

DOMICILE OR RESIDENCE REQUIREMENTS

Policy Code:

4120

A student who is domiciled within the geographic area served by the school system, who is under age 21 (22 for students entitled to special education services), who has not completed the prescribed courses for high school graduation and who otherwise qualifies for admission, is entitled to be admitted without payment of tuition. Under certain circumstances specified by law, a student who resides in the area served by the school system and who otherwise qualifies for admission to its schools also is entitled to be admitted without payment of tuition.

Children with disabilities are required to meet state domicile requirements to be entitled to admission to school without payment of tuition unless they are “grandfathered” into the system under subsection C.6, below, or unless they otherwise meet one of the circumstances that entitle them to admission without payment of tuition. (See Section C, below.)

A. DOMICILE and RESIDENCE DEFINED

Domicile requires the intent to abandon one’s prior home and remain in the new location as a permanent home for an indefinite period. In contrast, a residence need not be one’s exclusive home and does not require an intention that the residence be the permanent home.

B. MEETING DOMICILE REQUIREMENTS

1. Domicile of Students Generally

The domicile of a student under 18 years of age is presumed to be the domicile of his or her parents, legal guardian or legal custodian as defined by the General Statutes of North Carolina.

2. Domicile of Emancipated Students

If the student is at least 18 years of age or married or abandoned by his or her parents, or if the court declares a student to be emancipated, the student may establish a domicile independent from that of his or her parents, legal guardian or legal custodian. A student who establishes domicile as a result of being emancipated is a domiciliary of the school system and is entitled to the same rights and privileges of other students domiciled in the school system.

3. Domicile of Students with Divorced or Separated Parents

Domicile for the purpose of school attendance will be determined by the following criteria:

- a) In the event that the parents are divorced or separated and physical custody has

been given to only one parent, the student's domicile follows that of the parent who has been granted physical custody.

- b) If physical custody has not been determined or has been granted jointly to both parents, or if the custodial parent wishes the student to attend school in the non-custodial parent's system of residence, then the parents must jointly agree on which residence will be used to determine the student's domicile. The selected residence must be submitted in writing to the superintendent.
- c) The selection may not be changed during the school year unless the parents satisfy the board's policies on transfers and releases.
- d) In the event the parents cannot agree on which residence will be used to determine the student's domicile for school assignment purposes, school officials shall assign the student according to the residence of the parent with physical custody of the student at the beginning of each school year.

C. MEETING RESIDENCE REQUIREMENTS

A student who resides in the system in any of the following circumstances will be admitted without payment of tuition.

- 1. The student is homeless as defined by the McKinney-Vento Homeless Education Assistance Improvement Act of 2001 and policy 4150, Homeless Students. A student living with a friend or relative is not a homeless student unless he or she lives there due to conditions that constitute homelessness under state and federal statutes. A homeless student will be assigned in accordance with policy 4125, Homeless Students.
- 2. The parent, guardian or legal custodian residing in the school district attendance area is a student, employee or faculty member of a college or university, or is a visiting scholar at the National Humanities Center.
- 3. The student resides in a group home, foster home or other similar facility or institution.
- 4. The student resides in a pre-adoptive home following placement by a county department of social services or a licensed child-placing agency.

5. The parent, guardian, or legal custodian residing in the school system attendance area is on active military duty and is assigned by official military order to a military installation or reservation in North Carolina.
6. The student is considered a child with a disability by the General Statutes and the North Carolina Policies Governing Services for Children with Disabilities, and the child was (a) enrolled in the school system on the last day of school for the 2006-07 school year or (b) enrolled in and attending a school in the school system on August 1, 2007, for the 2007-08 school year, so long as the child lives within and is continuously enrolled in the system.
7. The student resides with an adult who is a domiciliary of the school system, as a result of any of the following:
 - a. The death, serious illness, or incarceration of the child's parent or legal guardian.
 - b. The abandonment by the child's parent or legal guardian of the complete control of the student as evidenced by the failure to provide substantial financial support and parental guidance.
 - c. Abuse or neglect by the parent or legal guardian.
 - d. The physical or mental condition of the parent or legal guardian is such that he or she cannot provide the student with adequate care and supervision.
 - e. The relinquishment of physical custody and control of the student by the student's parent or legal guardian upon the recommendation of the department of social services or the Division of Mental Health.
 - f. The loss or uninhabitability of the student's home as the result of a natural disaster.
 - g. The parent or legal guardian is one of the following: (1) a member or veteran of the uniformed services who is severely injured and medically discharged or retired)but only for a period of one year after the medical discharge or retirement of the parent or guardian); or (2) a member of the uniformed services who has died while on active duty or as a result of injuries sustained on active duty (but only for a period of one year after the death of the parent or guardian). Assignment under this subsection is

only available if some evidence of the medical discharge, retirement, or death is tendered with the affidavits required under G.S. 115C-366.

