

## **DOMICILE OR RESIDENCE REQUIREMENTS**

*Policy Code:*

**4120**

A student who is domiciled in the Buncombe County 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, **as set out in Section C below**, a student who resides in the Buncombe County School system and who otherwise qualifies for admission to its schools also is entitled to be admitted without payment of tuition. **In addition, students who are homeless or in foster care may be entitled to continue attending their school of origin without payment of tuition regardless of a change in their domicile or residency status.**

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.5, 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**

For the purposes of school enrollment, the law requires Buncombe County Schools to consider only the address of the student’s permanent domicile. The domicile refers to the permanent home of the parent/legal guardian with whom the child lives with the majority of the school year. 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.

Under no circumstance can a student have more than one domicile for the purposes of school admission.

### **B. MEETING DOMICILE REQUIREMENTS**

#### **1. Domicile of Students In General**

The domicile of a student under 18 years of age is presumed to be the domicile of his or her parent/legal guardian as defined by the General Statutes of North Carolina. The legal guardian is the person who has been granted court ordered primary custody of the student.

#### **2. Domicile of Emancipated Students**

If a student is at least 18 years of age, is married, or has been 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

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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 admission and assignment will be determined by the following criteria.

- a. In the event that a student's 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 by the court 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 school 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 principal. If no determination of domicile has been made prior to enrollment, domicile will be the residence of the parent in which the student lived on the first day of attendance for the remainder of the school year.
- c. Parents are responsible for providing transportation when the child is staying at a residence outside the child's school's bus district. Driving distance from those residences may not be used as an excusable reason for absences, early dismissals, or being tardy.
- d. The school selection may not be changed during the school year unless the parents satisfy the board's policies on discretionary admissions and releases or present updated legal custody paperwork specifying a change.
- e. In the event that 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 the school year.

**C. MEETING RESIDENCE REQUIREMENTS**

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

1. The student is homeless as defined in state and federal law and policy 4125, 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 to a school in the attendance area where he or she is physically located or wherever the interests of the child are best met.

2. The parent, guardian or legal custodian residing in the school system 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 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 Buncombe County Schools on the last day of school for the prior school year or (b) enrolled in and attending a school in the Buncombe County School system on the first day of the current school year, so long as the child lives within and is continuously enrolled in the system.
6. 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) on active military duty and is deployed out of the local school administrative unit in which the student resides; (2) 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 (3) a member of the uniformed services who has died while

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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). For purposes of this subsection, the term “active duty” does not include periods of active duty for training for less than 30 days. Assignment under this subsection is only available if some evidence of the deployment is tendered with the affidavits required under G.S. 115C-366.

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 Buncombe County Schools Affidavit B and/or C, Educational Residency Affidavits, 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. The most current copy of Affidavit B and/or C will be maintained permanently in the student’s cumulative record.

**D. 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.

**E. APPEAL OF ADMISSION DECISIONS**

Within 10 working days of receiving all of the information required under this policy, the superintendent or designee shall provide a written decision to the applicant for admission to the school system. The superintendent’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.

Legal References: **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 Program*, 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** ~~State Board of Education Policy GCS-D-000~~; ~~*Policies Governing Services for Children with Disabilities*~~

Cross References: Student and Parent Grievance Procedure (policy 1740/4010), Children of Military Families (policy 4050), Homeless Students (policy 4125), Admission of Foreign Exchange Students (policy 4120-R), North Carolina Address Confidentiality Program (policy 4250/5075/7316)

Takes the place of Policy 110 and Administrative Regulation 410R

**History of Policy 110**

Adopted: August 6, 1992

Revised: January 14, 1999

**History of 410R**

Adopted: April 7, 2011

NCSBA wording and revisions replacing Policy 110 and 410R adopted: April 11, 2013