



DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

EDUCATION

**FREQUENTLY ASKED QUESTIONS
OSSE'S RESIDENCY INVESTIGATION AND ADMINISTRATIVE REVIEW PROCESS
IN SPECIAL CIRCUMSTANCES**

The Office of the State Superintendent of Education (OSSE) is responsible for ensuring that public schools in the District of Columbia are accessible, first and foremost, to residents of the District. These responsibilities include enforcing residency requirements and investigating a student's residency status.

As a reminder, to establish bona fide residency, the person enrolling the student shall demonstrate compliance with all three of the following requirements:

- (1) If anyone other than the parent is enrolling the student, establish that they are the valid guardian, custodian, or other primary caregiver, as set forth in 5-A DCMR § 5000 *et seq.* and specifically defined in 5-A DCMR § 5099, with proper documentation such as a custody order, or an "other primary caregiver" form;
- (2) Establish a physical presence in the District, defined as the "actual occupation and inhabitation of a place of abode with the intent to dwell for a continuous period of time"; and
- (3) Submit valid and proper documentation that establishes bona fide residency as set forth in 5-A DCMR § 5004.

Below are responses to Frequently Asked Questions (FAQs)¹ about the residency investigation process, specifically focused on discussing what happens after receiving a Notice of a Non-Residency Finding.

I am a DC resident. Why did I get a letter from OSSE that says I am not a resident?

OSSE investigates all claims of non-residency that originate from the annual enrollment audit, tips from community members, or referrals from other agencies. In special circumstances, OSSE's investigation will include a detailed review of the student's enrollment forms, student files maintained by the school, and publicly available electronic records, such as property records, utility bills, and driver's license information, as well as other publicly available information on students, parents, and other guardians listed in residency documentation provided to enroll the student.

You received a letter from OSSE that says you are not a resident because the results of OSSE's investigation determined that you reside outside the District, or because the documentation you provided during enrollment to establish District residency was insufficient. Documentation can be found insufficient if, for example, it is incomplete, out of date, invalid, or could not be authenticated.

¹ These FAQ's are intended to help you understand the residency investigation process. Ultimately, the D.C. Code § 38- and 5-A DCMR § 5000 *et seq.* govern regardless of FAQ answers or inferences from the below discussion. This document is not intended as legal advice. If you need legal advice, please speak to an attorney,

If you disagree with the letter, you can submit a request for administrative review within 10 business days after the date on the letter by sending a written request to OSSE.Residency@dc.gov.

Can my child stay enrolled in school after I get a letter from OSSE that says I am not a resident?

Yes. If you request administrative review, your student may remain enrolled at his/her school until a final administrative decision is issued. In addition, OSSE will not prevent the student from enrolling for the 2018-19 school year until a final decision is issued. Your student may also enroll as a non-resident *if there is a seat available* and you have entered into a tuition agreement with OSSE. Residency status must be verified every year. See the questions on page 4 for information about the administrative review process.

I am not a DC resident and I agree with OSSE’s letter but I want my student to stay enrolled at his or her school. What are my options?

If you agree that you are a non-resident, you will be required to make payment arrangements for the non-resident tuition owed for the 2017-18 school year. Please contact OSSE by calling (202) 741-7631 or by email at OSSE.Residency@dc.gov to make payment arrangements. You may seek to re-enroll the student for the 2018-19 school year only if you agree to fully pay tuition for the 2017-18 school year, AND have a tuition payment agreement with OSSE for the 2018-19 school year OR you present current, verified information establishing bona fide District residency under 5-A DCMR § 5000 *et seq.*

How do I establish bona fide residency?

To establish bona fide residency, the person enrolling the student shall demonstrate compliance with all three of the following requirements:

- 1) If anyone other than the parent is enrolling the student, establish that they are the valid guardian, custodian, or other primary caregiver, as set forth in 5-A DCMR § 5000 *et seq.* and specifically defined in 5-A DCMR § 5099, with proper documentation such as a custody order, or an “other primary caregiver” form;
- 2) Establish physical presence in the District, defined as the “actual occupation and inhabitation of a place of abode with the intent to dwell for a continuous period of time”; and
- 3) Submit valid and proper documentation that establishes bona fide residency as set forth in 5-A DCMR § 5004.

What is valid and proper documentation that establishes bona fide residency as set forth in 5-A DCMR § 5004?

