**DOMICILE OR RESIDENCE REQUIREMENTS** *Policy Code:* **4120**

A scholar who is domiciled within the school’s participating school systems who is under age 21 (22 for scholars entitled to special education services); who has not completed the prescribed courses for high school graduation; and who otherwise qualifies for admission, may apply for admission. Children with disabilities are required to meet state domicile requirements to be entitled to apply for admission to the school unless they otherwise meet one of the circumstances that entitle them to apply for admission. (See Section C, below.)

1. **Domicile and Residence Defined**

Domicile requires the intent to abandon one’s prior home and remain in the new location as a permanent home for an indefinite period. In contrast, a residence need not be one’s exclusive home and does not require an intention that the residence be the permanent home.

1. **Meeting Domicile Requirements**
	1. Domicile of Scholars Generally

The domicile of a scholar under 18 years of age is presumed to be the domicile of his or her parents, legal guardian, or legal custodian as defined by the General Statutes of North Carolina.

* 1. Domicile of Emancipated Scholars

If a scholar is at least 18 years of age, is married, or has been abandoned by his or her parents, or if the court declares a scholar to be emancipated, the scholar may establish a domicile independent from that of his or her parents, legal guardian, or legal custodian. A scholar who establishes domicile as a result of being emancipated is a domiciliary of the participating school system and is entitled to the same rights and privileges of other scholars domiciled in the participating school system, including the right to apply for admission to the school.

* 1. Domicile of Scholars with Divorced or Separated Parents

Domicile will be determined by the following criteria.

* + 1. In the event that a scholar’s parents are divorced or separated and physical custody has been given to only one parent, the scholar’s domicile follows that of the parent who has been granted physical custody.
		2. If physical custody has not been determined or has been granted jointly to both parents, or if the custodial parent wishes the scholar to apply to the school based on the non-custodial parent’s system of residence, then the parents must jointly agree on which residence will be used to determine the scholar’s domicile. The selected residence must be submitted in writing to the principal.
1. **Meeting Residence Requirements**

A scholar who resides in one of the school’s participating school systems in any of the following circumstances may apply for admission.

1. The scholar is homeless as defined in state and federal law and policy 4125, Homeless Scholars. A scholar living with a friend or relative is not a homeless scholar unless he or she lives there due to conditions that constitute homelessness under state and federal statutes.
2. The parent, guardian, or legal custodian residing in the school system attendance area is a scholar, employee, or faculty member of a college or university or is a visiting scholar at the National Humanities Center.
3. The scholar resides in a group home, foster home, or other similar facility or institution.
4. The scholar resides in a pre-adoptive home following placement by a county department of social services or a licensed child-placing agency.
5. The scholar resides with an adult who is a domiciliary of one of the participating school systems as a result of any of the following.
	1. The death, serious illness, or incarceration of the child’s parent or legal guardian.
	2. The abandonment by the child’s parent or legal guardian of the complete control of the scholar as evidenced by the failure to provide substantial financial support and parental guidance.
	3. Abuse or neglect by the parent or legal guardian.
	4. The physical or mental condition of the parent or legal guardian is such that he or she cannot provide the scholar with adequate care and supervision.
	5. The relinquishment of physical custody and control of the scholar by the scholar’s parent or legal guardian upon the recommendation of the department of social services or the Division of Mental Health.
	6. The loss or uninhabitability of the scholar’s home as the result of a natural disaster.
	7. The parent or legal guardian is one of the following: (1) on active military duty, not including periods of active duty for training for less than 30 days, and is deployed out of the local school administrative unit in which the scholar resides; (2) a member or veteran of the uniformed services who is severely injured and medically discharged or retired (but only for a period of one year after the medical discharge or retirement of the parent or guardian); or (3) a member of the uniformed services who has died while on active duty or as a result of injuries sustained on active duty (but only for a period of one year after the death of the parent or guardian). Assignment under this subsection is only available if some evidence of the deployment, medical discharge, retirement, or death is tendered with the affidavits required under G.S. 115C-366.

