

O.C.G.A. § 20-2-133

GEORGIA CODE
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*** Current through the 2008 Regular Session ***

TITLE 20. EDUCATION
CHAPTER 2. ELEMENTARY AND SECONDARY EDUCATION
ARTICLE 6. QUALITY BASIC EDUCATION
PART 1. SHORT TITLE AND PURPOSE

O.C.G.A. § 20-2-133 (2008)

§ 20-2-133. Free public instruction; exceptions; eligibility; custody of child; notification of local unit of administration of child's location; transfer and utilization of records; funding

(a) Admission to the instructional programs funded under this article shall be free to all eligible children and youth who enroll in such programs within the local school system in which they reside and to children as provided in subsection (b) of this Code section. Therefore, a local school system shall not charge resident students tuition or fees, nor shall such students be required to provide materials or equipment except for items specified by the State Board of Education, as a condition of enrollment or full participation in any instructional program. However, a local school system is authorized to charge nonresident students tuition or fees or a combination thereof; provided, however, that such charges to a student shall not exceed the average locally financed per student cost for the preceding year, excluding the local five mill share funds required pursuant to Code Section 20-2-164; provided, further, that no child in a placement operated by the Department of Human Resources or for which payment is made by the Department of Juvenile Justice or the Department of Human Resources or any of its divisions and no child who is in the physical or legal custody of the Department of Juvenile Justice or under the care or physical or legal custody of the Department of Human Resources or any of its divisions shall be charged tuition, fees, or a combination thereof. A local school system is further authorized to contract with a nonresident student's system of residence for payment of tuition. The amount of tuition paid directly by the system of residence shall be limited only by the terms of the contract between systems. Local units of administration shall provide textbooks or any other reading materials to each student enrolled in a class which has a course of study that requires the use of such materials by the students.

(b) (1) Any child, except a child in a youth development center as specifically provided in this paragraph, who is in the physical or legal custody of the Department of Juvenile Justice or the Department of Human Resources, or in a placement operated by the Department of Human Resources, or in a facility or placement paid for by the Department of Juvenile Justice or the Department of Human Resources or any of its divisions and who is physically present within the geographical area served by a local unit of administration for any length of time is eligible for enrollment in the educational programs of that local unit of administration; provided, however, that the child meets the age eligibility requirements established by this article. The local unit of administration of the school district in which such child is present shall be responsible for the provision of all educational programs, including special education and related services, at no charge as long as the child is physically present in the school district. A child will be considered in the physical or legal

custody of the Department of Juvenile Justice or the Department of Human Resources or any of its divisions if custody has been awarded either temporarily or permanently by court order or by voluntary agreement, or if the child has been admitted or placed according to an individualized treatment or service plan of the Department of Human Resources. No child in a youth development center, regardless of his or her custody status, shall be eligible for enrollment in the educational programs of the local unit of administration of the school district in which that youth development center is located. No child or youth in the custody of the Department of Corrections or the Department of Juvenile Justice and confined in a facility as a result of a sentence imposed by a court shall be eligible for enrollment in the educational programs of the local unit of administration of the school district where such child or youth is being held.

(2) Except as otherwise provided in this Code section, placement in a facility by a parent or by another local unit of administration shall not create an obligation, financial or otherwise, on the part of the local unit of administration in which the facility is located to educate the child.

(3) For any child described in paragraph (1) of this subsection, the custodian of or placing agency for the child shall notify the appropriate local unit of administration at least five days in advance of the move, when possible, when the child is to be moved from one local unit of administration to another.

(4) When the custodian of or placing agency for any child notifies a local unit of administration, as provided in paragraph (3) of this subsection, that the child may become eligible for enrollment in the educational programs of a local unit of administration, such local unit of administration shall request the transfer of the educational records and Individualized Education Programs (IEP's) and all education related evaluations, assessments, social histories, and observations of the child from the appropriate local unit of administration no later than ten days after receiving notification. Notwithstanding any other law to the contrary, the custodian of the records has the obligation to transfer these records and the local unit of administration has the right to receive, review, and utilize these records. Notwithstanding any other law to the contrary, upon the request of a local unit of administration responsible for providing educational services to a child described in paragraph (1) of this subsection, the Department of Juvenile Justice or the Department of Human Resources shall furnish to the local unit of administration all medical and educational records in the possession of the Department of Juvenile Justice or the Department of Human Resources pertaining to any such child, except where consent of a parent or legal guardian is required in order to authorize the release of any of such records, in which event the Department of Juvenile Justice or the Department of Human Resources shall obtain such consent from the parent or guardian prior to such release.

(5) Any local unit of administration which serves a child pursuant to paragraph (1) of this subsection shall receive in the form of annual grants in state funding for that child the difference between the actual state funds received for that child pursuant to Code Section 20-2-161 and the reasonable and necessary expenses incurred in educating that child, calculated pursuant to regulations adopted by the State Board of Education. Each local board of education shall be held harmless by the state from expending local funds for educating students pursuant to this Code section; provided, however, that this shall only apply to students who are unable to leave the facility in which they have been placed.

(6) Enrollment of an eligible child pursuant to this Code section shall be effectuated in accordance with rules and regulations adopted by the State Board of Education.

(7) The Department of Education, the Department of Human Resources, the Department of Juvenile Justice, and the local units of administration where Department of Education, Department of Juvenile Justice, or Department of Human Resources placements, facilities, or contract facilities are located shall jointly develop procedures binding on all agencies implementing the provisions of this Code section applicable to children and youth in the physical or legal custody of the Department of Juvenile Justice or under the care or physical or legal custody of the Department of Human Resources.

HISTORY: Code 1981, § 20-2-133, enacted by Ga. L. 1987, p. 1169, § 1; Ga. L. 1988, p. 612, § 4; Ga. L. 1989, p. 1693, § 1; Ga. L. 1991, p. 1825, § 1; Ga. L. 1992, p. 1983, § 20; Ga. L. 1997, p. 1453, § 1; Ga. L. 1998, p. 1582, § 1; Ga. L. 1999, p. 296, § 24; Ga. L. 2000, p. 618, § 96; Ga. L. 2006, p. 1052, § 1/SB 618.



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