

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**



IN RE: MARC DAVIS

Respondent

Daniel J. McCartin
Conti Fenn LLC
36 South Charles Street | Suite 2501
Baltimore, Maryland 21201
dan@contifenn.com

CASE No.: 24-0007-F

NOTICE OF VIOLATION

Pursuant to the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 (“Ethics Act”), effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01, et seq.), the Director of Government Ethics completed a formal investigation and has obtained evidence to present to the Board of Ethics and Government Accountability (the “Ethics Board”) that there is reason to believe the Respondent named above violated the District Code of Conduct.

The Office of Government Ethics (OGE) has reason to believe Respondent, Marc Davis, violated sections of the District Code of Conduct based on the following facts and evidence uncovered during the preliminary investigation and submits evidence to the Ethics Board that:

1. Respondent has served as a Metropolitan Police Department (“MPD”) Officer since 2014.
2. As an MPD Officer Respondent was responsible for law enforcement in the Seventh District of the District of Columbia (“DC”).

3. On May 10, 2017, Respondent signed a statement acknowledging that he read and understood General Order PER-201.17¹, which specifically outlines MPD's outside employment restrictions, including the following language: "No member shall engage in outside employment (non-government) if the "second job" (a) would present a conflict with interests of the District Government or (b) would interfere with the member's scheduled tour of duty on the Department².
4. On May 18, 2017, as required by MPD, Respondent requested approval to engage in outside employment as a uniformed security officer for Giant Food Store, located in the Seventh District at 1535 Alabama Avenue SE, Washington, DC 20032. The request was made to MPD's Patrol South Chief, Commander, and Sergeant who all signed and approved the request. Sometime after MPD's approval, Respondent began working part-time for Giant Food Store.
5. On June 2, 2023, Respondent was signed up to work two MPD detail overtime shifts on his day off. The overtime detail shifts consisted of a District Traffic Enforcement Overtime shift, followed by a District Robbery Overtime shift. On the day of the overtime detail, an MPD officer, who was scheduled to work the District Robbery Overtime shift with the Respondent, reported that at the start of the overtime shift, she tried to contact Respondent, but was unable to get in touch with him after several attempts. The officer stated that Respondent eventually sent her a text message stating that he was not at work; however, moments later, she saw that Respondent posted an Instagram video of himself at the movies during his scheduled tour of duty for the overtime shift.

¹ General Order PER-201.17(g)(2,3) provides guidance on outside employment restrictions for MPD employees engaged in part-time employment. Specifically, it specifies the restrictions on working part-time employment during a MPD tour of duty.

² Mayor's Memorandum 2003-6

6. On June 4, 2023, as a result of the June 2, 2023, overtime incident, the Senior Police Officer (SPO) of the Seventh District's Time and Attendance Office checked the PD1130s³ submitted for payment by the Respondent. The PD1130s revealed that the Respondent reported that he worked on June 2, 2023, when he was not actually at work.
7. On June 8, 2023, MPD's Internal Affairs Division (IAD), generated Incident Summary #23002134 to further investigate the SPO's suspicion fraud based on the Respondent's classification on his PD1130s that he was at work on June 2, 2023, when he was not.
8. In an interview regarding the IAD investigation, Respondent admitted that, during the times he was clocked in with MPD, he was simultaneously clocked in with Giant Food, working both jobs and being compensated by both employers at the same time.
9. Respondent further admitted that, by doing this, he believed he was committing a crime.
10. According to Respondent's timesheets at Giant and MPD, between August 27, 2021, and June 7, 2023, the Respondent, while on duty with MPD, was simultaneously engaging in his outside employment at Giant Food Store and billed MPD for the same hours he worked at Giant Food Store, in overlap of his District tour of duty on 193 occasions.
11. On June 22, 2023, the matter was referred to the United States Attorney's Office.
12. On January 30, 2024, Respondent was arrested based on the allegations of fraud.
13. From September 23, 2024, through October 1, 2024, a criminal trial took place based on allegations regarding the Respondent's classification of time to MPD.
14. During the 2024 criminal trial, Respondent, under sworn testimony, admitted to working at Giant during the hours he billed MPD, and that on multiple occasions he would drive his personally owned vehicle to Giant Food Store to clock in, and then drive back to the

³ The standard MPD form used to account for overtime and compensatory time payments.

Seventh District to park his personal vehicle, and return to Giant Food Store in an MPD police vehicle to work his shift⁴.

CHARGES

Respondent violated the following provision of the District Personnel Manual (“DPM”):

Count 1 – Count 193: Using government time or resources for other than official business, or government approved or sponsored activities in violation of DPM § 1807.1.(b).

- Respondent, while on duty with MPD, simultaneously worked at Giant in overlap of his District tour of duty on 193 dates (totaling 991 hours and 48 minutes) between August 27, 2021, and June 7, 2023. As a result, Respondent fraudulently received a total amount of \$46,356.14 in compensation from MPD. Respondent violated DPM § 1807.1.(b) on 193 separate occasions. Respondent was not authorized to use government time in this manner.

Count 194: Using government time or resources for other than official business, or government approved or sponsored activities in violation of DPM § 1807.1.(b).

- On June 2, 2023, Respondent went to see a movie and posted a picture to social media of him at the movie during the time he was scheduled to work overtime for MPD, which is not an approved or sponsored government activity or authorized use of government time. Respondent submitted a PD1130 for 8 hours of overtime in which he claimed to have worked the detail District Robbery Overtime shift.

Count 195: Using government time or resources for other than official business, or government approved or sponsored activities in violation of DPM § 1807.1.(b).

⁴ Court Transcript, Page 51 from 09/26/2024

- Respondent traveled to and from his outside employment at Giant during his tour of duty at MPD on multiple occasions, which is not an authorized use of government time.

Count 196: Using government time or resources for other than official business, or government approved or sponsored activities in violation of DPM § 1807.1.(b).

- Respondent used an MPD vehicle as a means of transportation to and from his outside employment at Giant on multiple occasions, which is not an authorized use of government resources.

Per 3 DCMR Section 5503.2, any person or party may be represented by any other person duly authorized in writing to do so. Respondent shall file with the Ethics Board and serve a copy upon the Director of Government Ethics, a written response that states in short and plain terms his defenses to the violation alleged and shall admit or deny the averments set forth in each numbered paragraph above, upon which the notice of violation relies. Respondent shall serve his response within (15) days after the service of this amended Notice of Violation upon receipt. Accordingly, Respondent shall submit his response, either electronically or in hard copy, no later than the close of business on **Friday, August 22, 2025**. If submitted in hard copy via U.S. mail, Respondent must allow enough time for mailing delays in that the written response must be received by the Ethics Board and the Director of Government Ethics no later than close of business on **Friday, August 22, 2025**.

