

CLIENT NEWS BRIEF

Governor Signs Two New Bills Significantly Easing the Ability for Certain Students to Establish Residency and Placing Limitations on Residency Investigations

On August 11, 2015, the Governor approved two bills pertaining to student residency requirements and residency investigations, both of which will become effective on January 1, 2016. Both of the bills stemmed from media attention to a particular California school where the school district conducted a residency investigation by hiring a private investigator to investigate the residency of a student in the home of their parent's employer.

Senate Bill (SB) 200 amends Education Code section 48204 by allowing students to establish residency when their parent or guardian resides in the home of their employer during the school week. Specifically, SB 200 allows for a student to establish residency if:

- The parent or legal guardian resides outside of the boundaries of the school district, *but*
- Is employed *and* lives with the student at the place of his/her employment within the boundaries of the district for a *minimum of three* days during the *school week*.

This new way to establish residency allows for live-in nannies/caregivers and others whose children live with them at their place of employment to establish residency if they reside within the district for three or more days during the school week.

Assembly Bill (AB) 1101 adds Education Code section 48204.2 as it relates to all residency investigations. Under this new Education Code provision, school districts are required to adopt a residency verification board policy, during a public meeting, if they will be conducting any residency investigations. While the statute expressly requires the adoption of a board "policy," a school board may also adopt a corresponding administrative regulation. The policy must:

- Identify the circumstances under which the district may initiate an investigation regarding a student's residency.
- Require that a school district employee be able to identify "specific, articulable facts supporting the belief that the parent or legal guardian of the pupil provided false or unreliable evidence" regarding the student's residency.
- Describe the investigatory methods that may be used by the district in conducting the investigation.
- State whether the district will be using a private investigator in conducting residency investigations. Education Code section 48204.2 states that before a private investigator can be hired, the school district is required first to make "reasonable efforts to determine whether the pupil resides in the school district."
- Prohibit the collection of "covert" images (photographs or video) of

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Harold M. Freiman
Partner and Technology & Innovation
Practice Group Co-Chair
Walnut Creek Office
hfreiman@lozanosmith.com



Aimee Perry
Associate
Sacramento Office
aperry@lozanosmith.com

LS Lozano Smith
ATTORNEYS AT LAW

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students who are being investigated—any photographs or video must be obtained in open and public view.

- Require employees and contractors of the district conducting the investigation to identify themselves truthfully.
- Provide an appeal process.

The foregoing procedures have the potential to limit a school district's ability to conduct effective residency investigations. Certain common investigatory methods could be disallowed, and investigators may essentially have to put families on notice that they are being investigated, allowing families who falsify residency information more opportunities to protect their fabrication. It is noteworthy that some school districts, including the one subject to the media scrutiny that led to these bills, have experienced fabrications ranging from simple falsehoods about actual places of residence to the sale of addresses on Craigslist and through other sources for the express purpose of falsifying residency. It is not clear whether the Legislature took such circumstances into consideration in passing SB 200 and AB 1101.

In light of the new way to establish residency, school districts should consider revising their board policies and administrative regulations regarding student residency. School districts should also consider whether they will conduct residency verification investigations, and if they plan on doing so, they should adopt a board policy and/or administrative regulation in line with Education Code section 48204.2.

For more information on SB 200 and AB 1101, please contact one of our [nine offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).