

Qualifications for admission to the Wake County Public School System shall be considered complete upon satisfaction of the criteria listed under the respective types of entrants.

6201.1 **Definitions:**

- A. "Domicile" denotes a permanent, established home, as distinguished from a temporary, although actual place of residence. The domicile of an unemancipated minor is the same as that of his parents or legal custodian. A financially independent student over the age of eighteen, a student who is married or a student who is legally emancipated may establish his/or her own domicile.
- B. "Residence" is where a person actually lives, whether permanent or temporary.
- C. "Legal Custodian" is a person or agency awarded legal custody of a child by a court of law.
- D. "Long-term Suspension" is a ~~removal from school for the remainder of the school year~~ suspension for a period of time in excess of ten (10) school days.
- E. "365-day Suspension" is a removal from school for 365 calendar days from the start of the suspension.
- F. "Expulsion" is a ~~permanent removal from~~ an indefinite removal from the Wake County Public School System.
- G. ~~"Homeless"~~ denotes a student who does not have a fixed, regular and adequate residence.

6201.2 **Before a student will be enrolled in the Wake County school system, the following requirements must be met:**

- A. Student has not completed the prescribed course for graduation from high school.
- B. Student has satisfied North Carolina immunization requirements.
- C. The parent, guardian, or custodian has presented documentation establishing the student' age (birth certificate), grade placement (transcript or report card from previous school if transferring from elsewhere).
- D. For a student presented for enrollment, after enrollment in a private or public school in this or any other state, the student' parents or legal custodian, shall provide a statement made under oath or affirmation before a qualified official indicating whether the student is, at the time, under suspension or expulsion from the previous school or has been convicted of a felony in this state or any other state.
 - 1. The Superintendent/Designee may deny admission or place reasonable conditions on the admission of a student who has been suspended from a school under G.S. § 115C-394 115C-390.5 through G.S. 115C-390.10 or who has been

suspended from another public or private school within this state or any other state for conduct that could have led to a suspension in the Wake County public schools, until the period of suspension has expired. A student who is denied admission under this provision may request but is not entitled to appeal this decision to the Board as provided in policy 6520: Student Grievances.

2. The Superintendent/Designee may deny admission or place reasonable conditions on the admission of a student who has been expelled from a school under G.S. § 115C-391 **115C-390.11** or who has been expelled from another public or private school within this state or any other state for behavior that indicated the student's continued presence in the school constituted a clear threat to the safety of other students or employees; or who has been convicted of a felony in this or any other state. A student who is denied admission under this provision may appeal this decision as provided in Wake County Public School System Policy 6530.11 **6505**.
- E. ~~The parent, or legal custodian of a child entering kindergarten is required to obtain a health assessment for their child. This is required by law and must be conducted no more than 12 months prior to the date of school entry. It must include a medical history and physical examination with screening for vision and hearing and, if appropriate, for anemia and tuberculosis. **Move to Policy 6011.6.**~~
- F. ~~The student meets the age requirements outlined below:~~
1. ~~Preschool: To enroll in a preschool program, a child must meet the age requirements for the program in which he seeks to enroll.~~
 2. ~~Kindergarten: To enroll in kindergarten, a student must be at least five years of age by October 16 of the school year in which the student seeks to enroll (**per G.S. 115C-364, the cutoff date will change to August 31 starting with the 2009-2010 school year**), be qualified to enroll as a four- and a half-year-old under State Board of Education guidelines and the principal' discretion or be qualified because of previous enrollment in kindergarten in another public school system or private school in another state or country. **To enroll in kindergarten, a student must meet the age requirements set out in Policy 6011 and R&P 6011.**~~
 3. ~~Older Students: Students older than 21 years of age or who have already completed the requirements for graduation from high school are no longer eligible to enroll.~~
- G. ~~The parent, or legal custodian must present a child for initial enrollment into kindergarten within the first 120 days of the school year.~~

A student is legally entitled to be enrolled in the Wake County Public School System if the student meets one of the following criteria:

- A. The student is domiciled in Wake County; or
- B. The student resides with a legal custodian who is domiciled in Wake County or in a pre-adoptive home in Wake County following placement by a county department of social services or a licensed child-placing agency; or
- C. The student meets all three of the following conditions:
 1. The student resides with an adult, who is a domiciliary of Wake County, as a result of:
 - a. Death, serious illness, or incarceration of a parent or legal guardian; or
 - b. Abandonment by a parent or legal guardian of complete control of the student as evidenced by the failure to provide substantial financial support and proper guidance; or
 - c. Abuse or neglect by parent or legal guardian; or
 - d. Physical or mental condition of the parent or legal guardian is such that he or she cannot provide adequate care and supervision of the student; or
 - e. The relinquishment of physical custody and control of the student by the student' parent or legal guardian upon the recommendation of the department of social services or the Division of Mental Health; or
 - f. Loss or un-inhabitability of the student' home as a result of a natural disaster; or
 - g. The student' parent or legal guardian is on active military duty and is deployed out of the local school administrative unit in which the student resides. For purposes of this policy, the term 'active duty' does not include periods of active duty for training for less than 30 days. Assignment under this provision is only available if some evidence of the deployment is tendered with the affidavit required in paragraph 3. below.
 - h. The parent or legal guardian died while on active military duty or was severely injured and medically discharged or retired from active military duty as a result of the injury. Enrollment is valid for only one year after the date of the death, medical discharge, or retirement.
 2. The student is not currently under a term of suspension or expulsion from a school for conduct that could have led to a suspension or expulsion from the Wake County Public School System; and

