

PART I
D.C. PERSONNEL REGULATIONS
CHAPTER 3
RESIDENCY
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D.C. PERSONNEL REGULATIONS**300 APPLICABILITY**

300.1 The requirements set forth in this chapter shall apply to any applicant for or any person occupying a position in the Career Service, Legal Service, including the Senior Executive Attorney Service, Excepted Service, Management Supervisory Service, or Executive Service.

301 RESIDENCY PREFERENCE FOR EMPLOYMENT IN THE CAREER, EDUCATIONAL, LEGAL, AND MANAGEMENT SUPERVISORY SERVICES

301.1 A person who applies for competitive employment in the Career Service, Educational Service, Legal Service other than the Senior Executive Attorney Service, or Management Supervisory Service and who is a bona fide resident of the District of Columbia shall be awarded a residency preference of ten (10) points at the rating and ranking stage, unless the person declines the preference points.

301.2 An employee who applies for a competitive promotion in the services listed in Subsection 301.1 who is a bona fide resident of the District of Columbia shall be awarded a residency preference of ten (10) points at the rating and ranking stage, unless the employee declines the preference points.

301.3 When a person is selected for a position and awarded the residency preference points pursuant to this section, the person shall submit proof of bona fide residency.

301.4 Except as provided in Subsection 301.13, an applicant or employee awarded the ten (10) point residency preference and selected for a position in the services listed in Subsection 301.1, shall agree in writing at the time of appointment to maintain bona fide District residency for a period of seven (7) consecutive years from the effective date of appointment.

301.5 The requirement to maintain bona fide District residency as provided in Subsection 301.4 shall be applicable to any applicant or employee who claims a residency preference and is selected for the position on or after February 6, 2008.

301.6 Failure to maintain bona fide District residency as provided in Subsections 301.4 or 301.5 shall result in forfeiture of employment.

301.7 For all competitive employment appointments, the personnel authority shall rank applicants on a one hundred (100) point scale. Applicants entitled to a residency preference shall have their total score increased by an additional ten (10) points at the rating and ranking stage. For example, a residency preference applicant who is scored a one hundred (100) on the one hundred (100) point scale will have a total score of one hundred and ten (110) points.

301.8 To fill a position in any of the services listed in Subsection 301.1 when two (2) or more applicants have the same numerical rating, the applicant awarded the ten (10) point preference shall be listed and selected ahead of the non-preference candidate.

301.9 Each applicant for a position in any of the services listed in Subsection 301.1 shall be informed in

writing by the personnel authority of the provisions of Subsections 301.1 through 301.8.

- 301.10 Each person who is awarded a ten (10) point residency preference and who is competitively selected for a position in any of the services listed in Subsection 301.1 shall be informed, in writing, by the personnel authority, no later than the effective date of the appointment, of the requirement to maintain bona fide District residency for a period of seven (7) consecutive years from the effective date of appointment and that failure to do so shall result in forfeiture of employment.
- 301.11 In order to be a bona fide resident of the District of Columbia, a person must maintain a place of abode in the District of Columbia as his or her actual, regular, and principal place of residence and must have the intent to remain in the District for a minimum of seven (7) consecutive years from the date of appointment.
- 301.12 Any person who meets either of the following criteria shall be granted a residency preference at the rating and ranking stage for a competitive promotion in any of the services listed in Subsection 301.1:
- (a) Any person who was employed by the District of Columbia government on December 31, 1979, and who is still employed by the District of Columbia government without having had a break in service of one (1) workday or more since that date; or
 - (b) Pursuant to the provisions of Section 7 of the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (Pub. L. No. 98-621; 98 Stat. 3376; 24 U.S.C. § 225e (b)) (Pub. L. No. 98-621), any former employee of the U.S. Department of Health and Human Services at St. Elizabeths Hospital who accepted employment with the District government without a break in service effective October 1, 1987, and who has not had a break in service since that date.
- 301.13 Each applicant for appointment or promotion shall be required to indicate at the time of application his or her claim to residency preference in a manner prescribed by the Mayor.

302 RESERVED

303 RESIDENCY PREFERENCE IN REDUCTION IN FORCE

- 303.1 Preference shall be given in a reduction in force conducted pursuant to Chapter 24 of these regulations by adding three (3) years of service credit to the service computation date of all of the following:
- (a) Each competing employee who is a bona fide resident of the District of Columbia;
 - (b) Each competing employee who is not a resident of the District of Columbia, but who was hired prior to January 1, 1980 and has continued employment without a break in service of one (1) workday or more since that date; and

- (c) Each competing employee who is not a resident of the District of Columbia, but who was a former employee of the U.S. Department of Health & Human Services at St. Elizabeths Hospital who accepted employment with the District government without a break in service effective October 1, 1987, and who has continued employment without a break in service of one (1) workday or more since that date.

