

**POLICY**

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NONRESIDENTS

The board shall operate the schools of this district for the benefit of all children resident in the district and such others as may be admitted, pursuant to statute and policy of the board. The board reserves the right to verify the residency of any pupil and the validity of any affidavit of guardianship. Documentation required to prove eligibility to attend the schools of this district shall be in accord with policy 5111 Admission and the administrative code.

Future Residents

A child otherwise eligible for attendance whose parent/guardian has signed a contract to buy, build or rent a residence in this district shall be enrolled for a period not to exceed 30 days previous to the anticipated date of residency without tuition charges. If the child has not become a resident of the district by the end of the period of free attendance, tuition shall be required for the remainder of the time until residency is established.

Parents/guardians of children who are future residents shall be required to demonstrate proof of the anticipated residency. The board reserves the right to verify such claims, and to remove from school a nonresident pupil whose claim cannot be verified.

Former Residents

Regularly enrolled children whose parents/guardians have moved out of the school district during the final marking period shall be permitted to finish the school year without payment of tuition. Regularly enrolled children whose parents/guardians move from the district at any other time during the school year may remain enrolled for the remainder of the school year on payment of tuition prorated.

Children of Nonresident Staff Members

Children of nonresident employees of the board may be enrolled in the schools of this district on payment of tuition and in accordance with policy for other nonresident pupils.

NOTE: BECAUSE IT IS A TERM OR CONDITION OF EMPLOYMENT, ALLOWING NONRESIDENT STAFF MEMBERS TO SEND THEIR CHILDREN TO DISTRICT SCHOOLS FOR ANYTHING LESS THAN FULL TUITION SHOULD BE NEGOTIATED.

Foreign Exchange Students

The board may admit foreign exchange students into district schools in order to promote cultural awareness and understanding among students.

The board may accept exchange students on a J-1 visa who reside within the district as participants in group-sponsored exchange programs approved by the board. Tuition may be waived for students on a J-1 visa.

All potential organizations or individuals applying for admission shall forward the request to the chief school administrator by July 1, preceding the school year of attendance. Foreign exchange students shall comply with all immunization requirements for students of this district. The chief school administrator shall be responsible for determining the visa status and eligibility of foreign exchange students applying for admission.

NONRESIDENTS (continued)Homeless Pupils

The district will determine the educational placement of homeless students in each child's best interest and respond to appeals concerning them made by parents/guardians or other parties in accordance with New Jersey statutes and administrative code, as well as pertinent federal law. The district will designate a "homeless student liaison" to help the homeless student enroll in school, make sure that the homeless student is enrolled and attending school, and see that the district meets federal and state requirements for educating homeless students.

Other Nonresident Pupils

Other nonresident pupils may be admitted to this district on payment of tuition and availability of space.

The chief school administrator shall develop procedures for the enrollment of nonresident children that allow admission of such children only on the proper application of parent/guardian; verify claims of residency and submission of affidavits of guardianship; deny admission where the educational program maintained for the children of this district is inadequate to meet the needs of the applicant; do not exclude any child, otherwise eligible, on the basis of such child's race, color, creed, national origin, affectional or sexual orientation, atypical hereditary cellular or blood trait of any individual or ancestry; and make continued enrollment of any nonresident pupil contingent upon maintaining good standards of citizenship and discipline.

When a child must either relocate to or from this district because his/her parent/guardian is a member of the New Jersey National Guard or a member of the reserve component of the armed forces of the United States and has been ordered into active service, the child shall be eligible to attend the schools of this district without paying tuition. The district shall not be responsible for transporting the child.

The chief school administrator or his/her designee shall recommend to the board for its approval the admission of qualified applicants.

The board shall not be responsible for the transportation to or from school of any nonresident pupils, except as may be required by state or federal law.

The board shall annually determine tuition rates for nonresident pupils.

Date: January 9, 2018

Legal References: Use legal reference sheet.

Cross References: \*5111 Admission  
 \*5114 Suspension and expulsion  
 \*6151 Class size

Key Words

Nonresidents, Tuition Pupil, Affidavit Pupil, Homeless Pupil

**Legal References**

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NONRESIDENTS

**Other Reasons:**

This can be a topic of critical concern to the district. Students attending the district schools illegally can impact on many aspects of district operations.

