

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

4

HOUSE BILL 1074
Committee Substitute Favorable 5/10/05
Committee Substitute #2 Favorable 6/1/05
Fourth Edition Engrossed 6/1/05

Short Title: Clarify School Admissions Procedures.

(Public)

Sponsors:

Referred to:

March 31, 2005

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE PROCEDURE FOR ADMITTING CHILDREN TO THE
PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-366 reads as rewritten:

"§ 115C-366. **Assignment of student to a particular school.**

(a) All students under the age of 21 years who are domiciled in a school administrative unit who have not been removed from school for cause, or who have not obtained a high school diploma, are entitled to all the privileges and advantages of the public schools to which they are assigned by the local boards of education. The assignment of students living in one local school administrative unit or district to a school located in another local school administrative unit or district, shall have no effect upon the right of the local school administrative unit or district to which the students are assigned to levy and collect any supplemental tax heretofore or hereafter voted in that local school administrative unit or district.

(a1) Children living in and cared for and supported by an institution established, operated, or incorporated for the purpose of rearing and caring for children who do not live with their parents ~~shall be~~ are considered legal residents of the local school administrative unit in which the institution is located. These children ~~shall be deemed to qualify~~ are eligible for admission to the public schools of the local school administrative unit as provided in this section. ~~This subsection shall apply to foster homes and group homes.~~

(a2) It is the policy of the State that every child of a homeless individual and every homeless child have access to a free, appropriate public education on the same basis as all children who are domiciled in this State. The local board of education having jurisdiction where the child is actually living shall enroll the child in the school administrative unit where the child is actually living. In no event shall the child be

1 denied enrollment because of uncertainty regarding ~~his~~ the child's domiciliary status,
2 regardless of whether the child is living with the homeless parents or has been
3 temporarily placed elsewhere by the parents. The local board shall not charge the
4 homeless ~~child, as defined in this subsection,~~ child tuition for enrollment. The child's
5 parent, guardian, or person standing in loco parentis to the child, may apply to the State
6 Board of Education for a determination of whether a particular local board of education
7 shall enroll the child, and this determination shall be binding on the local board of
8 education, subject to judicial review. ~~As used in this subsection, the term "homeless"~~
9 ~~refers to an individual who (i) lacks a fixed, regular, and adequate nighttime residence~~
10 ~~or (ii) has a primary nighttime residence in a supervised publicly or privately operated~~
11 ~~shelter for temporary accommodations, lives in an institution providing temporary~~
12 ~~residence for individuals intended to be institutionalized, or a public or private place not~~
13 ~~designated for, or ordinarily used as, a regular sleeping accommodation for human~~
14 ~~beings. The term does not include persons who are imprisoned or otherwise detained~~
15 ~~pursuant to federal or State law.~~

16 (a3) A student who is not a domiciliary of a local school administrative unit may
17 attend, without the payment of tuition, the public schools of that unit ~~if~~ if all of the
18 following apply:

19 (1) The student resides with an adult, who is a domiciliary of that unit, as
20 a result ~~of~~ of any one of the following:

- 21 a. The death, serious illness, or incarceration of a parent or legal
22 guardian,
- 23 b. The abandonment by a parent or legal guardian of the complete
24 control of the student as evidenced by the failure to provide
25 substantial financial support and parental guidance,
- 26 c. Abuse or neglect by the parent or legal guardian,
- 27 d. The physical or mental condition of the parent or legal guardian
28 is such that he or she cannot provide adequate care and
29 supervision of the student, ~~or~~
- 30 e. The relinquishment of physical custody and control of the
31 student by the student's parent or legal guardian upon the
32 recommendation of the department of social services or the
33 Division of Mental Health, or
- 34 f. The loss or uninhabitability of the student's home as the result
35 of a natural ~~disaster;~~ disaster.

36 (2) The student is not currently under a term of suspension or expulsion
37 from a school for conduct that could have led to a suspension or an
38 expulsion from the local school administrative ~~unit;~~ and unit.

39 (3) The custodial adult ~~with whom the student resides~~ and the student's
40 parent, guardian, or legal custodian have each completed and signed
41 separate affidavits that:

- 42 a. Confirm the qualifications set out in this subsection establishing
43 the student's residency,

- 1 b. Attest that the student's claim of residency in the unit is not
2 primarily related to attendance at a particular school within the
3 unit, and
4 c. Attest that the custodial adult with whom the student is residing
5 has been given and accepts responsibility for educational
6 decisions for the child, ~~including receiving notices of discipline~~
7 ~~under G.S. 115C 391, attending conferences with school~~
8 ~~personnel, granting permission for school-related activities, and~~
9 ~~taking appropriate action in connection with student~~
10 ~~records.~~student.

