

Ross Valley SD

Board Policy

District Residency

BP 5111.1 **Students**

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 or designee shall develop procedures to facilitate the receipt and verification of students' proof of residency.

(cf. 5116 - School Attendance Boundaries)

The Superintendent 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 or designee shall require parents/guardians to provide documentation of the student's residency upon registration to a district school, when residency changes, and/or when residency is in question. Additionally, upon registration to a district school, when residency changes, and annually, parents/guardians shall declare the residency information is true and correct. 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 or designee shall not inquire into the citizenship or immigration status of students or their family members.

(cf. 5145.13 - Response to Immigration Enforcement)

Denial or Revocation of Enrollment

A student's enrollment may be denied or revoked when the submitted documentation is insufficient to establish district residency or parent/guardian has provided false or unreliable evidence of residency. In any such case, the Superintendent or designee shall notify the parent/guardian in writing, including specific reasons for the denial or revocation.

Investigation of 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. An investigation may be initiated when the Superintendent or designee is able to identify specific, articulable facts supporting the belief that the parent/guardian has provided false or unreliable evidence of residency and in accordance with Administrative Regulation 5111.1 – District Residency. (Education Code 48204.1, 48204.2)

Appeal of Enrollment Denial

If the Superintendent 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 in accordance with Administrative Regulation 5111.1 District Residency. (Education Code 48204.2)

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

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:

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: <http://www.justice.gov>

RVSD Policy History

Initial Approval: 3/16

Revisions/Updates: 6/17; 8/18

Policy

Adopted: 8.14.18

(Based on Last CSBA Update 5/18)

ROSS VALLEY SCHOOL DISTRICT

San Anselmo, CA

Ross Valley SD

Administrative Regulation

District Residency

AR 5111.1
Students

Criteria for Residency

Students attending public school must attend school in the school district where their parents/guardians reside, unless expressly authorized to attend school in another district. (Education Code 48200, 48204, 48207.) It is the District's policy to require valid proof of residency for all students and to be vigilant in discovering and terminating enrollment that does not comply with residency laws. The District may use an investigator and/or other outside individuals or entities to assist in conducting residency verification and suspected violations of school district residency laws.

(cf. 5111 – Admission)

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)
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)

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)

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)

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)

11. The student's parent/guardian resides outside district boundaries but is employed by the District in accordance with AR 5111.12 – Parent/Guardian Employment by the District.

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)

Verification of Residency

The Superintendent or designee shall require parents/guardians to provide proof of the student's residency upon registration to a district school, when student's residency changes, when student's residency is in question, and/or as the Superintendent or designee, in his/her discretion, deems appropriate. Additionally, upon registration to a district school, when residency changes, and annually (within 30 calendar days of the beginning of each school year), parents/guardians shall declare the student's residency information is true and correct.

The Superintendent or designee shall annually verify the student's residency and retain a copy of the declaration in the student's mandatory permanent record. (5 CCR 432) Subject to certain exceptions, annual verification shall include, but is not necessarily limited to, a declaration of residency executed by the student's parent/guardian or caregiver.

The student's parent/guardian or caregiver shall notify the district/school within 10 calendar days

when his/her residency, or his/her student's residency, has changed either within or outside the district. Failure to do so may result in revocation of enrollment. If a student moves outside of district boundaries, he/she must immediately register in his/her district of residence or be approved to attend a district school in accordance with Board Policy/Administrative Regulation 5117 – Interdistrict Attendance.

Verification of Residency shall include the following:

Verification of Residency must be completed, signed under penalty of perjury, and submitted with the documentation demonstrating the student's residency within the district boundaries.

Part I – Proof of Residency: the parent/guardian or caregiver provides documentation of student's and the parent's/guardian's or caregiver's residency.

Part II – Declaration of Residency: the parent/guardian or caregiver verifies under penalty of perjury that all information and documentation provided in the verification of residency process is true and accurate.

The Verification of Residency must provide the name and address of the parent/guardian or caregiver within the district. As applicable, the name and address of a second parent/guardian or caregiver must be provided. The actual residence/street address (not a PO Box) must appear on any documentation submitted for the purposes of proof of residency.

