OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

The State Superintendent of Education, pursuant to the authority set forth in Section 3(b)(11) of the District of Columbia State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code §§38-2602 (b) (11) and 38-2609 (2008 Supp.), and Article II, Sections 1 and 4 of an Act to provide compulsory education and school attendance, and 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 through 205) (2001), hereby gives notice of its intent to amend Title 5, Chapter 21, Section 2103 of the *District of Columbia Municipal Regulations* (DCMR), entitled "Attendance and Transfers" in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register.*

Amendments to Section 2103 were first published for comment on September 26, 2008, at *55 D.C. Register* 10025. The State Board of Education also held a public hearing on the proposed truancy regulations on October 1, 2008. This proposal is being published for public comment a second time with several revisions. The proposal has taken in to account comments received from the public and includes further refinements developed in collaboration with the Deputy Mayor's Office, the District of Columbia Public Schools, Child and Family Services Administration, Office of the Attorney General, the District of Columbia Public Charter School Board, and Court Social Services, Superior Court of the District of Columbia.

The purpose of the amendment is to develop a state standard and protocol to address a student's absence from the District of Columbia Public Schools and public charter schools, referred to collectively as Local Education Agencies ("LEAs").

This amendment requires LEAs to implement procedures for school based interventions developed in collaboration with parents, referrals to community based services or other agencies, including Child and Family Services Administration, Court Social Services, or the Office of the Attorney General, Juvenile Division, to address root causes for and reduce truant behavior, maximize student school attendance, and enhance a student's academic progress.

Both the first proposal and this proposal reflect the work of a District of Columbia Truancy Task Force, including among others, members of the public at large, representatives from the Office of the Deputy Mayor for Education, District of Columbia Public Charter School Board, educational advocates, staff from the District of Columbia Public Schools, the District of Columbia Child and Family Services Agency, other District of Columbia agencies, District of Columbia court officials, the Criminal Justice Coordinating Council and the Metropolitan Police Department.

The State Board of Education and the State Superintendent of Education recognize that a truancy prevention program should have a robust assessment capacity with a range of responses that are both preventive and intervening. Finally, this proposal seeks to

facilitate the ability of the State Superintendent of Education to collect accurate data in accordance with Federal and District of Columbia reporting requirements.

Title 5 DCMR, Chapter 21, Section 2103 is amended to read as follows:

2103 Truancy

2103.1 Each school-age child who resides in the District of Columbia is required to 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.

2103.2 Each LEA shall develop and implement in each of its schools a specific protocol for absenteeism that focuses on prevention of unexcused absences, also referred to as truancy, including academic and behavioral interventions to address the needs of students and shall include without limitation the following:

(a) A description of valid absences consistent with this chapter;

(b) A process for informing, training, and educating school staff, students, parents, guardians, and the community of the LEAs with regard to enhancing school attendance; implementing truancy reduction methods; administering attendance policy 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 marking period or other similar time frame, the student shall be referred to a school-based student

support team which will meet within two 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, without limitation, 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) In the event a student accumulates ten (10) unexcused absences at any time during a school year, the school-based student support team assigned to the student must notify the school administrator within two (2) days of the tenth (10th) unexcused absence with a plan for immediate intervention including, without limitation, 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.

2103. 3 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;

2103. 4 Each LEA shall develop a referral process for 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 2103.2 above, or immediately at any time that education 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 school year and completion of the intervention process or immediately at any time education neglect is suspected; and

(c) Students over the age of thirteen (13) shall be referred by the LEA to the Court Social Services, 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 school year.

2103.5 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, documentation related to referrals and outcome of such referrals, and all documentation representing evidence of communications, services, and attendance related interventions taken by the school; documentation of suspected educational neglect; personal contacts with, and written notification to, parents or guardians with regard to the unexcused absences; and,

(c) If applicable, the student's Individualized Education Program with any supporting evaluations or assessments.

2103.6 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.

2103.7 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.

2103.8 The Office of the State Superintendent 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.

Title 5 DCMR, Chapter 21, Section 2199 is amended to read as follows:

2199 Definitions

"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 schools or to contract for educational services, including the District of Columbia Public Schools (DCPS) and each individually chartered public charter school.

"Truant" means a school-age child who is absent without a valid excuse as defined in this chapter for a school day or portion of it.

"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 old or older by September 30 of a current school year but who has not yet reached his or her eighteenth (18th) birthday.

Persons wishing to comment on these proposed rules should submit their comments in writing to Deborah A. Gist, State Superintendent of Education, 441 4th Street, NW, Room 350N, Washington, D.C. 20001, Attn: Kristin Yochum. All comments must be received by the Office of the State Superintendent of Education not later than thirty (30) days after publication of this notice in the *DC Register*. The proposed rulemaking amendment and related information may also be obtained on the Office of the State Superintendent website at osse.dc.gov; or by contacting the Office of the State Superintendent of Education in writing or calling (202) 727-6436.