

August 3, 2018

**OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**

**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The State Superintendent of Education, pursuant to the authority set forth in Section 113 of the District of Columbia State Athletics Consolidation Act of 2016, effective April 7, 2017 (D.C. Law 21-263; D.C. Official Code §§ 38-2661.31 *et seq.*) (“Athletics Act”); and Mayor’s Order 2017-293, dated November 8, 2017, hereby gives notice of her adoption, on an emergency basis, of a new Chapter 27 (Interscholastic Athletics) of Title 5 (Education), Subtitle A (Office of the State Superintendent of Education), of the District of Columbia Municipal Regulations (“DCMR”), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of this emergency and proposed rulemaking is to align the District’s interscholastic athletics regulations with the governance structure recently established in the Athletics Act.

This emergency rulemaking is necessary to ensure the health, safety and welfare of District students before the new school year and athletic seasons begin. The District of Columbia State Athletic Commission reviewed and approved these emergency and proposed rules on June 18, 2018.

This emergency rulemaking was adopted on June 1, 2018 and became effective on that date. The emergency rulemaking will remain in effect for up to one hundred twenty (120) days after the date of adoption, expiring on October 1, 2018, or upon earlier amendment or repeal by the State Superintendent of Education or publication of a final rulemaking in the *D.C. Register*, whichever occurs first.

The State Superintendent of Education also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice in the *D.C. Register*.

**Chapter 27, INTERSCHOLASTIC ATHLETICS, of Title 5-A DCMR, OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION, is amended in its entirety to read as follows:**

**CHAPTER 27                    INTERSCHOLASTIC ATHLETICS**

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- 2701    STATE ATHLETIC ASSOCIATION: DUTIES**
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**2700 GENERAL PROVISIONS**

- 2700.1 The purpose of this chapter is to establish standards, procedures and requirements for the following:
- (a) The operation and governance of the District of Columbia State Athletic Commission (DCSAC);
  - (b) The operation of the District of Columbia State Athletic Association (DCSAA); and
  - (c) Student eligibility and participation in interscholastic athletic programs and competitions.

**2701 STATE ATHLETIC ASSOCIATION: DUTIES**

- 2701.1 The DCSAA shall interpret to enforce and implement the provisions set forth in the Act, this chapter and the DCSAA Handbook.
- 2701.2 The DCSAA shall update and publish the DCSAA Handbook annually, including an update of all sanctioned sports and/or activities.
- 2701.3 DCSAA shall establish policies addressing probationary actions based on determinations of ineligibility in accordance with this chapter. The member school shall provide copies of their athletic policies and guidelines to DCSAA no later than August 1 of each school year.
- 2701.4 DCSAA may challenge the member's schools eligibility determination in accordance with § 2702.
- 2701.5 DCSAA may request any documentation maintained by a member school and/or Local Education Agency (LEA) to verify a member school's compliance with the Act, this chapter and the DCSAA Handbook.

**2702 MEMBER SCHOOLS**

- 2702.1 Each District of Columbia Public School with an interscholastic athletics program serving grades 9 to 12 shall be a member of the DCSAA.
- 2702.2 Any secondary school located within the boundaries of the District of Columbia containing grades 9 through 12, or any grouping of such grade levels including nonpublic, private, public and public charter schools may voluntarily become a member school of the DCSAA.
- 2702.3 Each member school shall:
- (a) Be subject to the DCSAA membership standards as set forth in this chapter or in the DCSAA Handbook;
  - (b) Ensure that students with disabilities consistently have appropriate opportunities to participate in extracurricular athletic activities;
  - (c) Annually publish their schedules for interscholastic competition;
  - (d) Provide additional football accident insurance to enrolled students participating on football team;
  - (e) Prior to the first official contest of each sport, establish and maintain a record of a student's eligibility for each school year of a student's participation on a junior varsity or varsity team for the duration of the student's enrollment in the school, unless otherwise provided for in federal or local law; and
  - (f) By June 1 of each year preceding the next school year, submit a membership application and declaration form, in the manner provided by DCSAA, that includes:
    - (1) Affirmation of the obligations of membership;
    - (2) Demonstrated compliance with the Act, this chapter and the Handbook; and
    - (3) Declaration of the sports in which they will compete for any District of Columbia State Championships.
- 2702.4 Each member school shall ensure all coaches, officials and other personnel, including volunteers engaged with students participating in interscholastic athletic programs at a member school biannually obtain a required background check and demonstrate expertise with regard to a respective sport, applicable rules, safety and first aid standards. Officials shall submit background clearances direct to DCSAA and Coaches shall submit background clearances to their member school.