3. The caregiver adult, defined as the adult with whom the student resides, and the student' parent, guardian, or legal custodian presents to the Office of Growth Management a completed and signed separate affidavit that
 - a. Confirms the qualifications set out in this subsection establishing the student' residency;
 - b. Attests that the student' claim of residency in Wake County is not primarily related to attendance at a particular school within Wake County or attendance in the Wake County schools generally; and
 - c. Attests that the caregiver adult has been given and accepts responsibility for the educational decisions for the child, including receiving notices of discipline, attending conferences, granting permission for school-related activities, and taking appropriate action in connection with student records; or
- D. The student is 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; or
- E. The student is a homeless student who is currently found in Wake County (The homeless student must be enrolled immediately, even if the student is not accompanied by an adult and cannot provide proof of residency, school and immunization records, birth certificates or other documents); or
- F. The student is otherwise found by the Wake County Board of Education to be entitled to enroll in the Wake County public schools.

6201.4 **Discretionary Admission/Tuition Students:**

- A. Discretionary student admissions are discouraged due to space limitations within the system.
- B. Tuition will be charged to the following students:
 1. All students granted discretionary admission who reside outside the school district unless the student meets the qualifications of the McKinney-Vento Homeless Assistance Act and
 2. All students domiciled outside of North Carolina who have been granted discretionary admission.
- C. The tuition rates for the succeeding year are determined as follows:
 1. The tuition rate for students other than children of current Wake County Public School System employees is determined by dividing the current year' Wake County budget appropriation (current expense plus capital outlay) and capital improvements by the current year' twentieth day membership.

2. For students who are children of current Wake County School system employees, the tuition rate is determined by dividing the current year' Wake County budget appropriation for the current operating fund by the current year' twentieth day membership. This rate formula will remain effective while the student is enrolled in his/her current grade grouping of K-5, 6-8, or 9-12. Upon entering the new grade grouping, the tuition rate formula shall be the same as for students in Section C.1 of this policy. The Board of Education at its discretion may waive tuition for children of current Wake County School System Employees.
 3. The tuition rates will be determined and reported to the Board of Education no later than May 1 of each year.
- D. Tuition students shall satisfy the following requirements for admission:
1. Request discretionary admission within the first twenty days of school;
 2. Attach evidence of good academic and disciplinary standing;
 3. Present evidence that the student has not completed the prescribed course for graduation from high school;
 4. Obtain release from school district of residence;
 5. Be granted discretionary admission;
 6. Pay the tuition fee in accordance with a collection schedule to be established by the Superintendent and
 7. Be responsible for transportation if the student resides with an adult who lives outside the base area of the school to which the student is assigned.

Note: Approval for a particular school will depend on the school capacity and diversity.

- E. Exemptions: Notwithstanding the above, the following categories of students are exempt from the requirement to pay tuition, regardless of their domiciliary status:
1. Students who reside within the school district with a parent or legal custodian who is a student, employee or faculty member of a college or university, or a visiting scholar at The National Humanities Center.
 2. Students granted discretionary status who reside on a military or naval reservation within North Carolina if federal funds designed to compensate for the impact on public schools of military dependent students are provided to the Wake County Public School System in an amount not less than fifty percent (50%) of the total per capita cost of education for students in the school system, exclusively of capital outlay and debt service.
 3. Foreign and international exchange students who are

participating in exchange programs with school districts that have reciprocal agreements for Wake County students. Foreign and international exchange students must enter the United States with a valid J-1 visa. Foreign students, whether residing inside Wake County or outside the United States, will not be issued an I-20 A-B (Certificate of Eligibility for Non-immigrant [F-1] Student Status ? For Academic and Language Students.).

4. Students who meet the qualifications of the McKinney-Vento Homeless Assistance Act.
5. Students placed in facilities licensed under Article 2 of Chapter 122C of the General Statutes or under Article 1A of Chapter 131D of the General Statutes. If an agency or person, other than the student' parent or guardian, is the student' legal custodian and if that person or agency placed or assigned the student to the licensed facility, 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 within Wake County and shall provide in writing to the school a signed statement that the individual understands and accepts this authority and responsibility to make educational decisions for the student. If the student' parent or legal guardian retains legal custody of the student, the requirements of 6201.3.C of this policy must be met.

- F. The Board, in its discretion, may waive the tuition charges upon finding that there are extenuating circumstances that justify such a waiver.
- G. Where applicable, students granted discretionary admission for part of the school year shall be required to pay tuition on a pro rata basis not less than the rate for one grading period. They will not be charged tuition for any period of time when they are entitled to be Wake County students.

