

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the District of Columbia Health Occupation Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02 (14)), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of the adoption of the following amendments to Chapter 43 of Title 17 of the District of Columbia Municipal Regulations (DCMR).

The purpose of the proposed amendments is to create a grandfathering provision for dental hygienists who completed a training program under the Board’s previous regulations and who have been administering local anesthesia or nitrous oxide during the past two (2) years.

These rules were previously published as proposed rulemaking on March 13, 2009 at 56 DCR 2187. No written comments were received in connection with that notice. However, as a result of verbal comments relayed to the Board from the dental hygiene community, the Board voted to extend the grandfathering time period. The revised rulemaking was thereafter republished on July 10, 2009 at 56 DCR 5599 for an additional comment period. No comments have been received in connection with this notice and no changes have been made to the regulations from the previous publication. These regulations will become effective upon publication of this notice in the D.C. Register.

17 DCMR Chapter 43, DENTAL HYGIENE, is amended to read as follows:**A new section 4311.7 is added to read as follows:**

4311.7 A District of Columbia licensed dental hygienist who was permitted to administer local anesthesia and nitrous oxide in the District of Columbia pursuant to the former 17 DCMR § 4311, may apply for authorization to administer in the District by submitting the following:

- (a) A completed application and payment of the required fee;
- (b) A copy of a valid CPR certification for healthcare providers at the basic level;
- (c) Proof satisfactory to the Board of completion of a board-approved training program in the administration of local anesthesia and nitrous oxide which was completed between April 1, 2004 and January 31, 2009 and meeting the requirements under the regulations that were in effect at that time; and
- (d) Proof satisfactory to the Board that the dental hygienist has administered local anesthesia or nitrous oxide to at least twenty (20) patients during the two (2) years immediately preceding the date of the application. Proof satisfactory to the Board may include a notarized affidavit from the applicant’s supervising dentist attesting to the applicant’s completion of the required number of procedures and the corresponding dates.

DISTRICT OF COLUMBIA PUBLIC LIBRARY**NOTICE OF FINAL RULEMAKING**

The Chief Librarian of the District of Columbia Public Library (“DCPL”) on September 16, 2009 approved a DCPL policy to discontinue public parking in the underground parking garage at the Martin Luther King Jr. Memorial Library (“MLK”), located at 901 ‘G’ Street, N.W., Washington, D.C. 20001. This policy will become effective November 15, 2009. In light of the policy, the DCPL request to repeal the below sub-sections to Chapter 8, Title 19 of the D.C. Municipal Regulations that permit public parking at MLK when reserving meeting rooms.

The General Counsel has not received any comments from the public regarding the repeal of the below sections.

The Board of Library Trustees through D.C. Official Code §39-105 (2001 Ed.) designated the Chief Librarian to establish rules and manage the day-to-day operations of the library. The District of Columbia Public Library Board of Trustees, pursuant to the authority set forth in An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia, approved June 3, 1896, 29 Stat. 244, ch. 315, § 5; April 1, 1926, 44 Stat. 230, ch. 98, §5; Mar. 3, 1979, D.C. Law 2-139, § 3205 (jjj), 25 DCR 5740; Sept. 5, 1985, D.C. Law 6 – 17, § 2, 32 DCR 3582; Apr. 12, 1997, D.C. Law 11-259, § 316, 44 DCR 1423; Oct. 21, 1998, 112 Stat. 2681 – 146, Pub. L. 105 – 277, § 156 (codified at D.C. Official Code § 39-105, 2001 Ed.); 27 DCRR §2.1, 24 DCR 11011, 11014 (June 30, 1978); as amended by Final Rulemaking published at 38 DCR 1011 (February 8, 1991), hereby gives notice of the repeal the following sub-sections to Chapter 8, § 805, Title 19 of the D.C. Municipal Regulations. The repeal of these sections will no longer permit reserved public parking for meetings.

These final rules will be effective upon publication of this notice in the D.C. Register.