- 2702.5 All high school coaches coaching interscholastic athletics at a DCSAA member school shall meet the coaching certification requirements set forth in the DCSAA handbook and all high school officials officiating interscholastic athletic contests at a DCSAA member school shall meet the certification requirements set forth in the DCSAA handbook. Certifications are good for two (2) years from the date of issuance and shall be submitted to the member school.
- 2702.6 A member school shall not exclude a student from participation in interscholastic athletics, deny the benefits of, treat differently from other students, or otherwise unlawfully discriminate against based on, race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intra-family offense, or place of residence or business.
- 2702.7 A member school shall limit a high school varsity team to eligible students enrolled in that member school in grades nine (9), ten (10), eleven (11), and twelve (12), except as provided in § 2706.
- 2702.8 A member school shall limit a high school junior varsity team to eligible students enrolled in that high school in grades nine (9), ten (10), and eleven (11), except as provided in § 2706.
- 2702.9 Notwithstanding § 2702.6, a member school may operate a separate sports team for members of each sex, provided that the selection for such team is based upon competitive skill or the activity involved is a contact sport, as described in the DCSAA Handbook.
- 2702.10 Notwithstanding § 2702.6, a member school may operate a sports team for members of a single sex, so long as the member school operates a sports team for an underrepresented sex when there is sufficient interest to maintain a team. In the event there is insufficient interest, the member shall allow members of the underrepresented sex to try out for existing teams and qualify based on appropriate skill level, safety, and other standards for participation on such team.
- 2702.11 LEAs' or member schools that receive federal funding and maintain athletic programs in the District shall designate at least one (1) employee for purposes of athletics to coordinate with the LEAs' or member schools Title IX (20 USC §§ 1681 – 1688) coordinator, to ensure that the requirements of Title IX are met regarding athletics.
- 2702.12 Representatives of member schools shall not engage in any activity seeking to influence a student to transfer from one (1) member school to another for the purpose of participating in interscholastic athletics.

**2703 MEMBER SCHOOL: CERTIFICATION OF ELIGIBILITY**

2703.1 A member school shall make the initial determination of a student's eligibility to participate in interscholastic athletics and certify eligibility status for all enrolled and participating students as set forth in this section.

2703.2 Before the first official contest for each team sport:

- (a) The member school's principal shall determine the eligibility of the students participating in interscholastic athletics in accordance with this chapter and submit a master eligibility roster by sport to the LEA and/or school athletic director at least fourteen (14) days before the date of the first official contest for each team; and
- (b) The LEA and/or school athletic director shall submit each eligibility roster to the DCSAA at least seven (7) days before the date of the first official contest for each team.

2703.3 After the first official contest for each team sport:

- (a) The member school's principal may submit a supplemental eligibility list to the LEA and/or school athletic director up to fourteen (14) days after the first official contest;
- (b) The LEA and/or school athletic director shall submit each supplemental eligibility list to the DCSAA within seven (7) days of receipt; and
- (c) Students on a supplemental eligibility roster may not participate in an official contest without prior written approval of the member school's principal and athletic director.

2703.4 An eligibility roster shall contain the following information:

- (a) Full name of Eligible Athlete (Last, First, MI);
- (b) Address of Residence (Street, City, State);
- (c) Age and Date of Birth;
- (d) Date of First Entry Into Ninth (9<sup>th</sup>) Grade (Month and Year);
- (e) Name of School Where Student First Entered Ninth (9<sup>th</sup>) Grade; and
- (f) Identify if the student is a transfer student.

- 2703.5 The information provided on an eligibility roster shall be considered “directory information” in accordance with 34 CFR § 99.31(a)(11). The member school shall provide this information to the DCSAA unless the parent(s) and the adult student has opted out of allowing directory information disclosure and refuses to sign a consent authorizing disclosure for this specific purpose.
- 2703.6 If a member school is not authorized to disclose the above information on the eligibility roster, the applicable student shall not be certified as eligible to participate in a DCSAA-sanctioned sport or activity.
- 2703.7 The DCSAA shall review the certified eligibility rosters to ensure compliance with the Act, this chapter, the DCSAA Handbook and membership standards.
- 2703.8 The DCSAA may request the member school provide supporting documentation to verify the certification if the DCSAA reasonably concludes that additional information is needed.
- 2703.9 The DCSAA may refer the member school’s certification of a student’s eligibility to the DCSAC AAP if the member school or LEA fails to provide the results or the requested supporting documentation used to make an eligibility determination.

