

A BILL

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To establish the independent Board of Ethics and Government Accountability (“Board”) to administer and enforce the Code of Conduct, and to administer and enforce the Open Meetings Amendment Act of 2010, effective March 31, 2010 (D.C. Law 18-350, D.C. Official Code § 2-571 *et seq.*); to establish the composition of the board, qualifications of board members, procedures for removal of board members, terms of appointment, meetings procedures, investigations procedures, hearings requirements, penalties including criminal penalties, suspension or revocation of a member of the Council of the District of Columbia’s committee vote or committee chairmanship, waiver of the prohibition against recall during the first and fourth years of an elected term for violation of the Code of Conduct; to authorize the Board to issue advisory opinions and to provide a safe harbor for good faith reliance thereon; to empower a Director of the Board to conduct the day-to-day duties of the Board including investigations of allegations of violations of the Code of Conduct; to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*) to require annual training and certification of public officials including the Board of Ethics and Government Accountability, and to subject all District employees and elected officials to the District Personnel Manual, to amend Section 403 of The District of Columbia Campaign Finance Reform and Conflict of Interest Act (Conflicts Act), approved August 14, 1974 (88 Stat. 447; D.C. Official Code § 1-1101.01 *et se.*) to redefine the citizen-service program, restrict by amount and use constituent services funds; to amend section 501 of the Conflicts Act to prohibit the provision of discounted legal services to elected officials by lobbyists, and to require rolling on-line publication of lobbyist registration; to amend section 601-602 of the Conflicts Act to reduce the number of employees who must file public and confidential financial disclosures, to require greater disclosure of financial information from those filers, and to require public officials to certify compliance with the code of conduct and tax law; to amend the Conflicts Act to create and establish filing and reporting requirements for legal defense, transition, and inauguration committees.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011".

## **TITLE I. DEFINITIONS**

### Sec. 101. Definitions.

(a) "Code of Conduct" means those provisions contained in the following:

(1) Rules 202 and 203 of the Rules of Organization and Procedures for the Council of the District of Columbia, Council Period XIX, updated August 8, 2011;

(2) Sections 1801 through 1803 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Official Code § 1-618.01-3);

(3) The following sections of The District of Columbia Campaign Finance Reform and Conflict of Interest Act, effective August 14, 1974 (88 Stat. 447; D.C. Official Code § 1-1101.01 *et seq.*) ("Conflict of Interest Act"):

(A) Section 402 (D.C. Official Code § 1-1104.03);

(B) Sections 501 through 507 (D.C. Official Code § 1-1105.01-07);

(C) Sections 601-602b, 604-607 and 651 (D.C. Official Code § 1-1106.01 - 1-1106.02b, and DC. Official Code § 1-1106.04-.07, 1-1106.51);

(D) Section 801 (D.C. Official Code § 1-1108.01);

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

(5) Section 416 of the Procurement Practices Reform Act, effective April 11,

2011 ( D.C. Official Code 2-354.16).

(6) Chapter B 18 of Title 6 of the District of Columbia Municipal Regulations.

(b) “Public Official” means any candidate for nomination for election, or election, to public office, the Mayor and the Chairman and each member of the Council of the District of Columbia holding office under the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-201.01 *et seq.*) (“Home Rule Act”), a Representative or Senator elected pursuant to section 4 of the District of Columbia Statehood Constitutional Convention Initiative of 1979, effective March 10, 1981 (D.C. Law 3-171; D.C. Official Code §1-123), Advisory Neighborhood Commissioners, members of the Board of Education, persons serving as subordinate agency heads or serving in positions designated as within the Excepted Service, each member of those Boards and Commissions listed in section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e), and District of Columbia government employees who make decisions or participate substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, inspecting, licensing, regulating, auditing, or acting in areas of responsibility which may create a conflict of interest or appearance thereof as the Board may determine.”.

## **TITLE II. ESTABLISHMENT OF THE ETHICS BOARD**

Sec. 201. Establishment of the District of Columbia Board of Ethics and Government Accountability.

(a) There is established a District of Columbia Board of Ethics and Government Accountability (“Board”) whose purpose shall be to:

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- (1) Administer and enforce the Code of Conduct;
- (2) Receive, investigate, adjudicate, and prosecute violations of the Code of Conduct;
- (3) Conduct mandatory training on the Code of Conduct on at least an annual basis, produce ethics training materials, including summary guidelines for all applicable laws and regulations;
- (4) Administer and enforce the Open Meetings Amendment Act of 2010, effective March 31, 2010 (D.C. Law 18-350 D.C. Official Code § 2-571 *et seq.*).
- (5) Issue rules and regulations governing the ethical conduct of all District employees and public officials;
- (6) Establish a telephone hotline for the purpose of receiving information related to violations of the Code of Conduct;
- (7) Conduct a detailed assessment of ethical guidelines and requirements for public officials and employees to include a review of national best practices of government ethics law, and produce, within 180 days of the effective date of this act, recommendations for amending the Code of Conduct. Such recommendations shall include whether to create concurrent jurisdiction with related federal ethics laws, and to incorporate post-employment restrictions, ethics with regard to contracting and procurement, nepotism and cronyism prohibitions, and the criminalization of violations of ethics laws, and enhanced campaign bundling regulations.

Sec. 202. Composition, term, qualifications, removal.

- (a) (1) The Board shall be comprised of 3 members to be appointed by the Mayor,

with the advice and consent of the Council. Members shall be appointed to serve for terms of 3 years, except the members first appointed under this subchapter. One member shall be appointed to serve for a 1-year term, 1 member shall be appointed to serve for a 2-year term, and 1 member shall be appointed to serve for a 3-year term, as designated by the Mayor.

(2) Within 45 calendar days of the effective date of this act. A nomination shall be submitted to the Council for a 45-day period of review, excluding days of Council recess. If the Council does not approve or disapprove the nomination by resolution within this 30-day review period, the nomination shall be deemed disapproved.

(b) The Mayor shall, from time to time, designate the Chairman of the Board.

(c) Any person appointed to fill a vacancy on the Board shall be appointed only for the unexpired term of the member whose vacancy he or she is filling.

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

(e) A member may be reappointed, and, if not reappointed, the member shall serve until his successor has been appointed and approved.

(f) When appointing and approving 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 ethics law and procedure. A person shall not be a member of the Board unless he or she:

(1) Is a duly registered voter;

(2) Has resided in the District continuously since the beginning of the 1-year period ending on the day he or she is appointed; and

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

(g) A board member shall not:

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

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

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

(4) Be a lobbyist as that term is defined under section 501 of the D Conflict of Interest Act, or act in his or her capacity as a member, to directly or indirectly attempt to influence any decision of a District government agency, department, or instrumentality relating to any action which is beyond the jurisdiction of the Board;

(5) Be convicted of having committed a felony in the District of Columbia; or if the crime is committed elsewhere, conviction of such offense as would be a felony in the District of Columbia.

(6) Be adjudged by the Office of the Inspector General as having committed a violation of the Code of Conduct.

(h) (1) The Mayor may remove any member of the Board who engages in any activity prohibited by subsection (f) or (g) of this section, and appoint a new member to serve until the expiration of the term of the member so removed. When the Mayor believes that any member has engaged in any such activity he or she shall notify the member, in writing, of the charge against him or her and advise that the member has 7 days in which to request a hearing before

the Council on the charge. If the member fails to request a hearing within 7 days after receiving the notice, the Mayor may remove such member and appoint a new member.

(2) The hearing requested by a member may be either open or closed, as requested by the member. In the event such hearing is closed, the vote of the Council as a result thereof shall be taken at an open meeting of the Council. The Council shall begin such hearings within 30 calendar days after receiving notice from the Mayor indicating that a member has requested a hearing. If two-thirds of the Council vote to remove a member, the member shall be removed.

Sec. 203. Meetings.

(a) (1) The Board shall hold regular monthly meetings in accordance with a schedule to be established by the Board. Additional meetings may be called as needed by the Board. Except in the case of an emergency, the Board shall provide at least 48 hours notice of any additional meeting.

(2) The Board shall make available for public inspection and post on its website a proposed agenda for each Board meeting as soon as practicable, but in any event at least 24 hours before a meeting. Copies of the agenda shall be available to the public at the meeting. The Board, according to its rules, may amend the agenda at the meeting.

