

## ELIGIBILITY OF RESIDENT/NONRESIDENT PUPILS (M)

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The Livingston Board of Education will admit to its schools, free of charge, persons who are eligible to be admitted pursuant to N.J.S.A. 18A:38-3, or such younger or older student as is otherwise entitled by law to a free public education.

#### Eligibility to Attend School

The Board will admit students eligible to attend school free of charge who are domiciled within the district as defined in N.J.A.C. 6A:22-3.1.

A child who is domiciled within the school district and resides with a parent or guardian who is a member of the New Jersey National Guard or a member of the reserve component of the armed forces of the United States who is ordered into active military service in a time of war or national emergency shall be permitted to remain enrolled in the school district in which the child is domiciled at the time of the parent or guardian being ordered into active military service, regardless of where the child resides during the period of active duty. Following the return of the child's parent or guardian from active military service, the child's eligibility to remain enrolled in the school district pursuant to N.J.S.A. 18A: 38-3.1 shall cease at the end of the current school year unless the child is domiciled in the school district.

The Board will also admit any student that is kept in the home of a person other than the student's parent or guardian, where the person is domiciled in the school district and is supporting the student without remuneration as if the student were his or her own child in accordance with N.J.A.C. 6A:22-3.2. A student is only eligible to attend school in the district pursuant to this provision if the student's parent or guardian files, together with documentation to support its validity, a sworn statement that he or she is not capable of supporting or providing care for the student due to family or economic hardship and that the student is not residing with the other person solely for the purpose of receiving a free public education. In addition, the person keeping the student must file a sworn statement that he or she is domiciled within the school district, is supporting the child without remuneration and intends to do so for a time longer than the school term, and will assume all personal obligations for the student relative to school requirements, and a copy of his or her lease if a tenant, or sworn landlord's statement if residing as a tenant without a written lease, or a mortgage or tax bill if an owner. Pursuant to N.J.S.A. 18A:38-1, any person who fraudulently allows a child of another person to use his or her residence and is not the primary financial supporter of that child; and any person who fraudulently claims to have given up custody of his or her child to a person in another district commits a disorderly persons offense.



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A student is eligible to attend school free of charge in this school district pursuant to N.J.S.A 18A:38-1 if the student is kept in the home of a person domiciled in the district, other than the parent or guardian, where the parent or guardian is a member of the New Jersey National Guard or the reserve component of the United States armed forces and has been ordered into active military service in the United States armed forces in time of war or national emergency. Eligibility under this provision shall cease at the end of the current school year during which the parent or guardian return from active military duty.

A student is eligible to attend school in this school district free of charge pursuant to N.J.S.A 18A:38-1 if the student's parent or guardian temporarily resides within the district and elects to have the student attend school in the school district of temporary residence, notwithstanding the existence of a domicile elsewhere. Where required by the district, the parent or guardian shall demonstrate that such temporary residence is not solely for purposes of a student attending school within the district of temporary residence. Where one of a student's parents or guardians temporarily resides in the district while the other is domiciled or temporarily resides elsewhere, eligibility to attend school shall be determined in accordance with the criteria of N.J.A.C. 6A:22-3.1(a)1.i.

A student is eligible to attend school in the district free of charge:

1. If the student's parent or guardian moves to another district as the result of being homeless, subject to the provisions of N.J.A.C. 6A:17-2 - Education of Homeless Children;
2. If the student is placed by court order or by society, agency or institution in the home of a school district resident pursuant to N.J.S.A. 18A:38-2;
3. If the student had previously resided in the school district and the parent or guardian 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 the relocation of the student out of the school district, pursuant to N.J.S.A. 18A:38-3(b). The district shall not be obligated for transportation costs; and
4. If the student resides on federal property within the State pursuant to N.J.S.A. 18A:38-7.7 et seq.

Notwithstanding the provisions of N.J.S.A. 18A:38-1 or any other law, rule, or regulation to the contrary, a student who moves out of the school district as a result of domestic violence, sexual abuse, or other family crises shall be permitted



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to remain enrolled in the school district for the remainder of the school year in pursuant to N.J.S.A. 18A:38-1.1 and in accordance with the provisions of N.J.A.C. 6A:22-3.2(h). If the student remains enrolled in the school district for the remainder of the school year, the school district shall provide transportation services to the student, provided the student lives remote from school, and the State shall reimburse the school district for the cost of the transportation services. Nothing in N.J.S.A. 18A:38-1.1 shall be construed to affect the rights of homeless students pursuant to N.J.S.A. 18A:7B-12, N.J.S.A. 18A:7B-12.1, or any other applicable State or Federal law.

