

Interim Update on Duke Ellington Investigation

Background

As the District of Columbia's state education agency, the Office of the State Superintendent of Education (OSSE) works to ensure that all District students and families have equitable access to education options. This requires a robust system of compliance and enforcement to ensure that public schools in the District, including DC Public Schools (DCPS) and public charter schools, are available, first and foremost, to bona fide residents of the District. Verifying residency is an important requirement to protect District taxpayers and resources. To achieve this goal, OSSE engages in review of residency documentation during the annual enrollment audit of all public schools, both DCPS and public charter schools, as well as publicly funded pre-Kindergarten programs in community based organizations.

District regulations (5-A DCMR § 5001.5) provide a definition of residency for the purposes of school enrollment that requires the following:

- (a) the person enrolling the child is the parent, legal guardian, or otherwise legally proven Other Primary Caregiver¹, and
- (b) the person has established a physical presence in the District of Columbia; and
- (c) the person has submitted valid and proper documentation in accordance with further subsections of the residency rules.

All three of these conditions must be met to be considered a resident of the District of Columbia for the purposes of attending a public school tuition free and these requirements frame how OSSE approaches an investigation into the residency status of a student.

During the 2017-18 enrollment audit, OSSE observed significant and systemic issues of non-compliance with the requirements for record keeping and residency verification at Duke Ellington School of the Arts (Ellington) and as a result of these concerns, commenced a preliminary investigation into the residency status of all students at the school. The results of these preliminary investigations were [published in our May report](#), with additional details provided below. The preliminary investigation consisted of a review of paper files and documentation from the school as well as electronic records pertaining to the person(s) enrolling the student.

¹ Other Primary Caregiver is a specific term defined in regulations as: the person other than a parent or court appointed custodian or guardian who is the primary provider of care and support to a child who resides with him or her, and whose parent, custodian, or guardian is unable to supply such care and support and submits evidence that he or she is the primary caregiver of the student in the manner provided in D.C. Official Code § 38-310 and Chapter 50 of Title 5-A of the DCMR.



What we Found

As detailed in our report, following the preliminary investigation, OSSE identified 220 cases warranting further action: 164 cases of suspected non-residency and an additional 56 cases where the information obtained in the investigation was insufficient to render a determination.

In all cases in which OSSE determined families to be non-residents, there was evidence that the family failed to meet at least one of the three of the conditions for residency above, frequently for multiple reasons.

Reason for Finding (<i>not mutually exclusive</i>)	#
Unauthorized person enrolling	28
Indication of physical presence outside of DC	177
Documentation out of compliance	130

Specifically regarding a family's physical presence outside of the District, the investigation uncovered numerous cases with the following records demonstrating that families resided outside of the District.

Records outside District (<i>not mutually exclusive</i>)	#
Drivers licenses	135
Vehicle registrations	129
Voter registrations	94
Property records	99

Case Status Update

In July, OSSE contacted families to provide notice of the initial determinations through multiple methods (mail, certified mail, email, and phone) and provided a robust due process pathway, including pre-mediation review of additional documentation review and pre-mediation calls. Then, from August through September, OSSE conducted more than 140 pre-mediation reviews, to analyze additional supporting documents provided by families. As of November 1, 98% of OSSE's internal work on these cases has been completed. All cases have been categorized into the following groups:

1. **Closed – residents.** These families were able to provide further evidence that proved them to be residents.
2. **Closed – nonresident conceders.** These families conceded non-residency and were issued payment agreements for the tuition owed for the 2017-18 school year. If they wished to re-enroll for the 2018-19 school year, they were also required to re-apply through the Common



Lottery and enter into tuition agreements for the 2018-19 school year, consistent with regulatory requirements.

3. **Closed – uncontested nonresidents.** These families did not respond to OSSE’s July notice letter despite the multiple means of outreach, and in most cases evidence that the notices were received. Because they did not contest the finding in the notice, OSSE’s initial determination became the final decision and these families are non-residents. If the children were still enrolled, these students were subsequently unenrolled from school. They were also issued tuition payment agreements for the 2017-18 school year.
4. **Open – referred to the Office of Administrative Hearings (OAH).** These are cases where the families contested OSSE’s finding of non-residency, but OSSE determined that additional documentation and/or the information provided during the pre-mediation review was insufficient for clearance. These cases will continue through the administrative process to the OAH for formal mediation and hearing.
5. **Open – OSSE in process.** There are very few cases that remain in the internal investigations or pre-mediation processes.

