

Residency Hearing

The hearing is held before a hearing officer appointed by the district. The school often has an attorney. The person enrolling the child **must provide evidence** to prove the child is a resident. Testimony of the parent or caretaker alone will not usually be enough. The person enrolling the child has a right to bring a lawyer, to present evidence, and to call witnesses. Free and low cost legal service may be available (see back of this brochure) but the school will not be providing that to you.

1. Before the hearing, ask for a written statement from the school describing the specific reason(s) it believes the child is not a resident.

2. Bring witnesses who can show that the school's reasons are wrong and who actually know where the parent/ caretaker and the child live. People who have seen the child living in the home are key witnesses. For example, neighbors who have seen the child and parent/caretaker at the address frequently, parents of the child's friends who have been at the home, babysitters, even a landlord. If a person cannot be present at the hearing bring a written statement from them, hopefully an affidavit describing when, where, and how they know the child lives at the address.

3. Bring utility bills, driver's license, other forms of IDs, a lease, voters registration, car registration, a picture of the mailbox with your name, etc.

4. If you are a non-relative and must show that you care for the child, bring witnesses who can testify that you do so and papers that show you pay medical bills or school fees or have purchased clothing, toys, etc. for the child.

If you or the child you are enrolling live doubled up in another's home because of "hardship" the rules of residency may not apply because the child may be "homeless." Schools cannot force homeless students into residency hearings but, rather, must instead stop the residency hearing and follow the friendlier process for "dispute resolution."

In the dispute process, the school must refer the family to free or low cost legal assistance. See: Going to School.: A Guide to the Educational Rights of Children and Youth experiencing homelessness.

After the residency hearing, the hearing officer will issue a report of the findings. The person enrolling the child may file objections to these findings. When the findings and their objections are filed, the board will make a final decision. Any decision can be appealed to the Circuit Court for review.

Resources

The Law Project of the Chicago
Coalition for the Homeless,
1-800-940-1119
www.chicagohomeless.org

The Opening Doors Project,
1-847-803-3535
www.homelessed.net

Illinois State Board of Education,
1-800-215-6379
www.isbe.net

Illinois Legal Aid Online,
www.illinoislegalaid.org



Enrolling in School: A Guide to Residency in Illinois Public Schools



The Law Project of the
Chicago Coalition for the
Homeless

1-800-940-1119
www.chicagohomeless.org

Residency

Illinois schools are required to enroll any child of school age who is a “resident” of that school district. The student’s “residency,” generally, is that of the parent or other qualified adult with whom the child lives. In certain circumstances, children who are not residents may also enroll in the district’s schools, for example, students experiencing homelessness. See our brochure, *Going to School: A Guide to the Educational Rights of Children and Youth Experiencing Homelessness*.

Under Illinois law, there are some basic rules about school and residency. A residence is the place where a person is actually living and intends it as his or her home. A person cannot have more than one residence at a time. There is no requirement of a set number of days, weeks, or months that one must live in a school district to establish residency or permanent residency. **Any Illinois child has the right to finish the entire school year in the school he or she lawfully entered, regardless of whether the child later moves to another district.** Contrary to what some school districts say, there is no “24/7” requirement: a child does not have to stay at the same address every minute or day of the week and eat all their meals at that location in order to be a resident. Many children stay with grandparents on a weekend or have visitation with a non-custodial parent. To establish residency a person must physically live at a location and intend to make that location his or her home, however long or short that is. No child can validly enroll in school if she or he lives within that school district solely for the purpose of getting into that school.

Where is a student’s residency?

Generally, a child’s residence is where his or her parents reside. Residency is determined differently for special education students. If a child lives with only one parent or does not live with a natural or adoptive parent, then the residency of the person who has “legal custody” is the child’s residence.

“Legal custody” can include:

- Custody granted by court order to a person the student lives with
- Custody exercised by an adult care taker relative receiving public aid for the student and the student lives with that relative for purposes other than to access the school district
- Custody exercised by an adult who shows that he or she has taken legal responsibility for the student and provides the student with a regular, fixed, nighttime abode other than to access the school district. An Illinois State Board of Education affidavit will suffice as proof.
http://www.isbe.net/accountability/pdf/85-51_affidavit.pdf;
http://www.isbe.net/accountability/pdf/85-51_affidavit-S.pdf(Spanish)
- There is no requirement that an adult *must* get a court order of guardianship to enroll a child in school. If a child does not live with a parent or is living “doubled-up” with another family he or she may have rights under the homeless education laws.

Tips to Prove Residency

Schools often determine residency based on documents that show both your name and your address in the district. A utility bill, drivers license, voter registration card, state I.D., lease or mortgage are some examples. **Schools cannot require any one specific document.** Anything that tends to show you reside in the district can be used. Undocumented children have a right to attend school and schools cannot require documentation only available to those with social security numbers.

- Make sure records are current and are registered **only** at the place you actually live. Schools hire investigators who will locate any documents that give a different address (like a car registration).

- When you move officially immediately change your drivers’ license, state ID, bank account and other forms of ID to the current address.
- Change your mailing address and voter’s registration to your current address as soon as possible.
- Keep records to show *when* you moved in and when you moved out.
- Keep copies of records from your previous address to verify the time period you lived there. For example, utility bills, rent checks, personal mail, etc.
- Let people know you are living at an address. For example, meet and talk to neighbors. School investigators may check with these people.
- Keep the school updated when you change addresses. School stability is important for a child’s success. If a child moves out of the school district after the school year begins, he or she has a right to finish the school year at that same school.

If The School Doesn’t Believe You

If a school refuses to enroll your child claiming you lack legal residency in the district, contact one of the resources on the back of this brochure for assistance.

After a child is enrolled, a school must follow a certain process to remove a student from school because it believes the student is not a resident. It cannot simply tell the child to leave or “disenroll” them. First, the district’s board must determine that a child is not a resident. Then it must send a certified letter stating that to the person who enrolled the child. The person who enrolled the child, usually the parent, has a right to request a hearing and to request that the school keep the child enrolled until the matter is decided. The request for a hearing and to keep the child enrolled should be made in writing by certified mail within 10 days of the school’s notice. A residency hearing should then be quickly scheduled.