



Two New Laws Address Residency Requirements for School Attendance

On October 3, 2011, Governor Jerry Brown signed into law two bills related to residency requirements for school attendance. Assembly Bill (AB) 207 requires schools to accept specific documentation as evidence of residency, including a declaration of residency by a parent. Senate Bill (SB) 381 continues to allow parents who are employed, but do not reside, in the school district to enroll their children in district schools as long as they meet new minimum hours requirements.

AB 207 adds a new section to the Education Code which requires schools to accept specific documents and representations from a parent or legal guardian as proof of residency. (Educ. Code § 48204.1.) It also eliminates a separate residency verification requirement for school districts adjacent to international borders. Before this law was enacted, districts had fairly broad discretion to determine what documentation to accept to establish residency. Under the new law, residency documentation must show “the name and address of the parent or legal guardian within the school district.” If the documentation shows the name and address, schools must accept as reasonable evidence of residency, any of the following:

- 1) property tax payment receipts;
- 2) rental property contract, lease, or payment receipts;
- 3) utility service contract, statement or payment receipts;
- 4) pay stubs;
- 5) voter registration;
- 6) correspondence from a government agency; or
- 7) declaration of residency executed by the parent or legal guardian of a pupil.

The law does not require parents to show all of the documents listed. However, it is unclear whether the district could require more than one of these documents.

If a district employee believes that false or unreliable evidence has been provided, AB 207 allows school districts to make “reasonable efforts” to determine whether the student actually meets the residency requirements. This law, however, does not alter the requirements related to enrollment of homeless students under the McKinney-Vento Homeless Assistance Act.

AB 207 was enacted because of a belief by lawmakers that at least some school districts were establishing overly burdensome requirements for demonstrating residency, making it difficult to ensure universal enrollment and attendance. There was concern that the families who have difficulty in meeting the proof of residency requirements are often victims of domestic violence, immigrants, low wage workers, or the homeless. In the past, school districts were allowed to accept any reasonable evidence of residence but no particular list of documents existed. This law eliminates some local control over what documents are sufficient to establish residency. Although districts may accept documents that are not on the list, they must accept documents that are on the list as reasonable evidence of residency.

SB 381 extends and amends Education Code section 48204, which allows parents to satisfy the residency requirements by being employed within the boundaries of a school district. The purpose of SB 381 is to continue to provide parents with an opportunity to participate in their children's education by allowing them to enroll their children in a school near their workplace. This allows parents to attend after-school and evening school events and to be an active member of the educational community.

In order to enroll a student under this exception to the residency requirements, parents must be "physically employed" within the district boundaries for at least ten (10) hours per week during the school week. This prevents parents who only work within a district on weekends from enrolling their children in the district based on employment. All other requirements related to this method of meeting residency requirements remain unchanged.

Although schools are not mandated to accept students under Education Code section 48204, they may not discriminate against students on the basis of race, ethnicity, sex, parental income, scholastic achievement, or any other arbitrary basis. Once residency is established under this provision, the district must allow the student to continue to be enrolled through grade 12 as long as the parent continues to be employed within district boundaries.

Although these laws will not go into effect until January 1, 2012, school districts should review their residency policies and revise them in accordance with AB 207 and SB 381. Residency policies should be consistent with the new statutory rules on acceptable documentation for establishing residency. Policies also should be consistent with the right of parents who work within district boundaries more than 10 hours per school week to apply to enroll their children in that district. If you have any questions about residency requirements or how to revise your residency policies to comply with the new laws, please call one of our six offices.

*F3 NewsFlash prepared by Christopher Fernandes and Becky Feil.
Chris is a partner in the F3 San Marcos office.
Becky is an associate in the F3 Sacramento office.*

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2565 Alluvial Avenue, Suite 192, Clovis, California 93611 Tel. 323.330.6803 Fax 559.326.2110
11801 Pierce Street, 2nd Floor, Riverside, California 92505 Tel: 951-710-3111 Fax: 760-304-6011
6300 Wilshire Blvd., Suite 1700, Los Angeles, California 90048 Tel. 323.330.6300 Fax 323.330.6311
70 Washington St., Suite 205, Oakland, California 94607 Tel. 510.550.8200 Fax 510.550.8211
520 Capitol Mall, Suite 400, Sacramento, California 95814 Tel. 916.443.0030 Fax 916.443.0030
1 Civic Center Dr., Suite 300, San Marcos, California 92069 Tel. 760.304.6000 Fax 760.304.6011

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