

STATE EDUCATION OFFICE OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

The State Education Office of the District of Columbia, pursuant to the requirement set forth in § 3(b)(3) of D.C. Law 13-176, the State Education Office Establishment Act of 2000, hereby gives notice of final action to adopt the following rules establishing residency verification requirements for public schools and public charter schools in the District of Columbia. Final action to adopt these rules was taken on September 27, 2001. No changes have been made to the text of the emergency and proposed rules, as published with the Notice of Emergency and Proposed Rulemaking in the *D.C. Register* on June 29, 2001, at 48 DCR 5971. The final rules will be effective as final upon publication of a notice of final rulemaking in the D.C. Register. This final rulemaking adds a new Chapter 50 to title 5 of the D.C. Municipal Regulations.

CHAPTER 50

RESIDENCY VERIFICATION FOR PUBLIC SCHOOLS AND PUBLIC CHARTER SCHOOLS

5000 GENERAL POLICY

5000.1 Public education in the District of Columbia includes the District of Columbia Public Schools and all public charter schools. All students in such schools must have proof of residency in the District of Columbia or pay tuition. A determination of residency status shall be made annually for each student. The methods used to determine residency status shall be consistent across all public schools in the District of Columbia and shall be crafted to facilitate rather than hinder school enrollment of eligible students.

5001 STUDENTS ENTITLED TO ENROLLMENT WITHOUT PAYMENT OF NON-RESIDENT TUITION

5001.1 Students entitled to enrollment without payment of non-resident tuition are either:

- (a) A student under eighteen (18) years of age who is otherwise eligible for admission to the District of Columbia Public School system (DCPS) or a public charter school if the student qualifies for free instruction under one of the following categories:

- (1) A student who is in the custody or control of a parent, custodial caregiver, or other primary caregiver who is a resident of the District of Columbia;
 - (2) A student who is a resident of the District of Columbia and does not have a living parent or custodial caregiver;
 - (3) A student who is a ward of the District of Columbia;
 - (4) A student who is living with his or her spouse, when the spouse is eighteen (18) years of age or older and is a resident of the District of Columbia;
 - (5) A student who has been declared a resident of the District of Columbia by the Board of Education or chartering authority for the purpose of school attendance and who is therefore exempt from the requirement to pay tuition, pursuant to § 2(d) of the District of Columbia Nonresident Tuition Act, approved September 8, 1960 (Pub.L. 86-725; D.C. Code § 31-602(d)) and these regulations; or
- (b) An adult student who is otherwise eligible for admission to the District of Columbia Public School system (DCPS) or a public charter school if he or she is a resident of the District of Columbia. For the purposes of this chapter, the residence of an adult student is the address of the adult student, not the address of the adult student's parents or caregivers.

5002 ESTABLISHMENT OF RESIDENCY

5002.1 The residency status of each student initially enrolling in a District of Columbia Public School or public charter school shall be established by October 5, or within ten (10) days of the time of initial enrollment, whichever occurs later within the school year for which the student is being enrolled. Residency status shall be re-established annually thereafter. The annual verification shall take place no sooner than July 1 and no later than October 5 each year. Residency status shall be established through the use of satisfactory documentation as set forth in sections 5003 and 5004. The D.C. Public Schools and the chartering authorities shall establish such rules and procedures to carry out residency verification as they deem appropriate and as are consistent with this chapter.

5003 DOCUMENTATION TO ESTABLISH RESIDENCY AT THE LOCAL SCHOOL LEVEL

5003.1 Documentation satisfactory to establish District of Columbia residency for local school verification and certification need not be physically brought in by the person seeking to enroll the student, but may be brought in by that person's appointed representative. Such documentation consists of the following:

- (a) One of the following items shall suffice to establish District of Columbia residency:
 - (1) Proof of payment of D. C. 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 of Columbia residency; or
 - (2) A current (i.e., issued less than forty-five (45) days prior to consideration of residency) pay stub in the name of the person seeking to enroll the student that shows his or her District of Columbia residency and evidence of the withholding of D.C. income tax; or
 - (3) Current official documentation of financial assistance received by the person seeking to enroll the student, from the Government of the District of Columbia 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; or
 - (4) Confirmation, based upon completion and submission of a tax information authorization waiver form, by the D.C. Office of Finance and Revenue of payment of D.C. income taxes by the person seeking to enroll the student; or
 - (5) Current official military housing orders showing residency in the District of Columbia of the person seeking to enroll the student; or
 - (6) A currently valid court order indicating that the student is a ward of the District of Columbia.
- (b) In the alternative, two (2) of the items listed below shall suffice as proof of residency in the District of Columbia:
 - (1) A current motor vehicle registration in the name of the person seeking to enroll the student and evidencing District of Columbia residency;

- (2) 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 (2) months immediately preceding consideration of residency) for payment of rent on a District residence in which the student actually resides;
- (3) A valid unexpired D.C. motor vehicle operator's permit or other official non-driver identification in the name of the person seeking to enroll the student; or
- (4) 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 shows a D.C. residence address.

5003.2 If the person seeking to enroll the student is unable to produce documents complying with section 5003.1(a) or (b) above, the principal, at his or her option and with the agreement of the person seeking to enroll the student, may conduct a home visit to determine residency. Use of the home visit as a residency verification measure requires a sworn affidavit by the principal of the school attesting that residency of the student was confirmed by a home visit, by the principal or his or her designee, made within forty-five (45) days of enrollment. A standard Residency Verification Home Visit Form must be completed. Forms shall be issued by the SEO, and shall be available from the District of Columbia Public Schools' Student Residency Office, the D.C. Board of Education's Public Charter School Office, and the Public Charter School Board.

