

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

(1) DEFINITIONS.

(a) **Active Duty** – the full-time duty status in the active uniformed services of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Sections 1209 and 1211.

(b) **Adequate Yearly Progress (AYP)** – a component of the Accountability Profile based on a series of performance goals that every school, local education agency (LEA), and state must achieve within specified timeframes in order to meet the 100% proficiency goal established by the federal No Child Left Behind Act of 2001(NCLB).

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

(d) **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 Services (DHS) or Department of Juvenile Justice (DJJ).

(e) **Child of Military Families** – a child enrolled in kindergarten through grade 12, in the household of an active duty military member.

(f) **Department of Human Services (DHS)** – the agency which provides specified services and placement for children who have been remanded to the physical or legal custody of DHS either temporarily or permanently by a court or by voluntary agreement, or if the child has been admitted or placed according to an individualized treatment or service plan of DHS.

(g) **Department of Juvenile Justice (DJJ)** – the agency which provides supervision, detention and a wide range of treatment and educational services for youths referred to DJJ by the Juvenile Courts, and provides assistance or delinquency prevention services for at-risk youths through collaborative efforts with other public, private, and community entities.

(h) **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.

(i) **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 and granted by a judge in juvenile court after the judge determines emancipation is in the best interest of the minor as provided in O.C.G.A. § 15-11-202

(j) **Enroll** – the registration of a student in the local education agency (LEA) 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 LEA with the appropriate documentation. Once enrolled, the child shall be eligible to attend the assigned school.

(k) **Georgia Department of Education (GaDOE)** – the state agency charged with the fiscal and administrative management of certain aspects of K-12 public education, including the implementation of federal and state mandates subject to supervision and oversight by the State Board of Education.

(l) **Governor’s Office of Student Achievement (GOSA)** – the state agency mandated by O.C.G.A. § 20-14-26 to create a uniform performance-based accountability system for K-12 public schools that incorporates both state and federal mandates, including student and school performance standards, and to audit and inspect or cause to be audited and inspected K-12 public schools, and LEAs for the purpose of verification, research, analysis, reporting or for other purposes related to the performance of its powers and duties.

(m) **Grandparent** – the parent and/or step-parent of a minor child’s father or mother. This definition remains the same upon the death and/or the termination of parental rights of the birth parent.

(n) **Home Study** – a program that allows parents or guardians to teach their children at home as provided in O.C.G.A. § 20-2-690 (c).

(o) **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. The following children are included in the definition; however, this list is not exhaustive: 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.*)

(p) **Individualized Education Program (IEP)** – a written plan for each student with a disability that is developed, reviewed, and revised in accordance with Individuals with Disabilities Education Act, 20 U.S.C. § 1414(d).

(q) **Individuals with Disabilities Education Act (IDEA)** – the federal law, codified at 20 U.S.C. § 1400, *et seq.*, enacted to ensure that all students with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living; to ensure that the rights of students with disabilities and their parents are protected; to assist states, localities, educational service agencies, and federal agencies to provide for the education of students with disabilities; and to assess and ensure the effectiveness of efforts to educate students with disabilities.

(r) **Local Education Agency (LEA)** – the public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through Grade 12 public education institutions.

(s) **“in loco parentis”** – to assume the duties and responsibilities of a parent without a formal legal process.

(t) **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 Georgia LEA who is not the parent or guardian of a child or children but stands *in loco parentis*.

(u) **Residency** – occupying a dwelling located within the boundaries of an LEA where the student lives with a parent, guardian, or other person, unless the student is an emancipated minor.

(v) **State Board of Education (SBOE)** – the constitutional authority which defines education policy for public K-12 education agencies in Georgia.

(w) **Virtual School** – a public or private school offering online instruction to students in any grades K-12.

(x) **Withdraw** – the removal of a student from the official roll of a Georgia public school.

(y) **Withdrawal Code** – an official code which signifies the reason a student has withdrawn from a Georgia public school as defined in the guidelines and timelines published by the GaDOE.

(2) REQUIREMENTS.

(a) Eligibility for Enrollment.

1. Other than students specifically exempted by rule or by law, the following individuals shall be eligible for enrollment in publically-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 21 by September 1 or they have received a high school diploma or the equivalent. Students that have dropped out of school for one quarter or more are eligible to enroll in the appropriate general education programs unless they attain the age of 20 by September 1.

(ii) Students with Individualized Education Programs (IEPs) developed under the Individuals with Disabilities Education Act (IDEA) may attend public school through the age of 21 or until they receive a regular high school diploma.

(iii) Students who were legal residents of one or more other states or countries for a period of two years immediately prior to moving to Georgia and were legally enrolled in a public kindergarten or first grade accredited by a state or regional association or the equivalent thereof, are eligible for enrollment in the appropriate education program if the child attains the age of five for kindergarten or six for first grade by December 31 and the child is otherwise eligible for enrollment as prescribed in O.C.G.A. § 20-2-150.

