

CSBA Sample

Administrative Regulation

District Residency

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AR 5111.1
Students

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 parent/guardian resides 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)

***Note: State law provides a number of options under which a student may attend school in a district other than the district where he/she resides. For instance, a student attending a school identified as low achieving on the state's Open Enrollment List may transfer to a school in any other district in the state subject to certain conditions, pursuant to Education Code 48350-48361; see BP/AR 5118 - Open Enrollment Act Transfer. If the district chooses to enter into an interdistrict attendance agreement pursuant to Education Code 46600-46611, a student may request a permit to attend school in a different district when both the district of residence and the district of proposed attendance have agreed to allow interdistrict attendance. If the Governing Board has declared the district to be a "school district of choice" pursuant to Education Code 48300-48316, the district may accept a specific number of interdistrict transfers into the district through a random, unbiased selection process. See BP/AR 5117 - Interdistrict Attendance for further information about these options. Pursuant to Education Code 48204, 48301, and 48356, students admitted under any of these options are deemed to have met district residency requirements. The district should revise item #3 as appropriate to reflect options provided by the district. ***

3. The student has been admitted through an interdistrict attendance option, such as an interdistrict attendance agreement, "school district of choice" transfer, or Open Enrollment Act transfer. (Education Code 46600, 48204, 48301, 48356)

(cf. 5117 - Interdistrict Attendance)
(cf. 5118 - Open Enrollment Act Transfers)

4. The student is an emancipated minor residing within district boundaries. (Education Code 48204)

5. The student lives with a caregiving adult within district boundaries and the caregiving adult submits an affidavit to that effect. (Education Code 48204)

6. The student resides in a state hospital located within district boundaries. (Education Code 48204)

7. The student is confined to a hospital or other residential health facility within district boundaries for treatment of a temporary disability. (Education Code 48204, 48207)

(cf. 6183 - Home and Hospital Instruction)

***Note: Education Code 48204, as amended by SB 200 (Ch. 174, Statutes of 2015) and AB 224 (Ch. 554, Statutes of 2015), provides that a student can meet residency requirements based on the location of his/her parent/guardian's employment under the circumstances described in item #8 below. ***

8. The student's parent/guardian resides outside district boundaries but is employed within district boundaries and lives with the student at the place of employment for a minimum of three days during the school week. (Education Code 48204)

Residency Based on Parent/Guardian Employment (Allen Bill Transfers)

***Note: The following section is optional. Education Code 48204 permits, but does not require, districts to admit a student whose parent/guardian is employed within district boundaries for a minimum of 10 hours during the school week (so-called "Allen bill transfers"). If the district chooses to grant residency status to such students, it may nevertheless deny enrollment to students under the circumstances identified in items #1-3 below. ***

***Note: SB 200 (Ch. 174, Statutes of 2015) and AB 224 (Ch. 554, Statutes of 2015) amended Education Code 48204 to provide that this option will become inoperative on July 1, 2017 unless extended by future legislation. ***

District residency status may be granted to a student if at least one of his/her parents/guardians is physically employed within district boundaries for a minimum of 10 hours during the school week. No student seeking residency on this basis shall be denied enrollment based on race, ethnicity, sex, parental income, scholastic achievement, or any of the individual characteristics set forth in Education Code 220. However, the Superintendent or designee may deny enrollment into the district if any of the following circumstances is present: (Education Code 48204)

1. The additional cost of educating the student would exceed the amount of additional state aid received as a result of the transfer.

2. Enrollment of the student would adversely affect the district's court-ordered or voluntary desegregation plan as determined by the Governing Board.

3. Other circumstances exist that are not arbitrary.

***Note: The following paragraph is optional. In 84 Ops.Cal.Atty.Gen. 198 (2001), the Attorney General opined that overcrowding is not an "arbitrary consideration" within the meaning of Education Code 48204. Therefore, a district may deny an application when the district's school facilities are overcrowded at the relevant grade level. The Attorney General also clarified that, once a student is admitted, he/she must be allowed to continue to attend school in the district through the highest grade level offered by the district, even if the school subsequently becomes overcrowded at the relevant grade level. Although Attorney General opinions are not binding on the courts, they are generally afforded deference when there is no specific statutory or case law to the contrary. The following paragraph is based on this Attorney General opinion. ***

Such circumstances may include, but are not limited to, overcrowding of school facilities at the relevant grade level.

