

CUPERTINO UNION SCHOOL DISTRICT

Administrative Regulation

District Residency

AR 5111.1

Students

Criteria for Residency

A student shall be deemed to have complied with district residency requirements for enrollment in a district school if he/she meets any of the following criteria:

1. The student's parent/guardian resides within district boundaries. (Education Code 48200)
2. The student is placed within district boundaries in a regularly established licensed children's institution, a licensed foster home, or a family home pursuant to a court-ordered commitment or placement. (Education Code 48204)
3. The student has been admitted through an interdistrict attendance option. (Education Code 48204, 48356)

(cf. 5117 - Interdistrict Attendance)

(cf. 5118 - Open Enrollment Act Transfers)

4. The student is an emancipated minor residing within district boundaries. (Education Code 48204)
5. The student lives with a caregiving adult within district boundaries. (Education Code 48204)
6. The student resides in a state hospital located within district boundaries. (Education Code 48204)
7. The student is confined to a hospital or other residential health facility within district boundaries for treatment of a temporary disability. (Education Code 48207)

(cf. 6183 - Home and Hospital Instruction)

The Superintendent or designee shall annually notify parents/guardians of all existing attendance options available in the district, including, but not limited to, all options for meeting residency requirements for school attendance. (Education Code 48980)

(cf. 5145.6 - Parental Notifications)

Proof of Residency

The Superintendent or designee shall annually verify each student's district residency status and retain a copy of the document or written statement offered as verification in the student's mandatory permanent record. (5 CCR 432)

(cf. 5111 - Admission)

(cf. 5125 - Student Records)

Evidence of residency may be established by two forms of documentation, one from Group A and one from Group B, showing the name and address of the parent/guardian within the district. Before submitting documentation, the parent/guardian should be encouraged to cross out all confidential information which is not necessary to determine residency (i.e. dollar amounts, account numbers, and social security numbers).

Group A Documentation

1. Current Original Property Tax Bill or Payment Receipt.
2. Current Original Rental/Lease Agreement. The agreement must be fully executed and show the following information: parent/guardian name(s); manager or owner name & telephone number; and verification of occupancy for current school year.

Group B Documentation

1. Original Pacific Gas & Electric (PG&E) Statement (issued within the last 45 days).
2. Payroll Stub (issued within the last 45 days).
3. Voter Registration.
4. Correspondence from a Government Agency (dated within the last 60 days).
5. California Driver's License or California Identification Card.
6. Current Automobile Insurance Policy or Declarations or Current Homeowner's or Renter's Insurance Policy or Declarations (not a bill/statement).

If none of these documents are available, a declaration (statement under oath) by the parent/guardian indicating an address within the school's attendance area is acceptable.

If the student is an unaccompanied youth as defined in 42 USC 11434a, a declaration of residency executed by the student is acceptable.

If the student is residing in the home of a caregiving adult within district boundaries, an affidavit executed by the caregiving adult in accordance with Family Code 6552 is acceptable.

(cf. 5141 - Health Care and Emergencies)

If the student is a homeless or foster youth, the Superintendent or designee shall make a reasonable effort to secure evidence that a homeless or foster youth resides within the district, including, but not limited to, a utility bill, letter from a homeless shelter, hotel/motel receipt, or affidavit from the student's parent/guardian or other qualified adult relative.

However, a homeless or foster youth shall not be required to provide proof of residency as a condition of enrollment in district schools. (Education Code 48853.5; 42 USC 11432)

(cf. 6173 - Education for Homeless Children)
(cf. 6173.1 - Education for Foster Youth)

Failure to Verify Residency

When the Superintendent or designee reasonably believes that a student's parent/guardian has provided false or unreliable evidence of residency, he/she may make reasonable efforts to determine that the student meets district residency requirements. (Education Code 48204.1)

If the Superintendent or designee, upon investigation, determines that a student's enrollment or attempted enrollment is based on false or unreliable evidence of residency, he/she shall deny or revoke the student's enrollment. Before any such denial or revocation is final, the parent/guardian shall be sent written notice of the facts leading to the decision. This notice also shall inform the parent/guardian that he/she may provide new material evidence of residency, in writing, to the Superintendent or designee within 10 school days. The Superintendent or designee shall review any new evidence and make a final decision within 10 school days.