Repeal Subsections 805.16, 805.17, and 805.18 of 19 DCMR Chapter 8:

805.16 Repealed

805.17 Repealed

805.18 Repealed

THE OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FINAL RULEMAKING

The State Superintendent of Education, pursuant to the authority set forth in section 3(b)(11) of the State Education Office Establishment Act of 2000 (OSSE Act), effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code §38-2602(b)(11))(2009 Supp.); section 7c(c)(2)(A) of the OSSE Act, effective September 18, 2007 (D.C. Law 17-20; §38-2609(c)(2)(A)) (2009 Supp.); Section 403(a)(14) of the State Board of Education Establishment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code §38-2652(a)(14)) (2009 Supp.); and Article II of An Act to provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806; D.C. Official Code §§38-202 *et seq.*) (2001 and 2009 Supp), hereby gives notice of her adoption of a new Title 5, subtitle A, chapter 21 of the *District of Columbia Municipal Regulations* (DCMR), entitled “Compulsory Education and School Attendance.” The final rules contain moderate revisions to clarify the proposed language and remain consistent with the original intent of the proposed rules. Section 2103, was also approved by the State Board of Education to address student absences in District of Columbia public schools, including public charter schools. The rules shall be effective upon the date of publication of this notice in the *D.C. Register* (DCR).

The Office of the State Superintendent of Education (OSSE) recognizes the necessity for a transition period to enable a deliberative implementation of this rule and expects schools to address these requirements as expeditiously as possible to assure full compliance no later than the beginning of the school year 2010.

The final rule revises Title 5, subtitle E, chapter 21 of the DCMR. Notices of proposed rulemaking were published for comment in the *D.C. Register* on August 7, 2009, at 56 DCR 6221; and on November 14, 2008, at 55 DCR 11917. Title 5 has been renumbered to separate state level education rules from the District of Columbia Public Schools (DCPS) system rules. Title 5, subtitle A of the DCMR contains revised state level education rules adopted as final. Title 5, subtitle B of the DCMR contains revised DCPS rules. Title 5, subtitle E of the DCMR contains rules which are still in effect and have not yet been revised to separate state from local functions. As part of the District’s regulatory recodification process, the DCMR is now available at an official electronic website located at www.dcregs.org. 56 DCR 7861 (October 2, 2009).

A new Chapter A-21 of Title 5 of the DCMR is added to read as follows:

**CHAPTER A-21 COMPULSORY EDUCATION AND
SCHOOL ATTENDANCE**

A-2100 GENERAL PROVISIONS

- A-2100.1 The legal authority for this chapter is based upon section 3(b)(11) of the State Education Office Establishment Act of 2000 (OSSE Act), effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code §38-2602(b)(11))(2009 Supp.); section 7c(c)(2)(A) of the OSSE Act, effective September 18, 2007 (D.C. Law 17-20; §38-2609(c)(2)(A)) (2009 Supp.); Section 403(a)(14) of the State Board of Education Establishment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code §38-2652(a)(14)) (2009 Supp.); and Article II of An Act to provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806; D.C. Official Code §§38-202 *et seq.*) (2001 and 2009 Supp.).
- A-2100.2 Each school-age child who is a resident of the District of Columbia shall attend a public, independent, private, or parochial school or shall receive private instruction.
- A-2100.3 A school-age child and his or her parents or guardians shall be exempt from the requirements of this chapter if the child:
- (a) Has earned a high school diploma or its equivalent; or
 - (b) Participates in a home schooling program that complies with all District of Columbia laws and regulations.
- A-2100.4 A school year for attendance purposes shall include a minimum of one hundred eighty (180) regular instructional days.
- A-2100.5 An instructional day shall be at least six (6) hours in length for students, including time allotted for lunch periods, recess, and class breaks; provided, the six (6)-hour minimum instructional day requirement shall not be applicable to an evening school program, prekindergarten program, or kindergarten program.
- A-2100.6 Student attendance shall be based upon the number of days the student is in attendance during the entire year.
- A-2100.7 Daily attendance shall include participation in school-sponsored field trips; participation in an off-site school sponsored or approved activity during a regularly scheduled school day; in-school suspensions; and the number of days a

student receives instructional services while expelled or while serving an out-of-school suspension.

A-2101 ATTENDANCE RECORDS

A-2101.1 Each educational institution shall maintain an accurate daily record of attendance and absences, consistent with data and reporting requirements specified by the Office of the State Superintendent of Education for each school-age child.

