



MALDEF

Mexican American Legal Defense and Educational Fund

PARENTS' RIGHTS TO ENROLL CHILDREN IN TEXAS PUBLIC SCHOOLS

Residency Law in Texas for Public School Enrollment

Although the general rule is that in order to attend a public school a child and his/her parent, guardian or custodian must live within the school district's boundaries, ***there are many exceptions under Texas law***. For example, children may attend the school where their grandparent resides if the grandparent provides substantial afterschool care for the children. Children who live with one parent in one district, but whose noncustodial parent resides in another, may attend school in the noncustodial parent's district. Homeless and foster children, among others, are also covered by exceptions to the general rule.

Documentation to Prove Residency

School districts cannot circumvent Texas residency laws by requiring parents to present unreasonable documentation to prove residency. Instead, districts must offer alternative ways to prove residency. For instance, some families live with other families and therefore cannot produce a utility bill in the parent's name; in such situations, districts should accept statements from the parents indicating where they live and with whom they live. For separated or unmarried parents, districts should not require parents to present a child custody court order, which would force parents to file for divorce or custody. For children who live with nonparents or non-legal guardians, districts should accept powers of attorneys as proof that the nonparent or non-legal guardian has control over the child's education. **Parents, however, should be aware that falsely claiming residency within a district could result in grave criminal and civil penalties.**

Wasting Tax Dollars to Defend Lawsuits

Taxpayers should not have to foot the legal bills in the event a lawsuit is filed to protect the rights of students and parents who have valid grounds for attending schools within a district. School officials and members of boards of trustees subject their school districts to substantial legal fees when they violate the rights of children and parents under state and federal law.

Rights of Parents, Guardians, Custodians and Children

No child should be withdrawn or denied an education without being afforded an opportunity to be heard, especially in light of the fact that parents and guardians must enroll students in school to comply with state compulsory attendance laws (with limited exceptions such as home-schooled students). In addition, parents have no obligation to stop at a school district checkpoint at the border and provide school officials with any information. Border Patrol and Customs officials also should not assist school districts or direct parents to stop at the checkpoints. Parents, guardians and custodians of students further are not required to allow school officials into their homes for an inspection of the premises.

Denying students an education implicates the important constitutional rights to due process and equal protection of the laws, as well as a number of other state law protections. School districts, especially those on the U.S.-Mexico border where families and friends often live on both sides of the border, should be mindful of those rights. MALDEF invites SFDR, United and other school districts to discuss reasonable residency policies and practices that will ensure that the rights of students, parents, and guardians are protected.

Should you have any questions, you may want to contact MALDEF's Southwestern Regional Office at 210-224-5476 or TRLA at 888-988-9996.