

Student Enrollment Issues

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Eligibility to attend public school

- Virginia Code §22.1-3 Persons to whom public school shall be free
- What does it mean to reside?
- Who is a parent/legal guardian?
- Does the student meet the eligibility requirements- age, immunizations, discipline history, residency?
- Penalty for falsification is Class 4 Misdemeanor as well as paying tuition

Residency

- Virginia Code §22.1-5 Regulations concerning admission of certain persons to schools; tuition charges. *May admit* and charge tuition:
 - Persons not of school age
 - Persons not residing within school division
 - Foreign exchange students
 - School aged person in summer and non SOL programs
 - Nonresident school aged persons living temporarily with persons residing in the school division- must charge tuition

Discrimination concerns in enrollment

- Policy on eligibility for enrollment needs to be clear on residency and/or reasons to exclude
 - Possible discrimination concerns
 - Race, disability, sex, national origin, economic status, academic status
 - VHSL and sports status
 - USDOE OCR investigations concerning enrollment by classification

Birth Certificates

Virginia Code §22.1-3.1

First time enrollment must provide certified copy of birth certificate- photo copy is not adequate

- Can submit sworn statement about inability to obtain copy
- Birth Certificate provides legal name of child and biological parents, age of child
- Failure to produce birth certificate should result in referral to law enforcement
- Presume natural parents have equal rights
 - Birth certificate doesn't always have biological father
 - Birth certificates can be reissued with adopted family
 - Multiple parents on birth certificate

Child custody and visitation

- Ask for entire, current order
- Order must be signed by judge and dated
 - Not sufficient to have parties sign or notarize
 - Family can't unilaterally change the custody set forth in the Order
- Primary custody is not clear
 - Look to where student resides during the school week
 - Parents must choose one zone

Inadequate evidence of custody

- Petitions for custody/visitation
 - Failure to attend hearing and obtain order
- Notice of hearing dates
- Emergency or preliminary protective orders
- Criminal charges
- Powers of attorney
 - Exception for Special Military Power of Attorney
 - Step parent residing in the home with the student may act to enroll student if biological parent is deployed

Policies on custody interpretation

- **Virginia Code §20.1-140 and §16.1-278.14 amendment 2016**
 - Parent/legal guardian must provide up to date custody order within 3 business days
 - Schools may rely on out dated orders until new one is provided
 - Schools are not expected to interpret orders

Kinship Care

- History and reasoning
 - Fostering Connections Act
 - Barriers to kinship care – background checks, home inspections, Uniform Child Custody jurisdiction
- Philosophy vs. legal matters
- Financial issues- burdens on receiving LEA
- Fraud- ability to get into school divisions, on sports teams, charter and magnet programs

Virginia Code §22.1-3

- When the parents of such person are unable to care for the person and the person is living, not solely for school purposes, with another person who resides in the school division and is (i) the court-appointed guardian, or has legal custody, of the person; (ii) acting in loco parentis pursuant to placement of the person for adoption by a person or entity authorized to do so under § [63.2-1200](#); or (iii) an adult relative **providing temporary kinship care** as that term is defined in § [63.2-100](#).

Examination of kinship care relationship

- Notarized statement of reasons unable to care for student
- Terms of the kinship care relationship
- Power of attorney
- Agreement to notify when kinship care ends
- Can require Department of Social Services verification of kinship care relationship
- Can require reverification after one year

Nonresident children

- §22.1-255- Any person who has residing with him for a period sixty days or more any child within the ages prescribed in §22.1-255 whose parents reside in another state or the District of Columbia shall be subject to compulsory attendance and shall pay or cause to be paid any tuition charges for such child or shall return the child to his parents/guardians
 - Issues with students entering late in the year

McKinney- Vento Homeless Assistance Act

- Sharing housing due to loss of housing, economic hardship or similar reason, living in , hotels, trailer parks, camping grounds due to lack of alternative adequate accommodations, living in emergency or transitional shelters, or abandoned hospitals
- Primary nighttime residence that is a public or private place not designed for or ordinarily used as regular sleeping accommodations for humans
- Living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings
- Migratory children living in those circumstances

Rights under McKinney Vento

- Right to remain in their school of origin- where last attended when permanently housed or where last enrolled – *which includes preschool* – if it is in student's best interest
- If enrolling in new school, enroll immediately even without records
- Provide transportation to school of origin if requested
 - Transportation remains through end of school year
- Must have access to all programs once enrolled
- Unaccompanied youth must be enrolled even without proof of guardianship
- Can dispute eligibility, school selection or enrollment decision

Every Student Succeeds Act changes

- Expanded definition of school of origin and providing transportation
- Title I funding set asides go into effect 2017-18 for students experiencing homelessness
- No longer includes children “awaiting foster care placement” - effective December 10, 2016
 - ESSA has provisions for ensuring educational stability for foster care
 - Emphasis on identifying homelessness
 - Remove barriers regarding activities- sports, magnet programs, AP, charter schools
 - Resolution allows challenges to enrollment, school selection and eligibility

Foster Care

Fostering Connections Act-

immediate enrollment

enroll without academic records

School of origin-

Best Interest Determination- BID- must be mutual decision

Transportation- Title IV E funding or School Funding?

Interstate Compact on Placement of Children (ICPC)-
also can require tuition agreement before placement

Some states view these placements at McKinney
Vento qualified

Enrollment

- **School health form- 22.1-270-**
 - Precludes admission for first time to kindergarten or elementary school unless provided
 - Can show that such record was provided to another school
 - Exceptions for homeless, foster children, military dependents
 - Parent can sign objection based on religious grounds
 - Does not have to be on MCH 213G form
 - State Health Departments must do physicals free for indigent children

Other enrollment issues



Sexual Orientation/Gender Identity/Transgender issues

- State of law and policy
- New issues with enrollment
 - Names- birth certificates, name changes
 - Gender identification
 - Official purposes
 - Pronoun identification

Immunizations § 22.1-272.2

- Conditionally admit if student has had at least one dose of required immunizations and scheduled to receive the rest within 90 days
- Hepatitis B vaccines can be spread out over 180 days
- Tb testing- takes several days



Foreign Nationals

- Foreign exchange students- limited to high school and one year- must pay tuition
- **Plyer v. Doe**- immigration and visa status are not considered
 - Must reside in school district with a legal guardian
 - Students placed by HHS with a relative or other person is eligible to attend public school for free

Adult students

- At age 18 student is an adult or “eligible student”
- All rights transfer to student
 - Access to information on records, grades, discipline, health, truancy- require Release of Information form
- Can consider having student reenroll with shared housing form
- Emancipated students (under 18) are considered adults- need a court order

Social Security numbers

Virginia Code § 22.1-260

- 2015 – removed requirement for social security numbers to be presented for enrollment
- §22.1-270.03 can't require social security numbers for the purpose of enrollment

Military Power of Attorney

- USC 1044 b Special Power of Attorney
- Interstate Compact on Educational Opportunities of Military Dependents
 - Isn't limited to deployment
 - Check on time off for visits with deployed/deploying family members- can effect enrollment
 - Age of entry and placement in grade and programs