

DESCRIPTOR TERM: Students	Millard District Policy File Code: 6220 Approved: 09-10-20
--	---

RESIDENCY and GUARDIANSHIP

A. Purpose

The purpose of this policy is to define the difference between, and explain the requirements of: In-State Student Residency, Out-of-State Student Residency and Guardianship for Residency purposes.

B. Student Residency

Student residency is established in one of the following ways:

1. As part of a recognized agreement between another school district and the Millard School District (i.e. students from West Desert High School in the Tintic School District attending Delta High School to increase their academic options).
2. When student athletes or extra-curricular participants attend a Millard School District secondary school, in accordance with UHSAA guidelines, because the school of their home residence does not offer the program they wish to participate in (i.e. students from West Desert High School in the Tintic School District or students from EskDale High School in our own district attending Delta High School to play football, etc.).
3. The district of residence of a minor child whose custodial parent or legal guardian resides in Utah is:
 - a. The district in which the custodial parent or guardian who has legal custody of the child resides; or
 - b. The school district in which the child resides;
 - i. While in the custody or under the supervision of a Utah state agency, local mental health authority, or substance abuse authority;
 - ii. While under the supervision of a private or public agency authorized to provide child placement services by the state of Utah;

- iii. If the child is married or has been determined to be an emancipated minor by a court of law or authorized administrative agency;
 - iv. The child resides in the District while living with a responsible adult resident of the District who has been designated as the child's custodian through a durable power of attorney as provided for in this policy and the District has been determined to be the child's district of residency as provided for in "Alternative District of Residency" below; or
 - v. The child is receiving services from a health care facility or human services program (as defined by [Utah Code § 26-21-2](#) and [Utah Code § 62A-2-101](#)) and the District has been determined to be the child's district of residency as provided for in "Alternative District of Residency" below.
- [Utah Code § 53G-6-302\(1\), \(2\) \(2019\)](#)
[Utah Admin. Rules R277-621 \(January 9, 2018\)](#)
4. A "responsible adult resident" is an individual who is 21 years of age or older who is a resident of this state and is willing and able to provide reasonably adequate food, clothing, shelter, and supervision for the child.
- [Utah Code § 53G-6-303\(1\) \(2019\)](#)

C. Alternative District of Residency

- 1. Procedure:
 - a. When a student's parent or legal guardian resides in Utah but not within the District, and the student resides in the District, the parent or legal guardian may request a determination that the District is the student's alternative district of residency by filing a written request with the District for that determination. The written request shall demonstrate that:
 - i. the child's physical, mental, moral or emotional health will be best served by considering the child to be a resident for school purposes;
 - ii. exigent circumstances prevent the case from being considered under the procedures provided for in this policy for interdistrict transfers; and
 - iii. considering the child to be a resident of the District will not violate any other law or rule of the State Board of Education.

[Utah Admin. Rules R277-621-3\(1\) \(January 9, 2018\)](#)
[Utah Code § 53G-6-302\(2\)\(b\)\(iii\), \(iv\) \(2019\)](#)
 - b. For alternative district requests, the District designates the District Superintendent as its review official.

- c. Upon receipt of an alternative district request, the review official shall review the request in light of the requirements set forth above and within 10 business days make a recommendation to the Board of Education (or its designee) on whether the student should be treated as a resident of the district.

[Utah Admin. Rules R277-621-3\(2\) \(January 9, 2018\)](#)

- d. The Board of Education (or its designee) shall review the request and the recommendation and determine, based on the criteria set forth above, whether to grant or deny the request. The decision shall be in writing and shall set for the reasons for approval or denial in accordance with the criteria.

[Utah Admin. Rules R277-621-3\(5\) \(January 9, 2018\)](#)

- e. If the request is denied by the Board of Education, the student or parent may appeal the denial to the State Superintendent within 10 business days. The State Superintendent will rule on the appeal within 10 business days.

[Utah Admin. Rules R277-621-3\(6\) \(January 9, 2018\)](#)

2. Requirements

- a. Pending a decision on the request, the district of residence of the student's custodial parent or legal guardian is responsible for the student's education services. If the request is approved, the district shall immediately enroll the student and assume responsibility for providing educational services to the student.