Safe at Home/Confidential Address Program

When a student or parent/guardian participating in the Safe at Home program requests that the district use the substitute address designated by the Secretary of State, the Superintendent or designee shall use the substitute address for all future communications and correspondence and shall not include the actual address in the student's file or any other public record. The Superintendent or designee may request the actual residence address for the purpose of establishing residency within district boundaries. (Government Code 6206, 6207)

(cf. 3580 - District Records)

Change of Residence

Any change of address must be reported to the Student Assignment Office within ten (10) working days.

Legal Reference:
EDUCATION CODE

35351 Assignment of students to particular schools
46600-46611 Interdistrict attendance permits
48050-48054 Nonresidents
48200-48208 Compulsory education law
48356 Open Enrollment Act transfer, fulfillment of residency requirement
48853.5 Education of foster youth; immediate enrollment
48980 Notifications at beginning of term
52317 Regional occupational program, admission of persons including nonresidents
FAMILY CODE
6550-6552 Caregivers
GOVERNMENT CODE
6205-6210 Confidentiality of residence for victims of domestic violence
CODE OF REGULATIONS, TITLE 5
432 Varieties of student records
UNITED STATES CODE, TITLE 42
11431-11435 McKinney-Vento Homeless Assistance Act
COURT DECISIONS
Katz v. Los Gatos-Saratoga Joint Union High School District, (2004) 117 Cal.App.4th 47

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES

0303.95 Verification of residency, LO: 1-95

OFFICE FOR CIVIL RIGHTS, U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Dear Colleague Letter, May 6, 2011

WEB SITES

California Department of Education: <http://www.cde.ca.gov>

California Secretary of State, Safe at Home Program: <http://www.sos.ca.gov/safeathome>

Office for Civil Rights, U.S. Department of Education: <http://www2.ed.gov/about/offices/list/ocr>

February 1990

April 1993

January 1994

October 1996

December 1996

March 1997

February 2000

May 2003

August 2004

February 2005

October 2007

June 2008

Adopted: August 11, 2014

CUPERTINO UNION SCHOOL DISTRICT AR 5116.1
Administrative Regulation

STUDENTS

Intradistrict Open Enrollment

Intradistrict Open Enrollment

Except for transfers for victims of a violent crime and from a "persistently dangerous school" as set forth below, the following procedures shall apply to intradistrict open enrollment:

1. The Superintendent or designee shall identify those schools which may have space available for additional students. In addition, in order to balance enrollment across the district, the Superintendent or designee may identify those schools which are over-enrolled and designate them as Impacted. For each Impacted school, the Superintendent or designee shall also designate an Overflow School to establish enrollment priorities in accordance with Board Policy 5116.1. A list of those schools with space available and schools designated as Impacted and Overflow as well as open enrollment applications shall be available at each school site, the Cupertino Union School District Office, and on the CUSD web site. In addition, information regarding intradistrict open enrollment shall be sent home with each student one month prior to the registration period and advertised in local newspapers, libraries, day care providers and preschool programs as appropriate.
2. Requests for Intradistrict Transfer of general education students shall be submitted to and processed by the Student Assignment Office. Requests for Intradistrict Transfer of special education students shall be submitted to and processed by the Executive Director of Pupil Services.
3. New kindergarten students who wish to attend a school outside of their attendance area shall (1) register first at their attendance area school and receive a receipt of registration; and (2) submit a request for Intradistrict Transfer to their school of choice and attach their original registration receipt to the request.
4. After the enrollment priorities have been applied in accordance with Board Policy 5116.1, if there are more requests for a particular school than there are spaces available, a random drawing shall be held from the applicant pool. Each applicant shall be assigned a lottery number and students will be placed based on their lottery number. A waiting list shall be established to indicate the order in which applicants may be accepted if openings occur during the year. Late applicants shall not be added to the waiting list for the current year but shall instead wait for a subsequent open enrollment period.
5. The Superintendent or designee shall provide written notification to applicants as to whether their applications have been approved, denied, or placed on a waiting list. If the

application is denied, the reasons for denial shall be stated.

Approved applicants: if your request is approved, the student will give up/renounce his/her space in the CUSD school where he/she is currently registered, and the requested school will become his/her new home school.

Students placed on a wait list must confirm their enrollment within twenty-four (24) hours of being notified that a space is available. Once enrolled, a student shall not be required to reapply for readmission. Students who wish to transfer to another school, including the school in their original attendance area, must reapply for an intradistrict transfer to that school during an open enrollment period if the desired school is accepting requests.

Students attending a school other than his/her attendance area school (not including overflow students) who wish/need to return to his/her respective attendance area school, may request to return to the attendance area school during all open enrollment opportunities.

