

160-5-1-.28 STUDENT ENROLLMENT AND WITHDRAWAL.

(1) **DEFINITIONS.**

(a) **Attend** – A student’s physical presence in the educational programs for which he or she is enrolled.

(b) **Case Management Consultation (CMC)** – a consultation by a school social worker or case manager in which a process is used to discover whether any transition problems exist and whether any services are necessary for a child placed by the Department of Human Resources (DHR) or Department of Juvenile Justice (DJJ). This process will be utilized each time a DHR- or DJJ-placed child enrolls in a new school.

(c) **Education For Homeless Children And Youths** – Subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 *et seq.*) that requires each state to ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education as provided to other children and youth.

(d) **Emancipated Minor** –An individual under the age of eighteen who is no longer under the control or authority of his or her parents or guardians by operation of law or pursuant to a petition filed by the minor with the juvenile court as provided in O.C.G.A. § 15-11-202. Emancipation by operation of law occurs when a minor is validly married or as otherwise prescribed by law. Emancipation by petition is granted by a judge in juvenile court after the judge determines emancipation is in the best interest of the minor.

(e) **Enroll** – The registration of a student in the local school system of residence. A parent, guardian, other person residing within this state having control or charge of any child or children, or the student (in the case of an emancipated minor) provides the local school system with the appropriate documentation. Once enrolled, the child shall be eligible to attend the assigned school.

(f) **Homeless Child or Youth** – individuals who lack a fixed, regular, and adequate nighttime residence. The term includes children and youth who are:

1. Sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;
2. Living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations;
3. Living in emergency or transitional shelters;
4. Abandoned in hospitals; or

5. Awaiting foster care placement.

6. Moreover, the following children are included in the definition: children who have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; children who are living in cars, parks, public spaces, abandoned building, substandard housing, bus or train stations, or similar settings; and migratory children who qualify as homeless because they are living in circumstances described above. (McKinney Vento Homeless Act 42 U.S.C. § 11431 *et seq.*)

(g) **Other Person** – An adult at least 18 years of age or an emancipated minor at least sixteen years of age residing within the boundaries of a local school system in the state of Georgia who is not the parent or guardian of a child or children but stands *in loco parentis* (i.e., to assume the duties and responsibilities of a parent such as providing food, shelter, clothing or medical care.)

(h) **Residency** – Residency as applied to this rule shall mean the place where the student lives with a parent, guardian, or other person, unless the student is an emancipated minor. The student must be an occupant of a dwelling located within the school system boundaries. Proof of residence in the county in which the school is located shall be required when a student enrolls in a school and whenever a change of residence occurs, unless the student is homeless. Individuals not legally admitted into the country cannot be denied a free public education.

(i) **Withdraw** – The removal of a student from the official roll of a school.

(2) **REQUIREMENTS.**

(a) **Enrollment.**

1. Under the provisions stated in O.C.G.A. § 20-2-690.1, a parent, guardian, or other person has the authority to enroll a student in a publicly-funded Georgia school.

(i) If the person enrolling a student is not the parent and does not hold legal guardianship, the school system may adopt a policy requiring that the person enrolling the student complete a Non-Parental Affidavit.

(ii) If the local school system currently has a policy requiring such persons to obtain guardianship, the local school system shall be responsible for providing a copy of the written policy to the Department and shall provide a copy upon any subsequent revisions or amendments.

(iii) If the person enrolling the student is acting under the authority of a power of attorney executed by a parent or guardian serving in the military, the local school system shall allow the student to enroll. The local school system may require proof of a duly

executed power of attorney and/or certificate of acceptance as guardian, escort, or attorney. The local school system shall not require such persons to obtain legal guardianship.

(iv) The local school system shall be required to provisionally enroll students pursuant to Section (2)(a)(14) of this rule if their local policy places additional requirements on the other person when enrolling a student in their control or charge.

2. Other than students specifically exempted by rule or by law, the following individuals shall be eligible for enrollment in state-funded programs in Georgia public schools:

(i) Students who have attained the age of five by September 1 to enroll in the appropriate general education programs unless they attain the age of 20 by September 1 or they have received a high school diploma or the equivalent as prescribed in O.C.G.A. § 20-2-150; or

(ii) Students who were legal residents of one or more other states for a period of two years immediately prior to moving to Georgia, were legally enrolled in a public kindergarten or first grade, are otherwise qualified and will attain the age of five for kindergarten or six for first grade by December 31; or

(iii) Special education students through the age of 21 or until they receive a regular high school diploma.

