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Effective: June 15, 2007

Vernon's Texas Statutes and Codes Annotated [Currentness](#)

Education Code ([Refs & Annos](#))

Title 2. Public Education ([Refs & Annos](#))

Subtitle E. Students and Parents

[Chapter 25](#). Admission, Transfer, and Attendance ([Refs & Annos](#))

[Subchapter A](#). Admission and Enrollment

→ **§ 25.001. Admission**

(a) A person who, on the first day of September of any school year, is at least five years of age and under 21 years of age, or is at least 21 years of age and under 26 years of age and is admitted by a school district to complete the requirements for a high school diploma is entitled to the benefits of the available school fund for that year. Any other person enrolled in a prekindergarten class under [Section 29.153](#) is entitled to the benefits of the available school fund.

(b) The board of trustees of a school district or its designee shall admit into the public schools of the district free of tuition a person who is over five and younger than 21 years of age on the first day of September of the school year in which admission is sought, and may admit a person who is at least 21 years of age and under 26 years of age for the purpose of completing the requirements for a high school diploma, if:

(1) the person and either parent of the person reside in the school district;

(2) the person does not reside in the school district but a parent of the person resides in the school district and that parent is a joint managing conservator or the sole managing conservator or possessory conservator of the person;

(3) the person and the person's guardian or other person having lawful control of the person under a court order reside within the school district;

(4) the person has established a separate residence under Subsection (d);

(5) the person is homeless, as defined by [42 U.S.C. Section 11302](#), regardless of the residence of the person, of either parent of the person, or of the person's guardian or other person having lawful control of the person;

(6) the person is a foreign exchange student placed with a host family that resides in the school district by a nationally recognized foreign exchange program, unless the school district has applied for and been granted a waiver by the commissioner under Subsection (e);

(7) the person resides at a residential facility located in the district;

(8) the person resides in the school district and is 18 years of age or older or the person's disabilities of minority have been removed; or

(9) the person does not reside in the school district but the grandparent of the person:

(A) resides in the school district; and

(B) provides a substantial amount of after-school care for the person as determined by the board.

(b-1) A person who is 21 years of age or older and is admitted by a school district for the purpose stated in Subsection (b) is not eligible for placement in a disciplinary alternative education program or a juvenile justice alternative education program if the person engages in conduct that would require or authorize such placement for a student under the age of 21. If the student engages in conduct that would otherwise require such placement, the district shall revoke admission of the student into the public schools of the district.

(c) The board of trustees of a school district or the board's designee may require evidence that a person is eligible to attend the public schools of the district at the time the board or its designee considers an application for admission of the person. The board of trustees or its designee shall establish minimum proof of residency acceptable to the district. The board of trustees or its designee may make reasonable inquiries to verify a person's eligibility for admission.

(d) For a person under the age of 18 years to establish a residence for the purpose of attending the public schools separate and apart from the person's parent, guardian, or other person having lawful control of the person under a court order, it must be established that the person's presence in the school district is not for the primary purpose of participation in extracurricular activities. The board of trustees shall determine whether an applicant for admission is a resident of the school district for purposes of attending the public schools and may adopt reasonable guidelines for making a determination as necessary to protect the best interests of students. The board of trustees is not required to admit a person under this subsection if the person:

(1) has engaged in conduct or misbehavior within the preceding year that has resulted in:

(A) removal to a disciplinary alternative education program; or

(B) expulsion;

(2) has engaged in delinquent conduct or conduct in need of supervision and is on probation or other conditional release for that conduct; or

(3) has been convicted of a criminal offense and is on probation or other conditional release.

(b-2) A person who is 21 years of age or older who is admitted by a school district to complete the requirements for a high school diploma and who has not attended school in the three preceding school years may not be placed with a student who is 18 years of age or younger in a classroom setting, a cafeteria, or another district-sanctioned school activity. Nothing in this subsection prevents a student described by this subsection from attending a school-sponsored event that is open to the public as a member of the public.

