

## **Policy**

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### NONRESIDENTS

The Franklin Lakes Board of Education shall operate the schools of this district for the benefit of all children resident in the district and such others as may be admitted, pursuant to statute and policy of the Board. The Board reserves the right to verify the residency of any student and the validity of any affidavit of guardianship. Documentation required to prove eligibility to attend the schools of this district shall be in accord with policy 5111 Admission and the administrative code. **When a parent or guardian enrolls a child in the District under this policy, the parent or guardian agrees that on a monthly basis, they must pay the Board for any expense that it incurs related to the enrollment in excess of the general education tuition for a nonresident student's attendance.**

#### Future Residents

~~The children of families who have~~ **If a child's family** has signed a contract to buy or build a residence in the school district or plans to occupy a residence they already own, **the child** may enroll during the school year in which **the child** will become **a resident**, as evidenced by the sales **or construction contract or other document that** ~~which they will become residents, as evidenced by said sales contract~~ which stipulates the proposed date of occupancy **or otherwise substantiates the family's ability and intention to occupy the residence.** These students must pay full tuition as established by the Board. Payment shall be made monthly. The family is not assessed for the month in which occupancy occurs.

A parent/guardian shall make a request in writing to the Board. **The Board reserves the exclusive right to determine whether documentation is sufficient to prove that a child will become a resident during the relevant school year.** The chief school administrator or School Business Administrator/Board Secretary is authorized to respond on behalf of the Board and to provide the appropriate follow-up procedures.

#### Former Residents

Students in grades kindergarten through grade seven who move out of the district after April 1 shall be allowed, upon recommendation of the chief school administrator, to complete the school year in which they have been regularly enrolled with no charge for tuition.

Students in eighth grade shall be allowed to complete their last year without payment of tuition upon recommendation from the chief school administrator if the family moves any time during the second half of that year, and the student has been regularly enrolled.

All such students must remain in good academic, disciplinary and attendance standing for this arrangement to continue. The Board shall not be responsible for transportation.

#### Children of Nonresident Staff Members

Children of nonresident employees of the Board may be enrolled in the schools of this district on payment of tuition and in accordance with policy for other nonresident students.

NONRESIDENTS (continued)Homeless Students

The District will determine the educational placement of homeless students in each child's best interest and respond to appeals concerning them made by parents/guardians or other parties in accordance with New Jersey statutes and administrative code, as well as pertinent federal law. The District will designate a "homeless student liaison" to help the homeless student enroll in school, make sure that the homeless student is enrolled and attending school, and see that the district meets federal and state requirements for educating homeless students.

Remodeling of Home

District residents with children already enrolled in and attending the Franklin Lakes Public Schools, who temporarily leave their current residence due to elective remodeling of their primary dwelling, are strongly encouraged to find alternate living quarters within Franklin Lakes Township during the period of remodeling. A resident who temporarily moves out of Franklin Lakes Township due to elective home remodeling must notify the District's pupil registration office of such temporary relocation and provide an expected date when the primary dwelling will be ready for re-occupancy. In the event the target occupancy date will not be met, the resident will be permitted a thirty-day extension of the occupancy date so long as s/he notifies the District of the need for the extension prior to the original target completion date; provided, however, that the target occupancy date may not be set later than September 1 of the school year immediately following the commencement of the renovation.

If the primary dwelling is not ready for occupancy by the target completion date or any extension thereof, the Board of Education reserves the right to commence proceedings seeking the removal of the pupils from enrollment in the District. In lieu of such proceedings, the resident will have the option to grant a consent judgment and lien to the Board of Education on the primary dwelling for the amount of one year's tuition cost for each child enrolled in the District. If the resident permanently occupies the primary dwelling within ninety (90) days of the original target completion date or any extended date, the lien will be discharged without any payment due from the resident. If the resident does not resume permanent occupancy in the primary dwelling within such ninety-day period, the Board will assess tuition for all days of attendance by the pupils from the last target completion date until the date the resident actually resumes permanent occupancy in the primary dwelling. In such circumstance the lien will remain in place until the assessed tuition amount, plus interest at the applicable judgment rate, is paid in full.

Casualty Loss

In the event a resident's primary dwelling is destroyed or rendered uninhabitable by a catastrophic event outside the resident's control, the resident is strongly encouraged to secure temporary housing within the Township of Franklin Lakes. In the event the resident must temporarily move out of Franklin Lakes, the resident shall provide proof of the casualty event and loss to the District's registration office, by copy of insurance claim, police report or similar proof of loss acceptable to the District. If the resident indicates an intention to have the primary dwelling reconstructed, the resident's child/children shall be permitted to continue attendance in the Franklin Lakes Public Schools for a period of twelve months from the date of loss.

