Local Educational Agency Homeless Education Policies: Understanding and Implementing Federal and California Law

This California Homeless Education Technical Assistance Center (HETAC) tip sheet:

- explains the California requirement for local educational agencies (LEAs) to establish homeless education program policies that are consistent with relevant federal and state law;
- explains the California requirement for LEAs to train LEA employees on their homeless education program policies;
- recommends key topics to address in LEA homeless education program policies and administrative regulations; and
- provides a sample homeless education program policy that California LEAs can use as a starting place for developing their own policy.

Context



Children and youth experiencing homelessness, including unaccompanied youth[1], face unique school and other life challenges that typically are not experienced by their housed peers due to the upheaval and educational disruption often caused by homelessness. Federal and California state statutes include targeted provisions aimed at mitigating the effects of homelessness on learners' education and overall well-being. Under California Education Code, local educational agencies (LEAs) must establish homeless education program policies to ensure equal access to the same free, appropriate public education for children and youth experiencing homelessness as is provided to all students. These policies create a framework for ensuring ongoing compliance with statutory mandates and implementing an approach to serving students experiencing homelessness that is supportive and effective.

This tip sheet explains the requirement in California Education Code § 48851.3 that LEAs establish homeless education program policies that reflect current federal and state legislation pertaining to homeless education and train LEA employees on these policies. The tip sheet also includes a sample homeless education program policy that California LEAs can use as a starting place for developing their own policy.

California Education Code § 48851.3 Provisions Related to Board Policies

Effective January 1, 2023, California Education Code § 48851.3 stipulates the following:

- LEAs shall establish homeless education program policies that are consistent with California Education Code Chapter 5.5[2] using resources developed by the California Department of Education

[1] The term *unaccompanied youth* is defined as "a homeless child or youth not in the physical custody of a parent or guardian" [42 U.S.C. § 11434a(6)].

[2] Chapter 5.5 refers to California Education Code §§ 48850–48859: Education of Pupils in Foster Care and Pupils Who Are Homeless.

(CDE) and the California Homeless Education Technical Assistance Center (HETAC) [Ca. Educ. Code § 48851.3(b)].

- LEAs shall update their homeless education program policies at least once every three years [Ca. Educ. Code § 48851.3(b)].
- LEA homeless education liaisons (hereafter *liaison[s]*) shall offer training to LEA certificated and classified employees who provide services to students experiencing homelessness, including, but not limited to, teachers, support staff, and other school staff who work with students. This training must be offered at least annually and include information about the LEA's homeless education program policies and recognizing signs that a student is at risk of or experiencing homelessness. Liaisons also are encouraged to offer this training to all other LEA certificated and classified employees [Ca. Educ. Code § 48851.3(c)(1)].
- Liaisons shall inform LEA certificated and classified employees of the availability of the above training and the services liaisons provide to support the identification of and provision of services to students at risk of or experiencing homelessness [Ca. Educ. Code § 48851.3(c)(2)].

The California requirement that LEAs establish and update homeless education board policies that reflect the most recent federal and state legislation mirrors a similar requirement in the federal McKinney-Vento Homeless Assistance Act (hereafter *McKinney-Vento Act*). Under the McKinney-Vento Act, state educational agencies (SEAs) and LEAs must review and revise any laws, regulations, practices, or policies that may act as a barrier to the school identification, enrollment, attendance, or success of children and youth experiencing homelessness [42 U.S.C. § 11431(2)]. Additionally, the California requirement that liaisons provide training on key homeless education topics to LEA staff mirrors the McKinney-Vento Act requirement that liaisons provide professional development and other support to school personnel providing services to children and youth experiencing homelessness [42 U.S.C. § 11432(g)(6)(A)(ix)].

County Office of Education Board Policies

Under California Education Code, "local educational agency" means a school district, a county office of education, a nonprofit charter school participating as a member of a special education local plan area, or a special education local plan area (Ca. Educ. Code § 56026.3); as such, county offices of education (COEs) also must follow the requirements outlined in California Education Code § 48851.3, including establishing and maintaining updated homeless education board policies and providing related training. While many provisions in COE homeless education board policies may be similar to those in school district policies, COEs may want or need to incorporate additional or different provisions specific to county-level homeless education program implementation based on each county's unique program and context.

Understanding Board Policies and Administrative Regulations

While LEA board policies (BPs) establish a broad vision statement pertaining to a topic impacting the LEA—in the present case, the education of children and youth experiencing homelessness in keeping with relevant federal and state laws—administrative regulations (ARs) specify how board policies will be implemented. Generally, BPs are written, amended, and adopted formally by the LEA's board and ARs are written and implemented by the LEA's superintendent and/or administrative team under the direction of the board. BPs generally must be amended formally by the board while ARs usually may be amended by the LEA superintendent and/or administrative team. LEAs should develop ARs that address relevant federal and state laws pertaining to the education of children and youth experiencing homelessness and that are responsive to the local LEA and community context. LEAs may wish to consult BPs and ARs from

other California LEAs or the California School Board Association (CSBA) when developing their own BPs and ARs. The CSBA also makes available a sample homeless education BP and AR specific to COEs. Note that CSBA sample resources are available only to CSBA policy subscribers.

Key Topics to Address in Board Policies and Administrative Regulations



While LEAs have the discretion to develop their own homeless education BPs, these policies must address key homeless education requirements included in federal and state statutes. Procedures related to the implementation of BPs should be outlined in LEA ARs. Important topics for LEAs to address in their BPs and implementing ARs follow. Sample policy language and related federal and state statutory citations for each topic are included in the Sample LEA Homeless Education Board Policy addendum:

- Statement of purpose: A general statement of the overarching focus of the LEA's board policy as it relates to supporting the education of children and youth experiencing homelessness;
- Local Control and Accountability Plans (LCAP): The inclusion of goals and actions to improve the educational performance of students experiencing homelessness in the LCAP plans of LEAs or schools with at least 15 such students;
- Policy review and revision: Reviewing and revising any laws, regulations, practices, or policies that may act as a school barrier for children and youth experiencing homelessness, including unaccompanied youth;
- Liaison designation and duties: The designation of an appropriate LEA staff person to serve as the LEA homeless liaison and carry out all duties required in statute;
- Student identification: The identification of children and youth experiencing homelessness, including via the administration of a housing questionnaire at least annually;
- Information posting: The posting to the LEA website of LEA liaison contact information and information about the educational rights and resources available to children and youth experiencing homelessness, including unaccompanied youth;
- School selection: The determination of best interest regarding school selection (local school or school of origin) for children and youth experiencing homelessness;
- Immediate enrollment: The immediate school enrollment of children and youth experiencing homelessness even if they are unable to produce records normally required;
- Transportation: The adoption of policies and practices to ensure that students experiencing homelessness receive transportation to and from the school of origin at the request of the parent or guardian (or in the case of an unaccompanied youth, the LEA liaison);
- Comparable services: The provision of services to children and youth experiencing homelessness that are comparable to those offered to other students in the school, including school-related transportation and access to school programs and extracurricular activities;
- Prohibition against segregation or stigmatization: The prohibition against segregating or stigmatizing children and youth experiencing homelessness in school;
- Student privacy: Treating information about the living situation of students experiencing homelessness as a student education record under the Family Educational Rights and Privacy Act (FERPA);

- **Coordination with other agencies:** The coordination of the provision of LEA homeless education services with other programs or agencies that also provide services to children and youth experiencing homelessness;
- **Professional development and technical assistance:** The participation of the LEA liaison and other appropriate LEA staff in professional development and other technical assistance activities to assist them in identifying and meeting the needs of children and youth experiencing homelessness;
- **Data reporting:** The reporting of data at least annually to CDE on the identification and educational outcomes of students experiencing homelessness;
- **Expanded high school graduation pathways:** The annual reporting of data to CDE on the number of students experiencing homelessness within the LEA who graduated in the 4th or 5th year of high school of the prior school year with an exemption from LEA graduation requirements that are in addition to statewide requirements;
- **Dispute resolution:** The resolution of disputes related to McKinney-Vento eligibility, school selection, or school enrollment; and
- **Other topics** deemed necessary based on local context.

Board Policies and Administrative Regulations under CDE's Federal Program Monitoring

Federal and California law (42 U.S.C. § 11432(f)(5); Cal. Educ. Code § 48852.3) require CDE to develop and implement a plan for monitoring LEA compliance with relevant federal and state laws pertaining to the education of children and youth experiencing homelessness. For each topic that is a focus of federal program monitoring (FPM), CDE will request evidence to substantiate the LEA's compliance with related mandates. LEA BPs and ARs are accepted evidence of LEA compliance for many FPM indicators. LEAs may wish to review CDE compliance monitoring instruments, including the Homeless Education Program Monitoring Instrument, before being monitored.

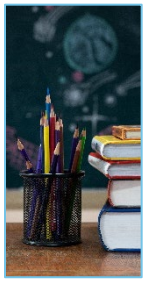
TOOLS: See the Homeless Education Program Instrument on the CDE Compliance Monitoring webpage for more information on the role board policies and administrative regulations can play in providing evidence of LEA compliance with federal and state legal requirements.

See the sample homeless education program policy (board policy) addendum below that California LEAs can use as a starting place for developing their own policy.

A California Homeless Education Technical Assistance Center (HETAC) Resource
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Tip Sheet Addendum: Sample LEA Homeless Education Board Policy

Background and Context



Under California Education Code § 48851.3, LEAs must establish homeless education program policies that reflect current federal and state legislation pertaining to homeless education and train LEA employees on these policies. The California Education Code policy requirement mirrors a similar requirement in the federal McKinney-Vento Homeless Assistance Act that state educational agencies (SEAs) and LEAs review and revise any laws, regulations, practices, or policies that may act as a barrier to the school identification, enrollment, attendance, or success of children and youth experiencing homelessness [42 U.S.C. § 11431(2)].

This sample homeless education board policy (BP) is provided by the California Homeless Education Technical Assistance Center (HETAC) as a resource for California local educational agencies (LEAs) to use as a starting place for developing their own BPs. LEAs should develop their own BPs that are responsive to their unique local context and the needs of the LEA's students experiencing homelessness. Further, LEAs should develop their own administrative regulations (ARs) that specify how the LEA's BP will be implemented. LEAs should consult with their legal counsel before finalizing their homeless education BP and implementing ARs.

Sample Homeless Education Board Policy[1]

Statement of Purpose

The Governing Board of <<insert LEA name>> (hereafter *the Board*) believes that the identification of students experiencing homelessness is critical to improving the educational outcomes of these students and ensuring that they have access to the same free and appropriate public education (FAPE) provided to other students within <<insert LEA name>> (hereafter *the LEA*). The LEA shall provide students experiencing homelessness with access to education and other services necessary for such students to meet the same challenging academic standards as other students [42 U.S.C. § 11431].

Local Control and Accountability Plans

When there are at least 15 students experiencing homelessness in the LEA or an LEA school, the LEA's local control and accountability plan (LCAP) shall include goals and specific actions to improve the student achievement and other outcomes of students experiencing homelessness (Cal. Educ. Code §§ 52052, 52060, 52064).

Policy Review and Revision

The LEA Superintendent or designee shall review LEA policies at least once every three years and recommend updates to ensure the removal of any barriers to the education of children and youth experiencing homelessness, including unaccompanied youth. Any such review shall address the school identification, enrollment, and retention of these students, including the removal of educational barriers due to outstanding fees or fines, or absences. In reviewing and revising LEA policies, consideration also

[1] This sample policy was adapted in part from materials available from the California School Board Association (CSBA), King City Union School District, and SchoolHouse Connection.

shall be given to issues concerning transportation, immunization, residency, birth certificates, school records and other documentation, and guardianship. An unaccompanied youth is defined as "a homeless child or youth not in the physical custody of a parent or guardian" [42 U.S.C. § 11434a(6)]. [42 U.S.C. § 11432(g)(1)(I); 42 U.S.C. § 11432(g)(7)(B); 42 U.S.C. § 11434a(6); Cal. Educ. Code § 48851.3(b)].

