



# Addressing the Needs of Students Experiencing Homelessness Who Have Disabilities

April 21, 2023





# Welcome from the California Homeless Education Technical Assistance Center (HETAC)



# About the HETAC

- The Homeless Education Technical Assistance Center (HETAC)
  - Is funded by the California Department of Education to serve as the state's homeless education technical assistance center
  - Is operated jointly by the Contra Costa, Los Angeles, and San Diego County Offices of Education

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# Webinar Logistics

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- The webinar is being recorded and will be posted within one week on the Homeless Education Technical Assistance Center (HETAC) website at [hetac.org](https://hetac.org)
- A copy of the presentation slides and resources will also be sent out to attendees with the recording link
- All attendees are muted
- Attendees may turn on or disable closed captioning
- Please use “Q&A” to submit questions

# Today we will:



- Review the education rights of children and youth guaranteed in the McKinney-Vento Act and the Individuals with Disabilities Education Act
- Discuss issues relating to immediate enrollment of a student with an Individualized Education Plan (IEP), evaluations, and services
- Address issues relating to unaccompanied youth
- Discuss transportation and costs
- Share information on dispute resolution under McKinney-Vento and due process under IDEA

# HETAC Tip Sheet

## Addressing the Needs of Students Experiencing Homelessness Who Have Disabilities

[hetac.org](https://hetac.org)

### Addressing the Needs of Students Experiencing Homelessness Who Have Disabilities

#### This tip sheet:

- provides basic information about the homeless education and special education programs, including their authorizing statutes and supports provided to eligible students; and
- explores the intersection of policy and practice when supporting children experiencing homelessness who have a disability.

#### Context

During the 2019-2020 school year, U.S. public schools enrolled 1,280,886 children and youth experiencing homelessness (National Center for Homeless Education [NCHE], 2021, p. 1). These students experience many challenges and stressors outside of school — including unmet basic needs, mobility and instability, uncertainty, and anxiety — that they carry with them to school each day. Some of these students also have special education needs due to a disability; in fact, students in homeless situations have a disproportionately high rate of special education needs, with 14% of the overall U.S. student population having a disability while 19% of students experiencing homelessness have a disability (p. 11).

This tip sheet will help educators, service providers, advocates, and other people working with students experiencing homelessness who have a disability understand the rights and services available to these students under federal and California state law and how to work together to ensure that these students' needs are addressed in a comprehensive and coordinated way.

#### Homeless Education and Special Education Basics

Federal and California state law include provisions specific to meeting the needs of students experiencing homelessness and students with disabilities.

#### Homeless Education

The McKinney-Vento Act authorizes a variety of housing and supportive services for people experiencing homelessness. Subtitle VII-B of the act focuses on the education of children and youth experiencing homelessness. The act includes the definition of [homeless children and youths](#) used by U.S. public schools and authorizes rights and services to ensure that the unique educational needs of these children and youth are addressed.



Under the McKinney-Vento Act and California state law, children and youth experiencing homelessness have the right to

- receive a free, appropriate public education (FAPE) (42 U.S.C. § 11431(1); Ca. Educ. Code § 320);
- enroll in school immediately, even if lacking documents normally required for enrollment [42 U.S.C. § 11432(g)(3)(C)(i)(I); Ca. Educ. Code § 48850(a)(3)(A)];

# Eligibility for Services

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## **McKinney-Vento**

- Homeless children and youth are defined as individuals who lack a fixed, regular, and adequate nighttime residence.

## **Individuals with Disabilities Education Act (IDEA)**

- To receive services under IDEA, a child must have a disability that interferes with their ability to learn and require specialized instruction to benefit from school.

## **Section 504**

- To be eligible for services a student must have a physical or mental impairment that substantially limits one or more major life activities, have a record of such an impairment, or be regarded as having such an impairment.

