

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

(c) **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).

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

(e) **Critical Records** – the education records of a student, which shall be current and complete for a period of at least the most recent 12 months of such student’s enrollment or the entirety of such student’s enrollment if less than 12 months, to include:

1. Academic transcript;
2. Attendance records;
3. Student discipline records;
4. Records of the student having ever been an adjudicated delinquent of the commission of a class A designated felony act or class B designated felony act (as defined in O.C.G.A. § 15-11-2) and, if so, the date of such adjudication, the offense committed, the jurisdiction in which such adjudication was made, and the sentence imposed;
5. An Individualized Education Program (IEP) pursuant to the federal Individuals with Disabilities Education Act (IDEA) or a plan under Section 504 of the federal Rehabilitation Act of 1973, if any; and
6. Psychological evaluations, if any.

(f) **Department of Behavioral Health and Developmental Disabilities (DBHDD)** – an agency which provides specified services for children who have been admitted

or placed according to an individualized treatment or service plan directed by DBHDD.

(g) **Department of Human Services (DHS)** – an 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.

(h) **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.

(i) **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 have equal access to the same free, appropriate public education as provided to other children and youth.

(j) **Education Records** – any record that is maintained by a local education agency, a public or private elementary or secondary school, the Department of Juvenile Justice school system, or a party acting on behalf of such entity and is directly related to a student, including records of such student’s enrollment, attendance, class schedules, academic transcripts, grades, student discipline, student financial information, health records, special education records, and psychological evaluations. Education Records include the student’s critical records.

(k) **Emancipated Minor** – an individual who is at least sixteen years of age and 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 by court order pursuant to a petition filed by a child with the juvenile court, as provided in O.C.G.A. Title 15, Chapter 11, Article 10.

(l) **Enroll** – the registration of a student in a local education agency by a parent, legal custodian, kinship caregiver or individual with an executed power of attorney.

(m) **Fictive Kin** – an individual who is known to a child as a relative but is not in fact related by blood or marriage to such child and with whom such child has resided or had significant contact.

(n) **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.

(o) **Governing body** – the local board of education, governing council, governing board, Board of Juvenile Justice, or other entity by whatever name responsible for creating and implementing the budget of a local education agency or a public or private school.

(p) **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.

(q) **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.

(r) **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).

(s) **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; or
4. Abandoned in hospitals.
5. 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.*)

(t) **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).

(u) **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.

(v) **Kinship Caregiver** – a grandparent, great-grandparent, aunt, uncle, great aunt, great uncle, cousin, sibling, or fictive kin who has assumed responsibility for raising a child in an informal, noncustodial, or guardianship capacity upon the parents or legal custodians of such child:

1. Losing or abdicating the ability to care for such child; or
2. Being unable to ensure that the child will attend school for reasons, including, but not limited to:

(i) A parent or legal custodian being unable to provide care due to the death of a parent or legal custodian;

(ii) A serious illness or terminal illness of a parent or legal custodian;

(iii) The physical or mental condition of the parents or legal custodians such that proper care and supervision of the child cannot be provided;

(iv) The incarceration of a parent or legal custodian;

(v) The inability to locate the parents or legal custodians;

(vi) The loss or uninhabitability of the child's home as the result of a natural disaster; or

(vii) A period of active military duty of the parents or legal custodians exceeding 24 months.

(w) **Legal Custodian** – an entity or individual other than a parent with legal authority to act on behalf of a student, including the Department of Juvenile Justice, the Department of Human Services, and the Division of Family and Children Services.

(x) **Local Education Agency (LEA)** – Any local school system, any charter school subject to the provisions of O.C.G.A. Title 20, Chapter 2, Articles 31 or 31A, and any

completion special school subject to the provisions of O.C.G.A. Title 20, Chapter 2, Article 31C, including the Department of Juvenile Justice school system.

(y) **Local Board of Education (LBOE)** – the governing body of each local education agency.

(z) **Local Units of Administration (LUA)** – all local school systems, board of control of regional educational service agencies established pursuant to O.C.G.A. § 20-2-272, and any other local or regional public education agencies established pursuant to law, except education agencies governed or regulated by boards of other state agencies or except where other specific provisions are made.

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

(bb) **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*.

(cc) **Parent** – an individual other than a legal custodian who has legal authority to act on behalf of a student as a natural or adoptive parent or a legal guardian.

(dd) **Permanent Enrollment** – enrollment of a student in a school that is not provisional enrollment.

(ee) **Provisional Enrollment** – the conditional and nonpermanent enrollment of a student in a school for a specified period of time.

