



August 5, 2015

Sonali Murarka
Office of School Enrollment
52 Chambers Street
New York, NY 10007
VIA EMAIL: RegulationA-101@schools.nyc.gov

Re: Comments on the Proposed Amendments to Chancellor's Regulation A-101

Dear Ms. Murarka:

Advocates for Children of New York and the New York Immigration Coalition submit these comments in response to the New York City Department of Education's (DOE) proposal to amend Chancellor's Regulation A-101 relating to student admissions, discharges, and transfers.

We strongly support the amendment of this Chancellor's Regulation for purposes of guaranteeing that unaccompanied minors and undocumented youth are provided with their constitutional right to a free public education; children and youth experiencing homelessness have immediate access to school in accordance with the federal McKinney-Vento Act; and students with disabilities transferring into DOE schools are promptly provided with special education services pursuant to the Individuals with Disabilities Education Improvement Act. However, we believe that there are opportunities to strengthen the proposed amendments in order to ensure that unaccompanied minors, undocumented youth, children and youth experiencing homelessness, and students with disabilities have meaningful access to a free public education.

We recommend the following modifications to the proposed amendments:

- **Transfers: English Language Learners (page 10, Section IV. new subsection)**
 1. We recommend that the Regulation be amended to provide for an English Language Learner (ELL) transfer mechanism. There are a number of schools across the city that provide targeted programming and supports for ELLs, including bilingual programs, programs for newcomers, and programs for students with interrupted formal education. Often, families do not learn of these programs until after their children are already enrolled in school. In addition, a student's needs may not be readily apparent at the time of enrollment. In the absence of a clearly articulated transfer process, families of ELLs struggle to transfer their children to schools that will better serve their needs. As a result, students who desperately need additional support are not able to take advantage of the specialized ELL programs that the DOE offers. An ELL transfer mechanism would allow ELLs to take advantage of the full range of programs that the DOE offers to meet their needs. In addition, a transfer would allow ELLs to take advantage of new programs as they open or as their specific needs are identified.

Moreover, under New York State Commissioner’s Regulations Part 154-2, the DOE is required to provide ELLs with the opportunity to transfer to schools that offer bilingual programs. However, in our experience, many parents of ELLs are not aware of their right to transfer to a school that offers bilingual programs, and when parents attempt to exercise their right they often encounter resistance and misinformation. A clearly defined ELL transfer mechanism would help to ensure that parents are able to exercise their right to transfer their children to schools with bilingual programs.

- **Enrollment Policies for Students with Disabilities: Students coming from out of New York City (page 12, Section V.C.)**
 2. To ensure that students with Individualized Education Programs (IEPs) are promptly provided with comparable special education services after they transfer from another school district to a DOE school, we recommend that the DOE specify the timeframe within which such services must be provided. In particular, we recommend modifying this subsection as follows (recommended changes are bolded), “If a student presents documentation from out of New York City indicating the need for special education services, the student must be referred **immediately** to the appropriate CSE or Family Welcome Center, where a determination of comparable services will be made and an appropriate school will be assigned **within three days.**”

- **Determination of Residence: Students not residing with their parents (pages 12-13, Section VI.B.)**
 3. The proposed amendment should include specific information about how to enroll unaccompanied immigrant youth residing with someone other than their parents, such as an unaccompanied immigrant youth residing with a relative, friend, or sponsor. For example, the Regulation could specify that if the youth produces documentation verifying that the youth is residing with an adult sponsor, this may be used as proof of residency, with the caveat that DOE staff cannot ask about immigration status as a condition of enrollment or require that a sponsor or unaccompanied immigrant youth produce such documentation.

- **Verification of Residency: Proof of Address (pages 13-14, Section VII.A.)**
 4. **Section VII.A.1.** We strongly support the proposed amendment expanding the list of documents that the DOE will accept as proof of residency, in response to the recent amendments to the Commissioner’s Regulations of the State Education Department. See 8 N.Y.C.R.R. § 100.2(y)(3). However, the DOE’s proposed amendments omit one important proof of residency included in the Commissioner’s Regulations, namely “a statement by a third party relating to the parent(s)’ or persons(s) in parental relation’s physical presence in the district.” See 8 N.Y.C.R.R. § 100.2(y)(3)(i)(b)(3). The DOE’s proposed amendment should include this as an example of a proof of residency in subsection VII.A.1. Many children and youth in New York City, especially unaccompanied immigrant youth, live in shared living spaces where their caretaker is not the primary leaseholder or owner and cannot obtain a signed Address Affidavit from the primary leaseholder or owner. In recognition of this, the DOE should accept a statement from a third party who has knowledge of the child or youth’s housing arrangement as proof of residency in accordance with the Commissioner’s Regulations.

