



# FACT SHEET

## STUDENTS' RIGHTS DURING RESIDENCY DISPUTES: ACT 67 EXPLAINED

August 2025

Every child of school age who is a resident of a Pennsylvania school district is entitled to a public school education. A school district may ask a family to provide documents to establish residency and may challenge whether the family lives in the district, except when a child is experiencing homelessness. Under Pennsylvania's Act 67, children have the right to remain in their current school during the pendency of a residency dispute.

### WHAT IS ACT 67?

Act 67, enacted in 2024, mandates that school districts and charter schools must allow a child to remain in their current school until full resolution of any residency dispute.<sup>1</sup> This law also requires schools to notify parents of their right to a residency hearing, their opportunity to participate in that hearing, and their right to appeal a hearing decision. In addition, the law requires schools to determine whether the child whose residency is being challenged is experiencing homelessness and to provide families with information about the rights and protections available to students experiencing homelessness.<sup>2</sup>

### HOW DO SCHOOL DISTRICTS DETERMINE STUDENT RESIDENCY?

A student is considered a resident of the school district where their parent or legal guardian lives.<sup>3</sup>

If parents reside in different school districts due to separation, divorce, or other reasons, the child may attend school in the district where the parent who they live with a majority of the time resides — unless a court order or court-approved custody agreement specifies otherwise.<sup>4</sup> If joint custody is evenly shared, the child may attend school in either district where a parent resides.<sup>5</sup>

For children in foster care, residency is based on the location of their foster home.<sup>6</sup>

If a child resides with a non-parent adult (such as a grandparent or family friend), the child is entitled to enroll in the school district where that non-parent adult resides.<sup>7</sup> The non-parent adult must also establish either legal guardianship of the child **OR** demonstrate that they are supporting the child year-round without compensation and will be responsible for the child with regard to school requirements.<sup>8</sup>

Children and youth in residential placements (including hospitals, residential treatment facilities, and juvenile justice or dependency placements) are entitled to receive an education from the local public school where that facility is located.<sup>9</sup> However, the school district of residence for that student remains the district where the child's parent or guardian resides, and that district is responsible for reimbursing the "host" school district where the child is currently residing.

When students enroll in cyber charter schools, tuition payments to those schools are reimbursed by the school district where the child is physically living as their “resident” school district. Students living on federal installations are counted as residents of the district where the installation is located.<sup>10</sup> For military families where a parent is stationed outside of Pennsylvania on active duty, the child remains a resident of their original school district, as long as the parent keeps the residence.<sup>11</sup>

Because the right to an education is based on where a child resides, it is important to maintain documents that demonstrate a child’s residency. Please see ELC’s fact sheet on [How to Enroll a Child in Public School](#) for examples of documents that can be used to prove residency.

### HOW IS RESIDENCY DEFINED?

A residence has been defined by courts as “a factual place of abode evidenced by a person’s physical presence in a particular place,” but it does not have to be the person’s principal residence or domicile.<sup>12</sup> The purpose of requiring residency to enroll in school is to prevent “school shopping.”<sup>13</sup>

Accordingly, in cases addressing residency under the School Code, courts have relied on evidence establishing the existence of a different address for the child outside the school district other than the district where parents say they reside.<sup>14</sup> In these cases, courts generally compare the parents’ physical presence at one location to their physical presence at the second location to determine which location is the parents’ residence for the purpose of enrolling in school.