(ff) **Reasonable Efforts** – actions that a reasonable individual would find sufficient to determine whether one conclusion is more likely than the other.

(gg) **Receiving School** – an LEA or public or private school in which a transferring student, either on his or her own behalf or by and through his or her parent or legal custodian, has enrolled or seeks or intends to enroll.

(hh) **Requestor** – a student, the parent or legal custodian of such student, or a receiving school or another person or entity legally authorized to receive the education records of such student.

(ii) **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.

(jj) **Sending School** – an LEA or a public or private school which maintains education records of a particular student and is responsible for releasing such records to a requestor.

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

(ll) **Student** – an individual who is enrolled in a public or private elementary or secondary school or home study program in Georgia, or who is subject to the compulsory attendance requirements of O.C.G.A. § 20-2-690.1.

(mm) **Student Discipline Records** – records related to the discipline of a student, including, but not limited to, all records of any disciplinary order of short term suspension, long-term suspension, or expulsion made pursuant to O.C.G.A. § 20-2-751.2; notice of a report of criminal action or chronic disciplinary problem made pursuant to O.C.G.A. § 20-2-756; disciplinary and behavioral correction plan pursuant to O.C.G.A. § 20-2-766; or report of the commission of a prohibited act made pursuant to O.C.G.A. § 20-2-1184.

(nn) **Transferring Student** – a student who, either on his or her own behalf or by and through his or her parent or legal custodian, has enrolled in or is seeking or intends to enroll in a receiving school.

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

(pp) **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 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 a local education agency (LEA):

(i) Students who have attained the age of five by September 1 shall be eligible 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.

(I) 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.

(ii) Any student who is physically present within the geographical area served by a local unit of administration for any length of time is eligible for enrollment in the educational programs of that local unit of administration; provided, however, that the child meets the age eligibility requirements established by Article 6 of Title 20 of the Official Code of Georgia Annotated and is:

(I) In the physical or legal custody of the Department of Juvenile Justice (DJJ) or the Department of Human Services (DHS) or any of its divisions, including, but not limited to, the Division of Family and Children Services (DFCS); or

(II) In a placement operated by the DHS; or

(III) In a facility or placement paid for by the DJJ, DHS, or any of its divisions, including, but not limited to, DFCS; or

(IV) Placed in a psychiatric residential treatment facility by his or her parent or legal guardian pursuant to a physician's order, if such child is not a home study, private school, or out of state student.

2. Students may be provisionally enrolled in a receiving school for not more than ten school days on a conditional basis.

(i) Such provisional enrollment shall not commence until the next school day after such student's parent or legal custodian executes a document

(I) Disclosing to the receiving school whether the student:

I. Has ever been adjudicated delinquent of the commission of a class A designated felony act or class B designated felony act, as defined in O.C.G.A. § 15-11-2 and, if so, the date of such adjudication, the offense committed, the jurisdiction in which such adjudication was made, and the sentence imposed;

II. Is currently serving a short-term suspension, a long-term suspension, or an expulsion from another school, the reason for such discipline, and the term of such discipline;

III. Is currently the subject of a notice of a disciplinary hearing pursuant to O.C.G.A. § 20-2-754; or

IV. Is currently or has ever been the subject of any notice of a report of criminal action made pursuant to O.C.G.A. § 20-2-756; notice of chronic disciplinary problem made pursuant to O.C.G.A. § 20-2-765; disciplinary and behavioral correction plan pursuant to O.C.G.A. § 20-2-766; or report of the commission of a prohibited act made pursuant to O.C.G.A. § 20-2-1184.

(II) Providing the name and address of each sending school such student attended during the previous 24 months and authorizing the immediate release of such student's critical records to the receiving school.

(ii) If the receiving school does not receive such student's critical records from each sending school such student attended during the previous 24 months, the receiving school shall be authorized to temporarily assign such student to remote learning until such critical records are received or the case management consultation provided for in O.C.G.A. § 20-2-670(i) is completed.

(iii) Whenever a receiving school does not timely receive complete information relative to a transferring student from a sending school as required by O.C.G.A. § 20-2-670(f), such receiving school shall be authorized to condition such transferring student's continued provisional enrollment upon completion of the case management consultation provided for in O.C.G.A. § 20-2-670(i).

(iv) If a student provisionally enrolled in a receiving school is found to be ineligible for enrollment pursuant to the provisions of O.C.G.A. § 20-2-751.2, or is subsequently found to be so ineligible, he or she shall be dismissed from enrollment in such receiving school until such time as he or she becomes so eligible.