(3) All meetings of the Board shall be open to the public, unless the members vote to enter into executive session. The Board shall not vote, make resolutions or rulings, or take any actions of any kind during executive session, except those that:

(A) Relate solely to the internal personnel rules or practices of the Board;

(B) Would result in the disclosure of matters specifically exempted from

disclosure by statute; provided, that the statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(C) Would result in the disclosure of trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(E) Would result in the disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(F) Would result in the disclosure of investigatory records compiled for law enforcement purposes or information which, if written, would be contained in the records, but only to the extent that the production of the records or information would:

(i) Interfere with enforcement proceedings;

(ii) Deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Constitute an unwarranted invasion of personal privacy; or

(iv) Disclose investigative techniques and procedures; or

(G) Specifically concern the Board's issuance of a subpoena, the Board's participation in a civil action or proceeding, or disposition by the Board of a particular matter involving a determination on the record after opportunity for a hearing.

(4) The Board shall keep the minutes of each meeting of the Board and shall make them available to the public for inspection and distribution, and shall post the minutes on the Board's website, as soon as practicable, but in all cases within 72 hours.



Sec. 204. Compensation.

(a) Each member of the Board, excluding the Chairperson, shall receive compensation, as provided in section 1108 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*) (“Merit Personnel Act”) while actually in the service of the Board, not to exceed the sum of \$12,500 per annum.

(b) The Chairman of the Board shall receive compensation, as provided in section 1108 of the Merit Personnel Act while actually in the service of the Board, not to exceed the sum of \$26,500 per annum.

Sec. 205. Professional staff.

(a) The Board shall select, employ, and fix the compensation for a Director and such staff as the Board deems necessary, subject to the pay limitations of section 1117 of the Merit Personnel Act. The Director shall serve at the pleasure of the Board. The Board shall provide employees to carry out the powers and duties of the Director. Employees assigned to the Director shall, while so assigned, be under the direction and control of the Director and may not be reassigned without the concurrence of the Director.

(b) The Director shall be a District resident throughout his or her term and failure to maintain District residency shall result in a forfeiture of the position.

(c) The Board may appoint a General Counsel to serve at the pleasure of the Board. The General Counsel shall be entitled to receive compensation at the same rate as the Director of the Board and shall be responsible solely to the Board. The General Counsel shall perform such duties as may be delegated or assigned to him or her by rule or order of the Board.

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

(e) The Office of the Auditor, the Office of the Inspector General, and the Office of the Attorney General shall, from time to time upon request by the Board, provide staff necessary to conduct investigations pursuant to this act. These agencies shall not unreasonably withhold personnel. Staff shall not be provided for longer than 90 days unless requested by the Board.

Sec. 206. Budget.

(a)(1) The Director, with approval by the Board, shall prepare and submit to the Mayor, for inclusion in the annual budget of the District of Columbia under part D of title IV of the Home Rule Act for the year, annual estimates of the expenditures and appropriations necessary for the operation of the Board for the year. All such estimates shall be forwarded by the Mayor to the Council for its action pursuant to sections 446 and 603(c) of the Home Rule Act 1-204.46, without revision but subject to recommendations

(2) Notwithstanding any other provision of this act, the Council may comment or make recommendations concerning such estimates, but shall have no authority to revise such estimates; except that prior to Fiscal Year 2013, upon the request of any member of the Board, the Mayor shall provide the Board with suitable office space in a publicly owned building for the administration and enforcement of this Act. Furnishings, information technology services and equipment, and supplies to this office space shall also be provided upon request.

Sec. 207. Quorum; Investigations; Rules.

(a) A majority of the members shall constitute a quorum to do business, and any vacancy shall not impair the right of the remaining members to exercise all the powers of the Board, at no time shall a quorum exist with less than two members.

(b) Any investigation, inquiry, or hearing within the powers of the Board may be made or held by any Member, whose acts and orders, when approved by the Board, shall be deemed to be the order of the Board.

(c) Pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code 2-501 et seq.) (“Administrative Procedure Act”) the Board shall issue rules and regulations for the administration of the provisions of this Act and governing the ethical conduct of all District employees and public official.

Sec. 208. Penalties; civil and criminal.

(a) (1) A civil penalty may be assessed by the Board for a violation of the Code of Conduct under paragraph (3) of this section 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 such violation. Each occurrence of a violation of this Act and each day of noncompliance with a requirement of this Act or an order of the Board shall constitute a separate offense.

(2) Any person who by reason of ignorance, forgetfulness, or misunderstanding improperly or unlawfully uses official mail shall be liable to the District for double the cost of the postage.

(3) A civil penalty shall be assessed by the Board by order only after the person

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charged with a violation has been given an opportunity for a hearing, and after the Board has determined, by a decision incorporating its findings of facts therein, that a violation did occur,. Any hearing under this section shall be of record and shall be held in accordance with the Administrative Procedure Act.

(4) Notwithstanding the provisions of paragraph (3) of this section, the Board may issue a schedule of fines for violations of this Act, which may be imposed ministerially by the Director. A civil penalty imposed under the authority of this paragraph may be appealed to the Board in accordance with the provisions of paragraph (3) of this Act. The aggregate set of penalties imposed under the authority of this paragraph may not exceed \$ 5,000.

(5) Violation of the Code of Conduct may result in remedial action in accordance with the Merit Personnel Act of 1978, which may be in addition to any civil penalty prescribed in this Act.

(6) If the person against whom a civil penalty is assessed fails to pay the penalty, the Board shall 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 forthwith sent by registered or certified mail to the respondent and his attorney of record, if any, and thereupon the Board shall certify and file in such Court the record upon which such order sought to be enforced was issued. 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 Board or it may remand the proceedings to the Board for such further action as it may direct. The Court may determine de novo all issues of law but the Board's findings of fact, if supported by

substantial evidence, shall be conclusive.

(7) Notwithstanding section 208 (a) of this Title, all equitable remedies at law shall be available for violations of the Code which may be in addition to any civil penalty prescribed in this act.

(b)(1) Except as provided in subsection (a)(1) of this section, any person who violates the Code of Conduct which violation substantially threatens the public trust shall be fined not more than \$25,000, or shall be imprisoned for not longer than 12 months, but not both.

(2) Prosecutions of violations of this act shall be brought by the Office of the Attorney General, or the United States Attorney for the District of Columbia in the name of the United States.

(3) All actions of the Board, Office of the Attorney General, or of the United States Attorney for the District of Columbia to enforce the provisions of this Act must be initiated within 3 years of the discovery of the alleged violation or with reasonable diligence should have been discovered.

**Sec. 209. Penalties for public officials.**

(a) (1) Notwithstanding section 208 of this act, the Board shall censure a public official for a violation of the Code of Conduct that the Board adjudges to violate the public trust.

(2) The Board may recommend in such censure that the Council immediately convene an executive session to consider suspending or removing a Council member's committee chairmanship, if any, committee membership, if any, or suspending or removing the member's vote in any committee.

(b) The Rules of Organization and Procedure for the Council of the District of Columbia,

Period XIX, updated August 8, 2011 are amended as follows:

(1) New Council Rule 202(e) is added to read as follows:

“(e) The Council shall convene an executive session within 72 hours, or as soon as practicable, to consider a censure issued by the Board of Ethics and Government Accountability recommending suspension or removal of a member’s committee chairmanship, if any, committee membership, if any, or suspending or removing the member’s vote in any committee. An executive session shall be called in accordance with these Rules.

(c) Section 2 of the Initiative, Referendum, and Recall Charter Amendments Act of 1977, effective Mar. 10, 1978 (D.C. Law 2-46, § D.C. Official Code § 1-204.113), is amended to read as follows:

“Sec. 2. Time limits on initiation of recall process.

(a) The process of recalling an elected official may not be initiated within the first 365 days nor the last 365 days of his or her term of office. Nor may the process be initiated within 1 year after a recall election has been determined in his or her favor.

(b) Subsection (a) of this act shall not apply if an elected official is adjudged by the Board of Ethics and Government Accountability to have violated the Code of Conduct.

(c) Notwithstanding section 208 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, a violation of the Code of Conduct committed by a public official, except elected officials, which violate the public trust shall be cause for removal, if applicable.”.

Sec. 210. Procedures for investigation; hearing, order, appeal.