Attendance area students requesting to attend their respective school with an existing overflow waitlist will be placed on the waitlist according to the date of the request.

Open Enrollment Opportunities

Priority Open Enrollment Period: The District shall receive requests for an intradistrict transfer for the subsequent school year (Priority Open Enrollment Period) for ten school days before the February break. If the District receives more requests for a particular school than there are spaces available a waiting list will be established in accordance with the procedure described above. The waiting list shall be maintained through March 1 of the following calendar year. If a waiting list has been established for a school as a result of applications received during the Priority Open Enrollment Period, that school shall be considered impacted and may not accept applications for intradistrict transfer during subsequent open enrollment periods.

Summer Open Enrollment Period: The District shall receive requests for an intradistrict transfer during Summer Open Enrollment beginning on the first day of summer recess through the first ten business days of summer recess. Family notification and student placement for Summer Open Enrollment shall occur within the first 20 days of school. If the District receives more requests for a particular school than there are spaces available, a lottery will be conducted. (Sibling priority is not applicable during this Open Enrollment period.) The wait list for Summer Open Enrollment Period shall be maintained through the 20th day of school.

Fall Open Enrollment: The District shall receive requests for an intradistrict transfer during Fall Open Enrollment during the first 10 school days of October. Family notification shall occur prior to the first day of the second trimester. Student placement for Fall Open Enrollment shall occur by the first day of the second trimester. If the District receives more requests for a particular school than there are spaces available, a lottery will be conducted. (Sibling priority is not applicable during this Open Enrollment period.)

Winter Open Enrollment: The District shall receive requests for an intradistrict transfer during

Winter Open Enrollment beginning on the first day of the second trimester through the end of November. Family notification will occur during the first week of December, and student placement for Winter Open Enrollment shall occur on the first day of instruction after winter recess. If the District receives more requests for a particular school than there are spaces available, a lottery will be conducted. (Sibling priority is not applicable during this Open Enrollment period.)

Spring Open Enrollment: The District shall receive requests for an intradistrict transfer during Spring Open Enrollment beginning on the first day of school after winter break through the end of January. Family notification will occur during the first week of February and student placement for Spring Open Enrollment shall occur on the first day of instruction of the third trimester. If the District receives more requests for a particular school than there are spaces available, a lottery will be conducted. (Sibling priority is not applicable during this Open Enrollment period.)

Any complaints regarding the open enrollment process shall be submitted in accordance with the applicable complaint procedure.

(cf. 1312.3 - Uniform Complaint Procedures)

Notifications

Notifications shall be sent to parents/guardians at the beginning of each school year describing all current statutory attendance options and local attendance options available in the district. Such notification shall include: (Education Code 35160.5, 48980)

1. All options for meeting residency requirements for school attendance

(cf. 5111.1 - District Residency)

(cf. 5111.12 - Residency Based on Parent/Guardian Employment)

(cf. 5118 - Open Enrollment Act Transfers)

2. Program options offered within local attendance areas

3. A description of any special program options available on both an interdistrict and intradistrict basis

4. A description of the procedure for application for alternative attendance areas or programs and the appeals process available, if any, when a change of attendance is denied

5. A district application form for requesting a change of attendance

6. The explanation of attendance options under California law as provided by the CDE

(cf. 5145.6 - Parental Notifications)

Transfers for Victims of a Violent Criminal Offense

Within a reasonable amount of time, not to exceed 14 days, after it has been determined that a student has been the victim of a violent criminal offense while on school grounds, the student's parents/guardians shall be offered an option to transfer their child to an eligible school identified by the Superintendent or designee. In making the determination that a student has been a victim of a violent criminal offense, the Superintendent or designee shall consider the specific circumstances of the incident and consult with local law enforcement as appropriate. Examples of violent criminal offenses include, but are not limited to, attempted murder, battery with serious bodily injury, assault with a deadly weapon, rape, sexual battery, robbery, extortion, or hate crimes.

The Superintendent or designee shall consider the needs and preferences of the affected student and his/her parent/guardian in making the offer. If the parent/guardian elects to transfer his/her child, the transfer shall be completed as soon as practicable.

