

Independent Student Determination Emancipated Minors

Effective July 1, 2009, *Independent Students* for the purposes of the Higher Education Act of 1965 as amended (HEA) will include students who:

- are emancipated minors or are in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence;

Effective July 1, 2010, the HEA will redefine "emancipated students or in legal guardianship" to be students who:

- are, or were immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence.

Note: The change effective in 2010 will allow a student who was an emancipated minor or who was in legal guardianship before the age of majority to be Independent Student even though they are no longer minors after reaching the age of majority.

LOUISIANA LAW

AGE OF MAJORITY

The "age of majority" in Louisiana is 18. On the student's 18th birthday, he/she is no longer a minor. Once a student reaches the "age of majority", he /she is no longer "an emancipated minor" or "in legal guardianship."

EMANCIPATION

Effective January 1, 2009, Louisiana law will provide that a person is "emancipated" if one of the following three conditions apply:

- (1) **Judicial emancipation** – Louisiana minors who are at least *sixteen (16) years of age or older* may be emancipated by written order of a Louisiana court. Judicial emancipation may be for the full or limited emancipation of a minor.

Notes: (a) Full judicial emancipation confers all effects of majority on the person emancipated, unless otherwise provided by law.

(b) Limited judicial emancipation confers the effects of majority specified in the judgment of limited emancipation, unless otherwise provided by law.

(c) The HEA does not specifically limit emancipation to full emancipation. It is possible that a limited emancipation can be the basis for an Independent Student determination.

(d) A judicial emancipation can be modified or terminated by the court. The termination of judicial emancipation places the minor under the same authority to which he was subject prior to emancipation, unless otherwise ordered by the court.

(2) **Emancipation by marriage** – Louisiana minors are fully emancipated by marriage. Once emancipated by marriage, termination of the marriage does not affect emancipation (he/she is still emancipated).

- Notes:
- (a) A Louisiana minor must have the permission of tutor/custodian/both parents in order to marry.
 - (b) A Louisiana minor under *age sixteen (16)* must also have written authorization from judge with juvenile jurisdiction.
 - (c) Marriage alone is a basis for an Independent Student determination.

(3) **Limited emancipation by authentic act** – An authentic act signed by a minor who is at least *sixteen or older*, and by the parents of the minor, if parental authority exists, or by the tutor of the minor, if parental authority does not exist can grant limited emancipation that confers the capacity to make the kinds of juridical acts specified in the authentic act, unless otherwise provided by law.

- Notes:
- (a) An authentic act is a written document signed before a notary and two witnesses.
 - (b) Limited judicial emancipation confers the effects of majority specified in the judgment of limited emancipation, unless otherwise provided by law.
 - (c) The HEA does not specifically limit emancipation to full emancipation. It is possible that a limited emancipation can be the basis for an Independent Student determination.
 - (d) A limited emancipation can be modified or terminated by the parents or court. The termination of limited emancipation places the minor under the same authority to which he was subject prior to emancipation.

LEGAL GUARDIANSHIP

In Louisiana, a court may issue a written order that appoints a person to be the custodian of a minor, who for whatever reason is not in the custody of his parent(s). The order provides for the scope of the authority of the custodian, including whether the authority of the custodian is only over the minor or also over the minor's possessions.

LAW OF OTHER STATES/COUNTRIES

The requirements for emancipation of a minor differ from state to state and from country to country. Claims of emancipation in states other than Louisiana or in another country must be resolved by checking the laws of that particular state or country.