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Navigating the Amended Student Residency Statute

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Agenda

- What changed in the amended statute?
- What remains the same?
- Hot Topics



What Changed

- Notice letter to parents of non-residency
 - Must provide reasons
 - 10 calendar days to request a hearing

What Changed

- Evidence at Hearing
 - Disclosed 3 days before

What Changed

- Board decision
 - Within 30 calendar days of hearing
 - Written decision
 - Notify of appeal rights

What Changed

- Appeal to the Regional Superintendent
 - Parents can petition within 5 calendar days
 - Petition must include the basis for the request
 - The student can continue to attend school

What Changed

- Review by Regional Superintendent
 - Board must send hearing record within 5 days
 - Board can submit a written response
 - No new hearing
 - Decision based on whether there is clear and convincing evidence that the student is a resident

What Remains

- Definition of residency: general education
 - 105 ILCS 5/10-20.12b
- Student's residence is the same as the adult with legal custody

What Remains

- General education special circumstances:
 - Foreign exchange student
 - Homeless
 - DCFS placement
 - Move during school term
 - 18 years old or emancipated

What Remains

- Definition of residency: special education
 - 105 ILCS 5/14-1.11 and 1.11a

Parent	Student
<ul style="list-style-type: none">• Parent or legal guardian lives in IL• DCFS has guardianship but the student lives with parent• IL court orders residential placement but parents retain legal rights	<ul style="list-style-type: none">• Parent or legal guardian location is unknown• DCFS has guardianship and has placed the student residentially• Student is 18 and no legal guardian has been appointed

- Differences between general and special education definitions:
 - 3rd party custody
 - Mid-year move
 - Divorced parents

Hot Topics



- Changes to Marriage and Dissolution of Marriage Act
 - Parenting plan must designate the parent who is allocated the majority of the parenting time.
 - Parent with the majority of the parenting time is considered to have legal custody for school residency purposes.

What Remains



What Remains

■ Homeless Rules

- Homeless = a student who lacks a fixed, regular, and adequate nighttime abode because of loss of housing or other exigent circumstance
- Parent's choice: school of origin or school where staying

What Remains

- Homeless Rules
 - Immediately enroll and serve
 - Notice of educational rights and refer to homeless liaison
 - Contact last school for records
 - Refer student for immunizations
 - Provide transportation

Hot Topics

- Homeless Red Flags
 - Foster care
 - Doubled up
 - Separated parents

- Immigration
 - Enroll students who are district residents regardless of immigration status

What Remains



What Remains

- Best practices for investigations
 - Information collected at registration
 - Documents
 - Surveillance
 - Interviews
 - Home visit

Questions



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2017 SCHOOL LAW CONFERENCE

Navigating the Amended Student Residency Statute

Amy Dickerson, Jennifer Smith, Kendra Yoch

1. Changes to the student residency statute

- a. Effective January 1, 2017
- b. Notice letter to parents of non-residency finding
 - Must detail the specific reasons the board believes the student is not a resident of the district.
 - Parents have 10 calendar days to request a hearing.
- c. Evidence to be presented at hearing
 - At least 3 calendar days prior to the hearing, each party must disclose all written evidence to be introduced at hearing as well as a list of witnesses.
 - Written evidence and witnesses not disclosed by the deadline are barred from admission at the hearing (unless the other party agrees).
- d. Board decision
 - The board now has 30 calendar days (instead of 15) from the conclusion of the hearing to make a decision.
 - The written decision must be sent to parents within 5 days.
 - The decision must inform parents of their right to appeal to the Regional Superintendent.
- e. Appeal to the Regional Superintendent
 - Within 5 calendar days of receiving the decision, parents can petition the Regional Superintendent to review the board's decision.
 - The petition must include the basis for the request.
 - The student may continue to attend school during this appeal. If the Regional Superintendent ultimately agrees that the student is not a resident, tuition will be due through the date of withdrawal.
- f. Review by the Regional Superintendent
 - Within 5 calendar days of receiving the petition, the board must send the following to the Regional Superintendent:
 - ♦ The written decision of the board
 - ♦ Any written evidence and testimony submitted at the hearing
 - ♦ A list of the witnesses that testified at the hearing
 - ♦ Any existing minutes or transcript of the hearing
 - ♦ Any existing verbatim record of the hearing (audio or video)
 - The hearing officer's report should be sent as well.
 - The board can also submit a written response to the petition.

- The Regional Superintendent's review is limited to the documentation submitted. The Regional Superintendent does not conduct a new hearing.
- Within 10 calendar days of receiving the above documentation, the Regional Superintendent must issue a written decision indicating whether there is clear and convincing evidence that the student is a resident of the district.

