

## Preliminary Information: Please Read Before Proceeding

The questions asked in the following pages will enable us to determine your student's eligibility to attend school in this district in accordance with New Jersey law. Please be aware that N.J.S.A. 18A:38-1 and N.J.A.C. 6A:22 require that a free public education be provided to students between the ages of 5 and 20, and to certain students under 5 and over 20 as specified in other applicable law, who are:

- Domiciled in the district, i.e., the child of a parent or guardian, or an adult student, whose permanent home is located within the district. A home is permanent when the parent, guardian or adult student intends to return to it when absent and has no present intent of moving from it, notwithstanding the existence of homes or residences elsewhere
- Living with a person, other than the parent or guardian, who is domiciled in the district and is supporting the student without compensation, as if the student were his or her own child, because the parent cannot support the child due to family or economic hardship
- Living with a person domiciled in the district, other than the parent or guardian, where the parent/guardian is a member of the New Jersey National Guard or the reserve component of the U.S. armed forces and has been ordered into active military service in the U.S. armed forces in time of war or national emergency
- Living with a parent or guardian who is temporarily residing in the district
- The child of a parent or guardian who moves to another district as the result of being homeless
- Placed in the home of a district resident by court order pursuant to N.J.S.A. 18A:38-2
- The child of a parent or guardian who previously resided in the district but 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 relocation of the student, pursuant to N.J.S.A. 18A:38-3(b)
- Residing on federal property within the State pursuant to N.J.S.A. 18A:38-7.7 et seq.

*Note that "guardian" means a person to whom a court of competent jurisdiction has awarded guardianship or custody of a child, provided that a residential custody order shall entitle a child to attend school in the residential custodian's school district subject to a rebuttable presumption that the child is actually living with such custodian; it also means the Department of Children and Families for purposes of N.J.S.A. 18A:38-1(e). Also note that a student is entitled to attend school in the district of domicile notwithstanding that the student is qualified to attend school in a different district as an "affidavit" student or temporary resident.*

*Note that the following do **not** affect a student's eligibility to enroll in school:*

- Physical condition of housing or compliance with local housing ordinances or terms of lease
- Immigration/visa status, except for students holding or seeking a visa (F-1) issued specifically for the purpose of limited study on a tuition basis in a United States public secondary school
- Absence of a certified copy of birth certificate or other proof of a student's identity, although these must be provided within 30 days of initial enrollment pursuant to N.J.S.A. 18A: 36-25.1
- Absence of student medical information, although actual attendance at school may be deferred as necessary in compliance with rules regarding immunization of students, N.J.A.C. 8:57-4.1 et seq.
- Absence of a student's prior educational record, although the initial educational placement of the student may be subject to revision upon receipt of records or further assessment by the district

If you experience difficulty with the enrollment process, please call the Avon School Main Office at **732.775.4328** during business hours for assistance.

**The following forms of documentation may demonstrate a student's eligibility for enrollment in the district. Particular documentation necessary to demonstrate eligibility under specific provisions in law will be indicated in the appropriate section of the registration form.**

- Property tax bills, deeds, contracts of sale, leases, mortgages, signed letters from landlords and other evidence of property ownership, tenancy or residency
- Voter registrations, licenses, permits, financial account information, utility bills, delivery receipts, and other evidence of personal attachment to a particular location
- Court orders, State agency agreements and other evidence of court or agency placements or directives
- Receipts, bills, cancelled checks and other evidence of expenditures demonstrating personal attachment to a particular location, or, where applicable, to support of the student
- Medical reports, counselor or social worker assessments, employment documents, benefit statements, and other evidence of circumstances demonstrating, where applicable, family or economic hardship, or temporary residency
- Affidavits, certifications and sworn attestations pertaining to statutory criteria for school attendance, from the parent, guardian, person keeping an "affidavit student," adult student, person(s) with whom a family is living, or others as appropriate
- Documents pertaining to military status and assignment
- Any business record or document issued by a governmental entity
- Any other form of documentation relevant to demonstrating entitlement to attend school

The totality of information and documentation you offer will be considered in evaluating an application, and, unless expressly required by law, the student will not be denied enrollment based on your inability to provide certain form(s) of documentation where other acceptable evidence is presented.

You will *not* be asked for any information or document protected from disclosure by law, or pertaining to criteria which are not legitimate bases for determining eligibility to attend school. You may *voluntarily* disclose any document or information you believe will help establish that the student meets the requirements of law for entitlement to attend school in the district, but *we may not, directly or indirectly, require or request:*

- Income tax returns
- Documentation/information relating to citizenship or immigration/visa status, unless the student holds or is applying for an F-1 visa
- Documentation/information relating to compliance with local housing ordinances or conditions of tenancy
- Social security numbers

**Please be aware that any initial determination of the student's eligibility to attend school in this district is subject to more thorough review and subsequent re-evaluation, and that tuition may be assessed in the event that an initially admitted student is later found ineligible. If your student is found ineligible, now or later, you will be provided the reasons for our decision and instructions on how to appeal.**

State law allows school districts to admit nonresident students, through policies adopted at Board discretion, on a tuition basis. If your student is not eligible to attend school in this district free of charge, he or she may enroll on a tuition basis by calling the Avon School main office to inquire about class size and current availability at the grade level(s) you are interested in.

