Legal Aid of NC’s Right to Education Project

Overcoming Barriers to School Enrollment
School enrollment is, at a fundamental level, the way that students are able to access their education.

In North Carolina, students have a **constitutional** right to a Sound Basic Education.

An unlawful denial of enrollment is, at its core, a denial of a student’s constitutional right to an education.
Goals

1. Know your rights related to enrollment

2. Know what to do and when to call LANC for help if those rights are being violated

3. Know how to get help when you’re having a hard time navigating the enrollment process and/or getting the right supports set up for your student
Enrollment Foundations

• What is the difference between enrollment and assignment?
  - Enrollment = which school district is responsible for educating a student.
    → State law governs.
  - Assignment is how a district decides which specific school a student will be allowed to attend.
    → Local school district policy governs, and districts have lots of authority to make decisions in this area.
    → HOWEVER, federal disability law and other antidiscrimination laws must still be followed.

• Who has to follow these laws?
  • All public school units, including charter schools.
    • However, charter schools may have some flexibility in parts of the law.
    • For example, charter schools don’t have to accept every student who is domiciled in their attendance zone, and can instead admit students by application.
Who can enroll?

• Districts **must** enroll students who:
  1. Are between the ages of 5 and 21, and have not obtained a diploma
  2. Are domiciled in the attendance zone for the district (or meet an exception)
  3. Have not been convicted of felony
  4. Are not suspended or expelled from another district

• If all four criteria are met, a student **CANNOT** be denied enrollment
Age Requirement

• Most common issue is related to documentation

• In some situations, parents are asked to provide a certified copy of their child’s birth certificate, which could create unlawful hurdles for students not born in the US

• State law makes clear that schools can also accept “any competent evidence by which the age of persons is usually established.”
  ➔ This could include medical records, certified religious documents, etc.
**Domicile Status: State Law**

- **Domicile** = residence + evidence of intent to remain (lease, utilities, mail, etc.)
  1. Domicile of youth under 18 cannot be different from their biological and/or legal parent.

- **EXCEPTIONS**
  2. Youth living in **group homes**, including foster care homes or treatment centers. (NOTE: PRTFs are unique under the law and must provide education within the facility)
  3. Youth living with a **caregiver adult** because of crisis situations, including:
     - The death of a parent,
     - Their parent being ill and unable to care for them,
     - Their parent being incarcerated,
     - Their being deployed by the military,
     - Their parent being declared by DSS to be unable to care for them,
     - Their home being lost or made uninhabitable by a natural disaster,
     - The parent for any other reason giving up complete care and control of the youth. The specific language of the statute is that they have “abandoned complete control of the student”
Domicile Status: Federal Law

**McKinney-Vento** provides special rights for **homeless students**, including those who are “sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason.” A homeless student has the right to:

a) **Immediate enrollment**, even without required documents
b) Enroll in the school/district in their **best interest**, EITHER:
   1. her home school **OR**
   2. a school in the district of her temporary residence
c) **Transportation** to the school in her best interest, even if out of district
d) Access to **equal, appropriate services**
e) Assistance from a **McKinney-Vento** coordinator who can quickly address any dispute resolution or concerns

→ Help me find my **McKinney-Vento Coordinator/Local Liaison**

**The Every Student Succeeds Act (ESSA)** provides special rights for **students in foster care**. A foster care student has the right to

a) Immediate enrollment in the school/district in their best interest; EITHER
   1. their home school
   2. a school in district of their new placement
b) Transportation as needed to ensure she can seamlessly remain in their school of origin, even if out of district
Who can enroll? (recap)

• **Districts must** enroll students who:
  - ✓ Are between the ages of 5 and 21, and have not obtained a diploma
  - ✓ Are domiciled in the attendance zone for the district (or meet an exception)
  - ❌ Have not been convicted of felony
  - ❌ Are not suspended or expelled from another district

• **Exceptions** to felony conviction/suspension/expulsion denials
  • Denials are *optional*, NOT mandatory
  • Students with disabilities who entitled to received special education services via an Individualized Education Program (IEP) cannot be denied enrollment.
    • Must continue to receive a free appropriate public education (FAPE), even if in an alternative setting
Felony Convictions

• Only applies to felony convictions in adult criminal court
  • However...
    • Students with disabilities still can’t be denied enrollment based on felony convictions. Must still be provided FAPE.
    • Any denial is optional, NOT mandatory.

• Students may NOT be denied enrollment for:
  • Felony charges in adult criminal court
  • Misdemeanor charges or convictions in adult criminal court
  • Any action in juvenile court
Long-term Suspensions and Expulsions

• Only applies to students who:
  • Are currently serving a long-term suspension or expulsion;
  • Do not have an IEP; and
  • The district has grounds to lawfully deny access to alternative education based on an important reason (e.g. safety).

