

# Enrollment of Students

## 24 P.S. §13-1301 – §13-1306

**DATE OF ISSUE:** January 22, 2009 (revised – formerly BEC 24 P.S. §13-1301 and BEC 24 P.S. §13-1302, issued July 1, 2002)

### **PURPOSE**

This BEC provides guidance regarding public school enrollment procedures for resident and non-resident children. It replaces the following BECs: *Enrollment of Students, 24 P.S. 13-1301* and *Education of Children Residing with an Adult Other than the Natural Parent, 24 P.S. 13-1302* and reflects current requirements of the Pennsylvania Public School Code and [22 Pa. Code, Chapter 11](#). These public school enrollment procedures, consistent with law, exist to ensure that public schools promptly enroll students who are residents or who are eligible non-residents.

### **ENTITLEMENT TO EDUCATION**

Every child of school age who is a resident of a Pennsylvania school district is entitled to a public school education. This entitlement and the requirements to secure enrollment discussed throughout this BEC apply equally to resident students residing with their parent(s); to non-resident students living with a district resident who is supporting the child gratis and seeking enrollment under 24 P.S. §13-1302; to nonresident students living in a facility or institution; and to nonresident students living in a foster home. Provided that the required enrollment documentation described herein is provided, the school district or charter school must enroll non-resident children and permit them to attend school. A child should be permitted to attend school on the next school day after the day on which the child is presented for enrollment, and in all cases within five (5) business days of the school district's receipt of the required documentation. [22 Pa. Code §11.11\(b\)](#).

### **REQUIRED ENROLLMENT DOCUMENTATION**

Except when a child is homeless, whenever a child of school age is presented for enrollment by a parent(s), school district resident, or any other person having charge or care of the child, the school district or charter school shall require that the following information be documented before enrolling the child and allowing the child to attend school:

**1. Proof of the child's age**

Any one of the following constitutes acceptable documentation: birth certificate; notarized copy of birth certificate; baptismal certificate; copy of the record of baptism – notarized or duly certified and showing the date of birth; notarized statement from the parents or another relative indicating the date of birth; a valid passport; a prior school record indicating the date of birth.

**2. Immunizations required by law**

Acceptable documentation includes: either the child's immunization record, a written statement from the former school district or from a medical office that the required immunizations have been administered, or that a required series is in progress, or verbal assurances from the former school district or a medical office that the required immunizations have been completed, with records to follow.

**3. Proof of residency**

Acceptable documentation includes: a deed, a lease, current utility bill, current credit card bill, property tax bill, vehicle registration, driver's license, DOT identification card. A district may require that more than one form of residency confirmation be provided. However, school districts and charter schools should be flexible in verifying residency, and should consider what information is reasonable in light of the family's situation. See the paragraph on Homeless Students for guidance in that situation.

**4. Parent Registration Statement**

A sworn statement (See [Attachment A \(word\)](#)) attesting to whether the student has been or is suspended or expelled for offenses involving drugs, alcohol, weapons, infliction of injury or violence on school property must be provided for a student to be admitted to any school entity. 24 P.S. §13-1304-A. A school district may not deny or delay a child's school enrollment based on the information contained in a disciplinary record or sworn statement. However, if a student is currently expelled for a weapons offense, the school district can provide the student with alternative education services during the period of expulsion. 24 P.S. § 13-1317.2(e.1) If the disciplinary record or sworn statement indicates the student has been expelled from a school

district in which he was previously enrolled, for reasons other than a weapons offense, it is recommended the school district review the student's prior performance and school record to determine the services and supports to be provided upon enrollment in the district.

#### 5. Home Language Survey

All students seeking first time enrollment in a school shall be given a home language survey in according with requirements of the U.S. Department of Education's Office for Civil Rights. Enrollment of the student may not be delayed in order to administer the Home Language Survey. A copy of the [Home Language Survey](#) is provided at this website.

### DOCUMENTS WHICH MAY BE REQUESTED BUT NOT AS A CONDITION OF ENROLLMENT

#### Items which may be requested

School districts and charter schools often seek to obtain information from families in addition to the four mandatory items discussed above. Although they may ask for any of this information, they may not require it as a condition of enrolling or admitting a child and they may not delay a child's enrollment or attendance until these documents are provided. Among the documents that a school district or charter school *may request* are: picture identification, health or physical examination records, academic records, attendance records, Individualized Education Program, and other special education records. In addition, a school district may not require that a physical examination be conducted as a condition of enrollment.

#### Registration Form

Some school districts have registration forms which they ask families to complete when enrolling a child. These registration forms for student enrollment *may include* the following: name, address, telephone number, name of parent(s) or guardian(s) or resident adult(s) with whom the student is living, emergency contact information, former school information, and other locally required information. Whether to use such a form is within the discretion of each school district or charter school but failure to complete the form cannot be made a condition of the student's enrollment.