If legal custody of the student is split between two parents/guardians, a certified copy of the court order identifying each parent/guardian's respective physical custody award must be provided. Subsequent orders must be provided if any changes are made.

Category I - One Proof Required: At least one of the following documents showing the name and residence address of the parent/guardian or caregiver within the district: (Education Code 48204.1)

- a. A copy of the deed, or
- b. A copy of the most recent mortgage statement, or
- c. Property tax bill/payment receipt dated within the past year, or
- d. A copy of the fully executed lease/rental agreement. The lease/rental agreement must show the rental address and include the lessor/lessee names and signatures.

A copy of a full executed expired lease, lease extension, handwritten, month-to-month lease, and/or sub-lease is only accepted with a jurat notarized Landlord/Lessor Supplemental Affidavit (available from district/school office) and verification of most recent rental/lease payment.

Category II - One Proof Required: At least one utility service statement or payment receipt dated within the last forty-five (45) days showing the name and service address of the parent/guardian or caregiver within the district. On-line documentation is accepted as long as it fulfills the requirement of a complete statement (all pages). Utility set-up and 15-day notice letters are acceptable proofs of residency if statement or payment receipt is submitted within 30 days of residency verification.

Acceptable utility services include: (Education Code 48204.1)

- a. PG&E, or
- b. Marin Municipal Water District, or
- c. Local refuse agency that serves residences within district, or
- d. Landline telephone (cell and long-distance service not accepted).

If documentation from this category is not available because the parent/guardian or caregiver sub-leases and/or lives with another individual(s), the Landlord/Lessor Supplemental Affidavit (available from district/school office) is required, and that person must verify residency.

If the student is an unaccompanied youth as defined in 42 USC 11434a, a declaration of residency executed by the student.

The documentation used for proof of residency will be noted on the Verification of Residency form by school staff and returned to the parent/guardian or caregiver.

If a parent/guardian or caregiver is unable to provide the acceptable proof of residence documents listed above, a home visit by a district employee may be scheduled to assist in the verification the student's residency.

If the student is residing in the home of a caregiving adult within district boundaries pursuant to item #5 in the section "Criteria for Residency" above, 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 pursuant to item #8 in the section "Criteria for Residency" above 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.

A parent/guardian who is transferred or pending transfer into a military installation within the state pursuant to item #9 in the section "Criteria for Residency" above 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)

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)

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

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)

Investigation of Residency

In circumstances where no documentary evidence exists, the documentation provided is of questionable authenticity, or if school officials have other articulable facts to support their belief that the parent/guardian or caregiver has provided false or unreliable evidence of residency, school official may initiate an investigation 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. An investigation may be initiated when the Superintendent or designee is able to identify specific, articulable facts supporting the belief that the parent/guardian has provided false or unreliable evidence of residency. Reasonable efforts may include, but are not limited to, home visits, the use of private investigators, individuals, or other entities used by the district to conduct residency verification, and/or the requirement to provide additional documentation of residency. 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. (Education Code 48204.1, 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)

Revocation and Denial of Enrollment/Appeal/Penalties for Providing False Information

If the Superintendent 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)

If the Superintendent or designee determines that a student does not meet the residency requirements for school attendance in the district, such determination shall be provided to the parent/guardian or caregiver in writing and specify the basis for the determination. A copy of this administrative regulation will be included. This notice shall also inform the parent/guardian or caregiver that he/she may appeal the decision and provide new evidence of residency. If the parent/guardian or caregiver fails to file a written appeal within 10 school days, the initial determination on residency shall be final without further notice. (Education Code 48204.2) The student's enrollment shall be revoked on the 11th school day after the date of the notice.

If an appeal is made, the burden shall be on the appealing party to show why the decision of the school district 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 to the Superintendent or designee of a determination that district residency requirements were not met, the Superintendent or designee shall review any new evidence provided by the parent/guardian and/or obtained during the district's investigation and shall make a decision within 10 school days of receipt of the parent/guardian's request for the appeal. The Superintendent's or designee's determination shall be final, binding, and effective immediately. There will be no further administrative appeal. If an adverse decision is made, the student's enrollment shall be revoked on the 11th school day.

The district may pursue cases in which false information has been provided under penalty of perjury. (Family Code 6552; Penal Code 118, 125, 127; Civil Code 1709)

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Regulation
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