficiary, amount, and circumstances of the transaction; including the aggregate of all expenditures that are less than \$50;

(4) Each official in the executive or legislative branch and any member of the official's staff, including personal and committee staff, who has a business relationship or a professional services relationship with the registrant shall be identified by name and the nature of the business relationship with the registrant;

~~(5) Each official in the executive or legislative branch with whom the registrant has had written or oral communications during the reporting periods related to lobbying activities conducted by the registrant shall also be included in the report, identifying the official with whom the communication was made;~~ The name, position, and agency or office of each official in the executive or legislative branch and member of the official's staff with whom the registrant has had written or oral communications during the reporting period related to lobbying activities conducted by the registrant;

(5A) A precise description of the subject matter, including the title of any bill, proposed resolution, contract, reprogramming, or other legislation, of all written or oral communications related to lobbying activities conducted by the registrant with any official in the executive or legislative branch or member of the official's staff during the reporting period;

(6) Each person whom the registrant has given compensation to lobby on his or her behalf; and

(7) All bundled contributions in accordance with rules promulgated by the ~~Ethics Board~~ Board.

(b) Each registrant shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to substantiate the activity reports required to be made pursuant to this section for 5 years from the date of filing of the report containing these items. These materials shall be made available for inspection upon requests by the Director of Government Ethics after reasonable notice.

(c) Each registrant who does not file a report required by this section for a given period is presumed not to be receiving or expending funds that are required to be reported under this part.

(d) The Board shall make the information reported under this section available to the public on its website and sortable by various fields, including by reporting period, registrant name, name of each person who lobbies on the registrant's behalf, name of each official lobbied, the agency or office of each official lobbied, the subject of the communications (such as a specific administrative decision, bill, proposed resolution, contract, reprogramming, or other legislative action), and a listing of each political expenditure, loan, gift, honorarium, or contribution of \$50 or more required to be reported by subsection (a)(3) of this section.

#### **D.C. Official Code § 1-1162.32. Penalties; prohibition from serving as lobbyist; citizen suits.**

(a) Notwithstanding § 1-1162.21 and except as provided in subsection (c) of this section, any person who willfully and knowingly violates any of the provisions of this part shall be fined not more than \$5,000, or imprisoned for not more than 12 months, or both.

(b) In addition to the penalties provided for in subsection (a) of this section, any person convicted of the misdemeanor specified in that section may be prohibited from serving as a lobbyist for a period of 3 years from the date of the conviction.

(c) Any person who files a report or registration form required under this part in an untimely manner shall be assessed a civil penalty of \$10 per day up to 30 days (excluding Saturdays, Sundays, and holidays) that the report or registration form is late. The ~~Ethics Board~~ Board may waive the penalty imposed under this subsection for good cause shown.

(d) Should any provision of this subchapter not be enforced by the ~~Ethics Board~~ Board, a citizen of the District of Columbia may bring suit in the nature of mandamus in the Superior Court of the District of Columbia, directing the ~~Ethics Board~~ Board to enforce the provisions of this part. Reasonable attorneys fees may be awarded to the citizen against the District should he or she prevail in this action, or if it is settled in substantial conformity with the relief sought in the petition prior to order by the court.

#### **D.C. Official Code § 1-1164.01. Transition provisions; applicability.**

(a) Subchapter II, parts A and B, of this chapter shall apply as of April 27, 2012, except that neither the ~~Ethics Board~~ Board or the Director of Government Ethics shall receive, investigate,

or adjudicate violations of the Code of Conduct, or issue advisory opinions, conduct ethics training, or issue ethics manuals until October 1, 2012.

(b) Subchapter II, part C, of this chapter shall apply as of April 27, 2012, except that the delivery of statements required by § 1-1162.23(c)(2)(C) shall be delivered to the Elections Board until October 1, 2012. The Elections Board shall enforce subchapter II, part C, of this chapter until October 1, 2012, after which pending matters shall be transferred to the ~~Ethics Board~~ Board for enforcement.

[...]

#### **Section 4**

#### **D.C. Official Code § 2-538. Oversight of disclosure activities.**

[...]

