

## Educational Rights of Children and Youth Experiencing Homelessness

The McKinney-Vento Homeless Assistance Act is the primary piece of federal legislation dealing with the education of children and youth experiencing homelessness in U.S. public schools. It was reauthorized as Title X, Part C, of the No Child Left Behind Act in January 2002. To qualify for these rights, children and youth must be considered homeless according to the McKinney-Vento definition of homeless.

Children and youth experiencing homelessness have the right to

- Receive a free, appropriate public education.
- Enroll in school immediately, even if lacking documents normally required for enrollment.
  - Enroll in school and attend classes while the school gathers needed documents.
- Enroll in the local attendance area school or continue attending their school of origin (the school they attended when permanently housed or the school in which they were last enrolled), if that is the parent's, guardian's, or unaccompanied youth's preference is feasible. If the school district believes the school selected is not in the student's best interest, then the district must provide the parent, guardian, or unaccompanied youth with a written explanation of its position and inform him/her of the right to appeal its decision.
- Receive transportation to and from the school of origin, if requested by the parent, guardian, or unaccompanied youth.
  - Receive educational services comparable to those provided to other students, according to the student's need.

For the full text of the McKinney-Vento Act, please visit

<http://nche.ed.gov/downloads/legis/mv-essa.pdf>

The text of the Every Student Succeeds Act amendments to the Education for Homeless Children and Youth program that took effect on October 1, 2016 can be found at <http://nche.ed.gov/legis/mv.php>

## 42 USC § 11434a – DEFINITIONS

For purposes of this part:

(1) The terms “enroll” and “enrollment” include attending classes and participating fully in school activities.

(2) The term “homeless children and youths” —

(A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 11302 (a)(1) of this title); and

(B) includes—

(i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

(ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 11302 (a)(2)(C) [1] of this title);

(iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(iv) migratory children (as such term is defined in section 6399 of title 20) who qualify as homeless for the purposes of this part because the children are living in circumstances described in clauses (i) through (iii).

(3) The terms “local educational agency” and “State educational agency” have the meanings given such terms in section 7801 of title 20.

(4) The term “Secretary” means the Secretary of Education.

(5) The term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(6) The term “unaccompanied youth” includes a youth not in the physical custody of a parent or guardian.

## (3) LOCAL EDUCATIONAL AGENCY REQUIREMENTS

(A) In general - The local educational agency serving each child or youth to be assisted under this part shall, according to the child’s or youth’s best interest—

(i) continue the child's or youth's education in the school of origin for the duration of homelessness—

(I) in any case in which a family becomes homeless between academic years or during an academic year; or

(II) for the remainder of the academic year, if the child or youth becomes permanently housed during an academic year; or

(ii) enroll the child or youth in any public school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.

(B) BEST INTEREST - In determining the best interest of the child or youth under subparagraph (A), the local educational agency shall—

(i) to the extent feasible, keep a homeless child or youth in the school of origin, except when doing so is contrary to the wishes of the child's or youth's parent or guardian;

(ii) provide a written explanation, including a statement regarding the right to appeal under subparagraph (E), to the homeless child's or youth's parent or guardian, if the local educational agency sends such child or youth to a school other than the school of origin or a school requested by the parent or guardian; and

(iii) in the case of an unaccompanied youth, ensure that the homeless liaison designated under paragraph (1)(J)(ii) assists in placement or enrollment decisions under this subparagraph, considers the views of such unaccompanied youth, and provides notice to such youth of the right to appeal under subparagraph (E).

#### (C) ENROLLMENT

(i) The school selected in accordance with this paragraph shall immediately enroll the homeless child or youth, even if the child or youth is unable to produce records normally required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation.

(ii) The enrolling school shall immediately contact the school last attended by the child or youth to obtain relevant academic and other records.

(iii) If the child or youth needs to obtain immunizations, or immunization or medical records, the enrolling school shall immediately refer the parent or guardian of the child or youth to the local educational agency liaison designated under paragraph (1)(J)(ii), who shall assist in obtaining necessary immunizations, or immunization or medical records, in

accordance with subparagraph (D).

(D) RECORDS - Any record ordinarily kept by the school, including immunization or medical records, academic records, birth certificates, guardianship records, and evaluations for special services or programs, regarding each homeless child or youth shall be maintained—

(i) so that the records are available, in a timely fashion, when a child or youth enters a new school or school district; and

(ii) in a manner consistent with section 1232g of title 20.

(E) ENROLLMENT DISPUTES - If a dispute arises over school selection or enrollment in a school—

(i) the child or youth shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute;

(ii) the parent or guardian of the child or youth shall be provided with a written explanation of the school's decision regarding school selection or enrollment, including the rights of the parent, guardian, or youth to appeal the decision;

(iii) the child, youth, parent, or guardian shall be referred to the local educational agency liaison designated under paragraph (1)(J)(ii), who shall carry out the dispute resolution process as described in paragraph (1)(C) as expeditiously as possible after receiving notice of the dispute; and

(iv) in the case of an unaccompanied youth, the homeless liaison shall ensure that the youth is immediately enrolled in school pending resolution of the dispute.

(F) PLACEMENT CHOICE - The choice regarding placement shall be made regardless of whether the child or youth lives with the homeless parents or has been temporarily placed elsewhere.

(G) SCHOOL OF ORIGIN DEFINED - In this paragraph, the term "school of origin" means the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled.

(H) CONTACT INFORMATION - Nothing in this part shall prohibit a local educational agency from requiring a parent or guardian of a homeless child to submit contact information.

Additional Resources:

Mrs. Jennifer Powell, TJCA-CFA McKinney-Vento Education Liaison, 828-657-9998, Ext. 7

National Center for Homeless Education: <http://nche.ed.gov/index.php>

National Association for the Education of Homeless Children and Youth:  
<http://www.naehcy.org/>

North Carolina Homeless Education Program:  
<http://center.serve.org/hepnc/index.php>