

## Chapter XVII

### Article II

#### PROVISIONS REGARDING RELOCATION

17200

#### GENERAL

##### **17200.10**     Purpose

The purpose of these Rules and Regulations is to implement the California Relocation Assistance Law, Government Code, (§)7260, et seq. (the "Law") and the Relocation Assistance and Real Property Acquisition Guidelines adopted by the Department of Housing and Community Development, Title 25, California Code of Regulations, §6000 et seq. (the "Guidelines").

Adopted     07-13-05

##### **17200.11**     Authority

These Rules and Regulations have been adopted by resolution of the District pursuant to §7267.8(a) of the California Government Code, and are intended to be in conformity with the Law and Guidelines.

Adopted     07-13-05

##### **17200.12**     Effective Date; Applicability

The effective date of these Rules and Regulations shall be the date of their adoption by the District. These Rules and Regulations supersede all other Rules and Regulations for Relocation and Acquisition of Real Property previously adopted by the District. If there are conflicts between these Rules and Regulations and applicable state and federal laws or regulations, the applicable state or federal laws or regulations shall control and these Rules and Regulations shall be deemed to be amended accordingly.

Adopted     07-13-05

Nothing in these Rules and Regulations shall be construed to require the District to provide any relocation or other assistance, payments, or benefits, or to provide any notices, or to follow any procedures, beyond that required by the Law or Guidelines. No greater rights or obligations beyond those set forth in the Law and Guidelines are created or conferred by these Rules and Regulations.

Adopted 07-13-05

**17200.13 Extent of Relocation Payments**

In the event that the District, in its sole and absolute discretion, and without establishing any precedent, makes any additional relocation payments beyond that required by law because the District finds that said payment may be reasonably necessary under the circumstances of the particular case to carry out the purposes of a project, such a payment may not be used as a precedent for other payments to Displaced Persons.

Adopted 07-13-05

**17200.14 Exemptions from Relocation Assistance Payments**

The requirement to provide relocation assistance and benefits shall not apply to a purchase of real property which is offered for sale by the owner, property being sold at execution or foreclosure sale, property being sold pursuant to court order or under court supervision, or any purchase to which Government Code section 7267.2 of the Act is not applicable.

Adopted 07-13-05

**17200.15 Priority of Federal Law and Federal Projects**

If the District engages in an acquisition with federal financial assistance that results in a relocation of a Displaced Person, the District shall make relocation assistance payments and provide relocation advisory assistance as required under the applicable federal law.

Adopted 07-13-05

**17200.16 Severability**

If any provision of these Rules and Regulations or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Rules and Regulations which can be given effect without the invalid provision or application, and to this end, the provisions of the Rules and Regulations are severable.

Adopted 07-13-05

**17201. DEFINITIONS**

**17201.10 Acquisition/Acquires**

"Acquisition" or "acquires" means obtaining ownership or possession of real property by purchase, eminent domain, or otherwise.

Adopted 07-13-05

**17201.11 Appeals Board**

"Appeals Board" means the Los Angeles Community College District Relocation Appeals Board. The Appeals Board is constituted to hear appeals on complaints from a Displaced Person (as defined below) who believes that s/he is aggrieved by an administrative determination by the District as to eligibility for assistance or the amount of payment relating to relocation resulting from any displacement activity undertaken by the District. The Appeals Board shall be comprised of representatives appointed by the District's Chancellor.

Adopted 07-13-05

**17201.12 Appraisal**

"Appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

Adopted 07-13-05

**17201.13     Average Annual Net Earnings**

"Average annual net earnings" means one-half of any net earnings of a business before federal, state and local income taxes, during the two taxable years immediately preceding the taxable year in which such business moves from the real property being acquired, or during such other two year period as the District determines to be more equitable for establishing such earnings, and includes any compensation paid by the business to the owner, owner's spouse or owner's dependents during such period.

For the purpose of determining the average annual net earnings of the "owner," the term "owner" as used herein includes the sole proprietor in a sole proprietorship, the principal parties in a partnership, and the principal stockholders of a corporation, as determined by the District. For purposes of determining a principal stockholder, stock held by a person, the person's spouse and their dependent children will be treated as one unit.

Adopted     07-13-05

**17201.14     Business**

"Business" means any lawful activity, except a farm operation, provided such lawful activity is not in unlawful occupancy (as defined in below), and conducted for any of the following:

- A.     Primarily for the purchase, sale, lease, or rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities or any other personal property;
- B.     Primarily for the sale of services to the public;
- C.     Primarily by a nonprofit organization; or
- D.     Solely for the purpose of a moving expense payment, for assisting in the purchase, sale, resale, manufacture, processing or marketing of products, commodities, personal property or services by the erection and maintenance of an outdoor advertising display, whether or not such display is located on the premises on which any of the above activities are conducted.