Responses submitted via U.S. mail or in person shall be separately addressed to Norma Hutcheson, BEGA Chairperson, and Ashley Cooks, Director of Government Ethics at 1030 15th Street, N.W., Suite 700W, Washington, D.C. 20005. If submitted electronically, Respondent may email his response to Lynn.Tran@dc.gov, Ashley.Cooks@dc.gov, and Brenda.Keels1@dc.gov.

Once Respondent has submitted his response or failed to submit a response by the due date provided, the Board shall send a Notice of Hearing to Respondent. The Notice of Hearing will provide the time, date, and location of the hearing; reference applicable statutes, rules, or regulations, state the purpose of the hearing, advise Respondent that he may be represented by counsel or other representative of his choosing, and advise Respondent that he may bring witnesses. Evidence at the hearing shall be taken in conformity with D.C. Official Code § 2-509(b).

A copy of the Ethics Board's rules, 3 DCMR Section 5500 *et. seq.*, which provide a description of Respondent's right to a hearing, all procedural rights available to Respondent at the hearing, and a description of the applicable law and regulations that govern the disposition of the Notice of Violation should Respondent choose not to file a response or fail to appear at a scheduled hearing, is attached to this Notice of Violation and herein incorporated by reference.

This Notice of Violation is effective upon approval of the Board of Ethics and Government Accountability, as demonstrated by the signature of the Chairperson below, as of the date indicated below.

APPROVED:



Norma B. Hutcheson
Chair, Board of Ethics and Government Accountability
#24-0007-F
AC/BK

August 7, 2025

Date

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT, on this 7th day of August 2025, a true and correct copy of the foregoing was furnished to Respondent at the following address:

Marc Davis
c/o Daniel J. McCartin
Conti Fenn LLC
36 South Charles Street | Suite 2501
Baltimore, Maryland 21201
dan@contifenn.com

/s/ Lynn Y. Tran

Lynn Y. Tran
Senior Attorney Advisor
Board of Ethics and Government Accountability

August 7, 2025

Date

5500 GENERAL PROVISIONS

- 5500.1 The provisions of this chapter shall govern the procedures of the Board of Ethics and Government Accountability when conducting adversarial hearings and other meetings pursuant to the authority set forth in the Government Ethics Act of 2011 (Act), Title II 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 § 1-1161.01 *et seq.*) (2012 Supp.).
- 5500.2 In any conflict within this chapter between general and specific provisions, the specific provisions shall govern.
- 5500.3 In any conflict between this chapter and the D.C. Administrative Procedure Act, D.C. Official Code § 2-501 *et seq.* (2011 Repl.), the D.C. Administrative Procedure Act shall govern.
- 5500.4 The Director of Government Ethics (Director) shall issue, and from time to time revise, complaint forms and instructions to ensure presentation of adequate information required for the understanding and processing of complaints. All such materials shall be available on the Board's website.
- 5500.5 The Board may, for good cause shown, waive any of the provisions of this chapter if, in the judgment of the Board, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013).

5501 COMPUTATION OF TIME

- 5501.1 In computing any period of time prescribed or allowed by these rules or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included.
- 5501.2 The last day of the computed period shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday, or legal holiday.
- 5501.3 When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation unless an applicable statute expressly provides otherwise.
- 5501.4 For the purposes of this chapter, "legal holiday" includes the following:
- (a) New Year's Day;
 - (b) Martin Luther King's Birthday;
 - (c) President's Day;
 - (d) District of Columbia Emancipation Day;
 - (e) Memorial Day;
 - (f) Independence Day (4th of July);
 - (g) Labor Day;
 - (h) Columbus Day;
 - (i) Veterans Day;
 - (j) Thanksgiving Day;
 - (k) Christmas Day; and
 - (l) Any other day designated a legal holiday by the President of the United States or the District of Columbia government.
- 5501.5 When an act is required or allowed to be done at or within a specified time, the Board may at any time in its discretion and for cause shown, do either of the following:

- (a) With or without motion or notice, order the period enlarged, if a request for enlargement of time is made before the expiration of the period originally prescribed or as extended by a previous order; or
- (b) Upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013).

5502 NOTICE OF HEARINGS

5502.1 The parties shall be given sufficient opportunity to prepare for the hearing.

5502.2 The Board shall send a notice of hearing to the party or parties involved which shall:

- (a) Provide the time, date, and location of the hearing;
- (b) Reference applicable statutes, rules, or regulations;
- (c) State the purpose of the hearing;
- (d) Advise the party or parties that they may be represented by counsel or other representative of their choosing; and
- (e) Advise the party or parties that they may bring witnesses.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013).

5503 APPEARANCES AND REPRESENTATION

- 5503.1 In a proceeding before the Board, any person or party may appear on his or her own behalf.
- 5503.2 Any person or party may be represented by any other person duly authorized in writing to do so.
- 5503.3 The authorization shall be on a form prescribed by the Board and shall state either that the individual is an attorney duly licensed to practice law in the District, or if not an attorney, that the authorization includes the power of the agent or representative to bind the person in the matter before the Board.
- 5503.4 If any person or party waives the right to be present at a hearing or fails to appear at a hearing, the Board may proceed ex parte, unless the Board extends the time of the hearing or unless the person's appearance is required by statute.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013).

5504 SERVICE OF PAPERS

- 5504.1 Any paper required to be served upon a party shall be served upon him or her or upon the representative designated by him or her, or on any person otherwise designated by law to receive service of papers.
- 5504.2 When a party has appeared through an attorney or representative, service shall be made upon the attorney or representative of record.
- 5504.3 Service may be made by personal delivery, by mail, by email, or as otherwise authorized by law.
- 5504.4 Service upon a party shall be completed as follows:
- (a) By personal delivery, on handing the paper to the person to be served, or leaving it at his or her office with his or her administrative assistant or time clerk or other person in charge or, if there is no one in charge, leaving it in a conspicuous place in the office; or, if the office is closed or the person to be served has no office, by leaving it at his or her usual place of residence with some person of suitable age and discretion then residing in that place;
 - (b) By email, by sending the paper electronically to his or her District Government email address or to the email address of his or her attorney or representative as listed on the written appearance submitted pursuant to § 5503.
 - (c) By mail, on deposit in the United States mail, properly stamped and addressed; or
 - (d) Upon being served in the specific manner prescribed by an order of the Board made in any proceeding.
- 5504.5 Where there are numerous parties to a proceeding, by written order the Board may make special provisions regarding the service of papers.
- 5504.6 Proof of service, stating the name and address of the person on whom served and the manner and date of service, shall be shown for each document served.
- 5504.7 Proof of service may be made by any of the following means:
- (a) Written acknowledgment of the party served or his or her attorney of record;
 - (b) The certificate of the attorney of record if he or she has made the service; or

(c) The certificate of the person making the service.

