

School Residency & McKinney-Vento

Registration, Enrollment & Residency
Provisions from the McKinney-Vento Act
and Illinois School Code



A Comprehensive Reference Guide

RESEARCHED, ORGANIZED AND CREATED

BY

Suburban Cook County
Regional Advisory Committee
on Residency & Registration

JUNE 2009

HISTORY

STATEMENT OF PURPOSE

Suburban Cook County
Regional Advisory Committee
on Residency & Registration

A series of regional meetings were held with superintendents, principals and other school personnel to discuss the registration, enrollment and verification of residency as they relate to homeless children.

At the conclusion of each meeting, an invitation was extended for volunteers to participate on a regional advisory committee to review the registration, enrollment and verification of residency procedures as they relate to homeless children in suburban Cook County.

Initially, we anticipated or expected approximately twelve volunteers. To our surprise, we were overwhelmed to receive thirty-plus volunteers. This voluntary advisory committee met over several months. The discussions which followed generated a keen awareness and sensitivity to some of the issues that confront school districts across the suburban Cook County region. This led to the development of this document.

Note: It is apparent that there are many instances where School Code and local district policy conflict with McKinney-Vento. Remember when this happens that Federal law takes precedence.

This information is not offered as legal advice and should not be used as a substitute for seeking professional legal counsel. If you have any questions, contact your regional office of education.

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Published June 2009

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PART I: REGISTRATION, ENROLLMENT & RESIDENCY PROVISIONS FROM THE MCKINNEY-VENTO ACT AND THE ILLINOIS SCHOOL CODE

Authorized Activities under the McKinney-Vento Act

Considerations:

McKinney-Vento Act funds may be used to supplement any of the outlined activities.

Federal: Section 723(d) (McKinney-Vento)

(d) **AUTHORIZED ACTIVITIES-** A local educational agency may use funds awarded under this section for activities that carry out the purpose of this subtitle, including the following:

- (1) The provision of tutoring, supplemental instruction, and enriched educational services that are linked to the achievement of the same challenging State academic content standards and challenging State student academic achievement standards the State establishes for other children and youths.
- (2) The provision of expedited evaluations of the strengths and needs of homeless children and youths, including needs and eligibility for programs and services (such as educational programs for gifted and talented students, children with disabilities, and students with limited English proficiency, services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, programs in vocational and technical education, and school nutrition programs).
- (3) Professional development and other activities for educators and pupil services personnel that are designed to heighten the understanding and sensitivity of such personnel to the needs of homeless children and youths, the rights of such children and youths under this subtitle, and the specific educational needs of runaway and homeless youths.
- (4) The provision of referral services to homeless children and youths for medical, dental, mental, and other health services.
- (5) The provision of assistance to defray the excess cost of transportation for students under section 722(g)(4)(A), not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected under section 722(g)(3).
- (6) The provision of developmentally appropriate early childhood education programs, not otherwise provided through Federal, State, or local funding, for preschool-aged homeless children.
- (7) The provision of services and assistance to attract, engage, and retain homeless children and youths, and unaccompanied youths, in public school programs and services provided to nonhomeless children and youths.
- (8) The provision for homeless children and youths of before- and after-school, mentoring, and summer programs in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities.
- (9) If necessary, the payment of fees and other costs associated with tracking, obtaining, and transferring records necessary to enroll homeless children and youths in school, including birth certificates, immunization or medical records, academic records, guardianship records, and evaluations for special programs or services.

(10) The provision of education and training to the parents of homeless children and youths about the rights of, and resources available to, such children and youths.

(11) The development of coordination between schools and agencies providing services to homeless children and youths, as described in section 722(g)(5).

(12) The provision of pupil services (including violence prevention counseling) and referrals for such services.

(13) Activities to address the particular needs of homeless children and youths that may arise from domestic violence.

(14) The adaptation of space and purchase of supplies for any nonschool facilities made available under subsection (a)(2) to provide services under this subsection.

(15) The provision of school supplies, including those supplies to be distributed at shelters or temporary housing facilities, or other appropriate locations.

(16) The provision of other extraordinary or emergency assistance needed to enable homeless children and youths to attend school.

Board Policy, Removal of Barriers for Enrollment of Homeless Children

Considerations:

Board policy on enrollment cannot be more restrictive than the law allows. See Custody for Determining Residency, p. 10.

Federal: Section 722 (g)(1)(I) (McKinney-Vento)

A demonstration that State educational agency and LEA's in the state have developed, and shall review, revise, policies to remove barriers to the enrollment and retention of homeless children and youths in the schools in the State.

State: 23 Ill Admin Code 1.240 (b)

No school district shall impose requirements for enrollment more restrictive than those established under relevant Illinois and federal law. For example, no school system shall require court-ordered guardianship when an individual enrolling a student meets the legal custody requirements of Section 10-20.12b(a)(2)(iv) or (v) of the School Code [105 ILCS 5/10-20.12b(a)(2)(iv) or (v)], and each school system shall immediately enroll and serve homeless children without requiring the provision of any documentation, in accordance with the Illinois Education for Homeless Children Act [105 ILCS 45] and the McKinney-Vento Homeless Education Assistance Act [42 USC 11434].

Choice of Schools

Considerations:

- Helping the student return to the “school of origin” is one of McKinney-Vento’s main goals, if possible.
- He/she must be allowed to enroll or re-enroll immediately, even if he/she does not have school records.
- After the family finds a permanent home, the child/youth is allowed to finish the school year in the same school.
- Choice resides with the family, not the school, if a child is homeless.
- It is the responsibility of the school district to assist a child in enrolling in a district if the child is unaccompanied by a parent or guardian and is homeless.

Federal: Section 722 (3)(f) Place Choice (McKinney-Vento)

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.

State: § 105 ILCS 45/1-10. Choice of schools

Sec. 1-10. Choice of schools. (a) When a child loses permanent housing and becomes a homeless person within the meaning of Section 5 [105 ILCS 45/1-5], or when a homeless child changes his or her temporary living arrangements, the parents or guardians of the homeless child shall have the option of either:

(1) continuing the child’s education in the school of origin for as long as the child remains homeless or, if the child becomes permanently housed, until the end of the academic year during which the housing is acquired; or

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

Federal: Section 722 (B) (McKinney-Vento)

In determining the best interest of the child or youth under subparagraph (A), the LEA 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 or youth’s parent or guardian, if the LEA 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 and considers the views of such unaccompanied youth and provides notice to such youth of the right to appeal under subparagraph (E).

Comparable Services for Homeless Children and Youth

Considerations:

Homeless students are eligible for and should be provided all programs and services provided through local, federal and state funds (i.e. Title I, Special Education, gifted, Early Childhood, etc.). A district cannot deny programs or services to a child due to their homeless status.

Federal: Section 722 (4) (McKinney-Vento)

Each homeless child or youth to be assisted under this subtitle shall be provided services offered to other students in the school selected under paragraph (3), including the following:

- (A) Transportation services
- (B) Educational services for which the child or youth meets the eligibility criteria such as services provided under the Title I of the Elementary and Secondary Education Act of 1965 or similar state and local

programs, educational programs for children with disabilities, and educational programs for students with limited English proficiency.

- (C) Programs in vocational and technical education.
- (D) Programs for gifted and talented students
- (E) School nutrition programs.

Contact Information for Homeless Children and Youth

Considerations:

Districts can require reasonable contact information if a child is considered to be homeless.

Federal: Section 722 (3)(H) (McKinney-Vento)

Nothing in this subtitle shall prohibit a LEA from requiring a parent or guardian of a homeless child to submit contact information.

Coordination of Homeless Services with Outside Agencies

Considerations:

Districts are responsible for the coordination of services with outside agencies to ensure homeless children receive all necessary services.

Federal: Section 722 (g)(5)(A) (McKinney-Vento)

In general-each LEA serving homeless children and youths that receives assistance under this subtitle shall coordinate-

- (i) the provision of services under this subtitle with the local social service agencies and other agencies or programs providing service to homeless children and youths and their families, including services and programs funded under the Runaway and Homeless Youth Act (43 U.S.C. 5701 et seq.); and
- (ii) with other LEA on interdistrict issues, such as transportation or transfer of school records.

(B) Housing Assistance-If applicable, each State educational agency and local educational agency that receives assistance under this subtitle shall coordinate with State and local housings agencies responsible for developing the comprehensive housing affordability strategy described in section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 12705) to minimize educational disruption for children and youth who become homeless.

Custody for Determining Residency

Considerations:

Custody can be granted to any person that provides a night-time dwelling and is the primary caregiver to a child.

Custody Guidelines

- Custody cannot be granted to someone for the sole purpose of accessing the education programs of the district.
- Custody DOES NOT need to be awarded by a court.
- Custody DOES NOT have to be provided by a relative.

See Guardian, p. 16.

State: § 105 ILCS 5/10-20.12b. Residency; payment of tuition; hearing; criminal penalty

Sec. 10-20.12b. Residency; payment of tuition; hearing; criminal penalty. (a) For purposes of this Section:

(1) The residence of a person who has legal custody of a pupil is deemed to be the residence of the pupil.

(2) “Legal custody” means one of the following:

(i) Custody exercised by a natural or adoptive parent with whom the pupil resides.

(ii) Custody granted by order of a court of competent jurisdiction to a person with whom the pupil resides for reasons other than to have access to the educational programs of the district.

(iii) Custody exercised under a statutory short-term guardianship, provided that within 60 days of the pupil’s enrollment a court order is entered that establishes a permanent guardianship and grants custody to a person with whom the pupil resides for reasons other than to have access to the educational programs of the district.

(iv) Custody exercised by an adult caretaker relative who is receiving aid under the Illinois Public Aid Code [305 ILCS 5/1-1 et seq.] for the pupil who resides with that adult caretaker relative for purposes other than to have access to the educational programs of the district.

(v) Custody exercised by an adult who demonstrates that, in fact, he or she has assumed and exercises legal responsibility for the pupil and provides the pupil with a regular fixed night-time abode for purposes other than to have access to the educational programs of the district. (Emphasis added.)

(a-5) If a pupil’s change of residence is due to the military service obligation of a person who has legal custody of the pupil, then, upon the written request of the person having legal custody of the pupil, the residence of the pupil is deemed for all purposes relating to enrollment (including tuition, fees, and costs), for the duration of the custodian’s military service obligation, to be the same as the residence of the pupil immediately before the change of residence caused by the military service obligation. A school district is not responsible for providing transportation to or from school for a pupil whose residence is determined under this subsection (a-5). School districts shall facilitate re-enrollment when necessary to comply with this subsection (a-5).

(b) Except as otherwise provided under Section 10-22.5a [105 ILCS 5/10-22.5a], only resident pupils of a school district may attend the schools of the district without payment of the tuition required to be charged under Section 10-20.12a [105 ILCS 5/10-20.12a]. However, children for whom the Guardianship Administrator of the Department of Children and Family Services has been appointed temporary custodian or guardian of the person of a child shall not be charged tuition as a nonresident pupil if the child was placed by the Department of Children and Family Services with a foster parent or placed in another type of child care facility and the foster parent or child care facility is located in a school district other than the child’s former school district and it is determined by the Department of

Children and Family Services to be in the child's best interest to maintain attendance at his or her former school district.