Adopted     07-13-05

**17201.15. Date of Acquisition**

The date on which the deed or other conveyance to the real property being acquired by the District is recorded in the office of the County Recorder, or the date on which the District takes possession of the real property pursuant to an order of the County Superior Court in a condemnation action.

Adopted 07-13-05

**17201.16. Department**

"Department" means the California Department of Housing and Community Development.

Adopted 07-13-05

**17201.17 Executive Director**

"Executive Director" means the Executive Director of Facilities Planning and Development, or his or her designee, who is responsible for the displacement of any individual, family, business, or non-profit organization for a public use.

Adopted 07-13-05

**17201.18 Displaced Business**

"Displaced business" means any business which qualifies as a Displaced Person.

Adopted 07-13-05

**17201.19 Displaced Farm Operation**

"Displaced farm operation" means any farm operation which qualifies as a displaced person under 17201.26 hereof.

Adopted 07-13-05

**17201.20     Displaced Person**

1. "Displaced Person" means both of the following:
  - A. Any person who moves from real property, or who moves his or her personal property from real property, either:
    - (1) As a direct result of a written notice of intent to acquire or actual acquisition by the District, in whole or in part, for a program or project undertaken by the District or by any person having an agreement with or acting on behalf of the District, or as a result of a written order from the District to vacate the real property; or
    - (2) As a direct result of the rehabilitation, demolition or other displacing activity undertaken as the District may prescribe under a program or project undertaken by the District, of real property on which the person is a residential tenant or conducts a business or farm operation as a lawful occupant, in any case in which the displacement, except as provided in Government Code Section 7262.5 (see paragraph 3 of this Section), lasts longer than 90 days.

For purposes of this section, "residential tenant" includes any occupant of a residential hotel unit, as defined in subdivision (b) of §50669 of the California Health and Safety Code, and any occupant of employee housing, as defined in §17008 of the California Health and Safety Code, but shall not include any person who has been determined to be in unlawful occupancy of the displacement dwelling.
  - B. Solely for the purpose of Government Code sections 7261 and 7262, any person who moves from real property, or moves his or her personal property from real property, either:
    - (1) As a direct result of a written notice of intent to acquire or the acquisition of other real property, on which the person conducts a business or farm operation, for a program or project undertaken by the District.

Adopted     07-13-05

- (2) As direct result of the rehabilitation, demolition, or other displacing activity as the District may prescribe under a program and project undertaken by the District, of other real property on which the person conducts a business or farm operation, in any case in which the District determines that the displacement is permanent.

C. A Displaced Person shall not include any of the following:

- (1) Any person who has been determined to be in unlawful occupancy of the displacement dwellings.
- (2) Any person whose right of possession at the time of moving arose after the date of the District's acquisition of the real property.
- (3) Any person who has occupied the real property for the purpose of obtaining assistance under these Rules and Regulations.
- (4) In any case in which the District acquires property for a program or project (other than a person who was an occupant of the property at the time it was acquired), any person who occupies the property for a period subject to termination when the property is needed for the program or project.

Adopted 07-13-05

**17201.21 District**

"District" means the Los Angeles Community College District when it is carrying out a project which causes a person to be a displaced person for a public project.

Adopted 07-13-05

**17201.22 District**

"District" means the Los Angeles Community College District.

Adopted 07-13-05

**17201.23     Family**

"Family" means two or more individuals, one of whom is the head of household, plus all other individuals who by blood, marriage, adoption or mutual consent live together as a family unit.

Adopted     07-13-05

**17201.24     Farm Operation**

"Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing these products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

Adopted     07-13-05

**17201.25     Federal Project**

"Federal project" means any project undertaken by a federal agency or any project receiving federal financial assistance.

Adopted     07-13-05

**17201.26     Initiation of Negotiations**

"Initiation of negotiations" means the initial written offer to purchase made by the District to the owner of the real property to be purchased, or to the owner's representative.

Adopted     07-13-05

**17201.27     Nonprofit Organization**

"Nonprofit organization" means a corporation, partnership, individual or other public or private entity, engaged in a business, professional or institutional activity on a non-profit basis, necessitating fixtures, equipment, stock in trade, or other tangible property for the carrying on of the business, profession or institutional activity on the premises.