Once a student establishes residency on this basis, he/she shall not be required to reapply for enrollment in subsequent years. The student may continue to attend school in the district through the highest grade level offered by the district if the parent/guardian so chooses and if at least one parent/guardian of the student continues to be physically employed by an employer situated within district boundaries, subject to the exceptions in items #1-3 above. (Education Code 48204)

***Note: Education Code 48204 prescribes limits on the number of net Allen bill transfers out of the district (the difference between the number of students entering and exiting the district) that a district may allow each fiscal year, unless waived by the sending district. The limits are based on the average daily attendance (ADA) of the district, as follows: five percent of ADA for districts with 500 or less ADA; three percent of ADA or 25 students, whichever is greater, for districts with an ADA of 501-2,500; and one percent of ADA or 75 students, whichever is greater, for districts with an ADA of 2,501 or more. The following paragraph may be modified to specify the percentage that applies to the district's ADA. ***

***Note: Even if the district has not authorized Allen bill transfers into the district, Education Code 48204 provides that the district may disallow transfers out of the district, within the specified limits, by students whose parent/guardian is employed within the boundaries of another district. ***

The Superintendent or designee may deny a transfer out of the district by a student whose parent/guardian is employed within the boundaries of another district if the difference between the number of students entering and exiting the district on the basis of parent/guardian employment exceeds the limits prescribed in Education Code 48204. (Education Code 48204)

Proof of Residency

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: (Education

Code 48204.1)

1. Property tax payment receipt
2. Rental property contract, lease, or payment receipt
3. Utility service contract, statement, or payment receipt
4. Pay stub
5. Voter registration
6. Correspondence from a government agency
7. Declaration of residency executed by the student's parent/guardian
8. If the student is an unaccompanied youth as defined in 42 USC 11434a, a declaration of residency executed by the student

***Note: Pursuant to Education Code 48204, a student shall be deemed a resident of the district if he/she lives with a caregiving adult within district boundaries; see item #5 under "Criteria for Residency" above. Family Code 6552 provides an affidavit which authorizes a caregiver 18 years of age or older to enroll a minor in school and requires the caregiver's attestation that the student lives with the caregiver. If the student stops living with the caregiver, Family Code 6550 requires the caregiver to so notify the school. ***

9. ~~If the student is residing in the home of a caregiving adult within district boundaries, an affidavit executed by the caregiving adult in accordance with Family Code 6552~~Any person who seeks to enroll a pupil on the basis of the pupil living in the home of a caregiving adult that is located within the boundaries of the school district shall provide evidence both of the residence of the caretaking adult and evidence that the pupil actually lives in the home of the caretaker. Execution of an affidavit under penalty of perjury pursuant to Part 1.5 (commencing with Section 6550) of Division 11 of the Family Code by the caregiving adult is a sufficient basis for a determination that the pupil lives in the home of the caregiver, unless the school district determines from actual facts that the pupil is not living in the home of the caregiver. Evidence of each fact relating to the caretaker affidavit (residency of the affiant, and residency of the pupil) is subject to district verification prior to enrollment. Any evidence that the pupil maintains a residence other than that of the caretaker affiant shall be a valid basis for an investigation by district staff and, where appropriate, an investigation professional. The Superintendent is directed to deny enrollment to a pupil under a caregiver affidavit whenever the evidence shows that the pupil maintains a residency other than that of the caretaker adult.[DF1]

(cf. 5141 - Health Care and Emergencies)

***Note: Federal and state law require the immediate enrollment of homeless youth (Education

Code 48852.7; 42 USC 11432) and foster youth (Education Code 48853.5) regardless of their ability to provide the school with records normally required for enrollment, including proof of residency. If a dispute arises over the enrollment of a homeless or foster youth, the student must be allowed to attend school while the district liaison conducts a dispute resolution process. See BP/AR/E 6173 - Education for Homeless Children and AR 6173.1 - Education for Foster Youth. ***

***Note: The California Department of Education's web site provides sample forms to obtain a declaration and affidavit from the parent/guardian or other qualified adult relative of a homeless child attesting that the family does not have a fixed, regular, adequate nighttime residence and indicating the current location where the family lives. ***

The Superintendent or designee shall make a reasonable effort to secure evidence that a homeless or foster youth resides within the district, including, but not limited to, a utility bill, letter from a homeless shelter, hotel/motel receipt, or affidavit from the student's parent/guardian or other qualified adult relative.