303.2 When the provisions of this section conflict with the provisions of an effective collective bargaining agreement, the provisions of the collective bargaining agreement shall govern to the extent that there is a conflict.

304 SENIOR EXECUTIVE ATTORNEY SERVICE RESIDENCY REQUIREMENT

304.1 Any attorney appointed to the Senior Executive Attorney Service (SEAS) under the authority of D.C. Official Code §§ 1-608.51 *et seq.* (2012 Repl.) shall:

- (a) Be a bona fide resident of the District of Columbia at the time of appointment and remain a District resident for the duration of employment; or
- (b) Become a bona fide resident of the District of Columbia within one-hundred eighty (180) days of his or her appointment and remain a District resident for the duration of employment.

304.2 Each person appointed to the SEAS shall be informed in writing by the personnel authority of the residency provisions of Subsections 304.1 and 304.4 before the effective date of appointment.

304.3 On the date of appointment, each person appointed to the SEAS shall be informed in writing by the personnel authority of the residency provisions of Subsections 304.1 and 304.4.

304.4 Failure to meet the residency requirement set forth in Subsection 304.1 shall result in forfeiture of employment.

304.5 The residency requirement set forth in this section shall not apply to any person appointed to the SEAS who meets either of the following criteria:

- (a) Any person who was employed by the District of Columbia government on December 31, 1979, and who is still employed by the District of Columbia government without having had a break in service of one (1) workday or more since that date; or
- (b) Pursuant to the provisions of Section 7 of Pub. L. 98-621, any former employee of the U.S. Department of Health and Human services at St. Elizabeths Hospital who accepted employment with the District government without a break in service effective October 1, 1987, and who has not had a break in service since that date.

304.6 Upon request, the Director of the D.C. Department of Human Resources (Director of DCHR), may waive the residency requirement for a new hire appointed to a hard to fill position in the SEAS, as follows:

- (a) The Attorney General in the case of the OAG and any independent personnel authority subject to D.C. Official Code §§ 1-608.51 *et seq.* (2012 Repl.), may request a waiver of

the residency requirement to the Director of DCHR, for a new hire appointed to a hard to fill position in the SEAS.

- (b) For the purposes of this section, the term “hard to fill position” shall have the meaning ascribed in Section 399 of this chapter, except that a SEAS position shall be designated as hard to fill only by the Director of DCHR.
- (c) Any request for a waiver shall be in writing, made and granted before the effective date of appointment of the candidate for the waiver.
- (d) Any request for a waiver shall include appropriate documentation and information to demonstrate that the position is hard to fill and justify consideration of the request. Appropriate documentation and information demonstrating that the position is hard to fill shall include but not be limited to:
 - (1) A statement containing the qualification requirements for the position, and explaining the uniqueness of the duties and responsibilities of the position and the unusual combination of highly specialized qualification requirements which make it hard to fill;
 - (2) A copy of the position description or statement of duties for the position;
 - (3) A copy of the recruitment plan for the position or a statement explaining the recruitment plan;
 - (4) Copies of any vacancy announcements or other types of advertisement issued and published for the position;
 - (5) A statement detailing any special outreach and recruitment efforts undertaken in trying to fill the position and the date on which recruitment efforts to fill the position began;
 - (6) The employment application or résumé of the person for which the waiver is being requested; and
 - (7) A statement explaining the reasons why the waiver should be granted.

304.7 Upon receipt of a request for a waiver pursuant to this section, the Director of DCHR, shall promptly determine whether to grant the waiver and notify the requestor of the decision, in writing.

304.8 Any employee occupying a position in the SEAS for which a waiver of the residency requirement has been granted pursuant to Subsection 304.6 shall be exempt from the residency requirement for as long as he or she continues to occupy that position.

