

ADMINISTRATIVE REGULATION 5111.1: DISTRICT RESIDENCY

Criteria for Residency

A student shall be deemed to have complied with district residency requirements for enrollment in a district school if he/she meets any of the following criteria:

1. The student's parents/guardians reside within district boundaries. (Education Code 48200)
2. The student is placed within district boundaries in a regularly established licensed children's institution, a licensed foster home or a family home pursuant to a court-ordered commitment or placement. (Education Code 48204)
3. The student is admitted through an Interdistrict attendance option.
4. The student lives with a care-giving adult within district boundaries and the caregiving adult submits an affidavit to that effect. (Education Code 48204)
5. The student resides in a state hospital located within district boundaries. (Education Code 48204)
6. The student is confined to a hospital or other residential health facility within district boundaries for treatment of a temporary disability. (Education Code 48207)
7. The student's parent/guardian was a resident of California who departed the state against his/her will due to a transfer by a government agency that had custody of the parent/guardian, a lawful order from a court or government agency authorizing his/her removal, or removal or departure pursuant to the federal Immigration and Nationality Act, and the student lived in California immediately before moving out of state as a result of his/her parent/guardian's departure.

Proof of Residency

Prior to admission in district schools, students shall provide proof of residency.

The superintendent or designee shall annually verify the student's residency and retain a copy of the document or written statement offered as verification in the student's school record.

Evidence of residency may be established by documentation showing the name and address of the parent/guardian within the district, including, but not limited to, any of the following:

1. Grant deed
 - a. Must be accompanied with one current utility bill or statement
2. Property tax payment receipts

- a. Must include home address, parent address, and date of payment.
3. Rental property contract, lease, or payment receipt.
 - a. Contract/lease must include dates of the agreement and names of one or more of the parents.
 - b. Receipts must include the name of one or more parents, the property address, and the date of payment.
 - c. If the lease is an annual lease that has expired and changed to a month-to-month lease, it must be accompanied with a current utility bill.
4. Utility service contract, statement, or payment receipts.
 - a. Accepted utilities are gas/electric, water, or cable.
 - b. Phone bills (either land line or cell phone) are not accepted.
 - c. Statement or receipt must be dated within 60 days from the date requested by the district.
5. Pay stub showing parent name and address.
6. Correspondence from a government agency.
 - a. Parent drivers' licenses do not meet this requirement.
 - b. End-of-year tax forms from an employer or financial institution do not meet this requirement.
7. Declaration of residency executed by the student's parent/guardian
8. If a student is residing in the home of a care-giving adult within district boundaries, an affidavit executed by the caregiving adult in accordance with Family Code 6552.
9. A student whose parent/guardian's departure from the state occurred against his/her will pursuant to item #7 in the section "Criteria for Residency" above shall be in compliance with district residency requirements if he/she provides official documentation of the parent/guardian's departure and evidence demonstrating that the student was enrolled in a public school in California immediately before moving outside the state.
10. Any homeless or foster youth or student who has had contact with the juvenile justice system shall be immediately enrolled in school even if he/she is unable to provide proof of residency.

The following documents are not accepted as proof of residency:

- Mortgage statements or receipts
- Homeowner Association statements or receipts

The district shall not solicit or collect information or documents regarding the citizenship or immigration status of students or their family members for the purpose of determining residency within the district.

Pending Residency Considerations

When school offices open prior to the start of the new school year, registration forms may be accepted for students whose families have pending residency, based on the following specifications:

1. Parents who submit signed escrow documents indicating that they will occupy a residence in the district by October 15th of the current school year, will be allowed to register their children at the school of residence in which the home is located.

Parents who submit signed escrow documents after the start of the school year indicating that they will occupy a residence in the district within 6 weeks will be allowed to register their children at the school of residence in which the house is located.

If any district employee reasonably believes the parent/guardian of a student has provided false or unreliable evidence of residency, the District employee shall report this information to the Director of Pupil Services or designee. Upon receiving this information, the Director of Pupil Services or designee shall make reasonable efforts to determine if the student meets residency requirements. Reasonable efforts include, but are not limited to, home visits and investigation by a private detective.

Safe at Home Program

When a student or parent/guardian participating in the Safe at Home program requests that the district use the substitute address designated by the Secretary of State, the Superintendent or designee may request the actual residence address for the purpose of establishing residency within district boundaries but shall use the substitute address for all future communications and correspondence and shall not include the actual address in the student's file or any other public record.

Residency Investigations

When the Superintendent or designee reasonably believes that the parent or legal guardian of a student has provided false or unreliable evidence of residency, the District may make reasonable efforts to determine that the student meets the residency requirements.

In the event the Superintendent/Designee reasonably believes false or unreliable evidence of residency has been provided by a parent/legal guardian, the following procedures apply:

1. The Superintendent/Designee shall identify the circumstances upon which the District may initiate an investigation, which shall, at a minimum, require the District employee to be able to identify specific, articulable facts supporting the belief that the parent/legal guardian of the

student has provided false or unreliable evidence of residency. Examples of such situations include, but are not limited to: altered documents; credible information from the property owner or neighbor that the student does not reside at the address provided; credible information from the student stating s/he does not reside at the address provided; and/or mail sent by the school returned from the address provided.

