

DISTRICT OF COLUMBIA STATE ATHLETIC ASSOCIATION NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The District of Columbia State Athletic Association (DCSAA), 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) (“Athletics Act”); and Mayor’s Order 2019-007, dated February 11, 2019, and with the approval of the Deputy Mayor for Education, hereby gives notice of the adoption of, on an emergency basis, a new Subtitle 5-F, DCMR, DISTRICT OF COLUMBIA STATE ATHLETIC ASSOCIATION; and adoption of a new Chapter 1 (Interscholastic Athletics) of Title 5 (Education), Subtitle F (District of Columbia State Athletic Association), of the District of Columbia Municipal Regulations (“DCMR”).

The purpose of this emergency and proposed rulemaking is to align the District’s interscholastic athletics regulations with the governance structure and requirements established in the Athletics Act. This emergency rulemaking is necessary to ensure the health, safety, and welfare of District students before the new athletic seasons begin.

This emergency rule was adopted on November 6, 2019 and became effective on that date. The emergency rule will expire one hundred twenty (120) days from the date of adoption, February 6, 2020, or upon publication of a Notice of Final Rulemaking in the D.C. Register, whichever occurs first.

The DCSAA also gives notice of its intent to adopt this rule, in final, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 27, INTERSCHOLASTIC ATHLETICS, of Subtitle 5-A DCMR, OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION, is repealed in its entirety.

A new Subtitle 5-F DCMR, DISTRICT OF COLUMBIA STATE ATHLETIC ASSOCIATION, is established.

A new Chapter 1, Interscholastic Athletics, of subtitle 5-F is established to read as follows:

CHAPTER 1 INTERSCHOLASTIC ATHLETICS

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100 GENERAL PROVISIONS

- 100.1 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 Athletics Commission (DCSAC);
 - (b) The operation of the District of Columbia State Athletic Association (DCSAA);
 - (c) The operation of the DCSAA Athletic Appeals Panel; and
 - (d) Student eligibility and participation in interscholastic athletic programs and competitions.

101 STATE ATHLETIC ASSOCIATION: DUTIES

- 101.1 The DCSAA shall interpret, enforce, and implement the provisions set forth in the Act, this chapter, and the DCSAA Handbook.
- 101.2 The DCSAA shall update and publish the DCSAA Handbook annually, including an update of all approved sports and/or activities.
- 101.3 The 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.
- 101.4 The DCSAA may challenge the members school's eligibility determination in accordance with § 111.
- 101.5 The 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.

102 MEMBER SCHOOLS

- 102.1 Each District of Columbia Public School with an interscholastic athletics program serving grades 9 to 12 shall be a member of the DCSAA.
- 102.2 Any secondary school located within the boundaries of the District of Columbia containing grades 9 through 12, or any grouping of some or all of such grade levels including nonpublic, private, public, and public charter schools, may voluntarily become a member school of the DCSAA.
- 102.3 Each member school shall:
- (a) Be subject to the DCSAA membership standards as set forth in this chapter and in the DCSAA Handbook;
 - (b) Ensure that students with disabilities consistently have appropriate opportunities to participate in extracurricular athletic activities;
 - (c) Provide, to the DCSAA, a copy of their fall, winter, and spring sports schedules for interscholastic competition. Schedules are due by the date designated, pursuant to the DCSAA Handbook, at the beginning of each season;
 - (d) Ensure that all sports and activities offered by the school are covered by an insurance policy;
 - (e) Ensure that students provide written authorization to participate for each team that he or she wishes to participate on, and that the authorization contains the signature of a parent, legal guardian, or adult student;
 - (f) 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
 - (g) By July 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 membership;
 - (2) Agreement to comply 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.

(A) A school that previously withdrew from DCSAA membership in a sport and wishes to declare as a member school for that sport for the next season must comply with member school re-entry requirements as established in the DCSAA Handbook.