(e) A school district may request that the commissioner waive the requirement that the district admit a foreign exchange student who meets the conditions of Subsection (b)(5). The commissioner shall respond to a district's request not later than the 60th day after the date of receipt of the request. The commissioner shall grant the request and issue a waiver effective for a period not to exceed three years if the commissioner determines that admission of a foreign exchange student would:

(1) create a financial or staffing hardship for the district;

(2) diminish the district's ability to provide high quality educational services for the district's domestic students; or

(3) require domestic students to compete with foreign exchange students for educational resources.

(f) A child placed in foster care by an agency of the state or by a political subdivision shall be permitted to attend the public schools in the district in which the foster parents reside free of any charge to the foster parents or the agency. A durational residence requirement may not be used to prohibit that child from fully participating in any activity sponsored by the school district.

(g) A student enrolled in high school in grade 9, 10, 11, or 12 who is placed in temporary foster care by the Texas Department of Human Services at a residence outside the attendance area for the school or outside the school district is entitled to complete high school at the school in which the student was enrolled at the time of placement without payment of tuition.

(h) In addition to the penalty provided by [Section 37.10, Penal Code](#), a person who knowingly falsifies information on a form required for enrollment of a student in a school district is liable to the district if the student is not

eligible for enrollment in the district but is enrolled on the basis of the false information. The person is liable, for the period during which the ineligible student is enrolled, for the greater of:

(1) the maximum tuition fee the district may charge under [Section 25.038](#); or

(2) the amount the district has budgeted for each student as maintenance and operating expenses.

(i) A school district may include on an enrollment form notice of the penalties provided by [Section 37.10, Penal Code](#), and of the liability provided by Subsection (h) for falsifying information on the form.

(j) For the purposes of this subchapter, the board of trustees of a school district by policy may allow a person showing evidence of legal responsibility for a child other than an order of a court to substitute for a guardian or other person having lawful control of the child under an order of a court.

CREDIT(S)

Added by [Acts 1995, 74th Leg., ch. 260, § 1, eff. May 30, 1995](#). Amended by [Acts 1997, 75th Leg., ch. 1019, § 1, eff. Sept. 1, 1997](#); [Acts 1999, 76th Leg., ch. 396, § 2.08, eff. Sept. 1, 1999](#); [Acts 2003, 78th Leg., ch. 1055, § 2, eff. June 20, 2003](#); [Acts 2005, 79th Leg., ch. 164, § 2, eff. May 27, 2005](#); [Acts 2005, 79th Leg., ch. 920, § 1, eff. June 18, 2005](#); [Acts 2007, 80th Leg., ch. 850, § 1, eff. June 15, 2007](#).

HISTORICAL AND STATUTORY NOTES

2006 Main Volume

Section 4 of Acts 1997, 75th Leg., ch. 1019 provides:

“This Act applies beginning with the 1997-1998 school year.”

Section 31 of Acts 2003, 78th Leg., ch. 1055 provides:

“(a) This Act applies beginning with the 2003-2004 school year, except that [Section 37.008\(a\)\(8\), Education Code](#), as added by this Act, applies beginning with the 2004-2005 school year.

“(b) Except as provided by Subsection (c) of this section, the changes in law made by this Act relating to conduct for which a student may be removed to a disciplinary alternative education program or expelled apply to conduct that occurs on or after the effective date [June 20, 2003] of this Act.

“(c) [Section 37.0081, Education Code](#), as added by this Act, applies to any student who attends school on or after the effective date [June 20, 2003] of this Act and who engaged in conduct described by that section, regardless of the date on which the conduct occurred.”

2009 Electronic update

2007 Legislation

Section 6 of Acts 2007, 80th Leg., ch. 850 provides:

“This Act applies beginning with the 2007-2008 school year.”

2006 Main Volume

Prior Laws:

Acts 1905, 29th Leg., p. 263.

Rev.Civ.St.1911, arts. 2894 to 2900.

Acts 1913, 33rd Leg., p. 175, ch. 91, § 1.

