

Pacific Grove Unified School District

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. Pacific Grove Unified School District is a “basic aid” school district, unlike most other school 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 guardian 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. Reasonable evidence of residency for a pupil living with his or her parent or legal guardian shall be established by documentation showing the name and address of the parent or legal guardian within the school district, including, but not limited to, (Education Code 48204.1) specific requirements as listed in Regulations 5111.1

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)

The Superintendent or designee shall require parents/guardians to provide documentation of the student's residency upon request for admission to a district school. (Education Code 48204) 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)

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. (Education Code 234.7)

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

Investigation of Residency

- a. 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 on request. Proof of residency shall be required annually. ~~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 level than above.~~
- b. The Superintendent or designee is authorized to investigate any cases where the District is able to identify specific, articulable facts that support the belief that the parent/guardian has provided false or unreliable evidence of residency (Education Code 48204.1, 48204.2)
- c. The Superintendent or designee may assign a trained district employee to conduct the investigation. 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.

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- d. If necessary, the Superintendent or designee may employ the services of a private investigator. Before hiring a private investigator, the Superintendent or designee shall make other reasonable efforts to determine whether the student resides in the district. (Education Code 49204.2)
- e. 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)
- f. 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)
- g. 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 disenrolled from the District, effective the Friday of the week following the determination of non-residency. If the student moves out of the District during the course of the year, and notifies the District of the change of residency then the student may apply for an interdistrict transfer agreement to allow the student to remain until the end of the current semester. In cases where transferring to a new school district 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.
- h. 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.

Appeal of Enrollment Denial

- a. If the Superintendent's 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 to the Superintendent. (Education Code 48204.2)
- b. The Superintendent's designee shall send the student's parent/guardian written notice specifying the basis for the district's determination. This notice shall also inform the parent/guardian that he/she may, within 10 school days, appeal the decision to the Superintendent and provide new evidence of residency.
- c. The burden shall be on the parent/guardian to show why the district's determination to deny enrollment should be overruled. (Education Code 48204.2)

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- d. 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.
- e. In an appeal to the Superintendent of a determination that district residency requirements were not met, the Superintendent shall review any evidence provided by the parent/guardian 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 decision shall be final.

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

46600-46610 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

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 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

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Students

Policy #5111.1

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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>

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Students

Policy #5111.1

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APPLICANT'S INITIALS ARE REQUIRED FOR EACH STATEMENT:

The Pacific Grove Unified School District will actively investigate all cases where it has reason to believe false information has been provided. _____ (Initials)

The District may refer cases in which false information has been intentionally provided to the Monterey County District Attorney for further action and/or file civil action to recover damages incurred as a result of providing false information. _____ (Initials)

If false information is provided to the District for the purpose of enrolling my child in the District, I could be held liable for the expense to the District of educating my child, which amount could exceed \$5,000.00 per school year. _____ (Initials)

Persons who provide false information on an affidavit are subject to criminal prosecution for perjury which is punishable by a fine and/or a prison term of up to four years in state prison. (Fam. Code Sec. 6552; Pen. Code Sec. 118 and 126). _____ (Initials)

Persons providing false information on an affidavit also are civilly liable for fraud, negligent misrepresentation, and negligence. Parties found civilly liable may be required to pay all damages caused to the District as a result of providing false information, as well as punitive damages. (Civ. Code Sec. 1709). _____ (Initials)

Persons who induce, obtain or otherwise solicit another person to provide false information on an affidavit are subject to the same criminal prosecution, fines, and imprisonment as the person directly committing perjury. (Pen. Code Sec. 127). _____ (Initials)

Investigations that reveal students have enrolled on the basis of providing false information will lead to withdrawal from the District. _____ (Initials)

Signature of Applicant

Date

Reference: Ed Code 48200