LEA Liaison Designation and Duties

The LEA Superintendent or designee shall designate an appropriate staff person to serve as the LEA homeless education liaison (hereafter *liaison*). The LEA liaison shall fulfill the liaison duties specified in the federal McKinney-Vento Homeless Assistance Act (hereafter *McKinney-Vento Act*) to support the school identification, enrollment, attendance, and success of children and youth experiencing homelessness. The LEA liaison also shall fulfill the liaison duties specified in California Education Code, including those related to offering training at least annually to LEA employees who provide services to students experiencing homelessness; this training shall include information about the LEA's homeless education program policies and recognizing signs that a student is at risk of or experiencing homelessness [42 U.S.C. § 11432(g)(6)(A); Cal. Educ. Code § 48851.3(c)]

Student Identification

The LEA Superintendent or designee shall ensure that each school within the LEA identifies all students experiencing homelessness, including unaccompanied youth, enrolled in the school. To ensure student identification, the LEA Superintendent or designee shall annually provide and administer a housing questionnaire to all parents/guardians of students and all unaccompanied youth within the LEA. The housing questionnaire shall be based on best practices developed by the California Department of Education (CDE) and include an explanation of the rights and protections that children and youth experiencing homelessness, including unaccompanied youth, have (Cal. Educ. Code § 48851).

If the primary language of a student's parent/guardian or an unaccompanied youth is not English, the LEA either shall make the housing questionnaire available in the parent's, guardian's, or unaccompanied youth's primary language or shall provide an appropriate translation of the housing questionnaire upon request by the parent, guardian, or unaccompanied youth (Cal. Educ. Code § 48851).

The Superintendent or designee shall collect completed housing questionnaires and report annually to CDE the number of children and youth experiencing homelessness, including unaccompanied youth, enrolled in the LEA as identified using the housing questionnaire (Cal. Educ. Code § 48851).

Information Posting

The LEA Superintendent or designee shall ensure that the LEA liaison's contact information and other information on homelessness (including, but not limited to, information regarding the educational rights and resources available to persons experiencing homelessness) are posted on the LEA website. If available, schools within the LEA will post this same information on the school website. Additionally, schools within the LEA will post the contact information of any school employee whose duties include assisting the LEA liaison, if such an employee has been designated (Cal. Educ. Code § 48852.6).

School Selection

The LEA Superintendent or designee shall ensure that school selection decisions (whether the local attendance area school or the school of origin, as defined in the federal McKinney-Vento Act) are made based on the student's best interest, giving priority to the request of the child's or youth's parent or guardian or (in the case of an unaccompanied youth) the youth. Student-centered best interest considerations shall include, but not be limited to, factors related to the impact of school mobility on the

student's achievement, education, health, and safety, and ensuring the student has the opportunity to be educated in the least restrictive educational setting necessary to achieve academic progress [42 U.S.C. § 11432(g)(3)(B); Cal. Educ. Code § 48850].

Immediate Enrollment

The LEA Superintendent or designee shall ensure that children and youth experiencing homelessness are enrolled immediately in the school selected within the LEA (whether the local attendance area school or the school of origin, as defined in the federal McKinney-Vento Act) even if they are unable to produce records normally required for enrollment—such as previous academic records, records of immunization and other required health records, proof of residency, or other documentation—or if they have missed application or enrollment deadlines during any period of homelessness. Enrollment is defined as "attending classes and participating fully in school activities" [42 U.S.C. § 11432(g)(3)(C)(i); 42 U.S.C. § 11434a(1)].

Transportation

If deemed to be in a student's best interest to attend the school of origin, the LEA Superintendent or designee shall ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, the liaison), to and from the school of origin in keeping with the conditions outlined in the federal McKinney-Vento Act, including those regarding the provision of transportation to and from the school of origin across LEA boundaries [42 U.S.C. § 11432(g)(1)(J)(iii)].