To establish bona fide residency during the residency verification process, the parent, guardian or other primary caregiver who is enrolling the student must have one of the following items:

- (a) Proof of payment of District personal income tax, in the name of the person seeking to enroll the student, for the tax period closest in time to the consideration of District residency;

- (b) A pay stub issued less than 45 days prior to consideration of residency in the name of the person seeking to enroll the student that shows his or her District residency and evidence of the withholding of District income tax;
- (c) Current official documentation of financial assistance received by the person seeking to enroll the student, from the District Government including, but not limited to Temporary Assistance for Needy Families (TANF), Medicaid, the State Child Health Insurance Program (SCHIP), Supplemental Security Income (SSI), housing assistance, or other governmental programs;
- (d) Confirmation, based upon completion and submission of a tax information authorization waiver form, by the District Office of Finance and Revenue of payment of District income taxes by the person seeking to enroll the student;
- (e) Current official military housing orders showing residency in the District of the person seeking to enroll the student; or
- (f) A currently valid court order indicating that the student is a ward of the District.

If none of these documents can be provided, the parent, guardian or other primary caregiver who is enrolling the student can also establish bona fide residency during the residency verification process by having two of the following items:

- (g) A current motor vehicle registration in the name of the person seeking to enroll the student and showing District residency;
- (h) A valid unexpired lease or rental agreement in the name of the person seeking to enroll the student, and paid receipts or canceled checks (for a period within two months immediately preceding consideration of residency) for payment of rent on a District residence in which the student actually resides;
- (i) A valid unexpired District motor vehicle operator's permit or other official non-driver identification in the name of the person seeking to enroll the student; and
- (j) Utility bills (excluding telephone bills) and paid receipts or cancelled checks (from a period within the two months immediately preceding consideration of residency) in the name of the person seeking to enroll the student that show a District residence address.

Can OSSE require additional or other kinds of documents?

Yes. Proof of District residency which appears to be satisfactory does not prevent OSSE from seeking further information to verify the student's residency, such as documentation that establishes that the family has physical presence in the District, or the status of the adult enrolling the student as an "other primary caregiver." OSSE can also request permission to conduct a home visit to get evidence that

verifies that both the person seeking to enroll the student and the student actually reside at the District address.

What happens after I request administrative review?

Requesting administrative review means that you will have a chance to tell your story and present evidence that proves you are a resident. For large-scale investigations with special circumstances, there are three stages in the administrative review process. The first is pre-mediation review, the second is mediation and the third is hearing and final decision. Your case may be resolved at any of these stages. More information about each stage is detailed in the questions below.

When you request administrative review, you will move through each stage of this process until your case is resolved.

What is pre-mediation review?

OSSE has instituted additional procedures for fairly and efficiently resolving cases that arise in special circumstances, including, but not limited to, when tasked with investigating a significant number of potential non-residents at the same time. These pre-mediation review procedures ensure that OSSE has not missed any important information about the residency status of students and families prior to mediation and hearing. Pre-mediation review is a chance for students and families to directly connect with OSSE, before going to the Office of Administrative Hearings (OAH), the agency that handles formal administrative review. If you believe OSSE's non-residency determination was made in error, this is your first chance of several opportunities to explain why.

After you request administrative review, you have up to 20 days from the date of the letter to provide additional documentation that helps prove residency, prior to formal mediation. OSSE will conduct a pre-mediation review of any documents you send to determine whether they are sufficient to establish residency and negate evidence of non-residency obtained by OSSE in the course of the investigation. During optional pre-mediation review, if requested, families will have an opportunity to speak with representatives of OSSE via telephone about the documentation provided and learn additional information about their residency status. The telephone conference is not required. If you are represented by a lawyer, you may have your lawyer join the call.

Following the conference call, OSSE will review the totality of the facts, both evidence initially found by OSSE and any new information provided by families, to make a decision. If OSSE agrees that the documents and information presented during pre-mediation is sufficient to establish a student's status as a District resident and overcome OSSE's initial findings, OSSE will withdraw the finding of non-residency, communicate this final decision to the family, and take no further action.

If a family concedes that a student is not a resident, the non-residency finding becomes final and the parties will enter into a settlement agreement for tuition. OSSE will notify your school that you and your child are non-residents and that you are required to have a valid tuition agreement in place in order to continue attending the school.

If your family and OSSE cannot agree, formal mediation at OAH is the next step (see more details below).

What kind of documents can I send in for pre-mediation review?

You can provide anything you think helps explain why you are a District resident. You should provide documents that establish that a) you were a resident as of October 2017 and b) that you have continued to maintain a physical presence in the District since then. You should not resubmit the documents you provided for residency verification during the 2017-18 school year, unless you believe they may have been incomplete or altered. Some examples of other documents that you can provide for OSSE's pre-mediation review includes, but are not limited to, utility bills that show continuous payments, authentic and valid leases for the relevant time frame, or court records such as custody orders.

I already sent OSSE additional documentation with previous requests for administrative review. Can I still send additional documents?

Yes. If you have already submitted additional documentation with a prior request for administrative review, you do not need to resubmit those documents, but you may send additional documentation within the timeframe provided in the Notice of a Non-Residency Finding if you would like to.

What if OSSE does not withdraw the finding after pre-mediation review?

