

# Education for Homeless Youth

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*42 U.S.C. § 11431 et seq.*

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## **PURPOSE**

In 1987, Congress passed the Stewart B. McKinney Homeless Assistance Act, (subsequently renamed the McKinney-Vento Homeless Assistance Act) to aid homeless persons. The Act defines the term "homeless children and youths" as individuals who lack a fixed, regular, and adequate nighttime residence. On December 10, 2015, the Every Student Succeeds Act (ESSA) was enacted, amending McKinney-Vento.

## **PROCEDURES**

This Basic Education Circular (BEC) explains the categories of children who are "homeless" and entitled to the protections of the federal law. These categories include:

- (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;
- (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;
- (iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings;
- (iv) "migratory children" who qualify as homeless under federal law because the children are living in circumstances described in clauses (i) through (iii) above. The term "migratory children" means children who are (or whose parent(s) or spouse(s) are) migratory agricultural workers, including migratory dairy workers or migratory fishermen, and who have moved from one school district to another in the preceding 36 months, in order to obtain (or accompany such parents or spouses in order to obtain) temporary or seasonal employment in agricultural or fishing work; and,
- (v) "Unaccompanied homeless youth" including any child who is "not in the physical custody of a parent or guardian." This includes youth who have run away from home, been thrown out of their home, been abandoned by parents or guardians, or separated from their parents for any other reason.

Communication and collaboration among education and child welfare professionals is critical to support school stability and continuity for children in out-of-home care. The law requires child

*training of children or adolescents, shall admit to the district's public schools school age children who are living at or assigned to the facility or institution and who are residents of the district or another school district in this Commonwealth.*

22 Pa. Code § 11.18, as it applies to homeless children and youth, includes within the definition of "licensed shelter" those facilities which provide temporary shelter for a specified, limited period of time. Therefore, children in temporary shelters and children who "lack a fixed, regular, adequate night time residence" – homeless children – are entitled to free school privileges from either the school district in which their person or the shelter is located or the school district of origin.

## **II. Homeless Students Not Residing in a Shelter, Facility or Institution**

Homeless students may reside in hotels, motels, cars, tents or temporarily doubled-up with a resident family because of lack of housing. In determining residence and in the case of homeless children, equating "residence" and "domicile" (home) does not apply. They are presently unable to establish "homes" on a permanent basis. Homeless families are not required to prove residency regarding school enrollment. These students should be enrolled without delay, in the district where they are presently residing or continue their education in the district of prior attendance.

Children experiencing homelessness are often highly mobile and may not stay in the same school district each night or each week. This is particularly true regarding children who stay overnight in vehicles, those who stay with different family members or friends, or those who receive services from agencies, organizations or networks which facilitate overnight accommodations in multiple school districts. These children should not be forced to change school districts every time their overnight accommodations change. Rather, these children are entitled to attend school in any school district where a parent, guardian, an adult caring for them or where an unaccompanied child:

- Spends the greatest percentage of his or her time; or
- Has a substantial connection such as where he or she is
  - regularly receiving day shelter or other services involving any of the 16 McKinney-Vento Activities (42 U.S.C. 11433(d)) for individuals who are homeless;
  - conducting daily living activities; or
  - staying overnight on a recurring basis.

This policy helps maintain continuity and school stability for homeless children in compliance with the McKinney-Vento Act.

The child or youth shall continue to be enrolled in the school in which he or she is seeking enrollment until the complaint or appeal is fully resolved by a McKinney-Vento coordinator, state coordinator, through mediation or in court.

## **III. School Placement**

The McKinney-Vento Act requires that, "local educational agencies will designate an appropriate staff person, who may also be a coordinator for other federal programs, as a local educational agency liaison for homeless children and youth." This person has the following responsibilities:

Act (IDEA), which mandates that highly mobile children with disabilities, including homeless children, be identified and served. Liaisons should also ensure that homeless youths who have or may have disabilities have a parent or a surrogate parent to make special education or early intervention decisions. In the case of unaccompanied homeless youth, if a student is disabled or may be disabled and the youth does not have a person authorized to make special education decisions, the following people can be temporary surrogate parents: staff in emergency shelters; transitional shelters; independent living programs; street outreach programs; and state, local educational agency or child welfare agency staff involved in the education or care of the child. This rule applies only to unaccompanied homeless youth.