- 11 (4) If the student is a minor, the custodial adult must make educational
12 decisions concerning the student and has the same legal authority and
13 responsibility regarding the student as a parent or legal custodian
14 would have even if the parent, guardian, or legal custodian does not
15 sign the affidavit under subdivision (3) of this subsection. The minor
16 student's parent, legal guardian, or legal custodian retains liability for
17 the student's acts.

18 ~~For purposes of subdivision (1)c. of this subsection, a student shall be deemed to be~~
19 ~~abused or neglected if there has been an adjudication of that issue. The State Board may~~
20 ~~adopt an additional definition of abuse and neglect and that definition shall also apply to~~
21 ~~this subsection.~~

22 If the student's parent, guardian, or legal custodian is unable, refuses, or is otherwise
23 unavailable to sign the affidavit, then the custodial adult with whom the student is living
24 shall attest to that fact in the affidavit.

25 Upon receipt of both affidavits or an affidavit from the custodial adult with whom
26 ~~the student is living~~ that includes an attestation that the student's parent, guardian, or
27 legal custodian is unable, refuses, or is otherwise unavailable to sign an affidavit, the
28 local board shall admit and assign as soon as practicable the student to an appropriate
29 school, as determined under the local board's school assignment policy, pending the
30 results of any further procedures for verifying eligibility for attendance and assignment
31 within the local school administrative unit.

32 If it is found that the information contained in either or both affidavits is false, then
33 the local board may, unless the student is otherwise eligible for school attendance under
34 other laws or local board policy, remove the student from school. If a student is
35 removed from school, the board shall provide an opportunity to appeal the removal
36 under the appropriate policy of the local board and shall notify any person who signed
37 the affidavit of this opportunity. If it is found that a person willfully and knowingly
38 provided false information in the affidavit, the maker of the affidavit shall be guilty of a
39 Class 1 misdemeanor and shall pay to the local board an amount equal to the cost of
40 educating the student during the period of enrollment. Repayment shall not include
41 State funds.

42 Affidavits shall include, in large print, the penalty, including repayment of the cost
43 of educating the student, for providing false information in an affidavit.

1 (a4) When a student transfers into the public schools of a local school
2 administrative unit, that local board shall require the student's parent, guardian, or
3 custodian to provide a statement made under oath or affirmation before a qualified
4 official indicating whether the student is, at the time, under suspension or expulsion
5 from attendance at a private or public school in this or any other state or has been
6 convicted of a felony in this or any other state. This subsection does not apply to the
7 enrollment of a student who has never been enrolled in or attended a private or public
8 school in this or any other state.

9 (a5) Notwithstanding any other law, a local board may deny admission to or place
10 reasonable conditions on the admission of a student who has been suspended from a
11 school under G.S. 115C-391 or who has been suspended from a school for conduct that
12 could have led to a suspension from a school within the local school administrative unit
13 where the student is seeking admission until the period of suspension has expired. Also,
14 a local board may deny admission to or place reasonable conditions on the admission of
15 a student who has been expelled from a school under G.S. 115C-391 or who has been
16 expelled from a school for behavior that indicated the student's continued presence in
17 school constituted a clear threat to the safety of other students or employees or who has
18 been convicted of a felony in this or any other state. If the local board denies admission
19 to a student who has been expelled or convicted of a felony, the student may request the
20 local board to reconsider that decision in accordance with G.S. 115C-391(d).

21 (a6) A child who is placed in or assigned to a licensed facility is eligible for
22 admission, without the payment of tuition, to the public schools of the local school
23 administrative unit in which the licensed facility is located. If an agency or person, other
24 than the student's parent or guardian, is the student's legal custodian and if that person or
25 agency placed or assigned the student to a licensed facility under this subsection, then
26 that agency or person must provide in writing to the school the name, address, and
27 phone number of the individual who has authority and the responsibility to make
28 educational decisions for the student. This individual shall reside or be employed within
29 the local school administrative unit and shall provide in writing to the school a signed
30 statement that the individual understands and accepts this authority and responsibility to
31 make educational decisions for the student. If the student's parent or legal guardian
32 retains legal custody of a child who is placed in or assigned to a licensed facility under
33 this subsection, then the requirements of subsection (a3) of this section must be met.

34 (a7) A student who is a resident of a local school administrative unit because the
35 student resides with a parent, guardian, or legal custodian who is a (i) student,
36 employee, or faculty member of a college or university or (ii) visiting scholar at the
37 National Humanities Center is considered domiciled in that unit for purposes of this
38 section.