# Rights and Services: McKinney-Vento

**Under the McKinney-Vento Act and California State Law, children and youth experiencing homelessness have the right to:**

- Receive a free, appropriate public education (FAPE)
- Enroll in school immediately, even if lacking documents normally required for enrollment
- Enroll in the local school or continue attending their school of origin (the school they attended when permanently housed or school they were last enrolled), according to student's best interest
- Receive transportation to and from school of origin, if requested
- Receive educational services comparable to those provided to other students



# Rights and Services: IDEA

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**Under IDEA, special education instruction may take place in a general education classroom, special education classroom, specialized school, home, hospital, or institution.**

**Schools are required to educate children in the least restrictive environment to the extent possible. Services may include:**

- Specialized instruction
- Academic or behavioral support
- Vocational education
- Related services such as transportation, physical therapy, psychological services, social work services and counseling
- Medical services for diagnostic or evaluation purposes

# Rights and Services: 504

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**504 plans have greater flexibility than an IEP, and evaluations tend to draw on information from various sources:**

**Examples of accommodations that may be implemented in a 504 plan include:**

- Extra time to transition between classes, or to complete assignments
- Access to an elevator otherwise not used by students due to mobility issues or injury
- Voice to text technology
- Seating near the front of the room to assist with hearing or visual barriers

# Immediate Enrollment

- The McKinney-Vento Act requires **immediate enrollment**, even without required documents, including a copy of the IEP.
- Schools must provide children with a free, appropriate public education (FAPE) immediately.
- Enrollment is defined as attending and participating fully.



**Even if you have:**

- Uncertain housing
- A temporary address
- No permanent physical address

**You are guaranteed enrollment in school by the federal McKinney-Vento Act and California state law if you live:**

- In a house or apartment with more than one family due to loss of housing or economic hardship
- With friends or family because you are a runaway or an unaccompanied youth
- In substandard housing (without electricity, water, or heat)
- In a shelter (family, domestic violence, or youth shelter or transitional living program)
- In a motel, hotel, or weekly rate housing
- In an abandoned building, in a car, at a campground, or on the streets

**You can enroll in school immediately even without the documents normally required for enrollment, such as:**

- Proof of residency
- Immunization records or other required health records
- School records
- Legal guardianship papers

**Your child may:**

- Participate fully in all school activities and programs for which he/she is eligible.
- Receive transportation to and from the school of origin if you request it.
- Continue to attend the school in which he/she was last enrolled even if you have moved away from that school's attendance area.
- Qualify automatically for school nutrition programs.

**Your responsibilities are to:**

- Make sure your child gets to school on time and ready to learn.
- Stay informed of school rules, regulations, and activities.
- Contact the homeless liaison for assistance in removing barriers to your child's education.
- Attend parent/teacher conferences, Back-to-School Nights, and other school-related activities.

**You can ENROLL in school!**

It is not a crime to live in one of the above situations and schools are here to assist you and your children with enrollment and appropriate services. This information will not be shared outside of the educational entity.

# Immediate Enrollment



- When the new local education agency (LEA) obtains a copy of the IEP, they must provide services comparable to those described in the previous IEP, in consultation with the parents/guardians.
- While services are being provided, the LEA can either adopt the existing IEP or implement a new IEP.

# School of Origin

**The McKinney-Vento Act applies to students receiving special education services the same way as it applies to other students.**

- A student receiving special education who is homeless can remain at the school of origin.
- It should be presumed to be in the student's best interest to continue attending the school of origin unless it is against the wishes of the parent, guardian, or unaccompanied youth.
- Consider the particular circumstances and impact changing schools could have, such as length of commute time, length of enrollment, and services available.

# Best Interest

- Under McKinney-Vento if a student – including a student with a disability – moves to an area served by a different LEA, they can continue attending the **school of origin**.
- It should be presumed that the staying at the school of origin is in the student's best interest, unless it is against the wishes of the parent, guardian, or unaccompanied youth. [42 United States Code (U.S.C.) § 11432(g)(3)(B)]
- However, the best interest determination should consider **student-centered factors**, including all aides and services included in the student's IEP.



# Educational Decision Makers

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- Parents
- Surrogate Parents
- Temporary Surrogate Parents

# Educational Decision Makers

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Under IDEA, the term parent can mean:

- A natural, adoptive, or foster parent;
- A guardian (but not the state if the child is a ward of the state)
- An individual acting in the place of a natural or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual legally responsible for the child's welfare; or
- An individual assigned to be a surrogate parent [20 U.S.C. §1401 (23); California *Education Code (EC)* §56028(a)]

# Parent Rights Under IDEA

- May initiate a request for an initial evaluation to determine if their child has a disability [20 U.S.C. § 1414(a)(1)(B); Ca. Educ. Code § 56506(b)] and must provide informed consent before the evaluation can begin [20 U.S.C. § 1414(a)(1)(D)(i)(I); EC § 56321(c)(1)].
- Are entitled to be members of any group that decides whether their child has a disability and meets eligibility criteria for special education services [34 C.F.R. § 300.306(a)(1); EC § 56506].
- Have the right to participate in meetings related to the evaluation, identification, and educational placement of their child [34 C.F.R. § 300.501(b); EC § 56506].
- Are entitled to be members of the team that develops, reviews, and revises their child's IEP [20 U.S.C. § 1414(d)(1)(B)(i); EC § 56341(b)(1)].