305 EXCEPTED SERVICE AND EXECUTIVE SERVICE DOMICILE REQUIREMENT

- 305.1 Except as provided in Subsections 305.8 and 305.9, any person who is appointed to a position in the Excepted Service, or the Executive Service on or after October 1, 2002 shall meet one (1) of the following criteria:
- (a) Be a domiciliary of the District of Columbia at the time of appointment and maintain such domicile for the duration of his or her employment; or
 - (b) Become a domiciliary of the District of Columbia within one-hundred eighty (180) days of the date of his or her appointment and maintain such domicile for the duration of his or her employment.
- 305.2 Failure to meet the domicile requirement set forth in Subsection 305.1 shall result in forfeiture of employment.
- 305.3 Notwithstanding the provisions of Subsections 305.1 and 305.2, a person nominated to serve in an acting or interim capacity in an Executive Service position or appointed to an Excepted Service position requiring confirmation by the Council of the District of Columbia (Council) shall not become subject to the domicile requirement until after confirmation by the Council and promulgation of a Mayor's Order or a personnel action appointing him or her to the position. Specifically, such person shall become a domiciliary of the District of Columbia within one-hundred eighty (180) days from the date specified in the Mayor's Order as the date of appointment, or from the effective date of the personnel action processed after Council confirmation to appoint him or her to the position, whichever occurs first. The personnel authority shall inform each employee to whom this subsection applies, in writing, of the exact date by which he or she shall meet the domicile requirement.
- 305.4 Except as provided in Subsections 305.7 and 305.8, any employee in the Excepted or Executive Service who was hired prior to October 1, 2002, and who was required to be or become a bona fide resident of the District of Columbia within one-hundred eighty (180) days of appointment and maintain that residency or forfeit employment, shall continue to be bound by the residency requirement that was in effect before October 1, 2002.
- 305.5 Each appointee to a position in the Excepted or Executive Service shall be informed in writing by the personnel authority of the provisions of Subsections 305.1 and 305.2 before the effective date of appointment.
- 305.6 District of Columbia domicile shall be proven by affirmative acts by an Excepted and Executive Service employee who is not a District domiciliary at the time of appointment. Proof of District of Columbia domicile shall be established and certified by meeting the requirements in Subsections 306.4 and 306.6.
- 305.7 The domicile requirement shall not apply to any person who meets either of the following criteria:
- (a) Any person who was employed by the District of Columbia government on December 31, 1979, and who is still employed by the District of Columbia government without having had a break in service of one (1) workday or more since that date; or

- (b) Pursuant to the provisions of Section 7 of P.L. 98-621, any former employee of the U.S. Department of Health and Human Services at St. Elizabeths Hospital who accepted employment with the District government without a break in service effective October 1, 1987, and who has not had a break in service since that date.

305.8

The personnel authority may grant a waiver of the domicile requirement to a person appointed to a position in the Excepted Service on or after October 1, 2002 under the authority of Section 903 (a)(1) and (2) of the Comprehensive Merit Personnel Act (CMPA)(D.C. Official Code § 1-609.03 (a)(1) and (2)) (2012 Repl.), who is appointed to a hard-to-fill position or presents exceptional circumstances. The Mayor (or designee) may grant a waiver of the domicile requirement to a person appointed to a position in the Executive Service on or after October 1, 2002 under the authority of Title X-A of the CMPA (D.C. Official Code §§ 1-610.51 *et seq.* (2012 Repl.)), who is appointed to a hard-to-fill position or presents exceptional circumstances. The provisions for the granting of waivers of the domicile requirement are as follows:

- (a) In the case of a hard-to-fill position in the Excepted Service, an agency head may request a waiver of the domicile requirement for the appointee to the position by submitting written justification to the personnel authority that the position is hard-to-fill. The request shall include appropriate documentation and information to demonstrate that the position is hard-to-fill and justify consideration of the request for the waiver. Appropriate documentation and information shall include:
 - (1) A statement containing the qualification requirements for the position and explaining the uniqueness of the duties and responsibilities of the position and the unusual combination of highly specialized qualification requirements which make it hard-to-fill;
 - (2) A copy of the position description or statement of duties for the position;
 - (3) A copy of the recruitment plan for the position or a statement explaining the recruitment plan;
 - (4) Copies of any vacancy announcements or other types of advertisement issued and published for the position;
 - (5) A statement detailing any special outreach and recruitment efforts undertaken in trying to fill the position and the date on which recruitment efforts to fill the position began;
 - (6) The employment application or résumé of the person for which the waiver is being requested; and
 - (7) A statement setting forth the reasons that the waiver should be granted.
- (b) Financial hardship associated with becoming a domiciliary of the District of Columbia shall not be considered as a basis for designating a position as hard-to-fill for the purpose of granting a waiver of the domicile requirement.