5003.3 If the person seeking to enroll the student cannot establish residency pursuant to sections 5003.1 or 5003.2 of these rules, the local school personnel attempting to verify residency shall refer such person to the office and procedures established by the D.C. Public Schools or the appropriate chartering authority pursuant to Section 5004.

5004 PROCEDURE AND DOCUMENTATION TO ESTABLISH RESIDENCY OTHER THAN AT THE LOCAL SCHOOL LEVEL

5004.1 The D.C. Public Schools and the chartering authorities shall establish such rules and procedures as they deem appropriate to establish residency in cases where persons seeking to enroll students in schools under their supervision are

unable to prove residency under section 5003. Such rules and procedures shall:

- (a) Provide for the designation of officials authorized to determine residency status;
- (b) Include the designation of alternative forms and methods of residency documentation in addition to those set forth in section 5003;
- (c) Establish investigation and appeal procedures for persons seeking to enroll students whose residency documentation is found to be unsatisfactory;
- (d) Provide for written notification of the determination of residency to the person seeking to enroll the student, and, in the case of those whose residency documentation is found to be unsatisfactory, the reasons therefor and a written description of procedures for administrative review and appeal of the determination;
- (e) Include rules and criteria to permit students to attend school without prepayment of tuition during any administrative review and appeal procedures on their residency status;
- (f) Designate the point at which the administrative determination is final; and
- (g) Include procedures for the payment of non-resident tuition on behalf of students found not to be residents of the District of Columbia and for their exclusion from DCPS or public charter schools, upon their failure to pay such tuition.

5004.2 The rules or procedures promulgated pursuant to this section shall be subject to approval by the SEO, which shall act to approve or disapprove said rules or procedures within 30 calendar days of receipt of the proposed rules or procedures.

5005 PENALTIES FOR SUPPLYING FALSE INFORMATION

Any person, including public school personnel, who knowingly supplies false information to the District of Columbia Public Schools, the public charter schools, or the chartering authorities in the District of Columbia in connection with student residency verification shall be subject to a penalty not to exceed \$300, or imprisonment for not more than 90 days, or both, pursuant to § 3(b) of the District of Columbia Nonresident Tuition Act, approved September 8, 1960 (74 Stat. 853; D.C. Code § 31-603(b)). The case of any such person

may also be referred to the Office of the Corporation Counsel for consideration for prosecution.

5006 DISTRIBUTION OF THESE RULES TO ALL PERSONS SEEKING TO ENROLL STUDENTS

The District of Columbia Public Schools and the chartering authorities shall provide copies of the rules in this Chapter (or a suitable summary thereof) to all persons seeking to enroll students in the District of Columbia Public Schools and public charter schools in the District of Columbia.

5099 DEFINITIONS

Adult student – a student who is eighteen (18) years of age or older, or who has been emancipated from parental control by marriage, operation of statute, or the order of a court of competent jurisdiction.

Appointed representative of a person seeking to enroll a student – an individual acting on behalf of a person, pursuant to his or her written authorization, in presenting to school or chartering authority officials documentation to establish or verify the D.C. residency of the person seeking to enroll the student.

Chartering Authority – a District of Columbia entity authorized to grant charters for the establishment of charter schools, pursuant to either the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Code § 31-2853.11 *et seq.*), or the Public Charter School Act of 1996, effective May 29, 1996 (D.C. Law 11-135; D.C. Code § 31-2801 *et seq.*).

Custodial caregiver – a person with custody or control of a student who

- (a) Has been appointed legal guardian or custodian of the student by a court of competent jurisdiction; or
- (b) Is a non-court-appointed caregiver of a child who submits, as sufficient evidence, an affidavit that he or she is the full-time primary caregiver for the minor child, and provides two or more of the following:
 - (1) Previous school records indicating that the child is in the care of the caregiver;
 - (2) Immunization or medical records indicating that the child is in the care of the caregiver;
 - (3) Proof that the caregiver receives public or medical benefits on behalf of the minor child;

- (4) An attestation from a legal, medical or social service professional attesting to the caregiver’s status relevant to the minor child. Such attestation shall be submitted on a standard form to be issued by the State Education Office. The form shall delineate appropriate indicators of such status. The attestation need not be notarized.

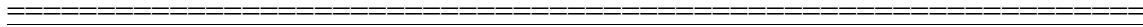
District of Columbia Public Schools (DCPS) – the District of Columbia Public School system, not including public charter schools.

Parent – unless specified to the contrary, for purposes of this chapter, the term “parent” refers only to a parent with custody of a student, including joint custody. Such parent may be a natural parent, stepparent, or parent by adoption.

Public Charter School – a District of Columbia school authorized by a chartering authority.

State Education Office (SEO) – the office established in the Office of the Mayor by the State Education Office Establishment Act of 2000, effective July 26, 2000 (D.C. Law 13-176).

All persons desiring to comment on the subject matter of the proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with the Interim Director of the State Education Office, 441 Fourth Street NW, Room 840 North, Washington, DC 20001. Copies of these proposed rules may be obtained from the State Education Office at the same address.



Adopted by the State Education Agency on Wednesday, June 20, 2001.

Interim State Education Officer

Date