When districts fail to provide “substantial evidence” that a parent or caregiver resides at a different address, courts have refused to affirm a district’s determination of non-residency.<sup>15</sup>

### WHAT HAPPENS IF THE SCHOOL CLAIMS THE FAMILY DOES NOT LIVE IN THE DISTRICT?

If a school district or charter school believes that a student is **not** a resident and does not qualify as homeless, it **cannot disenroll** the student without complying with all the requirements under Act 67 and providing the family due process. Before any disenrollment, the following actions must occur:<sup>16</sup>

#### **Step 1: Advise Families of the McKinney-Vento Act and the Right to School Stability**

Act 67 mandates that a school district or charter school may not disenroll a student without first considering whether the child qualifies as homeless. Act 67 also mandates that the district or charter school must provide the parent or guardian with information regarding the educational rights of children and youth experiencing homelessness.<sup>17</sup>

Under the federal McKinney-Vento Act, all students from preschool through high school graduation who are experiencing homelessness have a legal right to attend school at the school they attended before becoming homeless.<sup>18</sup> This right to attend the same school applies even if the child is no longer living in the same school district or catchment area. This protection applies for the duration

of homelessness and until the end of the school year, even if the child finds permanent housing before the school year ends.

For more information on McKinney-Vento protections, see the section below. ELC has developed an Act 67 template that schools can use to share information with families about the McKinney-Vento Act. It can be found [here](#).

## **Step 2: Notice of Residency Dispute and Hearing Information**

To comply with Act 67, a school district or charter school must provide sufficient notice to families if it believes that the student is not a current resident of the school district and is not otherwise permitted to enroll as a student experiencing homelessness.<sup>19</sup> At a minimum, the notice must include the basis for the school district or charter school's claims regarding non-residency of the student and it should notify the parent, guardian, or student of their right to a residency hearing before any disenrollment by the school district.<sup>20</sup> The notice should include the applicable school grievance policy and should also include the time, date, and location of the residency hearing. The notification must provide families with sufficient advance notice to prepare for the hearing, and the notice must be translated into a language that the parents can understand.<sup>21</sup> If, after receiving this notice of a residency hearing, the parent declines to participate in the hearing process or any appeal, then the school district or charter school may disenroll the student due to residency concerns.<sup>22</sup>

A template for a Notice of Residency Hearing from a school district can be found [here](#).

## **Step 3: Residency Hearing**

Because the right to attend school is a statutory property interest, a parent is entitled to a formal due process hearing.<sup>23</sup> The "sole purpose" of the residency hearing is to establish whether the school district's determination of non-residency is supported by sufficient evidence.<sup>24</sup> At a residency hearing, parents and guardians have the right to explain their position that the student is entitled to attend school in the district/charter school, testify at the hearing, present any documents and testimony from witnesses supporting their position, and ask questions of any witnesses the school presents.<sup>25</sup> If appropriate, parents may present documents showing they are residents or are permitted under other laws to enroll their child in the district, and they may present witnesses who will testify that they are current residents. Parents may bring an attorney to represent them at the hearing at their own cost or bring a non-attorney advocate to assist during the hearing. Before the hearing date, the school should provide its witness list to the family, as well as copies of any documents, videos, or exhibits that it will rely on.

The hearing must be decided by an impartial decision-maker.<sup>26</sup> An important note: If the parent presented documents sufficient to satisfy the requirements for enrolling a child in the school district or charter school in the first place, the parent meets an initial burden of proof.<sup>27</sup> After that, the burden shifts to the district or charter school to present evidence to substantiate its

determination that a parent or caregiver is not currently a resident of the district.<sup>28</sup> In a residency hearing, “substantial evidence of that non-residency is required,” and excluding a student from the district cannot be based on evidence that simply “suggests or speculates that there *could be* a ‘residency concern.’”<sup>29</sup>

### **Step 4: Notice of Residency Hearing Decision and Right to Appeal**

After the hearing, the hearing officer will issue a decision (or “adjudication”) with findings of fact and conclusions of law. This decision will need to be approved by the school board, and the family must receive the written decision that explains the basis for the determination and how to appeal it.<sup>30</sup>

The decision, which is an “agency decision,” may be appealed to the Court of Common Pleas of the county where the school is located within 30 days.<sup>31</sup> Parents may appeal if they disagree with the determination that their child is not eligible to attend school due to residency issues and/or parents believe that they were deprived of their right to due process (such as lack of notice of the time and place of the hearing). Parents have the right to request a copy of the residency hearing transcript. Parents who are indigent and cannot pay for the transcript can receive a copy of it for free.<sup>32</sup> The student is entitled to remain enrolled in the school district/charter school during the entire appeal process. A template that schools can use to provide the written decision and appeals process to parents can be found [here](#).