15. Liaisons should also identify preschool-aged homeless children by working closely with shelters and social service agencies in their area. In addition, the liaison should inquire, at the time they are enrolling homeless children and youths in school, whether the family has preschool-aged children.
16. Liaisons can identify unaccompanied homeless youth while respecting their privacy and dignity by providing specific outreach to areas where eligible students who are out of school may congregate.
17. Liaisons ensure that unaccompanied youths are enrolled in school, and have opportunities to meet the same challenging state academic standards as the state establishes for other children and youths, are informed of their status as independent students under section 480 of the Higher Education Act of 1965 (HEA) (20 U.S.C 1087vv), and their right to receive verification of this status from the local liaison.

Appropriate school placement arrangements, based on the child's best interest, should be implemented through the cooperative efforts of the respective chief school administrators. Each case presents a unique set of circumstances and, therefore, requires an individualized response. In all cases, the LEA shall comply, to the extent feasible, with the request made by a parent or guardian regarding school selection, shall attempt to minimize disruptions and shall maintain the highest possible degree of continuity in programs for all homeless students. 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.

Homelessness alone is not a reason to separate students from the mainstream school environment. Homeless children and youths should have access to education and other services that they need to ensure that they have an opportunity to meet the same challenging state student performance standards to which all students are held.

In determining the *best interest* of the child or youth under McKinney-Vento Act, the LEA shall:

- (I) Continue the child's or youth's education in the school of origin for the duration of homelessness when a family becomes homeless between academic years or during an academic year; and for the remainder of the academic year even if the child or youth becomes permanently housed during an academic year; or
- (II) Enroll the child or youth in any public school that non-homeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.

liaison), to and from the school of origin. If the homeless student continues to live in the area served by the LEA, that LEA must provide or arrange transportation. If the homeless student moves to an area served by another LEA, though continuing his or her education at the school of origin, the LEA of origin and the LEA in which the student is living must agree upon a method to apportion responsibility and costs for transportation to the school of origin. This includes students enrolled in public school Head Start and Early Head Start education programs. If the LEAs cannot agree upon such a method, the responsibility and costs must be shared equally. Distance, time of year, options available, the effects of a transfer, etc., should all be addressed.

The provision of transportation to the school of origin is based on a students' status as homeless. The provision to remain in the school of origin during the remainder of the academic year is offered to provide for school stability. Local education agencies must continue to provide transportation to and from the school of origin to formerly homeless students who have become permanently housed for the remainder of the academic year during which the child or youth becomes permanently housed. (Section 722(g)(3)(A)(II)).

## VII. Fiscal Responsibilities

Fiscal responsibilities apply to all homeless students, whether in regular or special education classes.

The educating district should apply the following criteria when determining fiscal responsibility:

- A. The procedures outlined below will be followed in cases when the education of the child is provided by the district where the homeless student is temporarily living (doubled up, motel, shelter). The procedures shall also apply in cases when the district of prior attendance, where that is not the district the child attended when permanently housed, will educate the child.
  1. Homeless individuals not in facilities (shelters) or institutions, as well as homeless individuals living in hotels, motels, cars, tents, doubled-up with a resident family, shall be reported and reimbursed as resident students;
  2. For homeless individuals in temporary shelters, the educating school district will send a PDE-4605 Determination of District of Residence for Student in Facilities or Institutions in Accordance with Section 1306 of the Pennsylvania Public School Code to the presumed district of residence;
  3. If PDE-4605 is acknowledged by the resident district, the educating district will enter the child on its rolls as a nonresident student from the acknowledging resident school district. The educating district will bill the resident district for tuition and will report membership data according to PDE child accounting procedures; and
  4. If PDE-4605 is disclaimed and a school district of residence cannot be determined, the educating school district should submit a written request to PDE's School Services Office to make a determination regarding the student's "ward of the state" status.
- B. In cases when the education of the child is provided by the district of origin, including preschool children, where that is the district the child attended when permanently housed, that district will continue to educate a homeless student for the period of temporary displacement and

LEA liaison directly, the LEA shall be responsible for contacting the LEA liaison regarding the dispute as soon as possible and referring the family or youth involved to the liaison.