6201.5 **Discretionary Releases to Attend School in Other Districts**

- A. Wake County students seeking release to attend public school in another public school system may apply to the Board for a release.
- B. Release from Wake County releases the school system from any obligation to provide transportation and/or tuition for the student unless the student meets the qualifications of the McKinney-Vento Homeless Assistance Act.

6201.6 Final decisions by the Superintendent regarding domiciliary status of students seeking to attend the Wake County Public School System and payment of tuition may be appealed to the Board.

6201.7 Applications for discretionary admission or release shall be made with the Growth Management Office.

6201.8 **Homeless Students Appeal Process**

The Board authorizes the Superintendent or designee to develop regulations and procedures to implement a homeless appeal process for parents, guardians, or unaccompanied youth who have complaints about enrollment, and how to file an appeal to the Liaison for Homeless Students upon registering, or attempting to register, at the school. Enrollment shall be deemed to include attending classes and participating fully in school activities.

Legal Reference: G.S. 115C-40, G.S. 115C-366, G.S. 115C-366.1, G.S. 115C-366.2, G.S. 130-87 through 93.01, G.S. 115C-364, G.S. 115C 391, Board Policy 6530.11, and 16 NCAC 06H .0112.

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6201.1 **Admission Requirement**

The parent' or legal custodian' responsibilities when presenting a student, who was previously enrolled in a private or public school in North Carolina or any other state, for enrollment are to:

- A. Follow all rules and procedures with regard to immunizations which are located in the Human Services Handbook.
- B. Provide birth certificate that will be recorded at the time of registration into kindergarten. This will be a certified copy of the birth record, rather than an informal copy. The principal may accept other verification of date of birth such as a passport or baptismal record for children who were not born in the United States. If the student meets the qualifications of the McKinney-Vento Homeless Assistance Act, **the school shall enroll immediately and the school shall be responsible for assist the family with** obtaining this record ~~on behalf of the student.~~
- C. Provide a kindergarten health assessment in accordance with the rules and procedures which are located in the Human Services Handbook. **If the student meets the qualifications of the McKinney-Vento Homeless Assistance Act, the school shall enroll immediately and the school shall be responsible for assist the family with obtaining this information on behalf of the student documentation.**
- D. Complete and have notarized the Discipline Status Enrollment Form which can be obtained at any Wake County school.
 - 1. The principal of the school where the child is attempting to register will review the form and approve or deny enrollment based upon the information provided. If approved for enrollment, the form will be placed in the student' cumulative folder.
 - 2. Should the enrollment be denied, the principal or designee will sign the form and fax a copy directly to the Office of Student Due Process.
 - 3. The Student Due Process Officer will investigate all cases presented by the school as denied admissions. This information will be presented to the Discipline Review Committee to determine if the school decision to deny enrollment

should be upheld or overturned.

4. If the Discipline Review Committee decides to allow enrollment of the student, they may assign that student to his/her base school or another school, including an alternative school.
5. The Superintendent or designee will notify the parents, or legal custodian of the decision of the Discipline Review Committee within five (5) days of the meeting.
6. If the parent or legal custodian wants to appeal the decision of the Discipline Review Committee, they may appeal to the Board of Education.

Kindergarten

- E. Admission to kindergarten follows guidelines set forth in Wake County Public School Policy 6011 and R&P 60046011.
- F. Children who have reached their fourth birthday by April 16 may enter kindergarten if he or she demonstrates extraordinary level of academic ability or maturity. To determine if a child shall be approved for this early admission, the principal shall engage the following procedures:
 1. Convene a committee of educational professionals to assist him or her to make decisions about each individual child, taking into account aptitude, achievement, performance, observable student behavior, motivation to learn, and student interest.
 2. The child must attain a 98th percentile on both the achievement and aptitude test.
 3. The achievement test must be administered by an impartial professional educator who is trained in the use of the instrument as long as there is no potential conflict of interest in the outcome.
 4. The testing (aptitude and achievement) must be administered after April 16th of the year in which the child will enter school.
 5. Before a child may be exited from school during the first ninety (90) calendar days, the parent must be invited to assist in the development of intervention strategies.
 6. If a decision is made to remove a child within the first ninety (90) days, parents

must be given at least ten (10) days notice.

7. Before the end of the first ninety (90) calendar days of enrollment, the enrolled child shall be reviewed by the gifted identification team.

6201.2 **Entitlement to Admission**

- A. Any student entitled in policy 6201 to enroll in the Wake County Public Schools is to be presented for enrollment by the adult with whom the student is living at the school to which the student is assigned, unless the student meets the qualifications of the McKinney-Vento Homeless Assistance Act.
- B. To be identified as a student requiring special education, the adult with whom the child is living must present an IEP or other information indicating current special education services to the school in which they are seeking enrollment.
- C. If the school determines that the student is not entitled to enroll in the Wake County Public Schools, as outlined in Policy 6201, the adult with whom the prospective student is living may apply to the Wake County Public School Growth Management Office for consideration as a non-tuition student.