Acts 1929, 41st Leg., p. 232, ch. 97.

Acts 1931, 42nd Leg., 1st C.S., p. 33, ch. 20.

Vernon's Ann.Civ.St. arts. 2901, 2902, 2904a.

Acts 1969, 61st Leg., p. 2735, ch. 889, § 1.

Acts 1975, 64th Leg., p. 896, ch. 334, § 4.

Acts 1977, 65th Leg., p. 1012, ch. 376, § 1.

Acts 1979, 66th Leg., p. 1125, ch. 537, § 1.

Acts 1981, 67th Leg., p. 1010, ch. 386, § 1.

Acts 1983, 68th Leg., p. 409, ch. 83, § 1.

Acts 1983, 68th Leg., p. 5394, ch. 997, § 1.

Acts 1985, 69th Leg., ch. 264, § 32.

Acts 1989, 71st Leg., ch. 813, § 2.11.

Acts 1990, 71st Leg., 6th C.S., ch. 1, § 3.11.

Acts 1991, 72nd Leg., ch. 324, § 1.

Acts 1993, 73rd Leg., ch. 364, § 1.

[V.T.C.A., Education Code § 21.031.](#)

LAW REVIEW COMMENTARIES

Annual survey of Texas law: Family law--Parent and child. Ellen K. Solender, 37 Southwestern L.J. (Tex.) 111 (1983); 38 Southwestern L.J. (Tex.) 173 (1984).

Does the Constitution guarantee a free public education to undocumented alien children? 33 Baylor L.Rev. 637 (1981).

Equal protection and the education of undocumented children. 34 Southwestern L.J. (Tex.) 1229 (1981).

Legal status of undocumented aliens: In search of a consistent theory. 16 Houston L.Rev. 667 (1979).

Married and pregnant students. [50 Texas L.Rev. 1196 \(1972\).](#)

Married pupils. 19 Baylor L.Rev. 442 (1967).

State legislation denying subsistence benefits to undocumented aliens: An equal protection approach. 61 Texas L.Rev. 859 (1983).

LIBRARY REFERENCES

2006 Main Volume

[Schools](#)  148, 152, 153.

Westlaw Topic No. 345.

[C.J.S. Schools and School Districts §§ 697 to 703, 711 to 712, 717 to 719.](#)

RESEARCH REFERENCES

2009 Electronic update

Encyclopedias

[TX Jur. 3d Family Law § 1306](#), Post-Majority Payment--Extension of Support Obligation.

[TX Jur. 3d Schools § 137](#), Admission and Attendance.

[TX Jur. 3d Schools § 340](#), Entitlement; Enrollment Requirements; Use of Legal Name.

[TX Jur. 3d Schools § 341](#), Residence Within School District.

[TX Jur. 3d Schools § 345](#), Compulsory Attendance.

[TX Jur. 3d Schools § 353](#), School Assignment and Transfer, Generally.

Forms

[Texas Jurisprudence Pleading & Practice Forms 2d Ed § 218:21](#), Enrollment and Admission.

[Texas Jurisprudence Pleading & Practice Forms 2d Ed § 218:24](#), Conference on Removal.

[Texas Jurisprudence Pleading & Practice Forms 2d Ed § 218:40](#), Petition--For Judicial Review of Denial of Admission of Student to School.

[Texas Jurisprudence Pleading & Practice Forms 2d Ed § 218:41](#), Petition--For Declaratory and Injunctive Relief Compelling Admission of Student Testing Positive for Human Immunodeficiency Virus.

[Texas Jurisprudence Pleading & Practice Forms 2d Ed § 218:43](#), Petition--De Novo Appeal of School Board's Expulsion of Student.

[16 West's Texas Forms § 3.1](#), Legal Summary.

[16 West's Texas Forms § 3.7](#), Original Petition for Divorce (Long Form).

[16 West's Texas Forms § 3.22](#), Answer and Counterclaim.

[16 West's Texas Forms § 3.30](#), Temporary Orders.