(a) Any hearing under this section shall be of record and shall be held in accordance

with the Administrative Procedure Act.

(b) The Board shall issue rules and regulations for the administration of inquiries, preliminary investigations, full investigations, and hearings in respect to violations of the Code of Conduct.

(c) Appeals to any order, or fine made by the Board in accordance with this act shall be made to the D.C. Court of Appeals.

Sec. 211. Advisory opinions.

(a) (1) Upon application made by any employee subject to the Code of Conduct, the Board shall provide within a reasonable period of time an advisory opinion with respect to any specific transaction or activity inquired of, as to whether such transaction or activity would constitute a violation of any provision of the Code of Conduct over which the Board has primary jurisdiction. The Board shall publish a concise statement of each request for an advisory opinion, without identifying the person seeking such opinion, in the District of Columbia Register within 20 days of its receipt by the Board. The Board may waive the advance notice provision, following a finding that the issuance of such advisory opinion constitutes an emergency necessary for the immediate preservation of the public welfare.

(2) Advisory opinions shall be published in the District of Columbia Register within 30 days of their issuance, provided, that the identity of any person requesting an advisory opinion shall not be disclosed in the District of Columbia Register without the person's prior consent in writing. When issued according to rules of the Board, an advisory opinion shall be deemed to be an order of the Board, reviewable in the Superior Court of the District of Columbia by any interested person adversely affected thereby.

(3) There shall be no enforcement for a violation of the Code of Conduct taken against an employee who relied in good faith upon an advisory opinion requested by that employee provided that that person, in seeking such advice, made full disclosure of all relevant circumstances and information.

### **TITLE III. POWERS OF THE DIRECTOR, INVESTIGATIONS, HEARINGS, CONFIDENTIALITY**

#### **Sec. 301. Powers of the director.**

The Director, under regulations of general applicability approved by the Board, shall have the power:

- (1) To require any person to submit in writing such reports and answers to questions as the Director may prescribe relating to the administration and enforcement of this Act;
- (2) Such submission shall be made within a reasonable period and under oath or otherwise as the Director may determine;
- (3) To administer oaths;
- (4) To require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties; Subpoenas issued under this section shall be issued by the Director only upon the approval of the Board;
- (5) In any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Director and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same



manner as authorized under this section;

(6) To pay witnesses the same fees and mileage as are paid in like circumstances in the Superior Court of the District of Columbia;

(7) To institute or conduct, on his or her own motion, an informal hearing on alleged violations of the Code of Conduct.

(8) To retain, on a temporary basis, consultants, including attorneys or others on a pro bono basis, as necessary to administer and enforce this act.

(9) To require any person to submit through an electronic format or medium the reports required pursuant to sections 1-1104.03, 1-1105.01 et seq., 1-1106.01 et seq. of The District of Columbia Campaign Finance Reform and Conflict of Interest Act, approved August 14, 1974 (88 Stat. 447; D.C. Official Code § 1-1101.01 *et seq.*); the Board shall issue regulations governing the submission of reports, pursuant to this subparagraph, through a standardized electronic format or medium;

Sec. 302. Enforcement of subpoena, Superior Court.

The Superior Court of the District of Columbia may, upon petition by the Board, in case of refusal to obey a subpoena or order of the Board issued under section 301 of this act, issue an order requiring compliance therewith; and any failure to obey the order of the Court may be treated by the Court as contempt thereof.

Sec. 303. Complaint, initiation of investigation, hearing.

(a) An investigation shall be initiated upon receipt of a written complaint transmitted to the Board, a finding by the Office of the Inspector General or District of Columbia Auditor of waste fraud or abuse of government resources, or a finding by a court of competent jurisdiction

of liability in a civil proceeding or indictment in a criminal proceeding with respect to acts or offenses that may constitute violations of the Code of Conduct. In a reasonable time, the Director shall cause evidence concerning the complaint to be presented to the Board, if the Director has reason to believe that a violation may have occurred constituting an apparent violation of the Code of Conduct.

(a)(1) The Complaint shall include the following:

- (A) Full name and address of the complainant and the respondent;
- (B) A clear and concise statement of facts that are alleged to constitute a violation of the Code of Conduct;
- (C) Complainant's signature;
- (D) Verification of the complaint under oath; and
- (E) Supporting documentation, if any.

(2) An individual making a complaint pursuant to this Act shall be afforded all available protections from adverse employment action or retaliation in accordance with the Merit Personnel Act and the Whistleblower Reinforcement Act of 1998, effective October 7, 1998 (D.C. Law 12-160; D.C. Official Code § 2-223.02).

(b) A preliminary investigation into an allegation may be initiated through an anonymous tip received from the hotline or through a media report. A preliminary investigation shall be escalated if the director has reason to believe that a violation may have occurred.

(c) All investigations of alleged violations of the Code of Conduct shall be made by the Director in his or her discretion, in accordance with procedures of general applicability issued by the Director in accordance with the Administrative Procedure Act .

Sec. 304. Hearings.

(a) Following the presentation of evidence to the Board by the Director, in an adversary proceeding and an open hearing, the Board may:

(1) Levy a penalty in accordance with this Act, or in accordance with section 507 of the Conflicts of Interest Act;

(2) Refer such matter to the United States Attorney for the District of Columbia in accordance with the provisions of section 301(c) of the Conflict of Interest Act, or may dismiss the action. In no case may the Board refer information concerning an alleged violation of this chapter to the United States Attorney for the District of Columbia without the presentation herein provided by the Director.

(3) Refer such matter to the Office of the Attorney General for prosecution pursuant to section 207 of this act. In no case may the Board refer information concerning an alleged violation of this chapter to the Office of the Attorney General without the presentation herein provided by the Director.

(b) Should the Director fail to present a matter or advise the Board that insufficient evidence exists to present such a matter, or that an additional period of time is needed to investigate the matter further, within 90 days of its receipt by the Board or the Director, the Board may order the Director to present the matter as herein provided. The provisions of this Act shall in no manner limit the authority of the United States Attorney for the District of Columbia.

(c) No complaint may be made under this section later than 3 years after the discovery of the alleged violation or with reasonable diligence should have been discovered.

Sec. 305. Reports.

(a)(1)The Director shall produce a quarterly report detailing in as much specificity as prudent information related to each allegation, initiated, ongoing and concluded investigations, referrals, fines, dismissals, and other action taken with regard to an allegation of a violation of the Code of Conduct.

(2) The quarterly report shall be posted on-line.

Sec. 306. Confidentiality.

The identity of the complainant and respondent shall not be disclosed without such individual's consent unless or until the Director has found reason to believe a violation occurred and presentation thereof pursuant to section 303 of this act, and the Board finds that disclosure would not harm the investigation.

Sec. 307. Dismissal of meritless claim, complaint, and request for investigation.

(a) The Board may dismiss, at any stage of the proceedings, any claim, complaint, request for investigation, investigation or portion of same, it considers without merit or made in bad faith.

(b) In addition, the Board may require an individual making any claim, complaint, request for investigation, to pay reasonable fees, for time spent reviewing or investigating a claim, complaint, or request for investigation made in bad faith.

**TITLE IV. CODE OF CONDUCT**

Sec. 401. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is

amended as follows:

(a) Subsection 1801(a) is amended by inserting the phrase “or public official” immediately after the term “employee” wherever it appears.

(1) For the purposes of this Title, employee shall include any member of a Board or Commission.

(b) Subsection 1801(a-1) is amended as follows:

“(a-1) Each employee and public official shall report pursuant to subchapter XV-A of this chapter, any violation of the Code of Conduct as soon as the employee or public official becomes aware of the violation.”.

(c) A new subsection 1801(c) is added to read as follows:

“(c) For the purposes of sections 1801-1802, the term “Public Official” means any candidate for nomination for election, or election, to public office at the time he or she becomes a candidate, who does not occupy any such office, shall file within one month after he or she becomes a candidate for such office, and the Mayor and the Chairman and each member of the Council of the District of Columbia holding office under the District of Columbia Home Rule Act, a Representative or Senator elected pursuant to § 1-123, Advisory Neighborhood Commissioners, members of the Board of Education, persons serving as subordinate agency heads or serving in positions designated as within the Excepted Service, each member of those Boards and Commissions listed in section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e), and District of Columbia government employees who make decisions or participate substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, inspecting, licensing,

regulating, auditing, or acting in areas of responsibility which may create a conflict of interest or appearance thereof as the Board may determine.”.