- (c) Upon receiving a request for a waiver of the domicile requirement for an appointee to a position in the Excepted Service deemed as hard-to-fill by the agency making the request, the personnel authority shall promptly consider the factors enumerated in Subsections 305.9(a)(1) through (7) and 305.9(b), and any other applicable factors; determine if the position shall be designated as hard-to-fill and the waiver granted to the person appointed to the position; and notify the agency of the decision.
- (d) In designating an Executive Service position as hard-to-fill and granting a waiver of the domicile requirement to the appointee to the position in question, the Mayor (or his or her designee) shall consider the factors enumerated in Subsections 305.9(a)(1) through (7), 305.9(b), and any other factors he or she deems applicable.
- (e) Any waiver of the domicile requirement granted based on the designation of a position as hard-to-fill for that purpose shall remain in effect only for as long as the employee occupies the position for which the waiver was granted.
- (f) A determination to grant a waiver of the domicile requirement due to exceptional circumstances shall be based on personal circumstances of the appointee to the position, or a member of his or her immediate family, of such a nature that would cause extreme hardship to the person if he or she were required to become a domiciliary of the District of Columbia. Financial hardship associated with becoming a domiciliary of the District of Columbia shall not be considered as a personal circumstance for which a waiver should be granted. The determining factor for consideration by the personnel authority authorized to grant a waiver due to exceptional circumstances should be that the particular circumstances of the appointee, combined with his or her qualifications for the position and the benefit to the District government, outweigh the need to require that the person become a domiciliary of the District of Columbia.
- (g) When considering the appointment of a non-District domiciliary who is deemed as presenting exceptional circumstances to a position in the Excepted Service, the agency head (or designee) shall submit a request for a waiver of the domicile requirement for the appointee to the personnel authority, in writing, before the effective date of the appointment. The request shall include appropriate documentation and information to substantiate the claim that the appointee to the position presents exceptional circumstances that may warrant the granting of a waiver of the domicile requirement.
- (h) Upon receiving a request for a waiver of the domicile requirement for an appointee to a position in the Excepted Service due to exceptional circumstances, the personnel authority shall promptly consider the documentation and information submitted by the agency; determine if the waiver should be granted; and notify the agency of the decision.
- (i) A waiver of the domicile requirement due to exceptional circumstances granted by the Mayor (or his or her designee) to an appointee to an Executive Service position shall be based on the criteria specified in Subsection 305.9(f).
- (j) Any waiver of the domicile requirement granted due to exceptional circumstances shall remain in effect only for as long as the employee occupies the position for which the waiver was granted.

305.9 Under no circumstance shall a waiver of the domicile requirement pursuant to Subsection 305.8, regardless of the basis for the request, be granted after the effective date of appointment of the person for whom the waiver is sought. In the case of an appointee to the Executive Service, the term “effective date of appointment” means the date the person is appointed in an acting capacity.

305.10 A waiver of the residency requirement granted to an Excepted Service employee before October 1, 2002 shall remain in effect for as long as the employee occupies the position for which the waiver of the residency requirement was granted.

306 PROOFS, CERTIFICATION, AND DOCUMENTATION OF DISTRICT RESIDENCY

306.1 The provisions of this section apply to any person required to submit proof of bona fide District residency or, in the case of persons appointed to the Excepted and Executive Services on or after October 1, 2002, proof of District of Columbia domicile.

306.2 Documentation, certification, and affidavits required shall be in a form prescribed by the personnel authority.

306.3 No single document is conclusive in order to determine bona fide residency; however, the following may be considered:

- (a) Voter registration, if any;
- (b) Motor vehicle registration, if any;
- (c) Motor vehicle driver permit, if any;
- (d) Withholding and payment of individual income taxes including:
 - (1) Copies of District of Columbia tax returns certified by the D.C. Office of Tax and Revenue; and
 - (2) Copies of certified federal tax returns filed with the U.S. Internal Revenue Service;
- (e) Certified deed or lease or rental agreement for real property;
- (f) Cancelled checks or receipts for mortgage or rental payments;
- (g) Utility bills and payment receipts;
- (h) A copy of a bank account statement in the District of Columbia in the name of the employee;
- (i) Copies of credit card or brokerage account statements mailed to the employee’s principal place of residence in the District of Columbia; and

- (j) Copies of automobile insurance statements for the employee based upon the employee's principal place of residence in the District of Columbia.

306.4 When a person is required to submit documents to support a claim of bona fide District residency, no less than eight (8) of the documents set forth in Subsection 306.3 shall be submitted to the personnel authority.