6201.3 **Homeless Students Appeal Process**

A. **Definitions**

1. The terms "homeless," "homeless child," and "homeless student" shall mean the same as the term "homeless children and youth" as defined by 42 U.S.C. § 11434a (2). These terms shall also be deemed to include the term "unaccompanied youth". The term "unaccompanied youth" shall mean the same as defined by 42 U.S.C. § 11434a (6).
2. Enrollment shall be deemed to include attending classes and participating fully in school activities.

B. **Liaison for Homeless Students**

1. The Superintendent shall appoint a Liaison for Homeless Students. The liaison shall be trained to carry out and mediate the dispute resolution process as expeditiously as possible and to ensure that each school meets the requirements of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001. The liaison shall also ensure that each unaccompanied youth and any student who meets the

definition of "homeless children and youth" as defined by 42 U.S.C. § 11434a(2) is enrolled immediately in the school pending resolution of the dispute.

2. The Liaison for Homeless Students shall expeditiously carry out the dispute resolution process.

C. Responsibilities of the School

1. The burden shall be on the school to show that the student is not a homeless student or unaccompanied youth.
2. Faculty and staff of the school who know about the complaint must refer the child, youth, parent, or guardian to the Liaison for Homeless Students.
3. Pending resolution of any complaint between the school and the parent, guardian, or unaccompanied youth over school enrollment, the school shall enroll the child or youth immediately in the school in which the child or youth seeks enrollment.
4. The school shall provide the student with all the services for which the student is eligible and shall permit the student to participate fully in school activities while the dispute is being resolved.
5. The school shall provide the parent, guardian, or unaccompanied youth who makes a complaint to the Liaison for Homeless Students with a written statement of the rights and procedures, in language the parent, guardian, or unaccompanied youth can understand, that informs them of:
 - a. contact information including telephone number and address of the Liaison for Homeless Students and of the State coordinator for homeless education, with a brief description of their roles;
 - b. the right to initiate the dispute resolution process either orally or in writing;
 - c. a simple form that parents, guardians, or unaccompanied youth can complete and submit to the Liaison for Homeless Students to initiate the dispute resolution

process;

- d. a step-by-step description of how to dispute the school's decision;
 - e. notice of the right to enroll immediately in the school of choice or remain in the school of origin with transportation provided pending resolution of the dispute;
 - f. notice that immediate enrollment includes full participation in all school activities; and
 - g. notice of the right to obtain assistance of advocates or attorneys.
6. The school shall provide the parent, guardian, or unaccompanied youth with the name and contact information of the State coordinator for homeless education; and
 7. The school shall inform the parent, guardian, or unaccompanied youth about the right to appeal any decision regarding the student's enrollment to the State coordinator.

D. Dispute Resolution Process Components

1. The Board shall allow the parent, guardian, or unaccompanied youth to initiate the dispute resolution process at the school at which enrollment is sought or at the Liaison for Homeless Students? office.
2. The school shall inform the parent, guardian, or unaccompanied youth of the right to provide supporting written or oral documentation.
3. The school shall inform the parent, guardian, or unaccompanied youth of the right to seek the assistance of advocates or attorneys.
4. After reviewing the documentation provided by the school and the parent, guardian, or unaccompanied youth, the Liaison for Homeless Students shall make a final decision regarding the student' status as a homeless student and provide the parent, guardian, or unaccompanied youth with a written statement of that decision.
5. The Liaison for Homeless Students shall inform the parent, guardian, or unaccompanied youth of the right to appeal

the final decision to the State coordinator.

E. **Appeal to State Coordinator of Homeless Education**

1. **Responsibilities of the parent, guardian, or unaccompanied youth**

Any parent, guardian, or unaccompanied youth who is not satisfied with the school system's final decision regarding enrollment may appeal the decision to the State coordinator. In addition, any interested person who believes that grounds for an appeal exist may present an oral or written appeal to the State coordinator, including:

- a. the name, address, and telephone number of the person filing the appeal;
- b. the relationship or connection of the person to the child in question;
- c. the name of the school system and the specific school in question;
- d. the federal requirement alleged to have been violated;
- e. how the requirement has been violated;
- f. and the relief the person is seeking.

If the State coordinator receives an appeal that is not complete, the coordinator shall contact the person making the appeal, explain the deficiency, and offer the person the opportunity to complete the appeal.

2. **Responsibilities of the Liaison for Homeless Students**

- a. Upon request of the State coordinator, the Liaison for Homeless Students shall provide the State coordinator with the record of the complaint and the school system's actions. If the matter involves more than one school system, then the Liaison for Homeless Students from each of the respective school systems shall cooperate to provide the State coordinator with a complete record. In either event, the Liaison for Homeless Students or liaisons shall provide the complete record within five school days following the State coordinator's request.

- b. The Liaison for Homeless Students shall provide the State coordinator with any information that the State coordinator requests regarding the issues presented in the appeal.