# When a parent can not be located...

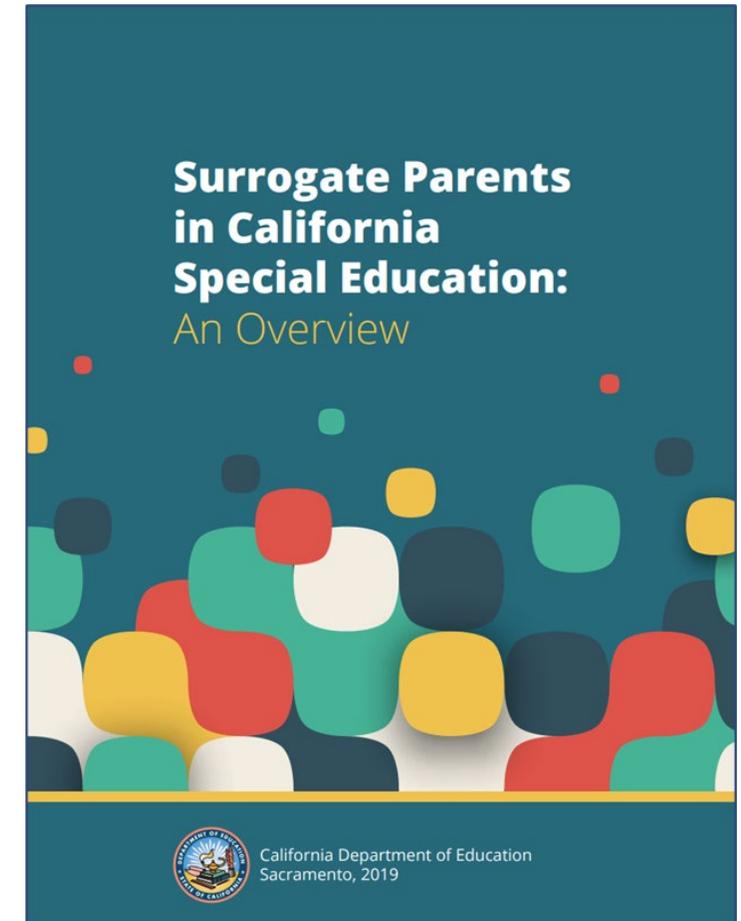
When the parents of a child are not known, or can not be located, after reasonable efforts, the **LEA must appoint** someone to act as the child's surrogate parent and educational decision maker.

- This person shall not be an employee of the state educational agency (SEA), the LEA, or any other agency that is involved in the education or care of the child [20 U.S.C. §1415(b)(2)(A); EC §56050; EC §7579.5].
- Reasonable efforts must be made to ensure the assignment of a surrogate not more than 30 days after there is a determination that the child needs a surrogate [20 U.S.C. §1415(b)(2)(B); EC §7579.5(a)].

# Unaccompanied Homeless Youth

In the case of unaccompanied youth, defined as a homeless child or youth not in the physical custody of a parent or guardian, IDEA allows for:

- The LEA to appoint a **temporary surrogate parent** until a surrogate parent can be appointed who meets all the requirements
- Unlike surrogate parents, temporary surrogate parents may be involved in the education or care of the child [34 C.F.R. § 300.519(f)]
- Temporary surrogate parents may include appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs



# Transportation

- Since all three laws require transportation for eligible students, it is important to **determine whether the excess cost of transportation is related to homelessness or a special education need.**
- If the excess cost of transportation is related to the student's housing situation, it would be appropriate to use McKinney-Vento and/or Title I, Part A funds to cover the excess cost. If the cost of transportation is related to the student's disability, then it would be appropriate to provide the service under IDEA or Section 504.
- LEAs must provide transportation to school of origin upon request.



