



Regulation of the Chancellor

Number: **A-125**

Subject: **NON-RESIDENT ENROLLMENT**

Category: **STUDENTS**

Issued: **April 20, 2017**

SUMMARY OF CHANGES

The regulation has been updated as follows:

Changes:

- Clarifies that the regulation does not apply to students in temporary housing or foster care, as these students may continue to attend their school of origin in New York City if they resided in New York City and enrolled in a DOE school at the time of foster care placement or relocation outside of New York City. (Abstract, fn. 1).
- Clarifies that this regulation does not apply to non-resident students who are New York State residents and are enrolled or placed in District 79 residential programs. (Section I.A., fn. 2.)
- Revises the definition of parent to “the student’s parent or guardian or any person in a parental or custodial relationship to the student.” The definition of parent includes: birth or adoptive parent, step-parent, legally appointed guardian, foster parent and “person in parental relation” to a child attending school. The term “person in parental relation” refers to a person who has assumed the care of a child because the child’s parents or guardians are not available, whether due to, among other things, death, imprisonment, mental illness, living outside the state, or abandonment of the child. (Section I.B., fn.3.)
- Clarifies that if the Department of Education determines that a parent used a false address to establish residency or did not disclose non-resident status, the parent must pay tuition retroactively for each year or portion of a year that the student was enrolled as a non-resident. (Section I.F.)
- Removes outdated tuition rate criteria. (Section II.)
- Updates language to align with current DOE processes.
- Updates contact information. (Section VII.)



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ABSTRACT

This regulation sets forth the policies concerning admission, discharge and transfer of non-resident students in New York City public schools. A non-resident student is defined as a student whose primary residence is outside New York City and does not meet New York City residency requirements as defined in Chancellor's Regulation A-101.¹

I. GENERAL PRINCIPLES: NON-RESIDENT ENROLLMENT

- A. Under Section 3202 of New York State Education Law, students over age 5 and under age 21 are entitled to free public education in the district in which they reside. Enrollment in a New York City public school by a non-resident is at the discretion of the New York City Department of Education and requires tuition payment.²
- B. Parents³ of non-resident students and non-resident emancipated students and unaccompanied minors must waive participation in the Public School Choice (PSC) program and the Persistently Dangerous Schools (PDS) program.
- C. Non-resident students are not eligible to attend and consequently may not apply to attend specialized schools, screened/selective schools or programs, gifted and talented programs or pre-K programs. Non-residents may not participate in the High

¹ This regulation does not apply to students in temporary housing or foster care, as these students may continue to attend their school of origin in New York City if they resided in New York City and were enrolled in a DOE school at the time of foster care placement or relocation outside of New York City.

² This regulation does not apply to non-resident students who are New York State residents and are enrolled or placed in District 75 Hospital Schools, foster care/ACS guardianship or District 79 residential programs, and some charter school students.

³ Parent as used in this regulation means the student's parent or guardian or any person in a parental or custodial relationship to the student. The definition of parent includes: birth or adoptive parent, step-parent, legally appointed guardian, foster parent and "person in parental relation" to a child attending school. The term "person in parental relation" refers to a person who has assumed the care of a child because the child's parents or guardians are not available, whether due to, among other things, death, imprisonment, mental illness, living outside the state, or abandonment of the child.

School Admissions process, Middle School Admissions process, the Gifted & Talented admissions process or the pre-K Admissions process. Any exceptions will only be made at the discretion of the Office of Student Enrollment (OSE), and will only be considered in cases when a resident moves out of the city during the school year as described in Section IV.

D. Non-resident tuition-paying students are not eligible for transportation provided by the Office of Pupil Transportation.

E. If at any time a parent fails to disclose to a school that a student attending a New York City public school is not a resident and the Department of Education subsequently determines that the student is no longer a resident, then the student forfeits his/her right to remain in the school for the remainder of the year and will be discharged at the conclusion of the semester during which the determination is made. The student also forfeits his/her right to submit an application to remain as a non-resident.

F. If the Department of Education determines that a parent used a false address to establish residency or did not disclose his/her non-resident status, the student is only eligible to remain in his/her current school until the end of the semester when the determination is made. The student is not eligible to apply for admission for the remainder of the year or for the following year. The parent must pay tuition retroactively for each year or portion of the year that the student was enrolled as a non-resident. Exceptions due to extenuating circumstances may only be granted by the Office of Student Enrollment.

G. A Department of Education employee who sends his or her child to a New York City public school while the employee is a non-resident and fails to pay the proper tuition will be subject to appropriate action, which may include referral to the Special Commissioner of Investigation and disciplinary measures, including termination of employment.

II. APPLICATION PROCESS FOR NON-RESIDENT STUDENTS

Parents who are not residents of New York City (see Chancellor's Regulation A-101 for the requirements for determining residence) who wish to enroll their child in New York City public schools as a tuition-paying non-resident student must submit an application to the Office of Student Enrollment (OSE). Applications may be found on the Student Enrollment website: <https://www.schools.nyc.gov/enrollment/enrollment-help/meeting-student-needs/non-resident-enrollment>. The application is to be used by new non-residents and is available during the non-resident enrollment application period each summer.