- h. The parent or legal guardian is on active military duty, not including periods of active duty for training for less than 30 days, and the commanding officer of the parent or legal guardian provides in a signed letter that the parent or legal guardian's military orders prevent him or her from physically residing with the student. Assignment under this subsection is only available if the signed letter from the commanding officer is included with the affidavits required under G.S. 115C-366, and commanding officer indicates the time period that such military orders will be in effect.

In order to be admitted under this provision, the student may not be currently under a term of suspension or expulsion from a school for conduct that could have led to a suspension or an expulsion from the local school administrative unit, unless the student is identified as eligible for special education and related services under the Individuals with Disabilities Education Act, 20 U.S.C. 1400, *et seq.*, and evidence of such eligibility is tendered with the affidavits described below.

The adult with whom the student resides and the student's parent, guardian, or legal custodian, if available, must complete and sign separate affidavits available from the superintendent's office attesting to information required by G.S. 115C-366(a3). If it is found that a person willfully and knowingly provided false information in the affidavit, the maker of the affidavit will be guilty of a Class 1 misdemeanor and will pay to the board an amount equal to the cost of educating the student during the period of enrollment. Repayment will not include state funds.

D. REMOTE ENROLLMENT OF CHILDREN IF MILITARY FAMILIES

A student who is not domiciled in the school system attendance area is permitted to enroll by remote means, including electronic means, prior to commencement of the student's residence in the school system attendance area if all of the following apply.

1. The student's parent or legal guardian is on active duty and is transferred or pending transfer pursuant to an official military order to a military installation or reservation in North Carolina.
2. Upon request by the school system, the parent or legal guardian provides a copy of the official military order transferring to the military installation or reservation.

3. The parent or legal guardian completes and submits the school system's enrollment forms and documentation, except that proof of residency and documentation related to disciplinary actions required under policy 4115, Behavior Standards for Transfer Students, will not be required until the student transfers into the school system.

The school system will make available to a student who registers to enroll pursuant to this section the same opportunities available to a domiciled student, such as requested or applying for school assignment, registering for courses, and applying for any other programs that require additional request or application. A student enrolled pursuant to this section may not attend school until proof of residency is provided.

E. PARTICIPATION IN JROTC BY HOME SCHOOL STUDENTS

A home school student who resides within the assignment area of a school that maintains a Junior Reserve Officer's Training Corps (JROTC) unit shall be permitted membership in the JROTC unit of the school without regard to domicile if the student is otherwise qualified for membership but for lack of enrollment in the school.

F. STUDENTS PARTICIPATING IN THE NORTH CAROLINA ADDRESS CONFIDENTIALITY PROGRAM

In determining whether a student meets the domicile or residence requirements of this policy, school personnel shall consider the actual address of a participant in the North Carolina Address Confidentiality Program established by G.S. Chapter 15C, but such address will remain confidential in accordance with law and policy 4250/5075/7316, North Carolina Address Confidentiality Program.

G. APPEAL OF ADMISSION DECISIONS

Within 10 working days of receiving all of the information required under this policy policy 4130 or policy 4130-R, the superintendent or designee shall provide a written decision to the applicant for admission to the school system. Decisions regarding discretionary admissions for the following school year may be delayed until the board has determined whether space is available in the school.

The superintendent's or designee's decision regarding admission of the student may be appealed to the board in accordance with subsection E.5 in policy 1740/4010, Student and Parent Grievance Procedure. An appeal to the Board of Education must be received in writing no later than five working days following receipt of the decision of the superintendent or designee. The board will make a written determination within 30 days of receiving the request.

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Legal References: 10 U.S.C. 2031(f); Elementary and Secondary Education Act, 20 U.S.C. 6303 *et seq.*; Individuals with Disabilities Education Act, 20 U.S.C. 1400 *et seq.*, 34 C.F.R. pt. 300; McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11431 *et seq.*; *Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care*, U.S. Department of Education and U.S. Department of Health and Human Services (June 2016); *Non-Regulatory Guidance on Education for Homeless Children and Youths Programs*, U.S. Department of Education (July 2016); G.S. 7B art. 35; 35A art. 6; 15C-8(i); 50-13.1 to 13.3; 115C-106.2, -106.3, -107.6, -108.1(a), -366, -407.5;

Policies Governing Services for Children with Disabilities, State Board of Education Policy EXCP- 000, available at <http://ec.ncpublicschools.gov/policies/nc-policies-governing-services-for-children-with-disabilities>

Cross References: Student and Parent Grievance Procedure (policy 1740/4010), Children of Military Families (policy 4050), Behavior Standards for Transfer Students (policy 4115), Homeless Students (policy 4125), North Carolina Address Confidentiality Program (policy 4250/5075/7316), Discretionary Admission (policy 4130, policy 4130-R),

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