• Denials are optional

• Expelled students and students serving 365-day suspensions can apply for readmission every 180 days
Know Your Rights - RECAP

• Districts **must** enroll students who:

1. Are between the ages of 5 and 21, and have not obtained a diploma
   - Districts **cannot** require birth certificates as proof of age if to do so would be discriminatory and/or the student is able to produce other credible proof of age

2. Are domiciled in the attendance zone for the district (or meet an exception)
   - Students living with caregivers for crisis reasons must be enrolled
   - Homeless students must be enrolled and provided all protections under McKinney Vento
   - Students in foster care must be enrolled and provided all protections under ESSA
   - Students in group homes or other licensed facilities must be allowed to enroll

3. Have not been convicted of felony
   - Denials based on felony convictions are *optional*, not mandatory
   - Students with disabilities who are eligible for an IEP **cannot** be denied enrollment
   - Enrollment **cannot** be denied based on felony charges or misdemeanor charges or convictions in adult court or any action in juvenile court

4. Are not suspended or expelled from another district
   - Denials based on felony convictions are *optional*, not mandatory
   - Districts must consider whether alternative education must be provided, and must consider 180-day readmission requests
   - Students with disabilities who are eligible for an IEP **cannot** be denied enrollment
Red flags: documentation

A district can require documentation to prove age, residence/domicile, and immunization, but cannot do so in a way that discriminates against non-citizen students or otherwise violates North Carolina enrollment law, McKinney-Vento, or ESSA.

A school district cannot:

➢ Only accept a birth certificate as proof of age
➢ Request documentation of immigration status
➢ Refuse to accept verifiable evidence of domicile
➢ Refuse to immediately enroll a homeless student because of lack of documentation
➢ Require documentation of anything other than what is required for enrollment under State law
➢ Unreasonably delay enrollment after being provided all of the required documentation
➢ Refuse to enroll a student who doesn’t have appropriate immunization documentation, without giving the student/parent 30 days to obtain the necessary immunizations and/or documentation
Getting help

Call LANC if:

➢ Your student meets the requirements outlined in previous slides, you have attempted to enroll them, but the school has denied them enrollment.
  ➢ Ask that the school provide documentation of the denial (including why they denied enrollment) *in writing*

Seek out school- or community-based supports if:

➢ You have questions about the enrollment process
➢ You are having a hard time navigating the enrollment process
➢ You need help getting the rights supports in place for your student once they are enrolled
Where do I go to enroll?

• District's Office of Student Assignment
  • Should answer questions in person or over the phone about student's base school, registration process, and questions about transportation, etc. Many districts have an online "School Locator Tool" to determine base school.
  • In most school districts, you have the option to enroll your student at the 1) Office of Student Assignment with a paper packet 2) Base School with a paper packet, 3) Online. However, some districts require you to report to the base school in order to enroll if within 30 days of school starting, or to enroll online.
Navigating Enrollment Hurdles

• Technology
  • The district should offer a paper packet option to enrollment if there are issues with accessing technology for online enrollment. Call the Office of Student Assignment or base school to let them know you need an enrollment option that is not technology-based, or provide you access to a computer and instruction at one of their offices.

• Language
  • You have the right to be able to access the enrollment process in your native language. You can ask at the Office of Student Assignment or at the base school for 1) A staff person to talk with you through the enrollment process in your native language, 2) An enrollment packet in your native language.
Parent supports for navigating the school system

There are school-based personnel and community-based organizations and parent groups that might be able to assist navigating the sometimes complicated school systems!

1. School-based personnel
   - School Social Workers (At school or district level)
   - Parent Liaison- (At the school or district level)
   - McKinney-Vento Coordinator/Local Liaison

2. Managed Care Organizations (MCOs)
   - Family Partner Coordinator (Alliance has 2)
   - Systems of Care Coordinator

3. Family Resource Center
   - Regional Family-led Centers (South Atlantic covers Wake & Durham)
Parent Support for Special Groups

- Students with special needs & disabilities
  - ECAC- Parent Educators
  - Special Education Parent Advisory Councils- Parent-driven group
  - Family Support Network- Local parent to parent support programs

- Students with IDD
  - Community Navigator through local MCO

- Students with Autism
  - Autism Society of North Carolina- Resource Specialists

- Students experiencing Homelessness or unstable housing
  - McKinney-Vento Coordinators

- Students in the Foster Care System
  - Foster Family Alliance- Parent Advocates

- Students who are court-involved
  - Court Counselor- ask your court counselor at CFT meetings (or their supervisor) to better understand and support with navigating the school system. Ask for them to make phone calls with you, provide you with paperwork, or email people they know in the school system.
Enrollment

(How do I get my child into a public school in North Carolina?)

What is the difference between enrollment and assignment?
- **Enrollment** defines the specific school district that is responsible for educating eligible students.
  - State law establishes who has the legal right to enroll in a particular school district.
- **Assignment** is how a district decides which specific school a child will be allowed to attend.
  - Local school districts have lots of authority to make decisions in this area.

