



Educating adult students, emancipated minors and unaccompanied youth

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This fact sheet is designed to address the issues of residence, attendance and tuition, and the rights of adult students, emancipated minors and unaccompanied youth, which often present unique issues for Ohio's public schools. The information is of a general nature. Readers should seek the advice of legal counsel with specific legal problems or questions.

Adult students

Who is an adult student?

An adult student is any student who is at least 18 years old. Once a student reaches the age of 18, the student has reached the age of majority in Ohio and is an adult in the eyes of the law.

Where can adult students attend school tuition-free?

Adult students who reside with their parents are entitled to attend school tuition-free in the district where their parents reside until they reach age 22 (Ohio Revised Code [\(RC\) 3313.64\(A\)\(1\)](#)).

Adult students who do not reside with their parents, who “support themselves by their own labor” and who have not completed the high school curriculum or an individualized education program (IEP) are entitled to attend school tuition-free in the school district in which they reside ([RC 3313.64\(F\)\(1\)](#)).

What does it mean for adult students to “support themselves by their own labor”?

This term is not defined in the Ohio Revised Code. The Ohio attorney general has issued an opinion that the phrase “support themselves by their own labor” refers to “providing one’s own necessities of life such as food, shelter and clothing by means of one’s own work” ([2014 Ohio Atty.Gen.Ops. No. 2014-026](#)).

To fit this definition, students may not be dependent on their parents or others for financing or furnishing the necessities of human existence. The opinion states that students may support themselves in a variety of ways, and such support is not limited to labor that is characterized by a particular manner of compensation. For example, adult students may receive wages or other forms of monetary compensation when they perform work for another; they may receive imputed income when they perform services for their own benefit; or they may receive in-kind compensation for services performed for another. In each of these cases, it is possible for adult students to “support themselves by their own labor,” so long as the students’ labor provides the means of their self-sufficiency.

May a district discipline or unilaterally withdraw an adult student who does not attend school regularly?

The compulsory school age is between the ages of 6 and 18 ([RC 3321.01](#)). Accordingly, an adult student no longer is compelled to attend school and no longer can be referred to juvenile court for juvenile truancy charges for failing to attend school.

The right to withdraw from school is a right that belongs to the student. Students who have not met graduation requirements, have not submitted withdrawal documentation and are absent without excuse cannot be withdrawn

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For more information on this subject, please contact OSBA’s Division of Legal Services

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for nonattendance simply because they are 18 years old.

Keep in mind, however, that administrators may apply the same attendance and discipline codes to adult students that are applied to all other students in school. It also is permissible to have a separate policy specifically addressing adult students and their responsibilities.

Are there any other options for adult students who are disrupting the educational process for younger students?

Yes. Pursuant to [RC 3319.01](#), the superintendent of schools has the authority to direct and assign pupils to the appropriate school and grade. A superintendent may assign an adult student to an alternative school or program if it is more appropriate for the student than the general classroom. A disciplinary transfer, rather than an academic placement, should be accompanied by some level of due process. A case-by-case determination should be made regarding adult student assignments.

What are the rules on student records of adult students?

Ohio law and the Family Educational Rights and Privacy Act (FERPA) provide that when a student reaches age 18, the student acquires the right to consent to the release of personally identifiable information contained in the student's education records. This means that if adult students do not want to have their school grades or records transmitted to their parents, the students have the right to make that decision.

However, FERPA permits, but does not require, disclosure of information in the student's education records to parents without the consent of the adult student if the adult student is still claimed as a dependent for tax purposes under the IRS rules ([34 CFR 99.31\(a\)\(8\)](#)).

Can adult students sign their own permission slips and release forms?

Yes. Adult students acquire the right to sign their own permission slips and write excuses for their own absences. Adult students should not be required to obtain a note from a parent to explain absences, although it is well within the school's authority to set up specific regulations that require compliance with alternate procedures. For example, an adult student may be required to submit a statement from a doctor or other health professional for absences due to illness in excess of a specified number of days.

Emancipated minors

Who or what is an emancipated minor?

Emancipated minors are students under the age of 18 who are independent from their parents or other legal guardian. The concept of emancipation in the law means that a minor's parents have released their claim to the services and earnings of the minor child. Practically speaking, it means that the emancipated minors are no longer under the physical custody and control of their parents, and the children are responsible for their own support. It is presumed that minors who reside with their parents are not emancipated. Emancipated minors have not reached the age of minority and do not have the capacity to contract.

Is there an emancipation proceeding in court, form or affidavit that indicates emancipation of a minor?

Generally, no. There is no legal process by which a minor may petition the court to become emancipated, however Ohio courts will consider it on a case-by-case basis. Emancipation may occur by an event or be inferred from a student's circumstances. For example, minors may become emancipated through marriage or by enlisting in the military. Additionally, when parents allow their children to move out, become employed and support themselves, emancipation may occur by inference.

A 17-year-old student's parents kicked him out of the house. Is he emancipated?

