

**BOARD OF TRUSTEES  
UNIVERSITY OF THE DISTRICT OF COLUMBIA  
UDC RESOLUTION NO. 2017 –**

**SUBJECT: NOTICE OF FINAL RULEMAKING MODIFICATIONS TO THE  
UNIVERSITY OF THE DISTRICT OF COLUMBIA’S PROBATIONARY  
PERIOD**

**WHEREAS**, The Board of Trustees (the “Board”) of the University of the District of Columbia (the “University”) pursuant to the authority set forth under the District of Columbia Public Postsecondary Education Reorganization Act Amendments (Act) effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code §§ 38-1202.01(a); 38-1202.06 (2001 & 2011 Supp.)), and under the District of Columbia Merit Personnel Act of 1978 (D.C. Law 2-139; D.C. Official Code, §1-601.1 et seq.), has the authority to adopt, prescribe, and enforce rules and regulations it considers necessary for the governance and administration of the University; and

**WHEREAS**, the Board seeks to amend the Probationary Period set forth in Title 8B of the District of Columbia Municipal Regulations (DCMR), at Chapter 1110, to clarify that the provisions do not apply to the faculty, employees with temporary or time-limited appointments, or University Administration; and

**WHEREAS**, the Board seeks to clarify the provisions of the University’s Performance Management Program that will apply to probationary employees;

**WHEREAS**, the substance of the proposed rule enacted herein was published on October 20, 2017 at 64 DCR 010560 for a thirty-day public comment period in accordance with D.C. Official Code § 2-505(a); and no public comment was received during the public comment period; and

**WHEREAS**, pursuant to 8B D.C.M.R. §128.4, where no comments are received, the Chairperson of the committee may forward the rules for final adoption without committee action;

**NOW, THEREFORE BE IT RESOLVED**, that the Board hereby takes final rulemaking action to amend Title 8B of the DCMR, Chapter 1110, as described above and adopts the Notice of Final Rulemaking attached and incorporated hereto as Exhibit A; and

**BE IT FURTHER RESOLVED**, that the Board hereby approves the President’s delegation of authority to the Vice President of Human Resources to waive such probationary period as indicated in the Notice of Final Rulemaking attached hereto as Exhibit A; and

**BE IT FURTHER RESOLVED** that the Rules enacted herein shall take effect upon publication in the D.C. Register and that all prior inconsistent resolutions, customs, procedures, and practices are hereby repealed.

Approved by the Board of Trustees:

November 28, 2017

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Christopher Bell  
Chairperson of the Board

## EXHIBIT A

### NOTICE OF FINAL RULEMAKING

The Board of Trustees of the University of the District of Columbia pursuant to the authority set forth under the District of Columbia Public Postsecondary Education Reorganization Act Amendments (Act) effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code §§ 38-1202.01(a); 38-1202.06)(3),(13) (2001 & 2011 Supp.) hereby amends chapter 11 (General Personnel Policies) of subtitle B (University of the District of Columbia) of title 8 (Higher Education) of the District of Columbia Municipal Regulations (DCMR) as follows, effective upon publication of this Notice in the D.C. Register.

The purpose of the proposed rule is to amend the University's Probationary Period to clarify that the provisions do not apply to the faculty, employees with temporary or time-limited appointments, or University Administration; and to clarify the rules governing probationary periods.

The substance of the proposed rule enacted herein was published on October 20, 2017 at 64 DCR 010560 for a thirty-day public comment period in accordance with D.C. Official Code § 2-505(a). No public comment was received during the public comment period. The rule was adopted by the Board as final on November 28, 2017, and will become effective upon publication of this notice in the *D.C. Register*.

**Chapter 11, GENERAL PERSONNEL POLICIES, of subtitle B, UNIVERSITY OF THE DISTRICT OF COLUMBIA, of title 8, HIGHER EDUCATION, is amended as follows:**

**Section 1110, PROBATIONARY PERIOD, is amended as follows:**

**1110            PROBATIONARY PERIOD**

1110.1            The purpose of this chapter is to set forth rules that apply to the University's career, educational and legal service employees who are required to serve a one (1) year probationary period upon appointment to any position within the University.

