

DISTRICT OF COLUMBIA PUBLIC SCHOOLS

NOTICE OF PROPOSED RULEMAKING

The Chancellor of the District of Columbia Public Schools (DCPS), pursuant to Section 103 of the District of Columbia Public Education Reform Amendment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-172(c) (2012 Repl.)), and Mayor's Order 2007-186, dated August 10, 2007, hereby gives notice of the intent to amend Chapter 21 (Attendance and Transfers) of Title 5 (Education), Subtitle E (Original Title 5) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the rulemaking is to ensure consistent implementation of requirements instituted by DCPS and the Deputy Mayor for Education regarding the implementation of the My School DC Lottery. This amendment is also necessary to ensure that the DCPS rules regarding the out-of-boundary transfer process are articulated with sufficient clarity and specificity, to ensure that parents, stakeholders, and the public fully understand how the process operates. Chancellor's Directive #103 on Discretionary Out-of-Boundary Transfers, issued in June 2017, remains in effect pursuant to Subsection 2106.6 of this rulemaking.

Previous emergency rules were adopted on December 8, 2014 and took effect at that time. The rules expired on April 4, 2015, and no notice of final rulemaking was published. The rulemaking will be submitted to the Council for a forty-five (45) day period of review. The Chancellor of DCPS also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days from the publication of this notice in the *D.C. Register*, and after approval of the rulemaking by the Council of the District of Columbia, as specified in Section 105(c)(5) of the Act (D.C. Official Code § 38-172(c)(2) (2012 Repl)).

Chapter 21, ATTENDANCE AND TRANSFERS, of Title 5-E DCMR, ORIGINAL TITLE 5, is amended as follows:

Section 2106, OUT-OF-BOUNDARY TRANSFERS, is deleted and is replaced with a new Section 2106 to read as follows:

2106 OUT-OF-BOUNDARY TRANSFERS

2106.1 An adult student, an emancipated student, or a minor student attending a D.C. public school which does not serve the attendance zone for his or her place of residence shall be considered an out-of-boundary student. The out-of-boundary regulations in this section shall not be interpreted to:

- (a) Supersede a measure adopted by the Chancellor that is necessary to comply with Federal requirements related to the Americans with Disabilities Act, 42 USC §§ 12101, *et seq.*, Title I of the No Child Left Behind Act, 20 USC §§ 6301, *et seq.*, or the Individuals with Disabilities Education Act, 20 USC §§ 1400, *et seq.*; or

- (b) Require the displacement of any student attending a D.C. public school pursuant to an out-of-boundary transfer at the time this section becomes effective.

2106.2 An adult student, an emancipated student, or a minor student's parent or guardian shall apply for an out-of-boundary transfer for any of the following reasons:

- (a) The adult student or minor student's parent or guardian prefers the requested school to his or her designated in-boundary school.
- (b) The parent or guardian is seeking admission to a prekindergarten 3 (PK3) and/or prekindergarten 4 (PK4) program.
- (c) The parent or guardian is seeking admission to a citywide, specialized, or selective school as defined in § 2106.10.

2106.3 Application for an out-of-boundary transfer must be made pursuant to § 2106.2(b), even if admission is sought for the school that is within the attendance zone of the parent or guardian's residence. For prekindergarten 3 (PK3) and prekindergarten 4 (PK4) programs, an admissions preference shall be applied at the designated in-boundary school of the parent or guardian's residence.

2106.4 Applications for out-of-boundary transfers for the upcoming school year shall be submitted through the common lottery program's formal application. School year application dates will be publicized by DCPS no later than November 1st for the upcoming school year. Application dates will be publicized on the DCPS website in accordance with the common lottery program deadlines and release of results.

2106.5 In reviewing the request for out-of-boundary transfers, My School DC shall verify the preferences listed below and the common lottery program shall fairly administer a lottery, giving preferences to students in accordance with the following reasons for their transfer requests:

- (a) The student is a PK3 or PK4 student and is enrolling in the school within the attendance zone of the student's residence;
- (b) The student's sibling currently attends the requested school, or the student's sibling will be attending the requested school in the requested year;
- (c) The student qualifies for proximity preference at the requested school as determined in accordance with § 2106.7; or
- (d) The student is enrolling in a school that provides some or all instruction in the same language other than English (dual language program or school) as the student's current school.

- 2106.6 The Chancellor shall have the sole discretion to authorize a “discretionary transfer”, including terms of the approval of the transfer, when the Chancellor determines that the transfer would be in the best interests of the student and promotes the overall interests of the school system.
- 2106.7 DCPS provides a proximity preference through the common lottery to families who have been zoned for an elementary school that is more than a half-mile walking distance from their home. These families receive a proximity preference in the lottery at a DCPS elementary school with an attendance zone that is within a half-mile walking distance from their home.
- 2106.8 The Chancellor may designate a given school or program as a specialized school or program. A specialized school or program is a school or program that provides a substantially different education experience than other schools or programs in the system. Specialized schools/programs may have different eligibility and admission criteria and are not required to adhere to the admission preferences in § 2106.5.
- 2106.9 The Chancellor may designate a given school or program as a selective school or program. A selective school or program is a citywide school/program with specific eligibility criteria and requires application for entry into the school or program. Selective schools or programs are subject to the requirements of § 2106.2 but not subject to the preferences in § 2106.5.
- 2106.10 The Chancellor may designate a school as a citywide school. A citywide school is a school that does not have a boundary and therefore cannot be claimed as an in-boundary school. Admission to citywide schools is subject to the requirements of § 2106.2 and § 2106.5.
- 2106.11 Each year, the Chancellor shall inform all DCPS students and parents of the availability of all DCPS specialized and selective schools and programs.
- 2106.12 Students applying to specialized or selective schools or programs must meet the specific criteria established for the schools or programs to which they are applying. Eligibility requirements shall be published and made available to parents.
- 2106.13 The number of out-of-boundary spaces available shall be determined annually school-by-school through a standardized process set forth by the Chancellor or designee.
- 2106.14 A student maintains the right to attend in-boundary schools for grades Kindergarten through 12th grade but can only enroll in one school at a time even if admitted to another school. Students who are admitted to schools outside the attendance zones established for their place of residence shall be entitled to attend

these schools for the duration of their participation in the academic program except in the following circumstances in which the student loses the right to attend the current school for the upcoming school year and the current school's feeder pattern:

- (a) If the student is involuntarily transferred pursuant to § 2107;
- (b) If the student is admitted to specialized schools, programs, or academies and the students no longer meet the criteria established for the specialized schools, programs, or academies;
- (c) If the student fails to satisfy applicable attendance and admission requirements; or
- (d) If the student subsequently enrolls at his or her in-boundary school, or a different school which the student was admitted to through the common lottery program.

2106.15 A student who has been admitted to a school outside the attendance zone for his or her place of residence which has been designated as a feeder school by the Chancellor shall be entitled to attend the next-level school in the designated feeder pattern upon the student's completion of the program at the feeder school.

2106.16 Parents shall be entitled to appeal the denial of eligibility to a specialized or selective school or program through the student grievance procedure set forth in 5-B DCMR § 2405 of this title.

Comments on this rulemaking should be submitted, in writing, to Eboni J. Govan, DCPS, at 1200 First Street, N.E., 10th Floor, Washington, D.C., 20002 or dcpsregs@dc.gov, no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Additional copies of this rule are available from the above address or the DCPS website, www.dcps.dc.gov.