N.J.A.C. 6A:17-1.1 et seq. outlines procedures to ensure that homeless children and students placed in state facilities receive a thorough and efficient education. Under federal regulations (42 U.S.C. § 11432) the local educational agency will designate a liaison for homeless children and youths (designated under paragraph (1)(J)(ii)). *Note: NJSBA can provide a description of the job duties of the designated person.*

N.J.A.C. 6A:22-2.1 directs boards of education to construe eligibility to attend district schools liberally to ensure student rights to a free public education.

The federal No Child Left Behind law has further requirements to prevent homeless students from being denied admission to district schools, stigmatized or segregated in any way from the general school population. (See file code 5111 Admission).

**Recommendation:**

A policy setting out any limitations on attendance by nonresident pupils. Cross reference to file code 5111 Admission.

If the district allows a grace period for attendance without payment of tuition for pupils entering and exiting the system, it should be addressed here. Admission of foreign exchange students may also be included here.

Because it is a term or condition of employment, allowing nonresident staff members to send their children to district schools for anything less than full tuition should be negotiated.

"Choice districts" as described in N.J.S.A. 18A:36B-1 et seq. should include assurances that they have complied with all requirements of code and statute.

<b>Legal References:</b>	<u>N.J.S.A. 18A:7F-45</u>	Definitions
	<u>N.J.S.A. 18A:11-1</u>	General mandatory powers and duties
	<u>N.J.S.A. 18A:36B-16 et seq.</u>	Interdistrict Public School Choice Program Act of 1999
	<u>N.J.S.A. 18A:38-1 et seq.</u>	Attendance at school free of charge
	<u>See particularly:</u>	
	<u>N.J.S.A. 18A:38-2, 38-3, 38-8,</u>	
	<u>38-9</u>	
	<u>N.J.S.A. 18A:46-20</u>	Receiving pupils from outside district; establishment of facilities
	<u>N.J.S.A. 18A:54-20</u>	Powers of board (county vocational schools)
	<u>N.J.A.C. 6A:12-1.3 et seq.</u>	Inter-district Public School Choice
	<u>N.J.A.C. 6A:17-1.1 et seq.</u>	Students at Risk of Not Receiving a Public Education

NONRESIDENTS (continued)

N.J.A.C. 6A:22	Student residency
<u>See particularly:</u>	
N.J.A.C. 6A:22-3	Eligibility to attend school
N.J.A.C. 6A:22-3.1	Students domiciled within the school district
N.J.A.C. 6A:23A-19.2	Method of determining the district of residence
N.J.A.C. 6A:23A-19.3	Address submission for determining the district of residence

Illegal Immigrant and Immigration Responsibility Act of 1997, 8 U.S.C. § 1101

Board of Education of the Borough of Englewood Cliffs v. Board of Education of the City of Englewood, 132 NJ 327; cert. denied, 510 U.S. 991 (1993); subsequent listing 333 N.J. Super. (App. Div. 2000)

No Child Left Behind Act of 2001, Pub. L. 107-110, 20 U.S.C.A. 6301 et seq.

J.A. v. Board of Education of South Orange/Maplewood, 318 N.J. Super. 512 (App. Div. 1999)

**Possible**

<b>Cross References:</b>	*5111	Admission
	*5114	Suspension and expulsion
	*6151	Class size

\*Indicates policy is included in the Critical Policy Reference Manual.

Notes on the terms "residence" and "domicile."

These terms are often used interchangeably in education law and regulations, for example "residency or domicile" (N.J.A.C.22-4.1(d)), sometimes with an intensifying adjective ("actual domicile or residence," same citation). The most important chapter of N.J. Administrative Code on the topic is entitled "Student residency" while the key section concerning "Eligibility to attend school" (Subchapter 3) is titled "Students domiciled within the school district" (N.J.A.C. 6A:22-3.1).

There is a legal adage that "a person can have many residences, but only one domicile." This distinction of "true, fixed, permanent domicile" versus "temporary residence" (in essence, a legal fiction) is sometimes mentioned but is not consistently maintained in the area of education. The words themselves do not (and inherently cannot) answer the fundamental question: Is a parent or student fraudulently claiming to live at an address in order to obtain tuition-free enrollment?

For additional insights into using the terms "domicile" and "residence" for determining whether a student can attend school in a district, read "Pupil Residency": Who is Eligible for a Free Public Education?" in N.J. School Leader (July-August 2002) by Donna Kaye, Esq.