**2704 STUDENT ELIGIBILITY TO PARTICIPATE**

- 2704.1 Requirements for students to be eligible to participate in interscholastic athletics at a member school shall be applied uniformly to all member schools and amongst all students participating or seeking to participate in interscholastic athletics at a member school.
- 2704.2 Any information in regard to any aspect of student eligibility that is provided by the student, the parent(s), or the member school shall be accurate and complete.
- 2704.3 In order to establish eligibility to participate in interscholastic athletics at a member school, a student shall:
- (a) Be enrolled within the first twenty (20) calendar days of a semester in the school where he or she wishes to participate in interscholastic athletics, unless the student-athlete is a transfer student-athlete;
  - (b) Meet the requirements set forth in this subsection regarding:
    - (1) Age, semester and grade level;
    - (2) Residency;
    - (3) Academics;

- (4) Health and fitness; and
- (5) Attendance;
- (c) Provide written authorization to participate for each team that he or she wishes to participate on, and the authorization shall contain the signature of the parent(s) or adult student; and
- (d) Comply with any other eligibility requirements set forth in this chapter.

2704.4

In order to be eligible to participate in a DCSAA sanctioned sport and/or activity, a student shall meet the following age, semester and grade level requirements:

- (a) A student who turns nineteen (19) years old on or before August 1 shall not be eligible to participate in interscholastic athletics in the upcoming school year;
- (b) A student shall be eligible to participate in regular season, playoff, or championship interscholastic athletic contests for no more than eight (8) semesters following initial enrollment in the ninth grade. Completion of a summer school program shall not be counted as a semester of attendance; and
- (c) The student shall not have graduated from high school, provided that an eligible student whose graduation exercises are held before the end of the school year may continue to participate in interscholastic athletics until the end of that school year; and
- (d) A student who needs fewer than two (2) credits to graduate from twelfth (12th) grade and who transferred to a high school within the preceding twelve (12) months is prohibited from participation in any interscholastic athletic activity for the duration of the student's enrollment at that school.

2704.5

In order to be eligible to participate in interscholastic athletics at a member school, a student shall meet the following residency requirements:

- (a) If the student is attending a District of Columbia public school or District of Columbia public charter school, or other school or educational program with funding provided by the District of Columbia, free of charge, the student shall establish *bona fide* residency in the District of Columbia pursuant to the requirements set forth in Chapter 50 of Subtitle 5-A in the DCMR (5-A DCMR §§ 5000 *et seq.*) unless the student is a valid non-resident; or
- (b) If the student is a non-resident, the non-resident student is either:

- (1) Validly enrolled in a District of Columbia public school, District of Columbia public charter school, or other school or educational program with funding provided by the District of Columbia consistent with the requirements set forth in Chapter 50 of Subtitle 5-A in the DCMR (5-A DCMR §§ 5000 *et seq.*) and has paid or is current in payment of his or her nonresident tuition fee; or
- (2) Enrolled in a private, independent or parochial member school.

2704.6 In order to be eligible to participate in a DCSAA sanctioned sport and/or activity, a student shall meet the following academic requirements:

- (a) A student shall maintain a 2.0 grade point average (GPA) per marking period as officially calculated by the member school in order to retain athletic eligibility;
- (b) For those member schools which do not calculate a GPA, the principal and/or head of such member school shall submit a certification stating that the school does not calculate GPAs and that all students participating in a DCSAA sanctioned sport have a minimum equivalence of a 2.0 GPA and are in good academic standing as consistent with § 2704.6(a); and
- (c) A student who needs fewer than two (2) credits to graduate from twelfth (12th) grade and who transferred to a high school within the preceding twelve (12) months is prohibited from participation in any interscholastic athletic activity for the duration of the student's enrollment at that school.

2704.7 In order to be eligible to participate in a DCSAA sanctioned sport and/or activity, a student shall meet the following requirements regarding health and fitness:

- (a) A student shall provide a medical certification confirming that the student has been examined and is physically fit for the sport in which the student seeks to participate;
- (b) A student shall be covered by appropriate accident insurance, obtained either by his member school or his or her parent, and approved by his or her member school, during each season the student participates within the time specified by the member school;
- (c) Appropriate notice of the coverage and cost of the accident insurance obtained by his or her member school shall be provided annually to the parent or adult student;

2704.8 In order to be eligible to participate in a DCSAA sanctioned sport and/or activity, a student shall meet the following attendance requirements:



- (a) A student shall be present in school the day of to participate in any tryout, practice, game or match, unless they have an excused absence; and
- (b) A student shall maintain compliance with state attendance regulations and shall maintain eighty-five percent (85%) attendance per marking period in order to maintain eligibility.