- 5504.8 For the purposes of this chapter, the phrase "filing with the Board," means the delivery to, and receipt by, the Chairperson of the Board or the Board's attorney, of pleadings and other papers.
- 5504.9 All documents filed with the Board relating to a hearing or formal investigation shall bear a caption which identifies the subject of the investigation, the Board's case or reference number, and the title of the pleading or document.
- 5504.10 All documents filed with the Board shall be printed on letter-sized paper using a font no smaller than 12 point.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013); as amended by Final Rulemaking published at 66 DCR 10535 (August 16, 2019).

5505 RECORD OF MEETINGS AND HEARINGS

- 5505.1 All meetings whether open or closed shall be recorded by electronic means; provided, that if a recording is not feasible, detailed minutes of the meeting shall be kept.
- 5505.2 For all open meetings or hearings, copies of records shall be made available for public inspection according to the following schedule:
- (a) In accordance with section 408 of the Open Meetings Act (D.C. Official Code § 2-578), for a meeting, a copy of the minutes of a meeting or the recording, shall be made available for public inspection as soon as practicable, but no later than 3 business days after the meeting.
 - (b) For an adversarial hearing, a copy of the full record, including any recording or transcript, shall be made available for public inspection as soon as practicable, but no later than 7 business days after the meeting.
 - (c) At the discretion of the Board, electronic recordings of the hearing may be posted on the Board's website.
- 5505.3 The minutes of Board meetings shall include the vote of each member of any ruling of the Board.
- 5505.4 Copies of the official transcript shall be available to parties and to the public upon payment to the Board of the charges fixed for the copies.
- 5505.5 Changes in the official transcript may be made only when they involve errors affecting substance and upon the filing of a motion by a party to correct a transcript with the Board.
- 5505.6 Copies of the motion to correct a transcript shall be served simultaneously on all opposing parties or legal representatives.
- 5505.7 Objections to the motion to correct a transcript shall be filed with the Board within five (5) days and served upon the parties.
- 5505.8 The transcript may be changed by the Board at a public meeting to reflect any corrections.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013); as amended by Final Rulemaking published at 66 DCR 10535 (August 16, 2019).

5506 MEETINGS AND HEARINGS

- 5506.1 Hearings shall be scheduled as needed for the purpose of receiving evidence and testimony on specific matters.
- 5506.2 Meetings and hearings shall be held at the time and place the Board or the Chairperson designates.
- 5506.3 A member absent at the decision meeting on any matter may cast an absentee vote only if the member attended all other of the meetings or hearings on a matter before Board.
- 5506.4 A member attending the decision meeting and having read the transcript and reviewed the complete record may vote even though that member may not have attended any or all of the prior meetings or hearings on a matter before the Board.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013).

5507 EVIDENCE

- 5507.1 Evidence shall be taken in conformity with D.C. Official Code § 2-509(b).
- 5507.2 The Board may permit rebuttal evidence.
- 5507.3 Any party objecting to the admissibility of evidence shall state the grounds of the objection(s) relied upon.
- 5507.4 A party may place on the record a statement summarizing any evidence excluded by the Board.
- 5507.5 If excluded evidence consists of documentary evidence, a copy of the evidence shall be marked for identification and shall constitute the offer of proof.
- 5507.6 The Board, in its discretion, may receive into evidence certified copies of documents in place of the originals.
- 5507.7 If a party is offering materials contained in a book or larger document, that party shall plainly designate the relevant portions. The remaining material contained in that book or document shall be excluded.
- 5507.8 No document or other writing shall be accepted for the record after the close of the hearing, except with the consent of the Board after due notice to the opposing parties and only when the receipt of the document will not unfairly affect the interest of a party.
- 5507.9 During an adversarial hearing under § 5517, witnesses may be examined or cross-examined by the Board, the Director, respondent, or any party so designated by the Board pursuant to this chapter.
- 5507.10 During a meeting to consider a rulemaking conducted under § 5525, witnesses may be examined only by the Board.
- 5507.11 The Board may admit hearsay evidence during an adversarial hearing if it determines it will be relevant and material to the resolution of any factual issue in dispute in the matter before the Board.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013); as amended by Final Rulemaking published at 66 DCR 10535 (August 16, 2019).

5508 COMMENCEMENT OF ADVERSARIAL HEARING

- 5508.1 An adversarial hearing before the Board shall be commenced by the filing of a written notice of violation in the name of the Board, which shall be signed by the Chairperson.
- 5508.2 The employee(s) or official(s) that is (are) the subject of the notice of violation shall be referred to as the Respondent(s) in the notice of violation.
- 5508.3 The Board may consolidate notice of violations if they relate to the same actions or events or raise common questions of law or fact.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013).

5509 GENERAL RULES OF PLEADING

5509.1 A notice of violation shall contain the following:

- (a) A short and plain statement of the grounds upon which the Board's jurisdiction depends;
- (b) The full names, residence addresses, if known, position, title, agency, and telephone numbers of the respondent(s);
- (c) A clear and concise statement of facts which are alleged to constitute a violation of the law;
- (d) A description of the respondent's right to a hearing and all procedural rights available to the respondent at the hearing;
- (e) A description of the applicable law and regulations that govern the disposition in a notice of violation should the respondent choose not to file a response or fail to appear at a scheduled hearing; and
- (f) The deadline for filing a response.

5509.2 A respondent shall file with the Board, and serve a copy upon the Director and any other respondents identified in the notice of violation, a response that states in short and plain terms his or her defenses to each violation alleged and shall admit or deny the averments upon which the notice of violation relies. A respondent shall serve his or her response within fifteen (15) days after the service of the notice of violation upon him or her.

5509.3 If a respondent is without knowledge or information sufficient to form a belief as to the truth of an averment, he or she shall so state. This statement shall have the effect of a denial.