5. **Section VII.A.1.** The proposed amendment should make clear that the list of documents in subsection VII.A.1. is not an exhaustive list and that other documentation may be accepted as proof of residency consistent with the Commissioner’s Regulations. This is especially crucial for children and youth living in shared living spaces, such as unaccompanied immigrant youth, where the parent or the student’s caretaker may not have access to the documents listed in the proposed amendment. The Commissioner’s Regulations direct districts to accept “other forms of documentation and/or information establishing physical presence in the district,” and the Chancellor’s Regulation should incorporate similar language to ensure that all resident students have access to school.
 6. **Section VII.A.1.** The proposed amendment requires that a parent or youth provide two proofs of residence. This requirement is unnecessarily restrictive and is particularly onerous for unaccompanied immigrant youth who often do not have access to the documents listed in this subsection. Subsection VII.A.1. should make clear one of these proofs of residency is sufficient to enroll a child or youth in school, and should reiterate that in cases where the youth or parent cannot produce any of the documents listed, the child or youth must be immediately admitted on a provisional basis pending the outcome of an address investigation pursuant to subsection B.
 7. **Section VII.A.5.** The proposed amendment should make clear that students who are homeless, including unaccompanied youth experiencing homelessness, are entitled to immediate enrollment even if they don’t have the documents normally needed for enrollment. See 42 U.S.C. § 11432(g)(3)(C); N.Y. Education Law § 3209(2)(e). This subsection should clarify that students who are homeless are not required to produce proof of residency and need not submit any of the following documents:
 - Non-parent custodian affidavit. Under state and federal law unaccompanied youth who are homeless are not required to submit any documents as a condition of enrollment. Id. Indeed, requiring that youth submit forms such as a non-parent custodian affidavit can lead to enrollment barriers and more importantly can lead to the youth losing their housing arrangement because the adult with whom the youth is temporarily residing may feel that signing such a document is overly intrusive or indicates a commitment the adult is not willing to assume.
 - Parent Affidavit. See above.
 - Affidavit of Emancipation. See above.
 - Address Affidavit or Parent Affidavit of Residency. As mentioned previously, both state and federal law prohibit districts from requiring that students in temporary housing submit proof of residency as a condition of enrollment. Often in shared housing arrangements, the primary leaseholder or tenant will instruct the parent not to share information about the temporary doubled-up housing arrangement because it is in violation of the lease. Requiring the submission of an Address Affidavit even without the primary leaseholder’s signature can put the family’s housing arrangement at risk. If there are questions or suspicions about the student’s address, the school should initiate an address verification investigation.
- **Special Situations: Homeless, Unaccompanied, and Runaway Youth (page 16, Section VIII.D.)**

8. **Section VIII.D.5.** We recommend inserting “physical” before “custody” so that the definition of unaccompanied homeless youth is consistent with Section VIII.D.1.b. and state and federal law. See 42 U.S.C. § 11434a(6); 8 N.Y.C.R.R. § 100.2(x)(1)(vi).
9. **Section VIII.D.6.** We recommend specifying that it is the enrolling school’s responsibility (not the responsibility of the parent or youth in temporary housing) to obtain the records from the previous school attended in accordance with state and federal law. See 42 U.S.C. § 11432(g)(3)(C); N.Y. Education Law § 3209(2)(e).
10. **Section VIII.D.7.** This subsection should be modified to allow students in temporary housing to be considered residents of the area where they were last permanently housed during the prior school year AND the area where they are currently temporarily housed for purposes of articulation and admissions priorities. The proposed amendment only allows students in temporary housing to claim admissions priority for their temporary housing location. This puts students in temporary housing at a distinct disadvantage for placement in selective programs, especially those programs that quickly fill up. For example, if a child is offered a seat in a Gifted and Talented kindergarten class and accepts that seat in the spring, but then he and his family lose their housing over the summer and are temporarily residing in a different community school district, that child would have to forfeit the seat in the Gifted and Talented kindergarten class and would be offered a seat in a Gifted and Talented kindergarten class in the new location if one were still available under the proposed amendments.

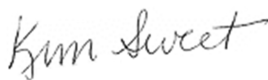
In addition, giving students in temporary housing admission priority for the area where they were last permanently housed also encourages school stability and parent engagement. For example, a family was evicted in the spring and was placed in a shelter located in a different community school district from where the family was last living. The family has a child entering the 4th grade and another entering kindergarten. The parent very much wants both kids to attend the school where the older child is already enrolled. The parent is very connected to the school community, but if her younger child is not offered a seat in that school, she will have to transfer both kids to the school zoned for the shelter because the parent won’t be able to pick up and drop off both kids on time at two different schools. Unfortunately, this scenario is not uncommon, as the overwhelming majority of families are placed in shelters outside of the community school district of origin. Allowing families in temporary housing admissions priority in the area where the family previously lived, as well as the area where the temporary housing location is located, helps ensure that students in temporary housing have access to quality programming and can stay stably educated with their siblings.

Thank you for taking our comments into consideration. If you have any questions or would like to discuss these issues further, please do not hesitate to contact us.

Sincerely,



Steven Choi, Esq.
 Executive Director
**New York Immigration
 Coalition**
 137-139 West 25th St. (12th Flr)
 New York, NY 10001
Schoi@nyic.org



Kim Sweet
 Executive Director
**Advocates for Children
 of New York**
 151 West 30th St. (5th Flr)
 New York, NY 10001
ksweet@afcnyc.org