



**DATA SHEET**  
**Agenda Item No. 14.**

**Meeting Date: March 1, 2018**

**Agenda Item:**

Discuss District policy and legal requirements for abstain voting.

<b>Placement:</b>	<input type="checkbox"/> Consent	<input checked="" type="checkbox"/> Individual Consideration	<input type="checkbox"/> Executive Session
<b>Vote:</b>	<input type="checkbox"/> Non-Weighted	<input type="checkbox"/> Weighted Capital	
<b>Recommending Department: Administration</b>			

**Background:**

At last month's meeting, a Board member requested a future discussion item regarding the matter of abstain voting. Under procedures of the Board, there are two potential situations where the matter of abstaining from vote may occur:

1. If a Board Member has a personal conflict of interest under State conflict-of-interest law, the Board Member must abstain from voting. No vote will be counted, just as if the Member were not present.
2. On all other matters, Board Members are encouraged to, and expected to, vote. If however, a Board Member fails to vote on a pending motion (except under paragraph 1 above), the General Operating Rules adopted by the Board require it to be considered a "yes" on the pending motion, regardless of how the pending motion is worded or styled.

A comprehensive set of operating rules were adopted in 1992 concerning meetings of the Board of Directors, including the rule about abstain voting. Section 15.0 of the District's General Operating Rules provide the direction on both potential situations.

**15.0 VOTING REQUIRED; PERSONAL INTEREST**

***No member shall be excused from voting except when the vote being taken concerns issues that constitute a conflict of interest under State conflict-of-interest law; in which case, the member shall abstain from voting. Any member prohibited from voting by conflict of interest shall announce such at the commencement of consideration of the matter and shall not enter into discussion or debate on any such matter. Once a member briefly states the reason for abstaining from voting, the member shall be excused from voting without debate. In the event a member fails to vote, except when disqualified because the matter constitutes a conflict of interest, a member's failure to vote shall be considered a favorable vote and shall be recorded as a "yes" vote on the pending motion.***

According to this rule, all Board members must vote on a pending motion, except when a conflict-of-interest exists as provided under State law. When a lawful conflict exists, a member must announce such conflict to the Board, and then is excluded from discussion and from voting.

It is common for a governing body to have a requirement to vote, to achieve full participation by the members of the governing body. How to handle the matter when a Member still does not vote, actual practice varies. For Upper Trinity when a Board member "abstains" from voting, for reasons other than a

lawful conflict of interest, the member is considered to have failed to vote. Under the District's rule, that failure to vote is considered a favorable vote and is recorded as a "yes" vote on the pending motion.

This long-standing rule was established to ensure that all matters of the District were given fair consideration and that all motions were acted upon by the entire Board, except in cases of a lawful conflict-of-interest. For 25 years, the rule has worked very well.

**Financial:**

None.

**Recommendation:**

None.

**Enclosures:**

None.

Submitted By:   
Thomas E. Taylor, Executive Director

Date: February 23, 2018