5509.4 When a respondent intends in good faith to deny only a part of an allegation, he or she shall specify so much of the allegation as is true and shall deny only the remainder.

5509.5 A respondent may, unless he or she intends in good faith to controvert all the allegations in a notice of violation, deny as specific denials of designated allegations or paragraphs, or the respondent may generally deny all the allegations except the designated allegations or paragraphs as the respondent expressly admits.

5509.6 When a respondent intends to controvert all the allegations of the notice of violation, including allegations of the grounds upon which the Board's jurisdiction depends, the respondent party may do so by general denial. If a

respondent chooses not to file a response, the Board shall treat such action as a general denial.

5509.7 A respondent shall raise any of the following defenses at the time he or she files a response:

- (a) Lack of jurisdiction over the subject matter;
- (b) Lack of jurisdiction over the person;
- (c) Insufficiency of process; or
- (d) Insufficiency of service of process.

5509.8 The Director shall file any opposition to a § 5509.7 defense raised by a respondent within ten (10) days after service of a response on the Board.

5509.9 No technical forms of pleadings or motions shall be required.

5509.10 The Board or respondent may set forth two (2) or more statements of a charge, challenge, or defense alternately or hypothetically, either in one count or defense or in separate counts or defenses.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013); as amended by Final Rulemaking published at 66 DCR 10535 (August 16, 2019).

5510 SIGNING OF PLEADINGS

- 5510.1 Each pleading of a party represented by an attorney shall be signed by at least one (1) attorney of record in his or her individual name, and the attorney's address, email address, and telephone number shall be stated.
- 5510.2 A party who is not represented by an attorney shall sign each pleading and state his or her address, email address, and telephone number.
- 5510.3 Except when otherwise specifically provided by law, pleadings need not be verified or accompanied by affidavit.
- 5510.4 The signature of an attorney shall constitute a certificate by that attorney that he or she has read the pleading; that to the best of his or her knowledge, information, and belief there are grounds to support it; and that it is not interposed for delay.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013).

5511 PRE-HEARING CONFERENCES AND DISCOVERY

- 5511.1 Prior to any scheduled adversarial hearing, the Board may require that the respondent or his or her attorney or representative appear for a pre-hearing conference with the Director to consider the following:
- (a) Simplification of the issues;
 - (b) The necessity or desirability of amendments to the pleadings;
 - (c) The possibility of obtaining the admission of facts and documents which will avoid unnecessary proof;
 - (d) Limitation of the number of witnesses; and
 - (e) Other matters which may aid in the disposition of the notice of violation.
- 5511.2 The Board may require the Director and the respondent(s) to submit a pre-hearing statement to the Board which recites the action taken at the conference, the amendments allowed to the pleadings by agreement of the parties, and the agreements made by the parties as to any of the matters considered which limit the issues for hearing to those issues not disposed of by admissions or agreements of counsel or parties.
- 5511.3 Upon the request of the respondent, the Director must disclose to the respondent and make available for inspection, copying, or photographing any relevant written or recorded statements made by the respondent and any books, papers, documents, photographs, tangible objects, or other evidence which is in the possession of the Director and which:
- (a) The Director intends to introduce at the hearing; or
 - (b) Are material to the preparation of the respondent's defense.
- 5511.4 Upon the request of the Director, the respondent must disclose to the Director and make available for inspection, copying or photographing any evidence that the respondent intends to introduce at the hearing.
- 5511.5 The Director and the respondent shall exchange a list of expected witnesses that may be called at the hearing.
- 5511.6 Unless otherwise required by the Board, the disclosures required by §§ 5511.3, 5511.4, and 5511.5 shall be completed no later than ten (10) days in advance of the adversarial hearing.

- 5511.7 In its discretion, the Board may exclude the introduction of evidence or the testimony of witnesses that a party failed to disclose as required by §§ 5511.3, 5511.4, and 5511.5.
- 5511.8 The Board may issue a pre-hearing order concerning the timing and manner of discovery and any pretrial motions or orders.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013); as amended by Final Rulemaking published at 66 DCR 10535 (August 16, 2019).

5512 STIPULATIONS

- 5512.1 Apart from stipulations reached during or as a result of the pre-hearing conference, the parties may stipulate in writing at any stage in the proceeding or orally during the hearing any relevant fact or the contents or authenticity of any document.
- 5512.2 Post-conference stipulations may be received as evidence.
- 5512.3 Parties may also stipulate the procedure to be followed in the proceeding and such stipulation may, on motion of all parties, be approved by the Board and govern the conduct of the proceeding.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013).

5513 CONTINUANCES

- 5513.1 A hearing scheduled to be conducted before the Board shall not be delayed by a continuance unless a motion for the continuance is made not less than five (5) days before the scheduled hearing date.
- 5513.2 A continuance shall not be granted unless the motion for continuance, in the Board's opinion, sets forth good and sufficient cause for the continuance.
- 5513.3 Conflicting engagements of counsel, absence of counsel, or the employment of new counsel shall not be regarded as sufficient cause for continuance unless set forth in a motion filed promptly after notice of the hearing has been given.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013).

5514 NONAPPEARANCE OF PARTIES AND DEFAULTS

- 5514.1 The Board may wait a reasonable length of time for a party to appear before beginning a proceeding. After a reasonable time, however, if a party who has received notice has not appeared, the Chairperson may proceed as follows:
- (a) The Chairperson may proceed with the hearing, obtain the testimony of those persons present, and, on the basis of the testimony and the record, the Board may issue a decision in the case; or
 - (b) The Chairman, for good and sufficient cause, may postpone the hearing without taking testimony.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013).

5515 [RESERVED]

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013).

5516 INTERPRETERS

- 5516.1 The Board shall ascertain before the hearing whether an interpreter will be required and make appropriate arrangements.
- 5516.2 An oath or affirmation shall be administered to the interpreter orally or in writing.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013).