**(b) Persons That May Enroll Eligible Students.**

1. A parent or legal custodian who has the authority to enroll a student in a local education agency (LEA).

2. An individual with a properly executed power of attorney for the care of a minor child may enroll such child, without court approval, in the LEA in which the individual resides if the specific conditions set forth in the "Supporting and Strengthening Families Act," O.C.G.A § 19-9-120 through O.C.G.A § 19-9-134 are met. Except as limited by federal law, the "Supporting and Strengthening Families Act", or the direction of a parent of a child as expressed in the power of attorney, such individual shall have the same rights, duties, and responsibilities that would otherwise be exercised by such parent of a child pursuant to the laws of this state.

3. A kinship caregiver with a properly executed affidavit as described in O.C.G.A. § 20-1-18 may enroll a child residing with the kinship caregiver, which child is not in the custody of DFCS.

**(c) Enrollment Documentation.**

1. Other than students specifically exempted by rule or by law, before admitting any student to an LEA, the superintendent or designee shall accept evidence in the order set forth below that shows the student's 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, legal custodian, individual with executed power of attorney, or kinship caregiver 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. Upon presentation of one of these evidences required in paragraph (2)(c)1, a photocopy of the document shall be placed in the student's record and the original document presented shall be returned to the individual registering the student according to the provisions set forth in section (2)(c).

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

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

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

4. The parent or legal custodian of a student seeking permanent enrollment in a grade higher than the third grade in any receiving school in Georgia shall, as a prerequisite to such permanent enrollment, execute a document:

(i) Disclosing to the receiving school whether the student:

(I) Has ever been adjudicated delinquent of the commission of a class A designated felony act or class B designated felony act (as defined in O.C.G.A. § 15-11-2) and, if so, the date of such adjudication, the offense committed, the jurisdiction in which such adjudication was made, and the sentence imposed;

(II) Is currently serving a short-term suspension, a long-term suspension, or an expulsion from another school, the reason for such discipline, and the term of such discipline;

(III) Is currently the subject of a notice of a disciplinary hearing pursuant to O.C.G.A. § 20-2-754; or

(IV) Is currently or has ever been the subject of any notice of a report of criminal action made pursuant to O.C.G.A. § 20-2-756; notice of chronic disciplinary problem made pursuant to O.C.G.A. § 20-2-765; disciplinary and behavioral correction plan pursuant to O.C.G.A. § 20-2-766; or report of the commission of a prohibited act made pursuant to O.C.G.A. § 20-2-1184; and

(ii) Either present a certified copy of such student's critical records from each sending school he or she attended during the previous 24 months or receive written confirmation from such receiving school that it has received such student's critical records.

5. Any document provided by a receiving school to a student or such student's parent or legal custodian to request permanent enrollment or provisional enrollment in such receiving school or to authorize the release of education records to such receiving school shall include:

(i) A list of class A designated felony acts or class B designated felony acts;

(ii) A list of the prohibited acts defined in O.C.G.A. § 20-2-1184; and

(iii) A description of each of the following:

(I) Notice of a disciplinary hearing pursuant to O.C.G.A. § 20-2-754;

(II) Notice of a report of criminal action made pursuant to O.C.G.A. § 20-2-756;

(III) Notice of chronic disciplinary problem made pursuant to O.C.G.A. § 20-2-765;

(IV) Disciplinary and behavioral correction plan pursuant to O.C.G.A. § 20-2-766; and

(V) Report of the commission of a prohibited act made pursuant to O.C.G.A. § 20-2-1184.

6. Pursuant to O.C.G.A. § 20-2-150, before the final enrollment of a student to an LEA is complete, the individual registering the student 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. 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)(c)1, or in a court order changing the student's name.

8. Once a student has successfully enrolled in an LEA, provided that one of the evidences required in paragraph (2)(c)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.

**(d) Special Circumstances.**

1. Students in Custody or Placement of DHS or DJJ

(i) Any transferring student in the custody of DJJ or DHS, through its DFCS, shall be immediately admitted to a receiving school, even if records required for enrollment cannot be produced, in order to ensure educational stability and continuity.

(I) All records shall be transferred to the receiving school administrator within ten school business days by the local school superintendent or his or her designee, as applicable, of the school such transferring student last attended.

(II) 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.

(ii) The custodian of or placing agency for a child identified in section (2)(a)(ii) of this rule shall notify the appropriate local unit of administration at least five days in advance of the move, when possible, when the child is to be moved from one local unit of administration to another.