[17 West's Texas Forms § 4.10](#), Decree in Suit to Declare Marriage Void.

[17 West's Texas Forms § 5.10](#), Annulment Decree.

[18 West's Texas Forms § 11.27](#), Order in Suit to Establish Paternity.

[16A West's Texas Forms § 3.71](#), Settlement Agreement (Composite Agreement).

[16A West's Texas Forms § 3.73](#), Decree of Divorce (Composite Decree).

[17B West's Texas Forms § 8.6](#), Petition to Modify in Court of Continuing Jurisdiction.

[17B West's Texas Forms § 8.13](#), Answer and Counterclaim to Petition to Modify.

[17B West's Texas Forms § 8.18](#), Order Modifying in Court of Continuing Jurisdiction.

[17B West's Texas Forms § 8.24](#), Order Modifying Out of State Order--Conservatorship, Possession or Access.

[18A West's Texas Forms § 15.37](#), Decree Granting Termination And/Or Conservatorship.

[18A West's Texas Forms § 16.12](#), Order Establishing the Parent-Child Relationship.

NOTES OF DECISIONS

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1. Validity of prior laws--In general

Even if statute governing residency requirement for minors who wished to attend public schools while living apart from their parents or guardians could be read to exclude child who moved to school district with intent of making his home there when desire to make new home was motivated solely by desire to attend school, sister of such a child did not have standing to raise constitutionality claim on behalf of child, where record showed that child did not intend to make his home in city where his sister lived. [Martinez v. Bynum, U.S.Tex.1983, 103 S.Ct. 1838, 461 U.S. 321, 75 L.Ed.2d 879. Constitutional Law !\[\]\(a551b0630a928855fed2157a11076906_img.jpg\) 702](#)

2. ---- Equal protection, generally, validity of prior laws

Illegal aliens who were challenging Texas statute which withheld from local school district any state funds for education of children who were not “legally admitted” into United States and which authorized local school districts to deny enrollment to such children were “persons within the jurisdiction” of the state of Texas and thus were protected under equal protection clause, which provides that no state shall deny to any person within its jurisdiction the equal protection of the laws. [Plyler v. Doe, U.S.Tex.1982, 102 S.Ct. 2382, 457 U.S. 202, 72 L.Ed.2d 786](#), rehearing denied [103 S.Ct. 14, 458 U.S. 1131, 73 L.Ed.2d 1401](#). [Constitutional Law](#) 🔑 3013

Texas statute which withheld from local school districts any state funds for the education of children who were not “legally admitted” into United States and which authorized local school districts to deny enrollment to such children could not be justified on grounds that undocumented children were appropriately singled out for exclusion because of special burdens they imposed on state's ability to provide high-quality public education as, in terms of educational costs and needs, undocumented children were basically indistinguishable from legally resident alien children. [Plyler v. Doe, U.S.Tex.1982, 102 S.Ct. 2382, 457 U.S. 202, 72 L.Ed.2d 786](#), rehearing denied [103 S.Ct. 14, 458 U.S. 1131, 73 L.Ed.2d 1401](#). [Schools](#) 🔑 10

Objective of equal protection clause to work nothing less than abolition of all caste and invidious class-based legislation is fundamentally at odds with power which state of Texas sought to assert to classify persons subject to its laws as nonetheless excepted from its protection by means of statute which withheld from local school districts any state funds for education of children who were not “legally admitted” into United States and which authorized local school districts to deny enrollment to such children. [Plyler v. Doe, U.S.Tex.1982, 102 S.Ct. 2382, 457 U.S. 202, 72 L.Ed.2d 786](#), rehearing denied [103 S.Ct. 14, 458 U.S. 1131, 73 L.Ed.2d 1401](#). [Constitutional Law](#) 🔑 3123; [Schools](#) 🔑 10

