

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Section
5 10-20.12b as follows:

6 (105 ILCS 5/10-20.12b)

7 Sec. 10-20.12b. Residency; payment of tuition; hearing;
8 criminal penalty.

9 (a) For purposes of this Section:

10 (1) The residence of a person who has legal custody of
11 a pupil is deemed to be the residence of the pupil.

12 (2) "Legal custody" means one of the following:

13 (i) Custody exercised by a natural or adoptive
14 parent with whom the pupil resides.

15 (ii) Custody granted by order of a court of
16 competent jurisdiction to a person with whom the pupil
17 resides for reasons other than to have access to the
18 educational programs of the district.

19 (iii) Custody exercised under a statutory
20 short-term guardianship, provided that within 60 days
21 of the pupil's enrollment a court order is entered that
22 establishes a permanent guardianship and grants
23 custody to a person with whom the pupil resides for

1 reasons other than to have access to the educational
2 programs of the district.

3 (iv) Custody exercised by an adult caretaker
4 relative who is receiving aid under the Illinois Public
5 Aid Code for the pupil who resides with that adult
6 caretaker relative for purposes other than to have
7 access to the educational programs of the district.

8 (v) Custody exercised by an adult who demonstrates
9 that, in fact, he or she has assumed and exercises
10 legal responsibility for the pupil and provides the
11 pupil with a regular fixed night-time abode for
12 purposes other than to have access to the educational
13 programs of the district.

14 (a-5) If a pupil's change of residence is due to the
15 military service obligation of a person who has legal custody
16 of the pupil, then, upon the written request of the person
17 having legal custody of the pupil, the residence of the pupil
18 is deemed for all purposes relating to enrollment (including
19 tuition, fees, and costs), for the duration of the custodian's
20 military service obligation, to be the same as the residence of
21 the pupil immediately before the change of residence caused by
22 the military service obligation. A school district is not
23 responsible for providing transportation to or from school for
24 a pupil whose residence is determined under this subsection
25 (a-5). School districts shall facilitate re-enrollment when
26 necessary to comply with this subsection (a-5).

1 (b) Except as otherwise provided under Section 10-22.5a,
2 only resident pupils of a school district may attend the
3 schools of the district without payment of the tuition required
4 to be charged under Section 10-20.12a. However, children for
5 whom the Guardianship Administrator of the Department of
6 Children and Family Services has been appointed temporary
7 custodian or guardian of the person of a child shall not be
8 charged tuition as a nonresident pupil if the child was placed
9 by the Department of Children and Family Services with a foster
10 parent or placed in another type of child care facility and the
11 foster parent or child care facility is located in a school
12 district other than the child's former school district and it
13 is determined by the Department of Children and Family Services
14 to be in the child's best interest to maintain attendance at
15 his or her former school district.

16 (c) The provisions of this subsection do not apply in
17 school districts having a population of 500,000 or more. If a
18 school board in a school district with a population of less
19 than 500,000 determines that a pupil who is attending school in
20 the district on a tuition free basis or a pupil attempting to
21 enroll in the district is a nonresident of the district for
22 whom tuition is required to be charged under Section 10-20.12a,
23 the board shall notify the person who enrolled or is attempting
24 to enroll the pupil of the amount of the tuition charged or to
25 be charged under Section 10-20.12a that is due or will be due
26 to the district for a ~~the~~ nonresident pupil's attendance in the

1 district's schools. The notice shall detail the specific
2 reasons why the board believes that the pupil or prospective
3 pupil is a nonresident of the district and shall be given by
4 certified mail, return receipt requested. Within 10 calendar
5 days after receipt of the notice, the person who enrolled the
6 pupil may request a hearing to review the determination of the
7 school board. The request shall be sent by certified mail,
8 return receipt requested, to the district superintendent.
9 Within 10 calendar days after receipt of the request, the board
10 shall notify, by certified mail, return receipt requested, the
11 person requesting the hearing of the time and place of the
12 hearing, which shall be held not less than 10 nor more than 20
13 calendar days after the notice of hearing is given. This notice
14 must also include every form, log, and set of notes, as well as
15 a list of witnesses and any other document or evidence that
16 will be used by the board during the hearing to present its
17 case. The board or a hearing officer designated by the board
18 shall conduct the hearing. The board and the person who
19 enrolled the pupil may be represented at the hearing by
20 representatives of their choice. At the hearing, the board
21 ~~person who enrolled the pupil~~ shall have the burden of going
22 forward with the evidence concerning the pupil's residency. If
23 the hearing is conducted by a hearing officer, the hearing
24 officer, within 5 calendar days after the conclusion of the
25 hearing, shall send a written report of his or her findings by
26 certified mail, return receipt requested, to the school board