306.5 For each Excepted or Executive Service appointee subject to the domicile requirement pursuant to Section 305 of this chapter, proof of District domicile or of the intent of the appointee to change his or her domicile to the District of Columbia and acquire a principal place of residence in the District of Columbia shall include the following documents in addition to a minimum of four (4) of the documents set forth in Subsection 306.3:

- (a) A copy of a change of address form filed with the United States Postal Service containing the address of the employee's principal place of residence in the District of Columbia;
- (b) A copy of an executed contract of sale for the real property that was the employee's principal place of residence at the time of accepting the employment, if the employee owns a principal place of residence outside of the District of Columbia; or a copy of a change in the public records of the state where the employee was domiciled to show that the residence outside of the District of Columbia is no longer the employee's principal place of residence;
- (c) Copies of utility bills, including electric, gas, telephone, cable, water or other residency bills associated with occupying real property in the District of Columbia, where the billing and mailing address are the same as the principal place of residence;
- (d) A copy of a bank account statement in the District of Columbia in the name of the employee;
- (e) A copy of District of Columbia and federal income tax returns that use the District of Columbia address which is the employee's principal place of residence;
- (f) Copies of professional dues statements mailed to the employee's principal place of residence in the District of Columbia;
- (g) A sworn affidavit from the employee that the administration of the employee's estate is subject to District of Columbia probate and estate taxes;
- (h) Copies of credit card or brokerage account statements mailed to the employee's principal place of residence in the District of Columbia;
- (i) Copies of automobile, health, and life insurance contracts for the employee based upon the employee's principal place of residence in the District of Columbia;
- (j) Copies of mortgage statements for the employee's principal place of residence in the District of Columbia, or an executed lease for the employee's principal place of residence in the District of Columbia; and

- (k) A sworn affidavit from the employee that the employee's income, from any source, is subject to District of Columbia withholding tax and taxation.
- 306.6 An Excepted or Executive Service employee subject to the domicile requirement shall fulfill the requirements of Subsection 306.5 by filing a sworn affidavit with the personnel authority that affirms that the employee has undertaken affirmative acts to comply with each requirement, and when the requirement is not applicable, the reasons why the requirement does not apply.
- 306.7 A person who claims a residency preference as provided in Subsections 301.1 or 301.2 and who is selected for the position shall, on or before the effective date of appointment or promotion, sign a statement that certifies the following:
- (a) That the person has received written notification of the residency preference requirement;
 - (b) That the person has read the notice, has been given an opportunity to ask questions about the residency preference requirement, and understands the residency preference requirement;
 - (c) That the person understands that failure to maintain bona fide residency in the District of Columbia for a period of seven (7) consecutive years from the effective date of appointment will result in forfeiture of the position; and
 - (d) That the place of residence stated in the certification is the person's actual, regular, and principal place of residence.
- 306.8 A person who is appointed to a position in the Excepted or Executive Services on or after October 1, 2002 and who claims that he or she is a District domiciliary shall sign a statement on or before the effective date of appointment to the position, whether it is an initial appointment or other appointment, which certifies the following:
- (a) That the person has received written notification of the domicile requirement;
 - (b) That the person has read the notice, has been given an opportunity to ask questions about the domicile requirement, and understands the domicile requirement;
 - (c) That the person understands that failure to remain a District domiciliary for the duration of employment shall result in forfeiture of the position; and
 - (d) That the place of residence stated in the certification is the person's domicile.
- 306.9 Unless exempted pursuant to Subsections 305.7 and 305.8, each Excepted or Executive Service appointee or employee who is not a domiciliary of the District of Columbia on the date of appointment to a position, whether it is an initial appointment or other appointment, shall sign a statement when appointed, which certifies the following:
- (a) That the person has received written notification of the domicile requirement;
 - (b) That the person has read the notice, has been given an opportunity to ask questions about the domicile requirement, and understands the domicile requirement;

- (c) That the person intends to become a domiciliary of the District of Columbia within one-hundred eighty (180) days of the date of appointment;
- (d) That the person understands that failure to become a domiciliary of the District of Columbia within one-hundred eighty (180) days from the date of appointment shall result in forfeiture of the position; and
- (e) That the person understands that failure to remain a District domiciliary for the duration of employment shall result in forfeiture of the position.

306.10 Each Excepted or Executive Service appointee subject to the requirements of Subsection 305.1 who is not a domiciliary of the District of Columbia on the date of appointment shall provide to the personnel authority, within one-hundred eighty (180) days of the date of appointment, sufficient documentation, as provided in Subsections 306.3, 306.5 and 306.6, which demonstrates that he or she has become a domiciliary of the District of Columbia.

306.11 Each agency head or independent personnel authority shall designate an agency representative to fulfill the requirements specified in Subsections 306.12, 306.13, 307, and 309.