2704.9

In order to maintain eligibility to participate in interscholastic athletics at a member school, a student shall maintain compliance with the requirements set forth in § 2704.3 to establish eligibility and:

- (a) Participate only under the name by which he or she is registered in the school he or she is enrolled;
- (b) Represent only one (1) school in the same sport during a school year;
- (c) Not participate in in junior varsity competition if the student participated in varsity competition in the same sport during the same school year;
- (d) Not participate in the same individual or team sport outside of school, or with a team, an organized league, tournament meet, match or contest between the first (1<sup>st</sup>) and last scheduled contest of the school team during the season of the sport; provided, that a student who is selected to represent the United States in international amateur competition shall not become ineligible in school competitions for participating in qualifying trials. The following sports shall be exempted from the restrictions of this requirement: Baseball; Bowling; Competitive Cheer; Crew; Cross Country; Field Hockey; Golf; Gymnastics; Lacrosse; Rugby; Soccer; Softball; Squash; Swimming; Tennis; Track & Field; Ultimate Frisbee; Volleyball; and Wrestling
- (e) Preserve amateur standing by engaging in sports only for the physical, educational, and social benefits derived from sports and by not accepting, directly or indirectly, a remuneration, gift, or donation based on his or her participation in a sport other than those approved or waived by the DCSAA.

2704.10

Notwithstanding the provisions in §§ 2704.3 to 2704.9, a student that is granted a hardship waiver by the DCSAA shall be eligible to eligible to participate in interscholastic athletics at a member school.

**2705 STUDENT ELIGIBILITY TO PARTICIPATE: INTERNATIONAL STUDENT**

2705.1 An international student participating in a foreign exchange program shall be considered immediately eligible for a maximum period of one (1) calendar school year if the student:

- (a) Has not completed the country of origin's secondary school program;
- (b) Meets all other eligibility requirements of this section;
- (c) Has been randomly assigned to his or her host parents and school and neither the school the student attends nor any person associated with the school has had input in the selection of the student and no member of the school's coaching staff, paid or voluntary, serves as the resident family of the student;
- (d) Possesses a current J-1 visa issued by the U.S. State Department; and
- (e) Is attending school under a foreign exchange program on the current Advisory List of International Educational Travel and Exchange Programs published by the Council on Standards for International Education Travel and such program assigns students to schools by a method which ensures that no student, school, or other interested party may influence the assignment

2705.2 An international student not participating in a foreign exchange program shall be treated as all other students who transfer schools;

**2706 STUDENT ELIGIBILITY TO PARTICIPATE: DESIRED SPORT AT OTHER SCHOOL**

2706.1 Students in grade nine (9), ten (10), eleven (11), or twelve (12) attending a member school in which a desired sport is not offered, may request authorization to participate from the athletic director at any member school offering the desired sport.

2706.2 Under this section, the student's selected school will serve as their school of choice for athletic participation in the specified sport, which is not offered at their school of enrollment. If the student seeks to participate in the specified sport at a different member school, they will be bound by the transfer provisions set forth in § 2707.

2706.3 Students who are not enrolled in a member school but home schooled pursuant to 5-A DCMR §§ 5200 *et seq.* may participate in interscholastic athletics at a member school if:

- (a) The principal and the athletic director of the member school provides the student with written authorization to participate in the desired sport; and
- (b) The student requests and is granted a waiver of student eligibility requirements as set forth in this chapter.

2706.4 Students under this section seeking to participate at another school may only participate if it is allowed in the written policy of the member school in which the student seeks to participate, and the student meets the eligibility requirements of the DCSAA and/or member school. A member school may require actual costs associated with a student's participation and the sending school may be required to provide funding for the costs.

## **2707 STUDENT ELIGIBILITY TO PARTICIPATE: TRANSFERS**

2707.1 A student who transfers enrollment from any school, including a member school, to any member school in grades nine (9), ten (10), eleven (11), or twelve (12) is ineligible to participate in interscholastic athletics unless he or she meets one (1) of the following exceptions:

- (a) A student in grade nine (9) may transfer one (1) time during that school year without loss of eligibility. They shall be eligible immediately upon registration provided they meet all other DCSAA eligibility requirements. However a student shall not participate in a contest at the varsity level for two different schools in the same sport during the same school year. A student is considered a ninth (9<sup>th</sup>) grader until the first day of school of their tenth (10<sup>th</sup>) grade year;
- (b) A student attending a member school has a valid change of address, as defined in this chapter;
- (c) The transfer is caused by court action, court action being an order from a court of law affecting legally committed students. In the case of a transfer of guardianship or custody, the transfer shall be the result of a court order signed by a judge, commissioner, or master of a court of competent jurisdiction. A petition for the transfer of guardianship or custody, an affidavit, or a notarized statement signed by the affected parties shall not be sufficient to render the student eligible to participate in interscholastic athletics. For purposes of eligibility, a child placed within CFSA custody is eligible to participate in interscholastic athletics immediately at the school they attend;
- (d) A student who registers on the basis of a petition for the transfer of guardianship is not eligible to compete until the custodial legal guardian has provided the aforementioned required documentation or has received a

signed court order designating them as the student's custodial legal guardian.

- (e) If the student is in their second, third or fourth year of eligibility and the transfer is a result of a seat opening in the receiving school if the student had previously applied to the school and had been rejected due to a lack of capacity or a result of admission via the DC school based lottery. For this exception to apply, the receiving school shall have appropriate documentation including: a dated and school stamped student application from a previous school year; a letter in response to the application notifying the student that they were not accepted; and a letter dated after the start of the school year offering the student a seat in the receiving school or a notification of admission from the lottery school.
- (f) Transfer because of promotion or administrative assignment to the ninth (9<sup>th</sup>) grade from a school whose terminal point is the eighth (8<sup>th</sup>) grade, or to the tenth (10<sup>th</sup>) grade from a junior high school whose terminal point is the ninth (9<sup>th</sup>) grade, shall not constitute a transfer. Students so promoted or administratively assigned shall be eligible.
- (g) The sending school dropping their entire athletic program. Dropping their athletic program is defined as the school discontinuing all of their interscholastic athletics sports programs;
- (h) The closure of the sending school;
- (i) The sending school discontinuing a single sport at the varsity level;
- (j) The student has special needs, as identified by the Individualized Education Program (IEP) or Section 504 Plan, and is transferred to another public school for the delivery of a free appropriate public education;
- (k) A transfer is the result of the student's being homeless as defined by OSSE, except if the student's homeless status is shown to have been created by the student or his/her family for the primary reason of eligibility in interscholastic athletics;
- (l) The transfer is a result of a student exercising transfer options (*i.e.*, persistently dangerous schools (5-E DCMR § 3805) or victim of a violent crime (5-E DCMR § 3809)) mandated by D.C. law.
- (m) The student is a qualified foreign exchange student under § 2701.5 or an international student residing in the District with his or her parent(s).

2707.2

A student who has not previously participated in the sport for which they are interested in competing; who is released by a proper school authority from a

sending school; and has completed the registration process at the receiving school shall be eligible forty-five (45) days after the date on the signed enrollment forms, provided they meet all other DCSAA eligibility requirements. The receiving school shall submit, to DCSAA, an electronic or signed statement from the athletic director of the sending school that states the student did not participate in the specific sport the preceding year in which they wish to participate.

2707.3 The student-athlete may submit a Student-Athlete Transfer release form which shall be signed by the parent, the athletic director and principal of the sending school and the athletic director and principal of the receiving school stating that the transfer is for non-athletic purposes in support of their transfer request.

## **2708 STUDENT INELIGIBILITY TO PARTICIPATE**

2708.1 A student who is ineligible to participate in interscholastic athletics is prohibited from playing with a DCSAA member school team during the period of such ineligibility.

2708.2 A student who participates in interscholastic athletics and is found ineligible to participate is prohibited for one (1) calendar year from the date of the finding of ineligibility. Additionally, in order to be considered for eligibility when the calendar year has passed, the student shall show that all of the eligibility requirements are satisfied.

2708.3 The period of ineligibility for students that transfer absent an exception shall be one (1) calendar year commencing with the first (1st) day of official attendance in the receiving school.

2708.4 A student who is ineligible to participate in interscholastic athletics at the time of transfer from one (1) school to another, for any reason other than failing to meet the requirements of this chapter, shall not be considered for eligibility at the receiving school until one (1) full calendar year has passed from the date it was determined that the student was ineligible.

2708.5 Any member school carrying an ineligible student as a member of the team shall forfeit each contest played by such student.

2708.6 If any forfeiture creates a tie among teams participating in a DCSAA tournament and/or championship contest, a coin toss as mutually agreed by the member school ADs shall determine the requisite order.

2708.7 A member school including, without limitation, a coach, trainer, or volunteer assisting in athletics, who knows, or should have known, that an ineligible student is participating or has participated in an interscholastic athletic program or contest, shall be subject to probation, suspension or disqualification from participating in any DCSAA sanctioned sport or activity.

2708.8 If a member school, LEA or the DCSAA takes any action pursuant to § 2708.7. The member school or LEA shall electronically submit the action to the DCSAC for review by the DCSAC AAP no later than five (5) calendar days after the date of such action. The DCSAC AAP within five (5) calendar days will conduct a review and determine if the violation merits any additional probation, suspension or disqualification from any DCSAA sanctioned sport or activity. Any additional action taken by the DCSAC AAP will be issued via a written decision.

## **2709 WAIVER OF STUDENT ELIGIBILITY REQUIREMENTS**

2709.1 The DCSAA may grant a student a waiver of any of the student eligibility requirements set forth in this chapter, subject to the following:

- (a) A request for a waiver of the age requirement in § 2704.4 shall only be considered for participation in non-contact or non-collision sports; and
- (b) A request for a waiver is due to hardship, as defined in this chapter, the parent(s) shall provide supporting documentation to DCSAA.

2709.2 Waiver requests should be filed promptly when it becomes apparent to the student-athlete, principal, and head of school or other affected party that a waiver will be required.

2709.3 In order to request a waiver, the student or a member school and/or LEA on behalf of the student, shall submit a request that includes the following:

- (a) A member school signed statement of support or nonsupport by the principal/head of school;
- (b) Signature of the member school and/or LEA athletic director and parent(s);
- (c) Any necessary supporting documentation.

2709.4 Once the request is submitted to DCSAA and the DCSAA has confirmed receipt, the DCSAA shall issue a written decision to grant or deny a request for a waiver within five (5) school days.

2709.5 The DCSAA may request further supporting documentation necessary to make a determination to grant or deny the waiver request.

2709.6 Failure to provide all required and signed documentation to the DCSAA may render a waiver request as being incomplete and subject to immediate denial.

2709.7 The decision to grant or deny a request for a waiver may be appealed to the DCSAC AAP in the manner set forth in § 2711.

2709.8 If a decision is not appealed to the DCSAC AAP within five (5) business days, the decision to deny or grant a request for a waiver shall be final. If a student's circumstances have altered, the student shall submit a new waiver request.

## **2710 COMPLAINTS OR CHALLENGES PROCEDURES**

2710.1 The DCSAA shall hear and decide complaints or challenges:

- (a) Related to its membership standards;
- (b) Arising under the DCSAA handbook; or
- (c) Related to participant eligibility arising between a DCPS and non-DCPS member school participating in a DCSAA-sanctioned competition or arising between a member school and non-member school participating in a DCSAA-sanctioned competition.

2710.2 Any complaints or challenges shall be submitted to the DCSAA in writing as follows:

- (a) A challenge of a student's eligibility shall be presented in writing and signed by the submitting party, addressed to the appropriate school and/or LEA authority where the student is enrolled and hand delivered or sent electronically to the appropriate member school and/or LEA and to the DCSAA; and
- (b) Any other complaint or challenge shall include any necessary supporting documentation.

2710.3 Once the written complaint or challenge is submitted to DCSAA and the DCSAA has confirmed receipt, the member school and/or LEA shall provide a written report with supporting documentation of its decision to the DCSAA and to the party submitting the challenge within five (5) school days.

2710.4 The DCSAA may request further supporting documentation necessary to make findings or issue a decision regarding a complaint or challenge. Parties shall comply with DCSAA requests for information related to the allegations in the complaint or challenge.

2710.5 Failure to provide all required and signed documentation to the DCSAA may render a complaint or challenge as being incomplete and subject to immediate denial or unfavorable decision.