Although parents of school-age children of Mexican origin in Texas who could not establish that they had been legally admitted into United States had ability to conform their conduct to societal norms and presumably had ability to remove themselves from state's jurisdiction, children, who were challenging Texas statute which withheld from local school districts any state funds for education of children who were not “legally admitted” into United States and which authorized local school districts to deny enrollment to such children, could affect neither their parents' conduct nor their own status. [Plyler v. Doe, U.S.Tex.1982, 102 S.Ct. 2382, 457 U.S. 202, 72 L.Ed.2d 786](#), rehearing denied [103 S.Ct. 14, 458 U.S. 1131, 73 L.Ed.2d 1401](#). [Schools](#) 🔑 148(1)

Since Texas statute which withheld from local school districts any state funds for education of children who were not “legally admitted” into United States and which authorized local school districts to deny enrollment to such children imposes lifetime hardship on discrete class of children not accountable for their disabling status, discrimination contained in statute can hardly be considered rational unless it furthers some substantial goal of state. [Plyler v. Doe, U.S.Tex.1982, 102 S.Ct. 2382, 457 U.S. 202, 72 L.Ed.2d 786](#), rehearing denied [103 S.Ct. 14, 458 U.S. 1131, 73 L.Ed.2d 1401](#). [Constitutional Law](#) 🔑 3123; [Schools](#) 🔑 19(1)

Congressional immigration scheme does not provide any statement of policy that might weigh significantly in

arriving at equal protection balance concerning authority of state of Texas to withhold from local school districts any state funds for education of children who were not “legally admitted” into United States and which authorized local school districts to deny enrollment to such children. [Plyler v. Doe, U.S.Tex.1982, 102 S.Ct. 2382, 457 U.S. 202, 72 L.Ed.2d 786, rehearing denied 103 S.Ct. 14, 458 U.S. 1131, 73 L.Ed.2d 1401. Schools ↪ 148\(1\)](#)

Undocumented status of children of Mexican origin vel non did not establish sufficient rational basis for denying those children benefits of public education that state of Texas chose to afford other residents. [Plyler v. Doe, U.S.Tex.1982, 102 S.Ct. 2382, 457 U.S. 202, 72 L.Ed.2d 786, rehearing denied 103 S.Ct. 14, 458 U.S. 1131, 73 L.Ed.2d 1401. Schools ↪ 148\(1\)](#)

State's interest in preservation of state's limited resources for education of its lawful residents, standing alone, did not justify Texas statute which withheld from local school districts any state funds for education of children who were not “legally admitted” into United States and which authorized local school districts to deny enrollment to such children, as state was required to do more than justify its classification with concise expression of intention to discriminate. [Plyler v. Doe, U.S.Tex.1982, 102 S.Ct. 2382, 457 U.S. 202, 72 L.Ed.2d 786, rehearing denied 103 S.Ct. 14, 458 U.S. 1131, 73 L.Ed.2d 1401. Schools ↪ 10](#)

While state of Texas might have interest in mitigating potentially harsh and economic effects of influx of illegal immigrants, statute which withheld from local school districts any state funds for education of children who were not “legally admitted” into United States and which authorized local school districts to deny enrollment to such children did not offer effective method of dealing with urgent demographic or economic problem, as there was no evidence to indicate that illegal entrants imposed any significant burden on state's economy. [Plyler v. Doe, U.S.Tex.1982, 102 S.Ct. 2382, 457 U.S. 202, 72 L.Ed.2d 786, rehearing denied 103 S.Ct. 14, 458 U.S. 1131, 73 L.Ed.2d 1401. Schools ↪ 10](#)

Traditional caution about plenary authority of Congress to act with respect to naturalization does not mandate unusual deference to be shown classification embodied in Texas statute which withheld from local school districts any state funds for education of children who were not “legally admitted” into United States and which authorized local school districts to deny enrollment to such children. [Plyler v. Doe, U.S.Tex.1982, 102 S.Ct. 2382, 457 U.S. 202, 72 L.Ed.2d 786, rehearing denied 103 S.Ct. 14, 458 U.S. 1131, 73 L.Ed.2d 1401. Constitutional Law ↪ 3123; Schools ↪ 10](#)