(c) The provisions of this subsection do not apply in school districts having a population of 500,000 or more. If a school board in a school district with a population of less than 500,000 determines that a pupil who is attending school in the district on a tuition free basis is a nonresident of the district for whom tuition is required to be charged under Section 10-20.12a [105 ILCS 5/10-20.12a], the board shall notify the person who enrolled the pupil of the amount of the tuition charged under Section 10-20.12a [105 ILCS 5/10-20.12a] that is due to the district for the nonresident pupil's attendance in the district's schools. The notice shall be given by certified mail, return receipt requested. Within 10 days after receipt of the notice, the person who enrolled the pupil may request a hearing to review the determination of the school board. The request shall be sent by certified mail, return receipt requested, to the district superintendent. Within 10 days after receipt of the request, the board shall notify, by certified mail, return receipt requested, the person requesting the hearing of the time and place of the hearing, which shall be held not less than 10 nor more than 20 days after the notice of hearing is given. The board or a hearing officer designated by the board shall conduct the hearing. The board and the person who enrolled the pupil may be represented at the hearing by representatives of their choice. At the hearing, the person who enrolled the pupil shall have the burden of going forward with the evidence concerning the pupil's residency. If the hearing is conducted by a hearing officer, the hearing officer, within 5 days after the conclusion of the hearing, shall send a written report of his or her findings by certified mail, return receipt requested, to the school board and to the person who enrolled the pupil. The person who enrolled the pupil may, within 5 days after receiving the findings, file written objections to the findings with the school board by sending the objections by certified mail, return receipt requested, addressed to the district superintendent. Whether the hearing is conducted by the school board or a hearing officer, the school board shall, within 15 days after the conclusion of the hearing, decide whether or not the pupil is a resident of the district and the amount of any tuition required to be charged under Section 10-20.12a [105 ILCS 5/10-20.12a] as a result of the pupil's attendance in the schools of the district. The school board shall send a copy of its decision to the person who enrolled the pupil, and the decision of the school board shall be final.

(c-5) The provisions of this subsection apply only in school districts having a population of 500,000 or more. If the board of education of a school district with a population of 500,000 or more determines that a pupil who is attending school in the district on a tuition free basis is a nonresident of the district for whom tuition is required to be charged under Section 10-20.12a [105 ILCS 5/10-20.12a], the board shall notify the person who enrolled the pupil of the amount of the tuition charged under Section 10-20.12a [105 ILCS 5/10-20.12a] that is due to the district for the nonresident pupil's attendance in the district's schools. The notice shall be given by certified mail, return receipt requested. Within 10 days after receipt of the notice, the person who enrolled the pupil may request a hearing to review the determination of the school board. The request shall be sent by certified mail, return receipt requested, to the district superintendent. Within 30 days after receipt of the request, the board shall notify, by certified mail, return receipt requested, the person requesting the hearing of the time and place of the hearing, which shall be held not less than 10 nor more than 30 days after the notice of hearing is given. The board or a hearing officer designated by the board shall conduct the hearing. The board and the person who enrolled the pupil may each be represented at the hearing by a representative of their choice. At the hearing, the person who enrolled the pupil shall have the burden of going forward with the evidence concerning the pupil's residency. If the hearing is conducted by a hearing officer, the hearing officer, within 20 days after the conclusion of the hearing, shall serve a written report of his or her findings by personal service or by certified mail, return receipt requested, to the school board and to the person who enrolled the pupil. The person who enrolled the pupil may, within 10 days after receiving the findings, file written objections to the findings with the board of education by sending the objections by certified mail, return receipt requested, addressed to the general superintendent of schools. If the hearing is conducted by the board of education, the board shall, within 45 days after the conclusion of the hearing, decide whether or not the pupil is a resident of the district and the amount of any tuition required to be charged under Section 10-20.12a [105 ILCS 5/10-20.12a] as a result of the pupil's attendance in the schools of the district. If the hearing is conducted by a hearing officer, the board of education shall, within 45 days after the receipt of the hearing officer's findings, decide whether or not the pupil is a resident of the district and the amount of any tuition required to be charged under Section 10-20.12a [105 ILCS 5/10-20.12a] as a result of the pupil's attendance in the schools of the district. The board of education shall send, by certified mail, return receipt requested, a copy of its decision to the person who enrolled the pupil, and the decision of the board shall be final.

(d) If a hearing is requested under subsection (c) or (c-5) to review the determination of the school board or board of education that a nonresident pupil is attending the schools of the district without payment of the tuition required to

be charged under Section 10-20.12a [105 ILCS 5/10-20.12a], the pupil may, at the request of a person who enrolled the pupil, continue attendance at the schools of the district pending a final decision of the board following the hearing. However, attendance of that pupil in the schools of the district as authorized by this subsection (d) shall not relieve any person who enrolled the pupil of the obligation to pay the tuition charged for that attendance under Section 10-20.12a [105 ILCS 5/10-20.12a] if the final decision of the board is that the pupil is a nonresident of the district. If a pupil is determined to be a nonresident of the district for whom tuition is required to be charged pursuant to this Section, the board shall refuse to permit the pupil to continue attending the schools of the district unless the required tuition is paid for the pupil.

(e) Except for a pupil referred to in subsection (b) of Section 10-22.5a [105 ILCS 5/10-22.5a], a pupil referred to in Section 10-20.12a [105 ILCS 5/10-20.12a], or a pupil referred to in subsection (b) of this Section, a person who knowingly enrolls or attempts to enroll in the schools of a school district on a tuition free basis a pupil known by that person to be a nonresident of the district shall be guilty of a Class C misdemeanor.

(f) A person who knowingly or wilfully presents to any school district any false information regarding the residency of a pupil for the purpose of enabling that pupil to attend any school in that district without the payment of a nonresident tuition charge shall be guilty of a Class C misdemeanor.

(g) The provisions of this Section are subject to the provisions of the Education for Homeless Children Act [105 ILCS 45/1-1 et seq.]. Nothing in this Section shall be construed to apply to or require the payment of tuition by a parent or guardian of a "homeless child" (as that term is defined in Section 1-5 of the Education for Homeless Children Act [105 ILCS 45/1-5]) in connection with or as a result of the homeless child's continued education or enrollment in a school that is chosen in accordance with any of the options provided in Section 1-10 of that Act [105 ILCS 45/1-10].

Custody/Residency for Students with Disabilities

State: 105 ILCS 5/14-1.11

Sec. 14-1.11. Resident district; parent; legal guardian. The resident district is the school district in which the parent or guardian, or both parent and guardian, of the student reside when:

- (1) the parent has legal guardianship of the student and resides within Illinois; or
- (2) an individual guardian has been appointed by the courts and resides within Illinois; Or
- (3) an Illinois public agency has legal guardianship and the student resides either in the home of the parent or within the same district as the parent; or
- (4) an Illinois court orders a residential placement but the parents retain legal guardianship.

In cases of divorced or separated parents, when only one parent has legal guardianship or custody, the district in which the parent having legal guardianship or custody resides is the resident district. When both parents retain legal guardianship or custody, the resident district is the district in which either parent who provides the student's primary regular fixed night-time abode resides; provided, that the election of resident district may be made only one time per school year. When the parent has legal guardianship and lives outside of the State of Illinois, or when the individual legal guardian other than the natural parent lives outside the State of Illinois, the parent, legal guardian, or other placing agent is responsible for making arrangements to pay the Illinois school district serving the child for the educational services provided. Those service costs shall be determined in accordance with Section 14-7.01 [105 ILCS 5/14-7.01].

§ 105 ILCS 5/14-1.11a. Resident district; student

Sec. 14-1.11a. Resident district; student. The resident district is the school district in which the student resides when:

- (1) the parent has legal guardianship but the location of the parent is unknown; or
- (2) an individual guardian has been appointed but the location of the guardian is unknown; or
- (3) the student is 18 years of age or older and no legal guardian has been appointed; or
- (4) the student is legally an emancipated minor; or
- (5) an Illinois public agency has legal guardianship and has placed the student residentially outside of the school district in which the parent lives.

In cases where an Illinois public agency has legal guardianship and has placed the student residentially outside of Illinois, the last school district that provided at least 45 days of educational service to the student shall continue to be the district of residence until the student is no longer under guardianship of an Illinois public agency or until the student is returned to Illinois.

The resident district of a homeless student is the Illinois district in which the student enrolls for educational services. Homeless students include individuals as defined in the Stewart B. McKinney Homeless Assistance Act [42 U.S.C. § 11361 et seq]

Data Collection by Districts on Homeless Children

Considerations:

The state currently requires an annual report from each district through IWAS, as well as a quarterly report sent to the local sub-grantee of McKinney-Vento, which includes local ROEs.

Federal: Section 722 (f) (1) (McKinney-Vento)

The Coordinator for Education of Homeless Children and Youths established in each State shall-
(1) gather reliable, valid, and comprehensive information on the nature and extent of the problems homeless children and youths have in gaining access to public preschool programs and to public elementary schools and secondary schools, the difficulties in identifying the special needs of such children and youths, any progress made by the State educational agency and local educational agencies in the State in addressing such problems and difficulties, and the success of the programs under this subtitle in allowing homeless children and youths to enroll in, attend, and succeed in, school;....

Dispute Resolution for Homeless Students

Considerations:

When a dispute regarding the homeless status of children occurs, the ROE appoints an ombudsperson to mediate the issue. It is the district's responsibility to contact the ROE and to refer the family to low cost or free legal assistance.

When there is a dispute resolution decision resulting in the student's continued attendance in the district, the district has the right to conduct a review if such hardship continues to exist 18 months after the decision and annually thereafter.

Residency hearing: See local school board policy.

If homelessness comes up during a board residency hearing, the residency process stops and a dispute resolution hearing should be used to determine if the student is homeless.

Federal: Section 722 (3)(E) (McKinney-Vento)

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 the selection or enrollment, including the rights of the parent, guardian, youth to appeal the decision;
- (iii) the child, youth, parent, or guardian shall be referred to the LEA 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.

State: § 105 ILCS 45/1-25. Ombudspersons; dispute resolution; civil actions

Sec. 1-25. Ombudspersons; dispute resolution; civil actions. (a) Each regional superintendent of schools shall appoint an ombudsperson who is fair and impartial and familiar with the educational rights and needs of homeless children to provide resource information and resolve disputes at schools within his or her jurisdiction relating to the rights of homeless children under this Act. If a school denies a homeless child enrollment or transportation, it shall immediately refer the child or his or her parent or guardian to the ombudsperson and provide the child or his or her parent or guardian with a written statement of the basis for the denial. The child shall be admitted and transported to the school chosen by the parent or guardian until final resolution of the dispute. The ombudsperson shall convene a meeting of all parties and attempt to resolve the dispute within 5 school days after receiving notice of the dispute, if possible.

(a-5) Whenever a child and his or her parent or guardian who initially share the housing of another person due to loss of housing, economic hardship, or a similar hardship continue to share the housing, a school district may, after the passage of 18 months and annually thereafter, conduct a review as to whether such hardship continues to exist. The district may, at the time of review, request information from the parent or guardian to reasonably establish the hardship, and sworn affidavits or declarations may be sought and provided. If, upon review, the district determines that the family no longer suffers such hardship, it may notify the family in writing and begin the process of dispute resolution as set forth in this Act. Any change required as a result of this review and determination shall be effective solely at the close of the school year. Any person who knowingly or willfully presents false information regarding the hardship of a child in any review under this subsection (a-5) shall be guilty of a Class C misdemeanor.