The table below provides the breakdowns of the cases in these categories.

STATUS/Result	# of Cases	% of Total
CLOSED	175	80%
Residents	143	65%
Nonresident Conceders	10	5%
Uncontested Nonresidents	22	10%
OPEN	44	20%
Referred to OAH	40	18%
OSSE in process	4	2%
TOTAL*	219	100%

**One case was removed from the total 220 because the student was already determined to be a nonresident and removed from the school before the investigation began.*

Next Steps

Open Cases

Families whose cases are now before OAH will first go through formal mediation with a third party mediator, and if agreement cannot be reached in that forum, the cases will move to hearing before an Administrative Law Judge (ALJ). Decisions rendered by the ALJ will constitute the final agency decision. If the ALJ determines the family to be a non-resident, they will be required to enter into a payment agreement for the 2017-18 school year as well as any portion of the 2018-19 school year that has already elapsed. If families wish to remain enrolled, they are required to re-apply through the Common Lottery and enter into a tuition agreements for the 2018-19 school year, consistent with regulatory requirements. Families may appeal the final OAH order to the D.C. Superior Court.



Tuition Collection

The families who owe tuition are all in various stages of executing their agreements or rendering payments against their balance owed. OSSE's existing tuition payment policies, including those regarding delinquency, will apply to these families, meaning failure to pay may result in referral to collections and or the student's exclusion from school.

Conclusion

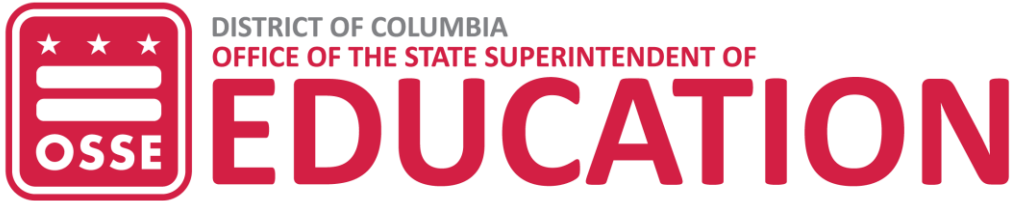
OSSE's primary goal is to ensure that District of Columbia residents have an opportunity to attend a school of their choice, tuition free and to ensure that the rules requiring out-of-state residents to pay tuition are applied according to law. The findings and scope of Duke Ellington investigation demonstrate that there were significant gaps in oversight at the school and LEA level during the 2017-18 school year. But these findings also offer lessons and considerations for future policy development and enforcement methods, including:

- The interconnectedness of our region, and the frequency with which families move back and forth across state lines, as well as the complexity of many intergenerational family living arrangements. Given this interconnectedness and complexity, it is particularly important to collectively ensure clear community and school understanding of the legal requirements of residency beyond simply furnishing paperwork with a DC address.
- Schools and LEAs must uphold strong record-keeping procedures that clearly meet the standards of the residency documentation requirements. In all of the cases from Duke Ellington School of the Arts described here, including those ultimately determined to be residents, the documentation on file at the school was inadequate to demonstrate meeting residency requirements.

Since 2017, OSSE has invested significant time and resources to improve the clarity and rigor of residency verification and investigation, including updating regulations, assuming full responsibility for residency investigations for both DCPS and charter schools, hiring additional staff, increasing training for LEAs, and instituting more rigorous policies for auditing residency at the school level.

Additionally, OSSE has also published updated policies regarding document retention, monitoring, tuition collection, and student exclusion. OSSE is also working in partnership with the Office of the Chief Financial Officer to ensure clear enforcement of delinquent payments, including referral to their Central Collections Unit. OSSE believes that due to the increased opportunities for training and process improvements, schools were more informed and better prepared than ever heading into the 2018-19 enrollment audit, and we anticipate that increased enforcement will result in clearer expectations and more compliance over time.

In this year's enrollment audit, Duke Ellington will be required to undergo a 100% review of residency verification documentation for all students. The results of this audit will be included in OSSE's annual enrollment audit report, which will be released in January 2019. OSSE is hopeful that the results of this year's audit at Duke Ellington will ultimately reveal a transformation in the quality and the consistency



of recordkeeping and significant gains in compliance with statutory and legal requirements for residency verification at the school level.

OSSE remains committed to ensuring District schools remain accessible first and foremost to Washington, DC residents. We will continue to take steps to improve our practice, and look forward to working with schools, families, and the community to further improve our residency efforts.