102.4 Each member school shall ensure all coaches, officials, and other personnel, including covered volunteers engaged with students participating in interscholastic athletic programs at a member school biannually obtain any required background check and, if appropriate for their position and role, demonstrate expertise with regard to a respective sport, applicable rules, safety, and first aid standards. Officials shall submit background clearances directly to DCSAA and coaches shall submit background clearances to their member school.

102.5 All high school coaches coaching interscholastic athletics in a DCSAA approved sport at a DCSAA member school shall meet the coaching certification requirements set forth in the DCSAA handbook, and officiants at DCSAA approved competitions 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.

102.6 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.

102.7 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 § 106.

102.8 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 § 106.

102.9 Notwithstanding § 102.6, 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.

- 102.10 Notwithstanding § 102.6, 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.
- 102.11 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 U.S.C. §§ 1681 – 1688) coordinator, to ensure that the requirements of Title IX are met regarding athletics.
- 102.12 Representatives of member schools, including school administrators, coaches, players, school approved volunteers, and boosters, 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.
- 102.13 It shall not constitute a violation of § 102.6 to exclude a student if the student lacks medical clearance to participate under § 104.7 if the coaches and/or trainers reasonably believe that the student's participation in the sport would be unreasonably dangerous to the student; if the exclusion is based on skill or fitness relevant to the activity rather than a disability; or if the student suffers an injury or illness precluding participation following the issuance of the medical approval specified under § 104.7. However, schools shall not preclude participation based on fear, such as when a student has asthma, allergies, diabetes, or epilepsy, if manifestation of such conditions can ordinarily be addressed successfully on the field.

103 MEMBER SCHOOL: CERTIFICATION OF ELIGIBILITY

- 103.1 The LEA or 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.
- 103.2 Before the first official contest for each team sport:
- (a) The LEA or member school shall determine the initial 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, in a manner prescribed by its LEA and/or athletic director, so long as it does not conflict with the process established in these rules for submitting eligibility rosters to the DCSAA; and
 - (b) Each LEA and/or school athletic director shall submit each certification of eligibility roster by sport and by season to the DCSAA fourteen (14) days

after the start of the official season for the sport but prior to the first official date of competition, in a form and manner established by this chapter and as interpreted in the DCSAA Handbook.

103.3 After the first official contest for each team sport:

- (a) The LEA and/or member school may submit a supplemental eligibility list to the LEA and/or school athletic director, in a manner prescribed by its LEA and/or athletic director, so long as it does not conflict with the process established in these rules for submitting supplemental eligibility rosters to the DCSAA;
- (b) The LEA and/or member school shall submit each supplemental eligibility list to the DCSAA no later than twenty-one (21) days after the first official contest; 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.

103.4 A certification of 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 (9th) Grade (Month and Year);
- (e) Identify if the student is a transfer student and the name of the school from which the student transferred and the date of the transfer.

103.5 The information provided on an eligibility roster shall be considered "directory information" in accordance with 34 C.F.R. § 99.31(a)(11). The member school shall provide this information to the DCSAA unless the parent(s) or the adult student has opted out of allowing directory information disclosure and refuses to sign a consent authorizing disclosure for this specific purpose.

103.6 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 approved sport or activity.

103.7 The DCSAA shall review the certified eligibility rosters to ensure compliance with the Act, this chapter, the DCSAA Handbook and membership standards.

- 103.8 The DCSAA may request that the member school provide supporting documentation to verify the certification including, the name of the parent or legal guardian of the student-athlete and contact information for the parent or legal guardian. The DCSAA may request additional information for circumstances including, the following: (1) if it determines that the information provided in the certification of eligibility roster is incomplete or (2) if it determines that the information provided is inconsistent with information that the DCSAA has on file, and will provide the LEA and/or member school with a letter detailing information being requested and how the information relates to eligibility verification.
- 103.9 If the LEA or member school fails to provide the aforementioned documentation, the student shall not be certified as eligible to participate in DCSAA approved sports or activities.
- 103.10 The DCSAA may challenge a student's eligibility pursuant to §111.