### DOCUMENTATION REQUIRED FROM OTHER SOURCES

A school district or charter school is also entitled by law to receive information on an enrolling student from the previous school, public, charter, nonpublic or private, which the student attended. However, the provision of this information rests with the educational entity and not the family, and so, the receiving school district *may not require this information as a precondition to enrollment and may not delay a student's admission for lack of this information.*

#### Student Education Records

Upon enrollment, the school district or charter school is to contact the student's former school for a copy of the student's education records. The former school district or charter school, if within this Commonwealth, is required to respond by forwarding the records within 10 business days of the date upon which a student's records are requested by another Commonwealth school district or charter school. School districts shall enroll students within 5 business days regardless of receipt of records from the previous districts. [22 Pa. Code §11.11\(b\)](#).

#### Disciplinary Records

Whenever a pupil transfers to another Pennsylvania school entity or nonpublic school, a certified copy of the student's disciplinary record shall be transmitted to the school entity or nonpublic school to which the pupil has transferred. The school entity or nonpublic school to which the student has transferred should request the record. The sending school entity or nonpublic school shall have 10 days from receipt of the request to supply a certified copy of the student's disciplinary record. Failure to receive the student's discipline record cannot be used to deny or delay the student's enrollment or school attendance. A school district may not deny or delay a child's school enrollment based on the information contained in a disciplinary record or sworn statement. However, if a student is currently expelled for a weapons offense, the school district can provide the student with alternative education services during the period of expulsion. 24 P.S. § 13-1317.2(e.1) If the disciplinary record or sworn statement indicates the student has been expelled from a school district in which he was previously enrolled, for reasons other than a weapons offense, it is recommended the school district review the student's prior performance and school record to determine the services and supports to be provided upon enrollment in the district.

## PROHIBITED REQUESTS

### Items which may not be requested

For both enrollment and also for residency determinations, a school district or charter school *may not request or require any of the following*: a social security number; the reason for a child's placement if not living with natural parents; a child's or parent's visa; agency records; or, except in the limited circumstances described in the next section, a court order or records relating to a dependency proceeding. *A child's right to be admitted to school may not be conditioned on the child's immigration status.* A school may not inquire regarding the immigration status of a student as part of the admissions process. *Plyler v. DOE*, a U.S. Supreme Court decision, held that it is unconstitutional to deny free public education to children who are not legally admitted into the United States.

## STUDENT CLASSIFICATIONS FOR EDUCATION ENTITLEMENT

### Resident Students and Court Orders or Custody Agreements- 24 P.S. §13-1301, 13-1302

Every school age child is entitled to attend the public schools of the child's district of residence, which is the school district where the child's parent(s) or legal guardian resides.

When parents reside in different school districts due to separation, divorce, or other reason, the child may attend school in the district of the parent with whom the child lives for a majority of the time, unless a court order or court-approved custody agreement specifies otherwise. If the parents have joint custody and the child's time is evenly divided between the parents, the parents may choose which of the two school districts the child will attend for the school year. If the parent enrolling the child is relying on a court order or custody agreement as the basis for enrolling the child, then the school district or charter school may require that the parent provide a copy of the order or agreement.

As stated below, a school district may also require a resident to provide a custody or dependency order when the resident is seeking to enroll the child under 24 P.S. §1302(a)(1) which requires "appropriate legal documentation to show dependency or guardianship." A school district or charter school *may not*, however, require a custody order or agreement as a condition of enrollment in any circumstances other than the two circumstances specified above.

### Students Living With a Resident Adult other than a Parent - 24 P.S. § 13-1302

When a child is living with a district resident, who is supporting the child without personal compensation, (gratis) the child may attend the public schools of that resident's school district, provided that resident makes application and supplies the required enrollment information noted in the section entitled Required Enrollment Documentation. In addition, before accepting the child as a student, the district shall require the resident to file **only one** of the following:

1. **A sworn and notarized statement** from the resident of the school district consistent with the requirements of 24 P.S. §13-1302(a)(2), indicating that the signer is a resident of the school district, is supporting the child without receiving personal compensation, that the child is living with the resident continuously and not just for the school year, and that the resident will accept all responsibilities relating to the child's schooling (See [Attachment B](#) (word) for a model statement), or
2. **Appropriate legal documentation to show dependency or guardianship**, which may include a custody order.

The school district may, pursuant to the attached guidelines (See [Attachment C](#) (word)), require other information to be submitted by the resident to substantiate the sworn statement. *The natural parent(s) or former guardian(s) of the student may not be required to provide information.* Once the requested information is provided, the school district must enroll the child and permit him or her to begin to attend school without delay, but in no case more than 5 days.