The act of the parents is important to a determination about emancipation. In this case, the parents have manifested their apparent intention to release their claim upon the child's services or earnings. A child who runs away from home is not emancipated, unless a court finds otherwise. This is because it is the parents who have the right to release their claim upon the child's services and earnings. The Interstate Compact for Juveniles ([RC 2151.56](#)) provides that a child who has absconded, escaped or run away may be returned across state lines to the child's parents or guardians.

A 17-year-old student is in the custody of someone other than the student's parents. Is the child emancipated?

Not necessarily. When a child is in the custody of someone other than the child's parents, that person is acting in place of the parent. The guardian or custodian is then the person who has a claim to the services and earnings of the child. If the guardian or custodian released those rights, the child would be emancipated if no other custodian was named ([1974 Ohio Atty.Gen.Ops. No. 74-076](#)).

Can emancipated minors sign their own permission slips and release forms?

No. Release forms for emancipated minors should be mailed to parents or other legal custodians because minors do not have the capacity to contract, and any contract an emancipated minor executes is void or voidable. Parents do not relinquish all rights to a child upon emancipation. Emancipation deals only with the right to services and earnings. Therefore, emergency medical authorizations, release forms and other kinds of permission slips still should be mailed to parents if there is no spouse or guardian who has the capacity to sign for the child. In situations in which this is not appropriate and there is no other legal guardian who has the capacity to sign, the school may need to seek required consent from a court-appointed guardian ad litem. Contact board counsel if you encounter such a situation.

Are the parents of an emancipated minor entitled to view school records concerning their child, even if the child objects?

Yes. In the absence of a court order to the contrary, parents are entitled to view the student's school record. Again, the parent has released their claim only to the child's earnings and services, but other parental rights continue. Once the emancipated minor becomes an adult, the answer to this question may be different.

What about minor students who are married?

The marriage of a minor supersedes the relationship of parent and child. A married student's services and earnings are for the new family. Minors who are married are emancipated from their parents and are entitled to attend school free in the child's district of residence ([RC 3313.64\(F\)\(2\)](#)). If the spouse of the minor is an adult, the spouse may sign releases, write notes for the absence of the minor and sign any other required documentation.

What if both the married student and spouse are minors?

In that case, it appears that both minors are emancipated from their parents. However, because neither is an adult, there are potential problems with the ability to sign permission slips and release forms since minors are legally incapable of consent. In these cases, the school district may need to consult with legal counsel. The signatures of the parents or appointment of a guardian ad litem in probate court, who has the capacity to consent on behalf of the minor and sign required forms, may be necessary in some situations.

Unaccompanied youth

Who or what is an unaccompanied youth?

The McKinney-Vento Act defines "unaccompanied youth" as "a homeless child or youth not in the physical custody of a parent or guardian" ([42 USC 11434a\(6\)](#)). To be considered an unaccompanied youth, two conditions must be met: 1) the child's or youth's living arrangement meets the McKinney-Vento's definition of homeless; and 2) the child or youth is not in the physical custody of a parent or guardian. The McKinney-Vento Act includes no specific age requirements to qualify as an unaccompanied youth.

The National Center for Homeless Education (NCHE) created a [flowchart](#) that illustrates when an unaccompanied youth may be considered homeless (and eligible for McKinney-Vento services) and when the youth may not be considered homeless.

The definition of an "unaccompanied youth" may include children who are awaiting immigration proceedings while residing in local community with a parent, family member, or other adult sponsor. School districts should refer children to the district's local liaison for further consideration and a determination of McKinney-Vento eligibility. The U.S. Department of Justice has also put together a [fact sheet](#) that provides additional information about a district's obligation to enroll and provide services to children during the pendency of any immigration proceedings.

Where can unaccompanied youth attend school tuition-free?

Unaccompanied youth have the right to attend either the local attendance area school or the school of origin, with the placement decision based on the student's best interest, giving priority to the youth's request ([42 USC 11432\(g\)\(3\)\(B\)\(iii\)](#)). The term "school of origin" means the school that a child or youth attended when permanently housed or the school in which the child or youth was last enrolled.

The McKinney-Vento Act requires districts to enroll unaccompanied youth in school immediately, even if they lack required enrollment documents. School districts have established different procedures for enrolling unaccompanied youth. Some permit unaccompanied youths to enroll themselves, some have the liaison handle enrollment and others use caregiver forms to allow adult caregivers to enroll youth.

Schools may not condition enrollment upon the receipt of proof of legal guardianship by caregivers of unaccompanied youth, nor may they require caregivers to become legal guardians within a certain period of time after the child enrolls in school.

Can unaccompanied youth sign their own permission slips and release forms?

The McKinney-Vento Act defines enrollment as “attending classes and participating fully in school activities.” Because of this definition, districts are encouraged to develop procedures not only related to enrolling unaccompanied youth, but also related to determining who can sign for issues and activities as part of a student’s ongoing school participation. This could include signature by the youths themselves, the liaison or a caretaker.

The information in this factsheet is designed to provide authoritative general information. It should not be relied upon as legal advice. If legal advice is required, the services of an attorney should be obtained.