

## Frequently Cited Residency Cases

### State Cases

*Ashley v. Bd. of Ed.*, 275 Ill.274, 278 (Ill. 1916)(“A residence, even for a temporary purpose, in a school district, is sufficient to entitle children of school age to attend school.” Children living at an orphanage were entitled to attend school where orphanage was located tuition-free).

*Saxe v. Bd. of Ed. of Sch. Dist. No. 36*, 206 Ill.App. 381 (4<sup>th</sup> Dist. 1917)(Child could attend school district tuition-free where parents had relinquished custody and control to grandparent, and where child was not residing with the grandparent for the sole purpose of accessing the schools).

*Hughes v. Illinois Public Aid Commission*, 2 Ill.2d 374 (Ill. 1954)(residency requires physical presence in a place and an intention to remain in that place)(Illinois Public Aid case).

*Turner v. Bd. of Ed. No. Chicago Comm. H.S. Dist. 123*, 54 Ill.2d 68 (Ill. 1973)(student was not a resident of a school district where she moved away from her parents to live with her brother, solely for the purpose of attending the district).

*Miller v. Police Bd., City of Chicago*, 38 Ill.App.3d 894 (1<sup>st</sup> Dist. 1976)(police officer was not a resident of Chicago where he was observed only occasionally at his apartment in Chicago, and where his wife and child continued to live outside of the city. In evaluating a person’s “intent” to reside somewhere, that person's acts should be given more weight than his declarations).

*Kraut v. Rachford*, 51 Ill.App.3d. 206, 220 (1<sup>st</sup> Dist. 1977)(Mother had relinquished custody and control of child to relative and where she only provided partial financial support, and the relative assumed day-to-day care and discipline of the child. “If parents have relinquished custody and control beyond the point or degree which necessarily and naturally results from a minor's physical proximity to another person, the custody and control will be deemed relinquished.”).

*Sch. Dist. 153 v. Sch. Dist. 154 ½ and Sch. Dist. 215*, 54 Ill.App.3d 587 (1<sup>st</sup> Dist. 1977)(school district where parent resides, not the district where a special education facility is located, is financially responsible for special education of a child).

*Connelly v. Gibbs*, 112 Ill.App.3d 257 (1<sup>st</sup> Dist., 1983)(parents, who resided with their children the majority of the time in one district, did not establish a second residence in another district where sole purpose of acquiring second residence was to access the schools).

*Bd. of Ed. of Niles Twnsp. H.S. Dist. No. 219 v. Bd. of Ed. of Northfield Twnsp. H.S. Dist. No. 225*, 112 Ill.App.3d 212 (1<sup>st</sup> Dist. 1983)(there is no enforceable right for non-resident students to attend out-of-district schools on a tuition-free basis; however, a board of education has the discretion to allow non-resident students to attend on a tuition basis).

*O'Boyle v. Personnel Bd. of City of Chicago*, 119 Ill.App.3d 648 (1<sup>st</sup> Dist. 1983)(fireman had not abandoned his suburban domicile where he continued to spend time at the residence where his wife and children resided (after reconciling) and paid expenses for the suburban home.).

*Israel v. Bd. of Ed. of Oak Park/River Forest High School Dist. 200*, 235 Ill.App.3d 652 (1<sup>st</sup> Dist., 1992)(school district could not require proof of legal guardianship or third party statement affirming parental hardship or incapacity where other evidence showed that relative had assumed custody and control of the student).

*Joel R. v. Bd. of Ed. of Mannheim Sch. Dist. 83*, 292 Ill.App.3d 607 (1<sup>st</sup> Dist. 1997)(student that lived apart from his parents (who lived in Mexico) was a bona fide resident of the district where he was living indefinitely with a relative that was his legal guardian, and where evidence showed he lived with the relative for reasons other than to attend the district, including having better social and economic opportunities).

*Mina v. Bd. of Ed. for Homewood Flossmoor Comm. H.S. Dist. No. 233*, 348 Ill.App.3d 264 (1<sup>st</sup> Dist. 2004)(student was not a resident where student's family was in the process of renovating a house located in the district, but had not moved into the house).

### **Federal Cases**

*U. S. v. Scott*, 472 F.Supp. 1073 (N.D. Ill. 1979)(in evaluating a individual's (criminal defendant's) intent to reside somewhere, factors to consider include where the person owns a home or pays rent, maintains his personal belongings, votes, maintains affiliations with religious and social organizations, transacts business and financial matters, and obtains a driver's license).

*Bowman v. Bd. of Ed. of Dist. 97*, 1985 WL 3089 (N.D. Ill. 1985)(parents were entitled to due process (similar to the informal process in *Goss v. Lopez*), but not a formal hearing, where their child was excluded from the district on the basis of non-residency).

*Cohen v. Wauconda Comm. Unit Sch. Dist. No. 118*, 779 F.Supp. 88 (N.D.Ill. 1991)(school district was not entitled to non-resident tuition where the district had mistakenly enrolled the student in the district, not realizing that the student's address was in a neighboring district).

46479\_1.DOCX