(b) Any party to a dispute under this Act may file a civil action in a court of competent jurisdiction to seek appropriate relief. In any civil action, a party whose rights under this Act are found to have been violated shall be entitled to recover reasonable attorney's fees and costs.

(c) If a dispute arises, the school district shall inform parents and guardians of homeless children of the availability of the ombudsperson, sources of low cost or free legal assistance, and other advocacy services in the community.

Economic Hardship

Considerations:

There is no legal definition of economic hardship under the McKinney-Vento Act. **Economic hardship can be one indicator, but it is not required for homeless status.** For example:

- Cases where limited financial resources have forced families or youth to leave their personal residence and share housing (double up) with others due to an inability to pay rent and other bills. The way the shared housing came about and the intention of the residents is significant.
- If economic hardship from an accident or illness, loss of employment, loss of housing, loss of public benefits, or condition of poverty forces families to share housing temporarily, the children and youth are eligible for McKinney-Vento services.

CAUTION: A family may appear to have financial stability and still be considered homeless.

A long-term, cooperative living arrangement among families or friends that is fixed, regular, and adequate should not be considered a homeless situation, even if the parties are living together to save money.

This list is not exhaustive.

Federal: Section 725 (2) (McKinney-Vento)

The term homeless children and youths —

(A) means individuals who lack a fixed, regular, and adequate night-time residence (within the meaning of section 103(a)(1)); 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;

Emancipated Minor

Considerations:

An emancipated minor can enroll themselves in school. An emancipated minor who does not have a fixed, regular or adequate night-time residence is homeless.

State: § 750 ILCS 30/5. Rights and responsibilities of an emancipated minor.

Sec. 5. Rights and responsibilities of an emancipated minor. (a) A mature minor ordered emancipated under this Act shall have the right to enter into valid legal contracts, and shall have such other rights and responsibilities as the court may order that are not inconsistent with the specific age requirements of the State or federal constitution or any State or federal law.

(b) A mature minor or homeless minor who is partially emancipated under this Act shall have only those rights and responsibilities specified in the order of the court.

State: § 750 ILCS 30/3-2. Mature minor

Sec. 3-2. Mature minor. “Mature minor” means a person 16 years of age or over and under the age of 18 years who has demonstrated the ability and capacity to manage his own affairs and to live wholly or partially independent of his parents or guardian.

Enrollment

Considerations:

School districts must immediately enroll a child who is homeless or has homeless status pending.

Schools cannot deny or delay enrollment for the purpose of investigating residency.

Federal: Section 725 (1) (McKinney-Vento)

The terms enroll and enrollment include attending classes and fully participating in school activities

Section 722 (3)(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, guardian, or youth to the LEA liaison designated under paragraph (1)(J)(ii), who shall assist in obtaining necessary immunizations, or immunization or medical records, in accordance with subparagraph (D).

State: § 105 ILCS 45/1-20. Enrollment

Sec. 1-20. Enrollment. If the parents or guardians of a homeless child or youth choose to enroll the child in a school other than the school of origin, that school immediately shall 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. Nothing in this subsection shall prohibit school districts from requiring parents or guardians of a homeless child to submit an address or such other contact information as the district may require from parents or guardians of nonhomeless children. It shall be the duty of the enrolling school to immediately contact the school last attended by the child or youth to obtain relevant academic and other records. If the child or youth must obtain immunizations, it shall be the duty of the enrolling school to promptly refer the child or youth for those immunizations.

State: 105 ILCS 5/26-2 (b) A school district shall deny reenrollment in its secondary schools to any child 19 years of age or above who has dropped out of school and who could not, because of age and lack of credits, attend classes during the normal school year and graduate before his or her twenty-first birthday. A district may, however, enroll the child in a graduation incentives program under Section 26-16 of this Code or an alternative learning opportunities program established under Article 13B. No child shall be denied reenrollment for the above reasons unless the school district first offers the child due process as required in cases of expulsion under Section 10-22.6. If a child is denied reenrollment after being provided with due process, the school district must provide counseling to that child and must direct that child to alternative educational programs, including adult education programs that lead to graduation or receipt of a GED diploma.

Guardian

Considerations:

Court-ordered guardianship cannot be required to enroll a student. See Custody for Determining Residency, p. 10.

State: § 750 ILCS 30/3-4. Guardian

Sec. 3-4. Guardian. "Guardian" means any person, association or agency appointed guardian of the person of the minor under the Juvenile Court Act, the Juvenile Court Act of 1987 [705 ILCS 405/1-1 et seq.], the "Probate Act of 1975" [755 ILCS 5/1-1 et seq.], or any other statute or court order.

Homeless Children and Youths

Considerations:

Examples:

- Children in shelters
- Doubled-up children (living with another family due to lack of a permanent residence)
- Migratory children (if accommodations are not fit for habitation)
- Runaways (children who have run away from home and live in a shelter or inadequate accommodations, even if parents are willing to provide a home)
- Throwaways (children whose parents or guardians will not permit them to live at home)

Resource: Opening Doors

Note: It is the school's responsibility to identify a homeless student. Under Liaison Responsibility in McKinney-Vento Law, Sec 722 (6)(A)(i) "homeless children and youth are identified by school personnel and through coordination activities with other entities and agencies." These may include welfare agencies, child attorneys, and other community members.

The McKinney-Vento Act applies to children and youth age 21 and under, consistent with their eligibility for public education services under state and federal law. In Illinois, students are eligible to access school until age 21, unless the student is a dropout, 19 years old, and cannot graduate before turning 21. For special education students, federal law provides the right to access services until age 22.

See Enrollment, p. 16, and Local Education Agency (LEA) Liaison, p. 18.

Federal: Section 725 (2) (McKinney-Vento Act)

(A) means individuals who lack a fixed, regular, and adequate night-time residence (within the meaning of section 103 (a) (1)); and

(B) includes-

(i) children and youths who are sharing housing of other persons due to a 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 night-time 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 103 (a)(2)(C));

(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 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii).

State: § 105 ILCS 45/1-5. Definitions

"Homeless person, child, or youth" includes, but is not limited to, any of the following:

(1) An individual who lacks a fixed, regular, and adequate night-time place of abode.

(2) An individual who has a primary night-time place of abode that is:

(A) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing);

(B) an institution that provides a temporary residence for individuals intended to be institutionalized; or

(C) a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings.

State: § 105 ILCS 5/26-2(b)

(b) A school district shall deny reenrollment in its secondary schools to any child 19 years of age or above who has dropped out of school and who could not, because of age and lack of credits, attend classes during the normal school year and graduate before his or her twenty-first birthday.

Jurisdiction

State: § 750 ILCS 30/4. Jurisdiction

Sec. 4. Jurisdiction. The circuit court in the county where the minor resides, is found, owns property, or in which a court action affecting the interests of the minor is pending, may, upon the filing of a petition on behalf of the minor by his next friend, parent or guardian and after any hearing or notice to all persons as set forth in Sections 7, 8, and 9 of this Act [750 ILCS 30/7, 750 ILCS 30/8 and 750 ILCS 30/9], enter a finding that the minor is a mature minor or a homeless minor as defined in this Act and order complete or partial emancipation of the minor. The court in its order for partial emancipation may specifically limit the rights and responsibilities of the minor seeking emancipation. In the case of a homeless minor, the court shall restrict the order of emancipation to allowing the minor to consent to the receipt of transitional services and shelter or housing from a specified youth transitional program and its referral agencies only.

Local Education Agency (LEA) Liaison

Considerations:

Ensure that special attention is given to locating and enrolling homeless children and youth who are currently not in school. This task is part of the liaison responsibilities under the McKinney-Vento Act.

Every LEA must have posters on the educational rights of homeless children in every attendance center.

Federal: Section 722 (g)(1)(J) (McKinney-Vento Act)

- (i) LEA's will designate an appropriate staff person, who may also be coordinator for other Federal programs, as a LEA liaison for homeless children and youths, to carry out the duties described in paragraph (6)(A);

Federal: Section 722 (g)(6)(A) (McKinney-Vento Act)

Duties- each LEA for homeless children and youths, designated under paragraph (1)(J)(ii), shall ensure that-

- (i) homeless children and youths are identified by school personnel and through coordination activities with other entities and agencies;
- (ii) homeless children and youths enroll in, and have full and equal opportunity to succeed in, schools of that LEA;
- (iii) homeless families, children, and youths receive educational services for which such families, children, youths are eligible, including Head Start, and Even Start programs and preschool programs administered by the LEA, and referrals to health care services, dental services, mental health services, and other appropriate services;
- (iv) the parents or guardians of homeless children and youths are informed of the educational and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children;
- (v) public notice of the educational rights of homeless children and youth is disseminated where such children and youths receive services under this Act, such as schools, family shelters, and soup kitchens;
- (vi) enrollment disputes are mediated in accordance with paragraph (3)(E); and

- (vii) the parent or guardian of a homeless child or youth, and any unaccompanied youth, is fully informed of all transportation services, including transportation to the school of origin, as described in paragraph (1)(J)(iii), and is assisted in accessing transportation to the school that is selected under paragraph (3)(A).
- (B) Notice-State coordinators established under subsection (d)(3) and LEA's shall inform school personnel, service providers, and advocates working with homeless families of the duties of the LEA liaisons.
- (C) Local and state coordination-Local LEA liaisons for homeless children and youths shall, as a part of their duties, coordinate and collaborate with State coordinators and community and school personnel responsible for the provision of education and related services to homeless children and youths.

Loss of Housing

Considerations:

"...*due to loss of housing*..." implies that the student has no housing available. Did the student or family lose their previous housing due to...

- an eviction or an inability to pay the rent or other bills?
- destruction of or damage to the previous home?
- abuse or neglect (such as in the case of a youth who leaves or is asked to leave the home)?
- unhealthy conditions such as an inadequate physical environment, infestations, drug or alcohol abuse in the home, or domestic violence?
- the absence of a parent or guardian due to abandonment, the parent or guardian's incarceration or another reason.

Due to the extremely limited incomes of most families experiencing homelessness (on average, less than half the federal poverty line) and the severe shortage of affordable housing across the country, experiences of homelessness can sometimes last an extended period of time.

Federal: Section 725 (2) (McKinney-Vento Act)

- (A) means individuals who lack a fixed, regular, and adequate night-time residence (within the meaning of section 103 (a) (1)); and
- (B) includes-
 - (i) children and youths who are sharing housing of other persons due to a 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 night-time 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 103 (a)(2)(C));
 - (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 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii).

Parent

Considerations: See Custody for Determining Residency, p. 10, and Guardian, p. 16.

State: § 105 ILCS 45/1-5. Definitions

“Parent” means the parent or guardian having legal or physical custody of a child.

§ 750 ILCS 30/3-3. Parents

Sec. 3-3. Parents. “Parent” means the father or mother of a lawful child of the parties or a child born out of wedlock, and includes any adoptive parent. It does not include a parent whose rights in respect to the minor have been terminated in any manner provided by law.

Penalties

Considerations: The person providing false information may also be liable for tuition, fees, and all other applicable fines. Refer also to Custody for Determining Residency, p. 10.