A student's eligibility to attend this school shall not be affected by the physical condition of an applicant's housing, or his or her compliance with local housing ordinances, or terms of lease.

Except as set forth in N.J.A.C. 6A:22-3.3(b)1, immigration/visa status shall not affect eligibility to attend school and the school district shall not condition enrollment in the school district on immigration status. A student's immigration/visa status and their eligibility to attend school shall be in accordance with N.J.A.C. 6A:22-3.3(b) and Regulation 5111.

### Proof of Eligibility

The district will accept a combination of forms of documentation from persons attempting to demonstrate a student's eligibility for enrollment in the district in accordance with N.J.A.C. 6A:22.3.4 et seq. The district will consider the totality of information and documentation offered by an applicant, and will not deny enrollment based on failure to provide a particular form of documentation, or a particular subset of documents, without regard to other evidence presented.

The district will not condition enrollment on the receipt of information or document protected from disclosure by law, or pertaining to criteria that are not a legitimate basis for determining eligibility to attend school as outlined in N.J.A.C. 6A:22-3.4(d) The district will not require or request, directly or indirectly, such disclosure as an actual or implied condition of enrollment. However, in the case of a dispute between the school district and the parent or guardian of a student in regard to the student's eligibility to enroll in the school district or to remain enrolled in the school district pursuant to the provisions of N.J.S.A. 18A:38-1, the school district may request from the New Jersey Motor Vehicle Commission the parent or guardian's name and address for use in verifying a student's eligibility for enrollment in the school district in accordance with the provisions of N.J.S.A. 18A:38-1.3.



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### Registration Forms and Procedures for Initial Assessment

Registration and initial determinations of eligibility will be in accordance with N.J.A.C. 6A:22-4.1. The district shall use Commissioner-provided registration forms or locally developed forms that are consistent with the forms provided by the Commissioner. The School Business Administrator/Board Secretary will be available, and clearly identified to applicants, to assist persons who are experiencing difficulties with the registration/enrollment process.

Initial eligibility determinations will be made upon presentation of an enrollment application and enrollment shall take place immediately except in cases of clear, uncontested denials. Enrollment shall take place immediately when an applicant has provided incomplete, unclear or questionable information, but the applicant shall be notified that the student will be removed from the school district if defects in the application are not corrected, or an appeal is not filed, in accordance with subsequent notice to be provided pursuant to N.J.A.C. 6A:22-4.2.

### Eligibility of Resident/Nonresident Students

When a student appears ineligible based on the information provided in the initial application, the school district shall issue a preliminary written notice of ineligibility, including an explanation of the right to appeal to the Commissioner of Education. Enrollment must take place immediately if the applicant clearly indicates disagreement with the district's determination and an intent to appeal to the Commissioner of Education. An application whose student is enrolled pursuant to this provision will be notified that the student will be removed, without a hearing before the Board, if no appeal is filed within the twenty-one day period established by N.J.S.A. 18A:38-1.

When enrollment is denied and no intent to appeal is indicated, applicants shall be advised that they shall comply with compulsory education laws. When the student is between the ages of six and sixteen, applicants also shall be asked to complete a written statement indicating that the student will be attending school in another district, or a nonpublic school, or receiving instruction elsewhere than at a school pursuant to N.J.S.A. 18A:38-25. In the absence of this written statement, the district level administrator designated by the Superintendent shall notify the school district of actual domicile or residence, or the Department of Children and Families to report a potential instance of "neglect" for the purposes of ensuring compliance with compulsory education law, N.J.S.A. 9:6-1. Staff shall provide the school district or the Department of Children and Families with the student's name, the name(s) of the parent/guardian/resident, and the student's address to the extent known. Staff shall also indicate that admission to the



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school district has been denied based on residency or domicile, and that there is no evidence of intent to arrange for the child to attend school or receive instruction elsewhere.

