



Education Law Center
Making sure that all of Pennsylvania's children
have access to quality public schools

THE RIGHT TO ATTEND SCHOOL IN PENNSYLVANIA

IMPORTANT: ELC's publications are intended to give you a general idea of the law. However, each situation is different. If, after reading our publications, you have questions about how the law applies to your particular situation, contact us for a referral, or contact an attorney of your choice.

WHEN CAN A CHILD ATTEND SCHOOL?

Children have the right to begin school the year they turn six (6) by the first day of school (or, if the school district has a policy of accepting younger students for kindergarten or first grade, the child must be allowed to begin school when she meets that age requirement). The student has the right to continue attending school until the end of the school term in which the student turns 21 or until the student graduates from high school (whichever occurs first). These rules apply even if the student has dropped out of school and is seeking to re-enroll. (For information on compulsory school age and school truancy, call our office or view the publications on our website at www.elc-pa.org.)

WHERE CAN A CHILD ATTEND SCHOOL?

Children Who Live with Their Parents

A student has the right to attend public school in the school district where she lives with her parents. Unless a court order says something different, if the child's parents live in different school districts, the child may attend school in the district where she lives with a parent most of the time. If the parents have joint custody and the child spends an equal amount of time with each parent, the parents may enroll the child in either school district (but not both!).

Children Who Live on Their Own

Students who are under 21 and who can show that they are living independently and are self-supporting are "emancipated minors" for school purposes. These students can attend school in the school district in which they live, regardless of where their parents live. A student who is married is an emancipated minor.

Children in Foster Care

Children living with foster families have the right to attend school where the foster family lives, regardless of where their birth parents live, and should be treated the same way that students who live in the school district with their birth families are treated. That includes providing eligible students with disabilities appropriate special education services.

Children in Institutional Settings

School districts must educate children living in a "children's institution" within the districts' boundaries. "Children's institutions" include any agency supervised or licensed shelter, group home, maternity home, residence, facility, or orphanage for the care or training of children and adolescents. The "host" district is also responsible for developing an education plan (called an Individualized Education Program) and providing special education services for a child with a disability living in the children's institution - which whenever possible should include educating the child in the host district's public schools.

Children who have been placed in a Pennsylvania facility and whose parents live out of state may still be entitled to attend the local schools. The children must first establish that they are residents of Pennsylvania. Contact ELC at one of the phone numbers below if you need help with a child in this situation.

Children Living with a Resident of Another District

Children who are living with a relative or other adult in a school district other than where their parents live can attend school in that district **if**:

The resident has been determined by a court to be the child's guardian

OR

The resident:

- 1) Is supporting the child and is not receiving any personal compensation for having the child in his or her home (receiving public benefits such

as SSI, TANF, pre-adoptive payments, or other support payments on behalf of the child does not count as receiving "personal compensation");

- 2) The resident intends for the child to live there all year long, and not just for the school term; and
- 3) The resident is willing to assume responsibility for the child with regard to school matters.

The school district may request that the resident file an affidavit stating that the above three requirements have been met. The school district can also make reasonable requests for additional information that supports the statements in the affidavit. Examples of documentation supporting the affidavit could include a copy of the lease with the child listed as a tenant, or evidence that the resident has taken the child as a federal tax deduction. But, the school district cannot require the resident to have or to obtain "legal custody" of the child for the child to attend school.

If the district later determines that information in such an affidavit from a resident is false, the district can remove the child from the district after giving the resident notice of the opportunity to appeal that decision under the district's grievance policy.

****Important Note:** If a resident makes a false statement in the affidavit, knowing that the statement is false, the resident may face **criminal penalties!** The resident may be:

- found guilty of a summary offense,
- sentenced to pay a fine of up to \$300 to the school district, and/or to do up to 240 hours of community service,
- required to pay any court costs, and
- required to pay tuition to the district for the time the child was enrolled in the district.

Homeless Children

Children who lack a fixed residence, who live in a shelter, who are living in a space not usually used as a residence (such as a car or abandoned building), who are living with friends or relatives because they do not have a home, or who have run away or have been abandoned or

forced out of their homes by their parents or caretakers, are considered to be "homeless." Children who are "awaiting foster care placement" are also homeless and are entitled to the same rights. Homeless children are entitled to the same free public education as is available to all other students.

So long as a child is homeless, she can stay in the same school if that is best for her, even if she has moved to another school district. If the child obtains a permanent residence and is no longer homeless, she can still stay in the same school for the rest of the school year (or if the child moves between school years for the next academic year). The school district that will be educating the child should take the lead in arranging necessary transportation. If a homeless child is missing a document required for enrollment, **the school district must enroll the child first**, then seek the records. If there is disagreement about where the child should attend school, the child can appeal - **but in the meantime must be enrolled in the school she wants.**

For more information, please see ELC's fact sheet,
"The Right of Homeless Children to Public Education."

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