

### NONRESIDENTS

The Board of Education shall operate the district schools for the benefit of all children residing in the district and such others as may be admitted, pursuant to New Jersey State Statute and policy of the Board. Non-resident pupils are those pupils whose parents/guardians reside outside the Mendham Borough School district and who attend classes in Mendham Borough schools only as permitted by the Board of Education. The Board reserves the right to verify the residency of any pupil and the validity of any affidavit of guardianship. Documentation required to prove eligibility to attend district schools shall be in accord with Policy 5111 – Admission, and the New Jersey Administrative Code.

#### Former Residents

Pupils who move out of the Mendham Borough School District shall be allowed upon recommendation of the Superintendent to complete the school year in which they have been regularly enrolled provided that the parent/guardian submits a written request for continued enrollment with payment of the established monthly tuition charge. Tuition will not be charged for the month in which the family moves its residence of domicile out of Mendham Borough.

Eighth grade pupils who have been enrolled and attended the Mendham Borough schools since the commencement of fifth grade and who have completed their seventh grade year in the Mendham Borough School District and whose parent(s) or legal guardian(s) change their residence out of district during or after the completion of seventh grade may request, upon written application to the district, and with the recommendation of the Chief School Administrator, and subject to approval by the Board, at its discretion and reflecting the best interests of the District, to continue attendance and enrollment on a non-tuition basis for a period of one (1) year for the purpose of completing eighth grade.

In addition, upon written application to the district, with the recommendation of the Chief School Administrator, and subject to approval by the Board at its discretion, reflecting the best interests of the District and to address circumstances of unusual hardship, continued attendance and enrollment on a non-tuition basis for a period of one (1) year for the purpose of completing the grade in which the student is at that time enrolled may be approved.

The school district will not provide transportation to the district. The Board of Education shall not be responsible for home instruction of nonresident students enrolled in the Mendham Borough schools.

All such pupils must remain in good academic, disciplinary and attendance standing for this arrangement to continue.

#### Future Residents

A child whose parent or guardian has signed a contract to buy, build, modify, or rent a residence in the Mendham Borough school district may be admitted to a district school upon the recommendation of the Chief School Administrator, subject to approval by the Board, provided that:

- A. The parent or guardian applies in writing for such admission and agrees that there will be no cost for transportation or home instruction provided by the Mendham Borough School District;
- B.
- C. Proof of such intended occupancy is satisfactory to the Board. Proof of intended occupancy shall be a signed lease or purchase contract for residential housing or a signed contract with a builder, which specifies a projected completed date.

The Board reserves the right to verify such claims and to remove from school a non-resident pupil whose claim cannot be verified. If the lease or contract is terminated for any reason, the Board must be notified and

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the family must submit a formal application to remain as a tuition-paying non- resident student for the remainder of that school year.

Tuition will not be charged for the month (30 calendar days) in which the parent or guardian establishes residency. The parent or guardian shall make a one-month tuition payment when submitting an enrollment application, to be held in escrow by the Business Administrator. If the family establishes residency within 30 days of enrollment the deposit will be returned without interest. If residency does not occur with 30 days, the deposit shall be held and credited without interest against tuition charges for the last month's tuition and all subsequent tuition will be billed on the first day of the month. The parent shall be charged the monthly tuition rate until residency is established.

All pupils admitted under this provision must remain in good academic, disciplinary and attendance standing for this arrangement to continue. For the purpose of clarity, residency or resident will be as determined under the NJ Administrative Code, e.g. 6A:22-3.1, and the relevant decisional law reflecting a person's "sole, true, fixed, permanent domicile."

Tuition

Tuition charges will be the actual cost as determined by the state formula. For budget purposes, Mendham Borough District will establish a tuition-billing rate for the next school year in September of each year.

The sending district of any non-resident pupil who has been enrolled in a special education class in the district shall be charged in accordance with the state-approved cost.

Children of Employees

Children of non-resident professional staff members may be enrolled in the schools of this district as indicated in article XVI of the agreement between the Mendham Borough Board of Education and the Mendham Borough Education Association.

Affidavit Pupils

When a pupil's parents/guardians are not domiciled in the Mendham Borough district, but the child resides with another person in the district, the child will be provided tuition-free education and transportation under conditions specified in N.J.S.A. 18A 38: 1(b). Such conditions include, but are not limited to, the following:

- A. The resident must present a notarized, sworn statement that he/she supports the child gratis with no assistance from the parents/guardians and assumes full responsibility for all personal obligations of the child.
- B. Evidence of residence must also be presented and any other documents required to verify the sworn statement.
- C. The parents/guardians must provide sworn statement of nonsupport of the child and reasons why the child does not reside with the parents/guardians.

Homeless Pupils

The district will determine the educational placement of homeless students in each child's best interest and respond to appeals concerning homeless pupils made by parents/guardians or other parties in accordance with state and federal law.

Placement by Agencies

Students placed in foster care by court order or under the direction of the New Jersey Division of Youth and Family Services will be provided free public education.

NONRESIDENTS (continued)Other Non-Resident Pupils

Other non-resident pupils may be admitted to this district upon recommendation of the Chief School Administrator and at the sole discretion of the Board and upon payment of tuition. Such decisions shall be based on an evaluation of program needs, availability of space, staffing, financing and other such factors as the Board deems relevant. Annual renewal of any non-resident tuition pupil is not guaranteed and is at the sole discretion of the Board. The Board shall endeavor to allow a pupil, once accepted, to continue his/her education in the district, provided that the pupil is otherwise eligible under this policy in light of the factors to be considered by the Board.

