

Nonresident Students in Institutions

24 P.S. § 13-1306

DATE OF ISSUE: July 1, 1999

REPLACES: Nonresident Students in Institutions, BEC 24 P.S. 13-1306, issued September 1, 1997

PURPOSE

Students who are residing in a "children's institution" whose parents are not residents of the school district in which the institution is located are identified as "1306" students. These students may be in a variety of residential centers, homes or institutions, such as Drug and Alcohol Treatment Centers, homes for orphans or other "institutions for the care and training for orphans or other children."

RESPONSIBILITY OF HOST DISTRICT

School districts which have students residing in a children's institution located within their borders ("host" school districts) are responsible for educating the students in those children's institutions.

Under Section 1306 of the School Code, the host school district is required to allow nonresident students in children's institutions, including detention homes, drug and alcohol treatment centers and others, located within their borders, to attend the public schools of the host school district.

For some students living in these children's institutions this may not be appropriate because of the terms of the institutionalization or because of the particular educational needs of the student. In some cases, the host school district may wish to conduct an educational or alternative education program at the institution. These districts should apply to PDE for approval to run an experimental or alternative program for these students using the process set forth in [22 Pa. Code § 4.82](#) of the State Board of Education Regulations or programs for disruptive youth per 24 P.S. Article XIX-C. In other cases, the host school district may contract with another educational entity, such as an Intermediate Unit, to provide an educational program for the students in the institution. Some children's institutions may wish to apply to PDE for approval to operate education programs as nonpublic schools.

FINANCING NON-RESIDENT STUDENTS LIVING IN CHILDREN'S INSTITUTIONS

If a student residing in a children's institution is found to be exceptional, the host school district is responsible for providing the student with an appropriate program of special education and training consistent with [Chapters 14](#) and [342](#) of the Pennsylvania regulations and standards. This means the host school district is responsible for making decisions regarding the goals, programming, and educational placement for each student. The host school district is also responsible for seeking advice from the resident school district with respect to the student, and keeping the resident school district informed of its plans to educate the student. Other arrangements may be made in writing between the two districts regarding educational and procedural responsibilities, with the approval of the Department of Education and notice and opportunity to respond by the parents.

Host school districts will finance the provision of the educational program for the students in children's institutions through Section 1306 of the school code, "Non-resident inmates of children's institutions." This section allows the host school district to charge the school district where the student's parents live, or "resident" school district, the host district's tuition rate, as determined by Section 2561, for the education of these students.

Arrangements for this payment are made directly between the two school districts.

For a student residing in a children's institution who is eligible for special education services, the host school district may charge up to the total net cost of the services provided, minus any amount already received as a tuition charge. The Pennsylvania School Code, 24 P.S. Section 1309(2), allows the host school district to charge the full cost of providing special education programs and services for all institutionalized students.

RESIDENT SCHOOL DISTRICT RESPONSIBILITIES INCLUDE DIRECT PAYMENT TO THE HOST SCHOOL DISTRICT FOR PROVIDING THE EDUCATIONAL PROGRAM AND STAYING INFORMED OF THE EDUCATIONAL SERVICES BEING PROVIDED TO A STUDENT ELIGIBLE FOR SPECIAL EDUCATION.

INTERMEDIATE UNITS (IUS) MAY CONTINUE TO PROVIDE THE EDUCATIONAL PROGRAM FOR STUDENTS IN SOME INSTITUTIONAL SETTINGS AND WILL CONTINUE TO RECEIVE SUPPORT FROM THE COMMONWEALTH FOR THESE STUDENTS. RESIDENT SCHOOL DISTRICTS WILL PAY THE DIFFERENCE BETWEEN THE SUPPORT FROM THE COMMONWEALTH AND THE COST OF EDUCATING INSTITUTIONALIZED STUDENTS IN NEED OF A SPECIAL EDUCATION PROGRAM, IF NECESSARY.

The Public School Code, at Section 2509.1 (b.1), allows the Department to pay intermediate units (IUs) for costs associated with "operating and administering classes or schools for institutionalized children." This section of the School Code does not require IUs to operate these classes, but IUs are allowed to do so, and are required to do so to the extent that it is not feasible for a school district to take care of the education of some or all of such students. To support efforts in this area, PDE expends funds up to the limit allowed by the General Assembly, from the total amount appropriated for special education. This will not necessarily fund intermediate units for 100% of their current expenses, because Section 2509.1 (b.1) calculates payments on prior year amounts and because the maximum available to IUs under Section 2509.1(b) is currently established in law.

