

# Advanced Notice of Proposed Rulemaking: Student Residency Verification and Investigation



5A DCMR Chapter 50

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Cross-Sector Task Force Meeting - October 25, 2016



# Why Amend Residency Rules Now?

- Regulations last updated in 2008 and since then education landscape has dramatically changed.
- The current regulations lack clarity, particularly for custody situations and the basic definition of residency.
- There is an opportunity to do better by reducing burdensome practices while making sure seats for District schools are first available to District residents.



# Urgent Timeline

In order to make a change before the next school year, we would need to have amended regulations in place before enrollment opens on **April 1**.

Projected Timeline	
Sept 8	Advanced Notice of Proposed Rulemaking (ANPR) Released. Public Comment Period Open.
Sept 22	Public Engagement Session
Oct 5	SBOE Working Session
Oct 11	LEA Leader Session
Oct 18	LEA Leader Session
Oct 26	SBOE Public Hearing; End of ANPR 45-day Public Comment Period
Nov 2	SBOE Working Session – Present Proposed Rulemaking
Nov 16	SBOE Public Hearing
Dec 30	Proposed Rulemaking published in DC Register and submitted to Council for 45 day review (GOAL)
End of March	Final Rulemaking published in DC Register
Spring/Summer	Training and Technical Assistance to LEAs on new regulations



# Current Practices



# Current Residency Verification Process

To enroll, a parent, guardian, or other primary caregiver is required to provide the school with original documents to prove DC residency. This includes:

- OSSE's Residency Verification Form;
- Supporting documentation provided to the school (Acceptable documentation is specified in DC code);
- Other primary caregiver documentation.

There are also alternative procedures for wards of the state and homeless or undocumented students.



# Identification of Non-Resident Students

OSSE identifies non-residents in two major ways:

