



MCKINNEY-VENTO LAW INTO PRACTICE BRIEF SERIES

Understanding and Implementing School Selection and Best Interest Under the McKinney-Vento Act

This NCHE brief

- explains key McKinney-Vento Act provisions related to school selection and best interest;
- recommends LEA- and school-level strategies for implementing school selection and best interest determinations;
- provides a checklist of considerations for framing conversations about best interest with parents, guardians, and unaccompanied youth; and
- includes strategies for ensuring a smooth transition in the event of a school transfer.

INTRODUCTION

Children and youth experiencing homelessness (CYEH) are three times more likely than their housed peers to transfer schools in the middle of the school year because their frequent residential moves result in the choice to either travel a long distance to stay in their original school or enroll in a school closer to where they have moved (Institute for Children, Poverty & Homelessness, 2019). Both options can pose challenges for students. Navigating travel to and from the school of origin from a new location can be difficult, but changing schools may involve losing supportive relationships with peers and teachers, adjusting to an unfamiliar environment, and facing potential academic setbacks due to educational discontinuity.

THE MCKINNEY-VENTO HOMELESS ASSISTANCE ACT DEFINITION OF *HOMELESS* (Section 725(2))

The term “homeless children and youths”—

- A. means individuals who lack a fixed, regular, and adequate nighttime residence ...; 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; or 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; and
 - iv. migratory children ... who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii).

Given the importance of school stability, [Subtitle VII-B of the McKinney-Vento Homeless Assistance Act](#) (Section 721 *et seq.*; McKinney-Vento Act) provides CYEH with the right to school selection: choosing between the school of origin and the local school, as defined in statute, based on the child's or youth's best interest. This brief explains key McKinney-Vento Act provisions related to school selection and best interest, recommends LEA- and school-level strategies for implementing school selection and best interest determinations, provides a checklist of considerations for framing conversations about best interest, includes strategies for ensuring a smooth transition in the event of a school transfer, and links to additional resources for more information. NCHE briefs on additional homeless education topics can be accessed on the [NCHE Resources webpage](#).

KEY MCKINNEY-VENTO ACT PROVISIONS RELATED TO SCHOOL SELECTION AND BEST INTEREST

SCHOOL SELECTION

Local educational agencies (LEAs, often referred to as *school districts*) shall, according to the best interest of each child or youth experiencing homelessness—

- continue the child's or youth's education in the school of origin for the duration of homelessness—
 - in any case in which a family becomes homeless between academic years or during an academic year; and
 - for the remainder of the academic year, if the child or youth becomes permanently housed during an academic year; or
- 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.

(Section 722(g)(3)(A))

Given these statutory parameters, the following schools may be considered for school selection for a child or youth experiencing homelessness:

- **School of origin:** The school that a child or youth attended when permanently housed or the school in which the child or youth was last enrolled, including a preschool (Section 722(g)(3)(I)(i))
- **Receiving school:** When the child or youth completes the final grade level served by the school of origin, the term "school of origin" shall include the designated receiving school at the next grade level for all feeder schools (Section 722(g)(3)(I)(ii))
- **Local school:** 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 (Section 722(g)(3)(A)(ii))

Under the McKinney-Vento Act, the school of origin and the local school are the only options that LEAs are required to consider for school selection and enrollment (Section 722(g)(3)(A)). The Act does not extend a broader right for a parent, guardian, or unaccompanied youth to choose a school outside of this framework. Accordingly, best interest determinations may only address whether the school of origin or the local school is in the child's or youth's best interest. Requests for enrollment in schools beyond these two categories fall outside the scope of the McKinney-Vento Act's school selection and best interest provisions.

BEST INTEREST

In determining the best interest of a child or youth experiencing homelessness, LEAs shall—

- presume that keeping the child or youth in the school of origin is in the child's or youth's best interest, except when doing so is contrary to the request of the child's or youth's parent or guardian, or (in the case of an unaccompanied youth) the youth; [and]
- consider student-centered factors related to the child's or youth's best interest, including factors related to the impact of mobility on achievement, education, health, and safety, 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.

(Section 722(g)(3)(B))

DISPUTE RESOLUTION

- If, after conducting the best interest determination, the LEA determines that it is not in the child's or youth's best interest to attend the school of origin or the school requested by the parent or guardian, or (in the case of an unaccompanied youth) the youth, the LEA shall provide the child's or youth's parent or guardian or the unaccompanied youth with a written explanation of the reasons for its determination, in a manner and form understandable to the parent, guardian, or youth, including information regarding the right to appeal; and
- Liaisons must assist unaccompanied youth in placement or enrollment decisions, give priority to the views of the youth, and provide the youth with notice of the right to appeal.

(Section 722(g)(3)(B))

For more information about dispute resolution under the McKinney-Vento Act, download NCHE's [Dispute Resolution issue brief](#).

