

SUBJECT: ENTITLEMENT TO ATTEND -- AGE AND RESIDENCY

Ages of Attendance/Compulsory Attendance Age

All persons residing within the District who are between the ages of five (5) years and twenty-one (21) years and who have not received a high school diploma shall be entitled to enroll in the District.

A child who becomes six (6) years of age on or before the first of December in any school year shall be required to attend full-time instruction from the first day that the District's schools are in session in September of such school year, and a child who becomes six (6) years of age after the first of December in any school year shall be required to attend full-time instruction from the first day of session in the following September. Except as otherwise provided in Education Law Section 3205(3), a student shall be required to remain in attendance until the last day of session in the school year during which the student becomes sixteen (16) years of age.

Undocumented Foreign Nationals

Children who are undocumented foreign nationals, like children who are U.S. citizens, have the right to attend school full-time as long as they meet the age and residency requirements established by state law. Accordingly, the District shall not request on any enrollment and/or registration form(s) or in any meeting or other communication any of the following documentation **at the time of enrollment and/or as a condition of enrollment**:

1. Social security card or number; or
2. Any information regarding, or which would tend to reveal, the immigration status of the child, the child's parent(s) or the person(s) in parental relation, including but not limited to copies of or information concerning visas or other documentation indicating immigration status.

Insofar as the District is required, for purposes of complying with state and/or federal laws, to collect social security numbers, data pertaining to students' national origin, or other information that would tend to reveal the immigration status of any child and/or child's parent(s) or person(s) in parental relation, District personnel shall collect such data after the child already has been enrolled in school.

Proof of Age

Certified Birth Certificate or Record of Baptism. Where a certified transcript of a birth certificate or record of baptism (including a certified transcript of a foreign birth certificate or record of baptism) giving the date of birth is available, no other form of evidence may be used to determine a child's age.

POLICY

Students 7130
2 of 6

Adopted 2.23.2015

SUBJECT: ENTITLEMENT TO ATTEND -- AGE AND RESIDENCY (*Cont'd.*)

Passport. Where a birth certificate or record of baptism is not available, a passport (including foreign passport) may be used to determine a child's age for purposes of enrollment/registration in school.

Where neither a birth certificate nor record of baptism, or passport, is available, the District will consider, as proof of a child's age, other documentary or recorded evidence **in existence for two years or more**, including but not limited to the following:

- a) School photo ID with date of birth;
- b) Hospital or health records;
- c) State or other government-issued ID;
- d) Other documents issued by federal or state or local agencies (e.g., local social services agency, federal Office of Refugee Resettlement);
- e) Court orders or other court-issued documents;
- f) Military dependent ID card;
- g) Native American Tribal document;
- h) Record(s) from non-profit international aid agencies and voluntary agencies (VOLAGs);
- i) Consulate identification card; and
- j) Official driver's license.

Determination of Student Residency

"Residence," pursuant to New York Law and for purposes of this policy is established by: 1) a child's physical presence as an inhabitant within the District; and 2) his/her intent to remain in the District.

A child's residence is presumed to be that of his/her parents or legal guardians. However, the presumption that a child's residence is with his/her parents or legal guardians may be rebutted upon: a) demonstration that custody of the child has been totally and permanently transferred to another individual; or b) demonstration that the student is emancipated.

(Continued)

SUBJECT: ENTITLEMENT TO ATTEND -- AGE AND RESIDENCY (*Cont'd.*)

The residence of children dwelling within the District's boundaries shall be established in a manner that is consistent with state law and the authorized implementing regulations of the Commissioner of Education (the "Commissioner"). Proof of residency is required. Documentation may include, but is not limited to, the following:

- A residential lease, or proof of ownership (e.g., deed or mortgage statement);
- A sworn statement by a third-party landlord, owner or tenant from whom the parents(s) or persons(s) in parental relation leases or with whom they share property within the district;
- A sworn statement by a third party establishing the parent(s)' or person(s) in parental relationship's physical presence in the district.

If the proof of residency documentation listed above is unavailable, other forms of documentation and/or information establishing physical presence in the District may include, but are not limited to the following:

- Pay Stub;
- Income tax return;
- Utility or other bills;
- Membership documents based upon residency (e.g., library cards);
- Voter registration document;
- Official driver's license, learner's permit or non-driver identification;
- State or other government issued identification;
- Federal, state or local agency documentation (e.g., social service agency, federal Office of Refugee);
- Evidence of custody of the child (including but not limited to judicial custody orders or guardianship papers).

The Board of Education or Superintendent of Schools shall determine, in accordance with Section 100.2(y) of the Commissioner's regulations, whether a child is entitled to attend school as a District resident. Specifically, when a child's parent(s), or other person(s) in parental relation to the child, or the child, as applicable, requests enrollment of the child in the District, such child shall be enrolled and shall begin attendance on the next school day, or as soon as practicable. Within three business days of such initial enrollment, the Board of Education or its designee shall review all documentation submitted by the child's parent(s), or other person(s) in parental relation to the child, or the child, as applicable, and shall make a residency determination. Prior to making a determination about whether the child is entitled to attend the District's schools, the Board or its designee shall afford the child's parent(s), or other person(s) in parental relation, or the child, as applicable, the opportunity to submit information regarding the child's right to attend school in the District. The Board or Board's designee may make a subsequent determination at any time during the school year that a child is not entitled to attend school in the District as a District resident.