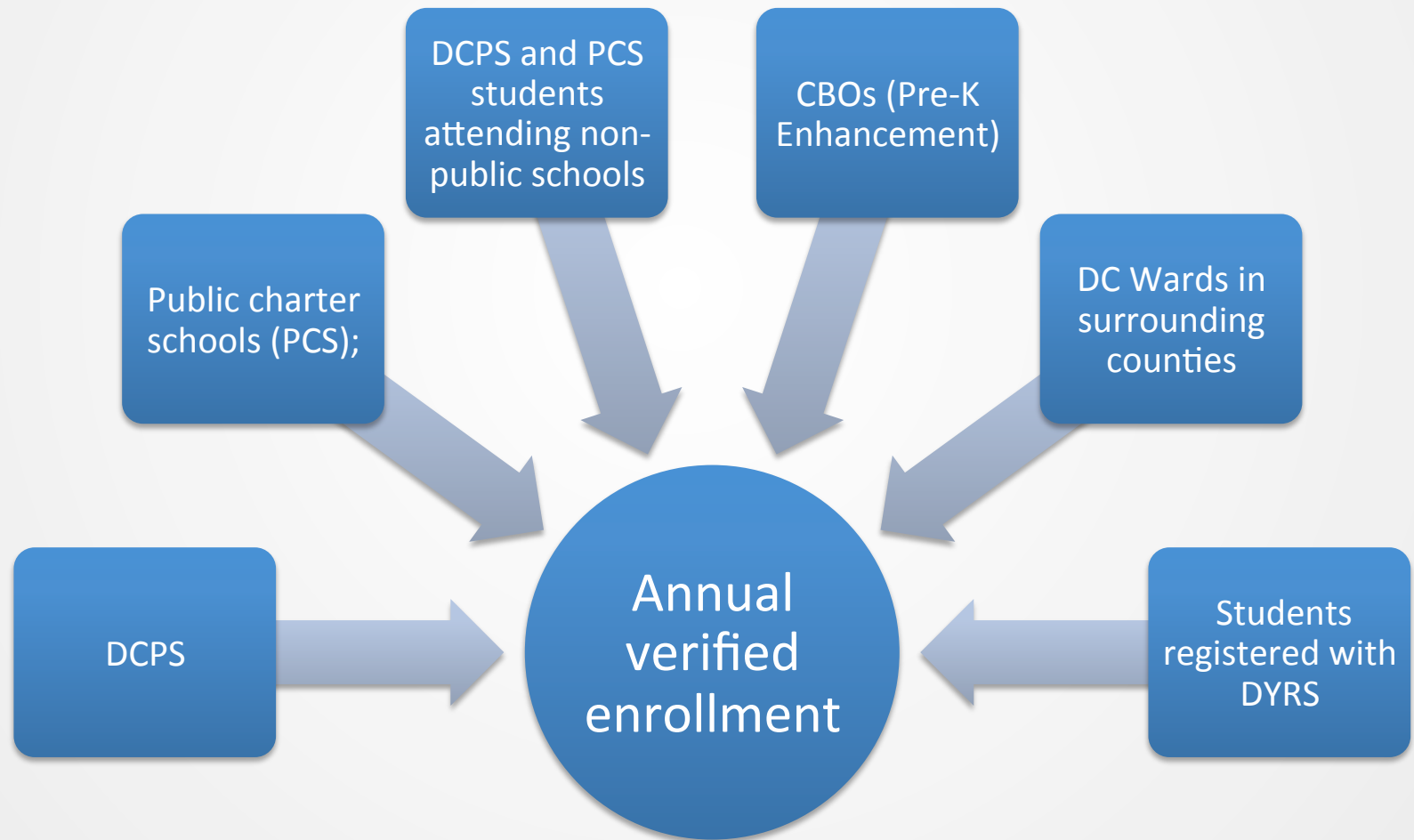
Annual  
enrollment  
audit

Residency fraud  
prevention  
program



# Enrollment Audit: Basics

- OSSE is required by DC Code to retain independent auditors who review student records to determine enrollment and residency status as of Oct 5.





# Enrollment Audit: Residency Verification

- Auditors examine the following to evaluate residency status:

## DC Residency Verification Form

- Inspected for 100% of students

## Supporting Residency Documentation

- Examined for 10% sample of non-direct certified students
- 10% sample of total 3 – 4 year old population (started last year)
- 10% sample of total school population for schools with PK3 or PK4, including CBOs

## Non-resident Tuition

- Examine tuition collected for each non-resident student





# Enrollment Audit: Escalation

- Schools that showed errors in the initial sample are required to undergo an additional 10% sample check.
- Schools that also show errors in the second sample are identified for a 100% audit for the next school year, in which the auditors review 100% of the residency verification forms **and** 100% of the residency documents.



# Enrollment Audit: Investigations

Auditors submit the names of students that did not have their residency cleared throughout the entire audit cycle (October-January) to OSSE.



OSSE then sends a formal request to schools for residency documentation for those students.



Schools have 10 days to submit documentation for OSSE's review.



**OSSE Accepts  
Documentation:**  
Student deemed a  
resident



**OSSE Denies  
Documentation:**  
OSSE asks parents for  
documents and may submit  
a tip for investigation



# Enrollment Audit: Findings

	SY 15-16
# of students without verified DC residency	103
Sent to DCPS for investigation	42
Sent to OSSE Fraud Investigation	29
Cleared as Withdrawn	17
Cleared as Residents or Paying Non-Resident	15



# OSSE Residency Fraud Process (1/2)

## **STEP 1: Tip received via phone or online form.**

Required information includes student name; grade, description of student, LEA/campus name, parent name, basis for tip

## **STEP 2: OSSE requests residency verification and enrollment forms from the charter LEA for internal review.**

## **STEP 3: OSSE sends residency cases to a private investigator who reviews records and makes a preliminary finding regarding the student's residency.**

## **STEP 4: If non-resident, OSSE issues *Advance Written Notice of Proposed Un-enrollment and/or Tuition Assessment based on Nonresident Finding*, requesting retroactive tuition (up to three years) and notifying the parent of right to challenge the preliminary non-resident finding and tuition assessment through an administrative review process.**



# OSSE Residency Fraud Process (2/2)

- STEP 5:** Parent requests an Administrative Review before the Office of Administrative Hearings (OAH) or Informal Resolution with OSSE, or Preliminary Decision becomes final administrative decision on student's residency status.
- STEP 6:** If a final administrative decision is issued deeming the student a nonresident, OSSE advises the relevant LEA to withdraw the student as soon as the determination is made and OSSE begins the process of retroactive tuition collection.