(c) Section 1802 is amended by inserting the phrase “or public official” immediately after the term “employee” wherever it appears.

(d) Section 1803 is repealed.

## **TITLE V. OPEN MEETINGS; OPEN GOVERNMENT OFFICE**

Sec. 501. Open meetings.

(a) The Board of Ethics and Government Accountability shall comply with the Open Meetings Amendment Act of 2010, effective March 31, 2010 (D.C. Law 18-350 D.C. Official Code § 2-571 *et seq.*).

Sec. 502. Open Government Office; Duties transferred.

(a) The Open Meetings Amendment Act of 2010, effective March 31, 2010 (D.C. Law 18-350 D.C. Official Code § 2-571 *et seq.*) is amended as follows:

(1) The powers and duties of the Open Government Office pursuant to section 503 are transferred to the Board of Ethics and Government Accountability.

(2) Section 504(a) is amended to read as follows:

“(a) The Open Government Office shall be headed by a Director appointed by the Board of Ethics and Government Accountability to serve a 5-year term.”.

## **TITLE VI. LOBBYING**

(a) The District of Columbia Campaign Finance Reform and Conflict of Interest Act,

approved August 14, 1974 (88 Stat. 447; D.C. Official Code § 1-1101.01 *et seq.*) is amended as follows:

(1) Section 504 is amended as follows:

“(c) Not later than 10 days after a registrant files a registration form with the Director, the Director shall publish on its website a summary of all information required to be submitted under this subsection.”

(2) Section 505(a)(4) (D.C. Official Code § 1-1105.05(a)(4)) is amended by striking the phrase “personal staff who receives compensation in any manner by the registrant shall be identified by name and nature of his or her employment with the registrant” and inserting the phrase “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 nature of his or her business relationship with the registrant” in its place.

(3) Section 506 (D.C. Official Code § 1-1105.06) is amended as follows:

(1) Subsection (a) is amended by striking the word “gift” and inserting the phrase “gift or service” in its place.

(2) A new subsection (f) is added to read as follows:

“(f) No lobbyist or registrant, as those terms are defined in section 501(8) and (12), or person acting on behalf of the lobbyist or registrant, shall provide legal representation, or other professional services, to an official in the legislative or executive branch, or to a member of his or her staff, at no cost or at a rate that is less than the lobbyist or registrant would routinely bill for the representation or service.

## **TITLE VII. CONFLICT OF INTEREST**

### Sec. 701. Applicability.

(a) Section 601 of the Campaign Finance Reform and Conflict of Interest Act of 1974, approved Aug. 14, 1974 (88 Stat. 467; D.C. Official Code § 1-1106.01), is amended as follows:

(1) Insert the phrase “employee or” immediately before the term “public official” wherever it appears.

(2) Paragraph (i)(1) is amended to read as follows:

“(1) “Public Official” means any candidate for nomination for election, or election, to public office, the Mayor and the Chairman and each member of the Council of the District of Columbia holding office under the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-201.01 *et seq.*) (“Home Rule Act”), a Representative or Senator elected pursuant to section 4 of the District of Columbia Statehood Constitutional Convention Initiative of 1979, effective March 10, 1981 (D.C. Law 3-171; D.C. Official Code §1-123), Advisory Neighborhood Commissioners, members of the Board of Education, persons serving as subordinate agency heads or serving in positions designated as within the Excepted Service, each member of those Boards and Commissions listed in section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e), and District of Columbia government employees who make decisions or participate substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, inspecting, licensing, regulating, auditing, or acting in areas of



responsibility which may create a conflict of interest or appearance thereof as the Board may determine.”.

(3) A new paragraph (i)(6) is added to read as follows:

“(6) “Employee” means an individual who performs a function of the District government and who receives compensation for the performance of such services, or a member of a board or commission.

Sec. 702. Public reporting.

(a) Section 602 of the Campaign Finance Reform and Conflict of Interest Act of 1974, approved Aug. 14, 1974 (88 Stat. 467; D.C. Official Code § 1-1106.02), is amended as follows:

(1) Subsection (a) is amended as follows:

“(a) A public official shall file annually with the Board a public report containing a full and complete statement of:

“(1) the name of each business entity (including sole proprietorships, partnerships, trusts, non-profit organizations, and corporations) whether or not transacting any business with the District of Columbia government in which such person or his or her spouse, domestic partner, or dependent children:

“(A) 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, trusts) exceeding in the aggregate \$1,000, or that produced income of \$200;

“(B) honoraria, and income earned for services rendered, during a calendar year in excess of \$200, as well as the identity of any client for whom the official performed a service in connection with such person’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. For the purpose of this subsection, "outside income" means any fixed payment at regular intervals for services rendered, self-employment, and royalties for any publication.

“(C) serves as an officer, director, partner, employee, consultant, contractor, volunteer or in any other formal capacity or affiliation

“(D) has an agreement or arrangement for a leave of absence, future employment, including date of agreement, or continuation of payment by a former employer.

“(2) any outstanding individual liability in excess of \$ 1,000 for borrowing by such person 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 such person's immediate family.

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

“(4) all professional or occupational licenses issued by the District of Columbia government held by such person or his or her spouse, domestic partner, or dependent children;

“(5) all gifts received in an aggregate value of \$ 100 in a calendar year by such person from any business entity (including sole proprietorships, partnerships, and corporations)

whether or not transacting any business with the District of Columbia government.

“(6) an affidavit stating that the subject candidate or office holder has not caused title to property to be placed in another person or entity for purposes of avoiding the disclosure requirements of this subsection.”

“(7) A public official shall certify with such disclosure, that he or she has:

- (A) Filed and paid his or her income and property taxes;
- (B) Filed the required financial and other disclosure statements with the Office of Campaign Finance;
- (C) Diligently engaged in safe-guarding the assets of the taxpayers and the District;
- (D) Reported known illegal activity, including attempted bribes to the appropriate authorities;
- (E) Not been offered or accepted any bribes;
- (F) Not directly or indirectly received government funds through illegal or improper means;
- (G) Not raised or received funds in violation of Federal or District law; and
- (H) Not engaged in any pay-to-play schemes or quid pro quo arrangements.

“(8) The Board may, on a case-by-case basis, exempt a public official from this requirement for good cause shown.

- (2) Subsection (b) is repealed.

(3) Subsection (d)(1) is amended by striking the date “May 15<sup>th</sup>” and replacing it with the date “October 1<sup>st</sup>”.

(3) Subsection (h)(7) is amended by striking the phrase “, for the purpose of influencing the actions of a public official in making or influencing the making of an administrative decision or legislative action;”.

(c) Subsection (i) is repealed and a new subsection (i) is added to read as follows:

“(i) The Board of Ethics and Government Accountability shall provide for the annual auditing of all reports filed under the authority of this subsection.”.

Sec. 703. Confidential reporting.

(a) A new subsection 602a of the Campaign Finance Reform and Conflict of Interest Act of 1974, approved Aug. 14, 1974 (88 Stat. 467; D.C. Official Code § 1-1106.02), is added to read as follows:

§1-1106.02a. Confidential disclosure of financial interest.

“(a)(1) Any employee, other than a public official, who advises in areas of contracting, procurement, administration of grants or subsidies, developing policies, inspecting, licensing, regulating, auditing, or acting in areas of responsibility that may create a conflict of interest or appearance thereof as determined by the appropriate agency head shall file annually with that agency head a report containing a full and complete statement of the information required by subsection 602.

(2) The Board shall provide for the annual auditing of the reports filed under the authority of this subsection.

(3) On or before September 1st of each year, each agency head shall designate the

persons in the agency required to submit a confidential report by name, position, and grade level, and shall supply this list to the Board and the D.C. Ethics Counselor on or before September 15th of each year.”.

## **TITLE VIII. TRANSITION COMMITTEES**

Sec. 801. The District of Columbia Campaign Finance Reform and Conflict of Interest Act, approved August 14, 1974 (88 Stat. 447; D.C. Official Code § 1-1101.01 *et seq.*) (“Conflict of Interest Act”), is amended as follows:

(a) Section 102 is amended by adding new paragraphs (13) to read as follows:

“(13) “Transition committee” means any individual, or group of individuals, organized for the purpose of soliciting, accepting, or spending funds for office and personnel transition, on behalf of the Chairman of the Council or the Mayor.”.