6201.4

Discretionary Admission/Foreign Exchange Students

A. Discretionary Admission/Tuition Students

Parents of students seeking admission to Wake County Public Schools as a tuition student must apply to the Wake County Public School Growth Management Office for consideration as a tuition student.

B. Program Approval for Foreign Exchange Students

All organizations operating foreign student exchange programs must receive approval of the program from the Second World Language Office prior to placing a student in the Wake County Public School System. Approval will be based on criteria established by the Second World Language Office and will include:

1. Documentation that the organization has met the standards established by the Council on Standards for International Educational Travel (CSIET) and appears in the current *Advisory List of International Educational Travel and Exchange Programs*.
2. Documentation that the organization has a representative based in Wake County.
3. Documentation that the program:
 - a. Has well-defined and executed administrative practices.
 - b. Has stated educational goals compatible with the generally recognized goals of secondary education in the Wake County Public School System.
 - c. Has demonstrated successful placement of foreign exchange students.
 - d. Is a nonprofit organization.
 - e. Is incorporated.
 - f. Makes a complete financial report available to the public.

The Wake County Public School System will only accept foreign exchange students through approved programs. The number of slots for Foreign Exchange Students is five (5) to nine (9) per school annually as determined by

the Second World Language Office in consultation with the school, based on projected student enrollment and adequate facilities.

C. Program Responsibilities for Foreign Exchange Students

The foreign exchange program shall be responsible for assuring that all matters associated with the exchange are facilitated. This includes but is not limited to:

1. Filing a current copy of program guidelines with the Second World Language Office.
2. Working with the appropriate governmental agencies to ensure that the prospective foreign exchange student has fulfilled all requirements for entry into the United States on a J-1 visa.
3. Assuming all financial and legal responsibility for the foreign exchange student.
4. Providing the Second World Language Office with a copy of the student application packet, which the foreign exchange student agency used to accept the student, by July 31 of the current school year.
5. Assuming responsibility for all matters associated with living arrangements for the foreign exchange student, such as selecting and orienting the host family involved in the foreign exchange program. (Host families shall not be recruited through the Wake County Public School System.)
6. Orienting the foreign exchange student to Wake County and to the Wake County Public School System. As with all students, foreign exchange students are subject to countywide and school standards of behavior and discipline.
7. Meeting with an administrator of the school to which the student is assigned to establish a liaison for the program, the host family, and the school.
8. Notifying, in writing, the principal of the assigned school of the need to award and transfer any academic credit back to the student's home country after completion of the foreign exchange year in the Wake County Public School System, and informing the principal of any unique features involved in the process. (Foreign

exchange student's will not be granted a diploma by the Wake County Public School System but may be recognized during graduation exercises.)

9. Informing the foreign exchange student of the policies of the Wake County Public School System at the time of the student's acceptance by the foreign exchange student agency.

D. Acceptance of Foreign Exchange Students

Foreign exchange students who are accepted in the Wake County Public School System must meet criteria established by the Second World Language Office. The requirements are that the student:

1. Be approved by the Second World Language Office.
2. Apply for admission to the Wake County Public School System by July 31 of the year in which the student wishes to enroll. (Application to the school system is formalized by the receipt of a copy of the foreign exchange student's application packet, including the name and address of the host family.)
3. Be eligible for enrollment in grades 11 or 12 grade 11, and be between the ages of 16 and 19 years old by the first day of school, and not have graduated in their own country.
4. Present a valid J-1 visa to the principal of the school to which the student is assigned.
5. Have adequate command of the English language to function in a regular classroom. The foreign exchange agency must document the student's English ability as part of the application process. No special assistance will be given in English.
6. Present documentation of acceptable academic achievement.
7. Provide the school principal with:
 - a. Insurance documentation (accident and medical coverage).
 - b. Written permission of the foreign language program to take driver education and participate in interscholastic athletics, if applicable.
 - c. Results of a recent physical

examination and proof of required immunizations.

- d. A copy of any special rules and requirements contained in the foreign exchange agreement.
- e. Any other data required by the school or the Wake County Public School System.

Foreign exchange students will be accepted for a year-long course of study or a first semester course of study only. No second semester placements will be made.

E. Placement of Foreign Exchange Students

The assignment of foreign exchange students to a school within the Wake County Public School System will be made by the Second World Language Office. Considerations in making such an assignment are based on:

1. The number of foreign exchange student slots available within a school during the school year as determined by the Second Language Office.
2. The host family address.

The selection of courses and extracurricular activities will be made through agreement with the program representative, the host family, school personnel, and the students.

1. The school shall designate a faculty member to act as a Foreign Exchange Student Advisor who will serve as a liaison between the foreign exchange student and the school.
2. A member of the host family or the local program representative should contact school personnel to register the student and select courses and activities. All foreign exchange students must take U.S. History and eleventh grade English American History I or American History II and English III.
3. Students will be allowed to participate in all extracurricular activities and intramural athletics available to them at the assigned school except where prohibited by restrictions of the foreign exchange program.
4. Exchange students may participate in interscholastic athletics with written permission of the program representative, if

they meet applicable eligibility requirements under the policy of the Wake County Public School System and the North Carolina High School Athletic Association and provide any other necessary documentation.

