

## District Residency

AR 5111.1(a)

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)  
A minor's residence is presumed to be the legal residence of the parent/guardian who has physical custody of the minor. Temporary residence within district boundaries, solely for the purpose of enrolling a student in a district school is insufficient to establish residency for purposes of enrollment. In addition, a person who owns, rents, or leases property within district boundaries, but who does not reside within district boundaries, is not a resident for purposes of enrollment. In order to be enrolled in a district school, the student's parent/guardian must continually reside within district boundaries at the time of the student's application for enrollment and throughout the entire period of enrollment in the district. A post office box will not be accepted as proof of residency.

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 has been admitted through an interdistrict attendance option. (Education Code 48204, 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 files an affidavit executed under penalty of perjury in accordance with Family Code 6552. The caregiving adult shall establish residency within the district by providing the required documentation specified in this regulation. (Education Code 48204)

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

7. A student whose parent or legal guardian resides outside of the boundaries of the district but is employed and lives with the student at the place of his or her employment within the boundaries of the district for a minimum of three days during the school week, and the employer (1) files an affidavit executed under penalty of perjury confirming the

**Students** *(continued)*

parent/guardian's residency; and (2) confirms the employers ownership or control of the place of employment. (Education Code 48204.)

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

9. The student's parent/guardian, while on active military duty pursuant to an official military order, is transferred or is pending transfer to a military installation within district boundaries. (Education Code 48204.3)

10. When there is a shared custody court order or custody agreement, or a split family household, and the student resides within district boundaries for the majority (at a minimum, three) of school weeknights.

**In cases where there is a court ordered custody agreement of a minor student and only one parent/guardian resides within the district, the student must maintain his/her residence with the parent/guardian who resides in the district for the majority (at a minimum, three) of school weeknights. The parent/guardian shall provide a certified copy of the court order or custody agreement to the district. In the absence of a certified court order or custody agreement, the parent/guardian residing within the district must complete the Custody Declaration section of the CUSD Residency Affidavit.** 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)

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

(cf. 5111.2 - Nonresident Foreign Students)

**Student Residency**

Children attending public school are required to attend school in the school district wherein their parent/legal guardian resides, unless explicitly authorized to attend school in another district. The district is a "basic aid" school district, unlike most other school district districts in the state, and as such, the state does not provide funding to the district to educate children who reside in other school districts. As a result, the enrollment of students whose parent/legal guardians reside in other school districts reduces the educational resources available for resident students and increases class size. It is therefore the district's policy to require valid proof of residency for all students and to be vigilant in discovering and terminating unauthorized enrollment.

**Students** (*continued*)

When establishing a student's residency for enrollment purposes, the Superintendent or designee shall not inquire into a student's citizenship or immigration status.

1. The Superintendent or designee is authorized to require the parent/legal guardians of students to provide to the district verifiable documentary evidence of residency, to execute affidavits attesting to residency, and to otherwise prove residency to the satisfaction of the district. Proof of residency shall, at a minimum, be required upon a student's enrollment in kindergarten, 6th grade, and 9th grade, and upon a student's initial enrollment in the district if at a different grade level than above.
2. The office of the Superintendent or designee is authorized to investigate any cases where there is reason to believe that false information has been provided to the district with respect to residency or where there is reason to believe that the information provided is no longer current. The Superintendent or designee may initiate such an investigation when he or she is able to identify specific, articulable facts supporting the belief that the student's parent or legal guardian has provided the district with false or unreliable evidence of residency, or supporting the belief that the information provided is no longer current. (Education Code 48204.2.)
3. The investigation methods that the district may use to conduct the investigation into the residency of the student, at the discretion of the Superintendent or designee, may include but are not limited to: telephone calls to home, unannounced home visitations, review of social media, verification of employment, search and review of public records, searches of electronic databases, and the use of licensed private investigators. Before hiring a private investigator, the district will first make reasonable efforts to determine whether the student resides in the district.

The following requirements apply to a district investigation into the residency of a student:

- a. The private investigator or district employee may not surreptitiously photograph or video-record students who are being investigated. "Surreptitious photographing or video-recording" means the covert collection of photographic or videographic images of persons or places subject to an investigation. The collection of images is not covert if the technology is used in open and public view.
- b. Employees or contractors of the district engaged in student residency investigations (including private investigators) must identify themselves truthfully as such to individuals contacted or interviewed during the course of the investigation.