State: § 105 ILCS 45/1-45. Penalties

Sec. 1-45. Penalties. No person shall, under the provisions of this Act, enroll or attempt to enroll in a school other than the school of origin a child who he or she knows is not a homeless person as defined in this Act. No person shall knowingly or willfully present to any school district false information regarding the homelessness of any child or family for the purpose of enabling that child to attend a school other than the school of origin. Any person who violates this Section shall be guilty of a Class C misdemeanor.

Prohibition on Segregating Homeless Students

Considerations: Children cannot be placed in alternative programs *solely* because of their homeless status.

Federal: Section 722 (e)(3)(A) (McKinney-Vento Act)

Except as provided in subparagraph (B) and section 723(a)(2)(B)(ii), in providing a free public education to a homeless child or youth, no State receiving funds under this subtitle shall segregate such child or youth in a separate school or in a separate program within a school, based on such child’s or youth’s status as homeless.

Federal: Section 722 (g)(1)(J) (McKinney-Vento Act)

- (ii) Assurances that SEA and LEA’s in the state adopt policies and practices to ensure that homeless children and youths are not stigmatized or segregated on the basis of the status as homeless

Records

Consideration: Homeless students must be enrolled immediately. After enrollment, LEAs should work with the families and previous schools to obtain all necessary records. See Enrollment, p. 16. Sometimes there is conflict between State and Federal law. Remember Federal law trumps State law or local district policies.

Federal: Section 722 (3)(D) (McKinney-Vento Act)

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 records are available in a timely fashion, when a child or youth enters a new school district; and
- (ii) in a manner consistent with section 444 of the General Education Provisions Act (20 U.S.C. 1232g).

ISBE Student Transfer Form 33-78

State: 105 ILCS 5/2-3.13a) (from Ch. 122, par. 2-3.13a)

Sec. 2-3.13a. School records; transferring students.

(a) The State Board of Education shall establish and implement rules requiring all of the public schools and all private or nonpublic elementary and secondary schools located in this State, whenever any such school has a student who is transferring to any other public elementary or secondary school located in this or in any other state, to forward within 10 days of notice of the student's transfer an unofficial record of that student's grades to the school to which such student is transferring. Each public school at the same time also shall forward to the school to which the student is transferring the remainder of the student's school student records as required by the Illinois School Student Records Act. In addition, if a student is transferring from a public school, whether located in this or any other state, from which the student has been suspended or expelled for knowingly possessing in a school building or on school grounds a weapon as defined in the Gun Free Schools Act (20 U.S.C. 8921 et seq.), for knowingly possessing, selling, or delivering in a school building or on school grounds a controlled substance or cannabis, or for battering a staff member of the school, and if the period of suspension or expulsion has not expired at the time the student attempts to transfer into another public school in the same or any other school district: (i) any school student records required to be transferred shall include the date and duration of the period of suspension or expulsion; and (ii) with the exception of transfers into the Department of Juvenile Justice school district, the student shall not be permitted to attend class in the public school into which he or she is transferring until the student has served the entire period of the suspension or expulsion imposed by the school from which the student is transferring, provided that the school board may approve the placement of the student in an alternative school program established under Article 13A of this Code. A school district may adopt a policy providing that if a student is suspended or expelled for any reason from any public or private school in this or any other state, the student must complete the entire term of the suspension or expulsion before being admitted into the school district. This policy may allow placement of the student in an alternative school program established under Article 13A of this Code, if available, for the remainder of the suspension or expulsion. Each public school and each private or nonpublic elementary or secondary school in this State shall within 10 days after the student has paid all of his or her outstanding fines and fees and at its own expense forward an official transcript of the scholastic records of each student transferring from that school in strict accordance with the provisions of this Section and the rules established by the State Board of Education as herein provided.

(b) The State Board of Education shall develop a one-page standard form that Illinois school districts are required to provide to any student who is moving out of the school district and that contains the information about whether or not the student is "in good standing" and whether or not his or her medical records are up-to-date and complete. As used in this Section, "in good standing" means that the student is not being disciplined by a suspension or expulsion, but is entitled to attend classes. No school district is required to admit a new student who is transferring from another Illinois school district unless he or she can produce the standard form from the student's previous school district enrollment. No school district is required to admit a new student who is transferring from an out-of-state public school unless the parent or guardian of the student certifies in writing that the student is not currently serving a suspension or expulsion imposed by the school from which the student is transferring.

(c) The State Board of Education shall, by rule, establish a system to provide for the accurate tracking of transfer students. This system shall, at a minimum, require that a student be counted as a dropout in the calculation of a school's or school district's annual student dropout rate unless the school or school district to which the student transferred (known hereafter in this subsection (c) as the transferee school or school district) sends notification to the school or school district from which the student transferred (known hereafter in this subsection (c) as the transferor school or school district) documenting that the student has enrolled in the transferee school or school district. This notification must occur within 150 days after the date the student withdraws from the transferor school or school district or the student shall be counted in the calculation of the transferor school's or school district's annual student dropout rate. A request by the transferee school or school district to the transferor school or school district seeking the student's academic transcripts or medical records shall be considered without limitation adequate documentation of enrollment. Each transferor school or school district shall keep documentation of such transfer students for the minimum period provided in the Illinois School Student Records Act. All records indicating the school or school district to which a student transferred are subject to the Illinois School Student Records Act.

See ISBE website for current Form 33-78

Medical/ Immunization Records

State: 105 ILCS 5/27-8.1

Sec. 27-8.1. Health examinations and immunizations.

(5) If a child does not submit proof of having had either the health examination or the immunization as required, then the child shall be examined or receive the immunization, as the case may be, and present proof by October 15 of the current school year, or by an earlier date of the current school year established by a school district. To establish a date before October 15 of the current school year for the health examination or immunization as required, a school district must give notice of the requirements of this Section 60 days prior to the earlier established date. If for medical reasons one or more of the required immunizations must be given after October 15 of the current school year, or after an earlier established date of the current school year, then the child shall present, by October 15, or by the earlier established date, a schedule for the administration of the immunizations and a statement of the medical reasons causing the delay, both the schedule and the statement being issued by the physician, advanced practice nurse, physician assistant, registered nurse, or local health department that will be responsible for administration of the remaining required immunizations. If a child does not comply by October 15, or by the earlier established date of the current school year, with the requirements of this subsection, then the local school authority shall exclude that child from school until such time as the child presents proof of having had the health examination as required and presents proof of having received those required immunizations which are medically possible to receive immediately. During a child's exclusion from school for noncompliance with this subsection, the child's parents or legal guardian shall be considered in violation of Section 26-1 and subject to any penalty imposed by Section 26-10. This subsection (5) does not apply to dental examinations and eye examinations.

(6) Every school shall report to the State Board of Education by November 15, in the manner which that agency shall require, the number of children who have received the necessary immunizations and the health examination (other than a dental examination or eye examination) as required, indicating, of those who have not received the immunizations and examination as required, the number of children who are exempt from health examination and immunization requirements on religious or medical grounds as provided in subsection (8). Every school shall report to the State Board of Education by June 30, in the manner that the State Board requires, the number of children who have received the required dental examination, indicating, of those who have not received the required dental examination, the number of children who are exempt from the dental examination on religious grounds as provided in subsection (8) of this Section and the number of children who have received a waiver under subsection (1.5) of this Section. Every school shall report to the State Board of Education by June 30, in the manner that the State Board requires, the number of children who have received the required eye examination, indicating, of those who have not received the required eye examination, the number of children who are exempt from the eye examination as provided in subsection (8) of this Section, the number of children who have received a waiver under subsection (1.10) of this Section, and the total number of children in noncompliance with the eye examination requirement. This reported information shall be provided to the Department of Public Health by the State Board of Education.

(7) Upon determining that the number of pupils who are required to be in compliance with subsection (5) of this Section is below 90% of the number of pupils enrolled in the school district, 10% of each State aid payment made pursuant to Section 18-8.05 to the school district for such year may be withheld by the State Board of Education until the number of students in compliance with subsection (5) is the applicable specified percentage or higher.

(8) Parents or legal guardians who object to health, dental, or eye examinations or any part thereof, or to immunizations, on religious grounds shall not be required to submit their children or wards to the examinations or immunizations to which they so object if such parents or legal guardians present to the appropriate local school authority a signed statement of objection, detailing the grounds for the objection. If the physical condition of the child is such that any one or more of the immunizing agents should not be administered, the examining physician, advanced practice nurse, or physician assistant responsible for the performance of the health examination shall endorse that fact upon the health examination form. Exempting a child from the health, dental, or eye examination does not exempt the child from participation in the program of physical education training provided in Sections 27-5 through 27-7 of this Code.

Birth Certificate

State: 325 ILCS 50/5(c)

The enrolling adult must provide either (i) a certified copy of the child's birth certificate or (ii) other reliable proof, as determined by the Department (Illinois State Police), of the child's identity and age and an affidavit explaining the inability to produce a copy of the birth certificate. Other reliable proof of the child's identity and age includes a passport, visa or other governmental documentation of the child's identity. If no birth certificate is provided, the school must immediately notify the Department or local law enforcement agency of such failure, and shall notify the person enrolling the child in writing that he has 10 additional days to comply. The school must immediately report to the Department any affidavit received pursuant to this subsection which appears inaccurate or suspicious in form or content.

State: 325 ILCS 50/5 The Illinois Missing Children Records Act

Sec. 5. Duties of school or other entity.

(a) Upon notification by the Department [Illinois Department of State Police] of a person's disappearance, a school, preschool educational program, child care facility, or day care home or group day care home in which the person is currently or was previously enrolled shall flag the record of that person in such a manner that whenever a copy of or information regarding the record is requested, the school or other entity shall be alerted to the fact that the record is that of a missing person. The school or other entity shall immediately report to the Department any request concerning flagged records or knowledge as to the whereabouts of any missing person. Upon notification by the Department that the missing person has been recovered, the school or other entity shall remove the flag from the person's record.

(b) (1) For every child enrolled in a particular elementary or secondary school, public or private preschool educational program, public or private child care facility licensed under the Child Care Act of 1969, or day care home or group day care home licensed under the Child Care Act of 1969, that school or other entity shall notify in writing the person enrolling the child that within 30 days he must provide either (i) a certified copy of the child's birth certificate or (ii) other reliable proof, as determined by the Department, of the child's identity and age and an affidavit explaining the inability to produce a copy of the birth certificate. Other reliable proof of the child's identity and age shall include a passport, visa or other governmental documentation of the child's identity. When the person enrolling the child provides the school or other entity with a certified copy of the child's birth certificate, the school or other entity shall promptly make a copy of the certified copy for its records and return the original certified copy to the person enrolling the child. Once a school or other entity has been provided with a certified copy of a child's birth certificate as required under item (i) of this subdivision (b)(1), the school or other entity need not request another such certified copy with respect to that child for any other year in which the child is enrolled in that school or other entity.

(2) Upon the failure of a person enrolling a child to comply with subsection (b) (1), the school or other entity shall immediately notify the Department or local law enforcement agency of such failure, and shall notify the person enrolling the child in writing that he has 10 additional days to comply.

(3) The school or other entity shall immediately report to the Department any affidavit received pursuant to this subsection which appears inaccurate or suspicious in form or content.

(c) Within 14 days after enrolling a transfer student, the elementary or secondary school shall request directly from the student's previous school a certified copy of his record. The requesting school shall exercise due diligence in obtaining the copy of the record requested. Any elementary or secondary school requested to forward a copy of a transferring student's record to the new school shall comply within 10 days of receipt of the request unless the record has been flagged pursuant to subsection (a), in which case the copy shall not be forwarded and the requested school shall notify the Department or local law enforcement authority of the request.

