

Maine Revised Statutes Annotated Currentness

Title 20-A. Education (Refs & Annos)

- + Part 3. Elementary and Secondary Education
- + Chapter 213. Student Eligibility
- >> s 5205. Other exceptions to the general residency rules

The following exceptions apply in determining a student's right to attend a school in a school administrative unit other than the one in which the student has permanent residence.

1. State wards. A state ward shall be considered a resident of the unit where placed.

2. Other students not living at home. A student other than a state ward, a state agency client or a homeless child, residing with another person who is not the student's parent, is considered a resident of the school administrative unit where the student resides if the superintendent of the unit determines that it is in the best interest of the student because of the following:
 - A. It is undesirable and impractical for that student to reside with the student's parent, or that other extenuating circumstances exist which justify residence in the unit; and

 - B. That person is residing in the school administrative unit for other than just education purposes.

The commissioner shall review the superintendent's determination on the request of the student's parent. The commissioner's decision is final and binding. Upon request of the superintendent of schools in the unit in which a student is placed in accordance with this subsection, the state share percentage for subsidized educational costs for that student is equivalent to the state share percentage of the unit in which the student's parent or legal guardian resides or the average state share percentage, whichever is greater. If the parent or legal guardian does not reside in the State or can not be located, the subsidy is the state average subsidy.

3. Students placed by state agencies. A student who is placed by a state agency in a residential placement other than a residential treatment center, as defined in section 1, subsection 24-A, paragraph D, subparagraph 3, is considered a resident of the school administrative unit where the residential placement is located.

A, B. Deleted. Laws 1997, c. 326, s 2.

3-A. Students placed by the Department of Health and Human Services. Notwithstanding subsection 3, a student who is placed by the Department of Health and Human Services with an adult who is not the child's parent or legal guardian in accordance with the educational stability provisions of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law 110-351, 122 Stat. 3949 is considered a resident of either the school administrative unit where the student resides during the placement or the school administrative unit where the student resided prior to the placement based on the best interest of the student. The Department of Health and Human Services, in consultation with the department and the school administrative units, shall determine which of the 2 units is appropriate and notify that unit in writing of its determination. The school administrative unit that provides public education for the student shall count the student as a resident student for subsidy purposes.

4. Students living at light, fog warning or life stations. A student living at any light, fog warning or lifesaving station shall be considered a resident of the school administrative unit where the student chooses to enroll.

5. Temporary residents. A student who temporarily resides in a school administrative unit shall be considered a resident of that school unit if the student is living with a parent who, because of employment, moves from place to place. This subsection may not be construed to abridge that student's rights in the school administrative unit where the student permanently resides.

6. Transfer students. The following provisions apply to transfers of students from one school administrative unit to another.

A. Two superintendents may approve the transfer of a student from one school administrative unit to another if:

(1) They find that a transfer is in the student's best interest; and

(2) The student's parent approves.

The superintendents shall notify the commissioner of any transfer approved under this paragraph.

B. On the request of the parent of a student requesting transfer under paragraph A, the commissioner shall review the transfer. The commissioner's decision shall be final and binding.

C. The superintendents shall annually review any transfer under this subsection.

D. For purposes of the state school subsidy, a student transferred under this subsection is considered a resident of the school administrative unit to which transferred. Upon request of the superintendent of schools in the unit in which a student is placed in accordance with this subsection, the state share percentage for subsidized educational costs for that student is equivalent to the state share percentage of the unit in which the student's parent or legal guardian resides or the average state share percentage, whichever is greater. If the parent or legal guardian does not reside in the State or can not be located, the subsidy is the state average subsidy.

E. A school administrative unit may not charge tuition for a transfer approved under this subsection.

7. Homeless students. Pursuant to section 261, the commissioner may adopt rules to ensure that each homeless student has unrestricted access to the free public education afforded by section 2, subsection 1. The rules must implement the requirements and policies of the McKinney-Vento Homeless Education Assistance Improvement Act of 2001, 42 United States Code, Section 11431 et seq., and may be adopted as part of or in conjunction with the required state plan. The rules must include, but are not limited to, provisions for the resolution of disputes regarding the educational placement of homeless students according to the best interest of homeless students, provisions that homeless students receive services comparable to services offered to other students in the schools they attend,

provisions to address transportation and health records as a barrier to school admission and other provisions required by United States Code, Title 42, Section 11431.

8. Students attending Maine School of Science and Mathematics. For purposes of subsidy calculation only, students attending the Maine School of Science and Mathematics are not considered residents of the sending school administrative unit.