Transfers from a "Persistently Dangerous" School

Upon receipt of notification from the California Department of Education (CDE) that a district school has been designated as "persistently dangerous," the Superintendent or designee shall provide parents/guardians of students attending the school with the following notifications:

1. Within 10 days of receipt of the notification from CDE, notice of the school's designation
2. Within 20 days of receipt of the notification from CDE, notice of the option to transfer their child

(cf. 0450 - Comprehensive Safety Plan)

Parents/guardians who desire to transfer their child out of a "persistently dangerous" school shall provide a written request to the Superintendent or designee and shall rank-order their preferences from among all schools identified by the Superintendent or designee as eligible to receive transfer students. The Superintendent or designee may establish a reasonable timeline, not to exceed seven school days, for the submission of parent/guardian requests.

The Superintendent or designee shall consider the needs and preferences of students and parents/guardians before making an assignment, but is not obligated to accept the parent/guardian's preference if the assignment is not feasible due to space constraints or other considerations. For students whose parents/guardians accept the offer, the transfer shall generally be made within 30 school days of receiving the notice of the school's designation from the CDE. If parents/guardians decline the assigned school, the student may remain in his/her current school.

The transfer shall remain in effect as long as the student's school of origin is identified as "persistently dangerous." The Superintendent or designee may choose to make the transfer permanent based on the educational needs of the student, parent/guardian preferences, and other

factors affecting the student's ability to succeed if returned to the school of origin.

(cf. 5117 - Interdistrict Attendance)

Approved: August 11, 2014

Revised: June 9, 2015, November 16, 2015

CUPERTINO UNION SCHOOL DISTRICT AR 5117
Administrative Regulation

Interdistrict Attendance

Students

In accordance with an agreement between the Governing Board and the board of another district, a permit authorizing a student's attendance outside his/her district of residence may be issued upon approval of both the district of residence and the district of proposed attendance.

Interdistrict Attendance Permits

The Superintendent or designee shall consider and determine whether there are sufficient school facilities at the relevant grade level, school, or program of choice to accommodate neighborhood students before issuing an interdistrict attendance permit. In making this determination, the Superintendent or designee shall review enrollment trends and projections as well as any applicable waiting list for the school.

The Superintendent or designee may approve an interdistrict attendance permit for a student for any of the following reasons when stipulated in the agreement:

1. When the student has been determined by staff of either the district of residence or district of proposed attendance to be a victim of an act of bullying as defined in Education Code 48900(r). Such a student shall be given priority for interdistrict attendance under any existing interdistrict attendance agreement or, in the absence of an agreement, shall be given consideration for the creation of a new permit. (Education Code 46600).

(cf. 5131.2 - Bullying)

2. Children of parents who are employed in the Cupertino Union School District or the Fremont Union High School District (FUSD).
3. Children of parents who are employed 30 or more hours per week with the Fremont Union High School District (FUSD).
4. To meet the student's special mental or physical health needs as certified by a school psychologist, or other appropriate school personnel, of the district of residence and Cupertino Union School District.

(cf. 6159 - Individualized Education Program)

5. To allow the student to complete a school year when his/her parents/guardians have

moved out of the district on or after March 1 of the current school year.

6. To allow the student to remain with his/her class if the student is being promoted that school year from either elementary or middle school.
7. When the parent/guardian provides specific and written evidence that the family will be moving into the district on or before September 15 of the current school year to enable the student to start the year in the district.

Requests based upon convenience or personal preference will not be considered.

Approval Process for Interdistrict Attendance Permit

1. Before completing a Request for Interdistrict Attendance Permit with CUSD, the parent/guardian must obtain approval from the district of residence.
2. Parent/guardian must complete all sections of the Request for Interdistrict Attendance Permit, including the reasons for request, sign the Request and submit it to the Student Assignment Office. The district of residence's approval of interdistrict attendance shall be attached to the Request for Interdistrict Attendance Permit.
3. The Student Assignment Office will review the Request and advise the parent/guardian whether additional information or documentation is required to process the Request. Failure to provide the necessary information will result in the Request being denied.
4. The Superintendent or designee shall review each Request for Interdistrict Attendance Permit and supporting documentation to determine whether the request meets the criteria set forth above.
5. Students who are admitted on interdistrict attendance permits ("Interdistrict Students") shall be assigned a district school only after all in-district students have been assigned and the open enrollment lottery has been completed and wait lists have been established.
6. Requests for Interdistrict Attendance Permits submitted on or before May 30 for enrollment in the subsequent school year shall be assigned a registration number by lottery. In the event that the number of Interdistrict Students seeking entry into a particular school or program exceeds the available spaces, school assignment shall be determined in accordance with the following criteria in order of priority:
 - a. Siblings of students currently attending a district school and whose parent is employed by the district;
 - b. Siblings of students currently attending a district school and whose parent is employed by FUSD for 30 or more hours per week;
 - c. Children of district employees;

- d. Children of FUSD employees (provided the parent is employed for 30 or more hours per week); and
 - e. Lottery number.
7. The parent/guardian will be notified by mail of the final decision on the Request for Interdistrict Attendance Permit. If the Request for Interdistrict Attendance Permit is denied, notification shall include a description of the process for appeal to the County Board of Education as specified in Education Code 46601. While the district's decision is pending, the student must attend school in the district of residence.