(d) Each public body subject to the provisions of this subchapter shall designate a Freedom of Information Officer. As of November 1, 2001, the Mayor shall provide to these officers on their appointment a minimum of 8 hours of training regarding implementation and compliance with this subchapter.

(e) A public body may seek an advisory opinion from the Office of Open Government regarding compliance with this title.

[...]

#### **D.C. Official Code § 2-574. Definitions.**

For the purposes of this subchapter, the term:

(1) “Meeting” means any gathering of a quorum of the members of a public body, including hearings and roundtables, whether formal or informal, regular, special, or emergency, at which the members consider, conduct, or advise on public business, including gathering information, taking testimony, discussing, deliberating, recommending, and voting, regardless whether held in person, by telephone, electronically, or by other means of communication. The term “meeting” shall not include:

(A) A chance or social gathering; provided, that it is not held to avoid the provisions of this paragraph; or

(B) A press conference.

(2) ~~“Open Government Office” means the District of Columbia Open Government Office established by § 2-592~~ “Office of Open Government” means the Office of Open Government established by section 205b of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, as approved by the Committee of the Whole on May 15, 2018 (Committee print of Bill 22-753).

[...]



**D.C. Official Code § 2-579. Enforcement; authority.**

(a) The ~~Open Government Office~~ Office of Open Government may bring a lawsuit in the Superior Court of the District of Columbia for injunctive or declaratory relief for any violation of this subchapter before or after the meeting in question takes place; provided, that the Council shall adopt its own rules for enforcement related to Council meetings. Nothing in this subchapter shall:

(1) Be construed to create or imply a private cause of action for a violation of this subchapter; or

(2) Restrict the private right of action citizens have under § 1-207.42.

(b) In any lawsuit filed under this section, the burden shall be on the public body to sustain its action or proposed action. The court shall determine the matter de novo and may examine the record of a closed meeting to determine whether this section has been violated.

(c) If the court finds that a public body plans to hold a closed meeting or portion of a meeting in violation of subsection (d) of this section, the court may:

(1) Enjoin the public body from closing the meeting or portion of the meeting;

(2) Order that future meetings of the same kind be open to the public; ~~or~~ ;

(3) Order that the record of a meeting be made public; ~~or~~ ;

(4) Award reasonable attorney's fees and costs which shall be deposited in the Open Government Fund established by section 210a of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, as approved by the Committee of the Whole on May 15, 2018 (Committee print of Bill 22-753).

(d) If the court finds that a resolution, rule, act, regulation, or other official action was taken, made, or enacted in violation of this subchapter, the court may order an appropriate remedy, including requiring additional forms of notice, postponing a meeting, or declaring action taken at a meeting to be void. Actions shall not be declared void unless the court finds that the balance of equities compels the action or the court concludes that the violation was not harmless.

(e) If the court finds that a member of a public body engages in a pattern or practice of willfully participating in one or more closed meetings in violation of the provisions of this subchapter, the court may impose a civil fine of not more than \$250 for each violation.

(f) The court may grant such additional relief as it finds necessary to serve the purposes of this subchapter.

(g) A public body may seek an advisory opinion from the ~~Open Government Office~~ Office of Open Government regarding compliance with this subchapter.

**D.C. Official Code § 2-580. Training.**

~~The Office of Boards and Commissions, established December 19, 2001 (Mayor's Order 2001-189), in coordination with the Open Government Office, shall~~ The Mayor's Office of Talent and Appointments, established February 2, 2015 (Mayor's Order 2015-063), in coordination with the Office of Open Government, shall:

(1) Develop a training manual for members of public bodies; and

(2) Annually advise all members of public bodies of their responsibilities under this subchapter.

~~D.C. Official Code § 2-591. Short title.~~

~~D.C. Official Code § 2-592. Establishment of the District of Columbia Open Government Office.~~

~~D.C. Official Code § 2-593. Powers and duties of the Open Government Office.~~

~~D.C. Official Code § 2-594. Director.~~

## **Section 5**

**D.C. Official Code § 1-1171.01. Definitions.**

For the purposes of this chapter, the term:

(1) “Board” means the ~~District of Columbia Board~~ Board of Ethics and Government Accountability established by § 1-1162.02.

[...]