### **WHAT IF THE FAMILY OR STUDENT IS EXPERIENCING HOMELESSNESS?**

Under Act 67, a school district/charter school may not disenroll a student until it considers whether the student may qualify as homeless and provides parents with information on the educational rights of students experiencing homelessness in a manner and form understandable to parents and guardians.<sup>33</sup> This is important because under the McKinney-Vento Act, students experiencing homelessness may be entitled to attend a school even if they are not living within a school district or charter school’s catchment area.<sup>34</sup> Schools must ensure that students experiencing homelessness are promptly and proactively identified.<sup>35</sup>

### **Educational Rights Under the McKinney-Vento Act**

Students are considered to be homeless under the act if they lack a consistent, adequate, fixed nighttime residence.<sup>36</sup> This includes, but is not limited to, students who are: “living doubled-up” with friends or family due to economic hardship or loss of housing; “couch-surfing”; living in temporary or emergency shelters; living on campgrounds (including those who are unsheltered, in a tent, recreational camper, or other inadequate accommodations);<sup>37</sup> living in a car, hotel, or trailer park; living in a place that is not ordinarily used for sleeping; living unsheltered; or living in housing that is legally recognized as substandard.<sup>38</sup> Students who are living on their own without a fixed nighttime residence are considered “unaccompanied youth” and are entitled to additional protections.<sup>39</sup> Once a family notifies the school of their housing situation, the school must:

- Provide the parent with understandable information about the child’s educational rights,

- Keep the child enrolled during any disputes,
- Support school stability, including providing transportation.

All students attending public schools from preschool until age 21 (age 22 for students receiving special education) or high school graduation qualify for additional rights under the McKinney-Vento Act if they are experiencing homelessness.<sup>40</sup> The act applies to all students in charter schools or who are educated in school programs operated by Intermediate Units (IUs). These protections apply for as long as the student experiences homelessness, and certain protections – such as the right to school stability with transportation provided if needed – apply for the remainder of the school year when the child secures permanent and adequate housing.<sup>41</sup> Courts have specifically recognized that there is no time limit to homelessness, even if it lasts several years or recurs.<sup>42</sup>

If a school determines that a child is not eligible as a student experiencing homelessness and you disagree with that decision, a family can file a complaint and seek review of the decision from the McKinney-Vento state coordinator. For more information on the McKinney-Vento Act, including school stability determinations and the appeal process, please see ELC's fact sheet on [The Rights of Students Experiencing Homelessness](#).

### **Educational Rights Under Act 1**

If a child is experiencing homelessness, in foster care, or in the juvenile justice system, the child may also be eligible for additional support under Act 1 of 2022.<sup>43</sup> This law requires school entities to identify eligible students who experience “education instability” and to provide certain supports for these students. A student experiencing educational instability is a student who has one or more school entity changes during a single school year as a result of homelessness, as defined in the McKinney-Vento Act; an adjudication of dependency;<sup>44</sup> an adjudication of delinquency as disclosed at the discretion of the parent or guardian of the student,<sup>45</sup> or an adjudication as part of court-ordered services under a voluntary placement or custody agreement. For more information on Act 1, see ELC's fact sheet on [Supporting Graduation and Equal Access for Students Experiencing Homelessness, in Foster Care, or in the Juvenile Justice System](#).

