

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION
NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The State Superintendent of Education, pursuant to section 3(b) of the District of Columbia State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code §§ 38-2602(b)(11) (2001 & 2011 Supp.)) and section 401 of the Healthy Schools Act of 2010, effective July 27, 2010 (D.C. Law 18-209; D.C. Official Code §§ 38-824.01) (2011 Supp.) hereby gives notice of rulemaking amending chapter 27 (Interscholastic Athletics) of subtitle A (Office of the State Superintendent of Education) of title 5 (Education) of the District of Columbia Municipal Regulations (DCMR), on an emergency basis, with intent to take final rulemaking action to adopt these amendments in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

The purpose of the emergency rulemaking is to clarify and amend current regulations reflecting the role of the newly established District of Columbia State Athletic Association (DCSAA), beginning in the 2012-2013 athletic seasons. Emergency rulemaking action is necessary to ensure planning and execution of fair interscholastic competitions and uniform application of eligibility standards on an immediate basis for the school year commencing July 1, 2012, and consequently necessary for the immediate preservation of the public peace, health, safety, or welfare.

The rules clarify that the rulemaking applies to all District of Columbia Public Schools (DCPS) and District of Columbia Public Charter Schools, establish a process for uniform eligibility and waiver determinations and challenges to be determined by an Athletic Appeals Panel, and clarify that the Office of the DCSAA may review a member's policies and procedures and offer guidance and safety recommendations in alignment with this chapter and the National Federation of State High School Associations rules.

The State Superintendent of Education adopted this emergency rulemaking on Wednesday, June 20, 2012, and it took effect at that time. The rulemaking will expire on October 23, 2012, one hundred twenty (120) days after the date of emergency rule adoption, or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

Chapter 27 (Interscholastic Athletics) of subtitle A (Office of the State Superintendent of Education) of title 5 (Education) of the District of Columbia Municipal Regulations (DCMR) is amended in its entirety to read as follows:

CHAPTER 27 INTERSCHOLASTIC ATHLETICS

2700 GENERAL POLICY

- 2700.1 Participation by a student in grades four (4) through twelve (12) in interscholastic athletic programs provided by a Public School in the District of Columbia shall be governed by the rules and procedures set forth in this chapter.
- 2700.2 Interscholastic athletics shall place an emphasis on teaching principles and practices of good sportsmanship, ethical conduct, and fair play through athletics, as well as provide instruction in the skills of athletics.
- 2700.3 Subject to § 2704.1, each Local Education Agency (LEA) shall promulgate and implement interscholastic athletic standards including without limitation standards related to student eligibility, participation, satisfactory progress toward graduation, physical health, training and practice, equipment, the physical environment, challenges to eligibility, probationary actions, grievance procedures, and first aid.
- 2700.4 A student shall not be excluded from participation in, be denied the benefits of, be treated differently from other students, or otherwise be unlawfully discriminated against in interscholastic athletics, based on, but not limited to, race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business.
- 2700.5 Notwithstanding the requirements of § 2700.4, a public school may operate a separate sports team for members of each sex, provided that the selection for such team is based upon competitive skill or the activity involved is a contact sport.
- 2700.6 Notwithstanding the requirements of § 2700.4, a public school may operate a sports team for members of only one (1) sex, provided that members of the excluded sex are allowed to try out for these teams and shall qualify for participation taking into consideration appropriate skill level, safety, and other standards for participation on such team.
- 2700.7 Except as provided in § 2700.10, varsity teams in senior high schools shall be limited to eligible students enrolled in that high school in grades nine (9), ten (10), eleven (11), and twelve (12).
- 2700.8 Except as provided in § 2700.10, junior varsity teams in senior high schools shall be limited to eligible students enrolled in that high school in grades nine (9), ten (10), and eleven (11).
- 2700.9 A student who has participated in varsity competition in a sport during a school year shall be ineligible to participate in junior varsity competition in the same sport in the same year.

- 2700.10 A student in grade nine (9), ten (10), eleven (11), or twelve (12) who attends a public school in which a desired sport is not offered may participate in the sport on a team at another school within the LEA, or as otherwise provided by the written policy or rule of the LEA.
- 2700.11 The LEA shall annually announce its schedule for interscholastic competition.
- 2700.12 The State Superintendent may establish an advisory committee on interscholastic athletics to advise LEAs or the Office of the State Superintendent of Education on matters pertaining to interscholastic athletic programs.

2701 ELIGIBILITY TO PARTICIPATE

- 2701.1 The eligibility certification for students to participate in interscholastic athletics shall occur pursuant to procedures established by the Chancellor of the District of Columbia Public Schools (DCPS) or the director of another LEA, as applicable and as follows:
- (a) Principals shall be responsible for determining and certifying the eligibility of students to participate in interscholastic athletics by submitting a list of eligible students to the LEA's athletic director two (2) weeks before the first scheduled game, whether league or non-league;
 - (b) A supplemental eligibility list may be submitted two (2) weeks after the first game. However, students on the supplemental eligibility list may not participate without the prior written approval of the LEA's athletic director. The supplemental eligibility list may be submitted for league games only; and
 - (c) Each LEA's athletic director shall be responsible for verifying the eligibility of each student no later than one (1) week after receipt of the eligibility list, including a supplemental eligibility list.
- 2701.2 LEA and school representatives shall not engage in any activity seeking to influence a student to transfer from one (1) LEA or school to another for the purpose of participating in interscholastic athletics.
- 2701.3 The LEA shall develop a written procedure to challenge a student's eligibility to participate in interscholastic athletics, provided that the challenge is based upon credible information that the student may not meet the eligibility requirements set forth in § 2701.4. The following applies when a student's eligibility to participate in interscholastic athletics is challenged:

- (a) A challenge must be presented in writing and signed by the submitting party, addressed to the appropriate school authority of the school where the student is enrolled.
- (b) The LEA for the school of enrollment shall investigate the matter. An LEA finding of ineligibility is final. In the event the LEA finds a student to be eligible, the LEA shall prepare a written finding and submit such finding with any supporting documentation to the SAO no later than ten (10) calendar days after the date the matter was reported to the LEA.
- (c) The SAO shall forward the submission to the Athletic Appeals Panel upon receipt. The Appeals Panel shall issue a written decision affirming or denying the LEA's finding of eligibility no later than five (5) calendar days after the date of receipt. The Athletic Appeals Panel decision is final.

2701.4

In order to be certified as eligible to participate in interscholastic athletics at a public school, and to maintain such eligibility, a student shall meet the following requirements:

- (a) A student shall be a resident of the District of Columbia, as defined by statute and the rules set forth in title 5, subtitle A, § 5001.1, except as provided in paragraph (b) of this subsection;
- (b) A nonresident student of the District of Columbia is eligible to participate in interscholastic athletics under the following circumstances:
 - (1) Admission to a public school complies with applicable laws and regulations;
 - (2) Applicable nonresident tuition payments are current;
 - (3) Successful completion of two (2) full consecutive semesters at the public school; or
 - (4) The student has been granted a waiver by the Athletic Appeals Panel consistent with this chapter.
- (c) A student shall be enrolled within the first twenty (20) calendar days of a semester in the school where he or she wishes to participate in interscholastic athletics, unless otherwise qualified for immediate participation pursuant to § 2700.8 or § 2701.4(d);
- (d) A student may participate in interscholastic athletics upon transferring enrollment from any school to a public school in the District of Columbia on the basis of a change of address in the District of Columbia, and is

deemed to be immediately eligible to participate in interscholastic athletics upon proof of residency consistent with §§ 5000 through 5005 of title 5, subtitle A, chapter 50.

- (e) All students shall be required to establish residency in conformance with applicable laws and regulations;
- (f) A student who is a resident of the District of Columbia is deemed eligible when he or she changes enrollment in a public school under one or more of the following circumstances:
 - (1) A student is a ward of the court or state and is placed in another school by court order;
 - (2) A student changes residence to live with a legal guardian, custodian or in a foster home; provided that a student shall not be eligible if a guardian or custodian is appointed for the purpose of making a student eligible, including a situation where a coach obtains custody or guardianship of a student in order to establish the student's eligibility;
 - (3) The student marries and transfers due to the establishment of a new residence;
 - (4) The student's school ceases to operate;
 - (5) A reorganization, consolidation, or annexation of the student's school occurs;
 - (6) The student is ordered to transfer for non-athletic purposes;
 - (7) The student transfers due to a court order, or custody decree;
 - (8) The student has special needs, as identified by the Individualized Education Program (IEP) or Section 504 Plan, and is transferred to another public school better suited to provide the support services necessary for the student's academic success;
 - (9) The student transfers as provided for in 5 DCMR E § 3805 because his or her school has been designated as a persistently dangerous school;
 - (10) The student transfers as provided for in 5 DCMR E § 3809 because he or she has been the victim of a violent crime or a pattern of bullying or other aggressive conduct or sexual harassment;

- (11) The student is a qualified foreign exchange student under § 2701.4(e); or
 - (12) The student is an international student residing in the District of Columbia with his or her parents;
- (g) An international student participating in a foreign exchange program shall be considered immediately eligible for a maximum period of one (1) calendar school year or two (2) consecutive semesters if the student:
- (1) Has not completed his or her home secondary school program;
 - (2) Meets all other eligibility requirements of this section;
 - (3) Has been randomly assigned to his or her host parents and school and neither the school the student attends nor any person associated with the school has had input in the selection of the student and no member of the school's coaching staff, paid or voluntary, serves as the resident family of the student;
 - (4) Possesses a current J-1 visa issued by the U.S. State Department; and
 - (5) Is attending school under a foreign exchange program on the current Advisory List of International Educational Travel and Exchange Programs published by the Council on Standards for International Education Travel and such program assigns students to schools by a method which ensures that no student, school, or other interested party may influence the assignment.
- (h) An international student not participating in a foreign exchange program shall be treated as all other students who transfer schools under paragraphs (c) and (d) of this subsection.
- (i) A student in grade seven (7), eight (8), nine (9), ten (10), eleven (11), or twelve (12) shall submit to the principal or appropriate person designated by the LEA an original or certified true copy of the student's birth certificate, except that in cases where a student provides a certification from a bureau of vital statistics or comparable agency that no birth certificate exists for the student, satisfactory documentary proof of the student's date of birth shall be accepted.

- (j) The LEA shall obtain from each eligible student written authorization signed by a parent or guardian of the student authorizing the student's participation in sport(s).
- (k) The LEA shall obtain from each eligible student a written medical certification confirming that the student has been examined and found to be physically fit for the sport in which the student seeks to participate;
- (l) A student shall be covered by appropriate accident insurance, obtained either by his or her LEA or his or her parent or guardian and approved by his or her school's LEA, during each season the student participates. Appropriate notice of the coverage and cost of the accident insurance obtained by his or her school's LEA shall be provided annually to parents or guardians and adult students. A parent or guardian submitting a policy for approval by the student's school's LEA shall do so within the time specified by the LEA. In addition, students participating in football shall be insured by additional football accident insurance which shall be paid for by the LEA in which the student is enrolled.
- (m) A student shall maintain regular school attendance, having been present at least two-thirds (2/3) of the school days during the semester preceding the sport season, and shall have no more than three (3) unexcused absences consistent with chapter 21 of subtitle A of title 5 during the season of participation. Completion of a summer school program shall not be counted as a semester of attendance for the purposes of establishing eligibility pursuant to this subparagraph.
- (n) A student in grade nine (9), ten (10), eleven (11), or twelve (12), shall have a grade point average of at least 2.0 ("C") to participate in interscholastic athletics.
- (o) A student in grade four (4), five (5), six (6), seven (7), or eight (8) shall not fail more than one (1) subject in the grading period immediately preceding the sport season in which the student wishes to participate.
- (p) The student shall not have graduated from the school for which he or she participates in a sport; provided, that an eligible student whose graduation exercises are held before the end of the school year may continue to participate in interscholastic athletics until the end of that school year.
- (q) Subject to § 2700.4, a student who has attained the following ages on or before July 1 preceding the following school year shall not be eligible to participate in interscholastic athletics offered for the grade levels indicated:

- (1) Grades four (4) and five (5): twelve (12) years;
 - (2) Grades six (6) through eight (8): fifteen (15) years; and
 - (3) Grades nine (9) through (12): nineteen (19) years.
- (r) A student shall maintain amateur standing by engaging in sports only for the physical, educational, and social benefits derived from sports and by not accepting, directly or indirectly, a remuneration, gift, or donation based on his or her participation in a sport other than approved school awards.
- (s) A student may represent only one (1) school in the same sport during a school year.
- (t) A student is eligible to participate in regular season, playoff, or championship interscholastic athletic contests for a maximum of:
- (1) Four (4) semesters (two (2) seasons) in grades four (4) through five (5);
 - (2) Six (6) semesters (three (3) seasons) in grades six (6) through eight (8); and
 - (3) Eight (8) semesters (four (4) seasons) in grades nine (9) through twelve (12), consistent with paragraphs in this subsection.
- (u) Semester and season eligibility computations shall begin from the semester in which the student was enrolled for the first time in any school in grades four (4), six (6), and nine (9), and shall be counted continuously thereafter, regardless of whether he or she remains continuously enrolled in school. For student athletes in grades nine (9) through twelve (12), eligibility shall cease at the end of the eighth semester after first entering the ninth (9th) grade.
- (v) A request for waiver from the requirements set forth in paragraphs (s), (t), and (u) above shall be effective only upon presentation in writing by the athletic director of an LEA to the SAO and decision by the Athletic Appeals Panel, as follows:
- (1) The request for a waiver from the requirements set forth in paragraphs (s), (t), and (u) above, may be presented to the SAO in writing with supporting documentation by the LEA's athletic director in accord with and pursuant to the LEA's policy and procedures;

- (2) The SAO shall forward the waiver request received from the athletic director of an LEA to the Athletic Appeals Panel;
 - (3) No later than five (5) school days after the date of receipt, the Athletic Appeals Panel shall affirm or deny the waiver request in a written decision; and
 - (4) The Athletic Appeals Panel decision is final.
- (w) A student in grade nine (9), ten (10), eleven (11), or twelve (12) shall not participate in the same individual or team sport outside of school during the same sports season. Nor shall he or she participate on a team, or in an organized league, tournament meet, match, or game between the first and last scheduled contest of the school team during the season of the sport; provided, that a student who is selected to represent the United States in international amateur competition shall not become ineligible in school competitions for participating in qualifying trials.
- (x) A student shall participate only under the name by which he or she is registered in the public school he or she attends;
- (y) A student's participation shall be classified as follows:
- (1) Grades four (4) and five (5) shall participate on the elementary level;
 - (2) Grade six (6) shall participate on the elementary level, unless enrolled in grade (6) at a middle school, in which case shall participate on the middle school level;
 - (3) Grades seven (7) and eight (8) shall participate on the middle school level; and
 - (4) Grades nine (9) through twelve (12) shall participate on the senior high school level.
- (z) A student enrolled in a public school may participate in one (1) division during a sports season.
- (aa) A student who needs fewer than two (2) credits to graduate from twelfth (12th) grade and who transferred to a high school within the preceding twelve (12) months shall not participate in any interscholastic athletic activity for the duration of the student's enrollment at that school.

2701.5 The grade designation on the student's official record, or official transfer record, shall be controlling in determining whether a student is assigned to grades four (4) through six (6) as used in this chapter.

2701.6 A student shall be considered to be assigned to grades seven (7) through twelve (12), as used in this chapter, based upon one (1) of the following:

- (a) The qualifications adopted by the Chancellor of DCPS or the director of another LEA, as applicable; or
- (b) The grade designation on the official transfer record from another jurisdiction; provided that the student has met the minimum criteria required for the grade, pursuant to the rules of the Chancellor of DCPS or of the director of another LEA, as applicable.

2701.7 A student attending a public school in the District of Columbia who is ineligible to participate in interscholastic athletics at the time of transfer from one school to another, for any reason other than failure to meet the requirements of this chapter shall not be considered for eligibility at the receiving school until the student has been enrolled for a full semester.

2701.8 A student who is ineligible to participate in interscholastic athletics may not play, practice, or otherwise participate with a Public School sports team in the District of Columbia during the period of such ineligibility.

2702 SANCTIONS FOR INELIGIBILITY; CHALLENGES

2702.1 Each LEA shall establish regulations or procedures addressing requirements for probationary actions and a determination of ineligibility in accordance with this chapter. The LEA shall provide copies of the written regulations to the SAO.

2702.2 Challenges to eligibility will be handled in conformance with the procedures established in § 2701.

2702.3 The LEA shall report all decisions regarding ineligibility that may result in forfeiture of a game or competition to the SAO for review by the Athletic Appeal Panel. The Panel may investigate the matter and may reverse the LEA action based on credible evidence.

2702.4 A school shall forfeit each competition or game in which an ineligible student participates.

2702.5 A school officer, or agent hired by an LEA or school, who knows, or should have known, that an ineligible student is participating or has participated in an interscholastic athletic program or contest shall be subject to disciplinary action

pursuant to LEA regulation, policy, or procedure. The LEA shall report disciplinary determinations to the SAO no later than five (5) calendar days after the date of such action.

2703 ALL-STAR GAMES

2703.1 A student who participates in a team sport may participate in an “all-star” competition for the sport that occurs outside the interscholastic season of the sport without jeopardy to his or her eligibility if:

- (a) The all-star competition is an activity sanctioned by the SAO or another National Federation of State High School Association (NFHS) member;
- (b) All participants in the all-star competition are graduating seniors or students completing their athletic eligibility at the end of the school year;
- (c) The student has played in no more than one (1) other all-star competition in his or her sport; or
- (d) The all-star competition occurs after the student has participated in his or her final contest for his or her school.

2703.2 A senior who fails to comply with § 2703.1 shall be subject to a penalty that may result in the loss of athletic eligibility for the balance of the school year. For all other students, the penalty may result in loss of eligibility for the next season in the sport in which the student participated in the all-star competition. The SAO shall review penalty decisions. The decision of the SAO shall be final.

2704 LEA REGULATIONS

2704.1 All LEA rules, policies, and procedures related to athletics shall be consistent with the provisions of this chapter. Upon request, LEAs shall provide the SAO with copies of their respective rules, policies, and procedures.

2799 DEFINITIONS

2799.1 When used in this chapter, the following terms shall have the meanings ascribed:

Athletic Appeals Panel – a panel composed of three people appointed by the State Superintendent of Education on a case-by-case basis.

Athletic Director – a person who holds the position of athletic director or a person or entity that performs the functions of an athletic director as designated by an LEA.

Day – one (1) calendar day, unless otherwise stated.

League – an association of sports teams or clubs that compete mainly against each other.

Participate – to be included on the team roster as a member of a recognized school team to play in practices, games, tryouts, and competitions, or engage in other recognized activities as part of the team.

Public School – A school within the District of Columbia Public Schools (DCPS) system, a District of Columbia public charter school, or a private school member participating in the District-wide competitions approved by the SAO.

Statewide Athletics Office (SAO) – unit of the Office of the State Superintendent of Education that is charged with providing direction, coordination, and regulatory guidance for athletic programs at the District’s local education agencies.

Week – seven (7) calendar days, unless otherwise stated.

Persons wishing to comment on this notice of rulemaking should submit their comments in writing including or through an electronic submission to: Office of the State Superintendent of Education, 810 First Street, N.E., 9th Floor, Washington, D.C. 20002 [(202) 727-6436], or to Jamai.Deuberry@dc.gov with subject “Attn: Jamai Deuberry, Interscholastic Athletics Rules.” All comments must be received no later than thirty (30) days after publication of this notice in the *D.C. Register*. All comments received will be taken into consideration during the proposed rulemaking process prior to final adoption of these rules.