If OSSE does not withdraw its finding after reviewing your documents and speaking with you during the pre-mediation telephone conference, you will be contacted to schedule formal mediation.

If you do not want to mediate, you can accept OSSE's non-residency finding and enter into a tuition agreement. See below for additional details about entering into a tuition agreement with OSSE.

What is OAH?

OAH, or the Office of Administrative Hearings, is an independent agency within the District of Columbia government that holds hearings and decides appeals of various government decisions. OAH is the agency that conducts formal mediation and hears contested residency cases.

What is mediation?

Before a hearing is scheduled in a residency case, OAH will schedule a mediation session. In mediation, a specially-trained neutral mediator meets with the parties (the family and OSSE) and assists them to state their positions and to explore options to resolve the case without going to an actual evidentiary hearing. The mediator helps the parties to reach a mutually acceptable settlement of the case. All judges are qualified to mediate any case before the Office of Administrative Hearings.

If during mediation OSSE agrees that the documents and information presented in mediation are sufficient to establish a student's status as a District resident, OSSE will withdraw the finding of non-residency and take no further action.

If a family concedes that a student is not a resident, the non-residency finding becomes final and the parties will enter into a settlement agreement for tuition. If the non-residency finding is final, OSSE will notify your school that you/your child are non-residents and that you are required to have a valid tuition agreement in place in order to continue attending the school.

Mediation sessions are confidential and the mediator will not share with the judge in charge of the case any information that came out in a mediation session.

If you and OSSE cannot agree on a resolution after mediation, the case will be scheduled for a hearing at OAH.

How do I know when mediation will happen? Will I get something in the mail?

OAH will issue a Mediation Order that requires both parties (OSSE and the family) to attend a mediation session. The Mediation Order will not mandate the parties to settle the case, but mandates the parties attend a session to try to reach an agreement. Prior to mediation, OAH will send an Agreement to Mediate for parties to sign that states that parties understand the OAH mediation process for their specific case. You are not required to have a lawyer for mediation, but you may bring a lawyer if you wish.

Where does mediation take place?

Mediation is held in a conference room at OAH. OAH is located at 441 Fourth Street, NW, Suite 450N.

What is an OAH hearing?

A hearing at OAH is similar to a trial. Hearings are held in a courtroom at OAH and digitally recorded. A hearing gives all parties an opportunity to tell their side of the story to the judge. To tell your story, you may testify and have witnesses testify for you. A judge is in charge of the proceedings. You may also ask the judge to look at documents, photographs or other physical evidence. You will also hear the evidence presented by the other side and have an opportunity to question the other side's witnesses. The judge will make sure that you understand the hearing process, and have the time you need to present your case. During an OAH hearing, both sides must present their evidence and a list of witnesses before the hearing.

While the hearings may not be as formal as a trial, there are OAH Rules, available at <http://oah.dc.gov>. In residency cases, students and families have the burden of proof.

The party with the burden of proof is the party that actually has to prove its case in order to win. The party with the burden of proof generally goes first and has the responsibility to prove his or her side. That party will put on his or her entire case first—all the witnesses and document evidence. Because students and families have the burden of proof in residency cases, OSSE's non-residency finding is presumed to be correct until a majority of the evidence presented proves residency. OSSE may then introduce evidence of non-residency. The judge gets to decide which side prevails.

You are not required to have a lawyer for a hearing, but you may bring a lawyer.

How do I find out about the hearing?

If a case can't be settled in mediation, the Office of Administrative Hearings will mail you a Scheduling Order that sets the date and time of the hearing and timelines for disclosure of documents.

What happens after a hearing?

The judge makes the final decision after the hearing. If the judge determines that the student was a bona fide District resident as of October 2017 and has maintained residency in the District, OSSE will withdraw the finding of non-residency and take no further action. If the judge determines that the student is not a resident, the parties will enter into a settlement agreement for tuition. If the non-residency finding is upheld, OSSE will notify your school that you/your child are non-residents and that you are required to have a valid tuition agreement in place in order to continue attending the school.

If the Final Order says my child is a non-resident, will my child be immediately removed from his or her school?

No. If OSSE's non-residency finding is upheld, you may keep your child at his or her school as long as there is space at the school for that grade level (i.e., no waitlist) and you enter both into a settlement agreement for the past due tuition (2017-18 school year) AND a tuition agreement for the current (2018-19) school year.

If I enter into a settlement agreement with OSSE for 2017-18 tuition, how much time will I have to pay?

You can negotiate the terms of your settlement agreement with OSSE. All past due tuition (for both the 2017-18 and 2018-19 school years) must be paid IN FULL prior to enrolling for the following school year (2019-20).

What happens if I don't pay or get behind on my settlement payments?

If you enter into a settlement agreement to pay past due tuition, you must make regular payments according to the terms of the agreement.