# Residency Fraud: Tips

	SY 15-16
Tips Received	134
Investigations Conducted by OSSE	83
No. of Charter Cases	83
No. of Charter Cases Closed	20
No. of Charter Cases determined to be Residency Fraud	1 (w OAG)
No. of cases that were assessed fines of retroactive tuition	0



# Proposed Future Practices: Advanced Notice of Proposed Rulemaking (ANPR)



# Rulemaking Purpose and Goals

**Purpose of rulemaking:** to clarify the residency policies and procedures required to ensure District residents have access to available seats at local schools, and that when extra space is available, nonresident students enrolled in a public school pay non-resident tuition

**Goals of rulemaking:**

- Reduce burden and lift barriers for both local education agencies and families in the residency verification process,
- Ensure a rigorous process that discourages fraud
- Provide greater clarity for LEAs and the public





# Current v. Proposed Regulations

Current Regulations		Advanced Notice of Proposed Rulemaking (ANPR)	
<b>§5000</b>	General Policy	<b>§5000</b>	General Provisions
<b>§5001</b>	Students Entitled to Enrollment Without Payment of Non-Resident Tuition	<b>§5001</b>	Establishing Student Residency
		<b>§5002</b>	Student Residency Verification
		<b>§5003</b>	Student Residency Verification: Timing
<b>§5002</b>	Establishment or Verification of Residency: Timing	<b>§5004</b>	Student Residency Verification: Methods
		<b>§5005</b>	Student Residency Verification: Other Primary Caregiver
<b>§5003</b>	Establishment or Verification of Residency: Documentation	<b>§5006</b>	Student Residency Verification: Monitoring
		<b>§5007</b>	Non-Resident Students
<b>§5004</b>	Other Primary Caregiver: Documentation of Status	<b>§5008</b>	Non-Resident Students: Investigations
<b>§5005</b>	Exceptional Circumstance	<b>§5009</b>	Non-Resident Students: Finding of Non-Residency and Notification
<b>§5099</b>	Definitions	<b>§5010</b>	Non-Resident Students: Administrative Review of Contested Residency Case and Final Decision
		<b>§5011</b>	Non-Resident Students: Appeal Rights
		<b>§5012</b>	Non-Resident Students: Action Upon Final Decision
		<b>§5013</b>	Non-Resident Students: Tuition Payments
		<b>§5014</b>	Non-Resident Students: Tuition Rates
		<b>§5099</b>	Definitions



# Definition of Residence

Currently no definition of “residence” in the regulations.

## Proposed Language:

- 5001.5      The District of Columbia is the bona fide residence of the student’s parents, guardian, custodian, primary caregiver, or adult student for the purposes of this Chapter, if the person seeking to enroll the student has established both a:
- (a) Physical presence** in the District of Columbia; and
  - (b) Legal presence** in the District of Columbia.



# Protections for Vulnerable Populations

- **Student experiencing homelessness:**
  - Not required to establish residency to enroll;
  - Updated to add definition of student experiencing homelessness (aligning with federal definition in McKinney Vento)
- **Undocumented Students:**
  - Not required to provide proof of citizenship



# Streamlining Residency Verification

- Advanced Notice of Proposed Rulemaking promotes use of data-sharing through internal government systems
  - Office of Tax and Revenue for the tax filing certification
  - Department of Human Services for verification of direct service recipients
- Sets forth new language to allow for an option of efficient and streamlined residency verification for K-12 students:
  - Whose residency was verified by the LEA in a previous year;
  - Who remain residents of DC;
  - Appoint District agencies as their authorized representatives to submit;
  - Consent to random verification; and
  - Acknowledge OSSE/LEA may seek further documentation.



# Streamlining Residency Verification, cont.

## Draft Language for Residency Verification Form:

### **Part B(2) Annual Residency Verification:**

#### **(Must check all five boxes)**

- ☐ I affirm that [insert LEA] verified my residency at [WRITE IN ADDRESS];
- ☐ I affirm that my residence in the District has remains the same as when student enrolled: [WRITE IN ADDRESS];
- ☐ I appoint [OTR or DHS] as my authorized representative to submit [Certified D-40 or Proof of TANF benefits]; to OSSE and school to establish residency;
- ☐ I consent to random verification of student's residency status through interagency data sharing process; and
- ☐ I acknowledge that OSSE, LEA or school is authorized to seek further documentation to verify student residency.