### **WHAT ARE THE CONSEQUENCES OF PROVIDING FALSE RESIDENCY INFORMATION?**

It is a summary offense if a person *knowingly* provides false information in a sworn statement to enroll a child into school.<sup>46</sup> Upon conviction of this summary offense, a person may be fined no more than \$300, ordered to perform up to 240 hours of community service, or both.<sup>47</sup> A convicted person may also be required to pay all court costs and may be liable to the school district for tuition for the time period when the child attended school in a district they did not have the legal right to attend.<sup>48</sup> In determining fines and court costs, courts must consider a party's ability to pay.<sup>49</sup>

### **STUDENTS HAVE THE RIGHT TO BE FREE FROM DISCRIMINATION DURING THE RESIDENCY DISPUTE**

Data show that school districts target Black and Brown students for school residency challenges, particularly in suburban white neighborhoods, due to racial discrimination exhibited by school

administrators and community members.<sup>50</sup> This discriminatory targeting is prohibited under law. Students have the right to be free from discrimination based on race and other forms of unlawful discrimination during the school residency dispute process. No child can be denied access to a public education based on race, ethnicity, national origin, religion, immigration status, sex, or disability.<sup>51</sup>

### ADDITIONAL RESOURCES

For more information related to Act 67 and enrollment, see the following resources:

- PDE's Basic Education Circulars:
  - Enrollment of Students:  
<https://www.pa.gov/en/agencies/education/resources/policies-acts-and-laws/basic-education-circulars-beecs/purdons-statutes/enrollment-of-students.html>
  - Education for Homeless Youth:  
<https://www.pa.gov/en/agencies/education/resources/policies-acts-and-laws/basic-education-circulars-beecs/us-code/education-for-homeless-youth.html>
- ELC's Resources
  - McKinney-Vento + Act 1:
    - [McKinney-Vento Fact Sheet](#)
    - [Act 1 Fact Sheet](#)
    - [McKinney-Vento and Act 1 Screening Tool for LEAs](#)
  - Student Enrollment:
    - [How to Enroll a Child in Public School](#)
    - [How to Enroll a Child Living with Someone Other Than Their Parent](#)
    - [Rights of Multi-Lingual Caregivers to Enroll Children In School](#)
    - [Enrollment Complaint Process](#)

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The Education Law Center-PA (ELC) is a nonprofit, legal advocacy organization with offices in Philadelphia and Pittsburgh, dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, community engagement, and policy advocacy, ELC advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, multilingual learners, LGBTQ students, and children experiencing homelessness.

ELC's publications provide a general statement of the law. However, each situation is different. If questions remain about how the law applies to a particular situation, contact ELC's Helpline for information and advice — visit [www.elc-pa.org/contact](http://www.elc-pa.org/contact) or call 267-436-6095 (Eastern and Central PA) or 412-258-2120 (Western PA) — or contact another attorney of your choice.

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<sup>1</sup> 24 P.S. §13-1302, Sess. of 2024, P.L. 810, No. 67 (Pa. 2024).

<sup>2</sup> *Id.*

<sup>3</sup> 24 P.S. §13-1302(a).

<sup>4</sup> 22 Pa Code 11.11 (a)(1).

<sup>5</sup> *Id.*



<sup>6</sup> 24 P.S. §13-1305.

<sup>7</sup> *Id.*

<sup>8</sup> 24 P.S. §13-1302(a)(2).

<sup>9</sup> 24 P.S. §13-1306.

<sup>10</sup> *Id.*

<sup>11</sup> 24 P.S. §13-1302(d).

<sup>12</sup> *In re Residence Hearing Before Bd. of Sch. Directors, Cumberland Valley Sch.*, 744 A.2d 1272, 1274-75 (2000).

<sup>13</sup> *Paek v. Pen Argyl Area Sch. Dist.*, 923 A.2d 563, 567 (Pa. Commw. Ct. 2007).

<sup>14</sup> *Id.*; *Behm v. Wilmington Area Sch. Dist.*, 996 A.2d 60 (Pa. Commw. Ct. 2010); *Fort Cherry Sch. Dist. v. Pawlosky*, 758 A.2d 299 (Pa. Commw. Ct. 2000).