Other Nonresident Students

Other nonresident students may be admitted to this district on payment of tuition and availability of space.

The chief school administrator shall develop procedures for the enrollment of nonresident children that allow admission of such children only on the proper application of parent/guardian; verify claims of residency and submission of affidavits of guardianship; deny admission where the educational program

NONRESIDENTS (continued)

maintained for the children of this district is inadequate to meet the needs of the applicant; do not exclude any child, otherwise eligible, on the basis of such child's race, color, creed, national origin, affectional or sexual orientation, atypical hereditary cellular or blood trait of any individual or ancestry; and make continued enrollment of any nonresident student contingent upon maintaining good standards of citizenship and discipline.

When a child must either relocate to or from this district because his/her parent/guardian is a member of the New Jersey National Guard or a member of the reserve component of the armed forces of the United States and has been ordered into active service, the child shall be eligible to attend the schools of this district without paying tuition. The district shall not be responsible for transporting the child.

The chief school administrator or his/her designee shall recommend to the Board for its approval the admission of qualified applicants.

The Board shall not be responsible for the transportation to or from school of any nonresident students, except as may be required by state or federal law.

The Board shall annually determine tuition rates for nonresident students.

Adopted: June 5, 2001  
 Revised: December 4, 2001; September 2018  
 NJSBA Review/Update: September 2009  
 Readopted: March, 2013

Key Words

Nonresidents, Tuition Student, Affidavit Student, Homeless Student

**Legal References:** N.J.S.A. 18A:7F-45 Definitions  
N.J.S.A. 18A:11-1 General mandatory powers and duties  
N.J.S.A. 18A:36B-14 et seq. Interdistrict Public School Choice Program Act of 1999  
N.J.S.A. 18A:38-1 et seq. Attendance at school free of charge  
See particularly:  
N.J.S.A. 18A:38-2, 38-3, 38-8, 38-9  
N.J.S.A. 18A:46-20 Receiving pupils from outside district; establishment of facilities  
N.J.S.A. 18A:54-20 Powers of board (county vocational schools)  
N.J.A.C. 6A:12-1.3 et seq. Inter-district Public School Choice  
N.J.A.C. 6A:17-1.1 et seq. Education for homeless children and students in state facilities  
N.J.A.C. 6A:22 Student residency  
See particularly:  
N.J.A.C. 6A:22-3 Eligibility to attend school  
N.J.A.C. 6A:22-3.1 Students domiciled within the school district  
N.J.A.C. 6A:23A-19.2 Method of determining the district of residence  
N.J.A.C. 6A:23A-19.3 Address submission for determining the district of residence

Illegal Immigrant and Immigration Responsibility Act of 1997, 8 U.S.C. § 1101

Board of Education of the Borough of Englewood Cliffs v. Board of Education of the

NONRESIDENTS (continued)

City of Englewood, 132 N.J. 327; cert. denied, 510 U.S. 991 (1993); subsequent listing 333 N.J. Super. (App. Div. 2000)

Every Student Succeeds Act of 2015, Pub. L. 114-95, 20 U.S.C.A. 6301 et seq.

J.A. v. Board of Education of South Orange/Maplewood, 318 N.J. Super. 512 (App.Div 1999)

**Possible**

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| <b>Cross References:</b> | 3240   | Tuition income               |
|                          | *5111  | Admission                    |
|                          | *5114  | Suspension and expulsion     |
|                          | 6142.5 | Travel and exchange programs |
|                          | *6151  | Class size                   |

\*Indicates policy is included in the Critical Policy Reference Manual.

Notes on the terms “residence” and “domicile.”

These terms are often used interchangeably in education law and regulations, for example “residency or domicile” (N.J.A.C.22-4.1(d)), sometimes with an intensifying adjective (“actual domicile or residence,” same citation). The most important chapter of N.J. Administrative Code on the topic is entitled “Student residency” while the key section concerning “Eligibility to attend school” (Subchapter 3) is titled “Students domiciled within the school district” (N.J.A.C. 6A:22-3.1).

There is a legal adage that “a person can have many residences, but only one domicile.” This distinction of “true, fixed, permanent domicile” versus “temporary residence” (in essence, a legal fiction) is sometimes mentioned but is not consistently maintained in the area of education. The words themselves do not (and inherently cannot) answer the fundamental question: Is a parent or student fraudulently claiming to live at an address in order to obtain tuition-free enrollment?

For additional insights into using the terms “domicile” and “residence” for determining whether a student can attend school in a district, read “Pupil Residency”: Who is Eligible for a Free Public Education?” in N.J. School Leader (July-August 2002) by Donna Kaye, Esq.