Unaccompanied Youth

The McKinney-Vento Act defines *unaccompanied youth* as "a homeless child or youth not in the physical custody of a parent or guardian" (Section 725(6)). Under the Act, unaccompanied youth have the same school selection, best interest, and dispute resolution rights that children and youth experiencing homelessness under the care of a parent or guardian have. For more information, download NCHE's [Supporting the Education of Unaccompanied Students Experiencing Homelessness issue brief](#).

SCHOOL OF ORIGIN TRANSPORTATION

LEAs must adopt policies and practices to 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 (Section 722(g)(1)(J)(iii)).

Liaisons must

- ensure that parents, guardians, and unaccompanied youth are fully informed of all transportation services available to CYEH, including transportation to the school of origin; and
- assist the parent, guardian, or unaccompanied youth with accessing transportation to the school selected according to the child's or youth's best interest—whether the school of origin or the local school—when lack of transportation poses a barrier to full school participation (Section 722(g)(6)(A)(viii)).

LEA- AND SCHOOL-LEVEL STRATEGIES FOR IMPLEMENTING SCHOOL SELECTION AND BEST INTEREST DETERMINATIONS

LEA and school staff—including liaisons, enrollment and registration staff, parent/family engagement coordinators, and school counselors—play a key role in helping children, youth, and families experiencing homelessness understand school selection options and consider which school may best meet each child's or youth's needs. The following strategies are recommended to help staff guide the implementation of McKinney-Vento Act school selection and best interest provisions in a way that upholds statutory requirements while fostering supportive decision-making with parents, guardians, and unaccompanied youth.

EQUIPPING LEA AND SCHOOL STAFF

To equip LEA and school staff to understand and implement the McKinney-Vento Act's school selection and best interest provisions, liaisons should

- provide this brief as an informational tool to LEA and school staff who work with children, youth, and families experiencing homelessness.
- provide training on school selection under the McKinney-Vento Act, including key legislative provisions and definitions as well as the statutory emphasis on school stability and the priority given to the wishes of the parent, guardian, or unaccompanied youth.
- collaborate with school staff to inform parents, guardians, and unaccompanied youth of the educational rights of CYEH immediately upon identifying the student as experiencing homelessness. It may be helpful to create new educational rights materials or integrate this information into existing LEA or school resources for caregivers and unaccompanied youth. NCHE also provides its [*Supporting Your Child in School: A Guide for Parents, Guardians, and Caregivers*](#) as a resource to equip caregivers to participate meaningfully in their child's education.

INFORMING PARENTS, GUARDIANS, AND UNACCOMPANIED YOUTH

When helping parents, guardians, and unaccompanied youth consider which school may be in the student's best interest, the liaison should

- ensure that parents, guardians, and unaccompanied youth understand the student's school selection options (i.e., school of origin or local school, as defined in the McKinney-Vento Act). Notably, there may be multiple schools that meet the definition of *school of origin* or *local school* based on when the child or youth was identified as homeless (whether when the student initially lost housing or after multiple moves have occurred) and any open-enrollment policies that may exist within the LEA. School selection options also include the student's right to enroll in a receiving school of origin in the established school feeder pattern (e.g., elementary to middle, middle to high) when that is in the student's best interest.
- reinforce the importance of school stability and educational continuity while exploring the student's unique needs with the parent, guardian, or unaccompanied youth, using [Appendix A: Checklist of Considerations When Determining Best Interest](#) below to help frame the discussion.
- provide parents, guardians, and unaccompanied youth with information on the process for disputing LEA decisions related to student eligibility (whether the student qualifies for McKinney-Vento rights and services based on their nighttime living arrangement), school selection, and/or enrollment. Visit the [NCHE Dispute Resolution webpage](#) to access related resources, including NCHE's [Dispute Resolution brief](#) and [Navigating McKinney-Vento Disputes: A Checklist Tool for Local Educational Agencies resource](#).

EXPLORING BEST INTEREST USING GUIDING QUESTIONS

LEA and school staff can discuss the following questions with parents, guardians, and unaccompanied youth when exploring which school may be in the student's best interest:

1. How permanent does the family's or youth's current living arrangement appear to be?
2. How deep are the student's ties to their current school?
3. How anxious is the child or youth about a recent or upcoming move?
4. How is the child or youth doing in school? Is the student keeping up with their classwork and meeting grade-level expectations, or are there concerns about the student's school engagement and progress?
5. How do the programs and activities at the local school compare to those at the school of origin? Which school's programming and activities best meet the unique needs and interests of the student?
6. Would the timing of a potential school transfer coincide with a logical juncture, such as after testing, after an event significant to the student, or at the end of the school year?
7. How might the length of the commute to and from the school of origin impact the student's education?
8. Are there any issues to consider related to the child's or youth's safety?
9. What is the school preference of the parent, guardian, or unaccompanied youth?

[Appendix A: Checklist of Considerations When Determining Best Interest](#), located at the end of this brief, can serve as a practical tool to facilitate best interest discussions. The checklist notes which factors may favor the student remaining in the school of origin and which factors may favor the student's enrollment in the local school.

STRATEGIES FOR ENSURING A SMOOTH TRANSITION TO A NEW SCHOOL

When the LEA and the parent, guardian, or unaccompanied youth agree that enrolling in the local school is in the student's best interest, the school of origin ("sending school") and the local school ("receiving school") can implement the following strategies to help the student navigate the school transition smoothly.