5517 SPECIFIC RULES OF HEARING PROCEDURE

- 5517.1 All parties shall have the right to produce evidence and witnesses on their behalf and to rebut or explain testimony or evidence against them.
- 5517.2 All parties have the right to cross-examine other parties and witnesses and to offer argument or explanation in support of their positions or contentions.
- 5517.3 A party may cross-examine any other party or person, except that the Board, through the Chairperson, may rule a question out of order when it is irrelevant, immaterial, or unduly repetitious.
- 5517.4 Witnesses shall be examined and cross-examined orally under oath or affirmation.
- 5517.5 The order of procedure for presenting evidence at the hearing shall be as follows:
- (a) Call to order and opening statements by the Chairperson and members of the Board;
 - (b) Introductory statement by Director or staff;
 - (c) Introductory statement by the respondent, if any;
 - (d) Consideration of pending motions and procedural matters;
 - (e) The Director's case;
 - (f) The respondent's case; and
 - (g) Any rebuttal offered by the Director.
- 5517.6 If there is more than one respondent, the respondents shall stipulate their order of presentation. If the respondents are unable to agree, the Chairperson shall set the order.
- 5517.7 In an adversarial hearing no decision or order of the Board shall be made except upon the exclusive record of the proceedings before the Board.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013); as amended by Final Rulemaking published at 66 DCR 10535 (August 16, 2019).

5518 BURDEN OF PROOF

- 5518.1 In all cases involving a notice of violation, the Director has the burden of persuading the Board that a violation has occurred by substantial evidence.
- 5518.2 The Director has the burden of producing evidence of a prima facie case that a respondent has committed a violation. Whenever a respondent asserts an affirmative defense to a notice of violation, the respondent will bear the burden of producing sufficient evidence to establish the affirmative defense.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013).

5519 POST-HEARING PROCEDURES: GENERAL

- 5519.1 The record shall be closed at the end of the public hearing, except that the record may be kept open for a stated period for the receipt of specific exhibits, information, or legal briefs, as directed by the Board.
- 5519.2 Prior to filing the final decision, the Board may, on its own motion, reopen the record and require further hearing or briefing on designated issues before the Board.
- 5519.3 Notice of a further hearing along with a designation of issues shall be forwarded to any party who participated in the earlier proceedings, or his or her legal representative. Notice shall be given at least fourteen (14) days prior to the date set for further hearing.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013).

5520 PROPOSED FINDINGS

- 5520.1 The Board may request parties to submit proposed findings of fact and conclusions of law for the consideration of the Board within the time as the Chairperson may direct.
- 5520.2 Copies of proposed findings and conclusions shall be served by each party upon all other parties.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013).

5521 FINAL DECISION

- 5521.1 Within a reasonable time after the conclusion of the hearing, the Board shall render its decision setting forth findings of fact and conclusions of law and giving the reasons for the decision.
- 5521.2 There shall be a written decision setting forth findings of fact and conclusions of law and giving the reasons for the decision.
- 5521.3 The conclusions or opinion in the decision shall be governed by and based upon all the evidence adduced at the hearing.
- 5521.4 A decision shall be supported by substantial evidence on the record. Pursuant to the substantial evidence rule, courts shall uphold an administrative determination of fact if on the entire record the determination is rationally supportable and could have been arrived at reasonably.
- 5521.5 The decision shall include a description of any action(s) the Board takes pursuant to § 5402 (Disposition).
- 5521.6 The decision shall include an instruction that the respondent shall refer to § 5404 to determine the respondent's right to appeal.
- 5521.7 The decision shall be served promptly on all parties or their attorneys or representatives. In its discretion, the Board may announce its decision at a public hearing.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013).

5522 RECONSIDERATION

- 5522.1 A motion for reconsideration, rehearing, or re-argument of a final decision in a contested case proceeding pursuant to § 5517 shall be filed by a party within ten (10) days of the order having become final. The motion shall be served upon all other parties. The Board shall not receive or consider any motion for reconsideration, rehearing, or re-argument of a final decision in a contested case proceeding that is filed prior to the order having become final.
- 5522.2 A motion for reconsideration, rehearing, or re-argument shall state specifically the respects in which the final decision is claimed to be erroneous, the grounds of the motion, and the relief sought.
- 5522.3 Within seven (7) days after a motion has been filed and served, any other party may file a response in opposition to or in support of the motion.
- 5522.4 Neither the filing nor the granting of the motion shall stay a decision unless the Board orders otherwise.
- 5522.5 A motion for reconsideration, rehearing, or re-argument shall not be a prerequisite to judicial review.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013).

5523 SUBPOENAS AND DEPOSITIONS

- 5523.1 The Board may require by subpoena the attendance and testimony of witnesses and the production of documentary evidence.
- 5523.2 Each subpoena issued by the Board shall include the following:
- (a) The name of the respondent;
 - (b) The title of the action;
 - (c) A specification of the time allowed for compliance with the subpoena;
 - (d) A command to the person to whom it is directed to attend and give testimony at a time and place specified in the subpoena; or
 - (e) A command to the person to whom it is directed to produce and permit inspection and copying of the books, papers, documents, or tangible things designated in the subpoena.
- 5523.3 Any party may, by a written motion, request the Board to subpoena particular persons or evidence.
- 5523.4 A request for subpoena shall state the relevancy, materiality, and scope of the testimony or documentary evidence sought, including, as to documentary evidence, the identification of all documents desired and the facts to be proven by them in sufficient detail to indicate materiality and relevancy.
- 5523.5 Any person to whom a subpoena is directed may, prior to the time specified in the subpoena for compliance, request the Board to quash or modify the subpoena.
- 5523.6 Any application to quash a subpoena shall be accompanied by a brief statement of the reasons supporting the motion to quash.
- 5523.7 The Board may quash or modify the subpoena upon a showing of good cause.
- 5523.8 Upon written notice the Board may order testimony to be taken by deposition, before any person who is designated by the Board to administer oaths.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013).

5524 SERVICE OF SUBPOENA OR NOTICE OF DEPOSITION

- 5524.1 A subpoena or notice of deposition may be served by any person who is not a party and is not less than eighteen (18) years of age. Service of a subpoena or notice upon a person named therein shall be made by delivering a copy of the subpoena to the person and, if the person's attendance is commanded, by tendering to that person the fees for one day's attendance and the mileage allowed by law. When the subpoena is issued on behalf of the United States or the District of Columbia or an officer or agency thereof, fees and mileage need not be tendered.
- 5524.2 Witnesses are entitled to a witness fee of forty dollars (\$40) per day and the cost of public transportation to the proceeding or a mileage fee calculated at seventeen cents (17¢) per mile.
- 5524.3 Service of a subpoena or notice and fees to an individual may be made by any of the following means:
- (a) Handing the subpoena or notice to the person;
 - (b) Leaving the subpoena or notice at the person's District Government office with the person in charge of the office;
 - (c) Leaving the subpoena or notice at the person's dwelling place or usual place of abode with some person of suitable age and discretion then residing in that dwelling place or abode; or
 - (d) Mailing the subpoena or notice by registered or certified mail to the person at the person's last known address.
- 5524.4 When the person to be served is not an individual, a copy of the subpoena or notice of the deposition and fees shall be delivered by one (1) of the following ways:
- (a) Handing the subpoena or notice to a registered agent for service;
 - (b) Handing the subpoena or notice to any officer, director, or agent in charge of any office of that person; or
 - (c) Mailing the subpoena or notice by registered or certified mail to the representative at his or her last known address.
- 5524.5 The individual serving a subpoena shall file with the Board a return of service setting forth the facts establishing proper service.