3. Other than students specifically exempted by rule or by law, before admitting any individual to a state-funded Georgia school or program, the superintendent or designee shall accept evidence in the order set forth below that shows the individuals date of birth:

(i) A certified copy of a birth certificate, certified hospital issued birth record or birth certificate;

(ii) A military ID;

(iii) A valid driver's license;

(iv) A passport;

(v) An adoption record;

(vi) A religious record signed by an authorized religious official;

(vii) An official school transcript; or

(viii) If none of these evidences can be produced, an affidavit of age sworn to by the parent, guardian or other person accompanied by a certificate of age signed by a licensed

practicing physician, which certificate states that the physician has examined the child and believes that the age as stated in the affidavit is substantially correct.

4. Upon presentation of one of these evidences required in paragraph (2) (a) 3, a photocopy of the document shall be placed in the student's record and the document that is presented shall be returned to the parent, guardian, or other person.

5. A student shall be identified in the local Student Information System (SIS) and in the Georgia Statewide Student Information System (GSSIS) by the student's legal name as it appears on the documentation submitted for age verification as delineated in paragraph (2) (a) 3, or in a court order changing the student's name.

6. Pursuant to O.C.G.A. § 20-2-150, before enrolling any student to a publicly-funded Georgia school, a parent, guardian, or other person shall provide a copy of the enrolling student's social security number to the proper school authorities or shall complete and sign a form stating the individual does not wish to provide the social security number.

7. During the enrollment process, local school systems shall adhere to the provisions of O.C.G.A. § 20-2-771 concerning the immunization of students, which includes an exception for religious grounds.

8. During the enrollment process, local school systems shall adhere to the provisions of O.C.G.A. § 20-2-770 concerning nutritional screening and eye, ear, and dental examinations of students.

9. Proof of residence shall be required, unless the student is homeless and the McKinney-Vento Act applies. A homeless child, as defined in the McKinney-Vento Homeless Act 42 U.S.C. § 11431 *et seq.*, shall be enrolled immediately even in the absence of any appropriate documentation. Upon determining that a student is homeless, as defined by the McKinney-Vento Homeless Assistance Act, the child must be allowed to either remain in the district in which he or she was enrolled prior to becoming homeless or enroll in the district where he or she is now located. Proof of residence is not required. The local school system shall ensure that the employee or other designated individual responsible for care of homeless students shall assist the homeless student in acquiring the necessary records for enrollment.

10. When a student is being placed by the Department of Human Resources into a new home or facility that would require a change in school or school system, the school system in which that student is attending school shall consult with the student's custodian to ascertain whether the student should be maintained in the school of origin or assigned to the appropriate school in the new school system in accordance with the McKinney-Vento Act. Foster children awaiting permanent placement qualify as homeless under the McKinney-Vento Act.

11. Upon notification by the Department of Juvenile Justice that a student will be enrolling in a local school system, the local school system shall enroll the student in his

or her home school, as opposed to an alternative educational setting, unless the case management consultation team concludes that the best placement for the child would be the alternative setting. Any placement made pursuant to an individualized education program team shall take precedence.

12. Upon notification by the Department of Human Resources or the Department of Juvenile Justice, a local school system shall immediately enroll a student in the physical or legal custody of the Department of Human Resources or the Department of Juvenile Justice or a student placed by the Department of Human Resources or Department of Juvenile Justice in a residential facility located within the local school system's jurisdiction, pursuant to O.C.G.A. § 20-2-133. The Department of Education shall develop guidelines governing the provision of education services provided by local school systems to students being served in therapeutic facilities.

13. Once a student has successfully enrolled in any publicly-funded Georgia school, provided that one of the evidences required in paragraph (2) (a) 3 has been provided and recorded in the Georgia Testing Identifier application (see SBOE Rule 160-5-1-.07), further proof of age under this provision is deemed unnecessary.

14. A student shall be enrolled on a provisional basis and allowed to attend a school system for 30 calendar days while awaiting evidence of age, residence, or other local requirements. The provisional enrollment period may be extended for extenuating circumstances.

(i) The local school system superintendent or designee shall notify the registering parent, guardian, or other person at least 10 calendar days prior to the withdrawal of the student.

(ii) If evidence is not provided within this period, the local school system superintendent or designee shall mark the student withdrawn at the end of the thirtieth day.

(I) The registering parent, guardian, or other person will be considered noncompliant and subject to all penalties as prescribed in O.C.G.A. § 20-2-690.1.

(II) The local school superintendent shall report violations to the appropriate authorities for adjudication.