[Utah Admin. Rules R277-621-3\(3\), \(4\) \(January 9, 2018\)](#)

- b. If the request is approved and the student qualifies for services under IDEA, the district shall conduct an IEP meeting with representation from the district and from the student's prior district (the district of residence of the student's custodial parent or legal guardian).

[Utah Admin. Rules R277-621-3\(7\) \(January 9, 2018\)](#)

- c. The district is not responsible for a student's required transportation between a health care facility or a human services program facility and the district's facility.

[Utah Admin. Rules R277-621-4\(3\) \(January 9, 2018\)](#)

- d. The Board of Education or its designee may periodically re-evaluate the student's eligibility for educational services from the district.

[Utah Admin. Rules R277-621-4\(4\) \(January 9, 2018\)](#)

3. Students Attending a Private Human Services Program

- a. When the district is established as the alternative district of residence of a student while the student is attending a private human services program, the student is entitled to educational services from the district at district facilities, as determined by the district. The district is not required to provide educational services on site at the private human services program facility unless the district's IEP team determines that on site services are required to meet the needs of the student under federal law.

[Utah Admin. Rules R277-621-4\(1\), \(2\) \(January 9, 2018\)](#)

4. A minor child whose custodial parent or legal guardian resides in the State of Utah, but does not reside in the Millard School District may be considered a resident of the Millard School District if it is established to the satisfaction of the local board that:

- a. the child lives with a resident of the district who is a responsible adult and whom the district agrees to designate as the child's custodial guardian, and
- b. the child's presence in the district is not for the primary purpose of attending the public schools; and
- c. the child's physical, mental, moral, or emotional health would best be served by considering the child to be a resident for school purposes; and
- d. the child is prepared to abide by the rules and policies of the school district and the school in which attendance is sought; and
- e. the person with whom the child resides in the district has been designated as the child's custodian in a durable power of attorney which the district agreed in its sole discretion to accept.

5. Procedures

Outlined below are the requirements and procedures for students seeking admission whose parents are not residents of the Millard School District.

- a. The district will require the person with whom the child lives to be designated as the child's custodial guardian in a durable power of attorney, issued by the party who has legal custody of the child, granting the custodial guardian full authority to take any appropriate action, including authorization for educational or medical services in the interests of the child.
 - i. Both the party granting and the party empowered by the power of attorney shall agree to:
 - 1. assume responsibility for any fees or other charges relating to the child's education in the district; or
 - 2. provide the district with all financial information requested by the district for purposes of determining eligibility for fee waivers.
 - ii. A power of attorney meeting the requirements of this policy and accepted by the district shall remain in force until the earliest of the following occurs:
 - 1. the child reaches the age of eighteen (18), marries, or becomes emancipated;
 - 2. the expiration date stated in the document; or
 - 3. the power of attorney is revoked or rendered inoperative by the grantor, custodian or grantee, or by order of a court of competent jurisdiction.
 - iii. A durable power of attorney does not confer legal guardianship.
- b. Prior to granting residency, the student and the student's parent or legal guardian shall provide the district with the information requested on the "Entrance Application," attached hereto as an addendum.
- c. Upon receipt and review of the aforementioned information and documentation and a determination by the board that the information is accurate, that the requirements of this policy have been met, and that the interests of the child would be best served by granting the requested residency, the board or its authorized representative may grant residency under the completed durable power of attorney.

E. Student Residency (Parent or Guardian Does Not Reside in Utah)

1. A minor child whose parent or legal guardian does not reside in Utah may be considered a resident of the Millard School District if it is established to the satisfaction of the local board that:
 - a. The child is either married or has been determined to be an emancipated minor by a court of law or authorized state administrative agency; or
 - b. the child was placed and is being supervised by a child placing agency which is authorized by the State of Utah to provide residential or child placement services and the agency is paying the child's tuition and fees to the extent required by [Utah Code § 62A-4a-606](#); or
 - c. the child is in custody or under the care of a Utah state agency; or [Utah Code § 62A-4a-606\(3\) \(2018\)](#)
 - d. the child lives with a resident of the district who is a responsible adult and whom the district agrees to designate as the child's legal guardian under Section F Guardianship for Residency Purposes below; or
 - e. the district, in its sole discretion may accept a non-emancipated student as a resident of the district if each of the following are demonstrated to the board's satisfaction:
 - i. the child lives with a responsible adult who resides in the district and is the student's non-custodial parent, grandparent, brother, sister, uncle, or aunt; and
 - ii. the child's presence in the district is not for the primary purpose of attending the public schools; and
 - iii. the child's physical, mental, moral, or emotional health would best be served by considering the child to be a resident for school purposes; and
 - iv. the child is prepared to abide by the rules and policies of the school district and the school in which attendance is sought; and
 - v. the person with whom the child resides in the district has been designated as the child's custodian in a durable power

