

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 719
SENATE BILL 324

AN ACT TO CLARIFY THE STUDENT ASSIGNMENT LAW AND TO PROVIDE FOR THE ASSIGNMENT OF CHILDREN OF HOMELESS INDIVIDUALS AND OF HOMELESS CHILDREN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-365 is repealed.

Sec. 2. G.S. 115C-366, as amended by Chapter 407 of the 1991 Session Laws, reads as rewritten:

"§ 115C-366. Assignment of student to a particular school.

(a) ~~All pupils-students under the age of 21 years who are domiciled in a school district or attendance area, administrative unit who have not been removed from school for cause, or who have not obtained a high school diploma, shall be are entitled to all the privileges and advantages of the public schools of such district or attendance area in such school buildings to which they are assigned by the local boards of education: education. Provided, that wherever pupils from nontax units, districts, or attendance areas, are assigned to a school in a tax unit, district, or attendance area, the assignment shall be for only the current school year, unless satisfactory agreements are reached between all units, districts, or attendance areas concerned: Provided, further, that pupils domiciled in one local school administrative unit may be assigned to a school located in another local school administrative unit upon such terms and conditions as may be agreed in writing between the boards of education of the local school administrative units involved and entered upon the official records of such boards: Provided, further, that the~~ The assignment of ~~pupils-students~~ living in one local school administrative unit or district to a school located in another local school administrative unit or district, shall have no effect upon the right of the local school administrative unit or district to which ~~said pupils-the students~~ are assigned to levy and collect any supplemental tax heretofore or hereafter voted in ~~such-that~~ local school administrative unit or ~~district~~: ~~Provided, further, the boards of education of adjacent local school administrative units may operate schools in adjacent units upon written agreements between the respective boards of education and approval by the county commissioners and the State Board of Education-district.~~

~~Unless otherwise assigned by the local board of education, the following pupils are entitled to attend the schools in the district or attendance area in which they are domiciled: Provided, the superintendent, or the principal with the approval of the superintendent, of the local school administrative unit may, in his discretion, prohibit the enrollment of or remove from school any pupil who has attained the age of 21 years:~~

- (1) ~~All persons of the district or attendance area who have not completed the prescribed course for graduation in the high school.~~
- (2) ~~All pupils whose parents have recently moved into the unit, district, or attendance area for the purpose of making their legal domicile in the same.~~
- (3) ~~Any pupil living with either father, mother or guardian who has made his permanent home within the district.~~

(a1) Children living in and cared for and supported by an institution established, operated, or incorporated for the purpose of rearing and caring for children who do not live with their parents shall be considered legal residents of the local school administrative unit in which the institution is located. These children shall be deemed to qualify for admission to the public schools of the local school administrative unit as provided in this section. This subsection shall apply to foster homes and group homes.

(a2) It is the policy of the State that every child of a homeless individual and every homeless child have access to a free, appropriate public education on the same basis as all children who are domiciled in this State. The local board of education having jurisdiction where the child is actually living shall enroll the child in the school administrative unit where the child is actually living. In no event shall the child be denied enrollment because of uncertainty regarding his domiciliary status, regardless of whether the child is living with the homeless parents or has been temporarily placed elsewhere by the parents. The local board shall not charge the homeless child, as defined in this subsection, tuition for enrollment. The child's parent, guardian, or person standing **in loco parentis** to the child, may apply to the State Board of Education for a determination of whether a particular local board of education shall enroll the child, and this determination shall be binding on the local board of education, subject to judicial review. As used in this subsection, the term 'homeless' refers to an individual who (i) lacks a fixed, regular, and adequate nighttime residence or (ii) has a primary nighttime residence in a supervised publicly or privately operated shelter for temporary accommodations, lives 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. The term does not include persons who are imprisoned or otherwise detained pursuant to federal or State law.

~~(b) Each local board of education is hereby authorized and directed to provide for the assignment shall assign to a public school of each student qualified for assignment under this section. child residing within the local school administrative unit who is qualified under the laws of this State for admission to a public school. Except as otherwise provided in G.S. 115C-366(b), 115C-367 to 115C-370 and 115C-116, Except as otherwise provided by law, the authority of each board of education in the matter of assignment of children to the public schools shall be full and complete, and its decision as to the assignment of any child to any school shall be final. A child residing in one local school administrative unit may be assigned either with or without the payment of tuition to a public school located in another local school administrative unit upon such terms and conditions as may be agreed in writing between the boards of education of the~~

~~local school administrative units involved and entered upon the official records of such boards. No child shall be enrolled in or permitted to attend any public school other than the public school to which the child has been assigned by the appropriate board of education. In exercising the authority conferred by this subsection, each local board of education shall make assignments of pupils to public schools so as to provide for the orderly and efficient administration of the public schools, and provide for the effective instruction, health, safety, and general welfare of the pupils. Each board of education may adopt such reasonable rules and regulations as in the opinion of the board are necessary in the administration of G.S. 115C-366(b), 115C-367 to 115C-370 and 115C-116.~~

(c) Any child who is qualified under the laws of this State for admission to a public school and who has a place of residence in a local school administrative unit incident to his parent's or guardian's service in the General Assembly, other than the local school administrative unit in which he is domiciled, is entitled to attend school in the local school administrative unit of that residence as if he were domiciled there, subject to the payment of applicable out-of-county fees in effect at the time.

(d) A student domiciled in one local school administrative unit may be assigned either with or without the payment of tuition to a public school in another local school administrative unit upon the terms and conditions agreed to in writing between the local boards of education involved and entered in the official records of the boards. The assignment shall be effective only for the current school year, but may be renewed annually in the discretion of the boards involved.

(e) The boards of education of adjacent local school administrative units may operate schools in adjacent units upon written agreements between the respective boards of education and approval by the county commissioners and the State Board of Education.

(f) This section shall not be construed to allow students to transfer from one local school administrative unit to another for athletic participation purposes in violation of eligibility requirements established by the State Board of Education and the North Carolina High School Athletic Association."

Sec. 3. This act is effective upon ratification and applies to all school years beginning with the 1991-92 school year.

In the General Assembly read three times and ratified this the 16th day of July, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives