

79-215. Students; admission; tuition; persons exempt; department; duties.

(1) Except as otherwise provided in this section, a student is a resident of the school district where he or she resides and shall be admitted to any such school district upon request without charge.

(2) A school board shall admit a student upon request without charge if at least one of the student's parents resides in the school district.

(3) A school board shall admit any homeless student upon request without charge.

(4) A school board may allow a student whose residency in the district ceases during a school year to continue attending school in such district for the remainder of that school year.

(5) A school board may admit nonresident students to the school district pursuant to a contract with the district where the student is a resident and shall collect tuition pursuant to the contract.

(6) A school board may admit nonresident students to the school district pursuant to the enrollment option program as authorized by sections 79-232 to 79-246, and such admission shall be without charge.

(7) A school board of any school district that is a member of a learning community shall admit nonresident students to the school district pursuant to the open enrollment provisions of a diversity plan in a learning community as authorized by section 79-2110, and such admission shall be without charge.

(8) A school board may admit a student who is a resident of another state to the school district and collect tuition in advance at a rate determined by the school board.

(9) When a student as a ward of the state or as a ward of any court (a) has been placed in a school district other than the district in which he or she resided at the time he or she became a ward and such ward does not reside in a foster family home licensed or approved by the Department of Health and Human Services or a foster home maintained or used pursuant to section 83-108.04 or (b) has been placed in any institution which maintains a special education program which has been approved by the State Department of Education and such institution is not owned or operated by the district in which he or she resided at the time he or she became a ward, the cost of his or her education and the required transportation costs associated with the student's education shall be paid by the state, but not in advance, to the receiving school district or approved institution under rules and regulations prescribed by the Department of Health and Human Services and the student shall remain a resident of the district in which he or she resided at the time he or she became a ward. Any student who is a ward of the state or a ward of any court who resides in a foster family home licensed or approved by the Department of Health and Human Services or a foster home maintained or used pursuant to section 83-108.04 shall be deemed a resident of the district in which he or she resided at the time he or she became a foster child, unless it is determined under section 43-1311 or 43-1312 that he or she will not attend such district in which case he or she shall be deemed a resident of the district in which the foster family home or foster home is located.

(10)(a) When a student is not a ward of the state or a ward of any court and is residing in a

residential setting located in Nebraska for reasons other than to receive an education and the residential setting is operated by a service provider which is certified or licensed by the Department of Health and Human Services or is enrolled in the medical assistance program established pursuant to the Medical Assistance Act and Title XIX or XXI of the federal Social Security Act, as amended, the student shall remain a resident of the district in which he or she resided immediately prior to residing in such residential setting. The resident district for a student who is not a ward of the state or a ward of any court does not change when the student moves from one residential setting to another.

(b) If a student is residing in a residential setting as described in subdivision (10)(a) of this section and such residential setting does not maintain an interim-program school as defined in section 79-1119.01 or an approved or accredited school, the resident school district shall contract with the district in which such residential setting is located for the provision of all educational services, including all special education services and support services as defined in section 79-1125.01, unless a parent or guardian and the resident school district agree that an appropriate education will be provided by the resident school district while the student is residing in such residential setting. If the resident school district is required to contract, the district in which such residential setting is located shall contract with the resident district and provide all educational services, including all special education services, to the student. If the two districts cannot agree on the amount of the contract, the State Department of Education shall determine the amount to be paid by the resident district to the district in which such residential setting is located based on the needs of the student, approved special education rates, the department's general experience with special education budgets, and the cost per student in the district in which such residential setting is located. Once the contract has been entered into, all legal responsibility for special education and related services shall be transferred to the school district in which the residential setting is located.

(c) If a student is residing in a residential setting as described in subdivision (10)(a) of this section and such residential setting maintains an interim-program school as defined in section 79-1119.01 or an approved or accredited school, the department shall reimburse such residential setting for the provision of all educational services, including all special education services and support services, with the amount of payment for all educational services determined pursuant to the average per pupil cost of the service agency as defined in section 79-1116. The resident school district shall retain responsibility for such student's individualized education plan, if any. The educational services may be provided through (i) such interim-program school or approved or accredited school, (ii) a contract between the residential setting and the school district in which such residential setting is located, (iii) a contract between the residential setting and another service agency as defined in section 79-1124, or (iv) a combination of such educational service providers.

(d) If a school district pays a school district in which a residential setting is located for educational services provided pursuant to subdivision (10)(b) of this section and it is later determined that a different school district was the resident school district for such student at the time such educational services were provided, the school district that was later determined to be the resident school district shall reimburse the school district that initially paid for the educational services one hundred ten percent of the amount paid.