3. ---- Residency, validity of prior laws

Texas statute permitting school district to deny free admission to minor who lived apart from his parent or guardian if his presence in district was for primary purpose of attending free public schools was a bona fide residence requirement that satisfied constitutional standards. [Martinez v. Bynum, U.S.Tex.1983, 103 S.Ct. 1838, 461 U.S. 321, 75 L.Ed.2d 879. Schools ↪ 10](#)

Bona fide residence requirement, of Texas statute, which was appropriately defined and uniformly applied with

respect to attendance in free public schools, did not violate equal protection clause of Fourteenth Amendment, and does not burden or penalize constitutional right of interstate travel. [U.S.C.A. Const.Amend. 14](#); [V.T.C.A., Education Code s 21.031\(d\)](#). [Martinez v. Bynum, U.S.Tex.1983, 103 S.Ct. 1838, 461 U.S. 321, 75 L.Ed.2d 879.](#) [Constitutional Law](#) 🔑 1282; [Constitutional Law](#) 🔑 3360; [Schools](#) 🔑 10

Neither Texas Education Code nor school district policy gave children entitlement in nature of a property right to attend their former school without tuition after they changed their residence to another school district and since children possessed no state-created property interest in attending school in district of former residence, principal's action in ordering their withdrawal after they refused to pay tuition was not subject to procedural strictures of the due process clause. [Daniels v. Morris, C.A.5 \(Tex.\)1984, 746 F.2d 271.](#) [Constitutional Law](#) 🔑 4206

School district's denial of admission to children on grounds that children lived apart from their parents violated children's equal protection rights; children lived with their grandmothers, and did not establish separate residence for primary purpose of attending school in district. [Byrd v. Livingston Independent School Dist., E.D.Tex.1987, 674 F.Supp. 225.](#) [Constitutional Law](#) 🔑 3361; [Schools](#) 🔑 153


Policy of school district to admit tuition-free only those students who resided with their parents within the district or resided with a legally appointed guardian within the district or resided with a person within the district who had lawful control over the prospective student pursuant to orders of the juvenile court or a child welfare agency does not contravene either the Fourteenth Amendment of the United States Constitution or [Const. Art. 1, § 3](#). [De Leon v. Harlingen Consol. Independent School Dist. \(Civ.App. 1977\) 552 S.W.2d 922.](#) [Constitutional Law](#) 🔑 3362; [Schools](#) 🔑 153

Bona fide residence requirement, which was appropriately defined and uniformly applied with respect to attendance in free public schools, did not violate equal protection clause of Fourteenth Amendment, and does not burden or penalize constitutional right of interstate travel. [De Leon v. Harlingen Consol. Independent School Dist. \(Civ.App. 1977\) 552 S.W.2d 922.](#)

4. In general

State of Texas had established policy assuring all handicapped children the right to free appropriate public education, and that state law was in harmony with federal law. [McDowell by McDowell v. Fort Bend Independent School Dist., S.D.Tex.1990, 737 F.Supp. 386.](#) [Schools](#) 🔑 148(2.1)


Evidence was legally sufficient to support trial court's finding in proceeding terminating parental rights that mother was major cause of child's failure to be enrolled in school as required by Education Code; mother admitted that she never enrolled child in school or otherwise provided him with certified home-school education, compulsory education statute did not state residency requirement, and case law indicated that moving frequently did not exempt parent from requirement of providing for child's education. [Yonko v. Department of Family and](#)


Protective Services (App. 1 Dist. 2005) 2005 WL 3500775, withdrawn and superseded on rehearing [196 S.W.3d 236](#). [Infants](#)  [159](#)


Under this section, alien children within the state are entitled to attend public school in the district of their residence, regardless of whether they may be “legally” or “illegally” within the United States. Op.Atty.Gen.1975, No. H-586.


