ADMISSION AND ASSIGNMENT OF STUDENTS

A. Admission of Students

The Superintendent, or designee, shall make decisions regarding the admission of students, subject to the student’s right to appeal to the New Hanover County Board of Education in the limited circumstances stated in North Carolina General Statute (NCGS)115C-45(c) (2) and to petition the Board for a hearing in other cases under NCGS § 115C-45(c), which the Board may or may not grant in its sole discretion. Subject to Section C of this Policy, Non-US Student Visitors (page 5), in order to be entitled to admission to the New Hanover County School System, a student must meet the requirements of NCGS § 115C-364 et seq., and at least one (1) of the following criteria:

1. The student resides primarily with at least one (1) parent (natural or adoptive) who has his/her domicile in New Hanover County and who has not had his/her parental rights or custody rights terminated by a court. As used in this Policy, the term “domicile” means someone’s place of abode, where they intend to remain permanently or indefinitely. A person may have only one (1) domicile at a time. If the parents are separated or divorced, the student is entitled to admission in the New Hanover County Schools if he or she primarily resides, during the school year, with the parent who is domiciled in New Hanover County.

2. The student resides primarily with a legal guardian who is domiciled in New Hanover County. A “legal guardian” is a person who has been appointed by a court as a substitute for the student’s parents. In North Carolina, such a “legal guardian” is called either a “general guardian” or “guardian of the person.” Such guardian should not be appointed unless the student is without a living parent competent to care for the student. Other states may use slightly different terminology.

3. The student resides primarily with a legal custodian who is domiciled in New Hanover County. A “legal custodian” is a person or agency, other than a parent or legal guardian, who has been awarded legal custody by a court in or recognized in North Carolina.

4. The student is “emancipated” and is domiciled in New Hanover County. To be emancipated the student must be either 18 years old, legally married (as recognized in North Carolina), or declared emancipated by a court in or recognized in North Carolina.

5. The student is a foreign student residing in New Hanover County and holding a student (F-1) visa, meeting the requirements of The Illegal Immigrant & Immigrant Responsibility Act of 1996, other applicable law, and Section C of this Policy, Non-US Student Visitors (page 5) herein. Admission under this subsection A 5 is not required, and is subject to the Board’s sole discretion.

6. The student is a special needs student pursuant to the IDEA, 20 USC § 1400 et seq., and resides in New Hanover County. The term “resides” as used in this Policy, means having a primary residence or place of abode in New Hanover County, even if temporary. A person may have multiple residences but only one (1) domicile.

7. The student has been placed in or assigned to and resides in a foster home, group home, or pre-adoptive home located in New Hanover County.
a. **Group homes or foster homes.** As used in this Policy, the term “foster home” means a family foster home or therapeutic foster home as defined in NCGS §131D-10.2(8) and 131D-10.2(14). If an agency or person other than the student’s parent/guardian is the student’s legal custodian and if that person or agency placed or assigned the student to a group home or foster home, then that agency or person must provide in writing to the school the name, address and phone number of the individual who has authority and the responsibility to make educational decisions for the student. This individual shall reside or be employed in New Hanover County and shall provide in writing to the school a signed statement that the individual understands and accepts the authority and responsibility to make educational decisions for the student. If a student’s parent/guardian retains legal custody of a student who is placed in or assigned to a group home or foster home under this subsection A 7 a, then the requirements of subsection A 10 (page 4) must be met.

b. **Pre-adoptive homes.** As used in this subsection A 7 b, the term “pre-adoptive home” means a home in which the student has been placed by a County Department of Social Services or a Licensed Student Placing Agency in anticipation of an adoption.

8. The student is homeless or is an unaccompanied youth and is living in New Hanover County. The term “homeless” as used in this Policy means those who lack a fixed, regular, and adequate nighttime residence or have a primary nighttime residence in a supervised publicly or privately operated shelter for temporary accommodations, live in an institution providing temporary accommodations, live in an institution providing temporary residence for individuals intended to be institutionalized, or a public or private place not designated for, or ordinarily used as a regular sleeping accommodation for human beings or otherwise defined in the McKinney-Vento Homeless Education Improvements Act of 2001, as it may be amended. The term does not include persons who are imprisoned or otherwise detained pursuant to Federal or State Law. The term “unaccompanied youth”, as used in this Policy, means those not in the physical custody of a parent or legal guardian as defined in the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, as it may be amended.

