

5111 ELIGIBILITY OF RESIDENT/NONRESIDENT STUDENTS

The Montgomery Township Board of Education shall admit to its schools, free of charge, persons over five and under twenty years of age, pursuant to N.J.S.A. 18A:38-1, or such younger or older student as is otherwise entitled by law to a free public education.

Eligibility to Attend School

The Board shall admit students eligible to attend school free of charge that are domiciled within the district as defined in N.J.A.C. 6A:22-3.1.

A child who is domiciled within the school district and resides with a parent or guardian who is a member of the New Jersey National Guard or a member of the reserve component of the armed forces of the United States who is ordered into active military service in a time of war or national emergency shall be permitted to remain enrolled in the school district in which the child is domiciled at the time of the parent or guardian being ordered into active military service, regardless of where the child resides during the period of active duty. Following the return of the child's parent or guardian from active military service, the child's eligibility to remain enrolled in the school district pursuant to N.J.S.A. 18A:38-3.1 shall cease at the end of the current school year unless the child is domiciled in the school district.

The Board shall also admit any student that is kept in the home of a person other than the student's parent or guardian, where the person is domiciled in the school district and is supporting the student without remuneration as if the student were his or her own child in accordance with N.J.A.C. 6A:22-3.2. A student is only eligible to attend school in the district pursuant to this provision N.J.A.C. 6A:22-3.2 if the student's parent or guardian files, together with documentation to support its validity, a sworn statement that he or she is not capable of supporting or providing care for the student due to family or economic hardship and the student is not residing with the other person solely for the purpose of receiving a free public education. In addition, the person keeping the student must file, if so required by the Board of Education, a sworn statement that he or she: is domiciled within the school district; is supporting the child without remuneration and intends to do so for a time longer than the school term; will assume all personal obligations for the student relative to school requirements; and provides a copy of his or her lease if a tenant, or a sworn landlord's statement if residing as a tenant without a written lease, or a mortgage or tax bill if an owner. Pursuant to N.J.S.A. 18A:38-1.c, any person who fraudulently allows a child of another person to use his or her residence and is not the primary financial supporter of that child and any person who fraudulently claims to have

given up custody of his or her child to a person in another district commits a disorderly persons offense.

A student is eligible to attend school in this school district free of charge pursuant to N.J.S.A. 18A:38-1.b if the student is kept in the home of a person domiciled in the school district, who is not the parent or guardian, where the parent or guardian is a member of the New Jersey National Guard or the reserve component of the United States armed forces and has been ordered into active military service in the United States armed forces in time of war or national emergency. Eligibility under this provision shall cease at the end of the current school year upon during which the parent or guardian's return/guardian returns from active military duty.

A student is eligible to attend school in this school district free of charge pursuant to N.J.S.A. 18A:38-1.d if the student's parent or guardian temporarily resides within the school district and elects to have the student attend the school in the district of temporary residence, notwithstanding the existence of a domicile elsewhere. When required by the Board of Education, the parent or guardian shall demonstrate that such temporary residence is not solely for purposes of a student attending the school within the district of temporary residence. Where one of a student's parents or guardians temporarily resides in the school district while the other is domiciled or temporarily resides elsewhere, eligibility to attend school shall be determined in accordance with the criteria of N.J.A.C. 6A:22-3.1(a)1.i.

A student is eligible to attend this school district free of charge:

1. If the student's parent or guardian moves to another school district as the result of being homeless, subject to the provisions of N.J.A.C. 6A:17-2 - Education of Homeless Children;
2. If the student is placed in the home of a district resident by court order (as defined in N.J.A.C. 6A:22-3.2(e)) or by a society, agency, or institution in the home of a school district resident pursuant to N.J.S.A. 18A:38-2;
3. If the student had previously resided in the school district, and if the parent or guardian is a member of the New Jersey National Guard or the United States reserves and has been ordered to active service in time of war or national emergency, resulting in the relocation of the student out of the school district, pursuant to N.J.S.A. 18A:38-3.b. The school district shall not be obligated for transportation costs; and

