

1 **EDUCATIONAL SERVICES FOR STUDENTS IN HUMAN**
2 **SERVICES PROGRAMS**

3 2019 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Derrin R. Owens**

6 Senate Sponsor: Keith Grover

7
8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions regarding children who attend public school while served
11 by a human services program.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines, in the context of a child's school district of residency, the term
- 15 "supervision" of a child who is served by a human services program;
- 16 ▶ modifies provisions regarding the educational service plan required for a child who
- 17 is served by a human services program and attends a public school; and
- 18 ▶ makes technical changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **53G-6-302**, as last amended by Laws of Utah 2018, Chapter 64 and renumbered and
26 amended by Laws of Utah 2018, Chapter 3

27 **62A-2-108.1**, as last amended by Laws of Utah 2018, Chapter 415



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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53G-6-302** is amended to read:

53G-6-302. Child's school district of residence -- Determination -- Responsibility for providing educational services.

(1) As used in this section:

(a) "Health care facility" means the same as that term is defined in Section [26-21-2](#).

(b) "Human services program" means the same as that term is defined in Section [62A-2-101](#).

(c) "Supervision" means a minor child is:

(i) receiving services from a state agency, local mental health authority, or substance abuse authority with active involvement or oversight; and

(ii) engaged in a human services program that is properly licensed or certified and has provided the school district receiving the minor child with an education plan that complies with the requirements of Section [62A-2-108.1](#).

(2) The school district of residence of a minor child whose custodial parent or legal guardian resides within Utah is:

(a) the school district in which the custodial parent or legal guardian resides; or

(b) the school district in which the child resides:

(i) while in the custody or under the supervision of a Utah state agency, local mental health authority, or substance abuse authority;

(ii) while under the supervision of a private or public agency which is in compliance with Section [62A-4a-606](#) and is authorized to provide child placement services by the state;

(iii) while living with a responsible adult resident of the district, if a determination has been made in accordance with rules made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(B) exigent circumstances exist that do not permit the case to be appropriately addressed under Section [53G-6-402](#); and

(C) considering the child to be a resident of the district under this Subsection (2)(b)(iii)

59 does not violate any other law or rule of the State Board of Education;

60 (iv) while the child is receiving services from a health care facility or human services
61 program, if a determination has been made in accordance with rules made by the State Board of
62 Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

63 (A) the child's physical, mental, moral, or emotional health will best be served by
64 considering the child to be a resident for school purposes;

65 (B) exigent circumstances exist that do not permit the case to be appropriately
66 addressed under Section 53G-6-402; and

67 (C) considering the child to be a resident of the district under this Subsection (2)(b)(iv)
68 does not violate any other law or rule of the State Board of Education; or

69 (v) if the child is married or has been determined to be an emancipated minor by a
70 court of law or by a state administrative agency authorized to make that determination.

71 (3) A minor child whose custodial parent or legal guardian does not reside in the state
72 is considered to be a resident of the district in which the child lives, unless that designation
73 violates any other law or rule of the State Board of Education, if:

74 (a) the child is married or an emancipated minor under Subsection (2)(b)(v);

75 (b) the child lives with a resident of the district who is a responsible adult and whom
76 the district agrees to designate as the child's legal guardian under Section 53G-6-303;

77 (c) if permissible under policies adopted by a local school board, it is established to the
78 satisfaction of the local school board that:

79 (i) the child lives with a responsible adult who is a resident of the district and is the
80 child's noncustodial parent, grandparent, brother, sister, uncle, or aunt;

81 (ii) the child's presence in the district is not for the primary purpose of attending the
82 public schools;

83 (iii) the child's physical, mental, moral, or emotional health will best be served by
84 considering the child to be a resident for school purposes; and

85 (iv) the child is prepared to abide by the rules and policies of the school and school
86 district in which attendance is sought; or

87 (d) it is established to the satisfaction of the local school board that:

88 (i) the child's parent or guardian moves from the state;

89 (ii) the child's parent or guardian executes a power of attorney under Section 75-5-103

90 that:

91 (A) meets the requirements of Subsection (4); and

92 (B) delegates powers regarding care, custody, or property, including schooling, to a
93 responsible adult with whom the child resides;

94 (iii) the responsible adult described in Subsection (3)(d)(ii)(B) is a resident of the
95 district;

96 (iv) the child's physical, mental, moral, or emotional health will best be served by
97 considering the child to be a resident for school purposes;

98 (v) the child is prepared to abide by the rules and policies of the school and school
99 district in which attendance is sought; and

100 (vi) the child's attendance in the school will not be detrimental to the school or school
101 district.