Conditions of Interdistrict Attendance Permit

1. An Interdistrict Attendance Permit is valid only during the school year for which it is issued and only while the conditions stated in the request are maintained. Because an interdistrict attendance permit is valid for only one school year, and consistent with the terms of intradistrict attendance permits, students who are promoted from an elementary school on an interdistrict permit, must reapply for a permit to attend middle school within the district. Middle school assignments for returning interdistrict students shall be made after the Superintendent or his/her designee has determined whether there are sufficient school facilities at the relevant grade level, school, or program of choice to accommodate neighborhood students and after considering any applicable waiting list for the school.
2. An Interdistrict Attendance Permit may be revoked if, in the judgment of the district, the student's attendance, citizenship, or scholarship are unsatisfactory.
3. Falsification of any information on the Request for Interdistrict Attendance Permit is cause for immediate revocation of the permit and no further requests for interdistrict attendance will be considered.
4. Transportation is the responsibility of the parent/guardian.

Renewal of Interdistrict Attendance Permit

1. Interdistrict Students who wish to remain in the district for the following school year must submit their Request for Interdistrict Attendance Permit no later than June 30 each year.
2. Interdistrict Students must have satisfactory attendance, citizenship and scholarship to renew their interdistrict attendance permit.

Appeal Process

A parent/guardian may appeal the district's denial of a transfer application to the Superintendent by filing a written request of appeal with the Superintendent or designee within 10 working days

of the receipt of the written notification of denial. The Superintendent shall notify the parent/guardian of his/her decision on the appeal within 10 working days of receiving the appeal.

Parents/guardians may appeal the decision of the Superintendent to the County Board of Education within 30 days of receiving notice of the Superintendent's decision pursuant to Education Code section 46601. (Education Code 46601)

(cf. 5145.6 - Parental Notifications)

Students who are under consideration for expulsion or who have been expelled may not appeal interdistrict attendance denials or decisions while expulsion proceedings are pending or during the term of the expulsion. (Education Code 46601)

(cf. 5119 - Students Expelled from Other Districts)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 0410 - Nondiscrimination in District Programs and Activities)

February 1, 1990

Revised:

April 13, 1993

March 8, 1994

February 14, 1995

August 1, 1996

May 11, 1999

February 2, 2000

August 14, 2001

June 11, 2002

May 8, 2003

January 20, 2005

July 12, 2005

October 18, 2005

June 20, 2006

April 29, 2009

November 7, 2011

August 11, 2014

Approved: April 17, 2017

CUPERTINO UNION SCHOOL DISTRICT BP 5116.1
Board Policy

STUDENTS

Intradistrict Open Enrollment

The Governing Board desires to provide enrollment options that meet the diverse needs and interests of district students and parents/guardians, while also balancing enrollment in order to maximize the efficient use of district facilities. The Superintendent or designee shall establish procedures for the selection and transfer of students among district schools in accordance with law, Board policy, and administrative regulation.

(cf. 5117 - Interdistrict Attendance)

The parents/guardians of any student who resides within district boundaries may apply to enroll their child in any district school, regardless of the location of residence within the district. (Education Code 35160.5)

(cf. 5111.1 - District Residency)

The Board shall annually review this policy. (Education Code 35160.5, 48980)

Enrollment Priorities

No student currently residing within a school's attendance area shall be displaced by another student transferring from outside the attendance area. (Education Code 35160.5)

(cf. 5116 - School Attendance Boundaries)

The Superintendent or designee shall grant attendance priority to any district student and children of parents who are employed in the Cupertino Union School District (CUSD) or employed 30 or more hours per week in the Fremont Union High School District (FUHSD). Priority is granted to attend another district school, including a charter school, outside of his/her attendance area as follows:

