

BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Board of Ethics and Government Accountability (“Ethics Board”), pursuant to the authority set forth in Section 209 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1162.09 (2014 Repl.)), hereby gives notice of its adoption, on an emergency basis, of the following rulemaking to amend Chapter 57 (Financial Disclosures and Honoraria), and Chapter 58 (Registration of Lobbyists) of Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (“DCMR”).

D.C. Official Code § 1-1162.11(8) provides that the Director of Government Ethics shall have the power to “require any person to submit through an electronic format or medium a report required pursuant to this title [subchapter].” This rulemaking will amend Subsections 5702.1 and 5702.2 to require, except upon the granting of a waiver for good cause shown, electronic filing of Public Financial Disclosure Statements by Public Officials, and Subsection 5704.4 to require, except upon the granting of a waiver for good cause shown, electronic filing of Public Financial Disclosure Certifications by Advisory Neighborhood Commissioners. The rulemaking also will amend Subsection 5803.3 and add Subsections 5803.4 through 5803.8 to require, except upon the granting of a waiver for good cause shown, electronic filing of Lobbyist Registration and Lobbyist Activity Reports.

Emergency action is necessary to reduce paper filings, make filings more accessible, and increase efficiency at the Ethics Board. The emergency rulemaking was adopted on June 1, 2015, and became effective immediately on that date. The emergency rules shall remain in effect for one hundred and twenty (120) days or until October 1, 2015 unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*.

The Ethics Board also gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication on this notice in the *D.C. Register*.

Chapter 57, FINANCIAL DISCLOSURES AND HONORARIA, of Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Section 5702, FILING AND PUBLICATION REQUIREMENTS, is amended as follows:

Subsections 5702.1 and 5702.2 are amended to read as follows:

5702.1 The FDS shall be filed electronically at the Board of Ethics and Government Accountability (Board) website. The FDS shall be deemed timely filed electronically no later than midnight on May 15th of each year for the prior calendar year in which the public official served.

5702.2 A public official may request a waiver of the requirement to file electronically.

Waiver requests shall be submitted in writing, to the Director, no later than midnight on May 5th of each year. The Director may grant a waiver of the requirement to file electronically on good cause shown as to why the public official is unable to file electronically as follows:

- (a) A waiver granted by the Director shall be in writing and provided to the requestor.
- (b) If the waiver is granted, the FDS shall be filed in hard copy, in person or by first class mail. The FDS shall be deemed timely filed if received in the office of the Board no later than 5:00 pm on May 15th.
- (c) A denial of the waiver of the requirement to file electronically is appealable to the Board. An appeal is timely filed if submitted to the Board Chairperson and the Director, in writing, in hard copy or electronically, no later than two (2) business days after the date of the Director's decision. The decision of the Board is final and shall be provided in writing to the requestor.

Subsection 5704.4 is repealed.

A new Section 5705 is added to read as follows:

5705 CONFIDENTIAL FINANCIAL DISCLOSURE FILINGS BY ADVISORY NEIGHBORHOOD COMMISSIONERS AND CANDIDATES

5705.1 Advisory Neighborhood Commissioners in office for at least thirty (30) days shall electronically file a financial disclosure certification required by Section 224(a)(1)(G) of the Act for the preceding year.

- (a) The certification shall be due no later than midnight of May 15th of each year;
- (b) The certification shall be filed electronically with the Board at the Board website;
- (c) The certification shall be publicly filed; and
- (d) An Advisory Neighborhood Commissioner, or candidate as defined in D.C. Official Code § 1-1161.01(6), may request a waiver of the requirement to file electronically. Waiver requests shall be submitted in writing, to the Director, no later than midnight on May 5th of each year. The Director may grant a waiver of the requirement to file electronically for good cause shown as to why the public official is unable to file electronically.

- (i) A waiver granted by the Director shall be in writing and provided to the requestor.
- (ii) If the waiver is granted, the public financial disclosure certification shall be filed in hard copy, in person or by first class mail. The public financial disclosure certification shall be deemed timely filed if received in the office of the Board no later than 5:00 pm on May 15th.
- (iii) A denial of the waiver of the requirement to file electronically is appealable to the Board. An appeal is timely filed if submitted to the Board Chairperson and the Director, in writing, in hard copy or electronically, no later than two (2) business days after the date of the Director's decision. The decision of the Board is final and shall be provided in writing to the requestor.

Chapter 58, REGISTRATION OF LOBBYISTS, is amended as follows:

Subsection 5803.3 is amended to read as follows:

5803.3 Lobbyist Activity Reports shall be filed in electronic format at the Board website and shall be considered timely if filed by midnight on the date due.

New Subsections 5803.4 through 5803.8 are added to read as follows:

5803.4 Lobbyist Registration forms filed on or before January 15th of each year shall be filed in electronic format on the Board website and will be considered timely if filed by midnight on the date due.

5803.5 First-time Lobbyist Registration forms filed pursuant to Subsection 5803.1(a) of this section shall be filed electronically at the Board website and shall be considered timely if filed by midnight on the due date.

5803.6 A lobbyist may request a waiver of the requirement to electronically file a Lobbyist Registration form or a Lobbyist Activity Report. Waiver requests shall be submitted in writing, to the Director, no later than midnight on January 1st for January Lobbyist Registration and Lobbyist Activity report filings and July 1st for July Lobbyist Activity Report filings.

5803.7 The Director may grant a waiver of the requirement to file electronically for good cause shown as to why the Lobbyist is unable to file electronically as follows:

- (a) A waiver granted by the Director shall be in writing and provided to the requestor.
- (b) If the waiver is granted, the filings shall be filed in hard copy, in person or

by first class mail. The filing shall be deemed timely filed if received in the office of the Board no later than 5:00 pm on the due date.

- (c) A denial of the waiver of the requirement to file electronically is appealable to the Board. An appeal is timely filed if submitted to the Board Chairperson and the Director, in writing, in hard copy or electronically, no later than two (2) business days after the date of the Director's decision. The decision of the Board is final and shall be provided in writing to the requestor.

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty (30) days after the publication of this notice in the *D.C. Register*, with Brian K. Flowers, General Counsel, Board of Ethics and Government Accountability, 441 4th Street, N.W., 830 South, Washington, D.C. 20001. Comments also may be sent electronically to bega@dc.gov.