# Effects of School Mobility

## LEA Transfers and Evaluations

- Once a request is received for an initial evaluation for IDEA services, the LEA must complete the evaluation **within 60 days** of a parent providing consent. [20 U.S.C. §1414(a)(1)(C); EC §56043(f)(1)]
- If the student enrolls in a different LEA while the evaluation is in process, the 60-day timeframe does not apply if the new LEA is making sufficient progress to ensure a prompt completion of the assessment and the parent and enrolling LEA agree to a specific date by which the assessment will be completed [20 U.S.C. §1414(a)(1)(C)(ii); EC §56302.1(b)]

# Effects of School Mobility (continued)

## LEA Transfers and IEPs:

- If a student with an established IEP transfers to a different LEA within California, the enrolling LEA must provide the student with **services comparable** to those in the established IEP, in consultation with the parents.
- The enrolling LEA has **30 days** to either adopt the existing IEP or develop, adopt, and implement a new IEP that is consistent with federal and state law.
- If a student with an established IEP transfers to a California LEA from another state, the enrolling LEA must provide the student with services comparable until the enrolling LEA conducts an evaluation and if necessary, a new IEP.



# Non-Public Schools

Under Federal and California state law, children with special education needs who are enrolled in private schools are entitled to receive special education and related services under IDEA.

- Nonpublic nonsectarian schools (NPS) are specialized private schools that provide services to California public school students with disabilities.
- Students with special education needs, including those experiencing homelessness, shall not be referred to, or placed in, an NPS unless the student's IEP specifies that the placement is appropriate (EC §56342.1) and this placement is agreed upon by the student's educational decision maker (EC §56506)
- At least annually, the LEA that developed the student's IEP must consider whether the student's needs continue to be met best at the NPS and whether changes to the student's IEP are necessary, including whether the student may be transitioned to a public school setting

# Dispute Resolution

Both Federal and California state law establish procedures for the resolution of homeless education and special education disputes.



# McKinney-Vento Disputes

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Under the McKinney-Vento Act the parent, guardian, or unaccompanied youth have the right to dispute:

- A student's McKinney-Vento eligibility
- School selection, or
- School enrollment

In the event of a dispute, the Act outlines the responsibilities of the LEA related to eligibility, enrollment, and written notice [42 U.S.C. § 11432(g)(3)(E); EC § 48852.7(e)(1)].

# Due Process Complaint

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**IDEA establishes the right of the educational decision maker to file a due process complaint related to:**

- Special education assessments,
- A student's eligibility for special education,
- Implementation of a student's IEP,
- A student's educational placement, or
- Changes made to the student's IEP without educational decision maker approval

# For More Information

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## **McKinney-Vento Dispute Process:**

For more information on dispute resolution under the McKinney-Vento Act, visit the California Homeless Education Technical Assistance Center's [Dispute Resolution webpage](#).

## **Special Education Due Process:**

For more information about due process under IDEA, visit the California Department of General Services' [Special Education Due Process and How it Works webpage](#).



# Scenarios

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**Question:** If a McKinney-Vento student with an IEP is placed in a nonpublic school that is not physically in their school of origin, do they have rights to continue in that program the following year if they return as a McKinney-Vento student?

**Answer:** Yes, when an LEA does an IEP and places a student in a nonpublic school, even out of school boundaries, the school of origin still applies if the student is still McKinney-Vento eligible the following year.

# Scenarios

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**Question:** If an unaccompanied youth disagrees with his parents about his IEP can another adult identified as a caregiver sign the IEPs?

**Answer:** No, IDEA gives right to the parent, not the student. If the parent's rights have not been terminated, and the parent is acting as the parent through the special education process, the school must follow the parent's wishes for anything related to IEPs and special education services, or enter into a mediation/dispute situation.

**Note:** For other education issues, you would follow the McKinney-Vento Act, which recognizes the youth's rights and actually requires the school to prioritize the youth's wishes. This is where IDEA and MV can clash.



# Final Thoughts for Consideration

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- Rates of students with an IEP are **higher** for students experiencing homelessness than their housed peers [National Center for Homeless Education (NCHE), 2021]
- Homeless education and special education practitioners must **partner intentionally** to ensure that students experiencing homelessness who have a disability are provided with all available supports under federal and California state law to meet their unique educational needs.

# Resources

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- [HETAC Tip Sheet: Addressing the Needs of Students Experiencing Homelessness Who Have Disabilities \(2023\)](#)
- [Overview of Special Education in California \(2019\)](#)
- [Surrogate Parents in California Special Education: An Overview](#)
- [California Department of Education Special Education webpage](#)
- [National Center for Homeless Education: Special Education webpage](#)
- [SchoolHouse Connection: Special Education and Homelessness webinar](#)

**Thank you for joining us!**

**Please take a few minutes to  
fill out this evaluation**