School of Origin

Considerations:

If a child begins the year homeless, they are eligible for homeless services for the duration of the school year, regardless of homeless status. “Start the year homeless, end the year homeless.” See Choice of Schools, p. 8.

Federal: Section 722 (g)(3)(A) (McKinney-Vento Act)

In general- the LEA serving each child or youth to be assisted under this subtitle shall, according to the child or youth’s best interest-

- (i) continue the child 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 year, if the child becomes permanently housed during an academic year,
- (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.

Federal: Section 722 (3)(G) (McKinney-Vento Act)

7In 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.

State: § 105 ILCS 45/1-5. Definitions

Sec. 1-5. Definitions. As used in this Act:

“School of origin” means the school that the child attended when permanently housed or the school in which the child was last enrolled.

Transportation

Considerations:

Transportation cannot be a barrier to attending school for homeless students.

Federal: Section 722 (g)(1)(J)(iii) (McKinney-Vento Act)

The state and its LEA agencies will adopt policies and practices to ensure that transportation is provided at the request of the parent or guardian (or in the case of unaccompanied youth, the liaison), to and from the school of origin, as determined in paragraph (3)(A), in accordance with the following as applicable:

- (I) If the homeless child or youth continues to live in the area served by the LEA in which the school of origin is located, the child’s or youth’s transportation to and from the school of origin shall be provided and arranged by the LEA in which the school of origin is located.
- (II) If the homeless child’s or youth’s living arrangements in the area served by the LEA of origin terminate and the child or youth, through continuing his or her education in the school of origin begins living in an area served by another LEA, the local LEA of origin and the LEA in which the homeless child or youth is living shall agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the local educational agencies are unable to agree upon such method, the responsibility and costs for transportation shall be shared equally.

State: ILCS 45/1-15 Transportation to School of Origin

Sec. 1-15. Transportation to school of origin. Subject to the provisions of Article 29 of the School Code [105 ILCS 5/29.1 et seq.], if a child becomes a homeless child or if a homeless child changes his or her temporary living

arrangements, and if the homeless child's parents or guardians decide to continue the child's education in the school of origin, the parents or guardians shall make a good faith effort to provide or arrange for transportation to and from the school of origin, including authorizing relatives, friends, or a program for homeless persons to provide the child with transportation to and from the school of origin. If transportation to and from the school of origin is not provided in that manner, it shall be provided in the following manner:

(1) if the homeless child continues to live in the school district in which the school of origin is located, the child's transportation to and from the school of origin shall be provided or arranged by the school district in which the school of origin is located consistent with the requirements of Article 29 of the School Code [105 ILCS 5/29.1 et seq.]; and

(2) if the homeless child's living arrangements in the school district of origin terminate and the child, though continuing his or her education in the school of origin, begins living in another school district, the school district of origin and the school district in which the homeless child is living shall meet to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the school districts are unable to agree, the responsibility and costs for transportation shall be shared equally.

If a parent or guardian chooses to have the child attend the school of origin, that parent or guardian, a teacher of the child, and the principal or his or her designee from the school of origin may meet at the option of the parent or the school to evaluate whether that travel is in the best interest of the child's development and education as compared to the development and education available in attending the school nearest the child's abode. The meeting shall also include consideration of the best interests of the homeless family at its current abode. A parent may bring a representative of his or her choice to the meeting. The meeting shall be convened if travel time is longer than one hour each way.

Tuition

Considerations: See Custody for Determining Residency, p. 10.

State: § 105 ILCS 5/10-20.12a. Tuition for non-resident pupils

Sec. 10-20.12a. Tuition for non-resident pupils. To charge non-resident pupils who attend the schools of the district tuition in an amount not exceeding 110% of the per capita cost of maintaining the schools of the district for the preceding school year.

Such per capita cost shall be computed by dividing the total cost of conducting and maintaining the schools of the district by the average daily attendance, including tuition pupils. Depreciation on the buildings and equipment of the schools of the district, and the amount of annual depreciation on such buildings and equipment shall be dependent upon the useful life of such property.

The tuition charged shall in no case exceed 110% of the per capita cost of conducting and maintaining the schools of the district attended, as determined with reference to the most recent audit prepared under Section 3-7 [105 ILCS 5/3-7] which is available at the commencement of the current school year. Non-resident pupils attending the schools of the district for less than the school term shall have their tuition apportioned, however pupils who become non-resident during a school term shall not be charged tuition for the remainder of the school term in which they became non-resident pupils.

Unless otherwise agreed to by the parties involved and where the educational services are not otherwise provided for, educational services for an Illinois student under the age of 21 in a residential program designed to correct alcohol or other drug dependencies shall be provided by the district in which the facility is located and financed as follows. The cost of educational services shall be paid by the district in which the student resides in an amount equal to the cost of providing educational services in a treatment facility. Payments shall be made by the district of the student's residence and shall be made to the district wherein the facility is located no less than once per month unless otherwise agreed to by the parties.

Unaccompanied Youth

Federal: Section 725 (6) (McKinney-Vento Act)

The term unaccompanied youth includes youth not in the physical custody of a parent or guardian.

Youth Transitional Housing Program

Considerations:

Incarcerated children and youth are part of the juvenile justice system and subject to the requirements and regulation thereof; however, children and youth residing in shelters or other homeless situations after leaving detention centers are covered by the McKinney-Vento Act.

State: § 750 ILCS 30/3-2.10. Youth transitional housing program

Sec. 3-2.10. Youth transitional housing program. “Youth transitional housing program” means a program licensed by the Department of Children and Family Services to provide services, shelter, or housing to a minor.

PART II: THE 100 MOST FREQUENTLY ASKED QUESTIONS ON THE EDUCATION RIGHTS OF CHILDREN AND YOUTH IN HOMELESS SITUATIONS¹

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This document provides answers to 100 frequently asked questions on the McKinney-Vento Homeless Assistance Act and the education rights of children and youth in homeless situations.² The answers are general responses based on the law. It cannot be emphasized enough that these are general responses, and that answers could change based on the facts of a particular case. McKinney-Vento issues require a case-specific inquiry. This document is meant to provide basic information and tools to assist parents, youth, educators and advocates in understanding the McKinney-Vento Act.

In this document, the term “school district” is used to mean local educational agencies. The term “McKinney-Vento Act” refers only to Subtitle VII-B of the Act, the Education for Homeless Children and Youths program (42 U.S.C. §§11431-11435). The McKinney-Vento Act is a federal law that supersedes conflicting state laws or local policies.

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¹ Drafted by the National Association for the Education of Homeless Children and Youth and the National Law Center on Homelessness & Poverty, 2004. Address questions/comments to Barbara Duffield, at bduffield@naehcy.org. This information is not offered as legal advice and should not be used as a substitute for seeking professional legal advice. It does not create an attorney-client relationship with you.

² The terms “children and youth experiencing homelessness” and “children and youth in homeless situations” are used interchangeably in this document, instead of the legal phrase “homeless children and youth,” to emphasize the fact that homelessness is a temporary, dynamic experience, and not a static condition or fixed group of people.

Definitions/Identification

1. Do school districts have the responsibility to identify or locate children and youth experiencing homelessness?

A: Yes. Every school district must designate a liaison for children and youth experiencing homelessness. 42 U.S.C. §11432(g)(1)(J)(ii). The McKinney-Vento Act requires school district liaisons to ensure that “homeless children and youths are identified by school personnel and through coordination with other entities and agencies.” 42 U.S.C. §11432(g)(6)(A). The purpose of identification is to offer appropriate services to the family, child or youth. Coordination with schools and community agencies is an essential identification strategy, as are professional development, awareness and training activities within school buildings and school districts. Additional strategies are available at www.naehcy.org/IdentifyingStudents.pdf.

2. Is there any guidance on what “fixed, regular, and adequate nighttime residence” means?

A: The McKinney-Vento Act states that children and youth who lack “a fixed, regular, and adequate nighttime residence” will be considered homeless. 42 U.S.C. §11434A(2)(A). The Act does not define those terms. However, the following definitions may provide guidance:

(1) Fixed: Securely placed or fastened; Not subject to change or fluctuation. (Merriam-Webster’s Collegiate Dictionary, Tenth Edition.) A fixed residence is one that is stationary, permanent, and not subject to change. (e.g., Arizona, Massachusetts and Michigan McKinney- Vento State Plans, 2002.)

(2) Regular: Normal, standard; Constituted, conducted, or done in conformity with established or prescribed usages, rules, or discipline; Recurring, attending, or functioning at fixed or uniform intervals. (Merriam-Webster’s Collegiate Dictionary, Tenth Edition.) Consistent. (Ballentine’s Law Dictionary, 3rd Edition.) A regular residence is one which is used on a regular (i.e., nightly) basis. (e.g., Arizona, Massachusetts and Michigan McKinney-Vento State Plans, 2002.)

(3) Adequate: Sufficient for a specific requirement; Lawfully and reasonably sufficient. (Merriam-Webster’s Collegiate Dictionary, Tenth Edition.) Fully sufficient; Equal to what is required; Lawfully and reasonably sufficient. (Ballentine’s Law Dictionary, 3rd Edition.) An adequate residence is one that is sufficient for meeting both the physical and psychological needs typically met in home environments. (e.g. Arizona, Massachusetts and Michigan McKinney- Vento State Plans, 2002.)

International law defines adequate as follows:

“Adequate shelter means...adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities - all at a reasonable cost.” International Covenant on Economic, Social and Cultural Rights, General Comment 4, paragraph 7 (1991), citing Commission on Human Settlements and the Global Strategy for Shelter to the Year 2000.

3. Is there a time limit on how long a child or youth can be considered homeless?

A: No, there is no specific time limit on homelessness. Whether a child or youth meets the definition of homelessness depends upon the living situation and the individual circumstances. It is a case-specific inquiry. Due to the extremely limited incomes of most families experiencing homelessness (on average, less than half the federal poverty line) and the severe shortage of affordable housing across the country, experiences of homelessness can sometimes last an extended period of time.

4. Are children and youth who live in trailer homes or trailer parks covered by the Act?

A: Under some circumstances, yes. Under the McKinney-Vento Act, children and youth who live in trailer parks are covered by the Act if they live in the trailer park “due to the lack of alternative adequate accommodations.” 42 U.S.C. §11434A(2)(B)(i). Therefore, whether children and youth living in trailer parks are covered by the Act is a case-by-case determination to be made by the local liaison, in light of the family’s circumstances. The liaison will need to consider the adequacy of the trailer home, including the number of people living in the trailer, the condition of the trailer, and the availability of running water, electricity, and other standard utilities. If the trailer is inadequate, it should be considered a homeless situation. The relative permanence of the living situation must also be examined: if the family is living in the trailer temporarily, they are likely to be covered by the Act.

5. Are families who move in with relatives or friends covered by the Act?

A: In many circumstances, yes. Children and youth who are sharing the housing of others due to loss of housing, economic hardship, or a similar reason are covered by the McKinney-Vento Act. 42 U.S.C. §11434A(2)(B)(i).

Families who share adequate housing due to cultural preferences or convenience would not be covered by the Act. Also, families who are sharing housing on a permanent basis are unlikely to be covered by the Act.