(iii) O.C.G.A. § 20-2-150 (c) concerning compulsory attendance of students prior to their seventh birthday does not apply to provisional enrollment.

(iv) Students pre-registering in a public school system of residence shall not be eligible for provisional enrollment until the beginning of the attendance period of the school term for which the student is enrolling.

(v) The provisions of O.C.G.A. § 20-2-670 regarding transferal of discipline actions or felony convictions for students in grade 7 and above shall take precedence over any provisional enrollment.

15. A student shall not be denied enrollment into a local school system if the student meets residency qualifications and otherwise would not be denied enrollment under O.C.G.A. § 20-2-751.1 and O.C.G.A. § 20-2-751.2 concerning student expulsion.

16. Local school systems are not responsible for making determinations regarding immigration and visa status. Rather, the U.S. Department of State (Office of Visa Services) and the Department of Homeland Security (U.S. Citizenship and Immigration Services) are responsible for making such determinations.

(i) Local school systems may accept non-immigrant, foreign students on F-1 visas in accordance with the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Section 625 of Public Law 104-208).

(ii) Local school systems may accept non-immigrant, foreign exchange students on J-1 visas in accordance with the Mutual Educational and Cultural Exchange Act of 1961 (Public Law 87-256) as amended, 22 U.S.C. 2451, et. seq. (1988).

(iii) Local school systems shall accept non-immigrant foreign students on derivative visas where they are the qualifying child of a non-immigrant student or exchange visitor (i.e. F-2, M-2, J-2).

(iv) Local school systems shall accept non-immigrant, foreign students on B-1/B-2 visas and are not responsible for ascertaining whether or not seeking enrollment in school will violate the terms of the visa.

(v) Local school systems shall accept immigrants/non-visa-holders who meet age and residency requirements and shall not inquire about their legal status.

(b) Withdrawal.

1. A student shall be withdrawn by a parent, guardian or other person.

2. When a parent, guardian or other person withdraws a student according to local school system policies and procedures, the student's withdrawal date shall be recorded as the last day of student attendance.

(i) If a student is under suspension, on the date of withdrawal, the new school of enrollment shall be notified of the terms of the suspension.

(ii) If a student is an unemancipated minor who is older than the age of mandatory attendance as required in O.C.G.A. § 20-2-690.1(a) and who has not completed all requirements for a high school diploma who wishes to withdraw from school, the student

must have the written permission of his or her parent or legal guardian prior to withdrawing and a conference must be held with the school principal or designee pursuant to O.C.G.A. § 20-2-690.1(e).

3. When parent, guardian, or other person does not withdraw a student from a current school according to local school system policies:

(i) With proof of enrollment in a different school, school system, private school or home study program the date of withdrawal for a student shall be the last school day of student attendance.

(I) If a student is under suspension, on the date of withdrawal, the new school of enrollment shall be notified of the terms of the suspension.

(ii) With no proof of enrollment in another school, school system, private school, or home study program, a student shall be withdrawn from a school after 10 consecutive unexcused absences or when the local school system provides documentation validating the student no longer resides in the school's attendance zone. The student withdrawal date shall be the last day of attendance or the day the local school system obtains documentation validating the student no longer resides in the school's attendance zone.

(I) Each superintendent or the superintendent's designee shall use his or her best efforts to notify the parent, guardian, or other person if the school system plans to withdraw such student.

4. A student who is not in attendance on the first day of school but was expected based on prior year enrollment, shall be withdrawn as a no-show student and shall not be included in any enrollment or attendance counts.

5. A student shall be withdrawn from a school on the day the school or local school system receives documentation validating the student no longer resides in the school's attendance zone unless one of the following exceptions occur:

(i) Local school system policy allows student to remain enrolled to complete the current school year.

(ii) Student is allowed to remain enrolled based on O.C.G.A. § 20-2-293 or O.C.G.A. §20-2-294.

6. A student shall not be withdrawn due to excused absences defined in Board Rule 160-5-1-.10 and O.C.G.A. § 20-2-690.1 (a)

7. A student shall not be withdrawn while receiving Hospital/Homebound services.

8. The principal or designee shall record the reason for withdrawal in the local Student Information System (SIS) as defined in the Department's student record collection or the Georgia Statewide Student Information System (GSSIS.)

(3) EFFECTIVENESS.

(a) This rule shall become effective on September 1, 2006.

Authority O.C.G.A. § 20-2-150, 20-2-133,

Adopted: September 14, 2006

Effective: September 1, 2006

NON-PARENTAL AFFIDAVIT OF RESIDENCE

This form shall be completed for students living in _____ County/City School System, but not living in the home of the parents or legal guardian.

