

WHITESBORO CENTRAL SCHOOL DISTRICT

RESIDENCY APPLICATION

BACKGROUND INFORMATION

The issue of student residency is governed by the provisions of Section 3202 of Education Law of the State of New York, which provides:

“A person over five and under twenty-one years of age who has not received a high school diploma is entitled to attend the public schools maintained in the district in which such person resides without the payment of tuition.”

A child’s “**residence**” for purposes of Education Law Section 3202 has been interpreted by the Commissioner of Education as being:

“... one’s physical presence as an inhabitant within the district and intent to reside in the district.”

A child’s residence has been “presumed” to be the same as that of his or her parents or legal guardians.

For purposes of Section 3202 of the Education Law, a person can have multiple domiciles, but only one residence. A residence is not lost until it is abandoned and another is established through action and intent.

In those situations where the child is alleging a “temporary” residence, the commissioner’s rulings have opined that:

“...a person’s temporary residence from a school district of residence does not necessarily constitute either the establishment of a residence in the district in which one is temporary located, or the abandonment of one’s permanent residence.”

In reviewing whether a living arrangement is temporary, a district may consider evidence as to the family’s continuing ties to the community and their efforts to return.

Factors to be considered in evaluating a child’s residency within a school district will include consideration by the school district of the following factors:

- (1) Who is in charge of the child (care & custody).
- (2) Is the place of residence where the child is alleged to reside the “actual” and “only” residence of the child (abode).
- (3) Is the residence alleged for the child the location where he or she

predominantly sleeps, resides, change clothes, and uses as their base of operation.

In order to support a claim of residence an applicant must complete the Whitesboro Central School District's Statement of Residence Form. The application must be completed in full. The applicant is encouraged to submit copies of such supporting documentation that will substantiate that the parent (or guardian) resides at a location in the district. Examples of documentation that will be considered in evaluating a child's actual physical residence would include:

- (1) Deed of residence located in the district in the name of the parent or legal guardian.
- (2) Mortgage statement.
- (3) Lease or rental agreement for premise located in the district.
- (4) Copy of lease or rental receipts.
- (5) Notarized affidavit of landlord, neighbors, and/or others confirming residency in the district.
- (6) Copies of tax bills/records.
- (7) Voter registration documentation.
- (8) Driver's license.
- (9) Vehicle registration.
- (10) Copies of paycheck or pay stub.
- (11) Copies of tax returns and/or W-2 form.
- (12) Phone bill and/or phone number.
- (13) Bank statements/bank checks.
- (14) Insurance documentation.
- (15) Credit card statements.

None of these documents may by themselves necessarily substantiate residency. The more documentation that the parent/applicant can submit in support of their application, the better the likelihood of establishing residency.

If you have any questions concerning the issue of what constitutes a child's residence, please contact Ms. Beth Ann Blynt, Director of Guidance and Pupil Personnel Services, at (315) 266-3240.

ESTABLISHING LEGAL GUARDIANSHIP FOR PURPOSES OF RESIDENCY

As previously outlined, a child's residence is presumed to be that of his or her parents or legal guardians. This presumption may, however, be rebutted in a proper case.

To rebut this presumption, certain factors have been deemed relevant by the Commissioner of the Department of Education for the State of New York. To establish that the parents and/or legal guardians no longer are the proper guardians for a child or children, there must be a showing that there has been a "total", and presumably "permanent," transfer of custody and control of the child(ren) to someone else.

A clear showing of a transfer of parental control can be established when there is a showing that a court has issued letter of guardianship to an adult residing in a school district.

It is not necessary under the Education Law that a person claiming guardianship of a child or children has to pursue formal legal proceedings. It is, however, necessary for a person claiming guardianship of a child or children for purposes of residency and attending a specific school district that they demonstrate that a particular location is a child's "permanent" residence. The individual claiming "guardianship" must be able to demonstrate that they have "full authority and responsibility" with respect to the child's (children's) support and custody.

When the facts of a specific situation are found to contradict a claim of "complete" transfer of custody of a child or children, the presumption of residency "is not" considered rebutted.

