

DISTRICT OF COLUMBIA PUBLIC SCHOOLS

NOTICE OF PROPOSED RULEMAKING

The Chancellor of the District of Columbia Public Schools (DCPS), pursuant to the authority set forth in sections 103(c)(2) and 105(c)(5) of the Public Education Reform Amendment Act of 2007, effective June 12, 2007 (D.C. Law 17-9, D.C. Official Code §§ 38-172 and 38-174) (“Act”), and Mayor’s Order 2007-186, dated August 10, 2007, hereby gives notice of her intent to adopt the following amendments to Chapter 21 of Title 5 of the District of Columbia Municipal Regulations (DCMR) in not less than 30 days after the date of publication of this notice in the *D.C. Register*. The purpose of the amendment is to clarify and standardize throughout the District the calculation of the area defined as “within a reasonable walking distance” to a particular school in order for a student to receive the “within a reasonable walking distance” preference in the out-of-boundary lottery process. With this new and standardized method of calculation, parents automatically will know whether this preference applies to their child when they input their address in the on-line application for the lottery.

As of October 1, 2009, Title V of the DCMR has been reorganized and Subtitle B is designated for regulations pertaining to DCPS. Accordingly, all future revisions to existing DCPS sections and drafts of new DCPS sections will contain the letter “B” before the number of the section and before each numbered sub-section. This proposed rulemaking contains the updated subtitle designation and revisions to §§ 2106.1, 2106.2, 2106.3, and 2106.5.

Pursuant to section 103(c)(2) of the Act, the proposed rules will be submitted to the Council of the District of Columbia for review and approval. This rule will become effective after the occurrence of: (1) affirmative Council approval by resolution, or passive Council approval forty-five (45) days after submission, if the Council has not disapproved the proposed rulemaking; and (2) publication of the final rules in the *D.C. Register*.

Section 2106 of (Out-of-Boundary Transfers) of Title 5 DCMR (Education) is deleted and replaced with a new subsection 2106 in subtitle B of Title 5 to read as follows:

B 2106 OUT-OF-BOUNDARY TRANSFERS

- B 2106.1 Nothing in this Section shall be interpreted to:
- (a) Supersede a measure adopted by the Chancellor that is necessary to comply with Federal requirements related to the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, Title I of the No Child Left Behind Act, 20 U.S.C. §§ 6301 *et seq.*, or the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 *et seq.*; or
 - (b) Require the displacement from his or her current school of any student attending a D.C. public school pursuant to an out-of-boundary transfer at the time this section becomes effective.

- B 2106.2 An adult student, an emancipated student, or a minor student's parent or guardian may apply for an out-of-boundary transfer for any of the following reasons:
- (a) The student's sibling currently attends the requested school;
 - (b) The student resides within a reasonable walking distance of the requested school as determined in accordance with § B2106.3; or
 - (c) The adult student or minor student's parent or guardian prefers the requested school to his or her designated in-boundary school.
- B 2106.3 A student shall be deemed to reside within a reasonable walking distance of the requested school if his or her residence is located within the perimeter of a theoretical square, with a north-south orientation, in which the school is in the center and the sides of the square are three thousand (3000) feet for elementary and k-8 schools or five thousand (5000) feet for middle schools.
- B 2106.4 An application for an out-of-boundary transfer for the following school year shall be submitted through the formal application process which shall be defined and publicized by DCPS. An application shall be submitted no earlier than January 28th and no later than February 28th of the then-current school year and shall state the reasons for the request. The Chancellor or his/her designee shall send a response to any such request no later than March 31st.
- B 2106.5 In reviewing the request for out of boundary transfers, the Chancellor shall verify stated reasons for the request and fairly administer a lottery held in DCPS headquarters, giving preferences to students in accordance with the reasons for their transfer requests in the same order as those reasons appear in § 2106.2.
- B 2106.6 The Chancellor, and only the Chancellor, is authorized to grant a discretionary transfer and set the duration of the approval of the transfer when the Chancellor determines that the transfer would be in the best interests of the student, and that the transfer would promote the overall interests of the school system.
- B 2106.7 The Chancellor may designate a given school, program, or academy, including an early childhood school or program, as a specialized school, program or academy due to the unique academic character of the school, program or academy and the importance of matching children's needs and strengths to the mission of a school, program or academy. When applicable, the Chancellor shall determine admission criteria for any approved specialized school, program or academy for adoption by the Board.

- B 2106.8 Each year, the Chancellor shall inform all DCPS students and parents of the availability of all DCPS specialized schools, programs and academies.
- B 2106.9 Students applying to specialized schools, programs or academies must meet the specific criteria established for the schools, programs or academies to which they are applying. Eligibility requirements and selection criteria shall be published and made available upon request to parents. When there are more students than there are available vacancies, students who are ranked equally on the selection criteria shall be selected by lottery.
- B 2106.10 The number of spaces available to students transferring from out of boundary schools shall be determined annually through a standardized process set forth by the Chancellor or designee. The number of vacancies and updated information about the application process shall be shared with parents and the public prior to the out-of-boundary transfer review period and in sufficient time to allow parents to make informed choices about school options for the coming academic year.
- B 2106.11 (a) Students who are admitted to schools outside the attendance zones established for their place of residence shall be entitled to attend these schools for the duration of their participation in the academic program except in the following circumstances:
- (1) If the student is involuntarily transferred pursuant to § 2107 or;
 - (2) If the students are admitted to specialized schools, programs, or academies and the students no longer meet the criteria established for the specialized schools, programs or academies.
- (b) A student who has been admitted to a school outside the attendance zone for his or her place of residence which has been designated as a feeder school by the Chancellor shall be entitled to attend the next-level school in the designated feeder pattern upon the student's completion of the program at the feeder school.
- B 2106.12 The Chancellor shall report annually on the impact of the implementation of §§ 2106.1 through 2106.5 by collecting data including, but not limited to:
- (a) The number of children seeking out of boundary transfers from each school and zip code; the school(s) and zip code to which they sought to transfer; and the priority category under which each applied;

- (b) The number of out of boundary applicants admitted and in attendance in each school and zip code and the category under which each was admitted;
- (c) The number of students enrolled at each school pursuant to the No Child Left Behind Act who reside outside of the school's attendance zone; and
- (d) For students admitted pursuant to § 2106.3(d) above, a survey of parents to determine their reasons for seeking out of boundary transfer.

