

DISTRICT OF COLUMBIA RETIREMENT BOARD**NOTICE OF PROPOSED RULEMAKING**

The District of Columbia Retirement Board (the Board), pursuant to the authority set forth in § 121(e) of the District of Columbia Retirement Reform Act (Reform Act), approved November 17, 1979 (Pub. L. 96-122, 93 Stat. 866; D.C. Official Code § 1-711(e) (2014 Repl.)), hereby gives notice of its intent to adopt the following proposed Board Rules under Chapter 15 (District of Columbia Retirement Board) of Title 7 (Employment Benefits) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The Board was established by the Reform Act as an independent agency of the District of Columbia. DCRB is responsible for managing and controlling the Police Officers and Fire Fighters' Retirement Fund and the Teachers' Retirement Fund, as well as implementing and administering the retirement and post-employment benefit programs (the Retirement Program) for members and officers of the Metropolitan Police Department and the Fire and Emergency Medical Services Department of the District of Columbia and the teachers in the public day schools of the District of Columbia covered under the Police Officers and Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998 (Replacement Plan Act), approved September 18, 1998 (D.C. Law 12-152; D.C. Official Code §§ 1-901.01 *et seq.* (2014 Repl.)). The Reform Act provides the Board with authority to promulgate rules and regulations, adopt resolutions, issue directives for the administration and transaction of its business, and perform other functions necessary to carry out its responsibilities under the Reform Act and the Replacement Plan Act.

Rules which currently comprise Chapter 15 of Title 7 DCMR set forth the Board's organizational structure and operational components. Based on a comprehensive review by the Board of these structural and operational components, the Board determined that adjustments are appropriate and necessary to improve performance, accomplish the Board's mission, and enable the Board to better fulfill its fiduciary obligations to participants and beneficiaries of the Retirement Program. The Board approved the proposed rules on February 18, 2016.

Upon adoption, these rules will repeal and replace the current rules in Chapter 15 of Title 7 DCMR.

Chapter 15, DISTRICT OF COLUMBIA RETIREMENT BOARD, of Title 7 DCMR, EMPLOYMENT BENEFITS, is amended as follows:

Repeal Chapter 15 in its entirety and replace with a new Chapter 15 to read as follows:

1500 ESTABLISHMENT AND ORGANIZATION OF THE BOARD

1500.1 The District of Columbia Retirement Board (the Board) was established as an independent agency of the government of the District of Columbia pursuant to §

1-121(a) of the District of Columbia Retirement Reform Act of 1979, as amended (93 Stat. 866, Public Law 96-122; D.C. Official Code § 1-711(a)).

1500.2 The Board shall have exclusive authority to manage and control the District of Columbia Police Officers and Fire Fighters' Retirement Fund and the District of Columbia Teachers' Retirement Fund (collectively, the Funds) established by of the District of Columbia Retirement Reform Act (D.C. Official Code § 1-711(a)), and to administer the retirement benefits under the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, as amended (D.C. Law 12-152; D.C. Official Code §§ 1-901.01 *et seq.*).

1501 BOARD MEMBERS

1501.1 The Board shall consist of twelve (12) members, whose terms of office, qualifications, and compensation are mandated by statute (D.C. Official Code § 1-711(b), (c)). The members are fiduciaries to the Funds.

1501.2 The Board shall conduct elections for elected members (D.C. Official Code § 1-711(b)(2)).

1501.3 In case of notification of a vacancy on the Board of an elected member, action shall be initiated to fill the vacancy no more than thirty (30) business days after the Board's receipt of the written vacancy notification.

1501.4 Individual Board members sued in their capacity as Board members shall be represented by independent counsel, if appropriate, at the Board's expense.

1501.5 The Chief Financial Officer of the District of Columbia, or his or her designee, shall be a non-voting *ex officio* member (D.C. Official Code § 1-711(b)(11)).

1501.6 The Board shall elect one (1) member to be Chairperson who shall serve for a term of one (1) year unless removed by the Board (D.C. Official Code § 1-711(b)(10)). The Board may elect other officer positions at its discretion.

1502 STAFF

1502.1 Assignments to, removal from, and the remuneration of the staff of the Board shall be determined by the Board's appointed Executive Director, consistent with applicable provisions of the Retirement Reform Act and the Comprehensive Merit Personnel Act. (D.C. Official Code §§ 1-711(g)(2), (k); §§ 1-601.01 *et seq.*).

1503 COMMITTEES

1503.1 The Board shall establish standing or special committees at its discretion.

1504 REGULAR MEETINGS

1504.1 The Board shall conduct statutorily mandated quarterly meetings each calendar year to consider, conduct and transact official Board business (regular meeting). The transaction of official Board business requires a majority of current voting members. The Board holds regularly scheduled meetings the third Thursday of each month, except August, beginning at 10 a.m. unless otherwise scheduled by the Board.