(b) Persons That May Enroll Eligible Students.

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

(i) Unless otherwise provided by law or rule, if the person enrolling a student is not the parent and does not hold legal guardianship, the LEA may adopt a policy requiring that the person enrolling the student complete a Non-Parental Affidavit of Residence.

(I) A homeless child, as defined in the McKinney-Vento Homeless Act 42 U.S.C. § 11431 *et seq.*, shall be enrolled immediately with full participation in all school activities whether or not appropriate documentation can be provided at the time of enrollment.

I. 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.

(II) An LEA shall immediately enroll a student in the physical or legal custody of the Department of Human Services (DHS) or the Department of Juvenile Justice (DJJ) or a student placed by the DHS or DJJ in a residential facility located within the LEA's jurisdiction, pursuant to O.C.G.A. § 20-2-133(b).

(III) Since foster children awaiting permanent placement qualify as homeless children or youth under the McKinney-Vento Act, an LEA must consult with the custodian of a student placed by the DHS into a new home or facility that would require a change in school or LEA in order to ascertain whether the student should be maintained in the school of origin or assigned to the appropriate school in the new LEA in accordance with the McKinney-Vento Act. See also SBOE Rule 160-4-8-.17 CASE MANAGEMENT CONSULTATION FOR AGENCY PLACED TRANSFER STUDENTS.

(IV) Upon notification by the DJJ that a student will be enrolling in an LEA, the LEA 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.

(V) A grandparent with a properly executed power of attorney for the care of a minor child may enroll their grandchild, without court approval, in the LEA in which the grandparent resides if the specific conditions set forth in the "Power of Attorney for the Care of a Minor Child Act," O.C.G.A § 19-9-120 through O.C.G.A § 19-9-129 are met.

I. No person or school official who acts in good faith reliance on a power of attorney for the care of a minor child shall be subject to criminal or civil liability or professional disciplinary action for such reliance.

II. Except where limited by federal law or the executed power of attorney, the grandparent empowered to enroll the child shall have the same rights, duties, and responsibilities that would otherwise be exercised by the parent pursuant to the laws of this state.

(VI) Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law, shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

I. A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis whose residence is other than that of the custodial parent, may continue to attend the school in which he or she was enrolled while residing with the custodial parent.

(VII) LEAs shall accept immigrants/non-visa-holders who meet age and residency requirements and shall not inquire about their legal status in accordance with U.S. Supreme Court Decision in Plyler v. Doe, 457 U.S. 202 (1982).

I. LEAs 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.

II. LEAs 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).

III. LEAs 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).

IV. LEAs 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).

V. LEAs 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.

(c) Provisional Enrollment.

1. Other than students specifically exempted by rule or by law, a student shall be enrolled on a provisional basis and allowed to attend an LEA 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) If evidence is not provided within this period, the LEA superintendent or designee shall mark the student withdrawn at the end of the thirtieth day.

(ii) The LEA superintendent or designee shall notify the registering parent, guardian, grandparent, or other person at least 10 calendar days prior to the withdrawal of the student.

(I) The registering parent, guardian, grandparent, 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.

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

3. Students pre-registering in an LEA 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.

4. A student shall not be denied enrollment into an LEA 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.

5. The LEA shall be required to provisionally enroll students pursuant to Section (2)(c)1 of this rule if their local policy places additional requirements on the other person when enrolling a student in their control or charge.

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

(d) Enrollment Documentation.

1. Other than students specifically exempted by rule or by law, before admitting any individual to a public 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, grandparent, 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.

2. During the enrollment process, LEAs shall adhere to:

(i) The provisions of O.C.G.A. § 20-2-771 concerning the immunization of students, which includes an exception for religious grounds; and,

(ii) The provisions of O.C.G.A. § 20-2-770 concerning nutritional screening and eye, ear, and dental examinations of students.

3. Upon presentation of one of these evidences required in paragraph (2) (d) 1, a photocopy of the document shall be placed in the student's record and the original document presented shall be returned to the parent, guardian, grandparent, or other person.

4. The LEA 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. Proof of residence is not required.

5. The LEA may require a grandparent empowered to enroll the child to produce the same documentation a parent would produce to enroll the child.

6. The following provisions apply to a child or children of military families.

(i) In the event that official education records cannot be released to the parents or legal guardian for the purpose of transfer, an LEA shall accept a complete set of unofficial educational records prepared by the sending school and furnished to the parent or legal guardian.

(I) Upon receipt of such unofficial education records, the LEA shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records.

(II) Simultaneously with the enrollment and conditional placement of the student, the LEA shall request the student's official education records from the school in the sending state.

(ii) Students in the household of an active duty military member shall be allowed to continue their enrollment at grade level in the local school system commensurate with their grade level, including kindergarten, from a local education agency in the sending state at the time of transition, regardless of age.

(I) A student who has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age.