In order to apply for admission under this provision, the scholar may not be expelled from a school for conduct that could have led to an expulsion from the school.

The adult with whom the scholar resides and the scholar’s parent, guardian, or legal custodian, if available, must complete and sign separate affidavits available from the principal’s office attesting to information required by G.S. 115C-366(a3). If it is found that a person willfully and knowingly provided false information in the affidavit, the maker of the affidavit will be guilty of a Class 1 misdemeanor and will pay to the board an amount equal to the cost of educating the scholar during the period of enrollment. Repayment will not include state funds.

1. **Scholars Participating in the North Carolina Address Confidentiality Program**

In determining whether a scholar meets the domicile or residence requirements of this policy, school personnel shall consider the actual address of a participant in the North Carolina Address Confidentiality Program established by G.S. Chapter 15C, but such address will remain confidential in accordance with law and policy 4250/5075/7316, North Carolina Address Confidentiality Program.

1. **Appeal of Admission Decisions**

Within 10 working days of receiving all of the information required under this policy, the executive director or designee shall provide a written decision to the applicant for admission to the school. The principal’s decision regarding admission of the scholar may be appealed to the board in accordance with subsection E.5 in policy 1740/4010, Scholar and Parent Grievance Procedure.

Legal References:  [10 U.S.C. 2031](http://redirector.microscribepub.com/?cat=USC&loc=us&id=10-2031&)(g); Elementary and Secondary Education Act, [20 U.S.C. 6303](http://redirector.microscribepub.com/?cat=usc&loc=us&id=20-6303&) et seq.; Individuals with Disabilities Education Act, [20 U.S.C. 1400](http://redirector.microscribepub.com/?cat=usc&loc=us&id=20-1400&) et seq., [34 C.F.R. pt. 300](http://redirector.microscribepub.com/?cat=cfr&loc=us&id=34&spec=300); McKinney-Vento Homeless Assistance Act, [42 U.S.C. 11431](http://redirector.microscribepub.com/?cat=usc&loc=us&id=42-11431&) et seq.; Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care, U.S. Department of Education and U.S. Department of Health and Human Services (June 2016); Non-Regulatory Guidance on Education for Homeless Children and Youths Program, U.S. Department of Education (July 2016); [G.S. 7B art. 35](http://redirector.microscribepub.com/?cat=stat&loc=nc&id=7b&spec=a35); [35A art. 6](http://redirector.microscribepub.com/?cat=stat&loc=nc&id=35a&spec=a6); [15C-8](http://redirector.microscribepub.com/?cat=stat&loc=nc&id=15c&spec=8)(i); [50-13.1 to -13.3](http://redirector.microscribepub.com/?cat=stat&loc=nc&id=50&); [115C-106.2](http://redirector.microscribepub.com/?cat=stat&loc=nc&id=115c&spec=106.2), [-106.3](http://redirector.microscribepub.com/?cat=stat&loc=nc&id=115c&spec=106.3), [-107.6](http://redirector.microscribepub.com/?cat=stat&loc=nc&id=115c&spec=107.6), [-108.1](http://redirector.microscribepub.com/?cat=stat&loc=nc&id=115c&spec=108.1)(a), [-366](http://redirector.microscribepub.com/?cat=stat&loc=nc&id=115c&spec=366), [-407.5](http://redirector.microscribepub.com/?cat=stat&loc=nc&id=115c&spec=407.5); Policies Governing Services for Children with Disabilities, State Board of Education Policy [EXCP-000](http://redirector.microscribepub.com/?cat=pol&loc=nc&id=excp-000&), available at <http://ec.ncpublicschools.gov/policies/nc-policies-governing-services-for-children-with-disabilities>

Cross References:  Student and Parent Grievance Procedure (policy 1740/4010), Children of Military Families (policy 4050), Behavior Standards for Transfer Students (policy 4115), Homeless Students (policy 4125), North Carolina Address Confidentiality Program (policy 4250/5075/7316)

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