- 5524.6 The Board may, upon the failure by any person to obey a subpoena served upon that person, apply to the D.C. Superior Court for an order requiring the person to appear before the Board to give testimony, produce evidence, or both. If a person fails to obey the order without an adequate excuse, the Board may apply for an order that the person be held by the court for contempt.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013).

5525 RULEMAKING HEARINGS

- 5525.1 At its discretion, the Board may from time to time schedule public hearings to obtain comment on a proposed rulemaking. The rules of procedure set forth in this section shall apply to rulemaking hearings.
- 5525.2 Any person may appear at a rulemaking hearing and may present, within the time limits determined by the Board, evidence, testimony, or argument that is relevant and not unduly repetitious.
- 5525.3 No person shall have the standing of a party in a rulemaking hearing.
- 5525.4 In those instances in which a petition for rulemaking has been filed with the Board by a member of the public pursuant to the District of Columbia Administrative Procedure Act, and where the Board in its discretion schedules a public hearing, the order of procedure at the hearing shall be as follows:
- (a) Call to order and opening statement by the Chairperson and Board members;
 - (b) Introductory statement by the Director, General Counsel, or other staff designated by the Board;
 - (c) Consideration of pending motions and procedural matters;
 - (d) Petitioner's case;
 - (e) Persons in support of the petition; and
 - (f) Persons in opposition to the petition.

SOURCE: Final Rulemaking published at 60 DCR 747 (January 25, 2013).

**5530 INFORMAL HEARING FOR ALLEGED VIOLATIONS OF
THE CODE OF CONDUCT**

- 5530.1 The Director may institute or conduct an informal hearing, including an order to show cause, on alleged violations of the financial reporting and disclosure requirements, or any other violation of the Code of Conduct.
- 5530.2 Notice of an informal hearing shall be issued in writing at least ten (10) days prior to the hearing; provided that the ten (10)-day period may be waived for good cause shown as long as the party is given a sufficient opportunity to prepare for the hearing.
- 5530.3 In the notice, an alleged violator of the financial reporting and disclosure requirements or of the Code of Conduct shall be informed of:
- (a) The nature of the alleged violation;
 - (b) The authority on which the hearing is based;
 - (c) The time and place of the hearing;
 - (d) The right to be represented by any other person duly authorized in person to do so;
 - (e) The fact that the alleged violator's failure to appear may be considered an admission of the allegation; and
 - (f) The fact that service of process shall be by electronic or regular mail.
- 5530.4 The Director shall regulate the course of the informal hearing and the conduct of the parties and their counsel.
- 5530.5 The respondent, or his or her counsel, may present the respondent's case and evidence to the Director, either in person or in writing.
- 5530.6 The Director may wait a reasonable period of time for the respondent to appear before beginning the informal hearing.
- 5530.7 If the respondent fails to appear after a reasonable period of time, the Director may elect to reschedule the informal hearing, issuing notice of the same and serving the respondent both by certified and regular mail. However, the Director is not obligated to reschedule the informal hearing if the respondent fails to appear after a reasonable period of time, and may elect to proceed with the informal hearing by making a record of the proceeding.

- 5530.8 Following the conduct of each informal hearing, the Director shall:
- (a) Determine whether a violation has occurred; and
 - (b) Issue a written order with findings of facts and conclusions of law.
- 5530.9 Any party adversely affected by any order of the Director may obtain review of the order by filing, with the Ethics Board, a request for a hearing in accordance with D.C. Official Code § 1-1162.21(a)(3).
- 5530.10 The request for a hearing pursuant to § 5530.9 shall be filed within fifteen (15) days from the Director's issuance of an order.

SOURCE: Final Rulemaking published at 65 DCR 7038 (June 29, 2018).

5535 SCHEDULE OF FINES

5535.1 Upon a determination, pursuant to § 5530.8, that a violation has occurred, the Director may ministerially impose a fine upon the respondent with each allegation constituting a separate violation.

5535.2 Fines shall be imposed as follows:

- (a) Failure to follow the process for accepting gifts and donations established in D.C. Official Code § 1-329.01: not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) per violation;
- (b) Participating personally and substantially in a particular matter that could affect the employee's own financial interests, in violation of D.C. Official Code § 1-1162.23 (a): not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) per violation;
- (c) Participating personally and substantially in a particular matter that could affect the financial interests of the employee's spouse or registered domestic partner, in violation of D.C. Official Code § 1-1162.23(a): not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) per violation;
- (d) Participating personally and substantially in a particular matter that could affect the financial interests of the employee's dependent children, in violation of D.C. Official Code § 1-1162.23(a): not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) per violation;
- (e) Participating personally and substantially in a particular matter that could affect the financial interests of any entity or organization in which the employee serves as an officer, director, trustee, general partner, or employee, in violation of D.C. Official Code § 1-1162.23(a): not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) per violation;
- (f) Participating personally and substantially in a particular matter that could affect the financial interests of anyone with whom the employee is negotiating or has any arrangement concerning prospective employment, in violation of D.C. Official Code § 1-1162.23(a): not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) per violation;
- (g) Working on a matter that involves a nongovernmental organization in which the employee or a family member has a financial interest, in violation of D.C. Official Code § 1-1162.23(a): not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) per violation;
- (h) Using his or her official position or title in a manner that the employee knows is likely to have a direct and predictable effect on the employee's own financial interests, in violation of D.C. Official Code § 1-1162.23(a):

not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) per violation;

