

DISTRICT RESIDENCY**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 48300-48317, 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 may revise item #3 as appropriate to reflect options provided by the district.

3. The student is admitted through an interdistrict attendance option. (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)

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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)

Note: Pursuant to Education Code 48204.3, as amended by SB 455 (Ch. 239, Statutes of 2017), a student will be deemed to meet district residency requirements if his/her parent/guardian is transferred or is pending transfer to a military installation (i.e., a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense or the U.S. Coast Guard) within the state.

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 the state. (Education Code 48204.3)

(cf. 6173.2 - Education of Children of Military Families)

Note: Education Code 48204.4, as added by SB 257 (Ch. 498, Statutes of 2017), provides that a student complies with residency requirements if his/her parent/guardian was a resident of California and departed against his/her will, as defined. See the section "Proof of Residency" below for information about the documentation required to be submitted to the district under such circumstances. The district may not require any fee or charge for the enrollment of such students in a district school.

10. The student's parent/guardian was a resident of California who departed the state against his/her will due to a transfer by a government agency that had custody of the parent/guardian, a lawful order from a court or government agency authorizing his/her removal, or removal or departure pursuant to the federal Immigration and Nationality Act, and the student lived in California immediately before moving out of state as a result of his/her parent/guardian's departure. (Education Code 48204.4)

(cf. 5145.13 - Response to Immigration Enforcement)

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.

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

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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) 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.

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.

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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

Note: Education Code 234.7, as added by AB 699 (Ch. 493, Statutes of 2017), prohibits districts from collecting information or documents regarding the citizenship or immigration status of students or their family members. The California Office of the Attorney General, in its guidance 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, clarifies that, even though districts have discretion to accept proof of residency other than the forms listed in items #1-9 below, any alternative documents must be ones that are available to all persons regardless of citizenship or immigration status and that do not reveal information related to citizenship or immigration status. Thus, the district must not require visas, passports, green cards, voter registration, or other documentation that would discourage undocumented children from enrolling in school. Pursuant to Education Code 234.7, districts are **mandated** to adopt the following paragraph consistent with the Attorney General's model policy. Also see BP 5111 - Admission.

The district shall not solicit or collect information or documents regarding the citizenship or immigration status of students or their family members for the purpose of determining residency within the district. (Education Code 234.7)

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

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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 in section "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

(cf. 5141 - Health Care and Emergencies)

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.

Note: Pursuant to Education Code 48204.3, as amended by SB 455 (Ch. 239, Statutes of 2017), a parent/guardian who is seeking residency status based on his/her transfer or pending transfer to a military installation within the state may provide any of the following types of proof of residence within district boundaries.

A parent/guardian who is transferred or pending transfer into a military installation within the state shall provide proof of residence in the district within 10 days after the published arrival date provided on official documentation. For this purpose, he/she may use as his/her address a temporary on-base billeting facility, a purchased or leased home or apartment, or federal government or public-private venture off-base military housing. (Education Code 48204.3)

Note: Pursuant to Education Code 48204.4, as added by SB 257 (Ch. 498, Statutes of 2017), the following evidence must be provided to prove compliance with residency requirements when a student's parent/guardian departed the state against his/her will, as provided in item #10 of the section "Criteria for Residency" above.

A student whose parent/guardian's departure from the state occurred against his/her will pursuant to item #10 in the section "Criteria for Residency" above shall be in compliance with district residency requirements if he/she provides official documentation of the parent/guardian's departure and evidence demonstrating that the student was enrolled in a public school in California immediately before moving outside the state. (Education Code 48204.4)

Note: Federal and state law require the immediate enrollment of a homeless student (Education Code 48852.7; 42 USC 11432), foster youth (Education Code 48853.5), or a student who has had contact with the juvenile justice system (Education Code 48645.5), regardless of his/her ability to provide the school with records normally required for enrollment, including proof of residency. If a dispute arises over the

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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.

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.

Any homeless or foster youth or student who has had contact with the juvenile justice system shall be immediately enrolled in school even if he/she is unable to provide proof of residency. (Education Code 48645.5, 48852.7, 48853.5; 42 USC 11432)

(cf. 6173 - Education for Homeless Children)

(cf. 6173.1 - Education for Foster Youth)

(cf. 6173.3 - Education for Juvenile Court School Students)

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.

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)