

**CSBA Sample
Administrative Regulation
Residency Based On Parent/Guardian Employment**

DELETE AR
ADMIN REGULATION AND KEY
CONCEPTS INCORPORATED INTO
BP/AR 5111.1 DISTRICT RESIDENCY

AR 5111.12
Students

Applications for Admission into District Schools

***Note: The following section is optional. Pursuant to Education Code 48204, for purposes of admitting students into district schools, the district may authorize residency to be established based on a parent/guardian's "physical employment" within district boundaries (so-called "Allen Bill transfers"); also see AR 5111.1 - District Residency. Education Code 48204 does not define "physically employed" for purposes of establishing residency. ***

***Note: SB 381 (Ch. 447, Statutes of 2011) amended Education Code 48204 to reauthorize the option until June 30, 2017, and to require that the parent/guardian's employment within district boundaries be for a minimum of 10 hours during the school week to qualify for residency. Districts wishing to place limitations on types of employment (e.g., making the option available only to persons employed by the district) should consult legal counsel as appropriate. ***

For purposes of determining eligibility for enrollment in a district school, 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. (Education Code 48204)

(cf. 5111 - Admission)
(cf. 5111.1 - District Residency)

When applying for admission, the parent/guardian shall submit proof of the employment to the Superintendent or designee. This evidence may include, but not be limited to, a paycheck stub or letter from his/her employer listing an actual address within district boundaries. Documentation listing only a post office box as an address shall not be accepted.

Such evidence shall also indicate the number of hours per school week that the parent/guardian is employed at that location.

The Superintendent or designee may deny enrollment based on parent/guardian employment if any of the following circumstances exists:

- 1. The additional cost of educating the student would exceed the amount of additional state aid received as a result of the transfer. (Education Code 48204)

2. Enrollment of the student would adversely affect the district's court-ordered or voluntary desegregation plan. (Education Code 48204)

***Note: Education Code 48204 prohibits the district from denying admission on the basis of race, ethnicity, sex, parental income, scholastic achievement, or any other arbitrary consideration. 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. Item #3 below is based on this Attorney General opinion. ***

3. The school facilities are overcrowded at the relevant grade level.

***Note: Districts wishing to deny admission for any other reason should consult legal counsel to ensure that the circumstance is not "arbitrary" pursuant to Education Code 48204. ***

4. Other circumstances exist that are not arbitrary. (Education Code 48204)

(cf. 0410 - Nondiscrimination in District Programs and Activities)

Students enrolled in the district on the basis of parent/guardian employment shall not be required to reapply for enrollment in subsequent school years. Such students may continue to attend school in the district through the highest grade offered by the district, if the parent/guardian so chooses and if at least one of the student's parents/guardians continues to be physically employed within district boundaries, subject to the restrictions specified in items #1-4 above. (Education Code 48204)

The Superintendent or designee shall annually request the student's parent/guardian to provide evidence of the employment in order to determine the student's continuing eligibility for enrollment.

Requests for Transfers out of District Schools

***Note: The following section is for use by all districts. Even if the district has not authorized enrollment into district schools based on parent/guardian employment, Education Code 48204 specifies circumstances under which the district may disallow transfers out of the district by students whose parent/guardian is employed within the boundaries of another district. ***

***Note: Education Code 48204 prescribes limits on the number of net transfers (the difference between the number of students entering and exiting the district) that a district may allow each fiscal year based on parent/guardian employment. The limits are based on the average daily

attendance (ADA) of the district, as follows: 5 percent of ADA for districts with 500 or less ADA; 3 percent of ADA or 25 students, whichever is greater, for districts with an ADA of 501-2,500; and 1 percent of ADA or 75 students, whichever is greater, for districts with an ADA of 2,501 or more. However, these limits may be waived by the district. ***

***Note: Item #1 below may be modified to specify the percentage that applies to the district's ADA. Item #2 below should be deleted by districts that do not have a court-ordered or voluntary desegregation plan. ***

When a student requests a transfer out of the district on the grounds that his/her parent/guardian is employed within the boundaries of another district, the Superintendent or designee may disallow the transfer for either of the following reasons: (Education Code 48204)

1. 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.
2. The transfer would negatively impact the district's court-ordered or voluntary desegregation plan.

Notifications

***Note: The following section is optional. Education Code 48204 encourages districts to notify parents/guardians in writing whenever a request for admission into the district or transfer out of the district is denied for the reasons specified in the above sections. If the denial of the parent/guardian's request is brought to the Governing Board for approval, the decision should be recorded in the minutes of the Board meeting. ***

Whenever a student's application for a transfer into or out of the district is denied, the Superintendent or designee shall notify the parent/guardian in writing, including specific reasons for the denial.

(cf. 9324 - Minutes and Recordings)

Legal Reference:

EDUCATION CODE

- 46601 Failure to approve interdistrict attendance
- 46607 ADA calculation for residency based on parent employment
- 48200-48284 Compulsory education law, especially:
- 48204 Residency based on parent/guardian employment

ATTORNEY GENERAL OPINIONS

- 84 Ops.Cal.Atty.Gen. 198 (2001)

Management Resources:

WEB SITES

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

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

(7/04 11/07) 11/11