1. Any student enrolled in a district school that has been identified on the state's Open Enrollment List. (Education Code 48354) *(cf. 5118 - Open Enrollment Act Transfers)*
2. Any student enrolled in a district school receiving Title I funds that have been identified for program improvement (PI), corrective action, or restructuring. (20 USC 6316) *(cf. 0420.4 - Charter Schools)* *(cf. 0520.2 - Title I Program Improvement Schools)* *(cf. 6171 - Title I Programs)*
3. Any student who is a victim of a violent crime while on school grounds. (20 USC 7912)
4. Upon a finding that special circumstances exist that might be harmful or dangerous to the student in the current attendance area. Special circumstances, include, but are not limited to, threats of bodily harm or threats to the emotional stability of the student. Any such student may transfer to a district school that is at capacity and otherwise closed to transfers. To grant priority under these circumstances, the Superintendent or designee must have received either: (Education Code 35160.5)
 - a. A written statement from a representative of an appropriate state or local agency, such as a law enforcement official, social worker, or a properly licensed or registered professional, such as a psychiatrist, psychologist, or marriage and family therapist; or

- b. A court order, including a temporary restraining order and injunction.
5. Any sibling of a student already in attendance in that school including the following:
 - a. Siblings of students enrolled in a neighborhood school that shares the campus with an alternative program will be granted sibling priority into the neighborhood school but not the alternative program.
 - b. Siblings of students enrolled in an alternative program will be granted sibling priority into the alternative program.
 - c. Siblings of students enrolled in an alternative program that shares the campus with a neighborhood school will be granted sibling priority into the neighborhood school.
 - d. Siblings of students who are in a special education program housed in a neighborhood school will be granted sibling priority into the neighborhood school but not an alternative program if housed at the neighborhood school site.
6. Any student residing in the attendance boundary of a district school which has been designated as "Impacted" who is seeking to transfer to a district school which has been designated as the Impacted school's "Overflow School."
7. Children of CUSD employees (provided the parent is employed for 30 or more hours per week).
8. Children of CUSD employees (provided the parent is employed up to 30 hours per week).
9. Children of FUHSD employees (provided that the parent is employed for 30 or more hours per week).

Application and Selection Process

In order to ensure that priorities for enrollment in district schools are implemented in accordance with law, applications for intradistrict open enrollment shall be submitted between from the middle of January through the middle of February as designated by the Superintendent each school year preceding the school year for which the transfer is requested.

The Superintendent or designee shall calculate each school's capacity in a nonarbitrary manner using student enrollment and available space. (Education Code 35160.5) In order to balance enrollment throughout the district, and based on the calculation of school capacity, the Superintendent or designee may designate one or more schools as "Impacted" and one or more schools as the Impacted school's "Overflow School." Students seeking to transfer from an Impacted school to the school's Overflow School shall receive priority over other applicants for intradistrict open enrollment as set forth above.

Except for priorities listed above, the Superintendent or designee shall use a random, unbiased selection process to determine who shall be admitted whenever the school receives admission requests that are in excess of the school's capacity. (Education Code 35160.5)

Enrollment decisions shall not be based on a student's academic or athletic performance, except that existing entrance criteria for specialized schools or programs may be used provided that the criteria are uniformly applied to all applicants. Academic performance may be used to determine eligibility for, or placement in, programs for gifted and talented students. (Education Code 35160.5)

(cf. 6172 - Gifted and Talented Student Program)

Legal Reference:

EDUCATION CODE 200

Prohibition against discrimination

35160.5 District policies; rules and regulations

35291 Rules

35351 Assignment of students to particular schools

46600-46611 Interdistrict attendance agreements

48200 Compulsory attendance 48204 Residency requirements for school attendance

48300-48316 Student attendance alternatives, school district of choice program

48350-48361 Open Enrollment Act

48980 Notice at beginning of term .

CODE OF REGULATIONS, TITLE 5

11992-11994 Definition of persistently dangerous schools

UNITED STATES CODE, TITLE 20

6316 Transfers from program improvement schools

7912 Transfers from persistently dangerous schools

CODE OF FEDERAL REGULATIONS, TITLE 34

200.36 Dissemination of information

200.37 Notice of program improvement status, option to transfer

200.39 Program improvement, transfer option

200.42 Corrective action, transfer option

200.43 Restructuring, transfer option

200.44 Public school choice, program improvement schools

200.48 Transportation funding for public school choice

COURT DECISIONS

Crawford v. Huntington Beach Union High School District, (2002) 98 Cal.App.4th 1275

ATTORNEY GENERAL OPINIONS

85 Ops.Cal.Atty.Gen. 95 (2002)

Management Resources:

U.S. DEPARTMENT OF EDUCATION NONREGULATORY GUIDANCE

Public School Choice, January 2009 Unsafe School Choice Option, May 2004

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education, Unsafe School Choice Option: <http://www.cde.ca.gov/ls/ss/se/usco.asp>

U.S. Department of Education, No Child Left Behind: <http://www.nclb.gov>

Adopted: February 24, 1987

Revised: April 13, 1993, March 8, 1994, February 9, 2010, January 11, 2011, August 19, 2014, March 8, 2016, October 11, 2016, March 28, 2017

CUPERTINO UNION SCHOOL DISTRICT BP 5117
Board Policy

STUDENTS

Interdistrict Attendance

The Governing Board believes that children should attend schools where they live, and supports the concept of neighborhood schools. However, the Governing Board recognizes that parents/guardians of students who reside in one district may, for a variety of reasons, choose to enroll their child in a school in another district.

(cf. 0520.3 - Title I Program Improvement Districts)
(cf. 5111.12 - Residency Based on Parent/Guardian Employment)
(cf. 5116.1 - Intradistrict Open Enrollment)
(cf. 5118 - Open Enrollment Act Transfers)

The Board may enter into an agreement with any other school district, for a term not to exceed five school years, for the interdistrict attendance of students who are residents of the districts. (Education Code 46600)

The agreement shall specify the terms and conditions under which interdistrict attendance shall be permitted or denied. It also may contain standards agreed to by both districts for reapplication and/or revocation of the student's permit. (Education Code 46600)

Upon receiving a permit for transfer into the district that has been approved by the student's district of residence, or upon receiving a written request from the parent/guardian of a district student who wishes to enroll in another district, the Superintendent or designee shall review the request and may approve or deny the permit subject to the terms and conditions of the interdistrict attendance agreement.

Limits on Student Transfers Out of the District to a School District of Choice

The Superintendent or designee may limit the number of student transfers out of the district to a school district of choice based on the percentages of average daily attendance specified in Education Code 48307.

In addition, transfers out of the district may be limited during a fiscal year when the County Superintendent of Schools has given the district a negative budget certification or when the County Superintendent has determined that the district will not meet the state's standards and criteria for fiscal stability in the subsequent fiscal year exclusively as a result of student transfers from this district to a school district of choice. (Education Code 48307)

(cf. 3100 - Budget)

(cf. 3460 - Financial Reports and Accountability)

A child of an active military duty parent/guardian shall not be prohibited from transferring out of the district to a school district of choice, if the other school district approves the application for transfer. (Education Code 48301)

(cf. 6173.2 - Education of Children of Military Families)

Legal Reference:

EDUCATION CODE

41020 Annual district audits

46600-46611 Interdistrict attendance agreements

48204 Residency requirements for school attendance

48300-48316 Student attendance alternatives, school district of choice program

48350-48361 Open Enrollment Act

48900 Grounds for suspension or expulsion; definition of bullying

48915 Expulsion; particular circumstances

48915.1 Expelled individuals: enrollment in another district

48918 Rules governing expulsion procedures

48980 Notice at beginning of term

52317 Regional occupational center/program, enrollment of students, interdistrict attendance

ATTORNEY GENERAL OPINIONS

87 Ops.Cal.Atty.Gen. 132 (2004)

84 Ops.Cal.Atty.Gen. 198 (2001)

COURT DECISIONS

Walnut Valley Unified School District v. the Superior Court of Los Angeles County, (2011) 192 Cal.App.4th 234

Crawford v. Huntington Beach Union High School District, (2002) 98 Cal.App.4th 1275

Management Resources:

CSBA PUBLICATIONS

Transfer Law Comparison, Fact Sheet, March 2011

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

Adopted: January 2011

Revised: August 19, 2014, March 8, 2016

CUPERTINO UNION SCHOOL DISTRICT BP 5111.1
Board Policy

STUDENTS

District Residency

The Governing Board desires to admit all students who reside within district boundaries or who fulfill the district residency requirements through other means as allowed by law. The Superintendent or designee shall develop procedures to facilitate the receipt and verification of students' proof of residency.