4. If the student resides on Federal property within the State pursuant to N.J.S.A. 18A:38-7.7 et seq.

Notwithstanding the provisions of N.J.S.A. 18A:38-1 or any other law, rule, or regulation to the contrary, a student who moves out of the school district as a result of domestic violence, sexual abuse, or other family crises shall be permitted to remain enrolled in the school district for the remainder of the school year in pursuant to N.J.S.A. 18A:38-1.1 and in accordance with the provisions of N.J.A.C. 6A:22-3.2(h). If the student remains enrolled in the school district for the remainder of the school year, the school district shall provide transportation services to the student, provided the student lives remote from school, and the State shall reimburse the school district for the cost of the transportation services. Nothing in N.J.S.A. 18A:38-1.1 shall be construed to affect the rights of homeless students pursuant to N.J.S.A. 18A:7B-12, N.J.S.A. 18A:7B-12.1, or any other applicable State or Federal law.

A student's eligibility to attend this school shall not be affected by the physical condition of an applicant's housing, or his or her compliance with local housing ordinances, or terms of lease shall not affect eligibility to attend school.

Except as set forth in N.J.A.C. 6A:22-3.3(b)1, immigration/visa status shall not affect eligibility to attend school and the school district shall not condition enrollment in the school district on immigration status. A student's immigration/visa status and their eligibility to attend school shall be in accordance with N.J.A.C. 6A:22-3.3(b) and Regulation 5111.

Proof of Eligibility

The Board of Education shall accept a combination of forms of documentation from persons attempting to demonstrate a student's eligibility for enrollment in the school district in accordance with the provisions of N.J.A.C. 6A:22-3.4 et seq. The Board of Education shall consider the totality of information and documentation offered by an applicant, and shall not deny enrollment based on failure to provide a particular form of documentation, or a particular subset of documents, without regard to other evidence presented.

The Board of Education shall not require or request any enrollment on the receipt of information or document protected from disclosure by law, or pertaining to criteria that are not a legitimate basis for determining eligibility to attend school. However, these protected as outlined in N.J.A.C. 6A:22-3.4(d). The Board of Education may consider, in

a manner consistent with Federal law, documents or information, referenced in N.J.A.C. 6A:22-3.4(d) or pertinent parts thereof, may be if voluntarily disclosed by the person(s) seeking enrollment in the district. However, the Board of Education may not, directly or indirectly, require or request such disclosure as an actual or implied condition of enrollment. However, in the case of a dispute between the school district and the parent or guardian of a student in regard to the student's eligibility to enroll in the school district or to remain enrolled in the school district pursuant to the provisions of N.J.S.A. 18A:38-1, the school district may request from the New Jersey Motor Vehicle Commission the parent or guardian's name and address for use in verifying a student's eligibility for enrollment in the school district in accordance with the provisions of N.J.S.A. 18A:38-1.3.

Registration Forms and Procedures for Initial Assessment and Enrollment

Registration, and initial determinations of eligibility and enrollment will be in accordance with N.J.A.C. 6A:22-4.1 et seq. The Board of Education shall use Commissioner-provided registration forms provided by the Commissioner of Education or locally developed forms that are consistent with the forms provided by the Commissioner. A school administrator designated by the Superintendent shall be available, and clearly identified to applicants, and available to assist persons who are experiencing experience difficulties with the registration/enrollment process.

Initial eligibility determinations of eligibility shall be made upon presentation of an enrollment application for enrollment, and enrollment shall take place immediately except in all cases except those of clear, uncontested denials. When an applicant has provided incomplete, unclear, or questionable information, enrollment shall take place immediately, but the applicant will be placed on notice that removal will result from the school district if defects in the application are not corrected, or an appeal is not filed, in accordance with subsequent notice to be provided pursuant to N.J.A.C. 6A:22-4.2.