Adopted     07-13-05

**17201.28     Ownership**

"Ownership" means holding any of the following interests in a dwelling, or a contract to purchase one of the first six (6) interests:

- A.     A fee title;
- B.     A life estate;
- C.     A 50-year lease.
- D.     A lease with at least twenty (20) years to run from the date of acquisition of the property;
- E.     A proprietary interest in a cooperative housing project which includes the right to occupy a dwelling;
- F.     A proprietary interest in a manufactured home and mobile home;
- G.     A leasehold interest with an option to purchase.

In the case of one who has succeeded to any of the foregoing interests by devise, bequest, inheritance or operation of law, the tenure of ownership, but not occupancy, of the succeeding owner shall include the tenure of the preceding owner.

Adopted     07-13-05

**17201.29     Person**

"Person" means any individual, partnership, corporation, limited liability company, or association.

Adopted     07-13-05

**17201.30     Personal Property**

"Personal property" means tangible property which is situated on real property vacated, or to be vacated, by a displaced person and which is considered personal property and is non-compensable (other than for moving expenses) under the state law.

Adopted     07-13-05

In the case of a tenant, personal property includes fixtures and equipment, and other property which may be characterized as real property under state or local law, but which the tenant may lawfully and at his or her election determine to move, and for which the tenant is not compensated in the real property acquisition.

In the case of an owner of real property, the determination as to whether an item of property is personal or real shall depend upon how it is identified in the closing or settlement statement with respect to the real property acquisition.

Adopted 07-13-05

**17201.31 Post-Acquisition Tenant**

"Post-Acquisition Tenant" means a tenant who (a) lawfully begins to occupy property after the District acquires it, or (b) lawfully occupies property after the private acquisition of that property by a person with a written agreement with the District regarding the financing of the purchase or development of the property.

Adopted 07-13-05

**17201.32 Prepaid Expenses**

"Prepaid expenses" means items paid in advance by the seller of real property and pro-rated between such seller and the buyer of such real property at the close of escrow including, but not limited to, real property taxes, insurance, homeowners' association dues and assessment payment.

Adopted 07-13-05

**17201.33 Small Business**

"Small Business," means a business having not more than 500 employees working at the site being acquired or displaced by a program or project, which site is the location of economic activity. Sites occupied solely by outdoor advertising signs, displays, or devices do not qualify as a small business for purposes of these Rules and Regulations.

Adopted 07-13-05

**17201.34     Tenant**

A tenant is a person who rents or is otherwise in lawful possession of a dwelling, including a sleeping room, which is owned by another.

Adopted     07-13-05

**17201.35     Unlawful Occupancy**

A person or business is considered to be in unlawful occupancy if, among other reasons: the person or business has been ordered to move by a court of competent jurisdiction; or the person's tenancy has been lawfully terminated by the owner for cause, the tenant has vacated the premises, and the termination was not undertaken for the purpose of evading relocation assistance obligations; or the person is in violation of the lease or rental agreement; or the person's occupancy is in violation of applicable local, regional, state, or federal ordinances, laws, or regulations.

Adopted     07-13-05

**17202.     RELOCATION ADVISORY ASSISTANCE**

A.     Advisory Assistance to be Provided by the District

Programs or projects undertaken by the District shall be planned in a manner that (i) recognizes, at an early stage in the planning of the programs or projects and before the commencement of any actions which will cause displacements, the problems associated with the displacement of individuals, families, businesses, and farm operations; and (ii) provides for the resolution of these problems in order to minimize adverse impacts on displaced persons and to expedite program or project advancement and completion. The District shall ensure the relocation assistance advisory services described herein are made available to all persons displaced by the District.

Adopted     07-13-05

In accordance with California Government Code section 7261(a), the District may provide relocation advisory assistance (but not benefits, payments or other forms of assistance) if it determines, in its sole discretion, that any person occupying property immediately adjacent to the property where the displacing activity occurs is caused substantial economic injury as a result thereof. Any Post-Acquisition Tenant may be eligible for advisory services to the extent determined by the District in its sole discretion, but not benefits, payments or other forms of assistance.

The relocation advisory assistance provided by the District shall include such measures, facilities and/or services as may be necessary or appropriate in order to:

1. Inform eligible persons no later than the close of escrow on a property, about the availability of relocation benefits, the eligibility requirements therefore, and the procedures for obtaining such benefits and assistance;
2. Determine and make timely recommendations on the needs and preferences, if any, of Displaced Persons for relocation assistance;
3. Provide information on the availability, sales prices, and rentals of comparable sales and rental housing, and comparable commercial properties and locations, and as to security deposits, closing costs, typical down payments, interest rates and terms for residential property in the area;
4. Assist each Displaced Person complete applications for payments and benefits;
5. Assure that each Displaced Person shall not be required to move from a dwelling unit unless such person has had a reasonable opportunity to relocate to a comparable replacement dwelling, except in the case of:
  - a. A major disaster;
  - b. A state of emergency declared by the President or Governor; and,