- (i) Using his or her official position or title in a manner that the employee knows is likely to have a direct and predictable effect on the financial interests of a person or entity that is closely affiliated with the employee, in violation of D.C. Official Code § 1-1162.23 (a): not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) per violation;
- (j) Using his or her official position or title to personally and substantially participate in any particular matter that the employee knows is likely to have a direct and predictable effect on the employee's own financial interests, in violation of D.C. Official Code § 1-1162.23(a): not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) per violation;
- (k) Using his or her official position or title to personally and substantially participate in any particular matter that the employee knows is likely to have a direct and predictable effect on the financial interests of a person or entity that is closely affiliated with the employee, in violation of D.C. Official Code § 1-1162.23(a): not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) per violation;
- (l) Performing an official duty, as a District government employee, if the employee or a member of the employee's household has real property, stocks, bonds, commodities, or other property that could unduly influence or give the appearance of unduly influencing the employee in the conduct of his or her official duties and responsibilities, in violation of D.C. Official Code § 1-1162.23(a) and § 1-1162.23(d)(2)(A): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (m) Member(s) of an employee's household acquiring stocks, bonds, commodities, real estate, or other property, 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, in violation of D.C. Official Code § 1-1162.23(d)(2)(A): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (n) Acquiring an outside business or business interest that is related directly to the employee's official duties, official action, recommendation, or which is related to matters over which the employee could wield any influence, official or otherwise, in violation of D.C. Official Code § 1-1162.23 (d)(2)(B): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (o) Member(s) of an employee's household acquiring an outside business or business interest that is related directly to the employee's official duties,

official action, or recommendation, or which is related to matters over which the employee could wield any influence, official or otherwise, in violation of D.C. Official Code § 1-1162.23(d)(2)(B): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;

- (p) Acquiring stocks, bonds, commodities, real estate, or other property, 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, in violation of D.C. Official Code § 1-1162.23(d)(2)(A): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (q) Using official authority or influence for the purpose of interfering with or affecting the result of an election, in violation of D.C. Official Code § 1-1171.02(a)(1): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (r) Knowingly soliciting, accepting, or receiving a political contribution from any person, in violation of D.C. Official Code § 1-1171.02(a)(2): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (s) Filing as a candidate for election to a partisan political office in a District-regulated election, in violation of D.C. Official Code § 1-1171.02(a)(3): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (t) Knowingly directing, or authorizing anyone else to direct, any subordinate to participate in an election campaign or requesting a subordinate to make a political contribution, in violation of D.C. Official Code § 1-1171.02(a)(4): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (u) Knowingly directing, or authorizing anyone else to direct, that any subordinate participate in an election campaign or requesting a subordinate to make a political contribution, in violation of D.C. Official Code § 1-1171.02(a)(4): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (v) Working on any political campaign or engaging in any other type of political activity while at work or otherwise on duty, in violation of D.C. Official Code § 1-1171.03(a)(1): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (w) Engaging in any political activity during work hours, in violation of D.C. Official Code § 1-1171.03(a)(1): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;

- (x) Engaging in political activity in a D.C. government building as prohibited by D.C. Official Code § 1-1171.03(a)(2): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (y) Engaging in political activity while in a District government uniform or official insignia, in violation of D.C. Official Code § 1-1171.03(a)(3): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (z) Engaging in political activity in a D.C. government vehicle, in violation of D.C. Official Code §§ 1-1171.03(a)(4): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (aa) Using District government resources to coerce, explicitly or implicitly, any subordinate employee to engage in political activity, in violation of D.C. Official Code § 1-1171.03(b): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (bb) Serving as an officer or director of an outside entity when there is a reasonable likelihood that such entity might be involved in the employee's District work, in violation of District Personnel Manual (DPM) § 1807.1(d): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (cc) Serving as an officer or director of an outside entity or organization when there is a reasonable likelihood that such entity will be involved in an official government action or decision that the employee would take or recommend, in violation of DPM § 1807.1(d): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (dd) Using information that is not available to the public for personal benefit, in violation of DPM § 1800.3(c): not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) per violation;
- (ee) Using information that is not available to the public for any non-governmental purpose, in violation of DPM § 1800.3(c): not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) per violation;
- (ff) Permitting others to use information that is not available to the public for personal benefit, in violation of DPM § 1800.3(c): not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) per violation;
- (gg) Permitting others to use information that is not available to the public for any non-governmental purpose, in violation of DPM § 1800.3(c): not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) per violation;

- (hh) Engaging in outside activities that conflict with the employee's official government duties and responsibilities, in violation of DPM § 1800.3(j): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (ii) Failure to report waste, fraud, abuse of authority, violations of law, or threats to public health or safety, in violation of DPM § 1801.1: not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (jj) Being employed by the District government and failing to report credible violations of the District Code of Conduct, in violation of DPM § 1801.1: not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (kk) Interfering with or obstructing any investigation conducted by a District or federal agency, in violation of DPM § 1801.2: not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) per violation;
- (ll) Failure to fully cooperate with any investigation, enforcement action, or other official function of the Office of Government Ethics, in violation of DPM § 1801.3: not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) per violation;
- (mm) Taking coercive, harassing, or retaliatory action against any employee acting in good faith, in violation of DPM § 1801.4: not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) per violation;
- (nn) Coercing, harassing, or retaliating against any employee who reasonably believes there has been a violation or misuse of resources and discloses that to a supervisor or a public body, in violation of DPM § 1801.4: not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) per violation;
- (oo) Accepting a gift from a prohibited source, in violation of DPM § 1803.2 (a): not less than one thousand dollars (\$1,000) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (pp) Soliciting a gift from a prohibited source, in violation of DPM § 1803.2 (a): not less than two thousand dollars (\$2,000) nor more than four thousand dollars (\$4,000) per violation;
- (qq) Soliciting or coercing the offering of a gift, in violation of DPM § 1803.2 (b): not less than two thousand five hundred dollars (\$2,500) nor more than five thousand dollars (\$5,000) per violation;
- (rr) Accepting a gift in return for being influenced in the performance or nonperformance of an official act, in violation of DPM § 1803.3 (a): not less than two thousand five hundred dollars (\$2,500) nor more than five thousand dollars (\$5,000) per violation;