of attorney which the district agreed in its sole discretion to accept.

2. Outlined below are the requirements and procedures for students seeking admission whose parents/legal guardians are not residents of the State of Utah.
 - a. The district will require the person with whom the child lives (a non custodial parent, grandparent, brother, sister, uncle or aunt) to be designated as the child's custodial guardian in a durable power of attorney, issued by the party who has legal custody of the child, granting the custodial guardian full authority to take any appropriate action, including authorization for educational or medical services in the interests of the child.
 - i. Both the party granting and the party empowered by the power of attorney shall agree to:
 1. assume responsibility for any fees or other charges relating to the child's education in the district; or
 2. provide the district with all financial information requested by the district for purposes of determining eligibility for fee waivers.
[Utah Code § 53G-6-302\(4\) \(2019\)](#)
[Utah Code § 75-5-103 \(2018\)](#)
 - ii. A power of attorney meeting the requirements of this policy and accepted by the district shall remain in force until the earliest of the following occurs:
 1. the child reaches the age of eighteen (18), marries, or becomes emancipated;
 2. the expiration date stated in the document; or
 3. the power of attorney is revoked or rendered inoperative by the grantor, custodian or grantee, or by order of a court of competent jurisdiction.
 - iii. A durable power of attorney does not confer legal guardianship.
 - b. Prior to granting residency, the student and the student's parent or legal guardian shall provide the district with the information

requested on the "Entrance Application," attached hereto as an addendum.

- c. Upon receipt and review of the afore mentioned information and documentation and a determination by the board that the information is accurate, that the requirements of this policy have been met, and that the interests of the child would be best served by granting the requested residency, the board or its authorized representative may grant residency under the completed durable power of attorney.
- d. The Board may allow a student residing outside the state to attend school within the District but shall charge the nonresident 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 all or part of the charge for that child. Such action shall be recorded in the minutes of the meeting.

[Utah Code § 53G-6-306 \(2019\)](#)

F. Guardianship for Residency Purposes

1. Subject to the district's acceptance and approval, a responsible adult resident residing in the district may obtain guardianship of a child whose custodial parent or legal guardian does not reside in the district for the limited purpose of establishing school district residency of a minor child by submitting to the superintendent a signed and notarized statement by all persons recognized under the law as the child's parent(s) or legal guardian(s) which states that:
 - a. the child's presence in the district is not for the primary purpose of attending the public schools;
 - b. the child's physical, mental, moral or emotional health would best be served by transfer of guardianship to the Utah resident;
 - c. 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;
 - d. the affiant consents and submits to suspension or termination of parental or guardianship rights;

- e. the affiant submits to jurisdiction of the District Court in and for Millard County in any action related to guardianship or custody of the student;
 - f. the affiant designates the responsible adult as agent, to accept service of process and notice; and
 - g. it is the affiant's intent that the student become a permanent resident of the district under the supervision of the responsible adult.
2. The responsible adult must also submit a signed and notarized affidavit stating that:
 - a. the affiant is a resident of the school district and desires to become the guardian of the student;
 - b. the affiant consents and submits to the jurisdiction of the District Court in and for Millard County in any action relating to the guardianship or custody of the child in question;
 - c. the affiant will accept responsibilities of guardianship, to provide adequate supervision, discipline, food, shelter, educational and emotional support, medical care, and pay for all school fees; and
 - d. the affiant accepts the parent or prior guardian's appointment of agency.
 3. The student who lives with the responsible adult must submit a notarized affidavit stating that:
 - a. the student desires to become a permanent resident of the State of Utah and reside in the district with, and be responsible to the named responsible adult; and
 - b. the student will abide by all applicable rules and policies of the district and schools.
 4. If the child's custodial parent or legal guardian cannot be found in order to execute the statement required under subsection E1, the responsible adult resident must submit a signed and notarized affidavit to that effect to the district. The district shall also submit a copy of the affidavit to the Criminal Investigations and Technical Services Division of the Department of Public Safety.

