

DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
OFFICE OF CAMPAIGN FINANCE

NOTICE OF FINAL RULEMAKING

The District of Columbia Board of Elections and Ethics (Board) at its regular meeting held August 6, 2008, took final action to adopt the following amendments to Chapter 30, "Campaign Finance Operations," 3 DCMR §3000, 3001, and 3009; and, Chapter 37, "Investigations," 3 DCMR §3711. No changes have been made to the text of the proposed rules, as published with the Notice of Proposed Rulemaking in the D.C. Register on June 13, 2008, at 55 DCR 6487. These final rules will be effective upon publication of this notice in the Register.

The amendments clarify the regulations as they pertain to exploratory committees in view of the recently enacted "Exploratory Committee Regulation Amendment Act of 2007"; and, to regulate policy of the Office of Campaign Finance (OCF) as explained and detailed in final decisions and interpretative opinions.

The entire division of §3001, "Exploratory, Draft or 'Testing the Waters' Committees," is rewritten to specify that an "exploratory committee" is the only legal vehicle whereby an individual or a group of individuals may examine the feasibility of candidacy in the District of Columbia; and, to establish the concomitant process therefor. A previous section, §3000.9, is amended to delineate that an exploratory committee is not a political committee.

At §3009, "Reports of Initiative, Referendum, Recall and Proposed Charter Amendment Committees," new §3009.4 is added to clarify that if the subject of a committee, which supports or opposes the initiative, referendum, recall, or proposed charter amendment, is not placed on the ballot of the election for which it is scheduled, the committee will be required to submit reports of receipts and expenditures on January 31 and July 31 of each year until the measure is so presented, if at all.

The Schedule of Fines, listed at §3711, is amended to include fines for persons who exceed the expenditure cap of \$40,000 in the constituent services program; who fail to file statements of acceptance of the positions of chairperson and treasurer for committees; and, who violate the prohibitions on the use of District government resources for campaign related activities.

AMEND §3000, "Organization of Political Committees," by deleting current subsection 3000.9, and substituting the following new subsection:

3000.9 Political committees shall not include the following:

- (a) Connected Organization – a corporation, labor or membership organization, cooperative or trade association, or any similar

organization which directly or indirectly establishes, administers or financially supports a political committee; and

- (b) Exploratory Committees – formed solely for the purpose of determining the feasibility of an individual’s candidacy.

AMEND §3001, “Exploratory, Draft or ‘Testing the Waters’ Committees,” by deleting the current section in its entirety, and by substituting the following new section:

3001 EXPLORATORY COMMITTEES

3001.1 Any individual, or group of individuals, who organizes for the purpose of exploring the feasibility of a person’s candidacy for an elective office in the District of Columbia, shall form an exploratory committee.

3001.2 An exploratory committee shall include, but not be limited to, the following:

- (a) Draft Committees; and
- (b) “Testing the Waters” Committees.

3001.3 Each exploratory committee shall include the name of the potential candidate in the name of the committee.

3001.4 Exploratory committee activity to determine whether an individual should become a candidate may include, but not be limited to, the following:

- (a) Polling;
- (b) Travel;
- (c) Telephone calls;
- (d) Media expenses;
- (e) Office space; and
- (f) Administrative costs.

3001.5 Each exploratory committee shall be required to file an informational report, in accordance with §3008.

3001.6 Informational reports shall be filed in accordance with §3017, except that an informational report shall be filed on the following dates:

- (a) January 31st and July 31st; and
- (b) On the last day of each month within the 12 month period of an election for the office which is under consideration by the exploratory committee.

3001.7 Contributions in support of an exploratory committee shall be received or made in accordance with §3011, except that individual and aggregate contributions shall be limited for the following exploratory committees:

- (a) Mayoral - \$2,000 individual and \$200,000 aggregate;
- (b) Chairman of the Council - \$1,500 individual and \$150,000 aggregate;
- (c) At-large member of the Council - \$1,000 individual and \$100,000 aggregate;
- (d) Ward Councilmember or President of the Board of Education - \$500 individual and \$50,000 aggregate; and
- (e) Member of the Board of Education \$200 individual and \$20,000 aggregate.

3001.8 The life of an exploratory committee for any office shall not exceed 18 months.

3001.9 When an exploratory committee reaches 18 months, one of the following acts shall occur:

- (a) The exploratory committee terminates; or
- (b) The named individual of the exploratory committee becomes a candidate.

3001.10 When the named individual of an exploratory committee becomes a candidate, the individual must perform the following:

- (a) File a declaration of candidacy, pursuant to §3002;
- (b) Form a principal campaign committee, pursuant to §3005; and

- (c) Apply all contributions received during the life of the exploratory committee to the campaign contribution limitations for the specific candidate, pursuant to §3011.

3001.11 Any remaining funds of an exploratory committee shall be transferred only to the following:

- (a) An established principal campaign or political committee; or
- (b) A charitable, scientific, literary, or educational organization, or organizations, which meet the requirements of tax laws of the District of Columbia.

3001.12 All contributions and fund balances of any exploratory committee shall not be deemed the personal funds of any individual, including the named individual of the exploratory committee.

AMEND §3009, “Reports of Initiative, Referendum, Recall and Proposed Charter Amendment Committees,” by adding the following new subsection 3009.4, and renumbering current subsections 3009.4-3009.8 as 3009.5-3009.9:

3009.4 For any period prior to the year in which an election is scheduled to be conducted on an initiative, referendum, recall or proposed charter amendment, each committee organized in support or opposition to the measure shall file reports of receipts and expenditures on January 31 and July 31 of each year until the measure is presented to the electorate.

AMEND §3711, “Schedule of Fines,” by adding the following new subsections:

- 3711.2 (hh) Failure to file Statement of Acceptance of Position of Chairperson \$30 per day;
- (ii) Failure to file Statement of Acceptance of Position of Treasurer \$30 per day;
- (jj) Making expenditures in excess of expenditure limitations \$1000;
- (kk) Using District government resources for campaign related activities \$2000;
- (ll) Failure to designate an exploratory committee \$30 per day;
- (mm) Failure to file Informational Report \$50 per day;
- (nn) Accepting contributions in excess of aggregate limitations \$2000.