When a student appears ineligible based on the information provided in the initial application, the school district shall issue a preliminary written notice of ineligibility, including an explanation of the right to appeal to the Commissioner of Education. Enrollment shall take place immediately if the applicant clearly indicates disagreement with the district's determination and an intent to appeal to the Commissioner of Education. An applicant whose student is enrolled pursuant to this provision shall be notified that the student will be removed, without a hearing before the Board, if no appeal is filed within the twenty-one day period established by N.J.S.A. 18A:38-1.

When enrollment is denied and no intent to appeal is indicated, applicants shall be advised that they shall comply with compulsory education laws. In this case, when the parent(s) or guardian(s) shall, where the student is between the ages of six and sixteen, applicants also shall be asked to complete a written statement indicating the student will be attending school in another school district, attending a or nonpublic school, or receiving instruction elsewhere than at a school pursuant to N.J.S.A. 18A:38-25. In the absence of this written statement, the district level administrator designated by the Superintendent, shall report to the school district of actual domicile or residence, or the Department of Children and Families, a potential instance of “neglect” pursuant to for the purposes of ensuring compliance with compulsory education law, N.J.S.A. 9:6-1, with . Staff shall provide the school district or the Department of Children and Families with the student’s name, the name(s) of the parent/guardian/resident, and the student’s address to the extent known. Staff shall also indicate that admission to the school district has been denied based on residency or domicile, and that there is no evidence of intent to arrange for the child to attend school or receive instruction elsewhere.

Enrollment or attendance in the district shall not be conditioned on advance payment of tuition when enrollment is denied based upon and an intent to appeal is indicated, or when enrollment is provisional and subject to further review or information. The Board of Education shall ensure the registration process identifies information suggesting an applicant may be homeless so procedures may be implemented in accordance with N.J.A.C. 6A:17-2, Education of Homeless Children. Enrollment or attendance in the school district shall not be denied based upon the absence of the certified copy of the student’s birth certificate or other proof of a student’s identity as required within thirty days of initial enrollment, pursuant to N.J.S.A. 18A:36-25.1.

Enrollment in the school district shall not be denied based upon absence of student medical information. However, actual attendance at school may be deferred as necessitated by compliance with rules until the student complies with student immunization rules set forth in N.J.A.C. 8:57-4.1 et seq.

Enrollment

When enrollment in the school district, attendance at school, or the receipt of educational services where attendance in the regular education program appears inappropriate, the student shall not be denied based upon the absence of a student’s prior educational record. However, the applicant shall be advised that the student’s initial educational placement may be subject to revision upon the school district’s receipt of records or further assessment of the student by the district.

Notice of Ineligibility

When a student is found ineligible to attend the schools of the district pursuant to N.J.A.C. 6A:22, or the student's initial application initially submitted is found to be deficient upon subsequent review or investigation, notice shall be provided to the applicant that is consistent with Commissioner-provided sample form(s) and meets requirements of N.J.A.C. 6A:22-4 et seq. Notices shall be in writing; in English and in the native language of the applicant; issued by the Superintendent; and directed to the address at which the applicant claims to reside. The Notices of Ineligibility shall be provided and ineligibility shall include information as required outlined in accordance with N.J.A.C. 6A:22-4.2.

Removal of Currently Enrolled Students

Nothing in N.J.A.C. 6A:22 et seq. and this Policy shall preclude the Board of Education from seeking to identify, through further investigation or periodic requests for revalidation of eligibility, students enrolled in the school district who may be ineligible for continued attendance due to error in initial assessment, changed circumstances, or newly discovered information.

