

# Provo City School District

Policy Series: 3000 Students



Policy No. 3160

Procedure 1

## Student Residency: Parent/Guardian Does Not Reside in Utah

The following procedures will be followed for students whose parent(s)/guardian(s) do not reside in Utah.

### Guardianship for Residency Purposes

With the district's acceptance and approval, a responsible adult who resides in the district's boundaries may obtain guardianship of a child whose custodial parent does not reside in the district for the limited purpose of establishing residency of a minor child. This guardianship can be obtained when the child's parent submits a signed affidavit to the Superintendent (or designee) which states the following:

1. The child's presence in the district is not for the primary purpose of attending the public schools;
2. The child's physical, mental, moral or emotional health would be best served by transfer of guardianship to a Utah resident;
3. The affiant is aware that designation of a guardian is equivalent to a Court established guardianship and will suspend or terminate any existing parental or guardianship rights in the same manner as a court-established guardianship;
4. The affiant consents and submits to suspension or termination of parental or guardianship rights;
5. The affiant submits to jurisdiction of Utah State courts in which the district is located for any action related to guardianship or custody of the student;
6. The affiant designates the responsible adult resident as agent to accept service of process and notice; and
7. It is the affiant's intent that the student become a permanent resident of the district under the supervision of the responsible adult.

The responsible adult must also submit a signed affidavit stating that:

1. The affiant is a resident of the school district and desires to become the guardian of the student;
2. The affiant consents and submits to the jurisdiction of the state district court in which the school district is located in any action relating to the guardianship or custody of the child in question;
3. The affiant will accept responsibilities of guardianship to provide adequate supervision, discipline, food, shelter, educational and emotional support, medical care and pay all school fees; and
4. The affiant accepts the parent or prior guardian's appointment of agency.

[Forms](#) for the affidavits of the parent and the responsible adult are provided on the district website under Policy 3160 or may be obtained by contacting Student Services. If the child's custodial parent cannot be found in order to execute the statement required under subsection (6), then the responsible adult resident must submit a signed affidavit to that effect to the district. A form for this affidavit is provided on the District website under [Policy 3160](#) or may be obtained by contacting Student Services. The district shall also submit a copy of the affidavit to the Criminal Investigations and Technical Services Division of the Department of Public Safety.

The student who lives with the responsible adult must submit a signed affidavit stating that:

1. The student desires to become a permanent resident of the State of Utah and resides in the district with and will be responsible to the named responsible adult; and
2. The child will abide by rules and policies of the district and schools.

A form for this affidavit is provided on the District website under [Policy 3160](#) or may be obtained by contacting Student Services. The district may require the responsible adult to also submit any other relevant documents that it reasonably believes to be necessary to substantiate any claim made in connection with the application.

Upon receipt of the required information and documentation, and a determination by the Student Services Department that the information is accurate, that the requirements have been met, and that the interests of the child would best be served by granting the guardianship, the Director of Student Services or its authorized representative may designate the applicant as guardian of the child by issuing a designation of guardianship letter to the applicant.

The district shall deliver the original documents filed with the district, together with a copy of the designation of guardianship issued by the district, in person or by any form of mail requiring a signed receipt, to the clerk of the state district court in which the district is located.

Intentional submission to the District of fraudulent or misleading information under this policy is punishable under [Utah Code § 76-8-504](#).

If the District has reason to believe that a party has intentionally submitted false or misleading information under this part, it may, after notice and opportunity for the party to respond to the allegation:

1. void any guardianship, authorization, or action which was based upon the false or misleading information; and
2. recover, from the party submitting the information, the full cost of any benefits received by the child on the basis of the false or misleading information, including tuition, fees, and other unpaid school charges, together with any related costs of recovery.

### **Appeal of Guardianship Denial**

If Student Services denies the application for a guardianship designation, the applicant may appeal to the Provo City School District Board of Education. If the Board of Education denies the application, the applicant may either appeal to the Utah district court where the district is located, or may file an original petition for guardianship with the court.

### **Termination of Guardianship**

A guardianship designation issued by the district may be terminated, and the authority and responsibility of the prior custodial parent may be restored, upon submission to the district of:

1. a signed affidavit by the person who consented to the guardianship which requests termination of the guardianship, or
2. a signed written request by the designated guardian requesting termination of the guardianship.

If the district determines that it would not be in the best interest of the child to terminate the guardianship, the district may refer the request for termination to the Utah district court where the original guardianship documents were submitted.

If the district determines, after giving notice and an opportunity to respond, that an individual has intentionally submitted false or misleading information to the district in connection with a guardianship designation, the district may

1. void any guardianship, authorization, or action which was based on the false or misleading information, and
2. recover from the person submitting the false or misleading information the full cost of any benefits received by the child based on the false or misleading information, including tuition, fees, and other unpaid school charges, along with any related costs of recovery.

A student whose guardianship or enrollment has been terminated may, upon payment of all applicable tuition and fees, continue in enrollment until the end of the school year unless excluded from attendance for cause.

## **Tuition**

The board shall charge the non-resident child tuition at least equal to the per capita cost of the school program in which the child enrolls unless the board, in open meeting, determines to waive the charge for that child in whole or in part. The official minutes of the meeting shall reflect the determination.

## **Tuition for Education Outside of the District**

If the Board so determines, it shall pay tuition to any accredited district outside the state with which it has a written agreement to educate students attending school in the out-of-state district. The agreement shall be approved by both districts and filed with the State Board of Education. The district is not required to pay tuition to any district with which it has not contracted.

## **Eligibility and Admissions Requirements**

All documents submitted for proof of guardianship shall be kept by the district until the student has reached 18 years old, unless the District receives a valid court order to do otherwise.

The district may require evidence that a child is eligible to attend the public free schools of the district at the time it considers an application for admission of the child. The district may withdraw any student who ceases to be a resident; however, a student whose guardianship or enrollment has been terminated under this policy may, upon payment of all applicable tuition and fees, continue in enrollment until the end of the school year unless excluded from attendance for cause.

*Plyler v. Doe, 102 S. Ct. 2382 (1982)*

*Daniels v. Morris, 746 F.2d 271 (5th Cir. 1984)*

## **Legal References**

[Utah Code § 53G-6-303 \(2024\)](#)

[Utah Code § 53G-6-303\(5\) \(2024\)](#)

[Utah Code § 53G-6-303 \(2024\)](#)

[Utah Code § 53G-6-306\(3\) \(2023\)](#)

[Utah Code § 53G-6-305 \(2019\)](#)

[Utah Code § 53G-6-303\(9\) \(2024\)](#)

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