The prekindergarten program created by [section 21.136 of the Education Code](#) must be a part of the “public free schools” under Texas law because prekindergarten students are entitled to the benefits of the available school fund; under [article VII, section 5 of the Texas Constitution](#), the available school fund can be used only for the support of the public free schools. Op.Atty.Gen.1993, No. DM-196.

5. Residency--In general

As used in statute requiring student living apart from parent or guardian, in order to establish residency for purposes of attending free public schools, to show that his presence in school district was not for primary purpose of attending such school, term “residence” means something more than mere physical presence and thus is more closely related to concept of domicile. [Arredondo v. Brockette, C.A.5 \(Tex.\)1981, 648 F.2d 425](#), certiorari granted [102 S.Ct. 2955, 457 U.S. 1131, 73 L.Ed.2d 1347](#), affirmed [103 S.Ct. 1838, 461 U.S. 321, 75 L.Ed.2d 879](#). [Domicile](#)  [2](#)

Policy of school district to require that a child who leaves the school district and establishes a residence elsewhere during the school year either pay tuition or withdraw from his former school did not violate statute stating that child shall be permitted to attend public free schools of district in which he resides or in which his parent resides at time he applies for admission or constitute an abuse of the school district's broad discretion to control and manage the district. [Daniels v. Morris, C.A.5 \(Tex.\)1984, 746 F.2d 271](#). [Schools](#)  [153](#)

Children who did not reside with their grandmothers for primary purpose of attending public schools in district were not required to establish that their grandmothers had legal control over them in order to be entitled to attend public school in grandmothers' district. [Byrd v. Livingston Independent School Dist., E.D.Tex.1987, 674 F.Supp. 225](#). [Schools](#)  [153](#)

Child who was an American citizen, whose parents resided in Mexico, who lived in aunt's home within school district as part of her household for approximately 16 months continuously except for brief interruption and whose aunt had been appointed guardian of child's person and had become responsible for his discipline, food, clothing and shelter satisfied residency requirement of this section and was entitled to attend public schools in school district. [Brownsville Independent School Dist. v. Gamboa \(Civ.App. 1973\) 498 S.W.2d 448](#), ref. n.r.e. [Schools](#)  [153](#)

Child who was an American citizen, who did not reside within school district, whose mother was not resident of

school district and who was not under lawful control of a resident of school district was not entitled to admission to public free schools of school district even though child had been living with her aunt, who was resident of school district, at beginning of school year where child's residence status at beginning of school year was vague and temporary and child subsequently returned to live with her mother in Mexico. [Brownsville Independent School Dist. v. Gamboa \(Civ.App. 1973\) 498 S.W.2d 448](#), ref. n.r.e. [Schools](#) ↪ 153

Ample evidence supported finding that school district's policy of allowing tuition-free attendance to public schools only to children of school age who reside with parent, guardian or managing conservator was necessary for logical enforcement of federal court desegregation order, in view of testimony that many ruses were used to attempt to get children into school in different quadrant from where they actually resided and testimony that some parents had given child-accounting supervisor sham guardianship papers in an attempt to circumvent court's desegregation order. [Jackson v. Waco Independent School Dist. \(App. 10 Dist. 1982\) 629 S.W.2d 201](#), ref. n.r.e. [Schools](#) ↪ 159

School district requirement that child could not attend tuition-free public school unless child resided with parent, guardian or other court-ordered relation, was proper exercise of district's statutory power under § 23.26 to adopt reasonable guidelines, notwithstanding § 21.031(d), which provides that such children are eligible for admission if they are bona fide resident of district and do not reside in district for primary purpose of attending school. [Rodriguez v. Ysleta Independent School Dist. \(App. 8 Dist. 1983\) 663 S.W.2d 547](#). [Schools](#) ↪ 153

6. ---- Good faith, residency

If a scholastic is living in an independent school district for sole purpose of attending school of that district, he is resident of common school district, in which his parents reside for purpose of scholastic enumeration, but if he has in good faith established a substantial residence he may be enumerated in independent school district. Op.Atty.Gen.1939, No. O-586.