6. Is transitional housing considered a homeless situation?

A: Yes. The McKinney-Vento Act specifically applies to children and youth living in transitional shelters. 42 U.S.C. §11434A(2)(B)(i). This term includes transitional housing programs and transitional living programs. State Coordinators are also required to “coordinate and collaborate with...providers of services to homeless and runaway children and youths and homeless families (including... transitional housing facilities, ...and transitional living programs for homeless youths).” 42 U.S.C. §11432(f)(5)(B). A federal court affirmed that transitional housing programs are covered by the McKinney-Vento Act. *Bullock v. Board of Education of Montgomery County*, Civ. A. DKC 2002-0798 (D. Md.), memorandum decision filed November 4, 2002.

7. To what extent are children awaiting foster placement covered by the McKinney-Vento Act?

A: The McKinney-Vento Act specifically covers children awaiting foster care placement. 42 U.S.C. §11434A(2)(B)(i). However, the Act does not define that phrase. Before attempting to apply the McKinney-Vento Act to children and youth in state custody, educators and advocates should consult their state laws, regulations and policies (both education and social services) to see if they contain authority for keeping foster children in their schools of origin, providing transportation, and/or requiring immediate enrollment. State or local social services officials and child welfare attorneys will have access to social services laws and policies.

When interpreting the McKinney-Vento Act phrase “awaiting foster care placement,” state coordinators and school district liaisons should collaborate with state and local social services agencies to advocate for educational services that support the educational needs of individual students. Generally speaking, the definition must apply to children and youth “who lack a fixed, regular, and adequate nighttime residence.” Collaboration between education and social services agencies is imperative. School district liaisons, social services personnel, and advocates should engage in a local dialogue on this issue, to agree upon categories of out-of-home placements that fall within the statute. Educators and social services personnel should engage the assistance of attorneys from many specialties, including legal aid, education, social services, and guardians ad litem. Communities that have worked collaboratively and systemically have achieved success in applying the McKinney-Vento Act appropriately to children and youth in state custody. For an example of a proactive policy regarding applying the McKinney-Vento Act to children awaiting foster care placement, download Policy 21-14 of the Tennessee Department of Children’s Services, at www.state.tn.us/youth/policies/Chapter%2021%20Education/21-14%20Serving%20The%20Educational%20Needs%20of%20The%20Child-Youth%20in%20.pdf.

8. Do incarcerated youth qualify for McKinney-Vento protection and services?

A: No. Children and youth who are incarcerated for violation or alleged violation of a law should not be considered homeless. Incarcerated children and youth are part of the juvenile justice system and subject to the requirements and regulations thereof. However, children and youth residing in shelters or other homeless situations after leaving detention centers are covered by the Act. U.S. Department of Education, *Draft Non-Regulatory Guidance on the Education of Homeless Children and Youths Program* (March 2003), p. 27 (hereinafter “2003 Guidance”).

9. What ages does the McKinney-Vento Act cover?

A: The McKinney-Vento Act applies to children and youth age 21 and under, consistent with their eligibility for public education services under state and federal law. 2003 Guidance, p. 27. State laws vary, but generally provide access to all students until high school graduation or equivalent, or until age 18 (or over in some states). For special education students, federal law provides the right to access services until age 22. 20 U.S.C. §1412(a)(1)(A).

10. What are a district’s responsibilities for advising families about their rights if families do not identify or consider themselves as homeless?

A: Families and youth in homeless situations frequently will not identify themselves as such. This may be due to the stigma and prejudices associated with homelessness or because the youth or family does not recognize that the living situation would be considered a homeless situation under the McKinney-Vento Act. Indeed, most families and youth are likely unaware of the McKinney-Vento Act. Therefore, schools must ensure that families and youth are aware of the Act, who it covers, and what it provides. 42 U.S.C. §§11432(g)(6)(A)(i), (iv). The Act requires school districts to disseminate public notice of the education rights of children and youth in homeless situations where such children and youth receive services, such as schools, family shelters, and soup kitchens. 42 U.S.C. §11432(g)(6)(A)(v). Identification and outreach techniques must be administered sensitively and without stigma, to create an environment in which families, children and youth will be comfortable seeking support. Once a school has sensitively and discretely explained the rights available under the McKinney-Vento Act, families

or youth may choose not to take advantage of McKinney-Vento services, at their discretion. Strategies for identification, creating awareness, and disseminating notice are available at www.naehcy.org/IdentifyingStudents.pdf.

11. Does the family's/youth's income affect whether they are covered by the Act?

A: Generally, no. The Act's definition of homelessness centers on the student's living arrangement. There are no specific income limits in the definition. Income is vaguely referenced in the context of children and youth "sharing the housing of others due to loss of housing, economic hardship, or a similar reason." Therefore, in determining whether shared housing meets the Act's definition, it may be appropriate to consider the family's or youth's financial resources. 42 U.S.C. §11434A(2)(B)(i). Statistically, the mean income of families experiencing homelessness is less than half the federal poverty line.

12. Is there any procedure in place to prevent families who have permanent housing from claiming to be homeless just to obtain McKinney-Vento services?

A: Yes. Every school district must designate a liaison for students experiencing homelessness. 42 U.S.C. §11432(g)(1)(J)(ii). One of the liaison's duties is to identify children and youth who meet the statutory definition of homeless. 42 U.S.C. §11432(g)(6)(A)(i). School districts must enroll students experiencing homelessness immediately. If, after enrollment, it is determined that a student is not homeless as defined in the law, school districts should follow the policies that are in place to address other forms of fraud. Written notice should be given to the parent, guardian, or youth, including his or her right to appeal the decision. Over the past 17 years, documented cases of families falsely claiming to be homeless have been extremely rare; the few cases that have been documented were resolved quickly at the district level.

13. Does the McKinney-Vento Act's definition of homelessness in the education provisions (Education for Homeless Children and Youths) also qualify the family or youth to access services from other agencies (i.e. housing, food assistance, etc.)?

A: At this time, the education definitions apply only for educational purposes. The U.S. Department of Housing and Urban Development (HUD) and other agencies have adopted their own definitions, which are narrower than the education definition. For example, families sharing housing and many families staying in motels are not considered homeless by HUD and cannot access HUD Emergency Shelter Grant services for homeless persons. However, these families can access HUD funds that are targeted to low-income individuals. Educators and advocates should approach their HUD Continuums of Care to seek such funding and support. In fact, the McKinney-Vento Act requires states and school districts that receive McKinney-Vento funds to coordinate with state and local housing agencies and other service providers to minimize educational disruption for children and youth who become homeless. 42 U.S.C. §11432(g)(5).

14. Are migrant students covered by the McKinney-Vento Act?

A: Yes, migrant students are covered by the Act if they are living in a homeless situation. 42 U.S.C. §11434A(2)(b)(iv). More information on applying the Act to migrant students is available at www.naehcy.org/issuebriefs.html.

15. Can a district refuse to enroll undocumented immigrants who have no proof of guardianship?

A: No, not if they are covered by the McKinney-Vento Act. Undocumented students have the same right to public education as U.S. citizens. Plyler v. Doe, 457 U.S. 202 (1982). Therefore, the McKinney-Vento Act applies to them in the same way it would apply to any student: if the student meets the definition of homeless, he or she must be enrolled in school immediately, even if lacking proof of guardianship. The McKinney-Vento Act does not apply to immigrant students who live in a fixed, regular and adequate residence.

Liaisons Generally

16. Does every school district have to have a liaison?

A: Yes. The McKinney-Vento Act requires every local educational agency to “designate an appropriate staff person” to serve as liaison. 42 U.S.C. §11432(g)(1)(J)(ii).

17. What are the liaison’s duties?

A: The McKinney-Vento Act specifies the duties of liaisons, as follows: identify homeless children and youth; ensure that children and youth experiencing homelessness enroll in, and have a full and fair opportunity to succeed in, school; ensure that families, children and youth receive educational services for which they are eligible, including Head Start, Even Start and other public preschool programs, and referrals to health care, dental, mental health and other appropriate services; inform parents and guardians of the educational and related opportunities available to their children and provide them with meaningful opportunities to participate in that education; disseminate public notice of educational rights; ensure that enrollment disputes are mediated; inform families and youth about transportation services and assist them in accessing transportation. Many resources are available to assist liaisons in accomplishing these duties, including a liaison toolkit (www.serve.org/nche/downloads/tlktbook.pdf), a liaison issue brief (www.naehcy.org/LEAs.pdf), State Coordinators (www.serve.org/nche/Statecoordinators.htm), and an annual conference (www.naehcy.org). 42 U.S.C. §11432(g)(6)(A).

School Selection

18. What factors should be considered for keeping children at their school of origin to the extent feasible?

A: Students must be allowed to attend their school of origin "to the extent feasible." [School of origin is defined as the school the student attended when permanently housed, or the school in which the student was last enrolled. 42 U.S.C. §11432(g)(3)(G).] Changing schools significantly impedes students’ academic and social growth. The literature on highly mobile students indicates that it can take a student four to six months to recover academically after changing schools. Many studies also have found highly mobile students to have lower test scores and overall academic performance than peers who do not change schools. Therefore, the McKinney-Vento Act calls for school districts to maintain students in their school of origin to the extent feasible, unless that is against the wishes of the parent or guardian. 42 U.S.C. §11432(g)(3). Students have the right to attend the school building of origin; this provides continuity of instruction, teachers, and peers. Considerations for changing schools, other than as a result of a parent, guardian or unaccompanied youth’s wishes, must be based on a student-centered, individualized determination. Factors that may be considered include: the age of the child or youth; the impact the commute may have on the student’s education; personal safety issues; the students’ need for special instruction; length of anticipated stay in temporary shelter or other temporary location; and time remaining in the school year. There may be other student-centered factors not enumerated here that will help determine feasibility. Above all, feasibility is a child-centered decision. 2003 Guidance, p. 12.

19. Can a student finish the school year or semester in the school of origin?

A: Yes. Students have the right to remain in the school of origin for the duration of homelessness. In addition, if a student moves into permanent housing during the school year, the student can finish that academic year in the school of origin. 42 U.S.C. §11432(g)(3)(A).

20. What is the school of origin for a student who becomes homeless, enrolls in the new school near the temporary housing, and then moves again to a third attendance area?

A: School of origin is defined as the school the student attended when permanently housed, or the school in which the student was last enrolled. 42 U.S.C. §11432(g)(3)(G). In the situation described, the family or youth can choose *either* the school near the initial temporary housing (the school in which the student was last enrolled) or the school the student attended when permanently housed.

21. In the event that a child’s temporary housing is located in a different school district from the school of origin, which district is financially responsible for the child’s education?

A: The McKinney-Vento Act does not assign financial responsibility. States may have policies about shared fiscal responsibilities. The possibility of nonpayment does not affect districts’ obligation to provide education and transportation. Inter-district disputes cannot delay the immediate enrollment (defined as attending classes and participating fully in school activities) of children in the school selected. If there are no state policies to address

fiscal responsibility, it may be reasonable for the district receiving state and federal funds for the student to retain financial responsibility.

For transportation, if two districts are involved, they must agree upon a method to apportion the cost and responsibility of transportation, or split it equally. States should develop a system to assist with inter-district transportation issues, including disputes between districts regarding apportioning costs and responsibility. The state attorney general's office may also be able to assist. Establishing inter-district transportation procedures and formalized agreements will be essential to ensure that transportation is arranged quickly for students. (See also Question 28.)