(I) Upon notification that the child may become eligible for enrollment in the educational programs of a local unit of administration, such local unit of administration shall request the transfer of education records and Individualized Education Programs and all education related evaluations, assessments, social

histories, and observations of the child from the appropriate local unit of administration no later than five school business days after receiving notification.

(II) Upon the request of a local unit of administration responsible for providing educational services to a child described in section (2)(a)(ii) of this rule, the DJJ, DHS, or DFCS shall furnish to the local unit of administration all medical and education records in its possession pertaining to any such child. Such records shall include, but not be limited to, any record that such student:

I. Has ever been adjudicated delinquent of the commission of a class A designated felony act or class B designated felony act, as defined in O.C.G.A. § 15-11-2 and, if so, the date of such adjudication, the offense committed, the jurisdiction in which such adjudication was made, and the sentence imposed;

II. Is currently serving a short-term suspension, a long-term suspension, or an expulsion from another school, the reason for such discipline, and the term of such discipline;

III. Is currently the subject of a notice of a disciplinary hearing pursuant to O.C.G.A. § 20-2-754; or

IV. Is currently the subject of a notice of report of criminal action made pursuant to O.C.G.A. § 20-2-756; notice of a disciplinary hearing pursuant to O.C.G.A. § 20-2-765; disciplinary and behavioral correction plan pursuant to O.C.G.A. § 20-2-766; or report of the commission of a prohibited act made pursuant to O.C.G.A. § 20-2-1184.

## 2. Students Experiencing Homelessness

(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 school in which he or she was enrolled prior to becoming homeless, the last school enrolled, the last school attended, or enroll in the school where he or she is now located.

(II) 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.

## 3. Students Residing with Kinship Caregiver

(i) A kinship caregiver shall be authorized, on behalf of a child residing with the kinship caregiver, which child is not in the custody of the Division of Family and

Children Services of the Department of Human Services, to give legal consent for such child to: receive any educational services; receive medical services directly related to academic enrollment; or participate in any curricular or extracurricular activities for which parental consent is usually required by executing the affidavit described in O.C.G.A. § 20-1-18. The affidavit shall not be valid for more than one year after the date on which it is executed.

(I) Upon transmitting to a school an executed affidavit described in O.C.G.A. § 20-1-18, the kinship caregiver shall serve as the school's point of contact for the child regarding truancy, discipline, and educational progress for as long as such affidavit shall continue to be in effect.

(II) The decision of a kinship caregiver to consent to or refuse educational services or medical services directly related to academic enrollment or any curricular or extracurricular activities for a child residing with the kinship caregiver shall be superseded by any contravening decision of a parent or a person having legal custody of the child, provided that the decision of the parent or legal custodian does not jeopardize the life, health, safety, or welfare of the child.

(III) Reasonable efforts shall be made by the kinship caregiver to locate at least one of the child's parents prior to the notarization and submission of the affidavit set forth in O.C.G.A. § 20-1-18.

(IV) No person that acts in good faith reliance on a properly executed kinship caregiver's affidavit, having no actual knowledge of any facts contrary to those stated in the affidavit, shall be subject to civil liability or criminal prosecution, or to professional disciplinary procedure, for any action which would have been proper if the facts had been as they believed them to be. This subsection shall apply even if educational services or medical services directly related to academic enrollment or any curricular or extracurricular activities are rendered to a child in contravention of the wishes of the parent or legal custodian of such child; provided, however, that the person rendering the educational services or medical services directly related to academic enrollment or any curricular or extracurricular activities shall not have actual knowledge of the wishes of the parent or legal custodian.

(V) A person that relies on a properly executed kinship caregiver's affidavit has no obligation to make further inquiry or investigation. Nothing in this subsection shall relieve any person of responsibility for violations of other provisions of law, rules, or regulations.

(VI) If a child ceases to reside with a kinship caregiver for a period in excess of 30 days, such kinship caregiver shall, not later than 30 days after such period, notify all parties to whom he or she has transmitted the affidavit or to whom he or she has caused the affidavit to be transmitted.

(VII) Any individual who knowingly provides false information in executing the affidavit required by this article commits the offense of false swearing within the meaning of O.C.G.A. § 16-10-71 and shall be subject to the penalties prescribed by such Code Section.

(VIII) A kinship caregiver's affidavit shall be invalid unless it substantially contains the sample kinship caregiver affidavit provided by the Georgia Department of Education. An LEA shall not change the size or placement of text or change or omit the box around the warning.