Residence of a minor for the purpose of determining his eligibility for free public education under this section, normally is that of his parents. Whether residence elsewhere qualifies the minor will depend upon whether the residence is bona fide or is merely an ostensible residence for the purpose of attending a different school. Op.Atty.Gen.1973, No. H-63.

The enactment of § 21.031(e) prevents the application to students placed in a foster home of three University Interscholastic League rules which impose durational residence requirements on them; statute applies to students placed in a foster home by a judge; it applies at the time of each placement in a foster home, even when the previous residence was another foster home or an orphans home. Op.Atty.Gen.1979, No. MW-43.

7. ---- District of residency

Once child reached her majority on her eighteenth birthday, her district of residence for educational purposes

would be where she chose to live, under this section, unless state court found her incompetent and appointed guardian. [Susan R.M. by Charles L.M. v. Northeast Independent School Dist., C.A.5 \(Tex.\)1987, 818 F.2d 455. Schools ↪ 153](#)

Children living in an orphans' home within limits of a school district are residents of that school district so as to entitle them to benefit of public free school education in the district school. Op.Atty.Gen.1939, No. O-762.

Territory within school district which is taken over by federal government remains part of school district, and scholastics residing in such territory are entitled to receive public free school education in district. Op.Atty.Gen.1942, No. O-4829.

8. Age

Where child was not scheduled to finish high school before her eighteenth birthday, state would still have duty to provide public education until allegedly handicapped child graduated from high school or reached age of 21, whichever was earlier, under this section and federal Education of All Handicapped Children Act [20 U.S.C.A. § 1412(2)(B)]. [Susan R.M. by Charles L.M. v. Northeast Independent School Dist., C.A.5 \(Tex.\)1987, 818 F.2d 455. Schools ↪ 152](#)

Scholastics over 18 years of age and under 21 are not free school students as of right. [Love v. City of Dallas \(Sup. 1931\) 120 Tex. 351, 40 S.W.2d 20. Schools ↪ 154; Schools ↪ 159](#)


The board of trustees of a school district cannot legally refuse to accept a student who is within the scholastic age even though he has graduated from high school. Op.Atty.Gen.1939, No. O-1388.


Independent school districts have no authority to spend local tax moneys for the purpose of conducting classes for adults over 21 years of age. Op.Atty.Gen.1939, No. O-1676.

9. Actions and proceedings

Students had legally protected interest to attend public school appropriate for their grade level, for purposes of establishing standing to challenge constitutionality of school district policy requiring students to wear uniforms, where state had established entitlement to free public education and children located in state were required by state law to attend school unless otherwise exempt. [Littlefield v. Forney Ind. School Dist., N.D.Tex.2000, 108 F.Supp.2d 681, affirmed 268 F.3d 275. Constitutional Law ↪ 702](#)

Finding of school board as to whether child resides within school district must be supported by substantial evidence. [Brownsville Independent School Dist. v. Gamboa \(Civ.App. 1973\) 498 S.W.2d 448, ref. n.r.e. Schools ↪ 153](#)

Factual issues as to primary reason for minors residing in school district had to be resolved by school district authorities before suit could be brought to enjoin district from refusing to enroll minors as tuition-free students, and as issues had not been resolved by the appropriate administrative agencies, trial court was without jurisdiction in the case save and except to render judgment of dismissal. [De Leon v. Harlingen Consol. Independent School Dist. \(Civ.App. 1977\) 552 S.W.2d 922. Injunction](#)  108

Court of Appeals had jurisdiction of question concerning validity of school board policy which allowed tuition-free attendance to public schools only to children of school age who resided with parent, guardian or managing conservator, since issue of policy's reasonableness was question of law. [Jackson v. Waco Independent School Dist. \(App. 10 Dist. 1982\) 629 S.W.2d 201](#), ref. n.r.e. [Schools](#)  159

V. T. C. A., Education Code § 25.001, TX EDUC § 25.001

Current through Chapters effective immediately through Ch. 87 of the 2009 Regular Session of the 81st Legislature.

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