

West's Vermont Statutes Annotated Currentness

Title Sixteen. Education

Part 2. Public Schools

+ Chapter 25. Attendance and Discipline

+ Subchapter 1. General Provisions

>> s 1075. Legal residence defined; responsibility and payment of education of pupils

(a) For the purpose of this title, except as otherwise set forth herein, the legal residence or residence of a pupil shall be as follows:

(1) in the case of a minor, legal residence is where his or her parents reside, except that:

(A) if the parents live apart, legal residence is where either parent resides, but if a parent with sole custody lives outside the state of Vermont the pupil does not have a legal residence in Vermont;

(B) if the minor is in the custody of a legal guardian appointed by a Vermont court or a court of competent jurisdiction in another state, territory or country, legal residence is where the guardian resides;

(2) in the case of a student who has reached the age of majority, legal residence is where the student resides;

(3) for the purposes of this title, "resident" of the state and of a school district means a natural person who is domiciled in the school district and who, if temporarily absent, demonstrates an intent to maintain a principal dwelling place in the school district indefinitely and to return there, coupled with an act or acts consistent with that intent. The term "temporarily absent" includes those special cases listed in 17 V.S.A. s 2122(a). The term "residence" is synonymous with the term "domicile." A married person may have a domicile independent of the domicile of his or her spouse. If a person removes to another town with the intention of remaining there indefinitely, that person

shall be considered to have lost residence in the town in which the person originally resided even though the person intends to return at some future time. A person may have only one residence at a given time.

(b) The commissioner shall determine the legal residence of all state-placed students pursuant to the provisions of this section. In all other cases, the pupil's legal residence shall be determined by the board of school directors of the district in which the pupil is seeking enrollment or, if the pupil is seeking payment of tuition, the board of directors from which the pupil is seeking tuition payment. If a pupil is denied enrollment at any stage, the pupil and his or her parent or guardian shall be notified in writing, within 24 hours, of the provisions of this section. If the pupil is not in attendance as a result of a preliminary decision by school officials and a decision from the board of school directors will not be available by the end of the second school day after the request for enrollment is made, the commissioner may issue a temporary order requiring enrollment. Any interested person or taxpayer who is dissatisfied with the decision of the board as to the pupil's legal residence may appeal to the commissioner of education, who shall determine the pupil's legal residence, and the decision of the commissioner shall be final. Pending appeal under this subsection, the commissioner shall issue a temporary order requiring enrollment.

(c) State-placed students.

(1) A state-placed student, other than one placed in a 24-hour residential facility and except as otherwise provided in this subsection, shall be educated by the school district in which the pupil is living, unless an alternative plan or facility for the education of the pupil is agreed upon by the commissioner of education. In the case of a dispute as to where a state-placed student is living, the commissioner shall conduct a hearing to determine which school district is responsible for educating the pupil. The commissioner's decision shall be final.

(2) If a pupil is a state-placed student pursuant to subdivision 11(a)(28)(D)(i)(I) of this title, then the department for children and families shall assume responsibility for the pupil's transportation to and from school, unless the receiving district chooses to provide transportation.

(3) A pupil who is in temporary legal custody pursuant to subdivision 5308(b)(3) or (4) of Title 33 and is a state-placed student pursuant to subdivision 11(a)(28)(D)(i)(II) of this title, shall be enrolled, at the temporary legal

custodian's discretion, in the district in which the pupil's parents reside, the district in which either parent resides if the parents live in different districts, the district in which the pupil's legal guardian resides, or the district in which the temporary legal custodian resides. If the pupil enrolls in the district in which the temporary legal custodian resides, the district shall provide transportation in the same manner and to the same extent it is provided to other students in the district. In all other cases, the temporary legal custodian is responsible for the pupil's transportation to and from school, unless the receiving district chooses to provide transportation.

(4) If a pupil who had been a state-placed student pursuant to subdivision 11(a)(28) of this title is returned to live in the district in which one or more of the pupil's parents or legal guardians reside, then, at the request of the pupil's parent or legal guardian, the commissioner of education may order the pupil to continue his or her enrollment for the remainder of the academic year in the district in which the pupil resided prior to returning to the parent's or guardian's district and the pupil will continue to be funded as a state-placed student. Unless the receiving district chooses to provide transportation:

(A) If the pupil remains in the legal custody of the commissioner for children and families, then the department for children and families shall assume responsibility for the pupil's transportation to and from school.

(B) In all other instances under this subdivision (4), the parent or legal guardian is responsible for the pupil's transportation.

(d) Repealed by 1995, Adj. Sess., No. 157, s 30(c), eff. July 1, 1997.

(e) For the purposes of this title, the legal residence or residence of a child of homeless parents is where the child temporarily resides unless the parents and another school district agree that the child's attendance in school in that school district will be in the best interests of the child in that continuity of education will be provided and transportation will not be unduly burdensome to the school district. A "child of homeless parents" means a child whose parents;

(1) lack a fixed, regular and adequate residence; or

(2) have a primary nighttime residence in a supervised publicly or privately operated shelter for temporary accommodations such as public assistance hotels,

emergency shelters, battered women's shelters, and transitional housing facilities, or a public or private place not designated for, or ordinarily used as, a regular sleeping accommodation for human beings.

(f) For the purposes of this title, the legal residence of an alien, immigrant or refugee child shall be determined in the same manner as in subsection (e) of this section, unless the child's parents have established a residence in the state.

(g) Repealed by 1995, Adj. Sess., No. 157, s 30, eff. July 1, 1996.

(h) For the purposes of this title, the legal residence or residence of an independent student is where the independent student resides. "Independent student" as used in this subsection means a child between the ages of 14 and 18 years who by the acts and expressions of the child and his or her parents or legal guardian has demonstrated that he or she is living separate and apart from his or her parents or legal guardian, is independent of the authority of his or her parents or legal guardian, and is not economically dependent upon his or her parents or legal guardian. For the purposes of this subsection, the term "independent student" shall also include "emancipated minor" as that term is defined in section 7151(a) of Title 12.

(i) The commissioner of social and rehabilitation services shall continue to provide social services and financial support in accordance with 16 V.S.A. s 2950 on behalf of individuals under his or her care and custody while in a residential placement, until they reach their nineteenth birthday.

(j) A claim or statement of fact bearing on residency shall be subject to 13 V.S.A. s 3016.

(k) Repealed by 1995, Adj. Sess., No. 157, s 30, eff. July 1, 1996.