

THE FOWLER LAW FIRM PC



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When family law collides with school law; students with parents in two different school districts

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Editor's Note: The Fowler Law Firm's members truly believe that their greatest privilege and pleasure is to empower their fellow man to help himself whenever that is possible. To that end, each week you will receive thoughtful concise suggestions about important legal issues designed to really help you and those who rely upon you. Links to helpful articles and excerpts of relevant law are designed to help you and others who turn to you for advice. Your comments and questions are welcome. The authors promptly and personally respond to each and every comment and question from their readers.

Dear Readers:

If you are a school administrator responsible for admitting or enrolling students in your district, (or, for that matter, a person responsible for a student's education) you probably never imagined that just trying to decide where a student has a right to attend school could prompt such controversy. The Texas laws regarding attendance and residence have changed many times over the years and even proceeded to the U.S Supreme Court a time or two.

Most of the time, issues regarding where a student may attend school must be resolved at the campus level quickly. Most people are more interested in attendance zones than in the actual school district boundaries but the fact of who actually resides in the public school district is as important, if not more important, than any other single fact.

Many families face the issue at some point of what home environment serves the best interests of their school age child. While there are many factors at play in this complex and often heart wrenching decision, there are a few things that are not negotiable, yet sometimes badly misunderstood both by families and by educators responsible to enroll students.

Texas Education Code Section 25.001 makes it clear that if a parent, a grandparent providing substantial care, or other person with custody of a student resides within the boundaries of a Texas public school district, that student has a right to attend the school that district's attendance zone policies allow him to attend. ***This is true even if the student does not reside in the district.*** (Texas Education Code Section 25.001.

<http://www.thefowlerlawfirm.com/newsletter/Texaseducationcode.pdf>)

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Our point is quite simple: If you expect a fight over the custody of a student, that fight may well determine where the student attends school; who has a custodial right creates another set of choices and challenges.

Keep in mind, residency is an issue of fact; not wishful thinking! Do not take the example of one of our creative parents who bought a small lot of land, hooked up a hunting trailer, and claimed residency. If the parent truly resided in the hunting trailer, great, but the attendance officers of the district will look into this closely and if the district discovers that no person actually lives there, the school district may demand the removal of the student and could also demand tuition and related fees. This is NOT a good situation for the family, particularly when the facts are recounted to the family law judge with continuing jurisdiction over the matter.

In your every life's adventure we wish you the very best.

Ms. Fowler will be speaking at the following conferences and seminars for the remainder of 2008:

September 9, 2008

How to Avoid Getting Sued, Grieved or Indicted;

Region VI Education Service Center Huntsville: TASBO Affiliate Lunch Meeting; 11:30 - 1:00

October 2, 2008

What School Risk Managers Really Need to Know to Avoid Suits and Disputes and the Court of Public Opinion TASBO Risk Managers Academy:

Austin Texas, 2:15-3:15; <http://www.tasbo.org/PDFs/Risk%20Management%202008%20Form.pdf>

October 15-17, 2008

Purchasing Pitfalls; Personnel Pointers for School and College Professionals: Insuring Agreements that protect your District;

National Association of Purchasing Management; South Padre Island (www.napmrgv.org)

November 10, 2008

The Fowler Law Firm/ TACS Sixth Annual School and College Construction Law Seminar;

Austin Texas
http://www.thefowlerlawfirm.com/TACS_Conference_2008/Conference_Brochure.pdf

Proceeds from Ms. Fowler's speaking engagements and publications support THE FOWLER LAW FIRM Foundation

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