STRATEGIES FOR SENDING SCHOOLS TO SUPPORT A SMOOTH TRANSITION

The school of origin can ease the student's transition to the new school by

- encouraging the parent, guardian, or unaccompanied youth to make the transition to the new school at a time when disruption could be minimized, such as at the end of a grading period or over a holiday break.
- sending the student's school records to the new school immediately.
- collecting samples of the student's work to send to the new school or providing a folder for the parent, guardian, or unaccompanied youth to gather and share samples.
- contacting the liaison in the receiving LEA (if the local school is in a new LEA) to provide a warm handoff for the parent, guardian, or unaccompanied youth and ensure the student's immediate enrollment and access to needed services.
- providing the parent, guardian, or unaccompanied youth with information on the new school, including activities that may be of interest to the student.

STRATEGIES FOR RECEIVING SCHOOLS TO SUPPORT A SMOOTH TRANSITION

The local school can ease the student's transition to the new school by

- welcoming the student and determining if they need any material supports, such as school supplies or uniforms.
- providing orientation materials to the student and their parent or guardian.
- providing a tour of the school, including an introduction to the student's teacher(s).
- reviewing the student's academic records as well as discussing the student's interests and needs to determine what academic and other supports may be helpful.
- linking the student with all needed services for which the student is eligible, such as free school meals and academic supports.
- providing expedited testing for special education, English language programming, or other programs for which the student may be eligible.
- ensuring that all teachers have procedures for welcoming and integrating new students into the classroom.
- implementing policies and practices to ensure that students receive appropriate credit for full or partial coursework satisfactorily completed while attending a prior school, even if they enroll mid-semester.

REFERENCES

- Institute for Children, Poverty & Homelessness. (2019). *Student homelessness in New York City: School instability factors*. <https://www.icph.org/reports/school-instability-factors/>
- Subtitle VII-B of the McKinney-Vento Homeless Assistance Act, McKinney-Vento Act section 721 *et seq.* <https://uscode.house.gov/view.xhtml?path=/prelim@title42/chapter119/subchapter6/partB&edition=prelim>
- U.S. Department of Education. (2018). *Education for Homeless Children and Youths Program non-regulatory guidance*. <https://oese.ed.gov/files/2020/07/160240ehcyguidanceupdated082718.pdf>

APPENDIX A: CHECKLIST OF CONSIDERATIONS WHEN DETERMINING BEST INTEREST

School of Origin Considerations		Local School Considerations	
☐	Continuity of instruction The student would be best served at the school of origin due to circumstances related to their past.	☐	Continuity of instruction The student would be best served at the local school due to circumstances related to their future.
☐	Age and grade placement of the student Maintaining friendships and peer connections is critical to the student's meaningful school participation. The student has attended the school of origin for an extended period and/or feels strongly connected to the school of origin. If in high school, the student would benefit from remaining in the same school to remain on track for graduation.	☐	Age and grade placement of the student Maintaining friendships and peer connections in the school of origin is not a significant factor in the student's meaningful school participation. The student has brief or limited ties to the school of origin and does not feel strongly connected to it. If in high school, the student would remain on track for graduation even if transferring to the local school.
☐	Academic strength The student is facing significant academic challenges and is at considerable risk of falling further behind if they transfer to another school.	☐	Academic strength The student is performing well and at grade level and likely would recover academically if they transfer to another school.
☐	Social and emotional state The student is struggling mentally and emotionally with the effects of homelessness and does not want to leave the school of origin.	☐	Social and emotional state The student is coping adequately with the effects of homelessness and is comfortable with transferring to a new school.
☐	Distance of the commute and its impact on the student's education The advantages of continuing to attend the school of origin outweigh any potential disadvantages presented by the length of the commute.	☐	Distance of the commute and its impact on the student's education A shorter commute may support stronger school engagement for the student.
☐	Personal safety of the student The school of origin has advantages for the student's safety.	☐	Personal safety of the student The local school has advantages for the student's safety.

School of Origin Considerations		Local School Considerations	
☐	Student’s need for special instruction The student’s need for special instruction—including under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act—can be met better at the school of origin.	☐	Student’s need for special instruction The student’s need for special instruction—including under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act—can be met better at the local school.
☐	Parent, guardian, or unaccompanied youth preference The parent, guardian, or unaccompanied youth has expressed a preference for the student to continue attending the school of origin.	☐	Parent, guardian, or unaccompanied youth preference The parent, guardian, or unaccompanied youth has expressed a preference for the student to attend the local school.

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Every state is required to have a state coordinator for homeless education, and every school district is required to have a local homeless education liaison. These individuals oversee the implementation of the McKinney-Vento Act. To find out who your state coordinator is, visit the [NCHE website](http://ncche.ed.gov).

For more information on issues related to the education of children and youth experiencing homelessness, contact the NCHE helpline at 305-306-8495 or NCHE.helpline@safalpartners.com.

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