The Chief School Administrator shall develop procedures for the enrollment of non-resident pupils that:

- A. Allow admission of such children only on the proper application of parents/guardians;
- B. Verify attendance and status in current school;
- C. Allow denial of admission for any reason at the sole discretion of the Chief School Administrator and Board but do not exclude any child, otherwise eligible, on the basis of the child's race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory disability, or by any other distinguishing characteristic.

Admission may be denied when the educational program maintained for the children of this district is inadequate to meet the needs of the applicant.

The Chief School Administrator shall recommend to the Board for its approval the admission of qualified and eligible applicants.

Without limiting the foregoing, the Board may grant the privilege of attending as a non-resident tuition pupil under the following conditions:

- A. Mendham Borough School District offers a suitable educational program to meet the needs of the individual pupil;
- B. There is space in the grade or program to be entered, with space availability to be determined in the sole district of the Chief School Administrator and Board;
- C. The pupil must desire to attend;
- D. The pupil must have a satisfactory academic and discipline record from the pupil's previous school(s);
- E. The admission of a tuition pupil shall not negatively impact on the school budget;
- F. The Board executes a written agreement with the parents/guardians of applicant pupil specifying that admission guarantees only those educational services available within the Mendham Borough School District (the district will not become a local educational agency for any specialized program). The agreement shall state that the following services available within the school system may be subject to tuition charges to the extent such costs are not covered by the non-resident pupil's home district including but not limited to: Gifted and Talented extraordinary services; Team consultation; IEP draft; IEP Classification Conference; Special Education services; Medical Evaluation; Attorney's fees; and Collection fees for non-payment of tuition.

The Board may terminate any contractual agreements of students who do not meet expected levels of performance or behavior at any time, upon the recommendation of the building Principal and Chief School Administrator. To the extent the district finds it appropriate to charge for additional services under the contract, it shall be the responsibility of the parents/guardians to arrange with the pupils home district for

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payment thereof if the pupil is eligible for such payment. The Board reserves the right to withhold the issuance of the official transcripts and other reports for any tuition pupil (or former tuition pupil) whose tuition or other payments are not up-to-date or paid in full.

The Board shall not be responsible for the transportation to or from school of any non-resident pupil. The Board shall annually determine tuition rates for non-resident pupils.

Submitted for Second Reading and Adopted	August 26, 2014
First Reading:	December 20, 2016
Readopted:	January 3, 2017

Legal References: N.J.S.A. 18A:7F-45	Definitions
N.J.S.A. 18A:11-1	General mandatory powers and duties
N.J.S.A. 18A:36B-1 et seq.	Interdistrict Public School Choice Program Act of 1999
N.J.S.A. 18A:38-1 et seq.	Attendance at school free of charge

See particularly:

N.J.S.A. 18A:38-2, 38-3, 38-8,  
38-9

N.J.S.A. 18A:46-20 Receiving pupils from outside district; establishment of facilities

N.J.S.A. 18A:54-20 Powers of board (county vocational schools)

N.J.A.C. 6A:12-1.3 et seq. Inter-district Public School Choice

N.J.A.C. 6A:17-1.1 et seq. Students at Risk of Not Receiving a Public Education

N.J.A.C. 6A:22 Student residency See particularly:

N.J.A.C. 6A:22-3 Eligibility to attend school

N.J.A.C. 6A:22-3.1 Students domiciled within the school district

N.J.A.C. 6A:23A-19.2 Method of determining the district of residence

N.J.A.C. 6A:23A-19.3 Address submission for determining the district of residence  
Illegal Immigrant and Immigration Responsibility Act of 1997, 8 U.S.C. § 1101

Board of Education of the Borough of Englewood Cliffs v. Board of Education of the City of Englewood, 132 NJ 327; cert. denied, 510 U.S. 991 (1993); subsequent listing 333 N.J. Super. (App. Div. 2000)

No Child Left Behind Act of 2001, Pub. L. 107-110, 20 U.S.C.A. 6301 et seq.

J.A. v. Board of Education of South Orange/Maplewood, 318 N.J. Super. 512 (App.Div 1999)

Possible

Cross References:	3240	Tuition income
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\*5111 Admission

*5114 Suspension and expulsion	6142.5	Travel and exchange programs
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\*6151 Class size

\*Indicates policy is included in the Critical Policy Reference Manual.

Notes on the terms "residence" and "domicile."

These terms are often used interchangeably in education law and regulations, for example "residency or domicile" (N.J.A.C.22-4.1(d)), sometimes with an intensifying adjective ("actual domicile or residence," same citation). The most important chapter of N.J. Administrative Code on the topic is entitled "Student residency" while the key section concerning "Eligibility to attend school" (Subchapter 3) is titled "Students domiciled within the school district" (N.J.A.C. 6A:22-3.1).

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There is a legal adage that “a person can have many residences, but only one domicile.” This distinction of “true, fixed, permanent domicile” versus “temporary residence” (in essence, a legal fiction) is sometimes mentioned but is not consistently maintained in the area of education. The words themselves do not (and inherently cannot) answer the fundamental question: Is a parent or student fraudulently claiming to live at an address in order to obtain tuition-free enrollment?

For additional insights into using the terms “domicile” and “residence” for determining whether a student can attend school in a district, read “Pupil Residency: Who is Eligible for a Free Public Education?” in N.J. School Leader (July-August 2002) by Donna Kaye, Esq.