5. Prior to designating guardianship, the student and the student's parent or legal guardian shall provide the district with the information requested on the "Entrance Application," attached hereto as an addendum.
 6. 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.
 7. Upon receipt of the required information and documentation and a determination by the board that the information is accurate, that the requirements have been met, and that the interests of the child would best be served by granting guardianship, the board or its authorized representative may designate the applicant as guardian of the child by issuing a Designation of Guardian letter to the applicant.
 8. The district shall deliver the original documents filed with the district, together with a copy of the Designation of Guardian letter issued by the district, in person or by any form of mail requiring a signed receipt, to the Clerk of the District Court in and for Millard County.
 9. Intentional submission to the district of fraudulent or misleading information under this policy is punishable under [Utah Code § 76-8-504](#).
 - a. If the district has reason to believe that a party has intentionally submitted false or misleading information pursuant to this policy, it may, after notice and opportunity for the party to respond to the allegation:
 - i. void any guardianship, authorization, or action which was based upon the false or misleading information; and
 - ii. 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.
- [Utah Code § 53G-6-303 \(2019\)](#)
10. If the board denies the application for a guardianship designation, the applicant may either appeal the denial to the District Court in and for Millard County, or may file an original petition for guardianship with the court.

11. A guardianship designation issued by the district may be terminated, and the authority and responsibility of the prior custodial parent or legal guardian may be restored, upon submission to the district of:
 - a. a signed and notarized statement by the person who consented to the guardianship which requests termination of the guardianship; or
 - b. a signed written request by the designated guardian requesting termination of the guardianship.
12. If the district determines that it would not be in the best interest(s) of the child to terminate the guardianship, the district may refer the request for termination to the District Court in and for Millard County where the original documents were submitted.
13. 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.
[Utah Code § 53G-6-303 \(2019\)](#)
14. The district shall retain copies of all documents required by this policy until the child in question has reached the age of eighteen (18) unless directed to surrender the documents by the District Court.

G. Tuition Issues

1. The board shall charge the nonresident 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.
[Utah Code § 53G-6-306 \(2019\)](#)
 - a. In-state and out-of-state students who have been admitted to the Millard School District through the residency procedures outlined in this policy are considered residents of the state and do not have to pay tuition. They can be claimed by the district for the WPU (weighted pupil unit).
 - b. Parents of out-of-state students who do not wish to relinquish their parent/guardian rights and responsibility as outlined in Section E above must pay tuition. Their students cannot be claimed by the district for the WPU (weighted pupil unit).

2. 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.

Appendix:

Millard School District School Entrance Application

Millard School District Durable Power of Attorney

Affidavit from the Custodial Parent/Legal Guardian(s)

Affidavit from the Responsible Adult Resident(s)

Affidavit from the Student

Designation of Guardian

Millard School District
SCHOOL ENTRANCE APPLICATION

Student's Name: _____ Grade: _____

Student's Millard County Address: _____

Student's Telephone: _____ Student's Birth Date: _____

Student's Prior Address: _____

Parent's Name: _____ Parent's Phone: _____

Parent's Address: _____

Custodian/Guardian: _____ Custodian/Guardian Phone: _____

Custodian/Guardian's Address: _____

Primary Language Spoken in the Home: _____

Last School Attended: _____ Phone: _____

Address: _____

Reason for Requesting Admittance: _____

Has student received Special Education services or been classified for Special Education Services in another school district? Yes _____ No _____

Have student been suspended or expelled in another school or school district? If yes, please explain the circumstances. Yes _____ No _____

Juvenile Court Records:

Above student does does not have a **Juvenile Court Record Profile.**

Signature (Court Official)

I certify that this information is true and correct. I authorize Millard School District to obtain and review academic and citizenship information necessary to recommend appropriate placement if admission is granted. I authorize the district to review police and criminal records relative to this application, including juvenile court records, all of which we agree to provide to the school district, prior to the student's entrance.