(cf. 5116 - School Attendance Boundaries)

The Superintendent or designee shall annually notify parents/guardians of all existing attendance options available in the district, including, but not limited to, all options for meeting residency requirements for school attendance. (Education Code 48980)

(cf. 5116.1 - Intradistrict Open Enrollment)

(cf. 5117 - Interdistrict Attendance)

(cf. 5145.6 - Parental Notifications)

The Superintendent or designee shall require parents/guardians to provide documentation of the student's residency upon admission to a district school. A copy of the document or written statement offered as verification of residency shall be maintained in the student's mandatory permanent record. (5 CCR 432)

(cf. 5111 - Admission)

(cf. 5125 - Student Records)

When establishing a student's residency for enrollment purposes, the Superintendent or designee shall not inquire into a student's citizenship or immigration status.

A student's enrollment may be denied when the submitted documentation is insufficient to establish district residency. In any such case, the Superintendent or designee shall notify the parent/guardian in writing, including specific reasons for the denial.

Investigation of Residency

When the Superintendent or designee reasonably believes that a student's parent/guardian has provided false or unreliable evidence of residency, he/she may make reasonable efforts to determine that the student meets district residency requirements. An investigation may be initiated when the Superintendent or designee is able to identify

specific, articulable facts supporting the belief that the parent/guardian has provided false or unreliable evidence of residency. (Education Code 48204.1, 48204.2)

The Superintendent or designee may assign a trained district employee to conduct the investigation. The investigation may include the examination of records, including public records, and/or interviews of persons who may have knowledge of the student's residency.

If necessary, the Superintendent or designee may employ the services of a private investigator to conduct the investigation. Before hiring a private investigator, the Superintendent or designee shall make other reasonable efforts to determine whether the student resides in the district. (Education Code 48204.2)

The investigation shall not include the surreptitious collection of photographic or videographic images of persons or places subject to the investigation. However, the use of technology is not prohibited if done in open and public view. (Education Code 48204.2)

Any employee or contractor engaged in the investigation shall truthfully identify himself/herself as an investigator to individuals contacted or interviewed during the course of the investigation. (Education Code 48204.2)

Appeal of Enrollment Denial

If the Superintendent or designee, upon investigation, determines that a student does not meet district residency requirements and denies the student's enrollment in the district, he/she shall provide the student's parent/guardian an opportunity to appeal that determination. (Education Code 48204.2)

The Superintendent or designee shall send the student's parent/guardian written notice specifying the basis for the district's determination. This notice shall also inform the parent/guardian that he/she may, within 10 school days, appeal the decision and provide new evidence of residency.

The burden shall be on the parent/guardian to show why the district's determination to deny enrollment should be overruled. (Education Code 48204.2)

A student who is currently enrolled in the district shall be allowed to remain in attendance at his/her school pending the results of the appeal. A student who is not currently enrolled in the district shall not be permitted to attend any district school unless his/her appeal is successful.

In an appeal to the Superintendent of a determination that district residency requirements were not met, the Superintendent shall review any evidence provided by the parent/guardian or obtained during the district's investigation and shall make a decision

within 10 school days of receipt of the parent/guardian's request for the appeal. The Superintendent's decision shall be final.

Legal Reference:

EDUCATION CODE

220 Prohibition of discrimination

35160.5 Intradistrict open enrollment

35351 Assignment of students to particular schools

46600-46611 Interdistrict attendance permits

48050-48054 Nonresidents

48200-48208 Compulsory education law, especially:

48204 Residency requirements

48204.1-48204.2 Evidence of residency

48300-48316 Student attendance alternatives, school district of choice program

48350-48361 Open Enrollment Act transfers

48852.7 Education of homeless students; immediate enrollment

48853.5 Education of foster youth; immediate enrollment

48980 Notifications at beginning of term

52317 Regional occupational program, admission of persons including nonresidents

FAMILY CODE

6550-6552 Caregivers

GOVERNMENT CODE

6205-6210 Confidentiality of residence for victims of domestic violence

CODE OF REGULATIONS, TITLE 5

432 Retention of student records

UNITED STATES CODE, TITLE 42

11431-11435 McKinney-Vento Homeless Assistance Act

Management Resources:

CSBA PUBLICATIONS

Legal Guidance Regarding International Student Exchange Placement Organizations, April 2014

OFFICE FOR CIVIL RIGHTS, U.S. DEPARTMENT OF EDUCATION
PUBLICATIONS

Information on the Rights of All Children to Enroll in School: Questions and Answers for States, School Districts and Parents, 2012

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

California Secretary of State, Safe at Home Program: <http://www.sos.ca.gov/safeathome>

U.S. Department of Education, Office for Civil Rights: <http://www2.ed.gov/ocr>

Approved: March 8, 2016