# Defining Custodial Situations: Informal

- Advanced Notice of Proposed Rulemaking sets out most common scenarios:
  - No formal custody agreement → Student is in care or control of parent who is DC resident

5001.6 In the event the student's parents do not maintain the same residency and do not have a formal custodial agreement entered into by a court of competent jurisdiction, the student shall be presumed to be a resident, if the student is in the care or control of a parent who is a resident of the District.



# Defining Custodial Situations: Formal

- 5001.7: Formal Custody Agreement Scenarios

Custody Arrangement	Student is Resident if:
Joint Physical Custody & Joint Legal Custody	One parent is DC resident
Joint Physical Custody & Sole Legal Custody	One parent is DC resident
Sole Physical Custody & Sole Legal Custody	Parent with sole physical and legal is DC resident
Sole Physical Custody & Joint Legal Custody	One parent is DC resident



# Other Primary Caregiver

- Must provide documentation as set forth in DC Code to establish:
  - Residency in DC; and
  - Status as “other primary caregiver”.
- Requires LEA to not accept other documentation without OSSE’s approval;
- **Provides 3 part test** for when student’s residency may be based on other primary caregiver’s residency:
  1. Student resides with other primary caregiver;
  2. Other primary caregiver provides both:
    - Care or control (defined); and
    - Substantial Support; and
  3. Parent/Guardian/Custodian either:
    - Abandoned child; or
    - Unable to provide **both** care or control *and* substantial support.





# Non-Resident Students

- LEA may enroll non-resident when space is available because no qualified District resident is seeking admittance
  - During same period,
  - For same grade, and
  - At relevant school location.
- Approved non-resident may remain until terminal grade of that school without re-application if
  - Tuition paid in full
  - Initial enrollment at the school was in accordance with laws and regulations
  - Not guaranteed space at feeder school
- All other non-resident students shall re-enroll/apply each year



# Residency Investigations & Appeals

- Investigations and Findings of Non-Residency and Notification
  - Requires OSSE to issue written report summarize results of investigation and make available to LEA, DC OIG, DC OAG upon request
  - Provides detailed requirements for written notification of finding of non-resident
- Administrative Review of Contested Cases – two venues to obtain final administrative decision both governed by the Office of Administrative Hearings Rules of Practice and Procedures
  - Administrative Law Judges with Office of Administrative Hearings
  - Hearing Officers with OSSE's Office of Dispute Resolution
- Action upon Final Decision for OSSE and LEAs
  - Requires OSSE notify LEA of final decision
  - Requires LEAs update student records (data systems included) and notify OSSE if student un-enrolls



# New OSSE practices

- **Non-residents flagged in the system**
  - To prevent non-resident students from re-enrolling, OSSE will add a flag to OSSE data system for students who have been identified as non-residents. Schools will then receive notice that the student is a non-resident and should not be enrolled in their school unless there is an available place and the non-resident student pays non-resident tuition. OSSE will remove the flag for families who move to the District and can prove DC residency.
- **Larger sample for PK3 and PK4 populations**
  - Amend the enrollment audit to include both a distinct review of the documentation for 20 percent of the 3- and 4-year old population and a 20 percent sample of the overall school population for schools with a 3- and 4-year old population.



# Public Comment Period

- Three Engagement Sessions thus far: Members of the Public and LEA Leaders
  - Lead enrollment staff from both DCPS and Public Charter Schools
  - National Law Center on Homeless Poverty
  - Children's Law Center
  - DC Council
- What have we heard
  - Need for more protections for adult students
  - Need to maintain protections for vulnerable populations
  - Desire for reduced burden for families
  - Desire to maintain access to schools for DC residents
- **Written public comment period open until October 26 – comments can be sent to [ossecomments.proposedregulations@dc.gov](mailto:ossecomments.proposedregulations@dc.gov).**



# Points of Contact

For further questions, please contact:

- Neela Rathinasamy, Assistant Superintendent of Operations ([Neela.rathinasamy@dc.gov](mailto:Neela.rathinasamy@dc.gov))
- Tiffany Oates, Attorney Advisor ([tiffany.oates@dc.gov](mailto:tiffany.oates@dc.gov))



| Thank you!