Student's Signature

Date

Parent's/Guardian's Signature

Date

AFFIDAVIT FROM THE CUSTODIAL PARENT/LEGALGUARDIAN(S)

To: Millard School District

From: State of _____
County of _____

_____ being first duly sworn, deposes and states as follows:
(Parent Name)

1. We (I) are (am) the parent(s) of _____, and make this Affidavit based upon our (my) own personal knowledge and belief;
2. _____ presence in the District is not for the primary purpose of attending the public schools;
Student Name
3. _____ physical, mental, moral, or emotional health would best be served by the transfer of guardianship to the Utah resident;
Student Name
4. The affiant is aware that designation of a guardian under Millard District policy is equivalent to a court-ordered guardianship under state law and will suspend or terminate any existing parental or guardianship rights in the same manner as would occur under a court-ordered guardianship;
5. The affiant consents and submits to any such suspension or termination of parental guardianship rights;
6. The affiant consents and submits to the jurisdiction of the District Court in and for Millard County in any action relating to the guardianship or custody of the child in question;
7. The affiant designates _____, as responsible adult(s), authorized to accept the responsibility to provide adequate supervision, discipline, food, shelter, educational and emotional support, and medical care for the child in question; and
8. It is the affiants' intent that the child becomes a permanent resident of the state of Utah and reside with and be under the supervision of _____.

Custodial Parent/Legal Guardian Signature _____

Dated this Day _____.

SUBSCRIBED AND SWORN TO BEFORE ME ON THIS DATE _____

(Seal)

Notary Public Signature

Notary Public for the State of _____

Commission Expiration Date _____

AFFIDAVIT FROM THE RESPONSIBLE ADULT RESIDENT(S)

STATE OF UTAH)
 : ss.
COUNTY OF _____)

_____ being first duly sworn, deposes and states as follows:

1. The affiant is a resident of the Millard School District and desires to become the guardian of _____, hereinafter referred to as the "child";
2. The affiant consents and submits to the jurisdiction of the District Court in and for Millard County in any action relating to the guardianship or custody of the child in question;
3. The affiant will accept the responsibilities of guardianship, including the responsibility to provide adequate supervision, discipline, food, shelter, educational and emotional support, and medical care for the child if designated as the child's guardian; and
4. The affiant accepts the designation as agent of the child and agrees to accept service on behalf of the child's custodial parent or legal guardian of any process, notice or demand required or permitted to be served in connection with any action filed in the Fourth Judicial District Court of the State of Utah relating to the guardianship or custody of the child.

Signature

SUBSCRIBED AND SWORN BEFORE ME ON THIS DATE: _____

(Seal)

Notary Public Signature

Notary Public for the State of: _____

Residing at: _____

Commission Expiration Date: _____

AFFIDAVIT FROM THE STUDENT

STATE OF UTAH)
 : ss.
COUNTY OF _____)

_____ being first duly sworn, deposes and states as follows:

1. I desire to become a permanent resident of Utah and reside with and be responsible to
_____.

2. I will abide by all applicable rules of any public school within the Millard School District which I may attend after guardianship is awarded to the individual(s) named in #1 above.

Student's Signature

SUBSCRIBED AND SWORN BEFORE ME ON THIS DATE: _____

(Seal)

Notary Public Signature

Notary Public for the State of: _____

Residing at: _____

Commission Expiration Date: _____

DESIGNATION OF GUARDIAN

In accordance with authority granted under the laws of the State of Utah, Utah Code Annotated Section §53A-2-202(2), the Millard School District hereby appoints Petitioners _____ residing at _____ as guardian(s) of _____.

As noted in Subsection 53A-2-202(2) (iii), this appointment carries the same rights, authority, and responsibilities as an appointment by the Court under Section §75-5-206. This guardianship appointment shall continue in force until the minor child reaches the age of majority or until terminated as provided by law.

MILLARD SCHOOL DISTRICT

By _____

SUBSCRIBED AND SWORN BEFORE ME ON THIS DATE: _____

(Seal)

NOTARY PUBLIC

Notary Public for the State of: _____

Residing at: _____

My Commission Expires: _____