(II) A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

(iii) The LEA shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation or placement in similar programs based on current educational assessments conducted at the school in the sending state or participation or placement in similar programs in the sending state. Such programs include, but are not limited to: gifted and talented programs, and English as a second language.

(I) Nothing in this section shall preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

(iv) An LEA shall be prohibited from charging local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing *in loco parentis* who lives in a jurisdiction other than that of the custodial parent.

7. Pursuant to O.C.G.A. § 20-2-150, before the final enrollment of a student to a publicly-funded Georgia school is complete, 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.

8. A student shall be identified in the local Student Information System (SIS) and in the Georgia Department of Education official data collection and reporting systems by the student's legal name as it appears on the documentation submitted for age verification as delineated in paragraph (2)(d)1, or in a court order changing the student's name.

9. Once a student has successfully enrolled in any publicly-funded Georgia school, provided that one of the evidences required in paragraph (2) (d) 1 has been provided and recorded in the Georgia Testing Identifier (GTID) as set forth in SBOE Rule 160-5-1-.07 and any associated guidelines, further proof of age under this provision is deemed unnecessary.

(e) Withdrawal.

1. A student may be withdrawn by a parent, guardian, grandparent, or other person as provided in (2)(b)1 of this rule.

2. When a parent, guardian, grandparent, or other person as provided in (2)(b)1 of this rule withdraws a student according to the LEA policies and procedures, with documentation of proof of enrollment as provided in (2)(e)1 above, the student's withdrawal date shall be recorded as the last day of student attendance.

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

(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, 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 a parent, guardian, grandparent, or other person as provided in (2)(b)1 of this rule does not withdraw a student from a current school according to LEA policies, the LEA shall withdraw the student.

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

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

(I) The student withdrawal date shall be the last day of attendance or the day the LEA obtains documentation validating the student no longer resides in the school's attendance zone.

(II) In the absence of the documented proof as described in (2)(e)8 of this rule, the withdrawal code shall indicate that the student was removed for lack of attendance.

(III) Each superintendent or the superintendent's designee shall notify the parent, guardian, or other person if the LEA plans to withdraw such student. Such notification shall be by certified mail, return receipt requested.

4. A student who is not in attendance on the first day of school but 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.

(i) Students not in attendance on the first day of school but expected based on prior year enrollment shall not accrue absences until the student is physically present and attending.

(ii) The reason for students withdrawn as a "no-show" shall be recorded in the schools official records as unknown, unless the LEA has proof that the student has enrolled in a different school, other LEA, private school, or home study program as set forth in (2)(e)8 of this rule.

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

(i) LEA 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 SBOE 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. Pursuant to the provisions in 34 Code of Federal Regulations (C.F.R.) Part 200, a school or LEA shall only use a withdrawal code which denotes that a student transferred if the LEA has proof that the student enrolled in another school, other LEA, private school or home study program.

(i) Documentation must be in writing so that the transfer can be verified through audits or monitoring and maintained in the permanent student record.

(ii) It is the responsibility of the principal to ensure that all student withdrawal information is complete and accurate.

9. The following are acceptable forms of documentation when using withdrawal codes that are associated with students who transferred:

(i) For students transferring to a school within the same LEA or another Georgia LEA, proof shall include the request for records from the receiving school, evidence of a transfer that is recorded in the State's student data collection system, or a letter from an official in the receiving school acknowledging the student's enrollment.

(ii) For students transferring out of state or to a private school, proof shall include the request for records from the receiving school, or a letter from an official in the receiving school acknowledging the student's enrollment.

(iii) For students transferring to a home study program, proof shall include a document signed by the parent, guardian, or other person who meets the requirements of the "Power of Attorney for the Care of a Minor Child Act", which declares their decision to educate the student in a home study program.

(iv) For students transferring to another country, a school or school system must have written confirmation that a student has emigrated to another country (34 C.F.R. §200.19(b)(1)(ii)(B)), but need not obtain official written documentation. If a parent informs a school administrator that the family is leaving the country, the school administrator may document this conversation in writing and include it in the student's file.

10. LEAs must be able to document the reasons to support student withdrawal as outlined in this rule and SBOE 160-5-1-.07 Student Data Collection and associated guidelines and resources.

(i) LEAs found to be non-compliant with these provisions will be reported to the State Board of Education and the Georgia Department of Education (GaDOE) shall request the Governor's Office of Student Achievement (GOSA) to conduct an in-depth audit of the LEAs student records documentation, procedures, and processes.

(I) LEAs found to be in non-compliance as the result of an audit by GOSA shall forfeit the ability to appeal an Adequate Yearly Progress (AYP) determination.

Authority O.C.G.A. § 15-11-202, 19-9-120 through 19-9-129, 20-2-133, 20-2-150, 20-2-293, 20-2-293, 20-2-294, 20-2-670, 20-2-690.1, 20-2-751.1, 20-2-751.2, 20-2-770, 20-2-771, 20-2-2130 through 20-2-2170, 20-14-25, and 20-14-26.

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