Adopted 07-13-05

- c. Any other emergency which requires the person to move immediately from the dwelling because continued occupancy of the dwelling by the person constitutes a substantial danger to the health or safety of the person;
- 6. Assist each eligible, displaced business in obtaining, and becoming established in, a suitable replacement location;
- 7. Provide services required to insure that the relocation process does not discriminate on any basis that violates applicable state and federal anti-discrimination laws;
- 8. Provide other advisory assistance to eligible persons to minimize their hardships, such as counseling and referrals with regard to housing, financing, employment, training, health and welfare;
- 9. Inform all persons who are expected to be displaced about the eviction policies to be pursued in carrying out the project;

Adopted 07-13-05

**17202.10 Information Program**

A. Notice of Eligibility Status

The District shall strive to provide each Displaced Person with notification of his or her eligibility status as soon as it has been established.

B. Language of Information Material

The District shall strive to prepare relocation information material in English, and where appropriate, the language most easily understood by the recipient

Adopted 07-13-05

**17202.11     Determination of Relocation Needs**

A.     Interviews

Following the initiation of negotiations to acquire a parcel of real property, the District shall seek to interview each eligible person, business concern, including nonprofit organizations, and farm operations occupying such property to obtain information upon which to plan for counseling and assistance needs. When a person cannot be interviewed or the interview does not produce the information to be obtained, the District shall try to obtain the information by other means.

B.     Coordination with Other Agencies

The District will coordinate its interview activities with the survey activities, if any, of other agencies.

C.     Contracting for Relocation Services

The District may enter into a contract with any individual, firm, association, corporation, or governmental agency for the purpose of providing relocation advisory assistance.

D.     Coordination of Relocation Assistance

The District shall strive to coordinate its relocation assistance program with other work necessitating displacement of persons, and with activities of other public entities in the City or nearby areas, for the purpose of planning relocation activities and coordinating the availability of replacement dwelling resources in the implementation of the District's relocation assistance program.

Adopted     07-13-05

**17202.12     Relocation Plans**

A.     Requirement Generally

The District shall prepare a Relocation Plan unless the District's action will only result in an insignificant amount (as determined by the District) of non-residential displacement, in which case the District shall provide assistance and benefits as required by the Act, Guidelines, and these Rules and Regulations, but shall not be required to prepare a Relocation Plan.

If a relocation Plan is required, it shall include:

1.     A diagrammatic sketch of the displacement area;
2.     Projected dates of displacement;
3.     A written analysis of the aggregate relocation needs of all persons to be displaced, and an explanation as to how these needs are to be met;
4.     Where necessary, an analysis of replacement housing resources;
5.     A description of the relocation advisory services program, including procedures for locating and referring eligible persons to comparable replacement housing;
6.     A description of the relocation payments to be made and a plan for disbursement;
7.     A cost estimate for carrying out the plan and identification of the source of the necessary funds;
8.     Where necessary, a plan by which any last resort housing is to be built and financed (if applicable);
9.     A standard information statement to be sent to Displaced Persons;
10.    Temporary relocation plans, if any;

Adopted     07-13-05

11. A description of relocation office operation procedures, if any;
12. Plans for citizen participation, if needed;
13. An enumeration of the coordination activities with other agencies;
14. The comments of the relocation committee, if any; and,
15. A determination by the District that the necessary resources will be available as required.

Adopted 07-13-05

**17203. RELOCATION PAYMENTS TO DISPLACED BUSINESSES**

**A. Payments Required**

The District shall compensate the owner of a displaced business for the expenses described in §702 through §708 or §709 through §715. Whenever the acquisition of real property used for a business necessarily causes the business to move from other real property upon which the same business is conducted, or to move its personal property therefrom, such business shall receive payments for moving and related expenses under §702 and §703 in connection with its move from such other real property.

**B. Moving Expenses**

**1. Actual Reasonable Moving Expenses**

A displaced business shall be compensated for the actual reasonable expenses incurred for moving the business including moving personal property. In all cases the amount of payment shall not exceed the reasonable cost of accomplishing the activity in connection with which a claim has been filed. The moving and related expenses shall include:

Adopted 07-13-05

- a. Transportation of persons and property not to exceed a distance of fifty (50) miles from the site from which the business was displaced, unless the District determines that relocation beyond such distance of fifty (50) miles is justified;
- b. Packing, crating, unpacking, and uncrating personal property;
- c. Storage of personal property for a period up to twelve (12) months, when determined by the District to be necessary for the relocation;
- d. Insurance of personal property while in storage or transit;
- e. The reasonable replacement value of property lost, stolen, or damaged (not through the fault or negligence of the displaced business, its agents or employee) in the process of moving, where insurance covering such loss, theft, or damage is not reasonably available; and,
- f. The cost directly related to displacement of modifying the machinery, equipment, or other personal property to adapt it to the replacement location or to utilities available at the replacement location or modifying the power supply.