A-2101.2 The attendance and absence record for each student shall include:

- (a) Date(s) of enrollment;
- (b) Current grade level assignment and date(s) of promotion to each grade level;
- (c) Daily attendance;
- (d) Daily absence or late arrival time, with an explanation from parents or guardians;
- (e) Date and brief description of communications with parents or guardians with regard to school attendance and absences, including the record of or a cross reference to the record documenting:
 - (1) Contact with parents, guardians, or other primary caregivers; and
 - (2) Interventions, services, and referrals related to absences; and
- (f) Date of withdrawal from or transfer to another school, the name and location of the school to which a student transfers and follow up notation(s) to confirm the child's new placement.

A-2101.3 Educational institutions are encouraged to maintain attendance and absence records required by this chapter in an electronic format.

A-2102 ABSENCES

A-2102.1 Any absence, including an absence from any portion of the day, without a valid excuse shall be presumed to be an unexcused absence.

A-2102.2 An educational institution shall define categories of valid excuses for an absence, which shall include the following:

- (a) Illness or other bona fide medical cause experienced by the student;
- (b) Exclusion, by direction of the authorities of the District of Columbia, due to quarantine, contagious disease, infection, infestation, or other condition requiring separation from other students for medical or health reasons;
- (c) Death in the student's family;
- (d) Necessity for a student to attend judiciary or administrative proceedings as a party to the action or under subpoena;
- (e) Observance of a religious holiday;
- (f) Lawful suspension or exclusion from school by school authorities;
- (g) Temporary closing of facilities or suspension of classes due to severe weather, official activities, holidays, malfunctioning equipment, unsafe or unsanitary conditions, or other condition(s) or emergency requiring a school closing or suspension of classes;
- (h) Employment or other volunteer work approved by the school, provided that the student is seventeen (17) years of age, and provided further that any excused absences under this paragraph shall not adversely impact the student's academic performance or timely graduation;
- (i) Failure of the District of Columbia to provide transportation in cases where the District of Columbia has a legal responsibility for the transportation of the student;
- (j) Medical or dental appointments for the student; and
- (k) An emergency or other set of circumstances approved by an LEA, independent, private or parochial school. in conformance with published policies distributed to parents and guardians..

A-2102.3 An educational institution shall publish and make available to parents and students the list of valid excused absences.

A-2102.4 An educational institution shall require a written statement from the student's parent or guardian verifying the reason for an absence and shall require that the written statement be provided in advance, if practicable, and, if not practicable, upon the student's return to school.

A-2103 TRUANCY PROCEDURE

- A-2103.1 Each school-age child who resides in the District of Columbia shall attend a public, independent, private, or parochial school or otherwise receive a thorough and regular education through private instruction pursuant to rules established by the Office of the State Superintendent of Education.
- A-2103.2 Each LEA shall develop and implement in each of its schools a specific protocol for absenteeism (absenteeism protocol) that focuses on prevention of unexcused absences, also referred to as truancy, including academic and behavioral interventions to address the needs of students.
- A-2103.3 Each LEA shall include as part of its absenteeism protocol the following:
- (a) A description of valid excused absences consistent with this chapter;
 - (b) A process for informing, training, and educating school staff, students, parents, guardians, and the community of the LEA with regard to enhancing school attendance, implementing truancy reduction methods, administering attendance policies and procedures, and related collaborative services;
 - (c) Procedures for monitoring, reporting, addressing, and evaluating attendance and absences consistent with District of Columbia attendance and absence reporting requirements including:
 - (1) A procedure requiring personal contact(s) with the parent or guardian of a student, each time a student has the equivalent of one (1) day of unexcused absence and defining the reasonable timeframe in which this contact must be made;
 - (2) A continuum of school practices and services including meaningful supports, incentives, intervention strategies, and consequences for dealing with absenteeism and consultation with parents or guardians, both at the onset of absenteeism and in those circumstances where chronic absenteeism persists;
 - (3) A referral process whereby within two (2) school days after a student has accumulated five (5) or more unexcused absences in one (1) marking period or other similar time frame, the student shall be referred to a school-based student support team which will meet within two (2) days of the referral and regularly thereafter to:
 - (A) Review and address the student's attendance and related issues;

