

- 1 d. The physical or mental condition of the parent or legal guardian
2 is such that he or she cannot provide adequate care and
3 supervision of the student, or
4 e. The loss or uninhabitability of the student's home as the result
5 of a natural disaster;
- 6 (2) The student is not currently under a term of suspension or expulsion
7 from a school for conduct that could have led to a suspension or an
8 expulsion from the local school administrative unit; and
- 9 (3) The adult with whom the student resides and the student's parent,
10 guardian, or legal custodian have each completed and signed separate
11 affidavits that:
- 12 a. Confirm the qualifications set out in this subsection establishing
13 the student's residency,
14 b. Attest that the student's claim of residency in the unit is not
15 primarily related to attendance at a particular school within the
16 unit, and
17 c. Attest that the adult with whom the student is residing has been
18 given and accepts responsibility for educational decisions for
19 the child, including receiving notices of discipline under
20 G.S. 115C-391, attending conferences with school personnel,
21 granting permission for school-related activities, and taking
22 appropriate action in connection with student records. The adult
23 under this subsection shall have the same legal authority,
24 responsibility, and liability regarding the student as a parent or
25 legal custodian would have.

26 For purposes of subdivision (1)c. of this subsection, a student shall be deemed to be
27 abused or neglected if there has been an adjudication of that issue. The State Board may
28 adopt an additional definition of abuse and neglect and that definition shall also apply to
29 this subsection.

30 If the student's parent, guardian, or legal custodian is unable, refuses, or is otherwise
31 unavailable to sign the affidavit, then the adult with whom the student is living shall
32 attest to that fact in the affidavit. The adult with whom the student is residing shall have
33 the same legal authority, responsibility, and liability as the parent or legal guardian,
34 even if the parent or legal custodian does not sign the above-mentioned affidavit.

35 Upon receipt of both affidavits or an affidavit from the adult with whom the student
36 is living that includes an attestation that the student's parent, guardian, or legal custodian
37 is unable, refuses, or is otherwise unavailable to sign an affidavit, the local board shall
38 admit and assign as soon as practicable the student to an appropriate school, as
39 determined under the local board's school assignment policy, pending the results of any
40 further procedures for verifying eligibility for attendance and assignment within the
41 local school administrative unit.

42 If it is found that the information contained in either or both affidavits is false, then
43 the local board may, unless the student is otherwise eligible for school attendance under
44 other laws or local board policy, remove the student from school. If a student is

1 removed from school, the board shall provide an opportunity to appeal the removal
2 under the appropriate policy of the local board and shall notify any person who signed
3 the affidavit of this opportunity. If it is found that a person willfully and knowingly
4 provided false information in the affidavit, the maker of the affidavit shall be guilty of a
5 Class 1 misdemeanor and shall pay to the local board an amount equal to the cost of
6 educating the student during the period of enrollment. Repayment shall not include
7 State funds.

8 Affidavits shall include, in large print, the penalty, including repayment of the cost
9 of educating the student, for providing false information in an affidavit.

10"

11 **SECTION 2.** G.S. 115C-111 reads as rewritten:

12 "**§ 115C-111. Free appropriate education for all children with special needs.**

13 No child with special needs between the ages specified by G.S. 115C-109 shall be
14 denied a free appropriate public education or be prevented from attending the public
15 schools of the local educational agency in which he or his parents or legal guardian
16 ~~resides~~ is domiciled or from which he receives services or from attending any other
17 public program of free appropriate public education because he is a child with special
18 needs. If it appears that a child should receive a program of free appropriate public
19 education in a program operated by or under the supervision of the Department of
20 Health and Human Services or the Department of Juvenile Justice and Delinquency
21 Prevention, the local educational agency shall confer with the appropriate Department
22 of Health and Human Services or Department of Juvenile Justice and Delinquency
23 Prevention staff for their participation and determination of the appropriateness of
24 placement in said program and development of the child's individualized education
25 program. The individualized education program may then be challenged under the due
26 process provisions of G.S. 115C-116. Every child with special needs shall be entitled to
27 attend these nonresidential schools or programs and receive from them free appropriate
28 public education."

29 **SECTION 3.** This act becomes effective July 1, 2005, and applies beginning
30 with the 2005-2006 school year.