A resident's receipt of payments, such as Supplemental Security Income (SSI), Transitional Assistance for Needy Families (TANF), pre-adoptive or adoptive support, maintenance on public or private health insurance, support from the military or military personnel or other payments for or on account of the child such as child support, shall not be deemed to be personal compensation or gain.

## **Foster Students - 24 P.S. §13-1305**

Nonresident children placed in foster care must be educated in accordance with 24 P.S. §13-1305(a), which provides that a nonresident child in paid foster care is "entitled to all free school privileges accorded to resident children of the district. . . in the same manner as though such child were in fact a resident child of the district." The provision that permitted school districts to refuse to accommodate foster students has been held to be unconstitutional. In addition, nonresident exceptional school-aged persons should be afforded the same rights to an appropriate program of special education as are resident exceptional school-aged persons per 24 P.S. §13-1371 et seq. and [22 Pa. Code Chapter 14](#) and [22 Pa. Code Chapter 16](#). A school district may request verification that the child is residing with a foster parent or is in a pre-adoptive or adoptive home in the form of a letter from the appropriate agency, but the district cannot require a court order or agency records.

Children placed into foster care often move from one foster home to another and such moves may involve school changes as well. In order to minimize the impact of change upon these children, school districts are strongly encouraged to develop policies or agreements to enable a student who is in foster care to remain in the educational program in the same school or school district even if that student is moved to a residence in another school attendance area within the district or in another school district.

## **Students Living in Institutions - 24 PS §13-1306**

School districts in which children's institutions, including detention homes, drug and alcohol treatment centers and other similar facilities are located (referred to as host school districts) are required to provide an education and, when appropriate, special education to nonresident students of the host district who are placed into the institution. This includes the right to attend the school district's public schools if appropriate for the child. Enrollment of these students follows the same requirements as resident students of the school district. See [BEC 24 P.S. §13-1306 Nonresident Students in Institutions](#).

## **Emancipated Minors**

An emancipated minor is a student under the age of 21 who has established a domicile apart from the continued control and support of parents or guardians or who is living with a spouse. The school district in which this student is living is his or her resident school district and the student may enroll without any additional assistance from an adult.

## **Homeless Students**

Educational agencies shall ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youth. Homeless students may reside in shelters, hotels, motels, cars, tents or be temporarily doubled-up with a resident family because of lack of housing. In the case of homeless students, traditional concepts of "residence" and "domicile" do not apply. Homeless children and youth lack a fixed, regular, and adequate nighttime residence. Included within the definition of homeless children and youth are those who are "awaiting foster care placement" and "unaccompanied homeless youth."

*Unaccompanied homeless youth* may enroll without documents and without the help of an adult.

Unaccompanied homeless youth includes any child who is "not in the physical custody of a parent or guardian." Falling within this definition are students who have run away from home, been thrown out of their home, or been abandoned or separated from their parents or guardians.

*Youth awaiting foster care placement* include those who are placed in emergency, interim or respite foster care; kinship care; evaluation or diagnostic centers or placements for the sole purpose of evaluation.

When necessary, local school officials should consult with their county children and youth agencies to determine if a child meets the definition of "awaiting foster care placement", including, on a case-by-case basis, whether a child who does not clearly fall into one of these categories is nevertheless a child "awaiting foster care placement."

Homeless youth are entitled to immediate enrollments and their families are not required to prove residency regarding school enrollment. These students should be enrolled without delay, in the district where they are presently residing, or continue their education in the district of prior attendance. See the McKinney-Vento Act, 42 U.S.C. §11431 et seq. and the [BEC 42 U.S.C. §11431 et seq. Education for Homeless Youth](#) for more details.

## **Pre-Adoptive and Adoptive Students**

The Federal Adoption Assistance Program, among other things, provides for adoption assistance payments to encourage the placement of certain hard-to-place children with adoptive parents, 42 U.S.C. §673. Pennsylvania has adopted companion legislation, known as the Adoption Opportunities Act. See 62 P.S. §771 *et seq.* Children living with pre-adoptive parents who are receiving adoption assistance subsidies, pre-adoptive foster payments, or other payments such as Supplemental Security Income (SSI) or Transitional Assistance for Needy Families (TANF), are entitled to attend school in the school district in which the pre-adoptive parents reside. Notwithstanding receipt of any of the above payments, children living in pre-adoptive situations are considered residents of the school district in which their pre-adoptive parents reside under 24 P.S. §13-1302. Children living with adoptive parents are entitled to all free school privileges accorded to resident school children of the district under 24 P.S. §13-1302.

