
SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair
2015 - 2016 Regular

Bill No: AB 1101
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Consultant: Lynn Lorber
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Fiscal: No

Subject: Pupil school enrollment: residency requirements: policy on investigations

SUMMARY

This bill requires a school district that elects to investigate the residency of a student to first adopt a policy regarding such investigations.

BACKGROUND

Existing law:

- 1) Requires students to attend the public full-time day school or continuation school or classes in which the residency of either the parent or legal guardian is located. (Education Code § 48200)
- 2) Provides that a student complies with the residency requirements for school attendance in a school district if the student:
 - a) Is placed within the boundaries of the school district in a licensed children's institution, licensed foster home, or a foster family home.
 - b) If a foster child who remains in his or her school of origin.
 - c) Has been approved for interdistrict attendance.
 - d) Resides within the boundaries of the school districts and whose parent or legal guardian is relieved of responsibility, control, and authority through emancipation.
 - e) Lives in the home of a caregiving adult that is located within the boundaries of that school district.
 - f) Resides in a state hospital located within the boundaries of the school district. (EC § 48204)
- 3) Until July 1, 2017, authorizes school districts to deem a student to have complied with the residency requirements for school attendance in a school district if at least one parent or the legal guardian is physically employed within the boundaries of that district for a minimum of 10 hours during the school week.

- a) School districts are not required to admit a student with at least one parent or legal guardian who is physically employed in the district.
 - b) A school district may prohibit the transfer of a student if the district determines that the transfer would negatively impact the court-ordered or voluntary desegregation plan of the district, or if the district determines that the additional cost of educating the student would exceed the amount of additional state aid received as a result of the transfer. (EC § 48204)
- 4) Requires school districts to accept from the parent or legal guardian reasonable evidence that the student meets the residency requirements for school attendance in the district. Current law requires reasonable evidence of residency to be established by documentation showing the name and address of the parent or legal guardian within the school district, including but not limited to the following:
- a) Property tax payment receipts.
 - b) Rental property contract, lease, or payment receipts.
 - c) Utility service contract, statement, or payment receipts.
 - d) Pay stubs.
 - e) Voter registration.
 - f) Correspondence from a government agency.
 - g) Declaration of residency executed by the parent or legal guardian. (EC § 48204.1)
- 5) Authorizes school districts to make reasonable efforts to determine that the student actually meets the residency requirements if an employee of the district reasonably believes that the parent or legal guardian has provided false or unreliable evidence of residency. (EC § 48204.1)

ANALYSIS

This bill requires a school district that elects to investigate the residency of a student to first adopt a policy regarding such investigations. Specifically, this bill:

- 1) Requires the governing board of a school district, if the district elects to undertake an investigation to determine if a student meets residency requirements, to adopt a policy regarding the investigation of a student to determine residency for school attendance before investigating any students.
- 2) Requires the policy to do all of the following:
 - a) Identify the circumstances upon which the school district may initiate an investigation, which must, at a minimum, require the school district employee to

be able to identify specific, articulable facts supporting the belief that the parent or legal guardian has provided false or unreliable evidence of residency.

- b) Describe the investigatory methods that may be used by the school district in the conduct of the investigation, including whether the school district will be employing the services of a private investigator.
 - c) Require the school district to make reasonable efforts to determine whether the student resides in the school district before hiring a private investigator.
 - d) Prohibit the surreptitious photographing of students who are being investigated.
 - e) Require that employees and contractors of the school district engaged in the investigation identify themselves truthfully as such to individuals contacted or interviewed during the course of the investigation.
 - f) Provide a process whereby the determination of a school district as to whether a student meets residency requirements may be appealed, and specify the basis for that determination. Provides that the burden is on the appealing party to show why the decision of the school district should be overruled.
- 3) Requires the policy to be adopted at a public meeting of the school district governing board.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “In November 2014, the Orinda Union School District hired a private investigator to determine whether or not seven year old Vivian met the residency requirements to attend second grade in the school district. The investigator visited Vivian’s old neighborhood where he lied to neighbors and Vivian’s mother, Maria. He claimed he was a car insurance reviewer looking into an auto accident involving Maria’s car. The investigator was unaware that Maria filed a domestic violence restraining order against her ex-husband. Maria took these actions to keep her and her daughter’s real residence hidden. Through these duplicitous investigatory techniques, the investigator incorrectly determined that Vivian lived outside of the school district. The family received a letter from the school district explaining that Vivian was dismissed from attending school in the district. The Orinda Union School District did not provide the family with any evidence or reasons as to why they initiated the investigation.”
- 2) ***Investigative tools.*** Existing law authorizes school districts to make reasonable efforts to determine that the student actually meets the residency requirements if an employee of the district reasonably believes that the parent or legal guardian has provided false or unreliable evidence of residency. Statutes do not define “reasonable efforts” nor provide examples of what constitutes reasonable efforts. This bill requires school districts’ policies to require schools to make reasonable efforts to determine whether a student resides in the district before hiring a private investigator. It appears that reasonable efforts may range from a discussion with parents about the belief that false or unreliable evidence of residency was provided, to hiring a private investigator.

This bill requires school districts' policies to prohibit the surreptitious photographing of students. It is not clear that this bill prohibits all photographing of students. Does it depend on whether a student has a reasonable expectation of privacy? May an investigator take photos of a student in a public setting? Is photographing students a necessary investigative tool? The author may wish to include a definition of "surreptitious" for the purposes of this bill.

- 3) ***Fiscal impact.*** This bill is flagged as being non-fiscal.
- 4) ***Related and prior legislation.***

RELATED LEGISLATION

SB 200 (Lara, 2015) provides that a student meets residency requirements for school attendance if the student's parent or legal guardian is employed and lives at the place of employment within the boundaries of the school district for at least three days during the school week. SB 200 is pending in the Assembly Appropriations Committee.

PRIOR LEGISLATION

AB 207 (Ammiano, Ch. 435, 2011) required school districts to accept reasonable evidence that the student meets residency requirements, and requires reasonable evidence to be established by documentation showing the name and address of the parent within the school district. AB 207 further specified that such documentation includes, but is not limited to, property tax payment receipts; rental property contract, lease or payment receipts; utility service contract, statement, or payment receipts; pay stubs; voter registration; correspondence from a government agency; and, declaration of residency executed by the parent or legal guardian.

SUPPORT

California Federation of Teachers
California State PTA
Public Advocates

OPPOSITION

California School Boards Association

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