This system also includes a tuition recovery procedure, whereby the resident school district (that is, the district in which the student's parents reside) pays to the Commonwealth a tuition charge. The tuition charge is the tuition amount of the resident school district, calculated in accord with Section 2561 of the School Code. This tuition amount is recovered by the Commonwealth following determination of the student's resident school district in accordance with procedures in Section 1308.

In cases where:

1. the host school district has implemented all of its responsibilities under Section 1306,
2. the child is an eligible student under Chapter 14, and
3. the host school district can show that the cost for the IU program used by the host school district exceeds the funds provided to the IU by the Commonwealth, then the resident school district is responsible for paying these additional costs of the special education program.

Amendments to Section 1309 of the School Code established the special education charge which may now be the total net cost of the special education program provided. In the case of a child with exceptionalities who is an inmate of an institution and who is served under Section 2509.1(b), the host school district may charge the district of residence an amount that does not exceed the total cost of the special education program provided minus the amount received per child from the Commonwealth under Section 2509.1(b).

For billing purposes, the IU may act as a billing agent for the host school district. When an IU does so, it should clearly identify itself as acting in that capacity in order to trigger the tuition recovery process called for in Section 1309. Regardless of who does the billing, that entity should certify that the above listed conditions are satisfied.

PROCEDURES TO FOLLOW TO ESTABLISH RESIDENCY FOR A "1306" STUDENT

The following procedure is set forth in 24 P.S. §13-1308 to establish the residency of a student living in a children's institution but whose parents are not residents of the school district in which the institution is located.

- The officers of the institution submit to the board of school directors of the host school district a sworn statement listing the names, ages and school district of each resident of the institution.
- The host school district forwards a form PDE-4605, Determination of District of Residence for Students in Facilities or Institutions, by certified mail, to the school district in which the institution declares the student's parents reside (the resident school district). The secretary of that school district must sign the form to acknowledge or disclaim the residence of the student.
- If the resident school district does not return the form within fifteen days, the host school district shall send the form to the resident school district again.
- If the resident school district again does not return the form within fifteen days, the host school district may construe such neglect to be acknowledgment of the student's residence.
- The resident school district shall pay the tuition (and any applicable special education charge) billed by the host school district for its residents upon receipt of the bill.
- The resident school district may appeal the tuition bill to the Secretary of Education. The Secretary's decision as to the amount of the bill and/or which school district is responsible for the tuition is final.
- If the resident school district neglects or refuses to pay the amount billed or determined by the Secretary of Education if appealed, the Secretary has the authority to deduct the amount owed by the resident school district from funds due from the Commonwealth and pay that amount to the host school district.
- Any school-aged person living in an institution in Pennsylvania whose parent(s) or legal guardian resides outside Pennsylvania is entitled, upon request, to PDE review of his or her place of residence. Procedures used by PDE to make such determination are described in BEC 24 P.S. Section 13-1308.
- Students from out-of-state must have a guarantee or actual tuition paid prior to the student enrolling in the school district program. See BEC 24 P.S. 13-Section 1308(1).
- For a student determined to be emancipated, use his or her last address to establish the school district of residence.

- Due to the brief institutionalization periods for some students in institutions, host school districts are encouraged to bill the resident school district on a regular and periodic basis.

REFERENCES:

Purdon's Statutes

24 P.S. Section 13-1306
24 P.S. Section 13-1308
24 P.S. Section 13-1309
24 P.S. Section 25-2509.1
24 P.S. Section 25-2561

State Board of Education Regulations

[22 Pa. Code § 11.18](#)

[22 Pa. Code Chapter 14](#)

Department of Education Standards

[22 Pa. Code Chapter 342](#)

Other

Bermudian Springs School District v. Department of Education, 475 A 2d 943 (Pa. Commonwealth, 1984)

BUREAU/OFFICE CONTACT:

School Services Office
Pennsylvania Department of Education
333 Market Street
Harrisburg, PA 17126-0333
Phone: 717.783.3750
TDD: 717.783.8445
Fax: 717.214.4389

For approval to operate a nonpublic school:

Division of Nonpublic and Private School Services
Bureau of Community and Student Services
Phone: (717) 783-5146

For copies of form PDE-4605, Determination of District of Residence for Students in Facilities or Institutions:

Division of Subsidy Data and Administration
Bureau of Budget and Fiscal Management
Phone: (717) 787-5423