## **Re-enrollment of Students Returning from Delinquency Placements**

When a student returns to a school district from a delinquency placement, the school district cannot automatically place a child in an alternative education program for disruptive youth merely because the child had been adjudicated delinquent. Like any other student being transferred to an alternative school, students returning from delinquency placement are entitled to an informal hearing prior to being placed in an alternative education program. The purpose of the hearing is to determine whether the student is currently fit to return to the regular classroom or meets the definition of a disruptive student. Factors a school should consider include: whether the incident causing the adjudication occurred at school or at a school-sponsored event, the child's behavior in placement, and the recommendations of teachers and other adults (such as juvenile probation officers) who have worked with the youth.

## **School-Age Children of Military Personnel**

When Pennsylvania residents who are military personnel are deployed and their school age children are living with relatives or family friends in a school district for that period of time, the students are entitled to attend school in the school district in which they are residing. These students should be enrolled using the §1302 statement/affidavit process, except that the resident is to be presumed to be supporting the child without personal compensation or gain (*gratis*).

## **OTHER ISSUES RELATED TO ENROLLMENT**

### **Address Confidentiality Program ( ACP )**

Some families may enroll a student using an ACP card which lists a post office box as their address. This is their legal address and school districts shall not require additional information about their residence. School records from the student's former school will be forwarded through the ACP . If there are questions about the family's eligibility for enrollment, contact the ACP at 1-800-563-6399.

### **Age**

Children are considered school age from the time they are admitted to the public school educational program until graduation from high school or the age of 21. The local school board has the right and responsibility to establish the age at which a child can begin the kindergarten program. Once the age requirement is established, districts cannot refuse admission to a child who meets the age requirement. See [BEC 24 P.S. §05-503 Admission to Kindergarten](#). During the time a child is of school age, the child or student is entitled to attend the public schools of the resident school district or a charter school, or to attend other school districts as an eligible nonresident. Students who turn 21 during the school term are entitled to finish that school term. If a student is under age 21 and has a Graduation Equivalency Diploma ("GED"), the student can enroll in school and work towards a diploma. For subsidy purposes, students who reach age 21 after the school term begins are eligible to be counted for the entire school term. The Department will accept requests to allow students to be counted in membership for subsidy purposes for an extended school program beyond age 21 if the request includes a hearing officer decision or court order.

### **Children and Families with Limited English Proficiency**

Children and families with limited English proficiency must be provided translation and interpretation services to the extent needed to help the family understand the enrollment process and enroll the student in school promptly per the Civil Rights Act of 1964, Title VI, 42 U.S.C. § 2000d *et seq.* and the Equal Education Opportunity Act, 20 U.S.C. § 1703.

### **Twins and Multiple Siblings 24 P.S. § 1310.1**

Twins or higher order multiple siblings are to be enrolled in the same manner as all other students. The School Code provides for parental discretion in the classroom placement of twins or higher order multiples. A parent or guardian of twins or higher order multiples who attend the same grade level at the same school may request that the children be placed in the same classroom or separate classrooms. The parent or guardian must make the request no later than ten days after the beginning of the school year or ten days after the first day of the student's attendance, if the students are enrolled after the school year commences. The school district may recommend classroom placement to the parents and provide professional education advice to the parents to assist them in making the best decisions for their children's education. The school district shall provide the classroom placement requested, unless, after consultation with the school district superintendent or designee, the principal determines that alternative placement is necessary. The law affords the parents the opportunity to appeal that denial. A school district is not required to place twins or higher order multiples in separate classrooms if the request would require the school district to add an additional class to the grade level of the siblings.

### **SUBMITTING ENROLLMENT COMPLAINTS TO THE DEPARTMENT OF EDUCATION**

When a dispute arises regarding enrollment of a student, the person attempting to enroll the child or the school district may bring the dispute to the attention of the Department's School Services Unit. A complaint may be filed by mail, email or by phone with written follow up. After receipt of a complaint, a Department representative will contact the school district, family or other involved parties to determine the facts, whether the child is entitled to enrollment in the district and to try to resolve the problem. These contacts, whenever possible, will occur within five (5) days of receipt of the complaint. If the complaint is not amicably resolved, a written determination will be made and sent to the school district and the individual who filed the complaint. If the school district does not enroll the student within five (5) school days after receiving the written determination, the Department will issue a letter to the school district requesting its position on the situation. The school district will have five (5) school days to respond to the request. If the school district refuses to enroll the student or does not respond, the matter will be forwarded to the Department's Office of Chief Counsel (OCC). The OCC and the Deputy Secretary for Elementary/Secondary Education will determine if the school district's response is valid to deny enrollment. If not, the Deputy Secretary will determine what additional measures may be necessary to assure enrollment.

### **WRITTEN POLICIES**

Each school district and charter school must adopt a written policy on student admission; which policy shall be a public record. 22 Pa Code §11.41. The Department recommends that school district and charter school admission policies and procedures be posted on the entity's website.