Claims for payment under this subsection shall be subject to the following limitations:

- (1) Reimbursement costs shall be reasonable in amount.
- (2) The cost could not be avoided or substantially reduced at an alternate available and suitable site to which the business was referred.

Adopted 07-13-05

- g. The cost of any license, permit, or certification required by a displaced business concern to the extent such cost is necessary to the reestablishment of its operation at a new location;
- h. The reasonable cost of consultants including: architects, engineers, or others provide general or specialized services necessary for (i) planning the move of the personal property, or (ii) moving the personal property, or (iii) installing the relocated personal property at the replacement location. In order to avoid duplication of payment, all such services shall not be deemed "necessary" when the services have been or will be provided by the District or consultants retained by the District. The necessity of other services not provided by the District shall be determined by the District in its sole discretion.

Payment for any and all of the above general or specialized services must be approved in writing by the District prior to their use. Information on the area of expertise and the qualifications of such persons must be provided for review and a reasonable hourly rate or fee must be approved by the District before any costs are incurred, otherwise, such services are not reimbursable. An itemized statement of all services shall be provided to the District stating the dates of such services; the location where services were provided; the name, address and telephone of person or firm providing services.

- i. Where an item of personal property which is used in connection with any business is not moved but is replaced with a comparable item, reimbursement is not to exceed the lesser of:

Adopted 07-13-05

- (1) The reasonable replacement cost of the personal property, minus net proceeds (if any) realized from the sale of all or part of the property,
- (2) The estimated reasonable cost of moving the personal property, as determined by the District.

In order to obtain a payment under this section, the District may require that the displaced business sell the personal property for which the payment is claimed at the highest price offered after reasonable efforts have been made over a reasonable period of time to market the personal property to interested potential purchasers. If this requirement is imposed, the displaced business may be reimbursed for the reasonable costs of such efforts to sell the personal property.

- j. If the District determines, at its sole discretion, that the cost of moving any item of personal property would be disproportionate in relation to its value, the allowable reimbursement for the expense of moving such property shall not exceed the difference between the cost of replacing the same with a comparable item available on the market and the amount which would have been received for such property on liquidation.

Adopted 07-13-05

**17204. Actual Direct Loss of Tangible Personal Property**

A displaced business may be compensated for the actual direct loss of its personal property that is attributable to moving or discontinuing the business. The total amount of the payment by the District for such loss shall not exceed an amount equal to the estimated, reasonable cost of moving the personal property, as determined by the District. Subject to such limitation, the actual direct loss of personal property for which claims may be filed shall be determined on the basis of the lesser of:

Adopted 07-13-05

- A. The in-use value (fair market value of the personal property for continued use at its location prior to displacement) minus net proceeds realized from the sale of all or part of the property; and
- B. The estimated reasonable costs of relocating the property.

The actual direct loss of personal property shall be computed and based on an appraisal obtained by either (a) the District, or (b) the displaced business provided that such appraisal is approved by the District.

In order to qualify for a payment under this section, the displaced business shall make a bona fide effort to sell the personal property for which the loss is claimed at the highest price offered after reasonable efforts have been made over a reasonable period of time to market the personal property to interested prospective purchasers. The reasonable cost of an effort to sell the personal property shall be added to the determination of loss under this section.

If personal property which is sold or abandoned is promptly replaced with a comparable item, no payment for the actual direct loss of such personal property shall be made to the displaced business by the District.

Adopted 07-13-05

**17205. Actual Reasonable Expenses in Searching for a Replacement Business**

Actual Reasonable Expenses incurred in searching for a replacement business site which may include: transportation within a radius of fifty (50) miles from the existing site, meals and lodging if necessary, an amount to cover time spent during normal working hours and proven reasonable fees paid to a real estate broker or agent to locate to a new site. The maximum total amount of reimbursement for searching expenses for a new location is One Thousand and No/100 (\$1,000.00). Receipted invoices, bills, receipts, must be certified and submitted for all expenses claimed. Costs incurred in inspecting sites beyond a fifty (50) mile radius are not eligible.

Adopted 07-13-05

17206.