104 STUDENT ELIGIBILITY TO PARTICIPATE

- 104.1 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.
- 104.2 Any information in regard to any aspect of student eligibility that is provided by the student, the parent(s), legal guardian, or the member school shall be accurate and complete.
- 104.3 In order to establish eligibility to participate in interscholastic athletics at a member school, a student shall:
- (a) 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; and
 - (b) Comply with any other eligibility requirements set forth in this chapter.

104.4 In order to be eligible to participate in a DCSAA approved 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. Eligibility beyond eight (8) semesters requires a waiver approved by the DCSAA. 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 through the conclusion of the athletic season that began before graduation, or until the end of that school year, whichever comes later; and
- (d) A student who is repeating the twelfth 12th grade, or who seeks eligibility for a fifth (5th) year, and who requires two (2) or fewer courses to graduate, and has not attempted course or credit recovery, is prohibited from participating in interscholastic athletics or activities and must request a waiver in order to participate.

104.5 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 current on tuition payments owed; 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.

- (c) If the student is a resident of the District of Columbia and is home schooled, under the conditions set forth at § 106.4. Residency in the District of Columbia must be established through the same criteria as employed by the Office of the State Superintendent of Education (OSSE), currently set forth at 5-A DCMR §§ 5000 *et seq.*, and the member school is in charge of verifying the District residency of a home-schooled student who seeks to participate on its team.

104.6 Each member school and/or LEA shall establish standards which assure that students involved in interscholastic athletics are making satisfactory progress towards graduation. In order to be eligible for participation in interscholastic athletic contests and activities a student must pursue a regular course of study, or its equivalent as approved by the member school and/or LEA, and shall maintain a 2.0 grade point average (GPA), or its equivalent as officially calculated by the member school and/or LEA grading scale, per marking period. For those member schools which do not calculate a GPA, such member school shall submit a certification to the DCSAA, in a manner established by the DCSAA, stating that the school does not calculate GPAs and that all students participating in a DCSAA-approved sport have a minimum equivalence of a 2.0 GPA and are in good academic standing as consistent with this chapter.

104.7 In order to be eligible to participate in a DCSAA approved sport and/or activity, a student shall provide a current medical certification, to the student's member school and/or LEA, confirming that the student has been examined by a licensed physician, or other qualified medical practitioner, and is physically fit to participate in try-outs, practices, and contests for the sport in which the student seeks to participate.

104.8 In order to be eligible to participate in a DCSAA approved sport and/or activity, 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 and any additional attendance requirements established by the student's LEA and/or member school. Additionally, a student must be in attendance at school for the full day during the regularly scheduled school day in order to participate in any try-out, practice, or contest, which is scheduled on that day, unless the student has an excused absence.

104.9 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 § 104.3 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 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 (1st) 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; and
- (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.

104.10 Notwithstanding the provisions in §§ 104.3 to 104.9, a student that is granted a hardship waiver by the DCSAA shall be eligible to participate in interscholastic athletics at a member school.

105 STUDENT ELIGIBILITY TO PARTICIPATE: INTERNATIONAL STUDENT

- 105.1 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.

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

106 STUDENT ELIGIBILITY TO PARTICIPATE: DESIRED SPORT AT OTHER SCHOOL

106.1 Students in grade nine (9), ten (10), eleven (11), or twelve (12) attending a member school in which a desired sport is not offered (school of enrollment), may request authorization to participate from the athletic director at any member school offering the desired sport (school of choice). If the student athlete participates pursuant to this rule, the student and/or school of choice must notify the DCSAA.

106.2 The student's school of enrollment will serve as their primary school for athletic participation. If a student wishes to participate in one or more sports that their school of enrollment does not offer, the student must participate in those sports at the same school of choice if all of the sports are offered there. If all of the sports in which the student desires to participate are not offered at the school of choice, the student may participate in those sports at another school of choice.