Enrollment or attendance in the school district will not be conditioned on advance payment of tuition when enrollment is denied and an intent to appeal is indicated, or when enrollment is provisional and subject to further review or information. The Board of Education shall ensure the registration process identifies information suggesting an applicant may be homeless so procedures may be implemented in accordance with N.J.A.C. 6A:17-2, Education of Homeless Children. Enrollment or attendance in the school district shall not be denied based upon absence of the certified copy of birth certificate or other proof of a student's identity as required within thirty days of initial enrollment pursuant to N.J.S.A. 18A:36-25.1.

Enrollment in the school district will not be denied based upon absence of student medical information. However, actual attendance at school may be deferred until the student complies with student immunization rules set forth in N.J.A.C. 8:57-4.1.

When enrollment in the school district, attendance at school, or the receipt of educational services in the regular education program appears inappropriate, the student will not be denied based upon the absence of a student's prior educational record. However, the applicant will be advised that the initial educational placement of the student may be subject to revision upon receipt of records or further assessment of the student by the district.

### Notice of Ineligibility

If the district finds the applicant ineligible to attend the schools of the district pursuant to N.J.A.C. 6A:22-1.1 ., or the application initially submitted is found to be deficient upon subsequent review or investigation, notice will immediately be provided to the applicant consistent with sample form(s) to be provided by the Commissioner. Notices will be in writing, in English and in the native language of the applicant, issued by the Superintendent and directed to the address at which the applicant claims to reside. The Notice of Ineligibility will be provided and will include information as required in accordance with N.J.A.C. 6A:22-4.2 .

### Removal of Currently Enrolled Students

Nothing in N.J.A.C. 6A:22-4.3 et seq. and this policy will preclude the Board from seeking to identify, through further investigation or periodic requests for current



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validation of previously determined eligibility status, students enrolled in the district who may be ineligible for continued attendance due to error in initial assessment, changed circumstances or newly discovered information.

When a student, enrolled and attending school in the district based upon an initial determination of eligibility, is later determined to be ineligible for continued attendance, the Superintendent may apply to the Board for removal of the student in accordance with N.J.A.C. 6A:21-4.3(b). No student shall be removed from school unless the parent, legal guardian, adult student or resident keeping an "affidavit student" (as defined in N.J.A.C. 6A:22-1.2) as the case may be, has been informed of his or her entitlement to a hearing before the Board of Education. Once the hearing is held, or if the parent, legal guardian, adult student or resident keeping an "affidavit student", as the case may be, does not respond to the Superintendent's notice within the designated time frame or appear for the hearing, the Board shall make a prompt determination of the student's eligibility or ineligibility and will immediately provide notice thereof in accordance with the requirements of N.J.A.C. 6A:22-4.2. The hearings required pursuant to N.J.A.C. 6A:22-4.3 et seq. may be conducted by the full Board or a Board Committee, at the discretion of the full Board. The Committee must make a recommendation to the full Board for action. No student may be removed except by vote of the full Board taken at a meeting duly convened and conducted pursuant to N.J.S.A. 10:4-6 et seq., the Open Public Meetings Act.

### Appeal to the Commissioner

The district's determination that a student is ineligible to attend the schools of the district may be appealed to the Commissioner by the parent, guardian, adult student or resident keeping an "affidavit student", as the case may be. Such appeals shall proceed in accordance with N.J.S.A. 18A:38-1 and N.J.A.C. 6A:3-8.1 et seq. and shall proceed as a contested case pursuant to N.J.A.C. 6A:3. Pursuant to N.J.S.A. 18A:38-1(b)1, appeals of "affidavit student" eligibility determinations must be filed by the resident keeping the student.

### Assessment and Calculation of Tuition

If no appeal to the Commissioner is filed following notice of a determination of ineligibility, the Board may assess tuition for any period of a student's ineligible attendance, including the twenty-one day period provided by N.J.S.A. 18A:38-1 for appeal to the Commissioner. Tuition will be assessed and calculated in accordance with N.J.A.C. 6A:22-6.3 et seq. The district may petition the Commissioner for an order assessing tuition, enforceable in accordance with N.J.S.A. 2A:58-10, through recording,



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upon request of the Board pursuant to N.J.A.C. 6A:3-12, on the judgment docket of the Superior Court, Law Division.