(e) A student residing in a residential setting described in this subsection shall be defined as a student with a handicap pursuant to Article VII, section 11, of the Constitution of Nebraska, and as such the state and any political subdivision may contract with institutions not wholly owned or controlled by the state or any political subdivision to provide the educational services to the

student if such educational services are nonsectarian in nature.

(11) In the case of any individual eighteen years of age or younger who is a ward of the state or any court and who is placed in a county detention home established under section 43-2,110, the cost of his or her education shall be paid by the state, regardless of the district in which he or she resided at the time he or she became a ward, to the agency or institution which: (a) Is selected by the county board with jurisdiction over such detention home; (b) has agreed or contracted with such county board to provide educational services; and (c) has been approved by the State Department of Education pursuant to rules and regulations prescribed by the State Board of Education.

(12) No tuition shall be charged for students who may be by law allowed to attend the school without charge.

(13) On a form prescribed by the State Department of Education, an adult with legal or actual charge or control of a student shall provide the name of the student, the name of the adult with legal or actual charge or control of the student, the address where the student is residing, and the telephone number and address where the adult may generally be reached during the school day. If the student is homeless or if the adult does not have a telephone number and address where he or she may generally be reached during the school day, those parts of the form may be left blank and a box may be marked acknowledging that these are the reasons these parts of the form were left blank. The adult with legal or actual charge or control of the student shall also sign the form.

(14) The department may adopt and promulgate rules and regulations to carry out the department's responsibilities under this section.

Source: Laws 1881, c. 78, subdivision V, § 4, p. 352; Laws 1883, c. 72, § 11, p. 293; Laws 1901, c. 63, § 10, p. 440; R.S.1913, § 6784; Laws 1921, c. 64, § 1, p. 250; C.S.1922, § 6325; Laws 1927, c. 88, § 1, p. 257; C.S.1929, § 79-504; R.S.1943, § 79-504; Laws 1947, c. 273, § 1, p. 877; Laws 1949, c. 256, § 84, p. 720; Laws 1972, LB 1219, § 1; Laws 1974, LB 43, § 1; Laws 1979, LB 128, § 1; Laws 1980, LB 770, § 1; Laws 1980, LB 839, § 1; Laws 1982, LB 642, § 1; Laws 1984, LB 286, § 1; Laws 1984, LB 768, § 1; Laws 1985, LB 592, § 1; Laws 1985, LB 725, § 1; Laws 1991, LB 511, § 29; Laws 1992, LB 245, § 34; Laws 1992, Third Spec. Sess., LB 3, § 1; Laws 1994, LB 858, § 5; R.S.1943, (1994), § 79-445; Laws 1996, LB 900, § 19; Laws 1996, LB 1044, § 814; Laws 1997, LB 307, § 212; Laws 2000, LB 1243, § 2; Laws 2001, LB 797, § 5; Laws 2002, LB 1105, § 503; Laws 2006, LB 1248, § 87; Laws 2008, LB1014, § 68; Laws 2010, LB1071, § 3; Laws 2010, LB1087, § 1.**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB1071, section 3, with LB1087, section 1, to reflect all amendments.**Note:** Changes made by LB1071 became operative July 15, 2010. Changes made by LB1087 became operative August 1, 2010.

Cross References

Medical Assistance Act, see section 68-901.

Annotations

The permissive language in subsection (8) of this section pertaining to a "request by a parent or legal guardian" does not affect a student's residency determination

and does not narrow the scope of the section to the minor students only. *Jefferson Cty. Bd. of Ed. v. York Cty. Bd. of Ed.*, 270 Neb. 407, 703 N.W.2d 257 (2005).

Pursuant to subsection (2) (now subsection (7)) of this section, the unambiguous language of this section obligates the state to pay the cost of both regular and special education received by state wards placed in Boys Town schools. Subsection (2) of this section does not violate Neb. Const. Art. VII, section 11. *Father Flanagan's Boys Home v. Dept. of Soc. Servs.*, 255 Neb. 303, 583 N.W.2d 774 (1998).

Domicile of child normally follows that of parent who has custody by virtue of decree of divorce. *State ex rel. Frasier v. Whaley*, 194 Neb. 703, 234 N.W.2d 909 (1975).

Cited in determining whether tuition had been paid for two or more consecutive years. *Pischel v. Kreycik*, 184 Neb. 332, 167 N.W.2d 388 (1969).

Agreement on part of parents to pay high school tuition will not be implied. *School District No. 15 of Furnas County v. Wilson*, 101 Neb. 683, 164 N.W. 709 (1917).

Nonresident pupil must pay tuition. *State ex rel. Vale v. School Dist. of City of Superior*, 55 Neb. 317, 75 N.W. 855 (1898).

Child, for school purposes, may have separate residence from parent. *Mizner v. School Dist. No. 11 of Sherman County*, 2 Neb. Unof. 238, 96 N.W. 128 (1901).