If you experience difficulty with the enrollment process, please call the Avon School Main Office at **732.775.4328** during business hours for assistance.

**To the Person Enrolling the Student: Please complete the appropriate section A, B, C or D below, according to the situation best matching the student's circumstances:**

*Complete **SECTION A (DOMICILE)** if the student is the child of a parent or guardian, or an adult student, whose permanent home is the address given on page 1 of this application and is located in the district.*

**or**

*Complete **SECTION B ("AFFIDAVIT" STUDENT)** if the student is living with a person domiciled in the district, other than the parent or guardian.*

**or**

*Complete **SECTION C (TEMPORARY RESIDENT)** if the student is living with a parent or guardian temporarily residing within the district.*

**or**

*Complete **SECTION D (SPECIAL CIRCUMSTANCES)** if the student's situation is not addressed by Section A, B or C or if any of the circumstances in Section D apply.*



## DIRECTIONS FOR APPEALING A LOCAL BOARD'S RESIDENCY DETERMINATION TO THE COMMISSIONER OF EDUCATION

Statute provides for appeals of school district residency determinations to be filed within **21 days of the date of the district's decision**.<sup>\*</sup> Therefore, time is of the essence and persons seeking to appeal should, if necessary, receive assistance from their county offices of education. Please note that where appeal is taken from a determination of ineligibility under *N.J.S.A. 18A:38-1(b)1* ("affidavit" students), such appeal shall be filed by the resident making the claim of entitlement, not by the parent or guardian.

**There are two ways in which a parent/guardian/resident/adult student may file an appeal with the Commissioner: 1) He/she may submit a standard Petition of Appeal** in accordance with *N.J.A.C. 6A:3-1.3* and *1.4*, **or 2) in the case of a petitioner acting without legal representation ("pro se"), he/she may instead submit a letter petition** in accordance with *N.J.A.C. 6A:3-8.1*. Both methods of filing are described below. In either case, petitioners should be aware that they are initiating an agency hearing procedure where they, or their counsel, will most likely be required to present testimony and evidence in support of their claim before a judge of the Office of Administrative Law (OAL). For more information about this process, petitioners are urged to visit the OAL website at <http://www.state.nj.us/oal/hearings.html>.

### STANDARD PETITION OF APPEAL (N.J.A.C. 6A:3-1.3 and 1.4)

The regulations for filing Petitions of Appeal may be obtained at a library, the local school district, the county office of education, the Department of Education's web site (at <http://www.state.nj.us/njded/code/title6a/chap3/>) or by mail from the Bureau of Controversies and Disputes (609-292-5706).

A standard Petition of Appeal includes: 1) The **petition** itself; 2) a **verification** and 3) **proof that petitioner has served the respondent** (Board of Education) with a copy of the Petition of Appeal.

**Petition:** A petition is a written document, submitted in original with two copies, including the following:

- a. Name, address, telephone number and fax number, if available, of the petitioner;
- b. Name and address of the respondent (Board of Education);
- c. Petitioner's allegations and specific facts supporting them;
- d. Signature of the petitioner, or his/her attorney; and
- e. Date when the petition is prepared.

**Verification:** A petition must verify the facts alleged. This means that the petitioner must write or type the statement contained in *N.J.A.C. 6A:3-1.4* indicating that he/she, as petitioner, attests that the facts contained in the petition are true to the best of his/her knowledge. He/she must then sign the statement and have it notarized.

**Proof of Service:** A copy of the petition must be served upon each respondent (*N.J.A.C. 6A:3-1.3*). In the case of residency disputes, the Board of Education will be served. A copy should be submitted to the office of the Board Secretary, or the Board's attorney, if known. *The petitioner should also submit to the Bureau of Controversies and Disputes, with the Petition of Appeal, proof that respondent was served.* That proof may be:

- a. An acknowledgment of service (a "receipt") signed by the attorney for the respondent (Board), or signed and acknowledged by the respondent (Board) or its agent (e.g. the Board Secretary) indicating the address at which the respondent was served;
- b. A sworn affidavit of the person making service (mailing or delivering the petition), indicating the address at which the respondent was served and the date and manner of service;

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<sup>\*</sup> Where an appeal is filed within 21 days of the date of the district's decision, *N.J.S.A. 18A:38-1* provides that no child shall be denied admission during the pendency of the proceedings before the Commissioner. The child shall not be removed from school during the 21-day period in which the interested party may contest the district's decision. However, if in the judgment of the Commissioner the evidence does not support the claim of the petitioner, or if the appeal is withdrawn or abandoned, the Commissioner the petitioner may be assessed tuition for the student prorated to the time of the student's ineligible attendance in the school district. Appeals may be filed after expiration of the 21-day period, but the student's right to attend school during the pendency of the appeal is not guaranteed by operation of statute and the petitioner must submit an application for emergent relief in accord with *N.J.A.C. 6A:3-1.6*.