### Nonresident Students

The admission of a nonresident child to school must be approved by the Board. No child otherwise eligible shall be denied admission on the basis of the child's race, color, creed, religion, national origin, ancestry, age, marital status, affectational or sexual orientation or sex, social or economic status, or disability. The continued enrollment of any nonresident student shall be contingent upon the student's maintenance of good standards of citizenship and discipline.

### Future Residents

Parents or guardians of children who are future residents shall be required to demonstrate proof of the anticipated residency. The Board reserves the right to verify such claims, and to remove from school a nonresident student whose claim cannot be verified.

Parents or guardians will be required to deposit with the secretary of the Board of Education one month's tuition as a security deposit. If the parents or guardians present paperwork establishing residency within the first thirty (30) school days the child is in attendance, the Board will return the security deposit. After this period of thirty (30) day period, tuition shall be charged based on the specified annual rate set by the Board.

Pursuant to the provisions of N.J.S.A. 18A:3B-3 non- resident students may be accepted into the Livingston Public Schools providing there is space available and the school program is considered appropriate for the child. Procedures for the acceptance of such children shall include but not be restricted to the following:

1. The parents or guardians shall submit the appropriate application form as early as possible but no later than July 1 for September admission and thirty days prior to other dates of enrollment.
2. For the purposes of reviewing the application, the parents or guardians shall make available to the Livingston School District confirmation of the student's satisfactory attendance progress including the latest report card as well as all standardized test information and complete health records. Parents will be required to sign release forms allowing the district to obtain academic and behavioral records.



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3. The parents or guardians and student will make themselves available for an interview with the Principal or designee of the building to which he/she may be assigned.
4. The Superintendent or designee shall be responsible for making the final decision acceptance and assignment of the student appropriate school and grade in consultation Building Principal.
5. The Board may reject a student's application for enrollment if the student's IEP could not be implemented in the district, if the enrollment of the student would require the district to alter the nature of its educational program, if the student's enrollment would impose an additional financial burden on the district, or if the student's enrollment may create a disruptive or unsafe learning environment for the student himself/herself or for other students.

Tuition rates will be determined annually by the Superintendent in consultation with the Board of Education. Payments shall be made monthly throughout the school year on or before the first day of each month.

Students entering the Livingston schools at times other than the beginning of a semester shall pay proportionate tuition.

The parents or guardians will be responsible transportation to and from the school of attendance.

The Livingston School District is not obligated to enroll students in ensuing years and therefore application must be made on an annual basis. Building assignment may be revised depending on enrollments.

The Livingston Board of Education retains the unilateral right to terminate enrollment of any non-resident tuition student for cause at any time. Tuition will be refunded proportionately.

### F-1 Visa Students

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F-1 Visa students will not be admitted to this school district.

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### Former Residents

The Board shall consider any student (except high school seniors) whose parents or guardians move from the municipality prior to and including January 31 of an academic year to be of non-resident status and, therefore, expected to transfer from the Livingston Public Schools. These students may remain until the end of the school year on payment of prorated tuition in advance and on recommendation of the Principal with approval of the Superintendent. Students whose parents or guardians move out of the municipality after January 31 may remain in the Livingston Public Schools on a tuition free basis for the remainder of the academic year on recommendation of the Principal with approval of the Superintendent. If unusual conditions prevail, the family may apply to the Superintendent for special consideration of residency.

The Board shall allow a student registered and enrolled for the senior year whose parents or guardians have resided in Livingston continuously for a minimum of one year and who are residents of Livingston on the opening day of school to graduate without tuition payment, should his/her parents or guardians move from the municipality prior to the student's graduation, provided his record of citizenship and achievement is satisfactory to the Principal and the Superintendent.

### Children of Nonresident Staff Members

Children of nonresident employees of the Board may be enrolled in the schools of this district in accordance with the terms and conditions of their respective collective bargaining agreements.

Because it is a term or condition of employment, allowing nonresident staff members to send their children to district schools for anything less than full tuition must be negotiated.

N.J.S.A. 18A:38-1 et seq.

N.J.A.C. 6A:14-3.3; 6A:17-2.1 et seq.; 6A:22-1.1 et seq.

[8 CFR 214.3](#)

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