106.3 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.**

106.4 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.

STUDENT ELIGIBILITY TO PARTICIPATE: TRANSFERS

- 107.1 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 (9th) grader until the first day of school of their tenth (10th) 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 Child and Family Services Agency (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 (9th) grade from a school whose terminal point is the eighth (8th) grade, or to the tenth (10th) grade from a junior high school whose terminal point is the ninth (9th) 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 that the student sought to participate in 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)) as allowed by D.C. law;
- (m) The student is a qualified foreign exchange student under § 105.1 or an international student residing in the District with his or her parent(s); or
- (n) 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, provided they meet all other DCSAA eligibility requirements. The receiving school shall submit, to the 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.

107.2

The student-athlete may submit, to the DCSAA, 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.

108 STUDENT INELIGIBILITY TO PARTICIPATE

- 108.1 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. The student shall, however, be permitted to practice with the teams of the school in which the student is properly enrolled or, where the student's school of enrollment does not offer the desired sport, the teams of the school for which the student has secured permission to play.
- 108.2 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, except for academic and attendance based ineligibility for which eligibility can be regained immediately upon satisfaction of the requirements. 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.
- 108.3 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.
- 108.4 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.
- 108.5 Any member school carrying an ineligible student as a member of the team shall forfeit each contest played by such student.
- 108.6 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.
- 108.7 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-approved sport or activity.
- 108.8 If a member school, LEA, or the DCSAA takes any action pursuant to § 108.7, the member school or LEA shall electronically submit the action to the DCSAC for review by the DCSAC Athletic Appeals Panel (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-approved

sport or activity. Any additional action taken by the DCSAC AAP will be issued via a written decision.

109 WAIVER OF STUDENT ELIGIBILITY REQUIREMENTS

109.1 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 due to hardship, as defined in this chapter, shall include supporting documentation; and
- (b) A request for a waiver of the age requirement in § 104.4 shall only be considered for participation in non-contact or non-collision sports.

109.2 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. When a member school and/or LEA receives a request for waiver from a student, the member school and/or LEA must forward that request for waiver to the DCSAA for decision, regardless of whether the member school and/or LEA supports the request for waiver. If the waiver request is submitted by the member school and/or LEA to the DCSAA on behalf of a student, it must be submitted within five (5) school days of receipt of the request for waiver by the school. When the member school and/or LEA submits the request for waiver to the DCSAA on behalf of the student, the athletic director of a member school and/or LEA may include any additional information they are authorized to release that is relevant to the request for waiver. If the student submits a completed request for waiver directly to DCSAA, the DCSAA shall notify the member school and/or LEA of the waiver submission within two (2) school days of receipt of the request for waiver. If the student submits the request for waiver directly to the DCAA, the member school and/or LEA may include any additional information they are authorized to release that is relevant to the request for waiver within five (5) days of being notified by the DCSAA that a request for waiver has been submitted.

109.3 In order to request a waiver, the student or a member school and/or LEA on behalf of the student, shall submit a completed waiver request to the DCSAA. Waiver requests shall include the following:

- (a) The student's name, date of birth, school, grade, parent/legal guardian name, address, telephone number, and email address;
- (b) A complete list of interscholastic sports the student played on school teams, including the level of competition (e.g. junior varsity or varsity);
- (c) Identification of the sport(s) for which the student is seeking a waiver to play;

- (d) Identification of the section and paragraph of this chapter that the student wishes the DCSAA to waive;
- (e) A statement of the student's reason for requesting the DCSAA to waive an athletic rule, including an explanation of the situation, the reason for the request, and supporting documentation;
- (f) Official transcripts from the ninth (9th) grade through the current school year, medical records (if applicable), and Individualized Education Plans (IEP) (if applicable);
- (g) Signature of the student's parent or legal guardian if the student is under 18 years of age, or of the student if the student is 18 years of age or older; and
- (h) Any additional supporting documentation such as letters of support from the school administration, athletic director, LEA, etc.