POLICY

Students 7130
4 of 6

Adopted 2.23.2015

SUBJECT: ENTITLEMENT TO ATTEND -- AGE AND RESIDENCY (*Cont'd.*)

Any adverse residency decision by a school official other than the Board or Superintendent shall include written notice to the parent/person in parental relation of the procedures for obtaining review of the decision within the District. A “final” residency determination made by the Board or Superintendent shall include written notice which shall state:

- That the child is not entitled to attend the public schools of the District;
- The specific basis for the determination that the child is not a resident of the District, including but not limited to a description of the documentary or other evidence upon which the determination is based;
- The date as of which the child will be excluded from the schools of the District; and
- The right to appeal to the Commissioner, as follows:

This determination may be appealed to the Commissioner of Education in accordance with Education Law Section 310, within 30 days. Instructions, forms and procedures for taking such an appeal, including translated versions of such instructions, forms and procedures, may be obtained from the Commissioner’s Office of Counsel at www.counsel.nysed.gov, or by mail addressed to: Office of Counsel, New York State Education Department, State Education Building, Albany, NY 12234; or by calling the Appeals Coordinator at: (518) 474-8927.

Children Living With Noncustodial Parents

Where a child's parents live apart, the child can have only one legal residence. In cases where parents have joint custody, and the child's time is essentially divided between both parents’ households, and both parents assume responsibility for the child, the child’s parents may designate either parent’s home as the child’s legal residence for school purposes. Where parents have joint custody, but do not produce proof that the child's time being essentially divided between both households, residency will be determined on the basis of the child's physical presence and intent to remain within the District.

Homeless Children

The following persons/classes of persons are authorized to designate a child as a homeless child or youth in accordance with applicable law: 1) the parent/person in parental relation to a homeless child; or 2) in the case of an unaccompanied homeless youth, the homeless youth, together with the District’s homeless liaison; or 3) the director of a residential program for runaway and homeless youth established pursuant to Article 19-H of the Executive Law, in consultation with the homeless child, where such homeless child is living in such program.

An authorized Designator may designate either the school district of current location, the school district of origin, or a school district participating in a regional placement plan as the district the homeless child shall attend.

(Continued)

SUBJECT: ENTITLEMENT TO ATTEND -- AGE AND RESIDENCY (*Cont'd.*)

Determinations regarding whether a child is entitled to attend the District's schools as a homeless child or youth will be made in accordance with Section 100.2(x) of the Commissioner's Regulations.

Children of Activated Reserve Military Personnel

Students temporarily residing outside the boundaries of the District, due to relocation necessitated by the call to active military duty of the student's parent or person in parental relation, will be allowed to attend the public school that they attended prior to the relocation. However, the District is not required to provide transportation between a temporary residence located outside the District and the school the child attends.

Emancipated Students

The presumption that a child resides with his/her parents or legal guardians may also be rebutted upon demonstration that such child is "emancipated." The determination about whether a student is emancipated will be based on evidence that the student:

- (1) is beyond the compulsory school attendance age (which is defined by law as the end of the "school year" (defined as July 1 to June 30) during which the child turns age 16 (or the end of the school year during which the student turns age 17 if the Board of Education has adopted a policy making 17 the compulsory attendance age); and
- (2) is living separate and apart from his or her parents in a manner inconsistent with parental custody and control (i.e., the parents are no longer making decisions for the student); and
- (3) is not receiving financial support from his or her parents; and
- (4) has no "intent" to return home, as determined by the student's words and actions.

To establish emancipation, a student may submit documentation of his/her means of support, proof of residency and an explanation of the circumstances surrounding the student's emancipation, including a description of the student's relationship with his/her parents/persons in parental relation.

These statements are renewable each school year. If at any time the above information is changed without prompt notification, or proven to be false, the parent/person in parental relation and/or student may be subject to legal action.

POLICY

Students 7130
6 of 6

Adopted 2.23.2015

SUBJECT: ENTITLEMENT TO ATTEND -- AGE AND RESIDENCY (*Cont'd.*)

Children Living With Persons Not Their Parents -- Guardianship or Custody

In accordance with the Family Court Act and Domestic Relations Law, a person possessing a lawful order of guardianship or custody of a minor child who is not the parent of such child may enroll the child in public school in the school district where he/she and the child reside. Upon application for enrollment by the guardian or custodian, the District shall enroll such a child for such time as the child resides with the guardian or custodian in the District upon verification that the guardian or custodian possess a lawful order of guardianship or custody for the child and that the guardian or custodian and the child actually reside in the same household within the District.

In addition, a child may become a legal resident of the District, without a court order, for purposes of attending school in the District, if the child's parent(s) or legal guardian(s) permanently and completely relinquish custody and control of their child to a person who is a legal resident of the District (provided that parental custody and control are not relinquished to other persons for the sole purpose of enabling the child to take advantage of the District's schools).

The District also shall accept other proof of parental custody and control, including, but not limited to, documentation indicating that a child resides with a sponsor with whom the child has been placed by a federal agency.

McKinney-Vento Homeless Education Assistance Act, Section 722, as reauthorized by the No Child Left Behind Act of 2001

Education Law Sections 3202, 3205, 3209 and 3212

Family Court Act §657

Domestic Relations Law §74

8 New York Code of Rules and Regulations (NYCRR) Sections 100.2(x) and (y)

NOTE: Refer also to Policy #7131 -- Education of Homeless Children and Youth

Adoption Date 2/23/2015