(b) A new section 212 (to be codified at D.C. Official Code § 1-1102.12) is added to read as follows:

“Sec. 212. Transition committee statement of organization.

“(a)(1) Each transition committee shall file with the Director a statement of organization within 10 days after its organization, which statement shall include:

“(2) The name and address of the transition committee;

“(3) The name, address, and position of the custodian of books and accounts;

“(4) The name, address, and position of other principal officers;

“(5) The name and address of the bank designated by the committee as the transition committee depository, together with the title and number of the checking account and

safety deposit box used by that committee at the depository, and the identification of each individual authorized to make withdrawals or payments out of each such account or box; and

“(6) Such other information as shall be required by the Director.

“(b) Any change in information previously submitted in a statement of organization shall be reported to the Director within the 10-day period following the change.

“(c) Any transition committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year shall so notify the Director.

“(d) Any balance in the transition committee fund shall be transferred only to a nonprofit organization within the meaning of § 501(c) of the Internal Revenue Code of 1954, operating in good standing in the District of Columbia for a minimum of one calendar year prior to the date of any transfer or to a constituent-service program pursuant to section 403 of this Chapter.”.

(c) A new section 213 (to be codified at D.C. Official Code § 1-1102.13) is added to read as follows:

“Sec. 213. Transition committees.

“(a) Every transition committee shall have a chairman and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of a transition committee at a time when there is a vacancy in the office of treasurer thereof and no other person has been designated and has agreed to perform the functions of treasurer. No expenditure shall be made for or on behalf of a transition committee without the authorization of its chairman or treasurer, or their designated agents.

“(b) Every person who receives a contribution of \$50 or more for or on behalf of a transition committee shall, on demand of the treasurer, and in any event within 5 days after receipt of such contribution, submit to the treasurer of such committee a detailed account thereof, including the amount, the name and address (including the occupation and the principal place of business, if any) of the person making such contribution, and the date on which such contribution was received. All funds of a transition committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee.

“(c) The treasurer of a transition committee, and each beneficiary, shall keep a detailed and exact account of:

“(1) All contributions made to or for such political committee or candidate;

“(2) The full name and mailing address (including the occupation and the principal place of business, if any) of every person making a contribution of \$50 or more, and the date and amount thereof;

“(3) All expenditures made by or on behalf of such committee or candidate; and

“(4) The full name and mailing address (including the occupation and the principal place of business, if any) of every person to whom any expenditure is made, the date and amount thereof and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made.

“(d) The treasurer or beneficiary shall obtain and preserve such receipted bills and records as may be required by the Board.

“(e) No person shall make any contribution which, and the Mayor, shall not receive any contribution from any person which, when aggregated with all other contributions received from

such person, exceed \$2,000 in an aggregate amount, provided, that such \$2,000 limitation shall not apply to contributions made by the Mayor, for the purpose of funding his or her own transition committee within the District of Columbia.

“(f) No person shall make any contribution which, and the Chairman of the Council shall not receive any contribution from any person which, when aggregated with all other contributions received from such person, exceeds \$1,000 in an aggregate amount, provided, that such \$1,000 limitation shall not apply to contributions made by the Chairman, for the purpose of funding his or her own transition committee within the District of Columbia.”

(d) A new section 214 (to be codified at D.C. Official Code § 1-1102.14) is added to read as follows:

“Sec. 214. Designation of transition depositories.

“(a) Each transition committee accepting contributions or making expenditures, shall designate, in the registration statement required under this section one or more banks located in the District of Columbia as the transition depository or depositories of that transition committee. Each committee shall maintain a checking account or accounts at such depository or depositories and shall deposit any contributions received by the committee into that account or accounts. No expenditures may be made by a committee except by check drawn payable to the person to whom the expenditure is being made on that account.”

(e) A new section 215 (to be codified at D.C. Official Code § 1-1102.15) is added to read as follows:

“Sec. 215. Reports of receipts and expenditures by transition committee.



“(a) The treasurer of each transition committee shall file with the Director, and with the applicable principal campaign committee, reports of receipts and expenditures on forms to be prescribed or approved by the Director. Such reports shall be filed on the 10th day of March, June, August, October, and December in each year during which there is held an election for the office of Mayor or Chairman of the Council, and on the 8th day next preceding the date on which such election is held, and also by the 31st day of January of each year. Such reports shall be complete as of such date as the Director may prescribe, which shall not be more than 5 days before the date of filing, except that any contribution of \$200 or more received after the closing date prescribed by the Director for the last report required to be filed prior to the election shall be reported within 24 hours after its receipt.

“(b) Each report under this section shall disclose:

“(1) The amount of cash on hand at the beginning of the reporting period;

“(2) The full name and mailing address (including the occupation and the principal place of business, if any) of each person who has made 1 or more contributions to or for a committee within the calendar year in an aggregate amount or value in excess of \$50 or more, together with the amount and date of the contributions;

“(3) The total sum of individual contributions made to or for a committee during the reporting period and not reported under paragraph (2) of this subsection;

“(4) Each loan to or from any person within the calendar year in an aggregate amount or values of \$50 or more, together with the full names and mailing addresses (including the occupation and the principal place of business, if any) of the lender and endorsers, if any, and the date and amount of such loans;

“(5) The total sum of all receipts by or for such committee during the reporting period;

“(6) The full name and mailing address (including the occupation and the principal place of business, if any) of each person to whom expenditures have been made by such committee or on behalf of such committee within the calendar year in an aggregate amount or value of \$10 or more;

“(7) The total sum of expenditures made by such committee or candidate during the calendar year;

“(8) The amount and nature of debts and obligations owed by or to the committee, in such form as the Director may prescribe;

“(9) Such other information as may be required by the Director.”

“(c) The reports to be filed under subsection (a) of this section shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the unchanged amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the transition committee shall file a statement to that effect.”.

(e) A new section 216 (to be codified at D.C. Official Code § 1-1102.16) is added to read as follows:

“Sec. 216. Formal requirements respecting reports and statements.

“(a) A report or statement required by this part to be filed by a treasurer of a transition committee shall be verified by the oath or affirmation of the person filing such report or statement and by the individual to be benefitted by the committee.

“(b) A copy of a report or statement shall be preserved by the person filing and by the individual to be benefitted by the committee for a period to be designated by the Board in a published regulation.

“(c) The Board, shall, by published regulations of general applicability, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported. Such regulations shall provide that they be reported in separate schedules. In determining aggregate amounts of contributions and expenditures, amounts reported as provided in such regulations shall not be considered until actual payment is made.”.

“(d) A transition committee shall terminate no later than 45 days from the beginning of the term of the new Mayor or Chairman, except that the transition committee may continue to accept contributions necessary to retire the debts of the committee for one year from the date of the election.

“(e) Notwithstanding this Chapter, no committee may be organized if an appropriation pursuant to 46 of the District of Columbia Home Rule Act, December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-204.46) has been approved.”.

## **TITLE IX. INAUGURAL COMMITTEES**

Sec. 901. The District of Columbia Campaign Finance Reform and Conflict of Interest Act, approved August 14, 1974 (88 Stat. 447; D.C. Official Code § 1-1101.01 *et seq.*) (“Conflict of Interest Act”), is amended as follows:

(a) Section 102 is amended by adding new paragraphs (12) to read as follows:

“(12) Inaugural committee” means any individual, or group of individuals, organized for the purpose of soliciting, accepting, and spending funds and coordinating activities to celebrate the election of a new Mayor.”

(b) A new section 217 (to be codified at D.C. Official Code § 1-1102.17) is added to read as follows:

“Section 217. Inaugural committees organization.

“(a)(1) Each inaugural committee shall file with the Director a statement of organization within 10 days after its organization, which statement shall include:

“(2) The name and address of the inaugural committee;

“(3) The name, address, and position of the custodian of books and accounts;

“(4) The name, address, and position of other principal officers;

“(5) The name and address of the bank designated by the committee as the inaugural committee depository, together with the title and number of the checking account and safety deposit box used by that committee at the depository, and the identification of each individual authorized to make withdrawals or payments out of each such account or box; and;

“(6) Such other information as shall be required by the Director.