- 109.4 When a request for waiver is submitted from the member school 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. When a request for waiver is submitted from a student athlete to the DCSAA, the DCSAA shall issue a written decision to grant or deny the request for waiver within five (5) days of the date by which the member school may submit additional information.
- 109.5 The DCSAA may request further supporting documentation necessary to make a determination to grant or deny the waiver request pursuant to §103.9. If the DCSAA requests additional supporting documentation, the request for the documentation shall state a date by which the additional documentation must be submitted.
- 109.6 Failure to provide all required documentation to the DCSAA, within the timeframe provided in writing by the DCSAA, may result in an unfavorable inference or decision for the party that fails to provide the required information.
- 109.7 The DCSAA decision to grant or deny a request for a waiver may be appealed to the DCSAC AAP in the manner set forth in § 111.
- 109.8 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.

110 COMPLAINTS OR CHALLENGES PROCEDURES

- 110.1 The DCSAA, on its own motion, or upon receipt of a complaint or challenge submitted in accordance with this section, may investigate conduct that would constitute a violation of the requirements of this chapter. The DCSAA shall hear and decide complaints or challenges:
- (a) Related to its membership standards;
 - (b) Arising under the DCSAA handbook including sections that pertain to school membership, member school staff conduct, member school staff responsibilities, duties, and requirements, conduct of practices, scrimmages, and contests, health safety and wellness, DCSAA policies, and penalties; or
 - (c) Related to participant eligibility arising between a DCPS and non-DCPS member school participating in a DCSAA-approved competition or arising between a member school and non-member school participating in a DCSAA-approved competition.
- 110.2 Any complaints or challenges shall be submitted to the DCSAA as follows:
- (a) A complaint or challenge shall be presented in writing and signed by the submitting party and mailed, hand delivered, or sent electronically to the DCSAA;; and
 - (b) The complaint or challenge shall include any necessary supporting documentation.
- 110.3 Once the written complaint or challenge is submitted to DCSAA, the DCSAA shall:
- (a) Confirm receipt of the complaint or challenge;
 - (b) Inform the member school and/or LEA of the complaint or challenge; and
 - (c) Provide the member school with the opportunity to respond, in writing, to the complaint or challenge within five (5) school days of the date on which the DCSAA notification of complaint was received by the member school pursuant to §110.3(b).
- 110.4 The DCSAA may request further supporting documentation necessary to make findings or issue a decision regarding a complaint or challenge. If the DCSAA requests additional supporting documentation, the request for the documentation shall state a date by which the additional documentation must be submitted.

Parties shall comply with DCSAA requests for information related to the allegations in the complaint or challenge.

- 110.5 Failure to provide all required documentation to the DCSAA may result in an unfavorable decision for the party that fails to provide the required information.
- 110.6 The DCSAA shall issue written findings and/or a decision regarding the complaint or challenge within ten (10) school days of the DCSAA receiving the report described in § 110.3.
- 110.7 If an eligibility question arises that requires a review of a member school or LEA's eligibility determination, the DCSAA may request to review the documents that were used by the member school or LEA to determine eligibility subject to relevant federal and local student privacy laws, regulations, and policies. The DCSAA will request, through a member school and/or LEA, from a parent, legal guardian, 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 an approved DCSAA sport or activity.
- 110.8 The DCSAA's decision may be appealed to the DCSAC AAP in the manner set forth in § 111. Failure of the DCSAA to adhere to the procedures for processing a complaint may be submitted to the DCSAC AAP for remedy. If a decision is not appealed to the DCSAC AAP within five (5) business days, the DCSAA decision shall be final.

111 STATE ATHLETIC COMMISSION: ATHLETICS APPEALS PANEL

- 111.1 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.
- 111.2 The Chairperson of the DCSAC shall appoint a separate AAP for each matter brought before the DCSAC.
- 111.3 The Chairperson of the DCSAC shall maintain the integrity of the appeal process.
- 111.4 Any Commissioner of the DCSAC who may be directly affected or whose member 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.