306.12 Between November 1 and November 30 of each year after the first year of employment, up to the end of the required period of bona fide District residency or District domicile, each employee required to be a bona fide resident or District domiciliary shall submit to the agency representative an affidavit which certifies at least the following:

- (a) That he or she is currently, and has been continuously for the preceding twelve (12) month period, in compliance with the provisions of the residency or domicile requirements, as applicable;
- (b) The home address(es) for the preceding twelve (12) month period;
- (c) The address used on the individual income tax return filed with the District of Columbia during the preceding twelve (12) month period; and
- (d) The address used on the individual income tax return filed with the United States Internal Revenue Service during the preceding twelve (12) month period.

306.13 The agency representative, at a time he or she shall determine, but within one (1) year following the date on which the employee became subject to the residency or domicile requirements, shall request, and the employee shall provide, sufficient documentation to demonstrate that the employee is in compliance.

307 RESIDENCY DETERMINATION HEARINGS

- 307.1 (a) Whenever the personnel authority has reasonable cause to believe that an employee of an agency subject to its personnel authority is not in compliance with the residency or domicile requirements, the personnel authority shall issue to the employee a written notice to show cause why his or her employment should not be forfeited.
- (b) Whenever an agency head has reasonable cause to believe that an employee of the agency is not in compliance with the residency or domicile requirements, the agency head shall

notify the personnel authority, and request that the personnel authority issue to the employee a written notice to show cause why his or her employment should not be forfeited.

- 307.2 The personnel authority shall issue the notice to show cause why employment should not be forfeited only during the period of time that the employee is required to maintain bona fide District residency or be a District domiciliary.
- 307.3 The personnel authority shall designate a hearing officer or officers to conduct residency determination hearings.
- 307.4 The standard of proof in a residency or domicile determination case shall be by a preponderance of the evidence.
- 307.5 The agency representative bears the burden of proof and persuasion concerning the employee's alleged non-compliance with the residency or domicile requirement.
- 307.6 If the hearing officer determines, after a record review, that the agency representative has established by a preponderance of the evidence that the employee is not in compliance with the residency or domicile requirements, the burden of proof shall shift to the respondent employee.
- 307.7 The respondent employee shall have an opportunity to rebut the evidence presented by the agency representative, cross-examine any witness called by the agency, and by present evidence that demonstrates compliance with the residency or domicile requirements.
- 307.8 The respondent employee may be represented at any evidentiary hearing by counsel if he or she so chooses.
- 307.9 The agency representative shall have an opportunity to cross-examine any witness called by the respondent employee, and any witness who testifies on behalf of the respondent employee, including the respondent employee.
- 307.11 After any evidentiary hearing, the hearing officer shall issue a proposed written determination on the residency status of the respondent employee within a reasonable period of time and shall serve a copy of the proposed determination on the agency representative and on the respondent employee.
- 307.12 The employee shall have a period of ten (10) days from the receipt of the proposed determination to file written exceptions with the hearing officer and serve a true copy to the agency in response to a proposed determination of noncompliance with the residency or domicile requirements.
- 307.13 Upon review of the record, including any timely filed pleadings, the hearing officer shall order an evidentiary hearing or issue a proposed final decision on compliance with the residency or domicile requirements.
- 307.14 The personnel authority shall issue a written final decision on the issue of compliance with the residency or domicile requirement to the employee, the agency representative, and the agency head.

307.15 A final decision by the personnel authority of noncompliance with the residency domicile requirements shall result in forfeiture of employment by the employee.

307.16 The Director of DCHR shall notify a subordinate agency head, and the Mayor, when there is reasonable cause to believe that a subordinate agency head is not in compliance with the residency or domicile requirements, as applicable. Upon notification, the Mayor shall determine the appropriate course of action to be taken.

308 RESERVED

309 REPORTING REQUIREMENTS

309.1 By November 1 of each year, each personnel authority shall submit to DCHR a listing of employees which shall include the name, social security number, and employing agency of each employee subject to the residency or domicile requirements who was appointed prior to January 1 of the current year.

309.2 Each personnel authority shall obtain permission from employees identified in Subsection 309.1 for the personnel authority to request tax returns from the Office of Tax and Revenue.

309.3 The DCHR, on a date specified by the Director of DCHR, shall request from the Office of Tax and Revenue the filing status and mailing address used on the individual income tax return filed in that calendar year for each employee identified pursuant to Subsection 309.1.

309.4 Agencies of the District of Columbia government having regulatory or administrative authority relating to any factor that may be used in making a determination of bona fide residency or District of Columbia domicile shall provide the agency representative with information that may be requested. Information requested and released under this section shall be in accord with applicable statutory privacy restrictions.