1 and to the person who enrolled the pupil. The person who
2 enrolled the pupil may, within 5 calendar days after receiving
3 the findings, file written objections to the findings with the
4 school board by sending the objections by certified mail,
5 return receipt requested, addressed to the district
6 superintendent. Whether the hearing is conducted by the school
7 board or a hearing officer, the school board shall, within 30
8 calendar ~~15~~ days after the conclusion of the hearing, decide
9 whether or not the pupil is a resident of the district and the
10 amount of any tuition required to be charged under Section
11 10-20.12a as a result of the pupil's attendance in the schools
12 of the district. The school board shall send a copy of its
13 decision within 5 calendar days of its decision to the person
14 who enrolled the pupil by certified mail, return receipt
15 requested. This decision must inform the person who enrolled
16 the pupil that he or she may, within 10 calendar days after
17 receipt of the decision of the board, petition the regional
18 superintendent of schools to review the decision. The decision
19 must also include notification that, at the request of the
20 person who enrolled the pupil, the pupil may continue or begin
21 attendance at the schools of the district pending the regional
22 superintendent of schools' final decision, and the decision of
23 the school board shall be final.

24 Within 10 calendar days after receipt of the decision of
25 the board pursuant to this subsection (c) of this Section, the
26 person who enrolled the pupil may petition the regional

1 superintendent of schools who exercises supervision and
2 control of the board to review the board's decision. The
3 request for review must be in writing and must include the
4 basis for the request. The regional superintendent of schools
5 shall promptly notify the board of the request for review.

6 Within 5 calendar days after being notified of a request
7 for review, the board must deliver to the regional
8 superintendent of schools any document or evidence that was
9 used by the board during the hearing, as well as a list of all
10 witnesses called during the hearing, including any transcripts
11 or other written or recorded information documenting the
12 hearing. After 5 calendar days from the district's receipt of
13 notice, the regional superintendent of schools shall close the
14 review from any additional documents or arguments from the
15 parties.

16 Within 20 calendar days after receipt of the request for
17 review by the person who enrolled the pupil, the regional
18 superintendent of schools shall issue a written decision as to
19 whether or not the pupil is a resident of the district pursuant
20 to this Section and eligible to attend the district's schools
21 on a tuition-free basis. The decision shall be transmitted to
22 the board and the person who enrolled the pupil and shall, with
23 specificity, detail the rationale behind the decision.

24 (c-5) The provisions of this subsection apply only in
25 school districts having a population of 500,000 or more. If the
26 board of education of a school district with a population of

1 500,000 or more determines that a pupil who is attending school
2 in the district on a tuition free basis is a nonresident of the
3 district for whom tuition is required to be charged under
4 Section 10-20.12a, the board shall notify the person who
5 enrolled the pupil of the amount of the tuition charged under
6 Section 10-20.12a that is due to the district for the
7 nonresident pupil's attendance in the district's schools. The
8 notice shall be given by certified mail, return receipt
9 requested. Within 10 calendar days after receipt of the notice,
10 the person who enrolled the pupil may request a hearing to
11 review the determination of the school board. The request shall
12 be sent by certified mail, return receipt requested, to the
13 district superintendent. Within 30 calendar days after receipt
14 of the request, the board shall notify, by certified mail,
15 return receipt requested, the person requesting the hearing of
16 the time and place of the hearing, which shall be held not less
17 than 10 calendar nor more than 30 calendar days after the
18 notice of hearing is given. The board or a hearing officer
19 designated by the board shall conduct the hearing. The board
20 and the person who enrolled the pupil may each be represented
21 at the hearing by a representative of their choice. At the
22 hearing, the person who enrolled the pupil shall have the
23 burden of going forward with the evidence concerning the
24 pupil's residency. If the hearing is conducted by a hearing
25 officer, the hearing officer, within 20 calendar days after the
26 conclusion of the hearing, shall serve a written report of his