- 2710.6 The DCSAA shall issue a written findings and/or a decision regarding the complaint or challenge within ten (10) school days of the DCSAA receiving the report described in § 2710.3.
- 2710.7 If an eligibility question arises that requires a review of a student's eligibility files, DCSAA, at its discretion, may request to review a student's eligibility files. DCSAA will request, through a member school and/or LEA, from a parent(s) or the adult student, to sign a consent form, for release of information authorizing the release of eligibility files. Such DCSAA requests will include the reasons supporting the request and will specify the record or records needed for review. Failure to provide consent upon written request from the DCSAA will result in the student whose eligibility is being questioned to be deemed ineligible to participate in any official contest of a sanctioned DCSAA sport or activity.
- 2710.8 The DCSAA's decision may be appealed to the DCSAC AAP in the manner set forth in § 2711. If a decision is not appealed to the DCSAC AAP within five (5) business days, the decision shall be final.
- 2711 STATE ATHLETIC COMMISSION: ATHLETICS APPEALS PANEL**
- 2711.1 The DCSAC shall establish Athletics Appeals Panels (AAP) to hear appeals of:
- (a) LEA decisions related to student eligibility; and
  - (b) Final written decisions of the DCSAA.
- 2711.2 The Chairperson of the DCSAC shall appoint a separate AAP for each matter brought before the DCSAC.
- 2711.3 The Chairperson of the DCSAC shall maintain the integrity of the appeal process.
- 2711.4 Any Commissioner of the DCSAC who may be directly affected or whose school or LEA may be directly affected by a potential decision related to an appeal shall disclose the conflict of interest, recuse himself or herself from consideration of the matter and shall not be appointed to an appeals panel for that matter.
- 2711.5 In order to request an appeal of the decision of an LEA or the DCSAA, a party shall submit written notice of appeal to the Chairperson.
- 2711.6 Within five (5) school days of receiving the written notice of appeal, the Chairperson shall appoint the three voting members AAP and the assigned AAP shall schedule an in-person, when feasible, review where all parties shall be provided with the opportunity to present facts and all relevant arguments.
- 2711.7 The DCSAC AAP shall issue a written decision within five (5) school days of the review affirming or denying the decision of an LEA or the DCSAA.



2711.8 An athletic appeals panel shall hear all issues relating to an appeal *de novo*, except that the evidence before the panel shall be limited to the record made before the LEA or the DCSAA unless a party seeks to introduce relevant evidence that, in the exercise of reasonable diligence, it could not have produced during the initial hearing on the complaint or that was improperly excluded from the initial hearing on the complaint.

2711.9 The decision of the Commission shall be final.

2711.10 For the protection of their team's won/loss record, the student whose eligibility is in question may not play in any school sponsored interscholastic athletic competition until the DCSAC AAP has issued its final eligibility determination pursuant to its review.

2711.11 In the event a member requires forfeiture of a contest already played, the AAP shall review the decision affirming or denying the forfeiture and shall provide the results of its findings and recommendations to the member school not later than five (5) school days after the date the matter is initially reported to the DCSAA.

## **2712 ALL-STAR CONTESTS**

2712.1 A student who participates in a team sport may participate in an "all-star" competition for the sport that occurs outside the interscholastic season of the sport without jeopardy to his or her eligibility if:

- (a) The all-star competition is an activity sanctioned by the DCSAA or another National Federation of State High School Association ("NFHS") member;
- (b) All participants in the all-star competition are graduating seniors or students completing their athletic eligibility at the end of the school year or they have received a waiver from DCSAA to participate;
- (c) The student has played in no more than one (1) other all-star competition in his or her sport; or
- (d) The all-star competition occurs after the student has participated in his or her final contest for his or her school.

2712.2 A senior who fails to comply with § 2712.1 may be subject to a penalty that may result in the loss of athletic eligibility for the balance of the school year. For all other students, the penalty may result in loss of eligibility for the next season in the sport in which the student participated in the all-star competition. The DCSAC may review any penalty decisions.

**2713 MEMBER SCHOOL AND LEA REGULATIONS**

- 2713.1 Consistent with this chapter, each member school and/or LEA may develop interscholastic athletic standards including, without limitation, safety and first aid, eligibility, satisfactory progress toward graduation, practice, equipment, training, probationary actions, and grievance procedures for participants.
- 2713.2 Member school and/or LEA standards shall not be in conflict with this chapter or the DCSAA handbook. Member school and/or LEA standards shall meet the state minimum requirements and can be more stringent if so desired.
- 2713.3 All member schools, leagues or LEA rules of member schools, policies, and procedures related to interscholastic athletics shall be comply with the provisions of this chapter.
- 2713.4 Upon request, member schools, leagues or LEAs of member schools shall provide the DCSAA with copies of their respective rules, policies, and procedures.

**2799 DEFINITIONS**

2799.1 When used in this chapter, the following terms shall have the meanings ascribed:

**Adult Student** - A student who is eighteen (18) years of age or older, or who has been emancipated from parental control by marriage, operation of statute, or the order of a court of competent jurisdiction.

**Athletic Appeals Panel (AAP)** - A review panel composed of three (3) voting members of the District of Columbia State Athletics Commission.

**Athletic Director (“AD”)** – A person who holds the position of athletic director or a person or entity that performs the functions of an athletic director.

**Athletic League** – Includes the District of Columbia Interscholastic Athletic Association or its successor, the Public Charter School Athletic Association or its successor, and any other collaborative of LEA’s or schools for the purpose of which is to organize interscholastic athletic competitions against other members of the collaborative.