“(b) Any change in information previously submitted in a statement of organization shall be reported to the Director within the 10-day period following the change.

“(c) Any inaugural committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year shall so notify the Director.

“(d) Any balance in the inaugural committee fund shall be transferred only to a nonprofit

organization, within the meaning of § 501(c) of the Internal Revenue Code of 1954, operating in good standing in the District of Columbia for a minimum of one calendar year prior to the date of any transfer or to a constituent-service program pursuant to section 403 of this Chapter.”.

(b) A new section 218 (to be codified at D.C. Official Code § 1-1102.18) is added to be read as follows:

“Sec. 218. Inaugural committees organization.

“(a) Every inaugural committee shall have a chairman and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of an inaugural committee at a time when there is a vacancy in the office of treasurer thereof and no other person has been designated and has agreed to perform the functions of treasurer. No expenditure shall be made for or on behalf of an inaugural committee without the authorization of its chairman or treasurer, or their designated agents.

“(b) Every person who receives a contribution of \$50 or more for or on behalf of a inaugural committee shall, on demand of the treasurer, and in any event within 5 days after receipt of such contribution, submit to the treasurer of such committee a detailed account thereof, including the amount, the name and address (including the occupation and the principal place of business, if any) of the person making such contribution, and the date on which such contribution was received. All funds of a inaugural committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee.

“(c) The treasurer of an inaugural committee, and each beneficiary, shall keep a detailed and exact account of:

“(1) All contributions made to or for such political committee or candidate;

“(2) The full name and mailing address (including the occupation and the principal place of business, if any) of every person making a contribution of \$50 or more, and the date and amount thereof;

“(3) All expenditures made by or on behalf of such committee or candidate; and

“(4) The full name and mailing address (including the occupation and the principal place of business, if any) of every person to whom any expenditure is made, the date and amount thereof and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made.

“(d) The treasurer or beneficiary shall obtain and preserve such receipted bills and records as may be required by the Board.

“(e) No person shall make any contribution which, and the Mayor shall not receive any contribution from any person which, when aggregated with all other contributions received from such person, exceeds \$10,000 in an aggregate amount, provided, that such \$ 10,000 limitation shall not apply to contributions made by the Mayor, for the purpose of funding his or her own inauguration committee within the District of Columbia.

(c) A new section 219 (to be codified at D.C. Official Code § 1-1102.19) is added to be read as follows:

“Sec. 219. Designation of inaugural depositories.

“(a) Each inaugural committee accepting contributions or making expenditures, shall designate, in the registration statement required under this section one or more banks located in the District of Columbia as the inaugural depository or depositories of that inaugural committee. Each such committee shall maintain a checking account or accounts at such depository or

depositories and shall deposit any contributions received by the committee into that account or accounts. No expenditures may be made by such committee except by check drawn payable to the person to whom the expenditure is being made on that account.”.

(d) A new section 220 (to be codified at D.C. Official Code § 1-1102.20) is added to be read as follows:

“Sec. 220. Reports of receipts and expenditures by inaugural committee.

“(a) The treasurer of each inaugural committee shall file with the Director, and with the applicable principal campaign committee, reports of receipts and expenditures on forms to be prescribed or approved by the Director. Such reports shall be filed on the 10th day of March, June, August, October, and December in each year during which there is held an election for the office of Mayor or Chairman of the Council, and on the 8th day next preceding the date on which such election is held, and also by the 31st day of January of each year. Such reports shall be complete as of such date as the Director may prescribe, which shall not be more than 5 days before the date of filing, except that any contribution of \$ 200 or more received after the closing date prescribed by the Director for the last report required to be filed prior to the election shall be reported within 24 hours after its receipt.

“(b) Each report under this section shall disclose:

“(1) The amount of cash on hand at the beginning of the reporting period;

“(2) The full name and mailing address (including the occupation and the principal place of business, if any) of each person who has made one or more contributions to or for such committee within the calendar year in an aggregate amount or value in excess of \$50 or more, together with the amount and date of such contributions;

“(3) The total sum of individual contributions made to or for such committee or candidate during the reporting period and not reported under paragraph (2) of this subsection;

“(4) Each loan to or from any person within the calendar year in an aggregate amount or values of \$ 50 or more, together with the full names and mailing addresses (including the occupation and the principal place of business, if any) of the lender and endorsers, if any, and the date and amount of such loans;

“(5) The total sum of all receipts by or for such committee during the reporting period;

“(6) The full name and mailing address (including the occupation and the principal place of business, if any) of each person to whom expenditures have been made by such committee or on behalf of such committee within the calendar year in an aggregate amount or value of \$10 or more;

“(7) The total sum of expenditures made by such committee or candidate during the calendar year;

“(8) The amount and nature of debts and obligations owed by or to the committee, in such form as the Director may prescribe;

“(9) Such other information as may be required by the Director.”

“(c) The reports to be filed under subsection (a) of this section shall be cumulative during the calendar year to which they relate; however where there has been no change in an item reported in a previous report during such year, only the unchanged amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the inaugural committee shall file a statement to that effect.”.



(e) A new section 221 (to be codified at D.C. Official Code § 1-1102.18) is added to be read as follows:

“Sec. 221. Formal requirements respecting reports and statements.

“(a) A report or statement required by this part to be filed by a treasurer of a inaugural committee shall be verified by the oath or affirmation of the person filing such report or statement and by the individual to be benefitted by the committee.

“(b) A copy of a report or statement shall be preserved by the person filing and by the individual to be benefitted by the committee for a period to be designated by the Board in a published regulation.

“(c) The Board, shall, by published regulations of general applicability, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported. Such regulations shall provide that they be reported in separate schedules. In determining aggregate amounts of contributions and expenditures, amounts reported as provided in such regulations shall not be considered until actual payment is made.

“(d) An inaugural committee shall terminate within 45 days of the completion of the inaugural activities, except that the inaugural committee may continue to accept contributions necessary to retire the debts of the committee for one year from the date of the election for Mayor.”.

## **TITLE X. CONSTITUENT SERVICES**

(a) The District of Columbia Campaign Finance Reform and Conflict of Interest Act,

approved August 14, 1974 (88 Stat. 447; D.C. Official Code § 1-1101.01 *et seq.*) (“Conflict of Interest Act”), is amended as follows:

(1) Section 403 of Conflict of Interest Act is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Strike the phrase “aggregate amount of \$80,000 in any 1 calendar year” and insert the phrase “aggregate amount of \$40,00 in any 1 calendar year” in its place.

(B) Strike the phrase “maximum of \$80,000” and insert the phrase “maximum of \$40,000” in its place.

(C) Strike the phrase “citizen-service” wherever it appears and insert the phrase “constituent-service” in its place.

(2) Subsection (a-1) is amended by striking the phrase “citizen-service” both times it appears and inserting the phrase “constituent-service” in its place.

(3) Subsection (e) is amended by striking the phrase “citizen-service” and inserting the phrase “constituent-service” in its place.

(4) A new subsection (a-2) is added to read as follows:

“(a-2) Every constituent-service program shall have a chairman and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of a constituent-service program at a time when there is a vacancy in the office of treasurer thereof and no other person has been designated and has agreed to perform the functions of treasurer. No expenditure shall be made for or on behalf of a constituent-service program without the authorization of its chairman or treasurer, or their designated agents.

(2) A new subsection (b) is added to read as follows:

“(b)(1) Funds raised pursuant to subsection 403(a) shall be expended only for an activity, service, or program which provides emergency, informational, charitable, scientific, educational, medical, or recreational services to the residents of the District of Columbia and which expenditure accrues to the primary benefit of residents of the District of Columbia.

“(2) Allowable expenditures include:

- (A) Funeral arrangements;
- (B) Emergency housing;
- (C) Past due utility payments;
- (D) Food and refreshments or an in-kind equivalent on infrequent occasions;
- (E) Community events sponsored by the constituent-service program or an entity other than the District government;
- (F) Community-wide events;
- (G) Printed, electronic and telephonic information dissemination of community-wide, government based activities, except that no such dissemination shall occur within the 90-day period that immediately precedes a primary, special, or general election in which the Mayor, the Chairman of the Council, or a member of the Council is a candidate for office.