- 111.5 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.
- 111.6 The Chairperson shall appoint the three voting members AAP and the assigned AAP within three (3) school days of receipt of a request for an appeal. The AAP shall schedule a hearing to occur within seven (7) calendar days of the appointment of the members of the AAP, where all parties shall be provided with the opportunity to present facts and all relevant arguments. The AAP shall notify the parties of the date, time, and location of the hearing. If a party is unable to be present on the date and time selected by the AAP, the party may request a continuance of the hearing.
- 111.7 The DCSAC AAP shall issue a written decision within five (5) school days of the hearing affirming or denying the decision of an LEA or the DCSAA.
- 111.8 An AAP shall be conducted as follows:
- (a) 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;
 - (b) The presence of all members of the AAP is required in order for the hearing to take place. Members of the AAP may participate in a hearing remotely by telephone conference, video conference, or other electronic means. If all members of the AAP are not present, the hearing shall be postponed until a time when all members of the AAP are able to be present;
 - (c) All testimony given before the AAP shall be under oath or affirmation;
 - (d) All persons at the AAP shall maintain decorum and good order at all times, and the AAP may exclude, or have removed, from the hearing any person deemed to be disruptive to the hearing process;
 - (e) If a party who requested an appeal does not appear for the hearing, and a continuance was not requested pursuant to §2711.6 was not granted, the AAP may proceed to act, and render a decision, based on the evidence before it;
 - (f) All hearings shall be recorded and the DCSAA shall compile a complete record of all evidence presented during the course of the hearing; and

(g) The DCSAA shall make a transcript of a hearing upon the request of a party, and if the DCSAA does not make a transcript of the hearing, it shall maintain an electronic copy of the hearing as part of the record.

111.9 The decision of the Commission shall be final. The party may appeal the Commission's final decision to the D.C. Superior Court, pursuant to D.C. Code § 11-921. Appeals must be received by the Clerk of the Superior Court no later than 30 days after the date of the final decision.

111.10 A student whose eligibility is in question may play in DCSAA-approved interscholastic athletic competition during the appeal process. If the AAP finds against the student, the DCSAA may issue penalties against the member school and/or student, retroactively and for future events.

111.11 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.

112 ALL-STAR CONTESTS

112.1 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 approved 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.

112.2 A student athlete who fails to comply with § 112.1 may be subject to a penalty that may result in the loss of athletic eligibility for the balance of the school year or for the next season in the sport in which the student participated in the all-star competition.

113 MEMBER SCHOOL AND LEA REGULATIONS AND POLICIES

- 113.1 Member school and/or LEA regulations or policies shall not be in conflict with this chapter or the DCSAA handbook. Member school and/or LEA standards shall meet the state minimum standards and requirements. .
- 113.2 Member schools and/or LEA policies and procedures related to interscholastic athletics shall comply with the provisions of this chapter.
- 113.3 Upon request, member schools and/or LEAs shall provide the DCSAA with copies of their respective policies and procedures.

199 DEFINITIONS

- 199.1 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.

Amateur Standing - eligibility status for a student athlete who is a nonprofessional and not receiving profit from their participation in athletic activities

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-approved 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-approved 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 (9th) grade for the first (1st) 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 (8th) grade to the ninth (9th) grade on the last school day of the student's eighth (8th) grade (8th) grade academic year. The ninth (9th) grade year is considered to be completed on the last day of summer vacation prior to the first day of the new academic (tenth (10th) 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: michael.aniton@dc.gov, or by mail or hand delivery to

the District of Columbia State Athletic Association, Attn: Michael Aniton re: Interscholastic Athletics, 1050 First Street, N.E. 6th Floor, Washington, D.C. 20002. Additional copies of this rule are available from the above address and on the District of Columbia State Athletic Association website at www.dcsaasports.org.