1504.2 The Board may schedule special or emergency meetings at its discretion.

1504.3 All meetings of the Board shall be held in the office of the Board unless otherwise designated by the Board.

1505 NOTICE OF MEETINGS

1505.1 Public notice shall be given in advance of a Board meeting or closed session in accordance with the District of Columbia Open Meetings Act (OMA, D.C. Law 18-350; D.C. Official Code § 2-576).

1506 OPEN MEETINGS

1506.1 All meetings of the Board, whether regular, special, or emergency, at which official action is taken shall be open to the public as required by the Retirement Reform and Replacement Plan Acts (D.C. Official Code §§ 1-736(c), 1-909.05(e)) and OMA. No Board rule, regulation, resolution, or other official Board action shall be effective unless taken in an Open Meeting.

1506.2 Members of the public wishing to attend an Open Meeting should contact the Board's office at least one (1) business day prior to the scheduled meeting to confirm the meeting is still scheduled.

1507 EXECUTIVE SESSION

1507.1 Any Board meeting, or portion of a meeting, may be closed to the public as permitted by the Retirement Reform and Replacement Plan Acts and the OMA upon a majority vote of the Board.

1507.2 The Board may close a meeting, or any portion of a meeting, for the following reasons:

- (a) A law or court order requires that a particular matter or proceeding not be public (D.C. Official Code § 2-575(b)(1)):
 - (1) Deliberations, tentative or final decisions on investments or other financial matter that would jeopardize the Board's ability to

- implement an investment decision or to achieve investment objectives (D.C. Official Code §1-909.05(e) and (f));
- (2) Personnel matters (D.C. Official Code §§1-736(c) and 1-909.05(e); *see also* D.C. Official Code §§ 2-575(b)(9) and (10) below); and
 - (3) Individual Plan participant benefit information (D.C. Official Code §§ 1-736(b) and 1-909.05(d));
- (b) To discuss, establish, or instruct the Board's staff or negotiating agents concerning the position to be taken in negotiating the price and other material terms of a contract, including an employment contract, if an open meeting would adversely affect the Board's bargaining position or negotiating strategy (D.C. Official Code § 2-575(b)(2));
 - (c) To consult with an attorney to obtain legal advice and preserve the attorney-client privilege, or to approve settlement agreements (mere participation of the Board's general counsel at a Board meeting does not warrant closure) (D.C. Official Code § 2-575(b)(4));
 - (d) To discuss disciplinary matters (D.C. Official Code § 2-575(b)(9));
 - (e) To discuss the appointment, employment, assignment, promotion, performance evaluation, compensation, discipline, demotion, removal, or resignation of Board members or staff (D.C. Official Code § 2-575(b)(10));
 - (f) To discuss trade secrets and commercial or financial information obtained from outside the government to the extent disclosure would result in substantial harm to the outside party's competitive position (D.C. Official Code § 2-575(b)(11));
 - (g) To discuss trade secrets and commercial or financial information obtained from outside the government to the extent disclosure would result in substantial harm to the outside party's competitive position (D.C. Official Code § 2-575(b)(11));
 - (h) To train and develop members of the Board and staff (D.C. Official Code § 2-575(b)(12));
 - (i) To discuss investigations of alleged criminal or civil misconduct or violations of law or regulations if disclosure would harm the investigation (D.C. Official Code § 2-575(b)(14)).

1507.3

All materials and records of a closed meeting or executive session shall not be subject to disclosure under the OMA.

1508 RECORD OF MEETINGS

- 1508.1 All Board and committee meetings shall be recorded by electronic means if possible. The Board shall maintain written minutes of each meeting.
- 1508.2 Unapproved draft minutes of the regular Board meetings shall be made available to the public via the Board's website at <http://dcrb.dc.gov> no later than three (3) business days after the meeting. Approved final minutes of the Board meetings and related materials shall be made available within seven (7) business days after approval.
- 1508.3 Records of closed meetings or executive sessions shall not be disclosed to the public.

1509 FILING AND PUBLICATION OF ADOPTED MEASURE

- 1509.1 Rules and regulations adopted by the Board that affect legal rights, duties, or privileges of specific parties other than Board members and its staff shall be filed in the District of Columbia Office of Documents, and non-emergency rules and regulations shall not become effective until after they are published in the *District of Columbia Register*, unless otherwise provide by law.

Comments on this proposed rulemaking should be submitted in writing to Erie. F. Sampson, General Counsel, District of Columbia Retirement Board, 900 7th Street, N.W., 2nd Floor, Washington, D.C. 20001, or by email to erie.sampson@dc.gov, within thirty (30) days of the publication of this notice in the *D.C. Register*. Additional copies of this proposed rulemaking are available on the Board's website: <http://www.dcrb.dc.gov>.