2. Changes to the Marriage and Dissolution of Marriage Act

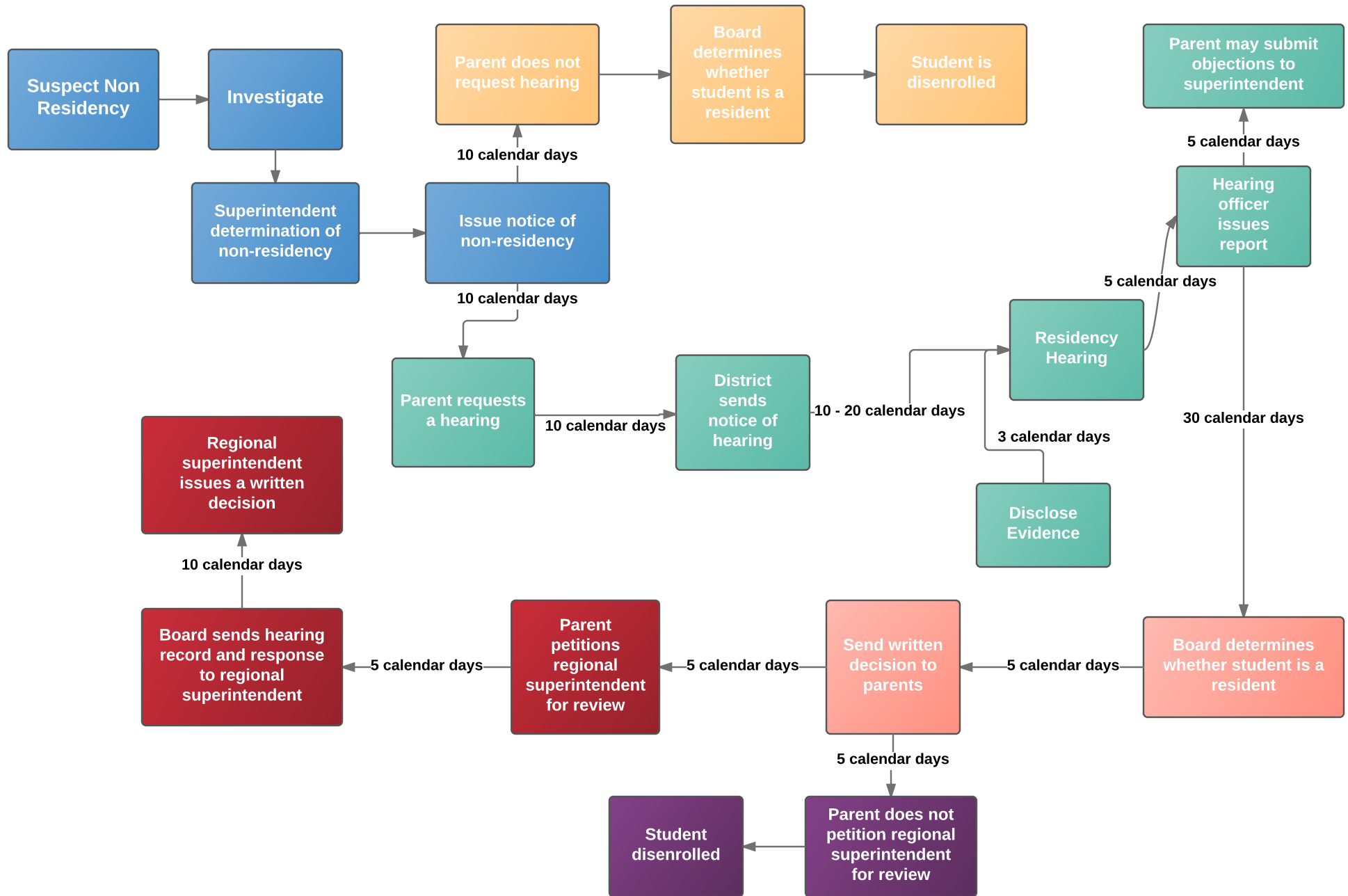
- a. Effective January 1, 2016
- b. Many updates to modernize the process.
- c. Custody and visitation changed to allocation of parental responsibilities and parenting time
 - Rather than awarding one parent custody and the other visits, parental responsibilities and time are allocated between the parents.
 - A written parenting plan must be developed to address decision making responsibilities, parenting time, mediation, rights to access records, etc.
 - Parenting plan can be modified in the child's best interest.
 - The parenting plan must designate the parent who is allocated the majority of the parenting time. The parent with the majority of the parenting time is considered to have legal custody for school residency purposes. 750 ILCS 5/606.10
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3. Changes regarding students in foster care

- a. New requirements under ESSA.
- b. A child in foster care remains in his or her school of origin, unless it is determined that remaining in the school of origin is not in that child's best interest.
- c. If it is not in the child's best interest to stay in his or her school of origin, the child is immediately enrolled in the new school even if the child is unable to produce records normally required for enrollment.
- d. The new (enrolling) school must immediately contact the school of origin to obtain relevant academic and other records.
- e. Districts must develop procedures to ensure transportation is provided to students in foster care.

Residency Timeline

Initial Determination: Superintendent



Residency Timeline

Initial Determination: Board