**Actual Reasonable Expenses To Reestablish A Small Business or Nonprofit Organization**

A. Eligible Reestablishment Expenses

In addition to moving expense payments, a farm, nonprofit organization or small business shall be entitled to actual and reasonable reestablishment expenses, not to exceed \$10,000.00. Reestablishment expenses shall be only those expenses that are reasonable and necessary and include, but are not limited to:

1. Repairs or improvements to the replacement property as required by federal, state or local law, code or ordinance.
2. Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.
3. Construction and installation costs for exterior signing to advertise the business.
4. Provision of utilities from right-of-way to improvements on the replacement site.
5. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling or carpeting.
6. Licenses, fees and permits when not paid as part of moving expenses.
7. Feasibility surveys, soil testing and marketing studies.
8. Advertisement of replacement location.
9. Professional services needed for the purchase or lease of the replacement site.

Adopted 07-13-05

10. Estimated increased costs of operation during the first 2 years at the replacement site for:
  - a. Lease or rental charges,
  - b. Personal or real property taxes,
  - c. Insurance premiums, and,
  - d. Utility charges, excluding impact fees.
11. Impact fees or one-time assessments for anticipated heavy usage.
12. Other items essential to the reestablishment of the business.

Adopted 07-13-05

**17207. Ineligible Reestablishment Expenses**

The following, nonexclusive list of expenses do not qualify as reestablishment expenses:

- A. Purchase of capital assets, such as, office furniture, machinery, or trade fixtures;
- B. Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation;
- C. Interior or exterior refurbishment at the replacement site which are for aesthetic purposes, except as provided above;
- D. Interest on money borrowed for the move or purchase of replacement property; and,
- E. Payment to a part-time business in a personal residence that does not contribute materially to the household income.

Adopted 07-13-05

**17208. Alternate Payment**

A. Determination of Payments

1. Amount of Payment

A displaced business which moves or discontinues, and which meets the eligibility requirements stated herein, may elect to be paid, in lieu of the relocation benefits that it is otherwise entitled to, a payment equal to the average annual net earnings of the business, except that such payment shall not be less than one thousand dollars (\$1,000) nor more than twenty thousand dollars (\$20,000). Said dollar limitation shall apply to a single business operation in its entirety regardless of whether it is carried on under one or more legal entities.

Adopted 07-13-05

**17208.10 Determination of Number of Businesses**

In determining whether one or more legal entities, all of which have been acquired, constitute a single business operation, the District shall consider:

- A. The extent to which the premises and equipment are shared;
- B. The extent to which substantially identical or intimately interrelated business functions are pursued and business and financial affairs are commingled;
- C. The extent to which such entities are held out to the public, and to those dealing with such entities, as one business;
- D. The extent to which the same person or closely related persons owns, control, or manage the affairs of the entities.

Adopted 07-13-05

**17208.11 Eligibility**

A displaced business is eligible for the payment provided for herein only if the District determines that:

Adopted 07-13-05

- A. The business is not operated solely for rental purposes and cannot be relocated without a substantial loss of its existing patronage;
- B. The business is not part of a commercial enterprise having more than three (3) other establishments which are not being acquired for a project and which is engaged in the same or similar business. Whenever the sole remaining facility of a business has been displaced from its principal location:
  - 1. Has been in operation for less than two years;
  - 2. Has had average annual gross receipts of less than \$2,000 for the two taxable years before displacement of the major component of the business; or
  - 3. Has had average annual net earnings of less than \$1,000 for the two taxable years before to displacement of the major component of the business, the remaining facility will not be considered another “establishment” for purposed of this section; and,
- C. The business:
  - 1. Has average annual gross receipts of at least \$5,000 for the two taxable years before displacement; or
  - 2. Has average annual net earnings of a least \$1,000 for the two taxable years before displacement; or
  - 3. Contributed at least one-third of the total gross income of the owner(s) during each of the two taxable years before displacement. If the District determines that the two year period is not representative of average receipts, earnings or income, the District may use a more representative period.
  - 4. If application of the above criteria creates an inequity or hardship, the District may waive said requirements.

Adopted 07-13-05

**17208.12     Loss of Goodwill**

When payment under this section precedes settlement of a claim for compensation for loss of business goodwill in a condemnation action, the District, before tendering payment, shall state in writing what portion of the payment, if any, is considered to be compensation for loss of goodwill and explain in writing that any payment made pursuant to Code of Civil Procedures 1263.510 et seq., will be reduced in the same amount.