22. If a student finds temporary housing across state lines from the school of origin, does the McKinney-Vento Act still apply?

A: Yes. Since the McKinney-Vento Act is a federal law, it applies as in any other situation. Therefore, the student must be placed in the school of origin, unless that is against the parents'/guardians' wishes or is not feasible. Crossing state lines is not inherently unfeasible. In many border communities, mobility across state lines is common. It is also not uncommon for homelessness to force families across state lines, as the closest available shelter may be in a neighboring state. Schools must conduct the standard feasibility inquiry, based on the needs and circumstances of the individual student. Communication among the involved State Coordinators and liaisons can facilitate the provision of services.

23. If a student is out of school for an extended period of time, does the student still have the right to go to the school of origin?

A: Yes. The law applies as in any other situation: the student has the right to remain in the school of origin unless it is not feasible. That the student missed a period of schooling does not in itself make attending the school of origin unfeasible. For example, it may be better for the child to return to a familiar school, teachers and peers, to make up for lost time and to reintegrate smoothly into school.

24. Sometimes a student in a homeless situation will enroll in a new school, because the parent/guardian or unaccompanied youth was not informed of the student's right to remain in the school of origin. In that case, does the student still have the right to go back to the school of origin?

A: Yes. If parents or youth are not informed of their rights, then the school district must enroll the student in the original school of origin, consistent with the parent's or youth's wishes (and feasibility). The school district is required to inform families of their rights. 42 U.S.C. §§11432(g)(6)(A)(i), (iv), (v), (vii). Not knowing one's rights does not mean not having the rights.

25. What if placing a student in the school the parent chooses would violate a school desegregation order?

A: The school district should follow the McKinney-Vento Act. Generally, desegregation orders predate the McKinney-Vento Act or simply did not consider the Act. However, the rights conferred by the Act must be protected. If this becomes a significant issue, the school district may want to petition the court to amend the desegregation order to account for the McKinney-Vento Act. See, e.g., U.S. Department of Education, Public School Choice Draft Non-Regulatory Guidance, December 2002, Section G.

Transportation

26. Under what circumstances must a school district provide transportation to school for students experiencing homelessness?

A: The McKinney-Vento Act requires school districts to provide transportation for students experiencing homelessness in three situations. First, school districts must provide transportation to the school of origin upon the request of a parent or guardian, or in the case of an unaccompanied youth, upon the request of the liaison. 42 U.S.C. §11432(g)(1)(J)(iii). That is true regardless of whether the district provides transportation for other students or in other circumstances. Second, for other transportation (as opposed to the school of origin), the McKinney-Vento Act requires districts to provide transportation comparable to that provided to housed students. 42 U.S.C. §11432(g)(4)(A). Therefore, if the district transports housed students to the local school or to a summer program, it must also transport students experiencing homelessness. Finally, school districts must eliminate barriers to the school enrollment and retention of students experiencing homelessness. For example, if a student is living on or near an extremely busy intersection, in a very dangerous neighborhood, or is otherwise unable to attend school without

transportation, the district must eliminate lack of transportation as a barrier to the child attending school. 42 U.S.C. §§11432(g)(1)(I), (g)(7).

27. How far is too far to travel to the school of origin? What if my state has established a general limit on all school transportation of one hour or 30 miles?

A: The McKinney-Vento Act does not specify any mileage or time limit for travel to the school of origin. The Act requires school districts to provide transportation to the school of origin at the request of a parent or guardian or, for unaccompanied youth, at the liaison's request. 42 U.S.C. §11432(g)(1)(J)(iii). Therefore, whenever a student is attending the school of origin, transportation is required. (See Question 18.) A commute so lengthy as to be harmful to the child's educational achievement will weigh against placement in the school of origin. This determination will depend on the student's circumstances. For example, a lengthy commute that may be harmful to a young child may be feasible for an older youth. Similarly, in many rural areas, lengthy commutes to school are common; the commute of a child experiencing homelessness in such an area would need to be evaluated in that context. Therefore, transportation services must rest on the individualized feasibility determination, not blanket limits. State or school district policies that establish blanket limits on transportation violate the McKinney-Vento Act. The federal law supersedes these contrary state or local policies.

28. Is transportation required if the school of origin is in another school district?

A: Yes. As long as attendance at the school of origin is feasible, transportation is required, even if it requires students to cross district lines. If two districts are involved, they must agree upon a method to apportion the cost and responsibility of transportation, or split it equally. 42 U.S.C. §11432(g)(1)(J)(iii). States should develop a system to assist with inter-district transportation issues, including disputes between districts regarding apportioning costs and responsibility. The state attorney general's office may also be able to assist. States may have policies about shared fiscal responsibilities. The possibility of nonpayment does not affect districts' obligation to provide transportation. Inter-district disputes cannot delay the immediate enrollment (defined as attending classes and participating fully in school activities) of children in the school selected. 42 U.S.C. §§11432(g)(3)(C), 11434A(1). Establishing inter-district transportation procedures will be essential to ensure that transportation is arranged quickly for students. (See also Question 22.)

29. If a student is crossing district lines to remain at the school of origin, which district has primary responsibility to arrange and fund the transportation?

A: The McKinney-Vento Act first gives school districts and states the ability to agree upon a method to apportion cost and responsibility. The Act further states that in the absence of agreement, the two districts must apportion cost and responsibility equally. 42 U.S.C. §11432(g)(1)(J)(iii). However responsibility is divided, students must be provided with transportation without delay. In practice, states may wish to designate either the district of origin or the district of residence as the lead agency, to avoid any delays in initiating services while such disagreements are resolved. Any such delays would violate the McKinney-Vento Act's requirement that students be immediately enrolled in the selected school.

30. When two states are involved in a dispute regarding provision of transportation and either state absolutely refuses to pay any of the cost, is there a provision for a federally-enforced resolution?

A: The states may call the USDE for technical assistance in resolving the dispute. The state attorney general's office also may be able to assist. States may have policies about shared fiscal responsibilities. The possibility of nonpayment does not affect districts' obligations to provide transportation. Inter-state disputes cannot delay the immediate enrollment (defined as attending classes and participating fully in school activities) of children in the school selected. 42 U.S.C. §§11432(g)(3)(C), 11434A(1). Establishing inter-state transportation procedures will be essential to ensure that transportation is arranged quickly for students. Communication among the involved State Coordinators and liaisons can facilitate the provision of services.

31. Can a school district pay parents to transport their children?

A: Yes. School districts may reimburse parents or youth who have cars and are able to provide transportation, as a cost-effective means to meet the district's obligation.

32. Does providing or arranging for transportation mean door-to-door transportation, similar to transportation for students receiving special education services?

A: Generally, no. The McKinney-Vento Act does not require door-to-door transportation, unless that is the only appropriate arrangement for a particular student. For example, if a student is living on or near an extremely busy

intersection, it may not be appropriate to expect the child to cross the intersection. The mode and details of transportation cannot present a barrier to the child's attendance in school. 42 U.S.C. §§11432(g)(1)(I), (g)(7).

33. Does providing access to public transportation qualify as providing transportation?

A: Yes, if the public transportation is appropriate. For example, young children cannot be expected to use public transportation alone. In such cases, school districts should provide transit passes for an adult caregiver to escort the child, or provide another form of transportation.

Similarly, if traveling to a school of origin on public transit requires an unreasonable length of time, another mode of transportation may be required. The mode and details of transportation cannot present a barrier to the child's attendance in school. 2003 Guidance, p. 16; 42 U.S.C. §§11432(g)(1)(I), (g)(7).

34. If a district doesn't offer transportation to summer school for any students, does it have to provide summer school transportation for students in homeless situations?

A: Generally, no. The McKinney-Vento Act requires schools to provide comparable transportation services for students in homeless situations. If the school does not provide transportation to summer school for housed students, then it is generally not required to provide transportation to homeless students. However, if attendance in summer school is required for the student to pass to the next grade, and lack of transportation will prevent the child from participating, that presents a barrier to the student's academic success. The district must remove that barrier, so the student can avoid being retained in the same grade. 42 U.S.C. §§11432(g)(1)(I), (g)(7).

35. Is transportation required while a dispute is being resolved?

A: Yes, to the extent it would be required if there were no dispute. (See Question 28.) While disputes are pending, students must be enrolled in the school in which they are seeking enrollment. If that school is the school of origin, the school district(s) involved must provide transportation. 2003 Guidance, p. 18; 42 U.S.C. §11432(g)(1)(J)(iii). If that school is the local school, transportation must be provided to the extent it is provided to housed students, and to the extent necessary to ensure it is not a barrier to attendance. 42 U.S.C. §§11432(g)(1)(I), (g)(4), (g)(7). These provisions apply whether the dispute is about school enrollment, school selection, or whether the child or youth is homeless under the McKinney-Vento Act.

36. If a student's temporary housing is across state lines from the school of origin, is transportation still required?

A: Yes. Since the McKinney-Vento Act is a federal law, it applies as in any other situation. Therefore, if the student is attending the school of origin, transportation must be provided at the parent's/guardian's request or at the liaison's request, in the case of an unaccompanied youth. Communication among the involved State Coordinators, liaisons and transportation directors can facilitate the provision of transportation. (See Question 22.)

37. Our state legislature is considering a bill that would require school districts to transport students only in official school vehicles. How would this interact with McKinney-Vento's transportation requirements?

A: Such a state law would not violate the McKinney-Vento Act. School districts would still have to continue to provide transportation to the school of origin at the request of parents, guardians, or liaisons (in the case of unaccompanied youth), while complying with the new state transportation law.

Immediate Enrollment and Attendance

38. How "immediate" is immediate enrollment?

A: The McKinney-Vento Act requires schools to enroll students experiencing homelessness immediately, even if the student is unable to provide documents that are typically required for enrollment. 42 U.S.C. §11432(g)(3)(C). Enroll means permitting the student to attend classes and participate fully in school activities. 42 U.S.C. §11434A(1). Although the Act does not define immediate, the standard dictionary definition is "without delay." Therefore, the student must begin attending classes and participating fully in school activities without delay. Generally, that would mean the same or the following day.

39. Can schools require verification of proof of residency, such as seeing a lease in the case where a family is hosting a student who is not a family member?

A: No. Schools may not require verification of proof of residency as a condition of enrollment. 42 U.S.C. §11432(g)(3)(C). Due to their living situations, it frequently will be impossible for families and youth experiencing homelessness to provide such verification. Further, schools must not contact the landlords of host families to discuss living arrangements. Residence information provided by parents or youth to schools is part of the student's educational records and protected by federal privacy laws. Such contact could also lead to eviction of the host family. However, the Act does not prohibit schools from requiring parents, guardians, or youths to submit emergency contact information. 42 U.S.C. §11432(g)(3)(H).

40. How can schools verify age for enrollment in kindergarten without a birth certificate?

A: The McKinney-Vento Act requires immediate enrollment, even if typically required documents cannot be produced. 42 U.S.C. §11432(g)(3)(C). Therefore, the school must enroll the child in kindergarten immediately and work with the family to obtain acceptable proof of age. Many types of documents can be accepted to prove age, including medical records, baptismal certificates, or a simple statement of age signed by the parent or guardian. 2003 Guidance, p. 14.

41. If we enroll a student who is homeless without requiring proof of immunizations, aren't we putting the entire school at risk?