A. OSE is solely responsible for approving non-resident student applications. Schools may not enroll non-resident students whose applications have not been approved by OSE.

- B. Any new non-resident seeking to attend a New York City public school must submit an application. Applications will only be considered during the non-resident enrollment application period as determined by OSE.
- C. Priority for enrollment is given first to students who are children of New York City Department of Education employees, then to students who are children of other City of New York employees, and then to other students.
- D. OSE will not approve the admission of non-residents until all resident students have been accommodated, regardless of when school starts. Non-resident students, therefore, must attend school, as governed by the regulations of the students' home district, until a decision on the non-resident student application is rendered.
- E. If an application for a non-resident student is approved, the family will be notified by OSE. The student may be enrolled in the approved school provided that tuition payment has begun and all documents required for resident registration are provided to the school. The school must activate the non-resident tuition-paying student flag in ATS when registering the student.
- F. Tuition rates are set each year by the State Education Department for general education and special education for Kindergarten through Grade 12. Full tuition payment must be made within the school year for which the tuition is due. Information about tuition payments can be found by calling the Bureau of Non-Public School Payables at (718) 935-4789.
- G. Students receiving special education services in their home district must supply a current copy of their Individualized Education Program (IEP) with their application.
1. For non-resident students residing in New York State, placements will be made if, after reviewing the IEP, the recommended services are available in New York City and space is available after resident students have been accommodated.
 2. For non-resident students residing outside of New York State, placements will be made after reviewing the IEP to determine eligibility for services based on New York State criteria and if the recommended services are available in New York City and space is available after resident students have been accommodated.

III. CURRENT NON-RESIDENT STUDENTS

- A. Current non-resident students who have been previously approved to attend New York City public schools and are paying tuition may remain until the terminal grade of the school which they have been attending without reapplication. These students will not be permitted to participate in any other admissions process, including the High School Admissions Process or the Middle School Admissions process.
- B. Current non-resident students who are evaluated for and require special education services will be entitled to receive those services, consistent with applicable

law. Once services commence, the tuition rate will be changed to reflect the applicable special education tuition.

C. Non-resident students may not transfer between schools during the school year except in the case of exigent circumstances, at the discretion of OSE. A new application must be submitted during the application period for any other change in school.

IV. RESIDENTS WHO MOVE OUT OF THE CITY DURING THE SCHOOL YEAR

A. If a resident student changes address during the school year and moves outside New York City, the parent/guardian must notify the current school and provide proof of the new address within five school days of the change of residence. The school must update the address and activate the non-resident flag in ATS. The student is eligible to continue to attend that school until the end of the semester without paying tuition. If the student moves outside New York City during the first semester (from September through January), tuition payment is required for the second semester (from February through June). The semester timeframe is defined by the high school semester schedule, regardless of grade level. In order to make a tuition payment, the parent/guardian must contact the Bureau of Finance, Office of Non-Public School Payables at (718) 935-4789.

B. Students who are residents who are attending Gifted & Talented programs, pre-K programs, or specialized or screened/selective schools and who move out of New York City during the school year must notify the current school regarding the change of residence. Such students are eligible to remain at their current school or program for the remainder of the school year provided that they pay tuition for the second semester if they moved during the first semester. At the conclusion of the school year, such students are no longer eligible to remain at the current school or program and may not submit a non-resident student application for such school or program for the subsequent school year. Any exceptions are subject to the discretion of the Office of Student Enrollment.

V. SUMMER SCHOOL

Summer school programs may enroll non-resident students as long as there is space available after all resident students have been accommodated. Tuition must be paid at the rate set by the State Education Department.

VI. TERMINATION OF NON-RESIDENT ENROLLMENT

A. Enrollment of non-resident students in the New York City public schools is at the discretion of the New York City Department of Education. The New York City Department of Education reserves the right to revoke approval for continued non-resident enrollment for failure to pay tuition on a timely basis.

B. Prior to discharging a student for failure to pay tuition on a timely basis, the parent must be:

1. notified of the school's decision to discharge the student;

2. provided with an opportunity to attend a conference with the principal/designee to discuss the reason for the discharge; and
3. provided with written notification following the conference, advising the parent whether the student is being discharged.

VII. INQUIRIES

Inquiries pertaining to this regulation should be addressed to:

Office of Student Enrollment

N.Y.C. Department of Education

52 Chambers Street - Room 415

New York, NY 10007

Telephone: 718-935-2142

Questions regarding tuition may be directed to:

Office of Non-Public School Payables

Re: Non-Resident Tuition

N.Y.C. Department of Education

65 Court Street

Brooklyn, NY 11201

Telephone: 718-935-4789