102 (4) (a) If admission is sought under Subsection (2)(b)(iii), (3)(c), or (3)(d), then the
103 district may require the person with whom the child lives to be designated as the child's
104 custodian in a durable power of attorney, issued by the party who has legal custody of the child,
105 granting the custodian full authority to take any appropriate action, including authorization for
106 educational or medical services, in the interests of the child.

107 (b) Both the party granting and the party empowered by the power of attorney shall
108 agree to:

109 (i) assume responsibility for any fees or other charges relating to the child's education
110 in the district; and

111 (ii) if eligibility for fee waivers is claimed under Section [53G-7-504](#), provide the
112 school district with all financial information requested by the district for purposes of
113 determining eligibility for fee waivers.

114 (c) Notwithstanding Section [75-5-103](#), a power of attorney meeting the requirements of
115 this section and accepted by the school district shall remain in force until the earliest of the
116 following occurs:

117 (i) the child reaches the age of 18, marries, or becomes emancipated;

118 (ii) the expiration date stated in the document; or

119 (iii) the power of attorney is revoked or rendered inoperative by the grantor or grantee,
120 or by order of a court of competent jurisdiction.

121 (5) A power of attorney does not confer legal guardianship.

122 (6) Each school district is responsible for providing educational services for all
123 children of school age who are residents of the district.

124 Section 2. Section **62A-2-108.1** is amended to read:

125 **62A-2-108.1. Coordination of human services and educational services --**
126 **Licensing of programs -- Procedures.**

127 (1) [~~For purposes of~~] As used in this section:

128 (a) [~~"accredited"~~] "Accredited private school" means a private school that is accredited
129 by an accrediting entity recognized by the Utah State Board of Education[~~;~~ ~~and~~].

130 (b) [~~"education"~~] "Education entitled children" means children:

131 (i) subject to compulsory education under Section [53G-6-202](#);

132 (ii) subject to the school attendance requirements of Section [53G-6-203](#); or

133 (iii) entitled to educational services under Section [53E-7-202](#).

134 (2) Subject to Subsection [~~(8) or~~] (9) or (10), a human services program may not be
135 licensed to serve education entitled children unless the human services program presents an
136 educational service plan that includes evidence:

137 (a) satisfactory to:

138 (i) the office; and

139 (ii) (A) the local school board of the school district in which the human services
140 program will be operated; or

141 (B) the school district superintendent of the school district in which the human services
142 program will be operated; and

143 (b) that children served by the human services program shall receive appropriate
144 educational services satisfying the requirements of applicable law.

145 (3) An educational services plan may be accepted if the educational services plan
146 includes:

147 (a) the following information provided by the human services program:

148 (i) the number of children served by the human services program estimated to be
149 enrolled in the local school district;

150 (ii) the ages and grade levels of children served by the human services program
151 estimated to be enrolled in the local school district;

152 (iii) the subjects or hours of the school day for which children served by the human
153 services program are estimated to enroll in the local school district;

154 (iv) the direct contact information for the purposes of taking custody of a child served
155 by the human services program during the school day in case of illness, disciplinary removal by
156 a school, or emergency evacuation of a school; and

157 (v) the method or arrangements for the transportation of children served by the human
158 services program to and from the school; and

159 (b) the following information provided by the school district:

160 (i) enrollment procedures and forms;

161 (ii) documentation required prior to enrollment from each of the child's previous
162 schools of enrollment;

163 (iii) if applicable, a schedule of the costs for tuition and school fees; and

164 (iv) schools and services for which a child served by the human services program may
165 be eligible.