<sup>15</sup> *Whitacker-Reid v. Pottsgrove Sch. Dist.*, 160 A.3d 905, 917 (Pa. Commw. Ct. 2017) (court relied on evidence that children were consistently seen at District address and lack of “substantial evidence” that parent resided at an alternative address).

<sup>16</sup> 24 P.S. §13-1302.

<sup>17</sup> 24 P.S. §13-1302(a.1)(3).

<sup>18</sup> 42 U.S.C. § 11431 et seq.

<sup>19</sup> See *Goldberg v. Kelly*, 397 U.S. 254, 267-71 (1970); 24 P.S. §13-1302; 2 Pa.C.S.A. § 553.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> 24 P.S. §13-1302(a.1)(2).

<sup>23</sup> *Goss v. Lopez*, 419 U.S. 565, 574 (1975) (student's entitlement to public education recognized as property interest protected by the Due Process Clause that cannot be taken away without adherence to due process protections.).

<sup>24</sup> *Whitacker-Reid*, 160 A.3d at 916 (quoting *Behm*, 996 A.2d at 66).

<sup>25</sup> *Goldberg*, 397 U.S. at 267.

<sup>26</sup> *Id.* at 271.

<sup>27</sup> See Pa. Dep't of Educ., Basic Education Circular on Enrollment of Students (November 2024),

<https://www.pa.gov/agencies/education/resources/policies-acts-and-laws/basic-education-circulars-beecs/purdons-statutes/enrollment-of-students>.

<sup>28</sup> *Whitacker-Reid*, 160 A.3d at 917.

<sup>29</sup> *Id.* at 921.

<sup>30</sup> 2 Pa.C.S.A. § 555.

<sup>31</sup> 42 Pa.C.S. § 933(a).

<sup>32</sup> 201 Pa. Code Rule 4008.

<sup>33</sup> 24 P.S. §13-1302(a.1)(3).

<sup>34</sup> 42 U.S.C. § 11431 et seq.

<sup>35</sup> 42 U.S.C. § 11432(g)(6)(A)(i).

<sup>36</sup> 42 U.S.C. § 11434a(2)(A)-(B).

<sup>37</sup> *N.C. v. Easton Area School District*, No. 5:13-CV-07199 (E.D. Pa. Jan. 6, 2014) (ordering immediate re-enrollment of two students who were disenrolled after being improperly classified as ineligible for McKinney-Vento protections because they lived in a recreational camper on a campground outside the catchment of the school district).

<sup>38</sup> 42 U.S.C. § 11434a(2)(B).

<sup>39</sup> 42 U.S.C. § 11434a(6).

<sup>40</sup> 42 U.S.C. § 11431(1); 11432(g)(1)(F)(i).

<sup>41</sup> *Id.*; § 11432(g)(3)(A)(i).

<sup>42</sup> See *G.S. v. Rose Tree Media Area School District*, 914 F.3d 206 (3d Cir. 2018); *L.R. ex rel. G.R. v. Steelton-Highspire Sch. Dist.*, No. 1:10-CV-00468, 2010 WL 1433146 (M.D. Pa. Apr. 7, 2010).

<sup>43</sup> 24 P.S. § 13-1331.1.

<sup>44</sup> 23 Pa.C.S. Ch. 63 (relating to child protective services).

<sup>45</sup> 42 Pa. C.S. Ch. 63 (relating to juvenile matters).

<sup>46</sup> 24 P.S. § 13-1302(c).

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> 234 Pa. Code r. 706.

<sup>50</sup> Avi Wolfman-Arent, Suburban schools' residency enforcement mostly affects kids of color, WHYY, May 1, 2018, <https://whyy.org/segments/suburban-schools-residency-enforcement-disproportionately-affects-kids-of-color/>.

<sup>51</sup> See Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000c-6(a). The Pennsylvania Human Relations Act (PHRA) also prohibits discrimination based on a student's race, color, sex, religion, ancestry, or national origin. See 43 Pa. Stat. Ann. §§ 951–963; 16 Pa. Code § 47.41 (delineating unlawful discriminatory practices).