



Intradistrict Communication

DATE: February 6, 2018

TO: Principals and Administrative Assistants

FROM: Administrators of Schools 
Dr. Anthony Godfrey, Associate Superintendent of Schools 
Travis Hamblin, Consultant, Planning and Student Services

SUBJECT: Residency Determinations

Prior to enrolling in school, a student's custodial parent(s) or legal guardian(s) must provide evidence to establish residency. Recent updates to Utah law found in §53G-6-302 (enacted May 2017) clarifies how a student's district of residency is to be determined by schools.

Student residency eligibility is determined based on where the custodial parent(s) or legal guardian(s) resides **OR** where the student resides using the following criteria/guidelines:

1. The school district of residence of a student whose custodial parent(s) or legal guardian(s) resides within Utah is:
 - a. Where the custodial parent or legal guardian resides; **OR**
 - b. The school district where the student resides;
 - i. While under custody or supervision of a Utah state agency or approved placement service.
 - ii. While living with a responsible adult resident of the district; **IF**
 - iii. The student's physical, mental, moral, or emotional health will be best served by considering them a resident for school purposes.
2. A student whose custodial parent(s) or legal guardian(s) does not reside in Utah is considered to be a resident of the district in which the student lives **IF**:
 - a. The student resides with a responsible adult resident of the district (R277-621) and is designated as the student's legal guardian (durable power of attorney or guardianship); **OR**
 - b. The student lives with a responsible adult who is a resident of the district and is the child's noncustodial parent, grandparent, brother, sister, uncle, or aunt.
 - c. The student's presence in the district is **NOT** for the primary purpose of attending public schools.
 - d. The student's physical, mental, moral, or emotional health will be best served by considering them a resident for school purposes.
 - e. The student is prepared to abide by the laws and policies of the school and school district.

3. A student's custodial parent(s) or legal guardian(s) may request a determination that the student's district of residency is a district other than where they reside by filing a written request.

a. If the request is approved, the alternative district shall assume responsibility for providing educational services and shall enroll immediately. (R277-621)

Students whose primary purpose for residing in the district is to attend school do not meet the criteria listed above and are subject to §53G-6-401& §53G-6-402 (open enrollment/permits) and out of state tuition (if applicable). Additionally, if residency is determined using the students place of residence, exigent circumstances must exist that do not permit the situation to be appropriately addressed under §53G-6-402 (§53G-6-302).

When residency is determined using 1.a.ii-iii or 2.a-e above, (where the student resides) students:

- Are enrolled using legal guardianship or a durable power of attorney. A power of attorney does not confer legal guardianship.
- Are not enrolled using the McKinney-Vento Homeless Assistance Act and the custodial parent(s) or legal guardian(s) enrolling the student are responsible to pay any fee(s) that may be associated with registration and/or participation.

Effective 1/24/2018

53G-6-302 Child's school district of residence -- Determination -- Responsibility for providing educational services.

(1) As used in this section:

- (a) "Health care facility" means the same as that term is defined in Section 26-21-2.
- (b) "Human services program" means the same as that term is defined in Section 62A-2-101.

(2) The school district of residence of a minor child whose custodial parent or legal guardian resides within Utah is:

- (a) the school district in which the custodial parent or legal guardian resides; or
- (b) the school district in which the child resides:
 - (i) while in the custody or under the supervision of a Utah state agency;
 - (ii) while under the supervision of a private or public agency which is in compliance with Section 62A-4a-606 and is authorized to provide child placement services by the state;
 - (iii) while living with a responsible adult resident of the district, if a determination has been made in accordance with rules made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
 - (A) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;
 - (B) exigent circumstances exist that do not permit the case to be appropriately addressed under Section 53G-6-402; and
 - (C) considering the child to be a resident of the district under this Subsection (2)(b)(iii) does not violate any other law or rule of the State Board of Education;
 - (iv) while the child is receiving services from a health care facility or human services program, if a determination has been made in accordance with rules made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
 - (A) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;
 - (B) exigent circumstances exist that do not permit the case to be appropriately addressed under Section 53G-6-402; and
 - (C) considering the child to be a resident of the district under this Subsection (2)(b)(iv) does not violate any other law or rule of the State Board of Education; or
 - (v) if the child is married or has been determined to be an emancipated minor by a court of law or by a state administrative agency authorized to make that determination.

(3) A minor child whose custodial parent or legal guardian does not reside in the state is considered to be a resident of the district in which the child lives, unless that designation violates any other law or rule of the State Board of Education, if:

- (a) the child is married or an emancipated minor under Subsection (2)(b)(v);
- (b) the child lives with a resident of the district who is a responsible adult and whom the district agrees to designate as the child's legal guardian under Section 53G-6-303; or
- (c) if permissible under policies adopted by a local school board, it is established to the satisfaction of the local school board that:
 - (i) the child lives with a responsible adult who is a resident of the district and is the child's noncustodial parent, grandparent, brother, sister, uncle, or aunt;
 - (ii) the child's presence in the district is not for the primary purpose of attending the public schools;
 - (iii) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes; and

(iv) the child is prepared to abide by the rules and policies of the school and school district in which attendance is sought.

(4)

(a) If admission is sought under Subsection (2)(b)(iii), or (3)(c), then the district may require the person with whom the child lives to be designated as the child's custodian in a durable power of attorney, issued by the party who has legal custody of the child, granting the custodian full authority to take any appropriate action, including authorization for educational or medical services, in the interests of the child.

(b) Both the party granting and the party empowered by the power of attorney shall agree to:

(i) assume responsibility for any fees or other charges relating to the child's education in the district; and

(ii) if eligibility for fee waivers is claimed under Section 53G-7-504, provide the school district with all financial information requested by the district for purposes of determining eligibility for fee waivers.

(c) Notwithstanding Section 75-5-103, a power of attorney meeting the requirements of this section and accepted by the school district shall remain in force until the earliest of the following occurs:

(i) the child reaches the age of 18, marries, or becomes emancipated;

(ii) the expiration date stated in the document; or

(iii) the power of attorney is revoked or rendered inoperative by the grantor or grantee, or by order of a court of competent jurisdiction.

(5) A power of attorney does not confer legal guardianship.

(6) Each school district is responsible for providing educational services for all children of school age who are residents of the district.