Adopted     07-13-05

**17209.     CLAIM AND PAYMENT PROCEDURES; TERMINATION OF RELOCATION ASSISTANCE**

**A     Filing of Claims**

All claims for relocation assistance and payments filed with the District shall be submitted within eighteen (18) months of the date on which the claimant receives final payment for the property or the date on which claimant moves, whichever is later. The District may, in its sole discretion, extend this period upon a proper showing of good cause.

**1.     Documentation in Support of Claim**

**a.     Moving Expenses**

**i.     Commercial Moves**

Except in the case of a Displaced Person business electing to “self move”, a claim for payment of actual reasonable moving expenses shall be supported by a bill or other evidence of expenses incurred.

Each claim in excess of one thousand dollars (\$1,000) for the cost of moving the business operation shall be supported by at least three (3) competitive bids. If the District determines that compliance with the bid requirement is impractical, or if estimates in an amount less than one thousand dollars (\$1,000) are obtained, a claim may be supported by estimates in lieu of bids

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**17209.10     Self-Moves**

Approval of a self-move will only be granted when the Displaced Person has a permanent replacement site to move to. If so, the District may, at its sole discretion, approve a payment for moving expenses, in an amount not to exceed the lowest acceptable bid or estimate obtained by the District. A self-move to storage may be approved by the District prior to the move.

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**17209.11     Loss of Property**

A claim by a displaced business for payment for the actual direct loss of tangible personal property must be supported by written evidence of loss which may include appraisals, certified prices, bills of sale, receipts, canceled checks, copies of advertisements, offers to sell, auction records, and other records appropriate to support the claim or the District may agree as to the value of the property left in place.

Adopted     07-13-05

**17209.12     Proof of Earnings**

If a displaced business elects to receive an in lieu payment, the business must provide proof of its earnings to the District. Proof of earnings may be established by income tax returns, financial statements and accounting records or similar evidence acceptable to the District.

Adopted     07-13-05

**17209.13     Payment of Moving Expenses**

A.     Advance Payment

A Displaced Person may apply for payment of his or her anticipated moving expenses in advance of the actual move. The District shall provide advance payment whenever later payment would result in financial hardship to the Displaced Person. When determining whether there exists "financial hardship", the District shall consider the financial limitations and difficulties experienced by low and moderate income residents and small farm and business operations.

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**17209.14     Direct Payment**

By prearrangement between the District, the Displaced Person, and the mover, evidenced in writing, the Displaced Person or the mover may present an unpaid moving bill to the District, and the District may pay the mover directly.

Adopted     07-13-05

**17209.15     Methods Not Exclusive**

The specific provisions of these Rules and Regulations are not intended to preclude the District's reliance upon other reasonable means of effecting a move, including contracting moves and arranging for assignment of moving expense payments by displaced persons.

Adopted     07-13-05

**17210.     GRIEVANCE PROCEDURES**

A.     Purpose

These Grievance Procedures are established in an attempt to resolve disputes between a claimant and the District at the lowest possible administrative level while affording the claimant an opportunity to have a full and fair review of his or her case. Therefore, all relevant evidence should be presented at the lowest level of these proceedings. If evidence could have been presented at a lower level and the claimant failed to do so, the Relocation Appeals Board may refer the matter back to the lower level for consideration and determination prior to their considering such evidence.

B.     Right of Review

Any claimant who is not satisfied with a determination as to eligibility and/or amount of payment may have his or her claim reviewed and reconsidered in accordance with the procedures stated herein.

Adopted     07-13-05

C. Request for Further Written Information

A claimant must first request the District's designated representative to provide him with a full written explanation of the determination and the basis therefore. This request must be made within the same 18 months of the relocation.

D. Informal Oral Presentation

The claimant may request an informal hearing with the Executive Director. All such requests shall be in writing and be accompanied by a relocation complaint form. Claimant shall have the burden of determining whether the District requires submittal of a complaint form. The request for an informal hearing must be submitted to the Executive Director within 18 months of the relocation.

If the request is granted, claimant shall be given an opportunity to make an oral presentation to the Executive Director concerning the claim. The claimant may be represented by an attorney or other designated person at the presentation. After the conclusion of the presentation, the Executive Director shall prepare a summary of the matters discussed and determinations made, place a copy of the summary in claimant's file, and serve a copy thereof upon the claimant.

E. Written Request for Review and Reconsideration

At any time up to 18 months after the relocation, a claimant may file a written request for formal review and reconsideration. The request may include any statement of fact within the claimant's knowledge or belief or other material which claimant believes may have a bearing on the appeal.