“(3) Disallowable expenditures include:

- (A) Promoting or opposing, as a primary purpose, a political party, committee, candidate, or issue;
- (B) Fines and penalties inuring to the District;
- (C) Any expenditure of cash or cash equivalent;

(D) Advertisements;

(E) Sponsorships for political organizations;

(F) Year-long or season admissions to theatrical, sporting, or cultural events.

(3) Subsection (d) is amended to read as follows:

“(d) All contributions and expenditures made by persons to the Mayor, Chairman of the Council, and each member of the Council as provided by subsection (a) of this section, and all expenditures made by the Mayor, Chairman of the Council, and each member of the Council as provided by subsection (a) of this section, shall be reported to the Director of the Board of Ethics and Government Accountability quarterly on forms which the Director shall prescribe; except that such forms must prescribe itemized reporting of expenditures. All of the record keeping requirements of this chapter shall apply to contributions and expenditures made under this section. At the time of termination, any excess funds shall either be used to retire the debts of the program or donated to a nonprofit organization, within the meaning of the Internal Revenue Code of 1954, and operating in good standing in the District of Columbia for a minimum of one calendar year prior to the date of donation.”.

## **TITLE XI. LEGAL DEFENSE COMMITTEE**

(a) The District of Columbia Campaign Finance Reform and Conflict of Interest Act, approved August 14, 1974 (88 Stat. 447; D.C. Official Code § 1-1101.01 *et seq.*), is amended as follows:

(1) A new section 604 (to be codified at D.C. Official Code § 1-1106.04) is added to read as follows:

“Sec. 604. Legal defense committees organization.

“(a) For the purposes of this section the term:

(1) “Public Official” means any candidate for nomination for election, or election, to public office, the Mayor and the Chairman and each member of the Council of the District of Columbia holding office under the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-201.01 *et seq.*) (“Home Rule Act”), a Representative or Senator elected pursuant to section 4 of the District of Columbia Statehood Constitutional Convention Initiative of 1979, effective March 10, 1981 (D.C. Law 3-171; D.C. Official Code §1-123), Advisory Neighborhood Commissioners, members of the Board of Education, persons serving as subordinate agency heads or serving in positions designated as within the Excepted Service, each member of those Boards and Commissions listed in section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e), and District of Columbia government employees who make decisions or participate substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, inspecting, licensing, regulating, auditing, or acting in areas of responsibility which may create a conflict of interest or appearance thereof as the Board may determine.”.

(2) “Legal defense committee” means any individual or group of individuals, organized for the purpose of soliciting, accepting, and spending funds to defray the professional fees and costs for a public official’s legal defense to one or more civil, criminal, or administrative proceedings.”

(3) A new section (a-1) is added as follows:

“(a-1) One legal defense committee and one legal defense checking account shall be

established and maintained for the purpose of soliciting, accepting, and spending legal defense funds, which funds may be spent to defray attorney's fees and other related costs for the public official's legal defense to one or more civil, criminal, or administrative proceedings. No committee, fund, entity, or trust may be established to defray professional fees and costs except pursuant to this section.

“(1) Attorney's fees and other related legal costs shall not include, for example, expenses for fundraising, media or political consulting fees, mass mailing or other advertising, or a payment or reimbursement for a fine, penalty, judgment or settlement, or a payment to return or disgorge contributions made to any other committee controlled by the candidate or officer.

“(b)(1) Each legal defense committee shall file with the Director a statement of organization within 10 days after its organization, which statement shall include:

“(2) The name and address of the legal defense committee;

“(3) The name, address, and position of the custodian of books and accounts;

“(4) The name, address, and position of other principal officers;

“(5) The beneficiary of the legal defense committee and checking account;

“(6) The name and address of the bank designated by the committee as the legal defense committee depository, together with the title and number of the checking account and safety deposit box used by that committee at the depository, and the identification of each individual authorized to make withdrawals or payments out of each such account or box; and

“(7) Such other information as shall be required by the Director.

“(c) Any change in information previously submitted in a statement of organization shall be reported to the Director within the 10-day period following the change.

“(d) Any legal defense committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year shall so notify the Director.

“(e) Any balance in the legal defense committee fund shall be transferred only to a nonprofit organization, within the meaning of § 501(c) of the Internal Revenue Code of 1954, operating in good standing in the District of Columbia for a minimum of one calendar year prior to the date of any transfer or to a constituent-service program pursuant to section 403 of this Chapter.”.

(b) A new section 605 (to be codified at D.C. Official Code § 1-1106.05) is added to be read as follows:

“Sec. 605. Legal defense committees.

“(a) Every legal defense committee shall have a chairman and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of a legal defense committee at a time when there is a vacancy in the office of treasurer thereof and no other person has been designated and has agreed to perform the functions of treasurer. No expenditure shall be made for or on behalf of a legal defense committee without the authorization of its chairman or treasurer, or their designated agents.

“(b) Every person who receives a contribution of \$50 or more for or on behalf of a legal defense committee shall, on demand of the treasurer, and in any event within 5 days after receipt of such contribution, submit to the treasurer of such committee a detailed account thereof, including the amount, the name and address (including the occupation and the principal place of business, if any) of the person making such contribution, and the date on which such contribution

was received. All funds of a legal defense committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee.

“(c) No contributions from a prohibited source as defined in 6 DCMR B1803 may be accepted;

“(d) The treasurer of a legal defense committee, and each beneficiary, shall keep a detailed and exact account of:

“(1) All contributions made to or for such legal defense or candidate;

“(2) The full name and mailing address (including the occupation and the principal place of business, if any) of every person making a contribution of \$50 or more, and the date and amount thereof;

“(3) All expenditures made by or on behalf of such committee or candidate; and

“(4) The full name and mailing address (including the occupation and the principal place of business, if any) of every person to whom any expenditure is made, the date and amount thereof and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made.

“(e) The treasurer or beneficiary shall obtain and preserve such receipted bills and records as may be required by the Board.

“(f)(1) No person shall make any contribution which, when aggregated with all other contributions received from such person, exceeds \$5,000 in an aggregate amount, provided, that such \$ 5,000 limitation shall not apply to contributions made by the person, for the purpose of funding his or her own legal defense committee within the District of Columbia.



“(2) No contributions to a legal defense committee shall be made by a lobbyist or registrant as those terms are defined in section 501(8) and (12), or by person acting on behalf of the lobbyist or registrant;

“(3) A legal defense committee shall not accept a contribution from a lobbyist or registrant as those terms are defined in section 501(8) and (12), or by person acting on behalf of the lobbyist or registrant.”.

(3) A new section 605 (to be codified at D.C. Official Code § 1-1106.05) is added to be read as follows:

“Sec. 606. Designation of legal defense depositories.

“(a) Each legal defense committee accepting contributions or making expenditures, shall designate, in the registration statement required under this section one or more banks located in the District of Columbia as the legal defense depository or depositories of that legal defense committee. Each such committee shall maintain a checking account or accounts at such depository or depositories and shall deposit any contributions received by the committee into that account or accounts. No expenditures may be made by such committee except by check drawn payable to the person to whom the expenditure is being made on that account.”.

(4) A new section 606 (to be codified at D.C. Official Code § 1-1106.06) is added to be read as follows:

“Sec. 607. Reports of receipts and expenditures by legal defense committee.

“(a) The treasurer of each legal defense committee shall file with the Director, and with the applicable principal campaign committee, reports of receipts and expenditures on forms to be prescribed or approved by the Director. Such reports shall be filed within 30 days after the

committee's organization and every 30 days thereafter in each year. Such reports shall be complete as of such date as the Director may prescribe, which shall not be more than 5 days before the date of filing, except that any contribution of \$200 or more received after the closing date prescribed by the Director for the last report required to be filed prior to the election shall be reported within 24 hours after its receipt.