39 (a8) A student is considered domiciled in a local school administrative unit for
40 purposes of this section if the student resides (i) with a legal custodian who is not the
41 student's parent or guardian and the legal custodian is domiciled in the local school
42 administrative unit, or (ii) in a preadoptive home following placement by a county
43 department of social services or a licensed child-placing agency.

1 (b) Each local board of education shall assign to a public school each student
2 qualified for assignment under this section. Except as otherwise provided by law, the
3 authority of each board of education in the matter of assignment of children to the
4 public schools shall be full and complete, and its decision as to the assignment of any
5 child to any school shall be final.

6 (c) Any child who is qualified under the laws of this State for admission to a
7 public school and who has a place of residence in a local school administrative unit
8 incident to ~~his~~the child's parent's or guardian's service in the General Assembly, other
9 than the local school administrative unit in which ~~he~~the child is domiciled, is entitled to
10 attend school in the local school administrative unit of that residence as if ~~he~~the child
11 were domiciled there, subject to the payment of applicable out-of-county fees in effect
12 at the time.

13 (d) A student domiciled in one local school administrative unit may be assigned
14 either with or without the payment of tuition to a public school in another local school
15 administrative unit upon the terms and conditions agreed to in writing between the local
16 boards of education involved and entered in the official records of the boards. The
17 assignment shall be effective only for the current school year, but may be renewed
18 annually in the discretion of the boards involved.

19 (e) The boards of education of adjacent local school administrative units may
20 operate schools in adjacent units upon written agreements between the respective boards
21 of education and approval by the county commissioners and the State Board of
22 Education.

23 (f) This section shall not be construed to allow students to transfer from one
24 local school administrative unit to another for athletic participation purposes in violation
25 of eligibility requirements established by the State Board of Education and the North
26 Carolina High School Athletic Association.

27 (g) Any local school administrative unit may use the actual address of a program
28 participant for any purpose related to admission or assignment ~~pursuant to~~under this
29 Article as long as the address is kept confidential from the public under ~~the provisions~~
30 ~~of~~ Chapter 15C of the General Statutes. The substitute address designated by the
31 Attorney General under the Address Confidentiality Program shall not be used as an
32 address for admission or assignment purposes.

33 (h) The following definitions apply in this section:

34 (1) Abused or neglected. – A student is considered abused or neglected if
35 there has been an adjudication of that issue. The State Board may
36 adopt an additional definition of abuse and neglect and that definition
37 also shall apply to this section.

38 (2) Custodial adult. – The adult with whom the child resides. For children
39 placed or assigned in a licensed facility, a custodial adult also may be
40 the child's caretaker, foster parent, or other clearly identifiable adult
41 who resides in the county where the licensed facility is located.

42 (3) Educational decisions. – Decisions or actions recommended or
43 required by the school concerning the student's academic course of
44 study, extracurricular activities, and conduct. These decisions or

1 actions include enrolling the student, receiving and responding to
2 notices of discipline under G.S. 115C-391, attending conferences with
3 school personnel, granting permission for school-related activities,
4 granting permission for emergency medical care, receiving and taking
5 appropriate action in connection with student records, and any other
6 decisions or actions recommended or required by the school in
7 connection to that student.

8 (4) Facility. – A group home, a family foster home as defined in
9 G.S. 131D-10.2(8), or a therapeutic foster home as defined in
10 G.S. 131D-10.2(14).

11 (5) Homeless. – An individual who (i) lacks a fixed, regular, and adequate
12 nighttime residence or (ii) has a primary nighttime residence in a
13 supervised publicly or privately operated shelter for temporary
14 accommodations, lives in an institution providing temporary residence
15 for individuals intended to be institutionalized, or a public or private
16 place not designated for, or ordinarily used as, a regular sleeping
17 accommodation for human beings. The term does not include persons
18 who are imprisoned or otherwise detained pursuant to federal or State
19 law.

20 (6) Legal custodian. – The person or agency that has been awarded legal
21 custody of the student by a court.

22 (7) Licensed facility. – A facility licensed under Article 2 of Chapter 122C
23 of the General Statutes or under Article 1A of Chapter 131D of the
24 General Statutes.

25 (8) Program participant. – An individual accepted into the Address
26 Confidentiality Program under Chapter 15C of the General Statutes."

27 **SECTION 2.** G.S. 115C-366.2 is repealed.

28 **SECTION 3.** This act becomes effective July 1, 2005, and applies beginning
29 with the 2005-2006 school year.