1 or her findings by personal service or by certified mail,
2 return receipt requested, to the school board and to the person
3 who enrolled the pupil. The person who enrolled the pupil may,
4 within 10 calendar days after receiving the findings, file
5 written objections to the findings with the board of education
6 by sending the objections by certified mail, return receipt
7 requested, addressed to the general superintendent of schools.
8 If the hearing is conducted by the board of education, the
9 board shall, within 45 calendar days after the conclusion of
10 the hearing, decide whether or not the pupil is a resident of
11 the district and the amount of any tuition required to be
12 charged under Section 10-20.12a as a result of the pupil's
13 attendance in the schools of the district. If the hearing is
14 conducted by a hearing officer, the board of education shall,
15 within 45 days after the receipt of the hearing officer's
16 findings, decide whether or not the pupil is a resident of the
17 district and the amount of any tuition required to be charged
18 under Section 10-20.12a as a result of the pupil's attendance
19 in the schools of the district. The board of education shall
20 send, by certified mail, return receipt requested, a copy of
21 its decision to the person who enrolled the pupil, and the
22 decision of the board shall be final.

23 (d) If a hearing is requested under subsection (c) of this
24 Section ~~or (c-5)~~ to review the determination of the school
25 board or board of education that a nonresident pupil is
26 attending the schools of the district without payment of the

1 tuition required to be charged under Section 10-20.12a, the
2 pupil may, at the request of the ~~a~~ person who enrolled the
3 pupil, continue or begin attendance at the schools of the
4 district pending the ~~a final~~ decision of the board or regional
5 superintendent of schools, as applicable, and the school
6 district's payments under Section 18-8.05 of this Code shall
7 not be adjusted due to tuition collection under this Section.
8 ~~of the board following the hearing.~~ However, attendance of that
9 pupil in the schools of the district as authorized by this
10 subsection (d) shall not relieve any person who enrolled the
11 pupil of the obligation to pay the tuition charged for that
12 attendance under Section 10-20.12a if the final decision of the
13 board or regional superintendent of schools is that the pupil
14 is a nonresident of the district. If a pupil is determined to
15 be a nonresident of the district for whom tuition is required
16 to be charged pursuant to this Section, the board shall refuse
17 to permit the pupil to continue attending the schools of the
18 district unless the required tuition is paid for the pupil.

19 (d-5) If a hearing is requested under subsection (c-5) of
20 this Section to review the determination of the board of
21 education that a nonresident pupil is attending the schools of
22 the district without payment of the tuition required to be
23 charged under Section 10-20.12a of this Code, the pupil may, at
24 the request of the person who enrolled the pupil, continue
25 attendance at the schools of the district pending a final
26 decision of the board following the hearing. However,

1 attendance of that pupil in the schools of the district as
2 authorized by this subsection (d-5) shall not relieve any
3 person who enrolled the pupil of the obligation to pay the
4 tuition charged for that attendance under Section 10-20.12a of
5 this Code if the final decision of the board is that the pupil
6 is a nonresident of the district. If a pupil is determined to
7 be a nonresident of the district for whom tuition is required
8 to be charged pursuant to this Section, the board shall refuse
9 to permit the pupil to continue attending the schools of the
10 district unless the required tuition is paid for the pupil.

11 (e) Except for a pupil referred to in subsection (b) of
12 Section 10-22.5a, a pupil referred to in Section 10-20.12a, or
13 a pupil referred to in subsection (b) of this Section, a person
14 who knowingly enrolls or attempts to enroll in the schools of a
15 school district on a tuition free basis a pupil known by that
16 person to be a nonresident of the district shall be guilty of a
17 Class C misdemeanor.

18 (f) A person who knowingly or wilfully presents to any
19 school district any false information regarding the residency
20 of a pupil for the purpose of enabling that pupil to attend any
21 school in that district without the payment of a nonresident
22 tuition charge shall be guilty of a Class C misdemeanor.

23 (g) The provisions of this Section are subject to the
24 provisions of the Education for Homeless Children Act. Nothing
25 in this Section shall be construed to apply to or require the
26 payment of tuition by a parent or guardian of a "homeless

1 child" (as that term is defined in Section 1-5 of the Education
2 for Homeless Children Act) in connection with or as a result of
3 the homeless child's continued education or enrollment in a
4 school that is chosen in accordance with any of the options
5 provided in Section 1-10 of that Act.

6 (Source: P.A. 94-309, eff. 7-25-05.)