

# Mt. Diablo USD

## Administrative Regulation

### District Residency

AR 5111.1

#### Students

~~Cautionary Notice 2010-13: AB 1610 (Ch. 724, Statutes of 2010) amended Education Code 37252.2 to relieve districts from the obligation, until July 1, 2013, to perform any activities that are deemed to be reimbursable state mandates under that section. As a result, certain provisions of the following policy or administrative regulation that reflect those requirements may be suspended.~~

#### Criteria for Residency

Prior to admission in district schools, students shall provide proof of residency.

(cf. 5111 - Admission)

A student shall be deemed to have complied with residency requirements if he/she meets any of the following criteria:

1. The student's parents/guardians reside within district boundaries. (Education Code 48200)

(cf. 5111.13 - Residency for Homeless Children)

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, or is designated to remain at a district school by social services. (Education Code 48204)

3. The student has been admitted through the district's interdistrict attendance program. (Education Code 48204)

(cf. 5117 - Interdistrict Attendance)

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 who executed an affidavit as adult caregiver. (Education Code 48204 and Family Code 6550-6552)

(cf. 5111.11 - Residency of Students with Caregiver)

6. The student resides in a state hospital located within district boundaries. (Education Code 48204)

7. The student is an elementary school student whose parent/guardian is employed within district boundaries. However, the district is not required to admit students for this reason. (Education Code 48204)

(cf. 5111.12 - Residency Based on Parent/Guardian Employment)

8. The student is confined to a hospital or other residential health facility within district boundaries for treatment of a temporary disability. (Education Code 48207)

(cf. 6183 - Home and Hospital Instruction)

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)

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)

District residency is not required for enrollment in a regional occupational center or program if there are openings in the program or class. (Education Code 52317)

### Proof of Residency

The Superintendent or designee shall retain a copy of the document or written verification offered as proof of residency. In addition, the Superintendent or designee shall verify the student's residency, which may include a home visitation by a district employee, and retain a copy of the document or written statement offered as verification. (5 CCR 432)

Families are required to have three original\* forms of residency verification on file, one of which must be a photo ID. A copy of certain documents is acceptable (see \* below). Examples of appropriate proof of residency are listed below.

The District staff 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)

Reasonable evidence of residency may be established by documentation including, but not limited to, any of the following: (Education Code 48204.6)

To register a student, the parent/guardian must supply three types of original (no copies)\* documentation.

1. Parent Picture ID:
  - a. Current California State Driver's License
  - b. Current California ID Card
  - c. Valid Passport or Consulate-Issued Picture ID (Optional only)
  - d. Credencial Para Votar
  - e. Statement Declaration of Residence executed by student's parent/guardian with photograph of declarant attached.
2. One of the following original documents with parent/guardian's name and address:
  - a. Current valid vehicle registration
  - b. State or Federal Tax Return (computerized or copy or original) filed within the past 12 months with W-2 forms (a) attached. Business returns do not meet residency requirements.\* (computerized or original copy)
  - c. Current voter registration receipt
  - d. Other forms of identification or communication from a government agency
3. One of the following original documents with parent/guardian's name and address:
  - a. Property Tax Bill with parents name and property address indicating home owner's exemption
  - b. Rental/Lease Agreement with parent's name, student's name, and address, as well as manager or owner's name and phone number (verification required)
  - c. Payroll stubs/checks with parent/guardian's address

Utility (PG&E, water, etc.) P.O. Box, telephone bills, or deeds are not valid residency verification documents.

When presented with a substitute address designated by the Secretary of State for victims of

domestic violence or stalking residing within district boundaries, the Superintendent or designee shall accept and use the substitute address for all future communication and correspondence and in all public records. (Government Code 6207)

(cf. 3580 - District Records)

(cf. 5125 - Student Records)

If any district employee reasonably believes that the parent/guardian of a student has provided false or unreliable evidence of residency, the Superintendent or designee shall make reasonable efforts to determine whether the student meets legal residency requirements.

#### Affidavit of Residence

Families who live in a home owned by someone other than them or an apartment where the rental lease is in someone else's name must present the district with an "Affidavit of Residence". The home owner or person who has the rental lease in his/her name must establish residency in the district on the basis of the criteria listed above. Affidavit of Residence forms are available at Student Services Office located at 1936 Carlotta Drive, Concord, CA 94519. In these cases the student's parent/guardian and the home owner/renter must both be present to register the student.

#### Joint Physical Custody

Students whose parents have joint custody may continue their enrollment in the Mt. Diablo Unified School District so long as at least one of their parents can meet the residency requirements of the district.

#### Revocation of Enrollment

If the Superintendent or designee, upon investigation, determines that a student's enrollment is based on false evidence of residency, he/she shall revoke the student's enrollment. Before any such revocation, the parent/guardian shall be sent written notice of the facts leading to the decision. This notice shall state the parent/guardian's right, within 10 school days, to schedule a meeting with the Assistant Superintendent of Pupil Services/Special Education to inspect supporting documents, rebut district evidence, question any district witnesses, and present oral and/or documentary evidence, including witnesses, on the student's behalf. For good cause, the Assistant Superintendent of Pupil Services/Special Education may extend the meeting date for an additional 10 days to permit the parent/guardian to obtain required documentation.

If the parent/guardian fails to schedule the above meeting, the student's enrollment shall be revoked 11 school days after the date of the notice.

If the above meeting is held, the Assistant Superintendent of Pupil Services/Special Education shall prepare a written decision describing his/her findings. If this decision upholds the revocation, the parent/guardian shall be informed of his/her right to appeal to the Board within 10 days. The Assistant Superintendent of Pupil Services/Special Education's decision shall be final unless appealed.

A parent/guardian who appeals to the Board shall have the right to have a representative present and to rebut district evidence, question any district witnesses, and present oral and/or documentary evidence, including witnesses, on the student's behalf. Except in cases where good cause is shown, the Board shall not reopen the record to consider evidence or argument, which was not presented to the Assistant Superintendent of Pupil Services/Special Education.

The student may continue to attend school during the period of the appeal. The Board's decision shall be final.

Legal Reference:

EDUCATION CODE

35351 Assignment of students to particular schools

48050-48054 Nonresidents

48200-48208 Persons included (compulsory education law)

48980 Notifications at beginning of term

52317 ROP, admission of persons including nonresidents to attendance area

FAMILY CODE

6550-6552 Caregivers

GOVERNMENT CODE

6205-6210 Confidentiality of addresses for victims of domestic violence, sexual assault or stalking

CODE OF REGULATIONS, TITLE 5

432 Varieties of student records

UNCODIFIED STATUTES

AB 687, Ch. 309, Statutes of 1995

COURT DECISIONS

Katz v. Los Gatos-Saratoga Joint Union High School District, (2004) 117 Cal.App.4th 47

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES

0303.95 Verification of residency, LO: 1-95

WEB SITES

California Department of Education: <http://www.cde.ca.gov>

California Secretary of State, Safe at Home Program: <http://www.ss.ca.gov/safeathome>

Regulation MT. DIABLO UNIFIED SCHOOL DISTRICT

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