

OFFICE OF THE SUPERINTENDENT

Millburn Public Schools

INFORMATION ITEM

October 6, 2010

To: Board of Education Members

From: Ellen E. Mauer, PhD

Subject: First Reading-Residency-7:60

This policy is updated to reflect the latest changes of the state law with regard to military temporary housing and the McKinney-Vento Act for homeless students. There is additional language with respect to purposely registering a non-resident as a resident student and a charge for doing so. The rest of the policy remains unchanged.

We ask that you use this as your first reading period and then put this on the next BOE meeting agenda for a second reading and approval.

Students

Residence ¹

Resident Students

Only students who are residents of the District may attend a District school without a tuition charge, except as otherwise provided below or in State law. ² A student's residence is the same as the person who has legal custody of the student.

A person asserting legal custody over a student, who is not the child's natural or adoptive parent, shall complete a signed statement, stating: (a) that he or she has assumed and exercises legal responsibility for the child, (b) the reason the child lives with him or her, other than to receive an education in the District, and (c) that he or she exercises full control over the child regarding daily educational and medical decisions in case of emergency. If the District knows the current address of the child's natural or adoptive parent, the District shall request in writing that the person complete a signed statement or Power of Attorney stating: (a) the role and responsibility of the person with whom their child is living, and (b) that the person with whom the child is living has full control over the child regarding daily educational and medical decisions in case of emergency. ³

A student whose family moves out of the District during the school year will be permitted to attend school for the remainder of the year without payment of tuition. ⁴

When a student's change of residence is due to the military service obligation of the student's legal custodian, the student's residence is deemed to be unchanged for the duration of the custodian's military service obligation if the student's custodian made a written request. The District, however, is not responsible for the student's transportation to or from school. ⁵

If, at the time of enrollment, a dependent child of military personnel is housed in temporary housing located outside of the District, but will be living within the District within 60 days after the time of initial enrollment, the child is allowed to enroll, subject to the requirements of State law, and must not be charged tuition. ⁶

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

¹ State or federal law controls this policy's content.

² 105 ILCS 5/10-20.12b. In certain cases, no tuition may be charged for non-resident children placed by DCFS with a foster parent or childcare facility (Id.). When special education services are provided, *resident district* is determined by 105 ILCS 5/14-1.11 and 14-1.11a, as amended by P.A. 95-844.

³ Id. In order to establish residence, a school district may not require a parent to transfer custody/guardianship to the person with whom the child is living. Israel S. by Owens v. Board of Education of Oak Park and River Forest High School Dist. 200, 601 N.E.2d 1264 (Ill.App. 1992). *See also: Joel R. v. Board of Education of Manheim School Dist. 83*, 686 N.E.2d 650 (Ill.App., 1997).

⁴ 105 ILCS 5/10-20.12a.

⁵ 105 ILCS 5/10-20.12b(a-5).

⁶ 105 ILCS 5/10-22.5a. Military personnel must provide proof that the child will be living within the district within 60 days after the date of initial enrollment. Proof of residency may include postmarked mail addressed to the military personnel and sent to an address located within the district, a lease agreement for occupancy of a residence located within the district, or proof of ownership of a residence located within the district.

Requests for Non-Resident Student Admission ⁷

Non-resident students may attend District schools upon the approval of a request submitted by the student's parent(s)/guardian(s) for non-resident admission. The Superintendent may approve the request subject to the following: ⁸

1. The student will attend on a year-to-year basis. Approval for any one year is not authorization to attend a following year.
2. The student will be accepted only if there is sufficient room.
3. The student's parent(s)/guardian(s) will be charged the maximum amount of tuition as allowed by State law. ⁹
4. The student's parent(s)/guardian(s) will be responsible for transporting the student to and from school.

Admission of Non-Resident Students Pursuant to an Agreement or Order ¹⁰

Non-resident students may attend District schools tuition-free pursuant to:

1. A written agreement with an adjacent school district to provide for tuition-free attendance by a student of that district, provided both the Superintendent or designee and the adjacent district determine that the student's health and safety will be served by such attendance.
2. A written agreement with cultural exchange organizations and institutions supported by charity to provide for tuition-free attendance by foreign exchange students and non-resident pupils of charitable institutions.
3. According to an intergovernmental agreement.
4. Whenever any State or federal law or a court order mandates the acceptance of a non-resident student.

Homeless Children

Any homeless child shall be immediately admitted, even if the child or child's parent/guardian is unable to produce records normally required to establish residency. ¹¹ School Board policy 6:140, *Education of Homeless Children*, and its implementing administrative procedure, govern the enrollment of homeless children.

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

⁷ IMPORTANT: Admitting non-resident students under this section probably requires the district to admit students transferring from another district under NCLBA's school choice provision. Thus, a board that will reject any invitation to enter into an intergovernmental agreement to accept non-resident students under NCLBA's school choice should delete this section.

⁸ State law is silent regarding non-resident student enrollment except to require the parent(s)/guardian(s) to pay tuition (105 ILCS 5/10-20.12a and 5/10-20.12b).

⁹ 105 ILCS 5/10-20.12a specifies a formula for calculating the maximum amount a district can charge non-resident students. Districts may charge less.

