



RESIDENCY

Frequently Asked Questions.....

1. What constitutes residency for purposes of attending a particular school district?

Residency means domicile, which requires one's physical presence and the intention to remain there permanently.

A person does not lose his or her legal residence or domicile until another residence is established through both intent and action expressing such intent.

2. How is a student's legal school district of residence determined?

Generally, a student's legal school district residence is presumed to be that of his or her parents or legal guardian. If a student does not live with a parent or legal guardian but there has been no surrender of parental control, that student's legal residence still may be that of the parent or guardian, depending on a particular set of circumstances.

Physical presence alone is insufficient to establish residence for purposes of attending the school in that district on a tuition-free basis.

In making residency determinations, the commissioner and the courts have considered financial support, the child's day-to-day care, delegation of parental authority and whether it may be revoked at will. A temporary transfer of custody and control during a parent's illness does not suffice to overcome the presumption that a child resides with his parents.

A student's living in a district solely for the purpose of attending a particular school has been rejected as a basis for establishing residency in such district.

3. What is the process for determining whether a child is a resident entitled to attend the schools of a particular district?

The School board or its designee will determine whether a child is entitled to attend the schools of the district.

Prior to reaching such a decision, the board or its designee must allow a parent or guardian the opportunity to submit information concerning the child's right to attend school in the district.

4. What is the legal school district of residence for students of divorced parents?

Where a child's parents are divorced and a court awards custody to one parent, the child's residence is presumed to be that of the custodial parent. In determining residency a school board must consider several factors, including the extent of the time a child actually lives in the district and the intent of family members to have the child reside in the district.

Where a child's parents are divorced and the child's time is essentially divided between the households of the parents, and both parties assume day-to-day responsibility for the child, the determination of the child's residence ultimately rests with the family. In such cases, the parents may designate the child's residence.

5. May a parent who has more than one residence choose either as his or her legal residence for purposes of securing a child's attendance in a particular school district?

No. Residence in this context means permanent domicile, as distinguished from a temporary abode.

When a person claims legal residency in a place where he or she does not remain all year, it becomes necessary to look for some overt act that indicates the individual has made a choice to consider this his or her domicile, such as whether or not the parent registers and votes from that place or whether that parent uses it as his or her residence on income tax reports.

The payment of school taxes does not necessarily make a person a legal resident of that district. Any such amount, however, must be deducted from the tuition charged to a nonresident student.

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