**Students** (*continued*)

4. If the Superintendent or designee determines that a student currently enrolled in the district is not a resident of the district, the student shall be:

a. Disenrolled from the district, effective the Friday of the week following the final determination of nonresidency by the Superintendent or designee, or the Superintendent as applicable.

b. Disenrolled from the district, effective 45 days following the determination of nonresidency if:

(1) The parent acknowledges living outside of district boundaries upon initial inquiry or when informed that the district possesses evidence that they do not reside within the district; and

(2) The student legitimately attended a district school prior to moving out of the district; and

(3) The parent declares their intention to reestablish residency within the 45 day period; and

(4) The student secures an interdistrict transfer agreement from their district of residency for the 45 day period; and

(5) The parent reimburses the district for any costs incurred from an investigation.

c. Disenrolled from the district, effective at the end of the semester during which nonresidency was determined if:

(1) The student moved out of the district during the course of the year and notified the district of the change of residency; and

(2) The student secures an interdistrict transfer agreement from their district of residence for the remainder of the semester.

In cases where transferring to a new school after the end of the first semester would cause a severe hardship, the Superintendent is authorized to grant the interdistrict transfer through the end of the current school year. In determining severe hardship, the Superintendent shall consider evidence provided by the parent.

5. In the event the district becomes aware of any violation of law during the course of enforcing this policy, including violation of fraud or perjury statutes, the Superintendent or designee may refer such matters to the appropriate law enforcement authorities for criminal investigation.

**Students (continued)****Residency Based on Parent/Guardian's Employment with District**

The district may, at its discretion, deem that a child has complied with residency requirements for attendance in the district pursuant to Education Code section 48204(f), subject to the following conditions:

1. The child has a parent/legal guardian employed as a regular employee of the district, and the child is seeking enrollment as an elementary school student, the child may be enrolled for so long as the parent/legal guardian is so employed. (Interdistrict transfers for middle and high school students of district regular employees is addressed in the Board of Education's Interdistrict Transfer Policy). As used in this policy, a "regular employee" of the district is defined as a certificated employee of the district who works for the district for at least ten (10) months per year, or a classified employee as defined by Education Code section 45103. The definition of classified employee does not include substitute or short-term employees, employed and paid for less than 75% of a school year, defined as 195 working days, including holidays, sick leave, vacation and other leaves of absence, irrespective of number of hours worked per day. The definition of classified employee also does not include part-time playground positions, apprentices, or professional experts employed on a temporary basis for a specific project, regardless of length of employment. This condition may be applied to terminated employees due to layoff who have reemployment rights, provided that the child (children) in question has (have) been continuously enrolled and maintained regular attendance in a K-12 district school.

2. In considering whether to deem a child to be a resident of the district pursuant to this section, the district shall consider the following factors:

a. Whether there is space available to admit the student without upsetting student teacher ratios.

b. The additional cost of education the child in excess of any nominal amounts of additional state aid received by the district, not including and irrespective of any costs arising from special needs particular to the individual child.

3. In no event shall enrollment be approved, and any such permission for attendance previously approved shall be immediately revoked, if false information has been provided to the district in the child's transfer or enrollment application or in any initial or subsequent claim of residency to the district.

**4. Any student enrolled in the district pursuant to this section shall immediately notify the district of any change in circumstances which would affect their residency determination under this regulation. Failure to do so shall result in dis-enrollment and disqualification from future enrollment under this section or the Board's Interdistrict Transfer Policy.**

**Students** (*continued*)

(cf. [5145.6](#) - Parental Notifications)

Proof of Residency

Prior to admission in district schools, students shall provide proof of residency. A student can only have one residence for purposes of establishing residency. Residency within the district is required and defined as residence within the district for a minimum of three school nights per week. The Superintendent or designee may annually verify each student's district residency status and retain a copy of the document or written statement offered as verification in the student's mandatory permanent record. (5 CCR [432](#))

(cf. [5111](#) - Admission)

(cf. [5125](#) - Student Records)

Parent(s)/Guardian(s) can provide the following evidence to establish residency: 1. If you own or rent the property in which you reside:

a. The most recent copy of your Monterey County tax bill or a mortgage statement or a copy of the lease/rental agreement in your name showing residence property address and signatures of lessor/lessee. (If you are on a month-to-month agreement, you will also need to provide the most recent month's receipt or cancelled check); and

b. A recent utility bill in your name for the current month showing residence property address; and

c. One of the items below in your name:

(2) Proof of residency from the Monterey County Registrar of Voters; or

(2) Current DMV vehicle registration showing residency property address; or

(3) One other recent bill mailed to you at your residence address; or

(4) A pay stub or bank-cancelled check in your name for the current month showing residence property address; or

(5) Recent correspondence from a government agency, e.g., the IRS or Social Security; and

d. A completed district Residency Affidavit form.