However, a homeless or foster youth shall not be required to provide proof of residency as a condition of enrollment in district schools. (Education Code 48852.7, 48853.5; 42 USC 11432)

(cf. 6173 - Education for Homeless Children)
(cf. 6173.1 - Education for Foster Youth)

A parent/guardian seeking residency status on the basis of his/her employment within district boundaries shall submit proof of the employment which may include, but not be limited to, a paycheck stub or letter from his/her employer listing a physical address within district boundaries. Such evidence shall also indicate the number of hours or days per school week that the parent/guardian is employed at that location.

Investigation by School District Staff

When the Superintendent or designee reasonably believes that a student's parent/ or legal guardian has provided false or unreliable evidence of residency, the school district may make reasonable efforts to determine that the student meets district residency requirements. (Education Code 48204.1)

The Superintendent or designee may initiate an investigation whenever school district staff can identify specific, articulable facts supporting the belief that the parent or legal guardian of the pupil has provided false or unreliable evidence of residency

Conduct of the Investigation

School district staff may utilize any reasonable method of confirming the residency of the pupil once an investigation has commenced, including:

1. Interview of the pupil.
2. Interview of the parent(s) or guardian(s).
3. Interview of neighbors or others.
4. Telephonic contact.
5. Search of public and/or official records.
6. Query to other public agencies.
7. Announced and unannounced home visits.
8. Surveillance.
9. Retention of a private investigator.

School district employees engaged in the investigation shall identify themselves truthfully as such to individuals contacted or interviewed during the course of the investigation. School district staff shall not surreptitiously photograph or video-record pupils who are being investigated. Surreptitious photographing or video-recording means the covert collection of photographic or videographic images of person or places subject to an investigation. The collection of images is not covert if the technology is used in the open and in public view.

Contracting for Investigation Services

School district staff shall make reasonable efforts to determine whether the pupil resides in the district before contracting for the services of an investigation professional.

The school district may utilize, by contract, the services of investigation professionals for purposes of confirming the residency of pupils as to whom school district staff have identified specific, articulable facts supporting the belief that false or unreliable evidence of residency has been submitted, once school district staff has already taken reasonable efforts to determine whether the pupil resides in the school district.

The Superintendent or designee shall ensure that any contracts with investigation professionals include the following provisions:

1. “The surreptitious photographing or video-recording of pupils who are being investigated is prohibited. For purposes of this agreement, ‘surreptitious photographing or video-recording’ means the covert collection of photographic or videographic images of person or places subject to an investigation. The collection of images is not covert if the technology is used in open and public view.”
2. “All contractors of the school district engaged in the investigation must identify themselves truthfully as such to individuals contacted or interviewed during the course of the investigation.”

Appeal of Residency Determination

The determination of a school district as to whether a pupil meets the residency requirements for school attendance in the school district shall specify in writing the basis for that determination, including reference to the evidence relied upon. The determination may be appealed by

submission of a written statement of appeal within 30 calendar days of the date of the determination to the Superintendent of the school district. If an appeal is made, the burden shall be on the appealing party to show why the decision of the school district should be overruled. The decision of the Superintendent as to residency shall be final.

[DF2]

Safe at Home/Confidential Address Program

***Note: Government Code 6205-6210 authorize the Secretary of State to provide victims of domestic violence, stalking, or sexual assault with a substitute address to use in place of their residence, work, or school address in all public records. Under this program, the Secretary of State receives any mail sent to the substitute address and forwards it to the program participant's confidential address. Pursuant to Government Code 6207, the district must accept and use the substitute address designated by the Secretary of State as a participant's substitute address for all communication and correspondence with program participants. The participant will present a laminated identification card containing his/her substitute address and a four-digit authorization number. The district may verify the enrollment of a student in the program by contacting the Safe At Home program. ***

***Note: Program participants have been advised by the Secretary of State to provide administrators with their actual residence location only for school emergency purposes and to establish residency within the district. ***

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. (Government Code 6206, 6207)

(cf. 3580 - District Records)

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