- c. A certificate of service signed by the attorney making service (mailing or delivering the petition) indicating the address at which the respondent was served;
- d. A copy of petitioner's receipt for certified mailing to respondent. The return receipt (green card) is not required for proof of service.

Upon receipt, the Bureau of Controversies and Disputes will acknowledge the petition in writing and notify the school district and county superintendent of its filing.

**LETTER PETITION (N.J.A.C. 6A:3-8.1)**

Petitioners who are *not* represented by an attorney (“*pro se*”) may submit a letter petition, instead of the standard Petition of Appeal as described above, *provided that the letter contains the following information:*

- a. Petitioner's name, address, telephone number, and fax number where available;
- b. The name of the respondent board of education;
- c. A clear indication that the petitioner is appealing a determination of ineligibility to attend school in the district based on residency or domicile, identifying the date of the district's decision, and including, where possible, a copy of the district's written determination of ineligibility; and
- d. A signed statement that the petitioner's claim of entitlement is based upon facts which are true to the best of the petitioner's knowledge and belief, and that the petitioner understands that s/he may be assessed tuition through an order enforceable in Superior Court and recordable as a judgment against him/her if the claim is abandoned or withdrawn and/or if the Commissioner finds the student ineligible for free education in the district.

*Please Note: Sample letter petition forms are available from your school district, the Office of the County Superintendent, the Bureau of Controversies and Disputes, or on page 17 of the Department's Informational Package at <http://www.state.nj.us/education/code/current/title6a/chap22sample.pdf> (PDF) or <http://www.state.nj.us/education/code/current/title6a/chap22sample.doc> (Word).*

Appeals from *pro se* petitioners need not be served upon the respondent district Board of Education. While *pro se* petitioners *may* serve their petitions on the Board, **they may also effectuate service through the Bureau of Controversies and Disputes.** Upon receipt of any *pro se* residency appeal which has not been served on the Board, the Bureau will transmit a copy of the letter petition to the board and county superintendent via fax, together with notice of the Board's obligation to answer the letter petition pursuant to *N.J.A.C. 6A:3-1.5* and to ensure, as required by *N.J.S.A. 18A:38-1*, the attendance of petitioner's child(ren) pending the outcome of the appeal.

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**ALL PETITIONS SHOULD BE SUBMITTED TO:**

**Commissioner of Education  
c/o Director of the Bureau of Controversies and Disputes  
New Jersey State Department of Education  
P.O. Box 500  
Trenton, NJ 08625-0500**

**A petition may be faxed, with hard copy following by mail, to 609-292-4333.**

Following submission of a proper petition, the board will be required to file an answer and, in most cases, the next step will be a hearing before a judge at the Office of Administrative Law, leading to an initial decision containing the judge's recommended findings of fact and conclusions of law. The Commissioner will then review the matter and issue a final decision, which may be appealed to the Appellate Division of the Superior Court.

**Please Note: These instructions do not constitute legal advice, nor are they meant to take the place of applicable statute or regulation, which should be consulted by petitioners and will control if procedural issues arise in any appeal. These instructions are intended solely as an aid preparation and submission of a petition of appeal.**

**PRO SE RESIDENCY APPEAL:**  
**N.J.S.A. 18A:38-1/N.J.A.C. 6A:3-8.1/N.J.A.C. 6A:22**

To: Commissioner of Education  
c/o Director, Bureau of Controversies and Disputes  
New Jersey State Department of Education  
100 Riverview Plaza  
P.O. Box 500  
Trenton, NJ 08625

Fax: (609) 292-4333

Dear Commissioner: (Please Print or Type)

1. My name is \_\_\_\_\_.

2. My address is: \_\_\_\_\_  
Number Street Town/City Zip Code

3. My phone number is (\_\_\_\_\_) \_\_\_\_\_  
Area Code Number Fax If Available

4. The \_\_\_\_\_ School District located  
in \_\_\_\_\_  
Town/City County

will not allow the following child/ren, who reside with me, to attend school under N.J.S.A. 18A:38-1.  
List name(s) of child/ren and your relationship to them (i.e., parent, guardian/custodian, other).

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5. Give a brief explanation of why attendance is being denied, including date of district's decision.  
Please attach, if possible, a copy of district's written determination. (Additional sheets may be used.)

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6. With this letter, I am appealing the district's decision. My claim of entitlement is based upon facts which are true to the best of my knowledge. I understand that if the Commissioner finds that I have abandoned or withdrawn this appeal and/or that the child/ren are ineligible for a free education in this district, I may be assessed tuition costs for the period of the child/ren's ineligible attendance and such assessment may be enforced, or recorded as a judgment against me, in Superior Court.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date