#### 4. Military Students

(i) A student whose parent or guardian is on active duty in the United States armed forces and has received official military orders to transfer into or within this state shall be eligible for enrollment in the public school of the attendance zone in which he or she will be residing or in a public school authorized pursuant to O.C.G.A. § 20-2-295, prior to physically establishing residency within the local school system, upon presentation of a copy of the official military orders to the local school system. Such enrollment shall be in the same manner and time as for students residing within the local school system.

(I) Each local school system in which a military base or off-base housing is located shall establish a universal, streamlined process available to all students to implement these transfer requirements; and annually notify prior to each school year the parents, guardians or other person, as defined in section (1)(bb) of this rule, of each military student by letter, by electronic means, or by such other reasonable means in a timely manner of the options available as set forth in O.C.G.A. § 20-2-295.

(ii) A military student in this state shall be allowed to attend any public school that is located within the school system in which the military base or off-base housing in which the student resides is located, provided space is available for additional enrollment. The parent shall assume the responsibility for and cost of transportation of the student to and from the school.

(iii) 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.

(II) 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.

(iv) 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.

(v) 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.

(vi) 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 receiving school from performing subsequent evaluations to ensure appropriate placement of the student.

##### 5. Immigrant Students/Non-Visa Holders

(i) 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.

**(e) Withdrawal.**

1. A student may be withdrawn by a parent, legal custodian, individual with executed power of attorney, or kinship caregiver as provided in (2)(b)1 of this rule.

(i) When a parent, legal custodian, individual with executed power of attorney, or kinship caregiver as provided in (2)(b) of this rule withdraws a student according to the LEA policies and procedures, with documentation of proof of enrollment as provided in (2)(c) above, the student's withdrawal date shall be recorded as the last day of student attendance.

(ii) When a parent, legal custodian, individual with executed power of attorney, or kinship caregiver as provided in (2)(b) 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 a different 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)(c) 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.

IV. The school shall make a referral to DFCS and the RESA student affairs officer of the regional service agency in which a student resides in the event that such student does not attend the public school in which he or she is enrolled or provisionally enrolled for a period of 30 consecutive days and:

A. The student's parent, legal custodian, individual with executed power of attorney, or kinship caregiver as provided in (2)(b) of this rule does not notify the school of such student's withdrawal from such school;

B. The student's parent, legal custodian, individual with executed power of attorney, or kinship caregiver as provided in (2)(b) of this rule does not notify the school of such student's enrollment or intent to enroll in a home study program or another school;

C. The student is withdrawn from such school without a Declaration of Intent form filed pursuant to O.C.G.A. § 20-2-690; or

D. The student is 16 years of age or older and stops attending such school without completing the conference required in O.C.G.A. § 20-2-690.1(e).

2. 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(b) and who has not completed all requirements for a high school diploma or a state approved high school equivalency (HSE) diploma who wishes to withdraw from school shall not be permitted to withdraw from school without written permission of his or her parent or guardian prior to such withdrawal.

(i) Prior to accepting such permission, the school principal or designee shall convene a conference with the child and parent or guardian within two school days of receiving the notice of the intent of the child to withdraw from school. The principal or designee shall make a reasonable attempt to share with the student and parent or guardian the information on the process of voluntary withdrawal of emancipated minors who are older than the age of compulsory attendance, pursuant to O.C.G.A. § 20-2-690.1 (f).

3. 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 school's 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.

4. 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 the 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.

5. 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).

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

**(f) Withdrawal Documentation.**

1. 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.

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

(i) For students transferring to a public school within Georgia, 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 Declaration of Intent form signed by the parent enrolling a child, 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 but need not obtain official written documentation.

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

**(g) Audits.**

1. GOSA may conduct in-depth audits at its discretion, or at the request of GaDOE to ensure that LEA data, student records documentation, procedures, and processes are in compliance with this rule.

(i) LEAs found to be non-compliant with these provisions will be reported to the State Board of Education.

(ii) If an audit conducted by GOSA documents findings of noncompliance which affected the calculation of the graduation rate, GaDOE may adjust the cohort graduation rate for such school and LEA.

**Authority:** O.C.G.A. §§ 15-11-720 through 15-11-728; 19-9-120 through 19-9-129; 20-1-14 through 20-1-18; 20-2-133; 20-2-150; 20-2-293; 20-2-294; 20-2-670; 20-2-690; 20-2-690.1; 20-2-751.2; 20-2-770; 20-2-771; 20-14-26.

**Adopted:**

**Effective:**