



## THE RIGHT TO ATTEND SCHOOL IN PENNSYLVANIA

### WHEN CAN A CHILD ATTEND SCHOOL?

Children have the right to begin school the year they turn 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 year 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](http://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. 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 choose to 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 called "emancipated minors" and can attend school in the district in which they live, regardless of where their parents live. A student who is married is emancipated for school purposes and can attend school where she lives. (Note that being an "emancipated minor" for school enrollment purposes is not the same as having a court emancipate a child.)

### *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 reside, and should be treated in the same manner as students who live in the school district with their birth families. The foster family's school district (or the charter school) must also provide appropriate special education services to children with disabilities who are in foster care in the district (or attending the charter school).

### *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, and providing special education services, for children with disabilities living in the children's institution.

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 child is dependent or under the guardianship of the resident of that district

**OR**

the resident meets three criteria:

- 1) The resident 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 supporting the affidavit. Examples of documentation supporting the affidavit could include a copy of the lease with the child listed as a tenant, or a copy of a completed IRS form transferring the federal tax exemption for the child to the resident. 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." Homeless children are entitled to the same free public education as is available to all other students. Homeless children can either continue for the rest of the school year (or if they have moved between school years for the next academic year) in the school district they were

attending just before they became homeless, or they can attend school in the district where they are now living. The decision as to where the child should attend school must be made with the student's best interest in mind. The school district that will be educating the child should take the lead in arranging any transportation that is necessary. If a homeless child is missing a document for enrollment, **the school district must enroll the child first**, then seek the necessary documentation. The homeless child cannot be denied enrollment on this basis.

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

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