

Act 67 Notice #2: Notice of Residency Hearing

*The purpose of this notice is to apprise families of their right to a residency hearing in accordance with the statutory requirements of Act 67 and the constitutional rights of students. This notice shall be provided to parent/caregiver or student living on their own **at least twice** via email, and the school shall contact the family by phone **up to three times** to confirm their receipt of the notice. In addition, the notice shall be sent by certified mail **two weeks in advance** of the hearing date. A copy of this notice signed by a parent/caregiver should be maintained in the student's file, and disclosure is subject to the confidentiality protections of the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g; 34 CFR Part 99.*

Date Notice Provided: _____

Contact Information of Parent/Caregiver [or Student, if on their own]:

Name: _____

Address: _____

Phone Number: _____

Email Address: _____

School District/Charter School: _____

School Name: _____

Student Name(s) and DOB: _____

To Parent/Guardian/Caregiver or Student: _____

You are receiving this notice because the _____ [school district/charter school] has received information indicating that the above-named student(s) may not be eligible to attend our schools based on their address. As a result, the district/charter school is considering disenrolling the student(s). In accordance with the student's constitutional rights, as well as the statutory requirements of Act 67, we hereby notify you of your right to a residency hearing before any disenrollment to determine whether such an exclusion for non-residency is warranted.

Pursuant to the requirements of Act 67, the student(s) will remain enrolled in and eligible to attend school in the District/Charter School throughout the residency hearing process and until any appeals have been exhausted or affirmatively waived.

Students' Right to Attend School

A student generally has the right to attend school in the school district where they live with their parent, foster parent, guardian, or a non-parent who is caring for the student gratis (without receiving direct payments), living with the student year-round, and agrees to take responsibility for their attendance in school. See 24 P.S. §13-1302. A student who is living in a residential facility, such as a hospital, residential treatment facility, shelter, juvenile justice placement, etc., also has the right to attend school in the district where the facility is located. See 24 P.S. § 13-1306. Students experiencing

homelessness and those in foster care also have the right to continue to attend their prior school, even if they no longer reside in the prior district due to homelessness or changes in foster placement.

In accordance with the constitutional and statutory rights of the student, the district/charter school will hold a formal residency hearing. The hearing shall be scheduled for the date below, which provides _____ (10 school days or more) to prepare for the hearing. The hearing date can be rescheduled based on the availability of the parent/caregiver and witnesses. The district/charter school shall provide you with its witness list and copies of any documents, videos, or exhibits that it will rely on during the hearing at least five school days before the hearing date below:

Date: _____ **Time:** _____

Place: _____

If you are unable to attend the hearing at this time, please let us know immediately so that we can reschedule.

If, after receiving this notice in accordance with the policies above, you do not participate in the hearing process, we may move forward with the disenrollment hearing in your absence. You have the right to appeal this decision **within 30 calendar days** from the date you are notified of the decision to the Court of Common Pleas in the jurisdiction where you reside and seek to enroll in school. You may also choose to affirmatively waive your right to appeal in writing.

Rights During a Residency Hearing

At the formal residency hearing, you have the right to:

- Present an opening statement explaining your position.
- Testify at the hearing.
- Present any documents and testimony from witnesses to support your position that the student is entitled to attend school in the district/charter school. Such evidence may include documents showing your status as a resident and witnesses testifying that you are a current resident based on their observations.
- Ask questions of any witnesses that the district/charter school presents.
- Bring an attorney to represent you at the hearing at your own cost, if you so choose, or bring a non-attorney advocate to assist you during the hearing.

Burden of Proof at Residency Hearing

The purpose of a residency hearing is to establish that the school district's determination of “non-residency” is supported by sufficient evidence. In this process, a parent meets an initial burden of proof if the parent has presented documents that are sufficient to satisfy the requirements for enrolling the child in the District in the first instance. See [Basic Education Circular on Enrollment of Students](#).

Thereafter, the burden shifts to the district/charter school to present evidence to substantiate its determination that a parent/caregiver is not currently a resident of the district. See *Whitacker-Reid v. Pottsgrove Sch. Dist.*, 160 A.3d 905, 917 (Pa. Cmmw. Ct. 2017). Importantly, where a school district seeks to exclude a child from attendance based upon non-residency, “substantial evidence” of that non-

residency is required, and exclusion cannot be based on evidence that simply “suggests or speculates that there could be a ‘residency concern’ or ‘issue.’” *Id.* at 921.

Rights Following Hearing

After the hearing, you will receive **a written decision** from the hearing officer/school board explaining the basis for the decision and how to appeal it. The determination, which is referred to as an “agency decision,” may be appealed **within 30 calendar days** to the Court of Common Pleas, if you so choose. You also have the right to request a copy of the residency hearing transcript. If you are indigent and cannot pay for the transcript, you can receive a copy of the hearing transcript for free through the court.

Potential Consequences

Please be advised that it is a summary offense to knowingly provide false information in a sworn statement for school enrollment purposes. If a child is enrolled in and attends school based on false information of residency, a parent/caregiver may be subject to conviction that could result in a fine, community service, or both. Additionally, a parent/caregiver may be liable for court costs and paying tuition owed to the district for the period that your child attended school based on false information.

Notice Regarding Students Experiencing Homelessness

The district has previously sent you information on the rights of students experiencing homelessness, and that information is also enclosed with this notice. If you contend that your child is eligible to attend school because they are experiencing homelessness, your child has the right to remain in school during any enrollment dispute based on homelessness status.

If the school agrees that your child qualifies as experiencing homelessness, your child has the right to immediate enrollment. If the school disagrees with your position, you have a right to challenge the district/charter school's decision under the McKinney-Vento Act. Specifically, you can request review by your McKinney-Vento regional coordinator and then independent review by the state McKinney-Vento coordinator.

If you require additional information or any assistance with filing an appeal under the Act, you may contact _____ [McKinney-Vento liaison]. For more information, see ["Act 67 Notice #1: Right to Attend School If You Are Experiencing Homelessness."](#)

I acknowledge that I have received this Notice of Residency Hearing:

[Parent/Guardian/Caregiver/or Student, if on your own]

Date: _____

☐ Parent/guardian communicates in a language other than English. This form has been translated into _____ and provided to the parent/guardian/caregiver or student in their native language as of the date of this Notice of Residency Hearing.