

R277-616 received final approval by the Utah State Board of Education on October 1, 2020. R277-616 will be published in the November 1, 2020 Utah State Bulletin, subject to a 30-day comment period, with a first possible effective date of December 8, 2020.

## **R277. Education, Administration.**

### **R277-616. Education for Homeless and Emancipated Students.**

#### **R277-616-1. Authority and Purpose.**

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities;

(c) Section 53G-6-202, which requires that minors between the ages of 6 and 18 attend school during the school year;

(d) Subsection 53G-6-302(6), which makes each school district or charter school responsible for providing educational services for all children of school age who reside in the school district or attend the school; and

(e) the McKinney-Vento Homeless Assistance Act of 1987, Title VII, Subtitle B, as amended, 42 U.S.C. 11431 through 11435.

(2) The purpose of this rule is to ensure that homeless children or youth have the opportunity to attend school with as little disruption as reasonably possible.

#### **R277-616-2. Definitions.**

(1) "Domicile" means the place which a person considers to be the permanent home, even though temporarily residing elsewhere.

(2) "Emancipated minor" means:

(a) a child under the age of 18 who has become emancipated through marriage or by order of a court consistent with Section 78A-6-801 et seq.; or

(b) a child recommended for school enrollment as an emancipated or independent or homeless child or youth by an authorized representative of the Utah State Department of Social Services.

(3) "Enrolled" for purposes of this rule means a student has the opportunity to attend classes and participate fully in school and extracurricular activities based on academic and citizenship requirements of all students.

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- (4) "Homeless child" or "homeless youth" means a child who:
- (a) lacks a fixed, regular, and adequate nighttime residence;
  - (b) has primary nighttime residence in a homeless shelter, welfare hotel, motel, congregate shelter, domestic violence shelter, car, abandoned building, bus or train station, trailer park, or camping ground;
  - (c) sleeps in a public or private place not ordinarily used as a regular sleeping accommodation for human beings;
  - (d) is, due to loss of housing or economic hardship, or a similar reason, living with relatives or friends usually on a temporary or emergency basis due to lack of housing; or
  - (e) is a runaway, a child or youth denied housing by his family, or school-age unwed mother living in a home for unwed mothers, who has no other housing available.
- (5) "School district of residence for a homeless child or youth" means the school district in which the student or the student's legal guardian or both currently resides or the charter school that the student is attending for the period that the student or student's family satisfies the homeless criteria.

**R277-616-3. Criteria for Determining Where a Homeless or Emancipated Student Shall Attend School.**

- (1) Under the McKinney-Vento Homeless Assistance Act of 1987, Title VII, Subtitle B, as amended, 42 U.S.C. 11431 through 11435, homeless children are entitled to immediate enrollment and full participation even if they are unable to produce records which may include medical records, birth certificates, school records, or proof of residency normally required for enrollment.
- (2) A homeless child or homeless youth shall:
- (a) be immediately enrolled even if the homeless youth does not have documentation required under Sections 53G-9-402, 302, 303, 304 and Title 53G, Chapter 6, Part 3, District of Residency;
  - (b) be allowed to continue to attend his school of origin, to the extent feasible, unless it is against the parent's wishes;
  - (c) be permitted to remain in the student's school of origin for the duration of the

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homelessness and until the end of any academic year in which the student moves into permanent housing; or

(d) transfer to the school district of residence for a homeless child or youth or charter school if space is available as defined under Subsection R277-616-1(5)~~(1)~~; and

(e) have all fees waived as described in Section R277-407-5 and in accordance with McKinney-Vento Homeless Assistance Act of 1987, Title VII, Subtitle B, as amended, 42 U.S.C. 11431(1).

~~(2)~~3 A determination of a residence or domicile for a homeless youth or emancipated minor may include consideration of the following criteria:

(a) the place, however temporary, where the child actually sleeps;

(b) the place where an emancipated minor or an unaccompanied youth or accompanied youth's family keeps the family's belongings;

(c) the place which an emancipated minor or an unaccompanied youth or accompanied youth's parent considers to be home; or

(d) such recommendations concerning a child's domicile as made by the State Department of Human Services.

~~(3)~~4 Determination of a residence or domicile for a homeless youth or emancipated minor may not be based upon:

(a) rent or lease receipts for an apartment or home;

(b) the existence or absence of a permanent address; or

(c) a required length of residence in a given location.

~~(4)~~5 If there is a dispute as to the residence or the status of an emancipated minor or an unaccompanied youth, the issue may be referred to the Superintendent for resolution.

~~(5)~~6 The purpose of federal homeless education legislation is to ensure that a child's education is not needlessly disrupted because of homelessness.

~~(6)~~7 If a child's residence or eligibility is in question, the child shall be admitted to school until the issue is resolved.

#### **R277-616-4. Transfer of Guardianship.**

(1) If guardianship of a minor child is awarded to a resident of a school district by

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action of a court or through appointment by a school district under Section 53G-6-303, the child becomes a resident of the school district in which the guardian resides.

(2) If a child's residence has been established by transfer of legal guardianship, no tuition may be charged by the new school district of residence.

**KEY: compulsory education, students' rights**

**Date of Enactment or Last Substantive Amendment: [~~November 23, 2015~~2020]**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-6-302(6); 53G-6-303**