Comparable Services

The LEA Superintendent or designee shall ensure that each child or youth experiencing homelessness is provided services comparable to services offered to other students in the school, including transportation and educational services for which the student meets the eligibility criteria including, but not limited to, federal Title I services or similar state or local programs, educational programs for students with disabilities, educational programs for English learners, career and technical education programs, programs for gifted and talented students, and school nutrition programs [42 U.S.C. § 11432(g)(4); Cal. Educ. Code § 48850].

Prohibition Against Segregation or Stigmatization

The LEA Superintendent or designee shall ensure that students experiencing homelessness are not stigmatized in any way or segregated in a separate school or separate program within a school based on the student's status as homeless. The LEA Superintendent or designee also shall ensure that services are not provided in settings within a school that segregate students experiencing homelessness from other students, except as necessary for short periods of time for health and safety emergencies or to provide temporary, special, and supplementary services to meet the unique needs of students experiencing homelessness [42 U.S.C. § 11432(e)(3)(A); 42 U.S.C. § 11432(g)(1)(J)(i); 42 U.S.C. § 11433(a)(2)(B)(ii)].

Student Privacy

The LEA Superintendent or designee shall ensure that information about the living situation of a student experiencing homelessness is treated as a student education record, and shall not be deemed to be directory information under the Family Educational Rights and Privacy Act (FERPA) [42 U.S.C. § 11432(g)(3)(G)].

Coordination With Other Agencies

Note: The statutory requirements addressed by this policy section apply only to LEAs that receive McKinney-Vento subgrant funding; as such, this policy section may be deleted by LEAs that do not receive this funding.

The LEA Superintendent or designee shall ensure that the LEA coordinates the provision of homeless education services with other programs or agencies that also provide services to children and youth experiencing homelessness, including local social service agencies, agencies providing services under the Runaway and Homeless Youth Act, other LEAs, LEA programs providing services to students with disabilities (as applicable), and local housing agencies [42 U.S.C. § 11432(g)(5)(C)].

Professional Development and Technical Assistance

The LEA Superintendent or designee shall ensure that the LEA liaison and other appropriate LEA personnel participate in homeless education training and other technical assistance activities as deemed appropriate by the CDE Office of the State Coordinator for Homeless Education at least annually. Such professional development and technical assistance shall include, but are not limited to, improving the identification of children and youth experiencing homelessness, recognizing signs that a student is at risk of or experiencing homelessness, understanding terms related to the definitions of homelessness used by the U.S. Departments of Education and Housing and Urban Development, understanding the LEA's homeless education program policies, and understanding and meeting the specific needs of children and youth experiencing homelessness [42 U.S.C. § 11432(d)(5); 42 U.S.C. § 11432(f)(6); 42 U.S.C. § 11432(g)(1)(J)(iv); 42 U.S.C. § 11432(g)(6)(A)(ix); Cal. Educ. Code § 48851.3(c); Cal. Educ. Code § 48852.5].

Expanded High School Graduation Pathways

The LEA Superintendent or designee shall report annually to CDE the number of students experiencing homelessness graduating from the fourth or fifth year of high school who, for the prior school year, graduated with an exemption from LEA-established graduation requirements that are in addition to statewide coursework requirements (Cal. Educ. Code § 51225.1).

Data Reporting

Note: The following paragraph is optional and may be revised to reflect LEA practice.

The LEA Superintendent or designee shall report at least annually to the California State Board of Education on the identification of and outcomes for students experiencing homelessness, which may include, but are not limited to, housing questionnaire responses, school attendance, student achievement test results, promotion and retention rates by grade level, graduation rates, suspension/expulsion rates, and other outcomes related to any goals and specific actions identified in the LCAP. Based on metrics reported to the Board, the LEA shall revise its strategies as needed to identify and support the education of students experiencing homelessness more effectively (Cal. Educ. Code § 52064.5).

Dispute Resolution

The LEA Superintendent or designee shall ensure that disputes that arise over eligibility, school selection, or school enrollment are mediated and resolved in keeping with the conditions outlined in the federal McKinney-Vento Act and related CDE guidance [42 U.S.C. § 11432(g)(3)E)].

<<Other Topic(s)>>

LEAs may wish to include additional topics in their board policy as deemed necessary or beneficial based on local context.