309.5 The Mayor shall integrate into each subordinate agency's annual performance objectives the rate of success in hiring District of Columbia residents. Audit reports of the residency preference shall be submitted annually to the Council. Audit reports shall be submitted annually to the Council.

399 DEFINITIONS

399.1 When used in this chapter, the following meanings apply:

Agency – the meaning set forth in D.C. Official Code § 1-603.01(1) (2012 Repl.), but including boards and commissions as described in D.C. Official Code § 1-603.01(2) (2012 Repl.), and excluding the courts.

Agency head – the highest ranking executive official of an agency.

Agency representative – any person(s) designated by the agency head to receive and review factors and documents, conduct investigations, and represent the agency at residency preference or District of Columbia domicile determination hearings.

Assembled examining procedure – a computerized or multiple-choice written examination or test which may include a typing or data-entry skills test.

Bona fide resident – any person who maintains a place of abode in the District of Columbia as his or her actual, regular, and principal place of residence.

Claim – completion of *Form DC-2000RP, Residency Preference for Employment*, by a bona fide District resident at the time of application for competitive employment or competitive promotion who agrees in writing that, if selected, he or she will maintain bona fide District residency for seven (7) consecutive years from the date of appointment or promotion.

Competitive promotion – the change of an employee to a position at a higher grade or class level within the same job classification system and pay schedule, or to a position with a higher representative rate in a different job classification system and pay schedule, as a result of open competitive procedures.

Counsel – an attorney at law who may be chosen by an employee to represent the employee in a residency or District of Columbia domicile determination adjudication.

Days – calendar days, unless otherwise stated. In computing a period of time prescribed by these regulations, the day of the action or event triggering the count is not included in the computation. The last day of the period shall not be a Saturday, Sunday, or legal holiday, but shall be the end of the next day which is not a Saturday, Sunday, or legal holiday.

District domicile – physical presence in the District of Columbia; and an intent to abandon any and all former domiciles and remain in the District of Columbia for the duration of an Excepted or Executive Services appointment.

Exceptional circumstances – conditions or facts that are uncommon, deviate from or do not conform to the norm, or are beyond willful control, which are presented to the personnel authority by an agency head or the Mayor, when hiring an individual to fill a position in the Excepted or Executive Services, and which shall be considered by the personnel authority in determining the reasonableness of granting a waiver of the domicile requirement to that individual.

Forfeiture – the loss of employment as a result of the failure of the employee to comply with the provisions of the residency preference or domicile requirements.

Hard to fill position – a position so designated by the personnel authority on the basis of demonstrated recruitment and retention problems inherent in the position due to the uniqueness of the duties and responsibilities and the unusual combination of highly specialized qualification requirements for the position.

Immediate family – a person who is related to the appointee to a position in the Excepted Service pursuant to Sections 903(a)(1) and (2) of the Comprehensive Merit Personnel Act (CMPA) (D.C. Official Code §§ 1-609.03 (a)(1) and (2)) (2012 Supp.) or the Executive Service as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-

in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

Mayor – the Mayor of the District of Columbia or his or her designee.

Personnel authority—an individual or entity authorized by D.C. Official Code § 1-604.06 (2012 Repl.) to implement personnel rules and regulations for employees of an agency or group of agencies of the District of Columbia; or persons delegated that authority by that individual or entity.

Preponderance of evidence – that which is more convincing to the mind—more likely than not. That amount (weight) of evidence which convinces as to its truthfulness.

Reasonable cause – that composite of facts from which a reasonably prudent person might determine that an employee is not in compliance with the residency preference or domicile requirements.

Subordinate agency – any agency under the direct administrative control of the Mayor, including, but not limited to, the agencies listed in Section 301(q) of the CMPA (D.C. Official Code § 1-603.01(17) (2012 Repl.)).

Unassembled examining procedure – an examination that does not require a written test.

D.C. Register Updates for Chapter 3 of the D.C. Personnel Regulations,
Residency

The following *D.C. Register* citations identify when a given section(s) of Chapter 3, Residency, of Title 6 of the District of Columbia Municipal Regulations, was amended. Following the publication in the *D.C. Register* of subsequent final rulemaking notices, this Addendum will be updated accordingly.

For the convenience of Electronic-District Personnel Manual (E-DPM) readers, the Addendum identifies amendments on a section-by-section basis; identifies the page(s) in a DPM Transmittal impacted by the amendment(s); and provides brief comments on the amendment(s) accomplished.