B 2106.13 [Repealed] 53 DCR 1542 (March 3, 2006)

B 2106.14 Parents shall be entitled to appeal the denial of eligibility through the student grievance procedure set forth in § 2405. Any such grievance shall be resolved prior to the commencement of the lottery process.

Persons desiring to comment on these proposed rules should submit comments in writing to Michelle Rhee, Chancellor, DCPS, 825 North Capitol Street, NE, 9th Floor, Washington, DC, 20002, Attn: Abigail Smith, no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of these proposed rules may be obtained between 8:30 A.M. and 5:00 P.M. at the address stated above.

DISTRICT OF COLUMBIA RETIREMENT BOARD**NOTICE OF PROPOSED RULEMAKING**

The District of Columbia Retirement Board (the “Board”), pursuant to the authority set forth in section 121(e) of the District of Columbia Retirement Reform Act (the “Reform Act”), Pub. L. 96-122, 93 Stat. 866, November 17, 1979 (codified at D.C. Code § 1-711(e) (2001)), hereby gives notice of its intent to adopt the following amendment to the Board Classification and Compensation Program Regulations at Chapter 18 of Title 7 in 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 Board was established by the Reform Act as an independent agency of the District of Columbia. The U.S. Congress conferred the Board with “exclusive authority and discretion to manage and control” the assets of the Police Officers and Firefighters’ Fund and the Teachers’ Fund (the “Funds”) and the Judges’ Retirement Fund (the “Judges’ Fund”). Title XI of the Balanced Budget Act of 1997 (Pub. L. 105-33, 111 Stat. 251) (the “Balanced Budget Act”) required the Board to transfer material amounts of assets and liabilities of the Funds, and all accumulated assets and liabilities of the Judges’ Fund, to the Federal government. The Balanced Budget Act required the District of Columbia to adopt a Replacement Plan to provide retirement benefits for participants of the Funds for service accrued after June 30, 1997. The District adopted a Replacement Plan in the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, D.C. Law 12-152 (codified at D.C. Code §§ 1-901.01 *et seq.*) (2001).

The “Retirement Reform Act Amendment Act of 2004” (the “Amendment Act”), effective April 8, 2005 (D.C. Law 15-300), amended the Reform Act to expand the Board’s personnel authority to establish classification and compensation for its employees to include additional benefits and flexibility for retention and recruitment of highly qualified staff. The Amendment Act stipulates that the Board establish by regulation the alternative benefits requirements for its employees.

The proposed alternative benefits rule would allow the Board to establish an enhanced retirement benefit for its staff. The Board approved the proposed rule on November 19, 2009. Upon adoption, this rule would amend section 1805 of Chapter 18 of Title 7 DCMR, published at 47 DCR 9894 (December 15, 2000). Additionally, the Board gives notice of its intent to take final rulemaking action in not less than thirty (30) days after publication of this notice in the *D.C. Register*.

CHAPTER 18**DISTRICT OF COLUMBIA RETIREMENT BOARD CLASSIFICATION AND
COMPENSATION PROGRAM REGULATIONS**

*Section 1805 of Chapter 18 of the District of Columbia Retirement Board
Classification and Compensation Program Regulations is amended as follows:*

A new subsection 1805.3 is added to read as follows:

- 1805.3 In addition to the District of Columbia Government retirement plans that employees of the Retirement Board participate in or may participate in, the Retirement Board may provide a supplemental 401(a) defined contribution retirement plan for eligible full-time employees described as follows:
- (a) The Retirement Board may, at its discretion, make nonelective contributions to the plan on behalf of an eligible employee either as a percentage of the employee's compensation or as a flat dollar amount which percentage or amount need not be uniform among all participating eligible employees;
 - (b) Employees may make voluntary after-tax contributions to the plan;
 - (c) The contributions shall be subject to the limitation on contributions as set forth in section 415 of the Internal Revenue Code ("Code"), as amended, and all applicable rules and regulations issued thereunder;
 - (d) Those employees eligible to participate in the plan and the date such employees are eligible to participate in the plan shall be determined by the Retirement Board and such provisions for eligibility shall be set forth in the plan document;
 - (e) Participating employees shall vest in contributions in accordance with a schedule set forth in the plan document;
 - (f) The plan document shall contain the official summary description of the plan and shall include the terms, conditions and provisions of the plan;
 - (g) The plan shall be a governmental plan as defined in section 414(d) of the Code and shall be tax qualified under section 401(a) of the Code.

Comments on this proposed rulemaking should be submitted in writing to Erie F. Sampson, General Counsel, District of Columbia Retirement Board, 900 7th St., NW., 2nd Floor, Washington, DC 20001, within thirty (30) days of the publication of this notice in the *D.C. Register*. Additional copies of this proposed rulemaking are available from the above address.