The law does not allow a party to claim guardianship of a child or children and establish residency in a specific school district with someone other than the parent(s) solely to take advantage of the schools in that district.

The ultimate question in each instance where a claim of guardianship is made is whether the parent and/or purported legal guardian has provided the school district "substantial evidence" to show that there has been a "bona-fide relinquishment of care, custody, and control of the child or children by his or her parent(s)," and that the individual(s) exercising control of the child or children have full and complete authority and responsibility with respect to the child's support and custody.

If the evidence provided to the school district shows that the child's parents still maintain an active role in the care, custody, and/or the financial responsibility for the child, legal guardianship will not be considered established.

To address the question of who is responsible for the care and custody of a child, factors and documentation that the school district will consider in evaluating an application for residency will include:

- (1) Custodial agreement issued by a Family Court or Surrogate Court.
- (2) Sworn (notarized) affidavit from the child(ren)'s parent(s) granting full custodial care to another individual.
- (3) Guardianship papers from the Department of Social Services.
- (4) Sworn (notarized) affidavit from an applicant confirming that they have total responsibility for the child(ren); that they pay all costs associated with the raising of the child(ren); and that the family relationship is for the foreseeable future.
- (5) Documentation establishing that the applicant has full financial responsibility for the care and well being of the child(ren). Examples of documentation used by the school district to evaluate this inquiry may include:
 - a. Tax returns showing the child(ren) as a legal ward(s).
 - b. Health care documents (ie: insurance policy, health care proxy; receipts for paid medical care) establishing the applicant as being financially responsible for the care of the child(ren).
 - c. Financial documents/receipts.
 - d. Tax returns.
 - e. Supporting notarized affidavits submitted by the applicant; by individuals who can attest to the legal guardian's relationship with the child(ren), such individuals to include, but not necessarily be limited to, friends, family members, neighbors, clergy, and school officials, which affirm that the applicant has full responsibility for the care and custody of the child(ren).
 - f. Sworn affidavit(s) and/or documentation which attest to the child(ren)'s home visits with the biological parent(s).

Please note that this list is not exclusive, but is given solely as a tool to help an applicant understand what documentation may be necessary to support their contention of legal guardianship for purposes of establishing residency in the school district.

APPEALS

If an application of residency is denied by the school district, an appeal filed in accordance with the provisions of Section 310 of the Education Laws of the State of New York must be made within thirty (30) days from the date of the act or decision by the school district which denies an applicant's claim of residency.

Those making an appeal to the Commissioner of the NYS Department of Education must be at least eighteen (18) years of age. If the person filing for relief is less than eighteen (18) years of age, they may seek the assistance from an older person who may file on their behalf.

The person filing an appeal must have first exhausted all of his or her issues with the school district.

In an appeal to the Commissioner of Education, an applicant has the burden of demonstrating a clear legal right to the relief requested. A residency determination made by the school district will not be set aside unless it is shown that it was arbitrary and capricious.

Instructions for making an appeal to the Commissioner of Education are available at www.counsel.nysed.gov.

**STATEMENT OF A RESIDENT OF THE
WHITESBORO CENTRAL SCHOOL DISTRICT
SUPPORTING THE ADMISSION OF
_____ AS A
RESIDENT APPLYING FOR ATTENDANCE**

(Please Print)

NOTICE: This statement is only for use by the person with whom the Student is claimed to reside within the School District.

1. Student's Name: _____

2. Date of Birth: _____

3. Grade Level: _____

4. Current Address: _____
(Street)

(Town, State & Zip)

(Telephone)

5. Mother's Name: _____

6. Mother's Address: _____
(Street)

(Town, State & Zip)

(Telephone)

7. Father's Name: _____

8. Father's Address: _____
(Street)

(Town, State & Zip)

(Telephone)

9. If parents are divorced, please state custody arrangements: _____

10. If you are a non-custodial parent, please attach/provide a notarized statement from custodial parent consenting to student's residing with you.