9. The student resides with their parent/guardian, who resides in New Hanover County and who is a student, employee or faculty member of a college or university in New Hanover County.

10. The student meets the hardship requirements contained in NCGS § 115C-366(a3) as set forth below. In order to be entitled to admission under this subsection A 10, the requirements of subsections A 10 a, A 10 b and A 10 c immediately below must all be met:

a. The student resides with an adult domiciled in New Hanover County and meets one (1) of the following seven (7) conditions:

i. The death, serious illness, or incarceration of a parent or legal guardian;

ii. The abandonment by a parent(s) or legal guardian of the complete control of the student as evidenced by the failure to provide substantial financial support and parental guidance;

iii. Abuse or neglect by the parent(s) or legal guardian (requires adjudication by a court);
iv. The physical or mental condition of the parent(s) or legal guardian is such that he or she cannot provide adequate care and supervision of the student;

v. The relinquishment of physical custody and control of the student by the student’s parent or legal guardian upon the recommendation of the Department of Social Services or Division of Mental Health;

vi. The loss or uninhabitability of the student’s home as the result of a natural disaster; or

vii. The parent or legal guardian is one (1) of the following:

1. On active military duty and is deployed out of the local school administrative unit in which the student 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 (1) year after the medical discharge or retirement of the parent/legal guardian; or
3. A member of the uniformed services who dies on active duty or as a result of injuries sustained on active duty, but only for a period of one (1) year after death.

For the purposes of subsection A 10 a vii, the term “active duty” does not include periods of active duty for training for less than 30 days. Assignment under subsection A 10 a vii is only available if some evidence of the deployment is tendered with the affidavits required under subsection A 10 c.

b. The student:
   i. Is not currently suspended or expelled from school for conduct that could have led to suspension or expulsion from the local school district; or
   ii. Is currently under a term of suspension or expulsion from a school for conduct that could have led to a suspension or an expulsion from the local administrative unit and is identified as eligible for special education and related services under the Individuals with Disabilities Education Improvement Act, 20 U.S.C. § 1400, et seq., as amended.

Assignment under subsection A 10 b ii is available only if evidence of current eligibility is tendered with the affidavit required under subsection A 10 c (below).

c. The requirements specified in subsections A 10 c i (immediately below) or A 10 c ii (page 4) are met:

i. The caregiver adult (defined in this Policy as an adult with whom the student, meeting the hardship requirements of subsection A 10 a (page 2), resides, or for students placed in or assigned to a group home or foster home, the student’s caretaker, foster parent or other clearly identifiable adult who resides in New Hanover County) and the student’s parent/guardian, or legal custodian, have each completed and signed separate affidavits that:
(A) Confirm the conditions stated in subsection A 10 c above (page 3);

(B) Attest that the student’s claim of residence is not primarily related to attendance at a particular school; and

(C) Attest that the caregiver adult has been given and accepts responsibility for educational decisions for the student; or

ii. If the student’s parent(s), legal guardian or legal custodian is unable, refuses, or is otherwise unavailable to sign the affidavit, then the caregiver adult shall attest to that fact in the affidavit. If the student is a minor, the caregiver adult must make educational decisions concerning the student and has the same legal authority and responsibility regarding the student as a parent or legal guardian would have even if the parent, guardian, or legal custodian does not sign the affidavit. The minor student’s parent(s), legal guardian, or legal custodian retains liability for the student’s acts. Upon receipt of both affidavits or an affidavit from the caregiver adult that includes an attestation that the student’s parent, guardian, or legal custodian is unable, refuses, or is otherwise unavailable to sign an affidavit, the Board shall admit and assign as soon as practicable the student to an appropriate school, as determined under this Policy pending the results of any further procedures for verifying eligibility for attendance and assignment.

d. If the information contained in either of the affidavits referenced in subsection 10 c (page 3-4) is found to be false, the Board may remove the student from school unless the student is otherwise eligible to attend school in the New Hanover County Schools. An opportunity to appeal this removal must be provided.

e. If it is found that a person “willingly and knowingly” provided false information in the affidavit referenced in subsection A 10 c (page 3-4), the affiant is guilty of a misdemeanor and must repay to the school system the cost of educating the student during the period of enrollment (minus state funds).

f. Affidavits submitted under subsection A 10 c (page 3-4) must include, in large print, the penalties for providing false information in an affidavit, including liability for repaying the cost of educating the student.

11. The student does not meet the hardship requirements of subsection A 10 (beginning on page 2), and there is a written agreement between the (local) Board and the Board of Education of the county of the student’s domicile pursuant to NCGS § 115C-366(d). The Board may charge tuition to such students pursuant to NCGS § 115C-366.1. The Board is not obligated to accept any students under this subsection A 10.

B. Assignment of Students to a Particular School

The Board has full, complete and final authority over the assignment of students to a particular school subject to the right of judicial review contained in § NCGS 115C-370. The Board shall establish and maintain school attendance areas and/or other procedures for assignment of students. Students not otherwise assigned under the Board’s Student Assignment Plan shall be assigned to the school in the school attendance area within which the student is domiciled, except in situations where the student does not reside primarily with both natural or adoptive parents, the following rules apply:
1. If the parents are separated or divorced, the student shall be assigned to the school in the school attendance area where the parent with primary physical custody, as determined by a court, is domiciled. If physical custody has not been established by a court the student will be assigned to the school in the school attendance area where the parent with whom the student primarily resides during the school year is domiciled. If the parents are given equal physical custody rights by a court, the student will be assigned to the school designated by both parents in writing, as long as the school so desired is in the school attendance area where one (1) of the parents is domiciled; however, in the absence of a written agreement by the parents, the Superintendent, or designee, shall assign the student to a school in the school attendance area where one (1) of the parents is domiciled.

2. Except as stated in this subsection B 2, no custody held by those who are not parents / guardians will be recognized for school assignment where the student has a parent/guardian domiciled in New Hanover County. If the student has a parent/guardian domiciled in New Hanover County, unless the student is otherwise assigned under the Board’s Student Assignment Plan, the student shall be assigned to the school in the school attendance area where one (1) of the parent(s) (or in the case of a legal guardian, the legal guardian) is domiciled even if the student resides or is domiciled with a legal custodian in another school attendance area, unless:

   a. The parent’s parental rights have been terminated by a court;
   b. There has been a judicial determination of abandonment by such parent(s) or legal guardian;
   c. There has been a determination by a court that the student is a dependent juvenile as defined in § NCGS 7B-101(9), or comparable statute;
   d. The student has been declared by a court to be a ward of the court or has been placed in a group home, foster home, or pre-adoptive home by Department of Social Services, the Division of Mental Health (or comparable agency outside North Carolina); or
   e. There is other hardship, as determined by the Superintendent or designee.

In situations described in subsections B 2 a through e above, the student shall be assigned to the school in the school attendance area where the legal custodian, group home, or foster parent is domiciled. If the student has two (2) parents whose parental rights have not been terminated and who are domiciled in New Hanover County at different addresses and no legal guardian and the student has a legal custodian with whom the student resides in New Hanover County, and none of the situations in subsections B 2 a through e above apply; the student shall be assigned to the school in the school attendance area that the Superintendent, or designee, in his discretion determines is appropriate considering the best interest of the student and the New Hanover County School System but the student must be assigned to a school in the student attendance area where one (1) of the parents is domiciled.

3. Students with special needs, pursuant to the IDEA, 20 USC § 1400 et seq., shall be assigned by the Superintendent, or designee, to the school appropriate to their needs, considering the efficient administration of the school system.

C. Non-U.S. Student Visitors

All prospective non-U.S. student visitors from foreign countries, except foreign exchange students, shall be subject to the same residence requirements as other students enrolled in the New Hanover County Schools.
1. The New Hanover County Schools is not legally required to admit any non-immigration/foreign student for any reason. Bona fide foreign exchange programs shall be determined by the Superintendent, or designee, and should be United States information Agency (USIA) approved.

2. All non-U.S. students on B-2 (Tourist) Visas accompanying their natural parent(s) as a part of a formal exchange program may be enrolled upon the establishment of an official residence in the New Hanover County School System.

All stipulations require verification of the appropriate immigration documents.

Student visitors not part of foreign exchange programs must establish legal custody in New Hanover County prior to enrolling in the New Hanover County Schools. Any adult in New Hanover County who wishes to enroll a foreign student in the School System must be legally responsible for the prospective student. Legal custody established outside of New Hanover County or in any other country or by any other means does not satisfy this requirement.

LEGAL REFS: NCGS §115C-364 et. seq., 115C-366(a3), 115C-45(c), 115C-45(c)(2), 131D-10.2(8), 131D-10.2(14), 7B-101(9), 20 USC §1400 et.seq.
CROSS REF: Student Assignment Plan

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