

**DISTRICT RESIDENCY**

The Board of Trustees 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/Principal or designee shall develop procedures to facilitate the receipt and verification of students' proof of residency.

*(cf. 5116 - School Attendance Boundaries)*

The Superintendent/Principal 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/Principal 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 in the student's mandatory permanent record. (5 CCR 432)

*(cf. 5111 - Admission)*

*(cf. 5125 - Student Records)*

When establishing students' residency for enrollment purposes, the Superintendent/Principal 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/Principal or designee shall notify the parent/guardian in writing, including specific reasons for the denial.

**Investigation of Residency**

When the Superintendent/Principal or designee reasonably believes that a student's parent/guardian has provided false or unreliable evidence of residency, he/she may make reasonable efforts to determine that the student meets district residency requirements. An investigation may be initiated when the Superintendent/Principal 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/Principal 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.

## **DISTRICT RESIDENCY** (continued)

If necessary, the Superintendent/Principal or designee may employ the services of a private investigator to conduct the investigation. Before hiring a private investigator, the Superintendent/Principal or designee shall make other reasonable efforts to determine whether the student resides in the district. (Education Code 48204.2)

The investigation shall not include the surreptitious collection of photographic or videographic images of persons or places subject to the investigation. However, the use of technology is not prohibited if done in open and public view. (Education Code 48204.2)

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)

### **Appeal of Enrollment Denial**

If the Superintendent/Principal 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/Principal 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 of the Superintendent/Principal's determination that district residency requirements were not met, the Board shall review any evidence provided by the parent/guardian or obtained during the district's investigation and shall make a decision at its next regularly scheduled meeting following the parent/guardian's request for the appeal. The Board'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.

**DISTRICT RESIDENCY** (continued)

(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 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

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: (see next page)*

## **DISTRICT RESIDENCY (continued)**

### *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: <https://www.justice.gov>