- (B) Communicate and/or collaborate with the parents or guardian;
 - (C) Provide timely response to the student's truant behavior;
 - (D) Make recommendations for academic, diagnostic, or social work services;
 - (E) Use school and community resources to abate the student's truancy including referral to a community-based organization when available; and
 - (F) Develop an attendance intervention plan in consultation with the student's parents or guardian.
- (4) If a student accumulates ten (10) unexcused absences at any time during a school year, the school-based student support team assigned to the student shall notify the school administrator within two (2) days after the tenth (10th) unexcused absence with a plan for immediate intervention including delivery of community-based programs and any other assistance or services to identify and address the student's needs on an emergency basis; and
- (5) A process at the LEA, including specific due process procedures, for a parent, guardian, or student to appeal any attendance violation decisions made by the LEA or an individual school within an LEA.
- A-2103.4 Each LEA shall maintain records and report in a format consistent with data reporting requirements specified by the Office of the State Superintendent of Education.
- A-2103.5 Each LEA shall develop a process to refer students to District of Columbia entities outside the LEA under the following circumstances:
- (a) Students between the ages of five (5) and thirteen (13) shall be referred by the LEA to the Child and Family Services Agency (CFSA) no later than two (2) school days after the accrual of ten (10) consecutive unexcused absences and/or completion of the procedures specified in Section A-2103.3 of this chapter, or immediately at any time that educational neglect is suspected;
 - (b) Students between the ages of five (5) and thirteen (13) shall be referred by the LEA to the Child and Family Services Agency (CFSA) no later than two (2) school days after the accrual of twenty (20) unexcused

absences within one (1) school year and completion of the intervention process or immediately at any time educational neglect is suspected; and

- (c) Students over the age of thirteen (13) shall be referred by the LEA to the Court Social Services Division of the Superior Court of the District of Columbia and the Office of the Attorney General (OAG) Juvenile Section no later than two (2) school days after the accrual of twenty five (25) or more unexcused absences at any time within one (1) school year.

A-2103.6 Copies of the following documents shall be provided with a referral made pursuant to this chapter:

- (a) The student's attendance and absence record;
- (b) Any prevention and intervention plans;
- (c) Documentation related to referrals and outcome of such referrals;
- (d) Documentation representing evidence of communications, services, and attendance related interventions taken by the school;
- (e) Documentation of suspected educational neglect;
- (f) Documentation of personal contacts with, and written notification to, parents or guardians with regard to the unexcused absences; and
- (g) If applicable, the student's Individualized Education Program with any supporting evaluations or assessments.

A-2103.7 Written notification of any referral made pursuant to this Section shall be provided to a parent or guardian at the time a referral is made.

A-2103.8 The standards for school attendance may identify a specific number of excessive or unexcused absences allowed within a marking period, semester, or school year, provided that reporting is consistent with applicable laws and regulations.

A-2103.9 The Office of the State Superintendent of Education shall develop reporting procedures as appropriate to assist educational institutions and private instructors with compliance with reporting requirements under applicable federal and District of Columbia laws.

A-2103.10 The Office of the State Superintendent of Education shall evaluate the effectiveness of these regulations and make further recommendations as appropriate to the State Board of Education. The State Board of Education shall have the opportunity to revisit the regulation's effectiveness on an annual basis.

A-2104 REPORTING REQUIREMENTS

- A-2104.1 An educational institution shall submit to the Office of the State Superintendent of Education, upon request, information relating to attendance and compulsory education in conformance with this chapter.
- A-2104.2 Each educational institution subject to this chapter shall provide to the State Superintendent of Education, upon request, information relating to a report of enrollments and withdrawals in conformance with D.C. Official Code §38-205.
- A-2104.3 The reports required under this chapter shall, to the extent practicable, conform to the format requested by the Office of the State Superintendent of Education and include the name, address, sex, date of birth, and student identification number as appropriate, of each minor residing permanently or temporarily in the District of Columbia who enrolls in, withdraws from, or transfers from an educational institution.
- A-2104.4 An educational institution shall notify the Office of the State Superintendent of Education immediately upon information, reason, or belief that a school-age child who has been withdrawn from a school has not been re-enrolled in a school following withdrawal from school or is not receiving private instruction.