G. Special Agreements for Foreign Exchange

1. Tuition is waived for all foreign exchange students who enroll into the Wake County Public School System under these guidelines.
2. Foreign exchange students are subject to all rules and regulations governing other students in the Wake County Public School System.

6201.5

Discretionary Releases to Attend School in Other Districts

A. Foreign Exchange Students

In order for a student to take courses abroad and receive high school credit for them in the Wake County Public School System, careful planning based on outlined procedures is essential. The result should be clear expectations on the part of the student, his/her parents, and the school administration. In general, credit can be given for those courses which have substantial equivalency to a Wake County senior high school course in content and in hours. A syllabus from the school being attended will serve as documentation.

Grades earned in courses taken abroad will not be included in the calculation of the student's grade point average. A notation of "pass" or "fail" will be made on the permanent record. This procedure, while resolving the problem of incompatible grading systems, may affect a student's ability to be labeled a "North Carolina Scholar."

1. Responsibilities of the Student
 - a. File "Request for Credit for Study Aboard" by July 1 of the year preceding the proposed study; approval cannot be granted until the student submits a copy of the syllabus of the course(s) for which credit is requested. The hours of study and grading system in the course(s) must be included.
 - b. Notify his/her principal and receive approval of any course changes by December 31 of the year of his/her study abroad.
 - c. Mail to his/her Wake County high school a copy of first semester grade

report received on approved courses.

- d. Schedule and take required end-of-year tests and teacher examinations of the Wake County course(s) for which substitution is to be made. This requires the student to be available one week prior to graduation from high school (June or August graduation available).
- e. Notify the school of any changes in permanent address and telephone numbers.

2. Responsibilities of the School

- a. Approve or deny "Request for Credit for Study Abroad" no more than two weeks after the course syllabus is presented.
- b. Administer required end-of-course tests and teacher examinations to student.
- c. Enter seniors studying abroad on the principal monthly report as an E1 the last day of school.

B. Other Districts in North Carolina

Wake County students seeking release to attend public school in another public school system may apply to the board of education for a release. The request is to be submitted to the Wake County Public School Growth Management Office.

Legal References: G.S. 115C-366(a2); N.C. Constitution, Article IX, s. 5; 42 U.S.C. § 11432; and 16 NCAC 06H .0112.

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Revised:

From: Neal Ramee, Tharrington Smith LLP
To: Laura Evans, Senior Director, Office of Student Assignment
Cc: Cathy Moore, Deputy Superintendent
Jonathan Blumberg, Tharrington Smith LLP
Date: December 13, 2013
Re: Proposed Revisions to Policy 6201

BACKGROUND:

North Carolina Session Law 2008-185 amended N.C. Gen. Stat. § 115C-366(a3) by expanding the rights of the children of military parents to enroll in North Carolina public school districts even when their parents or legal guardians are not domiciled in the district. Specifically, the statute allows children to enroll in school if they are living with non-parental caregivers who are domiciled in the school district if the reason the children are not living with their parents or legal guardians is that a parent or legal guardian is a member of the uniformed services who (1) was severely injured or medically discharged or retired or (2) died on active duty or as a result of injuries sustained on active duty. In both cases, the right to enroll in the school district of the non-parental caregiver extends for one year from the date of the qualifying event. Policy 6201 (School Admissions) does not currently reflect these statutory amendments.

RECOMMENDED ACTION:

We are currently updating your form affidavits to track the new statutory requirements. In order to ensure compliance with N.C. Gen. Stat. § 115C-366, I also recommend that Policy 6021 be revised as indicated in the attached document. These changes ensure compliance with applicable statutes and directly track the statutory language. I have not conducted a thorough legal review of other aspects of the policy but would be happy to do so upon request.

ATTACHMENTS TO MEMORANDUM:

The following documents are attached to this memorandum:

1. Current Policy 6201 ("School Admissions")
2. Proposed Policy 6201 ("School Admissions")
3. N.C. Session Law 2008-185

Please let me know if I may be of further assistance.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

SESSION LAW 2008-185
SENATE BILL 1541

AN ACT TO ENACT THE INTERSTATE COMPACT ON EDUCATIONAL
OPPORTUNITY FOR MILITARY CHILDREN.

The General Assembly of North Carolina enacts:

SECTION 1. Subchapter VI of Chapter 115C of the General Statutes is amended by adding a new Article to read:

"Article 29B.

"Interstate Compact on Educational Opportunity for Military Children.

"§ 115C-407.5. Interstate Compact on Educational Opportunity for Military Children.

The Interstate Compact on Educational Opportunity for Military Children is hereby enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I.
PURPOSE.

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district(s) or variations in entrance/age requirements.

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

D. Facilitating the on-time graduation of children of military families.

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.

F. Providing for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

G. Promoting coordination between this compact and other compacts affecting military children.

H. Promoting flexibility and cooperation between the educational system, parents and the student in order to achieve educational success for the student.

ARTICLE II.
DEFINITIONS.

