

Changes Relating to Enrollment and Residency Determinations

When enrollment is sought by a person in parental relation, an emancipated child or an unaccompanied youth, new regulations require school districts to enroll school-aged children the next school day, or as soon thereafter as practicable. Following enrollment, the Board of Education or its designee¹, must review all documentation submitted by the person(s) seeking a child's enrollment and make a residency determination within three (3) business days. Prior to making a residency determination, the child's parent/guardian or an emancipated minor must be given the opportunity to submit information indicating the child's right to attend the District's schools or meet with the Board or its designee prior to the District rendering its residency determination. Thus, due to the short time frame for the District to make a decision (i.e. three [3] business days), we recommend that notice of entitlement to submit relevant information be included on the registration forms and/or materials provided to those seeking to enroll a child.

As part of the residency determination process, school districts may **require** the following types of documentation to establish a physical presence in the school district:

- a. A copy of a residential lease or proof of ownership of a house or condominium (i.e., deed, mortgage statement, etc.);
- b. A sworn or unsworn statement authored by a third-party landlord, owner or tenant from whom the parents(s) or person(s) in parental relation leases or shares property;
- c. Other statements from third parties that establish the parent(s) or person(s) in parental relation's physical presence in the District; and/or
- d. Affidavits² indicating either 1) that the person seeking enrollment is the parent with whom the child lawfully resides; or 2) that they are the person(s) in parental relation to the child, with total/permanent custody and control and describing how they obtained the same (i.e. guardianship or by other means).

Note: School districts may NOT require a custody order or order of guardianship from a court as a condition of enrollment.

While school districts may require documentation as described above, they may not limit their consideration to such documentation when other appropriate and relevant documentation is also provided by the person(s) seeking a student's enrollment. Even though school districts may not affirmatively request these documents, the following is a non-exhaustive list of documents that school districts must consider when voluntarily provided by parents, persons in parental relation or a child seeking enrollment:

- a. Pay stub(s);
- b. Income tax form(s);
- c. Utility or other bill(s);
- d. Membership documents (e.g. library cards) based upon residency;
- e. Voter registration document(s);
- f. Official driver's license, learner's permit or non-driver identification;
- g. State or other government issued identification;
- h. Documents issued by federal, state or local agencies (e.g. a local social service agency, federal Office of Refugee Resettlement);
- i. Evidence of custody of the child in question, including but not limited to judicial custody order or guardianship documentation;
- j. Other forms of proof, such as documentation indicating that the child resides with a sponsor with whom the child has been placed by a federal agency.

The amended regulations clarify that school districts *may not* request the following:

- a. Social security card or number; or
- b. Any information that 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 information or documentation concerning visas or indicating immigration status.

When a determination is made that a student is not entitled to attend the schools of the district on the basis of residency ineligibility, the Board or its designee must provide written notice of the determination in the native language of the person(s) seeking enrollment. Such written notice must be provided within two (2) business days of the decision, explain the "specific basis" for determining the child to be ineligible to attend, the date upon which the child will be excluded from attendance and include a description of the evidence the District relied on in reaching its decision. School districts are also required to provide parents specific instructions in their native language on how the residency determination may be appealed.

Student Age Determinations

The recent amendments clarify the types of records and information which school districts must consider when making student age determinations. School districts may not insist upon an original birth certificate or baptismal certificate; rather, they must also accept a certified transcription of a birth certificate or baptismal certificate (including a foreign certified transcription of either such certificate). If the aforementioned is available, no other evidence may be considered when making an age determination. In the absence of original or certified transcriptions of birth/baptismal certificates, school districts must accept a passport, including a foreign passport. When neither a birth/baptismal certificate (including a certified transcription thereof), nor a passport is available, school districts may consider any of the following, including other evidence³ not listed below that has been in existence for over two years:

- a. Official driver's license;
- b. State or other government issued identification;
- c. School photo identification with date of birth;
- d. Consulate identification cards;
- e. Hospital or health records;
- f. Documents issued by federal, state or local agencies (e.g., local service agency, federal Office of Refugee Resettlement);
- g. Court orders or other court-issued documents;
- h. Native American tribal document; or
- i. Records from non-profit international aid agencies and voluntary agencies.

³ The District should not accept or consider an "affidavit of age" if submitted.