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F. Formal Review and Reconsideration by Executive Director

1. The Executive Director shall consider the request for review and decide whether to modify the initial determination. When a claimant seeks review, the Executive Director shall inform claimant he or she has the right to be represented by an attorney, to present his or her case by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination, as may be required, for a full and true disclosure of facts, and to seek judicial review once claimant has exhausted its administrative appeal.
2. The Executive Director shall review the initial determination in light of:
  - a. All material upon which the District based its original determination including all applicable rules and regulations. No evidence or witness testimony shall be relied upon unless the claimant has been given an opportunity to controvert the evidence or cross-examine the witness.
  - b. The reasons given by the claimant for requesting review and reconsideration of the claim.
  - c. Any additional written, relevant materials submitted by the claimant.
  - d. Any further information which the Executive Director may, in his or her discretion, obtain by request, investigation or research, to insure fair and full review of the claim.
3. The Executive Director's determination on review shall include, but is not limited to:
  - a. The Executive Director's decision;
  - b. The factual and legal basis upon which the decision is based, including any pertinent explanation or rationale; and,

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- c. A statement of claimant's right to seek further review of his or her claim by the Relocation Appeals Board and an explanation of the steps the claimant must take to obtain this review.

In case of complaints dismissed for untimeliness or for any other reason not based on the merits of the claim, the Executive Director shall furnish a written statement to claimant stating the reason for the dismissal of the claim.

#### G. Appeals Board Review

Claimant may appeal the Executive Director's determination by requesting a formal hearing before a Relocation Appeals Board, which shall be three people designated by the Chancellor or his or her designee. To do so, claimant must request in writing that the Executive Director schedule such a hearing.

1. Within fifteen (15) days from the date of receipt of claimant's written request, he or she will be notified of the formal hearing date. If the claimant requests additional time to prepare material for consideration and shows good cause therefor, the hearing date may be continued to another date.
2. The Relocation Appeals Board shall have the authority to affirm, reverse or revise the Executive Director's determination.
3. The Relocation Appeals Board shall notify the claimant that he or she has the right to be represented by an attorney or others at claimant's own expense, to present his or her case by oral or documentary evidence; to submit oral or documentary evidence; to submit rebuttal evidence to conduct such cross examination as may be required for a full and true disclosure of facts; and to seek judicial review once claimant has exhausted administrative appeal.

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4. The Relocation Appeals Board shall review the Executive Director's determination taking into consideration all material upon which the challenged determination was made, all applicable rules and regulations, the reasons given by the claimant for requesting review, any additional relevant evidence, oral or documentary, submitted by either the claimant or the District's representatives. No evidence may be relied upon by the Relocation Appeals Board where the claimant has been improperly denied an opportunity to rebut evidence or cross-examine a witness.
5. The Relocation Appeals Board shall make its finding within six weeks from the date on which the formal hearing is concluded or the date of receipt of the last material submitted, whichever is later.
6. The Relocation Appeals Board's finding shall be made in writing and shall contain its recommendation, the factual and legal basis upon which the recommendation is made and a statement informing the claimant of his or her right to seek judicial review.
7. The Relocation Appeals Board's finding in the matter shall be final and conclusive, and the claimant shall be deemed to have exhausted his/her administrative remedies upon the issuance of the Relocation Appeals Board's findings. The claimant and the District office of legal counsel shall be served with a copy of the Relocation Appeals Board's finding.

#### H. Time Limits

A claimant desiring either an informal oral presentation or seeking a formal review and reconsideration, including seeking the review of the Relocation Appeals Board, shall make a request within eighteen (18) months following the later of (i) the date he/she moves from the property. The Executive Director may, at its sole discretion, extend any of the time limits specified in this Article upon a showing of good cause.

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I. Review of Files by Claimant

The claimant may inspect all files and records bearing upon his or her claim or the prosecution of the claimant's grievance, except to the extent the confidentiality of the material sought or the disclosure thereof is protected or prohibited by law.

J. Effect of Determination

Determinations made by the District with respect to acquisition and relocation policies and procedures shall be applicable to all eligible persons in similar situations regardless of whether any such eligible person seeks a review. All written determinations shall be filed in the records of the District and available for public inspection.

K. Right to Counsel

Any claimant has the right to be represented by an attorney at his or her expense at any and all stages of the proceedings set forth in this Article.

L. Further Review

If the District denies the eligibility of a claimant for a payment, or disapproves the full amount claimed, or refuses to consider the claim on its merits because of untimely filing, or any other ground, the District's notification to the claimant of its determination shall inform the claimant of its reasons therefor, and shall also inform the claimant of the applicable procedures for obtaining further review of this determination.

M. Judicial Review

Nothing in this section shall in any way expand, preclude or limit a claimant from seeking judicial review of a claim upon exhaustion of such administrative remedies as are specified in these Rules and Regulations.

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