11. Length of time you have resided at current address: _____
(Years) (Months) (Weeks)

12. Length of time student has resided at current address: _____
(Years) (Months) (Weeks)

13. Student's previous Addresses (list most recent first):

(1) _____
From To (Street)

(Town, State & Zip)

(2) _____
From To (Street)

(Town, State & Zip)

(3) _____
From To (Street)

(Town, State & Zip)

14. Relationship with Student (e.g. Mother, Father, Stepmother, Stepfather, Adoptive Father, Adoptive Mother, Legal Guardian, Legal Custodian, Other). _____

**If Student does not claim residency with Mother or
Father, please answer the following questions (#15-26).**

15. Basis of Relationship with Student.

(a) Legal guardianship of Student? _____ Yes _____ No
If yes, attach copy of Court papers.

(b) Legal custody of Student? _____ Yes _____ No
If yes, attach copy of Court papers.

(c) Other Legal control over Student, e.g.
adoption, court-ordered placement,
surrender, abandonment? _____ Yes _____ No
If yes, attach copy of Court papers or
provide explanation. _____

(d) Other relationships with Student? _____ Yes _____ No
Please explain. _____

16. When did the Student begin to live with you? _____
(Date)

17. How long will the Student reside with you? _____
(Date)

18. Will the Student live with you during school vacation? _____ Yes _____ No
If not, where do you expect the
Student to reside during that time? _____

19. Who will claim the Student as
a dependent for Income Tax purposes? _____

20. During the time the Student will reside with you, who is responsible for:
- (a) Receiving and responding to academic and other reports concerning the Student?

 - (b) Making decisions regarding the Student's education?

 - (c) Authorizing medical treatment for the Student?

 - (d) Payment for medical treatment for Student?

 - (e) Releasing records for the Student?

 - (f) Providing other necessary consents for the Student?

 - (g) Expense of Student's room and board?

 - (h) Expenses of clothing and other necessities?

21. Will there be any period of time when this Student will not live with you while attending the School District? _____ Yes _____ No

If yes, please state where the Student will reside and for how long: _____

22. What are the circumstances which brought this Student to reside with you? _____

23. Does the Student have any siblings? _____ Yes _____ No

24. If yes, do they also reside with you? _____ Yes _____ No

25. If you answered yes to Question No. 23, please provide the following additional information:

Name of Sibling Age Date of Birth School

26. Other comments that would assist the School District in acting on the application of this Student: _____

By my signature below, I assume full responsibility for all matters relating to the student's education and medical care, except as otherwise stated herein.

I certify that all the information provided on this affidavit is true and accurate.

I understand that filling out this form accurately and truthfully is important because :

Providing false information on this affidavit to the Whitesboro Central School District, may be committing the crime of perjury in the third degree (a class A misdemeanor);

Providing false information on this affidavit to the Whitesboro Central School District with the intent to defraud the Whitesboro Central School District may be committing the crime of perjury in the second degree (a class E felony); and

(Signature)

Sworn to be me this ____ day
of _____, 20__.

Notary Public

(Signature)

Sworn to before me this ____ day
of _____, 20__.

Notary Public

8. Why is the student living at the current location?

9. Will the Student reside in your home during weekends, holidays or any other times during his/her stay at the current location?

10. During the time the Student resides at the current location, who is responsible for:

(a) Receiving and responding to academic and other reports concerning the Student?

(b) Making decisions regarding the Student's education?

(c) Authorizing medical treatment for the Student?

(d) Payment for medical treatment of Student?

(e) Releasing records for the Student?

(f) Providing other necessary consents for the Student?

(g) Expense of Student's room and board?

(h) Expenses of clothing and other necessities?

Will you provide any other financial assistance to the Student? ___ yes ___ no

If yes, what is the nature and amount of the assistance?

12. Other information that would assist the School District in acting on the application of this Student. _____

I certify that all the information provided on this affidavit is true and accurate.

I understand that:

if I provide false information on this affidavit to the _____ School District, I may be committing the crime of perjury in the third degree (a class A misdemeanor);

if I provide false information on this affidavit to the _____ School District with the intent to defraud the _____ School District, I may be committing the crime of perjury in the second degree (a class E felony); and

I may be prosecuted on criminal charges for such false information.

(Signature)

Sworn to before me this ____ day
day of _____, 20__.

Notary Public