“(b) Each report under this section shall disclose:

“(1) The amount of cash on hand at the beginning of the reporting period;

“(2) The full name and mailing address (including the occupation and the principal place of business, if any) of each person who has made one or more contributions to or for such committee within the calendar year in an aggregate amount or value in excess of \$ 50 or more, together with the amount and date of such contributions;

“(3) The total sum of individual contributions made to or for such committee or candidate during the reporting period and not reported under paragraph (2) of this subsection;

“(4) Each loan to or from any person within the calendar year in an aggregate amount or values of \$50 or more, together with the full names and mailing addresses (including the occupation and the principal place of business, if any) of the lender and endorsers, if any, and the date and amount of such loans;

“(5) The total sum of all receipts by or for such committee during the reporting period;

“(6) The full name and mailing address (including the occupation and the principal place of business, if any) of each person to whom expenditures have been made by

such committee or on behalf of such committee within the calendar year in an aggregate amount or value of \$ 10 or more;

“(7) The total sum of expenditures made by such committee or candidate during the calendar year;

“(8) The amount and nature of debts and obligations owed by or to the committee, in such form as the Director may prescribe;

“(9) Such other information as may be required by the Director.”

“(c) The reports to be filed under subsection (a) of this section shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the unchanged amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the legal defense committee shall file a statement to that effect.”

(5) A new section 607 (to be codified at D.C. Official Code § 1-1106.07) is added to be read as follows:

“Sec. 608. Formal requirements respecting reports and statements.

“(a) A report or statement required by this part to be filed by a treasurer of a legal defense committee shall be verified by the oath or affirmation of the person filing such report or statement and by the individual to be benefitted by the committee.

“(b) A copy of a report or statement shall be preserved by the person filing and by the individual to be benefitted by the committee for a period to be designated by the Board in a published regulation.

“(c) The Board, shall, by published regulations of general applicability, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported. Such regulations shall provide that they be reported in separate schedules. In determining aggregate amounts of contributions and expenditures, amounts reported as provided in such regulations shall not be considered until actual payment is made.”.

“(d) Any legal defense committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year shall so notify the Director.

## **TITLE XII. TRAINING**

### **Sec. 1201. Training.**

(a) The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*) is amended as follows:

(1) A new paragraph 301(14A) is added to read as follows:

“(14A) “Public Official” means any candidate for nomination for election, or election, to public office, the Mayor and the Chairman and each member of the Council of the District of Columbia holding office under the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-201.01 *et seq.*) (“Home Rule Act”), a Representative or Senator elected pursuant to section 4 of the District of Columbia Statehood Constitutional Convention Initiative of 1979, effective March 10, 1981 (D.C. Law 3-171; D.C.

Official Code §1-123), Advisory Neighborhood Commissioners, members of the Board of Education, persons serving as subordinate agency heads or serving in positions designated as within the Excepted Service, each member of those Boards and Commissions listed in section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e), and District of Columbia government employees who make decisions or participate substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, inspecting, licensing, regulating, auditing, or acting in areas of responsibility which may create a conflict of interest or appearance thereof as the Board may determine.”.

(2) A new subsection 1801(a-2)(1)-(3) is added to read as follows:

“(a-2)(1) Upon commencement of employment, any person required to file pursuant to Sections 1-1106.02 and 1-1106.02a of The District of Columbia Campaign Finance Reform and Conflict of Interest Act, approved August 14, 1974 (88 Stat. 447; D.C. Official Code § 1-1106.02 and 1-1106.02a)(Filers), shall be provided with an Ethics Manual and information about the Code of Conduct.

“(2) Not later than 90 days after commencement of employment, Filers shall certify that he or she has undergone ethics training developed by the Board of Ethics and Government Accountability.

(A) The training required by this subsection may be provided electronically or in person, or both as deemed appropriate by the Board.

“(3) Filers shall certify on an annual basis, completion of at least one ethics training program within the annual period.”.

(3) A new subsection 1801(a-3) is added to read as follows:

Notwithstanding the penalty provisions of this Act, any public official who knowingly violates any provision of subsection 1801(a-2)(1)-(3) may be subject to an adverse performance action, or termination.”.

### **TITLE XIII. APPLICABILITY and TRANSITION**

(1) This act shall apply upon the effective date.

(2) The Office of Campaign Finance shall temporarily administer and enforce the provisions of this act until July 1, 2012.

(3) No later than July 1, 2012, the Board of Ethics and Government Accountability shall administer and enforce this act, and shall assume any pending or ongoing investigations of the Office of Campaign Finance related to the Code of Conduct.

### **TITLE XIV. CONFORMING AMENDMENTS**

Sec. 1401. The District of Columbia Campaign Finance Reform and Conflict of Interest Act, approved August 14, 1974 (88 Stat. 447; D.C. Official Code § 1-1101.01 *et seq.*), is amended as follows:

(a) Section 102 (D.C. Official Code 1-1101.01) is amended as follows:

(1) Strike the period in paragraph (9) and insert in its place “, unless otherwise provided.”

“(9) Strike the period in paragraph (11) and insert in its place “, unless otherwise

provided.”

(b) Section 301 (D.C. Official Code 1-1103.01) is amended as follows:

(c) A new subsection (d) is added to read as follows:

“(d) The Director shall have no authority concerning the administration or enforcement of the Code of Conduct.”

(d) Section 302 (A-1) is amended as follows:

(1) Strike the reference to §§1-1104.03, 1-1105.05, 1-1106.02, and 1-1108.01.

(e) Section 306(a) is amended as follows:

“(a) On and after the effective date of this Act, the Board of Elections and Ethics of the District of Columbia established under Chapter 10 of this title, shall be known as the "District of Columbia Board of Elections" and shall have the powers, duties, and functions as provided in such chapter, in any other law in effect on the date immediately preceding August 14, 1974, and in this chapter. Any reference in any law or regulation to the Board of Elections and Ethics for the District of Columbia or the District of Columbia Board of Elections shall, on and after August 14, 1974, be held and considered to refer to the District of Columbia Board of Elections. The Board shall have no authority for the administration and enforcement of the Code of Conduct.”.

(f) Section 403(a) is amended as follows:

(1) Strike the phrase “Director of Campaign Finance” and insert with the phrase “Director of Board of Ethics and Government Accountability” in its place.

(g) Section 502 (D.C. Official Code § 1-1105.02) is amended as follows:

(1) Strike the term “Director” wherever it appears and replace with the term “Director of the Board of Ethics and Government Accountability.”

(2) Strike the term “Office of campaign Finance” wherever it appears and replace with the term “Board of Ethics and Government Accountability.”.

(h) Section 507 (D.C. Official Code § 1-1105.02) is amended as follows:

(1) Subsection (a) is repealed.

(2) Subsection (c) is repealed.

(i) Section 601 is amended as follows:

(1) Subsection (g)(2) is amended as follows:

“(2) Cause copies of such statement to be delivered to the Board.”

(2) A new subsection (i)(6) is added to read as follows:

“(6) “Board” means the Board of Ethics and Government Accountability”.

(3) A new subsection (i)(7) is added as follows:

“(7) “Director” means the Director of the Board of Ethics and Government Accountability.”

(j) Section 602(b) is amended by striking the term “Director of Campaign Finance” wherever it appears and inserting the term “Director” in its place.

(k) Section 602(h) is amended by adding new paragraphs (8) and (9) to read as follows:

“(8) “Board” means the Board of Ethics and Government Accountability.

“(9) “Director” means the Director of the Board of Ethics and Government



Accountability.”

(l) Section 701 is amended as follows:

(1) Section (d) is amended as follows:

“(d) Prosecutions for violations of this chapter, except as provided in §1-1001.14(b)(4) and as provided in The Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Act of 2011, effective \_\_\_\_\_, 2012 (D.C. Law \_\_-\_\_\_\_; D.C. Official Code § \_\_\_\_\_ *et seq.*), shall be brought by the United States Attorney for the District of Columbia in the name of the United States.

(2) Section (f) is amended by striking the term “Board” and inserting the term “Board of Elections” in its place.

(m) Section 701a(a) is amended by striking the term “Board” wherever it appears and inserting the term “Board of Elections” in its place.”.

Sec. 1402. Subsection 9(b) of the Official Correspondence Regulations, effective April 7, 1977 (D.C. Official Code § 2-701 *et seq.*;

#### **TITLE XV. FISCAL IMPACT STATEMENT**

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

#### **TITLE XVI. EFFECTIVE DATE.**

This act shall take effect following approval by the Mayor (or in the event of veto by the

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Chairwoman Muriel Bowser  
November 30, 2011  
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Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register, except that section 209(c) of Title II of this Act shall take effect upon enactment as provide in section 472(d)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 806; D.C. Official Code § 1-204.72(d)(1)).