

Students

SUBJECT: ENTITLEMENT TO ATTEND -- AGE AND RESIDENCY**Ages of Attendance/Compulsory Attendance Age**

According to Education Law, a student 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 schools are in session in September of such school year, and a student 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 in which the student becomes sixteen (16) years of age. All persons dwelling 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.

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. Notably, the State Education Department does not require districts to collect students' social security numbers for any purpose. Insofar as the District needs to collect social security numbers or data pertaining to students' national origin for purposes of complying with state and/or federal laws, District personnel shall collect such data after students already have enrolled in school, so as not to give the impression that information related to their immigration status will be used in making registration/enrollment determinations.

Proof of Age

In accordance with Education Law, 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. Should none of these be available, the District may consider certain other documentary or recorded evidence that has been in existence two years or more, to determine a child's age.

The following are examples of documentation that may be used to establish a student's age. This list is not intended to be exhaustive, nor is it a list of required documentation.

- a) School photo ID with date of birth;
- b) Hospital or health records;

(Continued)

Students

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

- c) State or other government-issued ID;*
- d) Military dependent ID card;*
- e) Native American Tribal document;*
- f) Record(s) from non-profit international aid agencies and voluntary agencies (VOLAGs);*
- g) Consulate identification card; and*
- h) Official driver's license.*

Determination of Student Residency

A child's residence is presumed to be that of his/her parents or legal guardians. However, the District may encounter students, including but not limited to students from other countries, who reside within the District with persons other than their parents or legal guardians. The residence of children dwelling within the District boundaries shall be established in a manner consistent with State Law and the Regulations of the Commissioner.

The Board of Education or Superintendent of Schools shall determine whether a child is entitled to attend a District school. Any adverse residency decision by a school official, other than the Board or Superintendent of Schools, shall include written notice to the parent/person in parental relation of the procedures for obtaining review of the decision within the District.

Regulations will be developed to implement the terms of this policy.

Children Living With Noncustodial Parents

A child's residence is usually determined by the residence of the custodial parent. However, a noncustodial parent who resides in the District may enroll his/her child in a District school if the child's time is essentially divided between the custodial parent's household and the household of the noncustodial parent who resides within the District, and the custodial parent designates the child's residence with the noncustodial parent.

(Continued)

Students

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

The parent/person in parental relation to a homeless child; or the homeless child, together with the homeless liaison designated by the School District in the case of an unaccompanied youth; or 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, 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.

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 Minors

A determination of whether a student is to be designated as an emancipated minor in the Enlarged City School District of Middletown, NY will be based on evidence that the student:

- (1) is beyond the compulsory school 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 16, or the end of the school year during which the student turns 17 if the Board of Education has adopted a policy making 17 the compulsory education 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.

(Continued)

Students

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

To establish emancipation, a minor 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.

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 relinquish custody and control of their child to a person who is a legal resident of the District.

McKinney-Vento Homeless Education Assistance Act,
Section 722, as reauthorized by the No Child Left
Behind Act of 2001
Education Law Sections 2045, 3202, 3205, 3209 and
3212(4)
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

Adopted: 6/2/05
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