166 ~~[(3)]~~ (4) Subject to Subsection ~~[(8) or]~~ (9) or (10), if a human services program serves
167 any education entitled children whose custodial parents or legal guardians reside outside the
168 state, then the program shall also provide an educational funding plan that includes evidence:

169 (a) satisfactory to:

170 (i) the office; and

171 (ii) (A) the local school board of the school district in which the human services
172 program will be operated; or

173 (B) the school district superintendent of the school district in which the human services
174 program will be operated; and

175 (b) that all costs for educational services to be provided to the education entitled
176 children, including tuition, and school fees approved by the local school board, shall be borne
177 by the human services program.

178 ~~[(4)]~~ (5) Subject to Subsection ~~[(8) or]~~ (9) or (10), and in accordance with Subsection
179 (2), the human services program shall obtain and provide the office with a letter:

180 (a) from the entity referred to in Subsection (2)(a)(ii):

181 (i) approving the educational service plan referred to in Subsection ~~[(2)]~~ (3); or

182 (ii) (A) disapproving the educational service plan referred to in Subsection ~~[(2)]~~ (3);

183 and

184 (B) listing the specific requirements the human services program must meet before
185 approval is granted; and

186 (b) from the entity referred to in Subsection [~~(3)~~] (4)(a)(ii):

187 (i) approving the educational funding plan, referred to in Subsection [~~(3)~~] (4); or

188 (ii) (A) disapproving the educational funding plan, referred to in Subsection [~~(3)~~] (4);

189 and

190 (B) listing the specific requirements the human services program must meet before
191 approval is granted.

192 [~~(5)~~] (6) Subject to Subsection [~~(8)~~] (9), failure of a local school board or school
193 district superintendent to respond to a proposed plan within 45 days of receipt of the plan is
194 equivalent to approval of the plan by the local school board or school district superintendent if
195 the human services program provides to the office:

196 (a) proof that:

197 (i) the human services program submitted the proposed plan to the local school board
198 or school district superintendent; and

199 (ii) more than 45 days have passed from the day on which the plan was submitted; and

200 (b) an affidavit, on a form produced by the office, stating:

201 (i) the date that the human services program submitted the proposed plan to the local
202 school board or school district superintendent;

203 (ii) that more than 45 days have passed from the day on which the plan was submitted;

204 and

205 (iii) that the local school board or school district superintendent described in
206 Subsection [~~(5)~~] (6)(b)(i) failed to respond to the proposed plan within 45 days from the day on
207 which the plan was submitted.

208 [~~(6)~~] (7) If a licensee that is licensed to serve an education entitled child fails to comply
209 with [~~its~~] the licensee's approved educational service plan or educational funding plan, then:

210 (a) the office shall give the licensee notice of intent to revoke the licensee's license; and

211 (b) if the licensee continues its noncompliance for more than 30 days after receipt of
212 the notice described in Subsection [~~(6)~~] (7)(a), the office shall revoke the licensee's license.

213 [~~(7)~~] (8) If an education entitled child whose custodial parent or legal guardian resides

214 within the state is provided with educational services by a school district other than the school
215 district in which the custodial parent or legal guardian resides, then the funding provisions of
216 Section [53G-6-405](#) apply.

217 ~~[(8)]~~ (9) A human services program that is an accredited private school:

218 (a) for purposes of Subsection ~~[(2)]~~ (3):

219 (i) is only required to submit proof to the office that the accreditation of the private
220 school is current; and

221 (ii) is not required to submit an educational service plan for approval by an entity
222 described in Subsection (2)(a)(ii);

223 (b) for purposes of Subsection ~~[(3)]~~ (4):

224 (i) is only required to submit proof to the office that all costs for educational services
225 provided to education entitled children will be borne by the human services program; and

226 (ii) is not required to submit an educational funding plan for approval by an entity
227 described in Subsection ~~[(3)]~~ (4)(a)(ii); and

228 (c) is not required to comply with Subsections ~~[(4) and]~~ (5) and (6).

229 ~~[(9)]~~ (10) Except for Subsection ~~[(7)]~~ (8), the provisions of this section do not apply to
230 a human services program that is ~~[(a)]~~ a licensed or certified foster home ~~[- and]~~ as defined in
231 Section [62A-2-101](#).

232 ~~[(b) required to be licensed by the office.]~~