**Commission** – the District of Columbia State Athletics Commission (DCSAC).

**Day** – One (1) calendar day, unless otherwise stated.

**DCPS** - means the District of Columbia Public Schools.

**DCSAA** - means the District of Columbia State Athletic Association.

**DCSAA-sanctioned sport or activity** - a sport in which DCSAA hosts a state championship and/or is governed by the National Federation of State High School Association rules.

**DCSAA Handbook** –an annual publication containing playing rules, codes of conduct, sanctions and guidelines for each DCSAA-sanctioned sport, consistent with this chapter, the District of Columbia State Athletics Consolidation Act of 2016, effective April 7, 2017 (D.C. Law 21-263; D.C. Official Code §§ 38-2661.01 *et seq.*), and the National Federation of State High School Associations’ Rules Books.

**DCSAA-sanctioned competition** - an interscholastic athletic event or program governed by DCSAA membership standards.

**Enroll and Enrollment** -- A process through which a student obtains admission to a public or public charter school that includes, at a minimum the following stages:

- (a) Application by student to attend the school;
- (b) Acceptance and notification of an available slot to the student by the school;
- (c) Acceptance of the offered slot by the student (signified by completion of enrollment forms and parent signature on a “letter of enrollment agreement form”);
- (d) Registration of the student in the Student Information System (SIS) by school upon receipt of required enrollment forms and letter of enrollment agreement; and
- (e) Receipt of educational services, which are deemed to begin on the first official school day.

**First year of eligibility** – The school year a student first enters ninth (9<sup>th</sup>) grade for the first (1<sup>st</sup>) time.

**Hardship** - A hardship is defined as an unforeseeable, unavoidable, and uncorrectable act, condition or event, which causes the imposition of a severe and non-athletic burden upon the student or his/her family.

**Interscholastic Athletics Program** - all athletic activities or sports offered within a school, the purpose of which is to provide opportunities for students to compete with other students on like teams in other schools.

**Local Education Agency or LEA** – the District of Columbia Public Schools system or any individual or group of public charter schools operating under a single charter.

**Member School** - a public, public charter, parochial, or private school in the District that is a member of the DCSAA.

**Ninth Grade** - A student is considered to be in grade nine (9) upon the student's promotion from the eighth (8<sup>th</sup>) grade to the ninth (9<sup>th</sup>) grade on the last school day of the student's eighth (8<sup>th</sup>) grade (8<sup>th</sup>) grade academic year. The ninth (9<sup>th</sup>) grade year is considered to be completed on the last day of summer vacation prior to the first day of the new academic (tenth (10<sup>th</sup>) grade) year.

**OSSE** – The District of Columbia's Office of the Superintendent of State Education.

**Parent** – Consistent with the terms as defined in 5-A DCMR § 5099, the natural parent, stepparent, or parent by adoption who has custody or control of a student, including joint custody; a person who has been appointed legal guardian of a student by a court of competent jurisdiction; or other primary caregiver as verified pursuant to 5-A DCMR § 5005.

**Participate** – Inclusion on the tryout roster or team roster as a member of a recognized school team to tryout or play in practices, contests, and competitions, or otherwise engaging in other activities as part of the team.

**Previous participation** – Prior participation in interscholastic athletics in grades nine (9) through twelve (12).

**Receiving school** - The school a student enrolls in, after leaving his or her previous school.

**Sending School** – A school that a student withdraws from, in order to attend a different school.

**Title IX** - Title IX is a portion of the Education Amendments of 1972, approved June 23, 1972 (Pub. L. No. 92318, 86 Stat. 235; 20 USC §§ 1681 1688).

**Transfer** - The student has withdrawn from a sending school and has enrolled in a receiving school.

**Valid Change of Residence** – when a student moves from the residence where the enrolling parent(s) lived with the student, and that has been vacated by the entire family for use as its residence, to a new residence with the enrolling parent(s).

**Week** – Seven (7) calendar days, unless otherwise stated.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in

the *D.C. Register* via email addressed to: [ossecomments.proposedregulations@dc.gov](mailto:ossecomments.proposedregulations@dc.gov); or by mail or hand delivery to the Office of the State Superintendent of Education, Attn: Tiffany Oates re: Interscholastic Athletics, 810 First Street, N.E. 9th Floor, Washington, D.C. 20002. Additional copies of this rule are available from the above address and on the Office of the State Superintendent of Education website at [www.osse.dc.gov](http://www.osse.dc.gov).