Who can enroll in a North Carolina school?
- A child can enroll in a North Carolina school district if they:
  a) are between the ages of 5 and 21, and do not have a high school diploma;
  b) are living in the district boundaries:
     1. with a parent or legal guardian who is domiciled in that district;
        - "domicile" – residence + evidence of intent to remain (lease, utilities, mail, etc.)
     2. in a group home, foster home, or licensed facility;
     3. with a caregiver because of specific crisis situations, including abandonment, death or incarceration of a parent, abuse or neglect, military deployment, or natural disaster;
  c) have not been convicted of a felony in adult criminal court; and
     - Youth in juvenile court cannot be denied enrollment
     - Youth who have been charged but not convicted of a felony cannot be denied enrollment

**NOTE:** Children who do not live in the district boundaries for a particular school or district may still enroll if:

1. They are homeless, including living in a transitional situation (e.g., living in shelters, in campgrounds or motels, or living with family/friends due to financial or other related hardship), and continuing to attend the school/district they were assigned to prior to becoming homeless is determined to be in their best interest.
   - The law that ensures this right is the McKinney-Vento Homeless Assistance Act.
2. A change in foster care placement (or initial placement in foster care) causes them to move away, and continued placement in the original school/district is determined to be in their best interest.
   - They are entitled to immediate enrollment in the school district that is in their best interest and transportation to that school district (even if not in the attendance zone for their current foster care placement).
   - The law that ensures this right is the Every Student Succeeds Act.

**Education Advocacy Issue-Spotting Guide**

**SCHOOL ENROLLMENT AND ACCESS**

Is a school district refusing to enroll and provide any educational services to a youth?

**Issue-Spotting**

- Is the enrollment denial due to the student being apart from their parent/legal guardian and/or away from their home school district for important reasons unrelated to "school district shopping"?

**What does the law say?**

- Youth living with non-parent caregivers due to documented necessity can enroll in caregiver's district.
- Youth who are homeless (including unstable housing) or in foster care can enroll where they were before the instability/foster placement or where they currently reside.
- Youth in PRITF must be educated by PRITF.
- Youth in other licensed facilities/group homes can enroll in school district where the facility/home is located.

**What steps can you take?**

1. Review Enrollment Rights overview. Challenge any enrollment denial through the proper channel at your student’s school.
2. For homeless youth, connect with McKinney Vento liaison for enrollment assistance.
3. For youth in foster care, ensure DSS social worker convenes a Best Interest Determination (BID) meeting.
4. Call LANC if still unable to enroll.

**Toolkit**

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**Issue-Spotting**

- Is the enrollment denial due to an ongoing long-term suspension, 365-day suspension, or expulsion?

**What does the law say?**

- Youth who have IEPs cannot be denied enrollment.
- For all other youth, consideration must be given to whether the district is required to enroll and offer alternative education.

**What steps can you take?**

1. Review Enrollment Rights overview. Challenge any enrollment denial through the proper channel at your student’s school.
2. For youth with IEPs, review special education resources.
3. For youth with disabilities who don’t have but may need IEPs, review Special Education Eligibility overview.
4. Call LANC if still unable to enroll.

**Toolkit**

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**Issue-Spotting**

- Is the enrollment denial due to:
  - An arrest and/or adjudication in juvenile court?
  - A misdemeanor arrest or conviction in adult court?
  - An arrest for adult felony?

**What does the law say?**

- Youth cannot be denied enrollment.
- For all other youth, consideration must be given to whether the district is required to enroll and offer alternative education.

**What steps can you take?**

1. Review Court Involvement & School Enrollment overview.
2. Advocate with school/district to ensure they understand the difference between an "adjudication" and a "conviction."
3. Refer to LANC if still unable to enroll.

**Toolkit**

pp19-20

**Issue-Spotting**

- Is the enrollment denial due to a felony conviction in adult court?

**What does the law say?**

- If a youth convicted of a felony in adult court has an IEP, they cannot be denied enrollment.
- If a youth does not have an IEP, they may enroll in school, but access is not promised by law. They can appeal enrollment denial.

**What steps can you take?**

1. Review Court Involvement & School Enrollment overview.
2. Challenge any enrollment denial through the proper channel at your student’s school.
3. For youth with IEPs, review special education resources.
4. For youth with disabilities who don’t have but may need IEPs, review Special Education Eligibility overview.
5. Refer to LANC if still unable to enroll.

**Toolkit**

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Contact us!

For families who want education law advocacy supports:
• Self-advocacy resources: www.legalaidnc.org/rep
• Free legal representation *(clients must be low income)*
  • Contact Legal Aid of NC’s Central Intake Unit to complete an intake
  • 1-866-219-5262 or www.legalaidnc.org/apply

For requests for additional information, training, or resources:
• Jen Story, Managing Attorney
  • JenR@legalaidnc.org
• Katie Haberman, Social Worker
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