- (ss) Taking any action to pressure or coerce other District government employees into contributing monetarily to a private cause, in violation of DPM § 1803.3 (b): not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000) per violation;
- (tt) Accepting a salary or anything of monetary value from a private source as compensation for services to the government, in violation of DPM § 1803.8: not less than one thousand five hundred dollars (\$1,500) nor more than three thousand five hundred dollars (\$3,500) per violation;
- (uu) Soliciting a salary or anything of monetary value from a private source as compensation for services to the government, in violation of DPM § 1803.8: not less than two thousand dollars (\$2,000) nor more than four thousand dollars (\$4,000) per violation;
- (vv) Accepting, directly or indirectly, a gift from a District employee who earns a lower salary, in violation of DPM § 1804.3: not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) per violation;
- (ww) Coercing a gift from a District employee with a lower salary, in violation of DPM § 1804.4: not less than five hundred dollars (\$500) nor more than one thousand five hundred dollars (\$1,500) per violation;
- (xx) Acquiring any stocks, bonds, commodities, real estate, or other property, the possession of which could unduly influence or give the appearance of unduly influencing the employee in the conduct of his or her official duties and responsibilities, in violation of DPM § 1805.8(a): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (yy) Acquisition by members of the employee's household of any stocks, bonds, commodities, real estate, or other property, the possession of which could unduly influence or give the appearance of unduly influencing the employee in the conduct of his or her official duties and responsibilities, in violation of DPM § 1805.8(a): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (zz) Acquiring an interest in or operating any business which is in any way related to the employee's official duties, official action, recommendation, or which is in any way related to matters over which the employee could wield any influence, official or otherwise, in violation of DPM § 1805.8 (b): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (aaa) Acquisition by members of an employee's household of an interest in or operating any business which is in any way related to the employee's official duties, official action, recommendation, or which is in any way related to matters over which the employee could wield any influence, official or otherwise, in violation of DPM § 1805.8(b): not less than five

hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;

- (bbb) Directly or indirectly making a hiring decision regarding a position within his or her own agency with respect to a relative, in violation of DPM § 1806.3: not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (ccc) Taking any action to appoint, employ, promote, evaluate, interview, or advance any individual who is a relative, in violation of DPM § 1806.3: not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (ddd) Engaging in any outside employment, private business activity, or other interest that is reasonably likely to interfere with the employee's ability to perform his or her job, or which may impair the efficient operation of the District government, in violation of DPM § 1807.1(a): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (eee) Gambling while on duty and while on District government owned or leased property (other than as permitted), in violation of DPM § 1807.1(b): not less than one hundred dollars (\$100) nor more than two thousand dollars (\$2,000) per violation;
- (fff) Using District government time to raise money for a private cause, in violation of DPM § 1807.1(b): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (ggg) Using District government property to raise money for a private cause, in violation of DPM § 1807.1(b): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (hhh) Ordering, directing, or requesting subordinate officers or employees to perform during regular working hours any personal services not related to official District government functions and activities, in violation of DPM § 1807.1(c): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (iii) Maintaining financial or economic interest in or serving as an officer or director of an outside entity if there is any likelihood that such entity might be involved in an official government action or decision taken or recommended by the employee, in violation of DPM § 1807.1(d): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (jjj) Engaging in outside employment, private business activity, or other interest which permits an employee to capitalize on his or her official title or position, in violation of DPM § 1807.1(e): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;

- (kkk) Engaging in outside employment, private business activity, or other interest which permits others to capitalize on his or her official title or position, in violation of DPM § 1807.1(e): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (lll) Divulging any official government information to any unauthorized person or in advance of its authorized issuance, or making use of or permitting others to make use of information not available to the general public, in violation of DPM § 1807.1(f): not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (mmm) Engaging in any outside employment, private business activity, or other interest which might impair an employee's mental or physical capacity that he can no longer carry out his duties and responsibilities in a proper and efficient manner, in violation of DPM § 1807.1(g): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (nnn) Serving in a representative capacity, agent, or attorney for any outside entity involving any matter before the District government, in violation of DPM § 1807.1(h): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (ooo) Contracting through an organization that the employee controls or substantially owns with the District government, in violation of DPM § 1807.1(h): not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000) per violation;
- (ppp) Engaging in any outside employment, private business activity, or other interest which is in violation of federal or District law, in violation of DPM § 1807.1(i): not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500) per violation;
- (qqq) Misusing District government property for other than authorized purposes, in violation of DPM § 1808.1: not less than one hundred dollars (\$100) nor more than two thousand dollars (\$2,000) per violation;
- (rrr) Permitting others to misuse District government property for other than authorized purposes, in violation of DPM § 1808.1: not less than one hundred dollars (\$100) nor more than two thousand dollars (\$2,000) per violation;
- (sss) Failure to comply with all applicable Financial Disclosure Statement filing requirements, in violation of DPM § 1810.4 (e) or Council Code of Conduct XI (c): not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) per violation;
- (ttt) Knowingly acting as an attorney, agent, or representative, at any time after leaving District employment, in any formal or informal appearance before an agency as to a particular matter involving a specific party or parties in

which the employee personally and substantially worked on while a District government employee, in violation of DPM § 1811.3: not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000) per violation;

- (uuu) Making any oral or written communication to an agency, at any time after leaving District employment, with the intent to influence that agency on behalf of another person as to a particular matter involving a specific party or parties on which the employee personally and substantially participated while a District government employee, in violation of DPM § 1811.4: not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000) per violation;
- (vvv) Knowingly acting as an attorney, agent, or representative, within two years of leaving District employment, in any formal or informal matter before an agency if he or she previously had official responsibility for that matter during the last year the employee worked for the District, in violation of DPM § 1811.5: not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000) per violation; and
- (www) Knowingly representing or aiding, counseling, advising, consulting, or assisting in representing any other person, within two years of leaving District employment, by personal appearance before an agency as to a particular government matter involving a specific party if the former employee participated personally and substantially in that matter during the last year the employee worked for the District, in violation of DPM § 1811.8: not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000) per violation.
- (xxx) Failing to act impartially and giving preferential treatment to any private organization or individual in violation of DPM § 1800.3(h): not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000) per violation.

5535.3 The aggregate set of the penalties imposed against each person under the Director's authority pursuant to §§ 5535.1 and 5535.2 may not exceed **five thousand dollars (\$5,000)**.

5535.4 Any fine imposed by the Director, pursuant to §§ 5535.1 and 5535.2, shall become effective on the sixteenth (16th) day following the issuance of a decision and order; provided, that, the respondent does not request a hearing pursuant to § 5530.11.

5535.5 The Director may modify, rescind, dismiss, or suspend any fine imposed, pursuant to §§ 5535.1 and 5535.2, for good cause shown.

5535.6 Fines imposed pursuant to this chapter shall be paid within ten (10) days of the effective date of the issuance of an Order of the Director. Payment by check or money order shall be payable to the D.C. Treasurer, and directed to the Board of

Ethics and Government Accountability, 441 4th Street N.W., Suite 830 South,
Washington, D.C. 20001.

SOURCE: Final Rulemaking published at 65 DCR 7038 (June 29, 2018).