

DISTRICT RESIDENCY

~~The Board of Education believes that all children should have the opportunity to receive educational services. Staff shall encourage parents/legal guardians to enroll all school-aged children in school.~~

~~The Board of Education desires to admit all students who reside within district boundaries or who fulfill the district residency requirements through other means as allowed by law. The Superintendent or designee shall develop procedures to facilitate the receipt and verification of students' proof of residency~~

~~The Superintendent or designee shall annually notify parents/guardians of all existing attendance options available in the district, including, but not limited to, all options for meeting residency requirements for school attendance. (Education Code 48980)~~

~~(cf. 5116.1 - Intradistrict Open Enrollment)~~

~~(cf. 5117 - Interdistrict Attendance)~~

~~(cf. 5145.6 - Parental Notifications)~~

~~The Superintendent or designee shall require parents/guardians to provide documentation of the student's residency upon admission to a district school. A copy of the document or written statement offered as verification of residency shall be maintained by the district.~~

~~(cf. 5111 - Admission)~~

~~(cf. 5125 - Student Records)~~

~~When establishing students' residency for enrollment purposes, the Superintendent or designee shall not inquire into the citizenship or immigration status of students or their family members.~~

~~(cf. 5145.13 - Response to Immigration Enforcement)~~

~~A student's enrollment may be denied when the submitted documentation is insufficient to establish district residency. In any such case, the Superintendent or designee shall notify the parent/guardian in writing, including specific reasons for the denial.~~

~~The Superintendent or designee shall maintain procedures, consistent with applicable laws and regulations, for reasonable evidence that the pupil meets residence requirements for school attendance in the district. These requirements shall include all enrollment requirements regarding foster students and homeless students, including unaccompanied youth.~~

~~(cf. 5116 - School Attendance Boundaries)~~

DISTRICT RESIDENCY

Investigation of Residency

If an employee of the district reasonably believes that a parent/legal guardian of a pupil has provided false or unreliable evidence of residency, the district may make reasonable efforts to determine if the pupil actually meets the residency requirements. **An investigation may be initiated when the Superintendent or designee is able to identify specific, articulable facts supporting the belief that the parent/guardian has provided false or unreliable evidence of residency. (Education Code 48204.1, 48204.2)**

The Superintendent or designee may assign a trained district employee to conduct the investigation. The investigation may include the examination of records, including public records, and/or interviews of persons who may have knowledge of the student's residency.

In the event that the Superintendent or designee reasonably believes false or unreliable evidence of residency has been provided by a parent/legal guardian, the following procedures will be followed:

1. The Superintendent or 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 pupil has provided false or unreliable evidence of residency. Examples of such situations include, but are not limited to, the following:
 - a. Altered documents;
 - b. Credible information from the property owner or neighbor that the student does not reside at the address provided;
 - c. Results of a home visit by a district employee indicating that the student does not reside at the address provided;
 - d. Credible information from the student indicating that he/she does not reside at the address provided;
 - e. Mail sent by the school returned from the address provided.
2. The Superintendent or designee may use reasonable investigatory methods, as appropriate, to determine residency. These methods may include, but are not limited to, the following:
 - a. Review of documentation;
 - b. Home visit by district personnel;
 - c. Interview of student and parent/legal guardian;
 - d. Contacting the landlord or neighbors regarding whether or not the student resides at the address provided;
 - e. Have the parent/legal guardian go through the district's address verification process again.

DISTRICT RESIDENCY (continued)

3. The Superintendent or designee may hire a private investigator if the investigatory methods described above are inconclusive to determine whether the pupil resides in the school district.
4. For any investigation conducted pursuant to this policy, the district shall:
 - a. Prohibit the surreptitious photography or video recording of pupils who are being investigated. For the purpose of this policy, “surreptitious photography or video recording” means covert collection of photographic or videographic images of persons or places subject to an investigation. For purpose of this policy, the collection of images is not covert if the technology is used in public and open view.
 - b. ~~Require that the employees and contractors of the district engaged in the investigation identify themselves truthfully as to such individuals contacted or interviewed during the course of the investigation.~~ **any employee or contractor engaged in the investigation shall truthfully identify himself/herself as an investigator to individuals contacted or interviewed during the course of the investigation. (Education Code 48204.2)**
5. ~~If the district determines that the pupil does not meet the residency requirements for school attendance in the district, the district shall provide the parent/legal guardian with the basis for the determination. The parent/legal guardian may appeal the findings to the Director of Student Services within 10 days of the determination. If an appeal is made, the burden shall be on the parent/legal guardian to show why the decision of the district should be overruled.~~

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)

DISTRICT RESIDENCY (continued)

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 or designee 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.

Enrollment Not Requiring District Residency

When approved by the Board and the appropriate agency, the district may enroll students from other countries who are in the United States on an F-1 visa or are participating in an international exchange program under the sponsorship of a government-approved agency.

(cf. 5111.2 - Nonresident Foreign Students)

(cf. 6145.6 - International Exchange)

The district may enroll a nonresident student living in an adjoining state or foreign country in accordance with Education Code 48050-48052.

District residency is not required for enrollment in a regional occupational center or program if there are openings in the program or class. (Education Code 52317)

(cf. 6178.2 - Regional Occupational Center/Program)

Legal References

~~BP 5111 Admission~~

~~AR 5111 Admission~~

~~BP 5111.1 District Residency~~

~~EC 48204 Residency requirements for school attendance~~

~~EC 48204.1 Reasonable evidence for residency; false or unreliable evidence; unaccompanied youth~~

~~EC 48204.2 Pupil school enrollment; residency requirements; policy on investigations.~~

~~EC 35351 Assignment of students to particular schools~~

~~EC 46600-46611 Interdistrict attendance permits~~

~~EC 48050-48054 Nonresidents~~

~~EC 48200-48208 Compulsory education law~~

~~EC 48356 Open Enrollment Act transfer, fulfillment of residency requirement~~

~~EC 48853.5 Education of foster youth; immediate enrollment~~

~~EC 48980 Notifications at beginning of term~~

~~EC 52317 Regional occupational program, admission of persons including nonresidents~~

EDUCATION CODE

~~220 Prohibition of discrimination~~

~~234.7 Student protections relating to immigration and citizenship status~~

~~35160.5 Intradistrict open enrollment~~

DISTRICT RESIDENCY (continued)

*35351 Assignment of students to particular schools
46600-46611 Interdistrict attendance permits
48050-48054 Nonresidents
48200-48208 Compulsory education law, especially:
48204 Residency requirements
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 Regional occupational program, admission of persons including nonresidents*

FAMILY CODE

6550-6552 Caregivers

GOVERNMENT CODE

6205-6210 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>

(12/15 3/17) 5/18