

1 **R277. Education, Administration.**

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

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

4 (1) This rule is authorized by:

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

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

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

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

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

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

18

19 **R277-616-2. Definitions.**

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

22 (2) "Emancipated minor" means:

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

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

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

31 (4) "Homeless child" or "homeless youth" means a child who:

32 (a) lacks a fixed, regular, and adequate nighttime residence;

33 (b) has primary nighttime residence in a homeless shelter, welfare hotel, motel,
34 congregate shelter, domestic violence shelter, car, abandoned building, bus or train
35 station, trailer park, or camping ground;

36 (c) sleeps in a public or private place not ordinarily used as a regular sleeping
37 accommodation for human beings;

38 (d) is, due to loss of housing or economic hardship, or a similar reason, living with
39 relatives or friends usually on a temporary or emergency basis due to lack of housing; or

40 (e) is a runaway, a child or youth denied housing by his family, or school-age
41 unwed mother living in a home for unwed mothers, who has no other housing available.

42 (5) "School district of residence for a homeless child or youth" means the school
43 district in which the student or the student's legal guardian or both currently resides or the
44 charter school that the student is attending for the period that the student or student's
45 family satisfies the homeless criteria.

46

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

49 (1) Under the McKinney-Vento Homeless Assistance Act of 1987, Title VII,
50 Subtitle B, as amended, 42 U.S.C. 11431 through 11435, homeless children are entitled to
51 immediate enrollment and full participation even if they are unable to produce records
52 which may include medical records, birth certificates, school records, or proof of residency
53 normally required for enrollment.

54 (2) A homeless child or homeless youth shall:

55 (a) be immediately enrolled even if the homeless youth does not have
56 documentation required under Sections [53G-9-402](#), [302](#), [303](#), [304](#) and [Title 53G, Chapter](#)
57 [6, Part 3, District of Residency](#);

58 (b) be allowed to continue to attend his school of origin, to the extent feasible,
59 unless it is against the parent's wishes;

60 (c) be permitted to remain in the student's school of origin for the duration of the
61 homelessness and until the end of any academic year in which the student moves into
62 permanent housing; or

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

65 (e) have all fees waived that may hinder the student from full participation in
66 school sponsored activities including fees as described in Section [R277-407-5](#).

67 ([2]3) A determination of a residence or domicile for a homeless youth or
68 emancipated minor may include consideration of the following criteria:

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

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

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

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

76 ([3]4) Determination of a residence or domicile for a homeless youth or
77 emancipated minor may not be based upon:

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

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

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

81 ([4]5) If there is a dispute as to the residence or the status of an emancipated

82 minor or an unaccompanied youth, the issue may be referred to the Superintendent for
83 resolution.

84 ([5]6) The purpose of federal homeless education legislation is to ensure that a
85 child's education is not needlessly disrupted because of homelessness.

86 ([6]7) If a child's residence or eligibility is in question, the child shall be admitted to
87 school until the issue is resolved.

88

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

90 (1) If guardianship of a minor child is awarded to a resident of a school district by
91 action of a court or through appointment by a school district under Section [53G-6-303](#), the
92 child becomes a resident of the school district in which the guardian resides.

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

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

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

98 **Authorizing, and Implemented or Interpreted Law:** [Art X Sec 3](#); [53E-3-401\(4\)](#);

99 [53G-6-302\(6\)](#); [53G-6-303](#)