As used in this compact, unless the context clearly requires a different construction:

A. "Active duty" means: full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. § 12301, et. seq. and 10 U.S.C. § 12401, et. seq.

B. "Children of military families" means: a school-aged child(ren), enrolled in Kindergarten through Twelfth (12th) grade, in the household of an active duty member.

C. "Compact commissioner" means: the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

D. "Deployment" means: the period one (1) month prior to the service members' departure from their home station on military orders though six (6) months after return to their home station.

E. "Education(al) records" means: those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

F. "Extracurricular activities" means: a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

G. "Interstate Commission on Educational Opportunity for Military Children" means: the commission that is created under Article IX of this compact, which is generally referred to as Interstate Commission.

H. "Local education agency" means: a public authority legally constituted by the state as an administrative agency to provide control of and direction for Kindergarten through Twelfth (12th) grade public educational institutions.

I. "Member state" means: a state that has enacted this compact.

J. "Military installation" means: a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

K. "Non-member state" means: a state that has not enacted this compact.

L. "Receiving state" means: the state to which a child of a military family is sent, brought, or caused to be sent or brought.

M. "Rule" means: a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of rules promulgated under the Administrative Procedures Act as found in Chapter 150B of the North Carolina General Statutes, and includes the amendment, repeal, or suspension of an existing rule.

N. "Sending state" means: the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. "State" means: a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory.

P. "Student" means: the child of a military family for whom the local education agency receives public funding and who is formally enrolled in Kindergarten through Twelfth (12th) grade.

Q. "Transition" means: 1) the formal and physical process of transferring from school to school or 2) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

R. "Uniformed service(s)" means: the Army, Navy, Air Force, Marine Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

S. "Veteran" means: a person who served in the uniformed services and who was discharged or released there from under conditions other than dishonorable.

ARTICLE III.
APPLICABILITY.

A. Except as otherwise provided in Section B, this compact shall apply to the children of:

1. active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. § 12301, et. seq. and 10 U.S.C. § 12401, et. seq.;
2. members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one (1) year after medical discharge or retirement; and
3. members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one (1) year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this compact shall not apply to the children of:

1. inactive members of the national guard and military reserves;
2. members of the uniformed services now retired, except as provided in Section A;
3. veterans of the uniformed services, except as provided in Section A; and other U.S. Dept. of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV.
EDUCATIONAL RECORDS & ENROLLMENT.

A. Unofficial or "hand-carried" education records – In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official education records/transcripts – Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten (10) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

C. Immunizations – Compacting states shall give thirty (30) days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunization(s) required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty (30) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Kindergarten and First grade entrance age – Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level (including Kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless

of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

ARTICLE V.
PLACEMENT & ATTENDANCE.

A. Course placement – When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes but is not limited to Honors, International Baccalaureate, Advanced Placement, vocational, technical and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s).

B. Educational program placement – The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation/placement in like programs in the sending state. Such programs include, but are not limited to: 1) gifted and talented programs; and 2) English as a second language (ESL). This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services – 1) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on his/her current Individualized Education Program (IEP); and 2) In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Placement flexibility – Local education agency administrative officials shall have flexibility in waiving course/program prerequisites, or other preconditions for placement in courses/programs offered under the jurisdiction of the local education agency.

E. Absence as related to deployment activities – A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

ARTICLE VI.
ELIGIBILITY.

A. Eligibility for enrollment – Children of military families shall be eligible for enrollment in the public schools of North Carolina pursuant to the provisions of G.S. 115C-366, including the provisions of G.S. 115C-366(a3) that provides for admission, without the payment of tuition, of children of military families not domiciled within the school district, provided that the affidavits provided for in that section and other specified conditions are met.

B. Eligibility for extracurricular participation – State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in

extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE VII. GRADUATION.

In order to facilitate the on-time graduation of children of military families, states and local education agencies shall incorporate the following procedures:

A. Waiver requirements – Local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

B. Exit exams – States shall accept: 1) exit or end-of-course exams required for graduation from the sending state; or 2) national norm-referenced achievement tests or 3) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her Senior year, then the provisions of Article VII, Section C shall apply.

C. Transfers during Senior year – Should a military student transferring at the beginning or during his or her Senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with Sections A and B of this Article.

ARTICLE VIII. STATE COORDINATION.

A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least: the state superintendent of education, superintendent of a school district with a high concentration of military children, representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.

B. The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the Governor or as otherwise determined by each member state.

D. The compact commissioner and the military family education liaison designated herein shall be ex-officio members of the State Council, unless either is already a full voting member of the State Council.

ARTICLE IX INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The activities of the Interstate Commission are the

formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from their state for a specified meeting.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of ex-officio, non-voting representatives who are members of interested organizations. Such ex-officio members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. Dept. of Defense shall serve as an ex-officio, nonvoting member of the executive committee.

F. Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

G. Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;

2. Disclose matters specifically exempted from disclosure by federal and state statute;

3. Disclose trade secrets or commercial or financial information which is privileged or confidential;
4. Involve accusing a person of a crime, or formally censuring a person;
5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
6. Disclose investigative records compiled for law enforcement purposes;
- or
7. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

H. Shall cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.

I. Shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

J. Shall create a process that permits military officials, education officials and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section shall not be construed to create a private right of action against the Interstate Commission, any member state, or any local education agency.

ARTICLE X.

POWERS AND DUTIES OF THE INTERSTATE COMMISSION.

The Interstate Commission shall have the following powers:

- A. To provide for dispute resolution among member states.
- B. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact. The rules shall have the force and effect of rules promulgated under the Administrative Procedures Act as found in Chapter 150B of the North Carolina General Statutes and shall be binding in the compact states to the extent and in the manner provided in this compact.
- C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules and actions.
- D. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process. Any action to enforce compliance with the compact provisions by the Interstate Commission shall be brought against a member state only.
- E. To establish and maintain offices which shall be located within one or more of the member states.
- F. To purchase and maintain insurance and bonds.
- G. To borrow, accept, hire or contract for services of personnel.
- H. To establish and appoint committees including, but not limited to, an executive committee as required by Article IX, Section E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate education, training and public awareness regarding the compact, its implementation and operation for officials and parents involved in such activity.

Q. To establish uniform standards for the reporting, collecting and exchanging of data.

R. To maintain corporate books and records in accordance with the bylaws.

S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

T. To provide for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

ARTICLE XI

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

1. Establishing the fiscal year of the Interstate Commission;
2. Establishing an executive committee, and such other committees as may be necessary;
3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;
4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;
5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;
6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations.
7. Providing "start up" rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve

without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

C. Executive Committee, Officers and Personnel

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:
 - a. Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;
 - b. Overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and
 - c. Planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the Interstate Commission.
2. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a Member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

D. The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

1. The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.
2. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or

- alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.
3. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XII

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. Rulemaking Authority – The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this Compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Act, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

B. Rulemaking Procedure – Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

C. Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

D. If a majority of the legislatures of the compacting states rejects a Rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

ARTICLE XIII

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

A. Oversight

1. The executive, legislative and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as rules promulgated under the Administrative Procedures Act as found in Chapter 150B of the North Carolina General Statutes.
2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission.
3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact or promulgated rules.

B. Default, Technical Assistance, Suspension and Termination – If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

1. Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default.
2. Provide remedial training and specific technical assistance regarding the default.
3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.
4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.
5. The state which has been suspended or terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of suspension or termination including obligations, the performance of which extends beyond the effective date of suspension or termination.
6. The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.
7. The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

C. Dispute Resolution

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.
2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.
2. The Interstate Commission, may by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the compact, its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be

- awarded all costs of such litigation including reasonable attorney's fees.
3. The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

ARTICLE XIV
FINANCING OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XV
MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten (10) of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XVI
WITHDRAWAL AND DISSOLUTION

A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute, which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member jurisdiction.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate

Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

B. Dissolution of Compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one (1) member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVII

SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XVIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

A Other Laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

2. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

"§ 115C-407.6. Creation of a State Council.

The State Board of Education shall establish a State Council, as required by Article VIII of the compact. The membership of the State Council shall include, at a minimum, the Superintendent of Public Instruction, a superintendent of a local school administrative unit with a high concentration of military children, a representative from a military installation, a representative of the executive branch of government, a representative of the North Carolina School Boards Association, a representative of the North Carolina Association of School Administrators, a member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and a member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.

"§ 115C-407.7. Appointment of compact commissioner.

As required by Article VIII of the compact, the Governor shall appoint as compact commissioner a licensed North Carolina attorney who represents at least one local board of education, with preference given to an attorney representing a local board of education with a high concentration of military children or an attorney familiar with military issues. The compact commissioner shall be responsible for the administration and management of the State's participation in the compact.

"§ 115C-407.8. Effective date of compact.

This Article becomes effective July 1, 2008, or upon enactment of the compact into law by nine other states, whichever date occurs later."

SECTION 2. G.S. 115C-366(a3)(1)(g) reads as rewritten:

"(g) The parent or legal guardian is one of the following:

- (1) ~~on~~ On active military duty and is deployed out of the local school administrative unit in which the student resides; 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 dies on active duty or as a result of injuries sustained on active duty, but only for a period of one year after death.

For purposes of this sub-subdivision, the term "active duty" does not include periods of active duty for training for less than 30 days. Assignment under this sub-subdivision is only available if some evidence of the deployment is tendered with the affidavits required under subdivision (3) of this subsection."

SECTION 3. It is the goal of the General Assembly to ensure that low-wealth schools are enabled to administer and comply with the requirements of the Interstate Compact on Educational Opportunity for Military Children. It is the intent of the General Assembly to appropriate funds in the sum of twenty-five thousand dollars (\$25,000) annually to the Department of Public Instruction to offset costs for low-wealth schools for administration of the Interstate Compact on Educational Opportunity for Military Children, beginning with the 2009-2010 school year or the enactment of the compact, whichever occurs later.

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2008.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 12:05 p.m. this 7th day of August, 2008