¹⁰ If a board intends to reject any invitation to accept non-resident students under NCLBA's school choice, it should seek its attorney's opinion before entering into any agreement described in this section. The agreement described in #1 is optional (105 ILCS 5/10-22.5a) and districts are not required to enter into such agreements nor to alter existing transportation services due to the attendance of such non-resident students. The agreement described in #2 is optional (105 ILCS 5/10-22.5a); districts should be sure it is consistent with policy 7:50, *School Admissions and Student Transfers To and From Non-District Schools*. An example of an agreement described in #3 is one to accept non-resident students under the NCLBA's school choice provisions; entering into such an agreement is optional.

¹¹ Required by 105 ILCS 45/1-1 *et seq.* and the McKinney Homeless Assistance Act, 42 U.S.C. §11431 *et seq.*, as amended by the NCLBA. See §11432 (g)(3)(C)(i).

Challenging a Student's Residence Status ¹²

If the Superintendent or designee determines that a student attending school on a tuition-free basis is a non-resident of the District for whom tuition is required to be charged, he or she on behalf of the School Board shall notify the person who enrolled the student of the tuition amount that is due. The notice shall be given by certified mail, return receipt requested. The person who enrolled the student may challenge this determination and request a hearing as provided by The School Code, 105 ILCS 5/10-20.12b.

- LEGAL REF.: McKinney Homeless Assistance Act, 42 U.S.C. §11431 et seq.
105 ILCS 5/10-20.12a, 5/10-20.12b, and 5/10-22.5.
105 ILCS 45/
23 Ill.Admin.Code §1.240.
Israel S. by Owens v. Board of Educ. of Oak Park and River Forest High School Dist. 200, 601 N.E.2d 1264 (Ill.App.1, 1992).
Joel R. v. Board of Education of Manheim School District 83, 686 N.E.2d 650 (Ill.App.1, 1997).
Kraut v. Rachford, 366 N.E.2d 497 (Ill.App.1, 1977).
- CROSS REF.: 6:15 (School Accountability *containing* “School Choice for Students Enrolled in a School Identified for Improvement, Corrective Action, or Restructuring”), 6:140 (Education of Homeless Children), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:70 (Attendance and Truancy)

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¹² Id. See administrative procedure 7:60-AP, *Challenging a Student's Residence Status*, for sample procedures implementing this paragraph.

STUDENTS**ATTENDANCE – Nonresident Students****Residency**

Millburn Community Consolidated School District 24 requires that all students attending District #24 schools be legal residents of the District. A student who is a legal resident of the District is defined as one whose permanent residence is within the boundaries of Millburn Community Consolidated School District #24. At the time of registration for school, parents or guardians will be required to provide proof of residency.

Residency may be established by a form of identification that includes the parent/legal guardian legal permanent address. Examples include a driver's license, utility bill, etc. In the case of a lease, a receipt for rent paid for the residence will be acceptable proof of residency.

Registration of a nonresident student as a resident student, or without the express consent of the Board of Education of Millburn Community Consolidated School District #24, is a fraudulent act. Any student found to have been fraudulently enrolled will be removed from attendance rolls and dismissed from the District immediately. Parents or guardians making a fraudulent registration will be charged tuition prorated for the time of attendance and processing fees amounting to ten percent (10%) of the tuition fees imposed.

Impending Residency

It is the belief of Millburn Community Consolidated School District #24 that it is in the best academic interests of a student to have a continuous and uninterrupted school year. It is also understood that resident families support the District by property taxes they pay to the District. It is with this philosophy in mind that the District may accept students of families who have contracted to move into the District by the end of an existing academic year by following procedures specified below.

A nonresident student whose parent/guardians intend to establish residency in Millburn Community Consolidated School District #24 within the academic year may request from the Superintendent permission to enroll as an "*impending resident*" student. A written verification from the contractor or developer indicating projected occupancy date and a verification of an approved mortgage application is required at the time of such registration. For families purchasing an existing home, a verification of an approved mortgage application is required. In such a case, parents/guardians will be required to make an initial deposit for each student amounting to 1/4 of the District's established

annual tuition rate. Kindergarten students shall be charged the same tuition rate as students in grades 1-8.

If the “impending resident” establishes permanent residency in the District prior to completion of 1/4 of the academic year, the District will reimburse the balance of the resident’s deposit, pro-rated on a per diem basis from the date permanent residency was established. If the “impending resident” fails to establish permanent residency in the District prior to completion of the first 1/4 of the academic year following registration, the “impending resident” shall make an additional tuition deposit for each student in the amount of 1/4 of the District’s established annual tuition rate. The same per diem pro-rated reimbursement procedure will be in effect. Failure to make any required payment under this Section shall result in immediate exclusion of the student from school.

Students will not be granted enrollment privileges under this “impending resident” provision for any more than the academic year during which enrollment was granted except where “impending resident” status is granted during the second semester of an academic year in which event the student may remain on “impending resident” status for the remainder of the academic year in which the status is granted and the following school year. The above payment requirements remain in full effect while the student is enrolled on “impending resident” status.

Amended: October 26, 2007

Approved: November 26, 2007

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