A-2199 DEFINITIONS

- A-2199.1 All definitions set forth in Title 5, Section E-2099 are incorporated herein by reference and shall apply to the terms used in this chapter unless modified by definitions listed in this chapter.
- A-2199.2 For the purposes of this chapter:
- “Educational institution”** means a school in the District of Columbia Public Schools system, a public charter school, an independent, private school, parochial school, or a private instructor.
- “Educational neglect”** means the failure of a parent or guardian to ensure that a child attends school consistent with the requirements of the law including, without limitation, the failure to enroll a school-age child in an educational institution or provide appropriate private instruction; permitting habitual absenteeism from school; inattention to special education needs; refusal to allow or failure to obtain recommended remedial education services; or the failure to obtain treatment or other special education services without reasonable cause.

“Local education agency or LEA” means an educational institution at the local level that exists primarily to operate a publicly funded school or schools in the District of Columbia, including the District of Columbia Public Schools (DCPS) and a District of Columbia public charter school.

“Minor” means a child who has not yet reached 18 years of age.

“School-based student support team” means a team formed to support the individual student by developing and implementing action plans and strategies that are school-based or community-based depending on the availability to enhance the student’s success with services, incentives, intervention strategies, and consequences for dealing with absenteeism.

“School-age child” means a child who is five (5) years of age or older by September 30 of a current school year but who has not yet reached his or her eighteenth (18th) birthday.

“Truant” means a school-age child who is absent without a valid excuse in compliance with section 2103 of this chapter.

“Unexcused absence” means an absence of a school-age child from any portion of the school day without a valid excuse consistent with the requirements of this chapter.

Title 5 DCMR, Subtitle E, Chapter 20, Section E-2099 is amended to read as follows:

Unexcused absence means an absence of a school-age child from any portion of the school day without a valid excuse consistent with the requirements of this chapter.

Title 5 DCMR, Subtitle E, Chapter 21 is amended by deleting the following subsections:

§E-2100.1
§E-2100.5
§E-2100.7
§E-2100.8
§E-2100.9
§E-2100.10
§E-2101.3

§E-2103.1
§E-2103.6
§E-2103.11
§E-2103.12

Title 5, DCMR, Subtitle E, Chapter 3 is amended by deleting the following subsections:

§E-305.7

§E-305.8

OFFICE OF TAX AND REVENUE**NOTICE OF FINAL RULEMAKING**

The Office of Tax and Revenue (“OTR”), pursuant to the authority set forth in D.C. Official Code § 47-1335 (2001), Section 201(d) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019; P.L. 109-356, D.C. Official Code § 1- 204.24d (Supp. 2009)) of the Home Rule Act, and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of this final action to adopt rules to amend Chapter 3 (Real Property Taxes) of Title 9 (Taxation and Assessments) of the District of Columbia Municipal Regulations (“DCMR”), by adding a new section 317, Tax Sale Threshold. The rules were previously published as proposed rulemaking in the *D.C. Register* on October 16, 2009 (56 DCR 8203).

Under new section 317, only those real properties where taxes are delinquent in the amount of one thousand two hundred dollars (\$1200) or more shall be sold at tax sale. The efficacy of the tax sale is balanced between generation of tax revenue and the cost of employee hours devoted to the administration of the tax sale process, including the timely issuance of redemption refunds to tax sale purchasers. The threshold that is set by this rulemaking is necessary to maximize the efficient operation of the tax sale by limiting the number of real properties sold to those with larger liabilities so that the tax sale may be efficiently administered.

Comments concerning the proposed rulemaking were received and given due consideration. This final rulemaking is identical to the published text of the proposed rulemaking, other than for formatting corrections. This final rulemaking shall become effective upon publication of this notice in the *D.C. Register*.

A new section 317 of Chapter 3 of Title 9 DCMR is added to read as follows:

317. TAX SALE THRESHOLD

317.1 Only those real properties owing at least one thousand two hundred dollars (\$1,200) and advertised to be sold at the September 2009 tax sale shall be auctioned at the continuation of the September 9, 2009, tax sale which shall begin on November 30, 2009. As a continuation of the September 2009 tax sale, the November 2009 tax sale shall be under the same terms, conditions, and amounts of the September 2009 tax sale, subject to the threshold provided by this regulation.