1110.2            The provisions of this chapter apply to all University employees except as follows:  
(a) Faculty;  
(b) Employees with a temporary or time-limited appointment; and  
(c) The University Administration (President's Cabinet)

- 1110.3 Upon request by the appropriate University Administrator, the Vice President of Human Resources, or a designee, may waive the probationary period for any person who has previously completed a probationary period in the field or specialty for which that person is being hired at the University. The waiver must be in writing and signed by the Vice President of Human Resources.
- 1110.4 The probationary period will be used to evaluate the performance of the employee and determine whether the employee is suited for successful job performance. The supervisor will provide appropriate instruction for the employee to function satisfactorily.
- 1110.5 An employee serving a probationary period shall not be subject to the provisions of the University's performance management system. However, a performance plan shall be provided to the probationary employee and their performance shall be evaluated against the standards set forth in that plan.
- 1110.6 At least one progress discussion should occur for probationary employees. The outcome of any such progress discussion will not preclude termination of the probationary employee's appointment during the probationary period. Likewise, an acceptable performance rating during the probationary period in and of itself does not ensure automatic passing of the probationary period or automatic movement to a regular appointment.
- 1110.7 The University shall terminate a probationary employee if, at any point during the probationary period, the employee's work performance or conduct fails to demonstrate suitability for continued employment.
- 1110.8 Neither a progress discussion nor an annual performance evaluation is grievable or appealable by a probationary employee.
- 1110.9 If an employee serves under a temporary or part-time appointment in the same position for twelve (12) consecutive months or longer, and is subsequently assigned regular full-time status in that position, he or she should be deemed to have fulfilled the requirement to serve a probationary period.

**TO:** Jerome Shelton  
Chairperson, Operations Committee

**FROM:** Karen M. Hardwick, General Counsel  
Alonzo Chisolm, Assistant General Counsel

**SUBJECT:** Notice of Final Rulemaking – Probationary Period

**DATE:** November 20, 2017

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On September 19, 2017, the Board of Trustees approved a Notice of Proposed Rulemaking (NPRM) to amend the University's Probationary Period to clarify that the provisions do not apply to the faculty, employees with temporary or time-limited appointments, or University Administration. The Notice of Proposed Rulemaking was published in the D.C. Register on October 20, 2017 for a thirty (30) day comment period. The public comment period has lapsed, and no comments have been submitted during the period pursuant to the instructions printed in the Notice.

The Notice of Proposed Rulemaking was initially adopted and forwarded for consideration by the Operations Committee. Pursuant to 8 D.C.M.R. §128.4, if no public comments are received on a Notice of Proposed Rulemaking, “the chairperson of the Board committee may forward the rules to the Board for final adoption without a meeting of or action by the committee.” Accordingly, we are requesting that you, as Chairperson of the Operations Committee, forward the referenced rulemaking action to the full Board of Trustees for its further consideration and final rulemaking action at the Board Meeting on November 28, 2017. Please contact us if we can be of further assistance.



## FISCAL IMPACT STATEMENT

**TO:** The Board of Trustees  
**FROM:** Managing Director of Finance *David L. Franklin*  
**DATE:** August 21, 2017  
**SUBJECT:** Fiscal Impact Statement – Probationary Period

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### **Conclusion**

It is projected that there is no fiscal impact involved in effectuating changes to the Probationary Period chapter of 8B DCMR.

### **Background**

The current 8B DCMR regulation is being updated to clarify that the probationary period will not apply to faculty, employees with a temporary or time-limited appointment, or Cabinet level appointments; to clearly identify those provisions of the University's performance management program that will apply to probationary employees; and to delegate the authority to waive a probationary period to the University's Vice President for Human Resources.

### **Financial Impact**

There are no funding requirements associated with the recommended Title 8B of the DCMR. This request has been approved based upon the information provided. There are no anticipated risks at this time.