When a student, who is enrolled and attending school in the district based on an initial eligibility determination of eligibility, is later determined to be ineligible for continued attendance, the Superintendent may apply to the Board of Education for the student's removal in accordance with the provisions of N.J.A.C. 6A:22-4.3. No student shall be removed from school unless the parent, guardian, adult student, or resident keeping an "affidavit student" (as defined in N.J.A.C. 6A:22-1.2) as the case may be, has been informed of his or her entitlement to a hearing before the Board of Education. Once the hearing is held, or if the parent, guardian, adult student or resident keeping an "affidavit student," does not respond to the Superintendent's notice within the designated time frame to the Superintendent's notice or appear for the hearing, the Board of Education shall make a prompt determination of the student's eligibility or ineligibility and shall immediately provide notice thereof in accordance with the requirements of N.J.A.C. 6A:22-4.2. Hearings required pursuant to N.J.A.C. 6A:22-4.3 may be conducted by the full Board or a Board Committee, at the discretion of the full Board. If the hearing(s) is conducted by a Board Committee, the Committee shall make a recommendation to the full Board for action. No student may be removed except by vote of the Board taken at a meeting duly convened and conducted pursuant to N.J.S.A. 10:4-6 et seq., the Open Public Meetings Act.

Appeal to the Commissioner

An applicant may appeal to the Commissioner of Education the school district's determination that a student is ineligible to attend the schools of the district. Appeals shall be initiated by petition which shall be filed in accordance with N.J.S.A. 18A:38-1 and N.J.A.C. 6A:3-8.1 and shall proceed as a contested case pursuant to N.J.A.C. 6A:3. Pursuant to N.J.S.A. 18A:38-1(b)(1), appeals of "affidavit student" eligibility determinations shall be filed by the resident keeping the student.

Assessment and Calculation of Tuition

If no appeal to the Commissioner is filed following notice of an ineligibility determination, the Board of Education may assess tuition, for any period up to one year of a student's ineligible attendance, including the twenty-one day period provided by N.J.S.A. 18A:38-1 for appeal to the Commissioner. Tuition will be assessed and calculated in accordance with N.J.A.C. 6A:22-6.3 et seq. If the responsible party does not pay the tuition assessment, the Board of Education may petition the Commissioner pursuant to N.J.A.C. 6A:3 for an order assessing tuition, enforceable in accordance with N.J.S.A. 2A:58-10 through recording, upon request of the Board of Education pursuant to N.J.A.C. 6A:3-12, on the judgment docket of the Superior Court, Law Division.

If an appeal to the Commissioner is filed, and the petitioner does not sustain the burden of demonstrating the student's right to attend the school district, or the petitioner withdraws the appeal, fails to prosecute, or abandons the appeal by any means other than settlement agreeing to waive or reduce tuition, the Commissioner may assess tuition in accordance with the provisions of N.J.A.C. 6A:22-6.2(a). Upon the Commissioner's finding that an appeal has been abandoned, the Board of Education may remove the student from school and seek tuition in accordance with N.J.A.C. 6A:22-6.2.

Nonresident Students

The admission of a nonresident child to school free of charge must be approved by the Board. No child otherwise eligible shall be denied admission on the basis of the child's race, color, creed, religion, national origin, ancestry, age, marital status, affectational or sexual orientation or sex, social or economic status, or disability. The continued enrollment of any nonresident student shall be contingent upon the student's maintenance of good standards of citizenship and discipline.

Children Who Anticipate Moving to or from the District

A nonresident student otherwise eligible for attendance whose parent(s) or guardian(s) anticipates school district residency and has entered a contract to buy, build, or rent a residence in this school district may be enrolled without payment of tuition for a period of time not greater than 90 days prior to the anticipated date of residency. If any such student does not become a resident of the school district within 90 days after admission to school, tuition will be charged for attendance commencing the beginning of the 91st day and until such time as the student becomes a resident or withdraws from school.

Students whose parent or guardian have moved away from the school district on or after February 1st and twelfth grade students whose parent or guardian have moved away from the school district on or after February 1st will be permitted to finish the school year in this school district without payment of tuition until June 30th of that school year.

F-1 Visa Students

F-1 Visa students will not be admitted to this school district.

N.J.S.A. 18A:38-1 et seq.; 18A:38-3; 18A:38-3.1
N.J.A.C. 6A:14-3.3; 6A:17-2.1 et seq.; 6A:22-1.1 et seq.

8 CFR 214.3

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