This form shall be completed by an adult with whom the student is living.

I, the undersigned, am over eighteen (18) years of age and competent to testify to the facts and matters set forth herein.

The student whose legal name is _____ and whose birth date is _____ is living with me at the following address:

Name: _____

Address: _____

City: _____, State, _____, Zip _____

Home Phone: _____ Work Phone: _____

Cellular Phone: _____

1. Reason the student is living with the above named adult (check one)

_____ A. The death, serious illness, or incarceration of a parent or legal guardian.

_____ B. The abandonment by a 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 adequate care and supervision of the student.

_____ E. The loss or inhabitality of the student's home as the result of a natural disaster.

_____ F. The parent or guardian is unable to provide care and supervision of the student because he or she is serving in the military.

_____ G. The student is living in a foster home, group home, or other institution or care facility that is located in the county.

_____ H. The parents cannot be located.

_____ I. Other circumstances as approved by the school system (explain below).

District explanation: _____

2. The name and last known address of the child's parent(s) or legal guardian is:

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3. I assumed control and charge of this child, which I provide 24 hours per day and 7 days per week, on _____ (day/month/year).
 4. The name and address of the last school that the child attended is:

 5. The school system's superintendent, or his or her designee, may verify the facts contained in this affidavit and conduct an audit on a case-by-case basis after the child has been enrolled in the county public school system. The audit may also include a personal visit by a school district attendance officer or other employee of the district at the residence provided in this affidavit to verify the facts sworn to in this affidavit. If the superintendent discovers fraud or misrepresentation, the child shall be withdrawn from school.
 6. I attest that this request to attend a _____ County/City school is not primarily related to attendance at a particular school in _____ County/City, nor is this affidavit being completed for the purpose of participating in athletics at a particular school, taking advantage of special services or programs offered at a particular school, or for any other similar purpose.
 7. I further attest that the student named above is not now under a long-term suspension or expulsion from his/her most recent school nor is currently subject to a recommendation for long-term suspension or expulsion for his/her most recent school.
 8. I further attest that I have been given the responsibility for educational decisions for the child, including receiving notices of discipline, attending conferences with school personnel, granting permission for school related activities, and taking appropriate action in connection with student records.
 9. If the parent, guardian, or legal custodian is unable, refuses or is otherwise unavailable to sign this form, I, as the adult with whom the child is living, have made every effort to secure this and they are unable or refused to adhere to this request.
 10. I understand that if any of the information provided on this affidavit is changed for any reason, it is my responsibility to immediately notify the school system.

NOTICE OF PENALTIES AND LIABILITY:

I understand that:

1. If I falsify information or defraud the school system on this affidavit, I will be obligated to pay for the costs incurred by the local school system for the period

during which the ineligible student is enrolled, and shall remunerate the local school system as set forth in O.C.G.A. § 20-2-133 (a). _____ (initial)

2. If the costs incurred by the local school system are collected by an attorney, I will be obligated to pay for all expenses and attorney's fees incurred by the Board of Education in the collection of same. _____ (initial)
3. I may be prosecuted, held criminally liable, and imprisoned for not less than one nor more than ten years if I am found guilty of forgery in the first degree, pursuant to O.C.G.A. § 16-9-1. _____ (initial)
4. I may be prosecuted, held criminally liable, and imprisoned for not less than one nor more than five years if I am found guilty of forgery in the second degree, pursuant to O.C.G.A. § 16-9-2. _____ (initial)
5. I may be prosecuted, held criminally liable, and punished by a fine of not more than \$1,000.00 or by imprisonment for not more than one nor more than five years, or both, if I am found guilty of making false statements pursuant to O.C.G.A. § 16-10-20. _____ (initial)
6. I may be prosecuted, held criminally liable, and punished by a fine of not more than \$1,000.00 or by imprisonment for not less than one nor more than five years, or both, if I am found guilty of false swearing pursuant to O.C.G.A. § 16-10-71. _____ (initial)
7. By initialing on the lines provided next to each of the items listed above, I affirm that I have read and understand each of these provisions.

I solemnly affirm under the penalties listed above that the contents of this affidavit are true to the best of my knowledge, information, and belief.

Signature of affiant (adult with whom the child is living)

Signature of parent/legal guardian

State of: _____ County of: _____

I, _____, a Notary Public for said county and state, do

hereby certify that _____ personally appeared

before me this day and acknowledged the due executing of the foregoing instrument.

Witness my hand and official seal, this the _____ day of _____, 2_____.

My commission expires _____, 2_____

Signature of Notary Public