<i>D.C. Register</i> Date	Section(s)	Change(s) Reflected on Page(s)	Comments
37 DCR 851 (1/26/90)	Sections 300 through 307; and 399	Entire chapter (DPM Transmittal No. 16)	The regulations in Chapter 3 (issued with Transmittal No. 5) were superseded by notices of final rulemaking published on January 26, 1990 (37 DCR 851) and June 22, 1990 (37 DCR 4117) issued via DPM Transmittal No. 16.
37 DCR 4117 (6/22/90)	Section 301	Entire chapter (DPM Transmittal No. 16)	The regulations in Chapter 3 (issued with DPM Transmittal No. 5) were superseded by notices of final rulemaking published on January 26, 1990 (37 DCR 851) and June 22, 1990 (37 DCR 4117) issued via DPM Transmittal No. 16.
40 DCR 2485 (4/16/93)	Sections 302 and 304	Pages 2, 3, 4 (DPM Transmittal No. 35)	The rules amended the provisions concerning the crediting of residency preference for attorneys in the Excepted Service; and changed the heading of section 304 to "Excepted and Executive Service Residency Requirement, Excluding Excepted Service Attorneys Appointed Under the Authority of D.C. Code § 1-610.9."
47 DCR 2416 (4/7/00)	Sections 301, 303, 304, 305, and 399	Throughout the chapter (DPM Transmittal No. 53)	The rules authorized the waiver of the residency requirement for certain hard-to-fill positions in the Excepted Service, implemented waiver provisions for the Office of the Inspector General, incorporated the reduction in force service credit for residency, and made additional conforming amendments.
50 DCR 6993 (8/22/03)	Sections 300 through 307; and 399	Entire chapter (DPM Transmittal No. 103)	The rules were amended to implement the provisions of the D.C. Law 14-185, the Excepted and Executive Service Domicile Requirement Amendment Act of 2002, effective October 1, 2002 and section 43 of the Technical Amendments Act of 2002, effective

CHAPTER 3 – RESIDENCY

			October 19, 2002.
51 DCR 9309 (10/1/04)	Sections 305.9 (a) through (j); and 305.10 and 307.18	Pages 7 through 9; and 15 (DPM Transmittal No. 118)	The main changes included a revision to section 305.9 to state more clearly that the Mayor is the official authorized to grant waivers of the domicile requirement to Executive Service appointees, and to provide that financial hardship associated with becoming a domiciliary of the District of Columbia shall not be considered as a basis for granting waivers of the domicile requirement, and the establishment of criteria for granting waivers of the domicile requirement due to exceptional circumstances; as well as amendments to sections 305.10 and 307.18.
52 DCR 2069 (3/4/05)	Section 308	Pages 15 (DPM Transmittal No. 129)	Rescission of section 308, Metropolitan Police and Fire and Emergency Medical Services Departments. The reason for the rescission is that the Omnibus Public Safety Agency Reform Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-194), repealed D.C. Official Code § 5-105.08, and the second sentence of D.C. Official Code § 5-410 (2001). The repealed sections: (1) prescribed the area within which uniformed members of the MPD or the FEMSD may reside as the “Washington, District of Columbia, Metropolitan District;” (2) specified that any uniformed member of the MPD or FEMSD living outside of the District of Columbia was required to have and maintain a telephone at all times in his or her residence; and (3) provided that the Chiefs of the MPD and the FEMSD could waive these provisions.
55 DCR 6259 (5/30/08)	Section 307.1	Page 13 (DPM Transmittal No. 167)	Amended the provisions in the concerning residency compliance determination hearings. Section 307.1 was amended to grant the authority to initiate residency investigations to the personnel authority instead of agency heads.
56 DCR 003667 (5/8/09)	Sections 301, 302, 304, 305, 306, 307, and 309	Throughout the chapter (E-DPM Transmittal 186)	The main purpose of these rules is to amend sections 301, 302, 306, and 309 of the chapter to implement the provisions of D.C. Law 17-108, the Jobs for D.C. Residents Amendment Act of 2007, effective February 6, 2008.

62 DCR 011889 (08/28/15)	Sections 301, 302, 309, and 307	Throughout the chapter (E- DPM Transmittal 222	The main purpose of these rules are to amend these rules to incorporate language relating to the implementation of the DCHR's Applicant Tracking System; delete the provisions on the residency preference for attorneys in the Excepted Service; clarifying the submission of employee information to the Office of Tax and Revenue; delete the requirement to hold a prehearing conference prior to an evidentiary residency hearing and update the rules for a more consistent and transparent process.
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