2. If you are sharing a home with another individual or family:

**Students** (*continued*)

a. The bottom of page 2 of the Residency Affidavit (Section B) signed by the primary resident of the home, subscribed and sworn before a school secretary or district secretary or notary public; and

b. The most recent of a Monterey County tax bill or a mortgage statement or a copy of the lease/rental agreement in the primary resident's name showing residence property address; and

c. A recent utility bill for the current month showing residence property address in your name or the primary resident's name; and

d. One of the items below in your name:

(1) Proof of residency from the Monterey County Registrar of Voters; or

(2) Current DMV vehicle registration showing residency property address; or

(3) One other recent bill mailed to you at your residence address; or

(4) A pay stub or cancelled check in your name for the current month showing residence property address; or

(5) Recent correspondence from a government agency, e.g., the IRS or Social Security; and

e. A completed district Residency Affidavit form.

3. If the parent/guardian resides outside the boundaries of the district but is employed and lives with the student at the place of his or her employment within the boundaries of the district for a minimum of three days during the school week:

a. Affidavits executed under penalty of perjury by the employer and the parent/guardian stating that the parent/guardian is employed and lives with the student at the place of his or her employment within the district's boundaries for at least three days during the school week; and

b. To prove that the employer's residence is within the district boundaries:

(1) The most recent of a Monterey County tax bill or a mortgage statement or a copy of the lease/rental agreement in the employer's name showing the residence property address; and

(2) A recent utility bill showing residence property address in the employer's name; and

(3) One of the items below in the employer's name:

**Students** (*continued*)

- (A) Proof of residency from the Monterey County Registrar of Voters; or
- (B) Current DMV vehicle registration showing residency property address; or
- (C) One other recent bill mailed to the employer at his or her residence address; or
- (D) A pay stub or cancelled check in the employer's name for the current month showing residence property address; or
- (E) Recent correspondence from a government agency, e.g., the IRS or Social Security.

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 48853.5; 42 USC 11432)

(cf. 6173 - Education for Homeless Children)

(cf. 6173.1 - Education for Foster Youth)

Failure to Verify Residency

When the Superintendent 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. (Education Code 48204.1)

Safe at Home/Confidential Address 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 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. The Superintendent or designee may request the actual residence address for the purpose of establishing residency within district boundaries. (Government Code 6206, 6207)

(cf. 3580 - District Records)

Revocation of Enrollment and Appeal Process

If the Superintendent or designee, upon investigation, determines that a student's enrollment or attempted enrollment is based on false or unreliable evidence of residency, he/she shall deny or revoke the student's enrollment. Before any such denial or revocation is final, the parent/guardian shall be sent written notice of the facts leading to the decision and the basis for the Superintendent or designee's determination. This notice also shall inform the

**Students** (*continued*)

parent/guardian that he/she may provide new material evidence of residency, in writing, to the Superintendent or designee within 10 school days or may seek an appeal to the Superintendent within 10 school days as set forth below.

If the parent/legal guardian timely provides new material evidence of residency to the Superintendent or designee, the Superintendent or designee shall review the new evidence and make a decision within 10 school days upon receipt of the new evidence. The Superintendent or designee shall provide the parent/guardian with written notice of his or her decision and, if the Superintendent or designee determines that the student's enrollment or attempted enrollment is based on false or unreliable evidence of residency, the Superintendent or designee shall provide the parent/guardian with notice of his or her right to appeal to the Superintendent within five days after receipt of the decision.

If the parent/guardian timely seeks an appeal to the Superintendent, the burden shall be on the parent/guardian to show why the Superintendent or designee's decision should be overruled. The Superintendent's decision regarding the appeal shall be provided in writing to the parent/guardian and shall specify the basis for his or her determination. The Superintendent's decision shall be final.

## Legal Reference:

## EDUCATION CODE

35351 Assignment of students to particular schools

46600-46611 Interdistrict attendance permits

48050-48054 Nonresidents

48200-48208 Compulsory education law

48356 Open Enrollment Act transfer, fulfillment of residency requirement

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 Varieties of student records

## 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

**Students** (*continued*)

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES

0303.95 Verification of residency, LO: 1-95

OFFICE FOR CIVIL RIGHTS, U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Dear Colleague Letter, May 6, 2011

WEB SITES

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

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

Office for Civil Rights, U.S. Department of

Education: <http://www2.ed.gov/about/offices/list/ocr>

Regulation

as of: April 1, 2007

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revised: November 9, 2015

revised: January 5, 2018

CARMEL UNIFIED SCHOOL DISTRICT

Carmel, California