2. The Superintendent/Designee may use reasonable investigatory methods, as appropriate, to determine residency. He/she may assign a trained district employee to conduct the investigation. The methods may include, but are not limited to:
 - a. Examination of records, including public records;
 - b. Home visit by District personnel;
 - c. Interview with persons who may have knowledge of the student's residency, including student and parent/legal guardian;
 - d. Contacting the landlord or neighbors regarding whether or not the student resides at the address provided;
3. If necessary, the Superintendent/Designee may hire a private to conduct the investigation. Before hiring a private investigator, the Superintendent or designee shall make other reasonable efforts to determine whether the student resides in the district.
4. For any investigation conducted pursuant to this policy, the District shall
 - a. Prohibit the surreptitious photographing or video-recording of students who are being investigated. For purposes of this policy, "surreptitious photographing or video-recording" means the covert collection of photographic or videographic images of persons or places subject to an investigation. For purposes of this policy, the collection of images is not covert if the technology is used in open and public view.
 - b. Require that the employees and contractors of the District engaged in the investigation must identify themselves truthfully as such to individuals contacted or interviewed during the course of the investigation.

Appeal of Enrollment Denial

If the Superintendent or designee, upon investigation, determines that a student does not meet district residency requirements and denies the student's enrollment in the district, he/she shall provide the student's parent/guardian an opportunity to appeal that determination. (Education Code 48204.2)

The Superintendent or designee shall send the student's parent/guardian written notice specifying the basis for the district's determination. This notice shall also inform the parent/guardian that he/she may, within 10 school days, appeal the decision and provide new evidence of residency.

The burden shall be on the parent/guardian to show why the district's determination to deny enrollment should be overruled. (Education Code 48204.2)

A student who is currently enrolled in the district shall be allowed to remain in attendance at his/her school pending the results of the appeal. A student who is not currently enrolled in the district shall not be permitted to attend any district school unless his/her appeal is successful.

In an appeal to the Superintendent of a determination that district residency requirements were not met, the Superintendent shall review any evidence provided by the parent/guardian or obtained during the district's investigation and shall make a decision within 10 school days of receipt of the parent/guardian's request for the appeal. The Superintendent's decision shall be final.

Legal Reference:

EDUCATION CODE

220 Prohibition of discrimination

234.7 Student protections relating to immigration and citizenship status

35160.5 Intradistrict open enrollment

35351 Assignment of students to particular schools

46600-46611 Interdistrict attendance permits

35351 Assignment of students to particular schools

48050-48054 Nonresidents

48200-48208 Persons included (compulsory education law)

48204.1-48204.4 Evidence of residency

48300-48317 Student attendance alternatives, school district of choice program

48350-48361 Open Enrollment Act transfers

48645.5 Former juvenile court school students, enrollment

48852.7 Education of homeless students; immediate enrollment

48853.5 Education of foster youth; immediate enrollment

48980 Notifications at beginning of term

52317 ROP, admission of persons including nonresidents to attendance area

FAMILY CODE

6550-6552 Caregivers

GOVERNMENT CODE

6205-6211 Confidentiality of residence for victims of domestic violence

CODE OF REGULATIONS, TITLE 5

432 Retention of student records

UNITED STATES CODE, TITLE 8

1229c Immigration and Nationality Act

UNITED STATES CODE, TITLE 42

11431-11435 McKinney-Vento Homeless Assistance Act

COURT DECISIONS

Katz v. Los Gatos-Saratoga Joint Union High School District, (2004) 117 Cal.App.4th 47

Plyler v. Doe, 457 U.S. 202 (1982)

Management Resources:

CSBA PUBLICATIONS

Legal Guidance on Providing All Children Equal Access to Education, Regardless of Immigration Status, February 2017

Legal Guidance Regarding International Student Exchange Placement Organizations, April 2014

CALIFORNIA ATTORNEY GENERAL'S OFFICE PUBLICATIONS

Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, April 2018

U.S. DEPARTMENT OF JUSTICE CIVIL RIGHTS DIVISION AND U.S. DEPARTMENT OF EDUCATION OFFICE FOR CIVIL RIGHTS JOINT PUBLICATIONS

Dear Colleague Letter: School Enrollment Procedures, May 8, 2014

Fact Sheet: Information on the Rights of All Children to Enroll in School, May 8, 2014

Information on the Rights of All Children to Enroll in School: Questions and Answers for States, School Districts and Parents, May 8, 2014

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

California Office of the Attorney General: <http://oag.ca.gov>

California Secretary of State, Safe at Home Program: <http://www.sos.ca.gov/safeathome>

U.S. Department of Education, Office for Civil Rights: <http://www2.ed.gov/ocr>

U.S. Department of Justice: <http://www.justice.gov>