The LEA liaison shall ensure that the child or youth is immediately enrolled, explain the dispute resolution process to families and help them to use it 42 U.S.C. §11432(g)(3)(E)(iii). The LEA shall issue a written disposition of the dispute within 20 business days after the LEA liaison is notified of the dispute. The disposition shall be provided to the parent, guardian or unaccompanied youth and shall explain the basis for the decision and advise the parent, guardian or youth of the right to appeal. 42 U.S.C. §11432(g)(3)(E)(i).

*NOTE:* The LEA should use and maintain copies of PDE's "Notice of Procedural Safeguards" form (see attached) which ensures that all LEAs (a) inform families of the basis of their decision regarding enrollment or school selection; (b) notifies families of their right to remain in their school of choice pending resolution of the dispute and (c) explains the procedures for challenging the decision of the LEA.

**Level 2 – A complaint may be filed with a McKinney-Vento coordinator.**

If the parent, guardian or unaccompanied youth is dissatisfied with the LEA's disposition of a dispute or would like to raise any issue of McKinney-Vento Act noncompliance, they may file a complaint or appeal with a McKinney-Vento site or regional coordinator or with the state coordinator. (See attached list which contains contact information for all of the McKinney-Vento coordinators in Pennsylvania). In lieu of filing an appeal with a McKinney-Vento coordinator, a parent, guardian or unaccompanied youth may elect to appeal the LEA decision directly to a court of competent jurisdiction. Participation in the appeal procedure is not required prior to taking legal action.

A regional or site coordinator with whom a complaint or appeal is filed must notify the state coordinator immediately. Upon being notified, the state coordinator will review the complaint or appeal and assign it to a site or regional coordinator for disposition. The coordinator to whom the appeal is assigned may contact, interview and accept documentation from any individual or LEA involved, and shall issue a written disposition within 20 business days after the complaint or appeal has been assigned. The disposition shall be provided to the LEA and the parent, guardian or unaccompanied youth involved. The child or youth shall continue to be enrolled in the school in which he or she is seeking enrollment until the complaint or appeal is resolved or until a disposition from a McKinney-Vento coordinator is received.

The state coordinator may assist in the mediation of disputes directly and may also invite those involved to have the dispute mediated at any time in the process through the Dispute Resolution Program operated by the Commonwealth Office of General Counsel (OGC). The OGC Dispute Resolution Program is a voluntary informal process through which a trained mediator assists in reaching a mutually acceptable resolution.

Participating in mediation is not a waiver of the right to file a lawsuit nor is participation in mediation required prior to taking legal action.

*NOTE:* The parent, guardian or unaccompanied youth may file a complaint with the McKinney-Vento site, regional or state coordinator on the attached complaint form. However, the use of the attached form is not mandatory. Any dispute raised by a homeless family or youth concerning school enrollment or any other right under the McKinney-Vento Act whether received via telephone, letter or any mode of communication shall be treated as a complaint.

**Child Accounting questions should be referred to:**

Bureau of Budget and Fiscal Management  
Division of Subsidy Data and Administration  
Pennsylvania Department of Education  
333 Market Street  
Harrisburg, PA 17126-0333  
Phone: 717-787-5423

**Transportation questions should be referred to:**

Bureau of Budget and Fiscal Management  
Division of Subsidy Data and Administration  
Pennsylvania Department of Education  
333 Market Street  
Harrisburg, PA 17126-0333  
Phone: 717-787-3195

**For additional information, please contact:**

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