A: The McKinney-Vento Act requires immediate enrollment, even if students are unable to produce immunization or other medical records, recognizing that families and youth who are homeless are frequently unable to obtain and keep copies of records. 42 U.S.C. §11432(g)(3)(C). The vast majority of homeless students have been enrolled in school before and have had required immunizations. These records should be a part of their school records. Since the enrolling school is required to contact the previous school for records, the information should be available quickly. 42 U.S.C. §§11432(g)(3)(C), (D). The enrolling school and the liaison should work together to get immunization records as soon as possible. If a student has not had immunizations, initial doses should be administered as soon as possible, unless the student has a philosophical, religious, or medical exemption. It is accepted practice in most states and in the public health community that some children will not be immunized for these reasons. It is recognized among public health practitioners that the fact that most students are immunized prevents serious outbreaks from occurring. Should an outbreak of illness occur, the same procedures used to protect unimmunized children can be used to protect students whose immunization records have not yet been obtained.

42. If we enroll a student who is homeless without requiring school records, how do we know the child was not suspended or expelled from the previous school?

A: The enrolling school must immediately admit the student and must contact the previous school for records. 42 U.S.C. §§11432(g)(3)(C), (D). If the records cannot be transmitted immediately, the enrolling school can speak with staff from the previous school to get basic information about the student. Former teachers, counselors and administrators should be able to provide this information.

43. Can the previous school transfer records to the new school without a parent's signature?

A: Yes. The Federal Education Rights and Privacy Act (FERPA) is a federal law that protects the privacy of educational records. Generally, FERPA requires schools to have written permission from a parent before releasing any information from a child's records. However, FERPA allows schools to release records without a parent's permission to schools to which a student is transferring. 20 U.S.C. §1232g. There are additional exceptions to the FERPA requirements; visit www.ed.gov/policy/gen/guid/fpco/ferpa/index.html for more information.

44. Can a previous school refuse to send records due to fees owed for textbooks, etc.?

A: No. That school would be creating a barrier to the enrollment and retention of the child in school, which violates the McKinney-Vento Act. 42 U.S.C. §§11432(g)(3)(C) and (D), (g)(1)(I), (g)(7).

45. How can a school determine what classes or services to provide a student if there are no school records?

A: The enrolling school must immediately admit the student and must contact the previous school for records. 42 U.S.C. §§11432(g)(3)(C), (D). If the records cannot be transmitted immediately, the enrolling school can speak with staff from the previous school to get basic information about the student. Former teachers, counselors, and administrators should be able to provide this information. The enrolling school can also get information regarding class schedules from parents and youth. The school can also establish procedures for conducting a quick assessment of the student's skills. Even if records are delayed, the student must be enrolled in school and provided the most

appropriate services possible immediately. Upon receipt of previous school records, the school can make any necessary adjustments to the student's classes and services.

46. If a state or school district has zero tolerance rules for absences (for example, requiring students with 10 absences to be referred to juvenile court, or to fail classes automatically), how do those rules apply to students in homeless situations?

A: The McKinney-Vento Act requires schools to identify and remove all barriers to enrollment and retention in school for children and youth in homeless situations. 42 U.S.C. §§11432(g)(1)(I), (g)(7). Zero tolerance rules for absenteeism can be such barriers, particularly when they result in class failures, exclusion from school, or court involvement. Frequently, students in homeless situations will miss school due to their living situations. Absences caused by homelessness should not be counted against students. The McKinney-Vento Act requires that zero tolerance rules address the realities of homelessness and not create a barrier to enrollment and retention in school.

47. If a student in a homeless situation seeks enrollment in an alternative school that does not enroll students until April (and it is now January), what may the liaison do to ensure that the student receives appropriate services?

A: Youth in homeless situations are entitled to immediate enrollment in the school of origin or "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." 42 U.S.C. §§11432(g)(3)(A), (C). Therefore, if the alternative school serves other youth living in the same attendance area, and the youth meets the attendance criteria for the alternative school, he must be allowed to enroll. Limits on enrollment timing conflict with the immediate enrollment requirement of the McKinney-Vento Act and are superseded by the Act. Furthermore, states and school districts must remove barriers to the enrollment and retention of homeless children and youth in schools. 42 U.S.C. §§11432(g)(1)(I), (g)(7). This enrollment schedule presents a barrier to enrollment and retention of a youth experiencing homelessness in school, and so should be revised to create an exception for youth experiencing homelessness, who meet the attendance eligibility criteria, but enter the district between enrollment periods.

48. How should a school handle the enrollment of a youth in a homeless situation who was recently involved in a criminal act?

A: It is inappropriate to suspect runaway youth of criminal pasts, and it violates the McKinney-Vento Act to require proof of good standing prior to enrollment. 42 U.S.C. §§11432(g)(3)(C). Nevertheless, it is important for the school district liaison to gather as much information as possible about the youth's background for the primary purpose of obtaining appropriate services. If the liaison discovers that the youth has been involved in criminal activity, district policies relating to students with a criminal background would take effect.

49. What if a child has been abducted? If the enrolling school does not require proof of guardianship, how will abducted children be found?

A: The provisions of the McKinney-Vento Act requiring immediate enrollment are even more important in a case of child abduction. If there is legitimate cause for concern, the school should immediately contact the police, children's protective services, or if possible, the student's parents, consistent with state law. While law enforcement and/or children's protective services are conducting their investigations, the safest place for the student is school, rather than isolated with a potential abductor. It is advisable to involve the school counselor or social worker, who can closely monitor the situation.

50. Must school districts publicize information about the McKinney-Vento Act?

A: Yes. Liaisons must make sure that families are aware of the educational and related opportunities available to their children (including transportation) and must post public notice of the education rights of children and youth in homeless situations. 42 U.S.C. §§11432(g)(6)(A)(iv), (v), (vii). Posters, such as the ones provided by the U.S. Department of Education (available at www.serve.org/nche) and other readable information translated into languages represented in the community must be placed where homeless families and youth receive services. To comply with the McKinney-Vento Act, the district should train all school enrollment staff, secretaries, school counselors, school social workers, and principals on the legal requirements for enrollment. School nutrition staff, school nurses, teachers, and bus drivers should receive training on homelessness that is specific to their field. For example, school nutrition staff should be knowledgeable about the provisions regarding free lunch under the federal school breakfast and lunch programs (see Question 73). The training should take place on a yearly basis to address staff turnover. This information should be provided in writing, as in a district handbook.

Issues Facing Youth

51. How does the McKinney-Vento Act define “unaccompanied youth”? Is there an age range?

A: Unaccompanied youth is defined as a youth not in the physical custody of a parent or guardian. 42 U.S.C. §11434A(6). The Act does not provide an age range.

52. Is there an age limit on serving secondary students?

A: The McKinney-Vento Act applies to children and youth age 21 and under, consistent with their eligibility for public education services under state and federal law. 2003 Guidance, p. 27. State laws vary, but generally provide access to all students until high school graduation or equivalent, or until age 18 (or over in some states). For special education students, federal law provides the right to access services until age 22. 20 U.S.C. §1412(a)(1)(A).

53. Must schools enroll youth in school without proof of guardianship?

A: Yes. Lack of guardianship papers cannot delay or prevent the enrollment of an unaccompanied youth. 42 U.S.C. §§11432(g)(3)(C), (g)(1)(H)(iv), (g)(1)(F)(ii). States and school districts have established different procedures for enrolling youth. Some permit the youth to enroll him or herself; some have the liaison handle enrollment; others use caregiver forms to allow adult caregivers to enroll youth. The McKinney-Vento Act requires states and school districts to eliminate barriers to enrollment and retention and to enroll unaccompanied youth in school immediately. 42 U.S.C. §§11432(g)(1)(I), (g)(7). School districts may adopt their own policies to meet these mandates. More information about approaches to enroll unaccompanied youth immediately will soon be available at www.nlchp.org/FA_Education.

54. Can a school require a caregiver to get legal guardianship to enroll a student in school?

A: No. The McKinney-Vento Act requires states to address the problem of guardianship issues in school enrollment and requires school districts to enroll youth in school immediately, even if they lack typically required enrollment documents. 42 U.S.C. §§11432(g)(3)(C), (g)(1)(H)(iv), (g)(1)(F)(ii). The decision to seek legal guardianship is a serious decision that significantly affects the legal rights of the parent and caregiver well beyond the school arena. While that step will be appropriate in some cases, it will not be in others.

55. Who can make educational decisions for an unaccompanied youth?

A: States and school districts have established different procedures for educational decision-making. Some permit the youth to make educational decisions on his/her own behalf; some vest the liaison with that authority; others use caregiver forms to allow adult caregivers to make such decisions. The McKinney-Vento Act requires states and school districts to eliminate barriers to enrollment and retention and to enroll unaccompanied youth in school immediately. 42 U.S.C. §§11432(g)(1)(I), (g)(7). School districts may adopt their own policies to meet these mandates. It should be noted that the Individuals with Disabilities Education Act (IDEA) has its own rules and procedures for appointing a “surrogate parent” to make special education decisions for minors, where a parent or legal guardian is not available (see Question 90).

56. Do schools have to contact the police when enrolling unaccompanied youth?

A: State law determines the obligation of a school liaison or service provider concerning unaccompanied youth. The McKinney-Vento Act requires schools to enroll unaccompanied youth in school immediately. 42 U.S.C. §11432(g)(3)(C). Since the Act requires school districts and states to eliminate barriers to enrollment and retention in school, schools should exercise care and concern when contacting social services or law enforcement agencies. 42 U.S.C. §§11432(g)(1)(I), (g)(7). Liaisons should work with police and social services to keep the youth in school and to serve the student’s best interest, recognizing that most unaccompanied youth have fled abuse or severe dysfunction in their homes (see Question 58). In many cases, unaccompanied youth will be in the care of an adult, and there will be no reason to suspect neglect or abuse. It is likely that state mandatory reporting laws would not require contacting police in such cases. However, if school personnel have a reasonable suspicion of child abuse, state law may require staff to contact local social services or police. To find your state’s laws on reporting child abuse and neglect, visit the on-line statute finder of the National Clearinghouse on Child Abuse and Neglect Information, at <http://nccanch.acf.hhs.gov/general/legal/statutes/manda.cfm>. If this is the case, a liaison or school counselor should work with the youth to support him or her and avoid casting the school as an agent of punishment. Where state law provides a choice, as most do, schools should contact social services rather than the police. Social services agencies should have the training and facilities to respond more appropriately to such reports.

57. What if an unaccompanied youth gets injured in school? How will the child receive medical care without a parent? Will the school be liable?

A: If an unaccompanied youth has a medical emergency, the school can contact the local emergency room. Medical professionals should be familiar with the rules to treat minors and will respond appropriately to medical emergencies. Liability for injuries is based on a party's failure to exercise reasonable care. By exercising reasonable care in creating a safe environment and responding appropriately to medical emergencies, the school can help protect itself from liability. In any event, such concerns do not relieve the school of its responsibilities under the McKinney-Vento Act. Indeed, if a school violates the Act by refusing to enroll an unaccompanied youth in school, and the youth is subsequently injured off school grounds, the school could face liability for having turned the youth away. As state laws vary regarding the rights of minors to receive medical care without a parent or guardian, liaisons and other advocates may want to contact the Center on Adolescent Health and the Law (www.cahl.org) or state/local resources for more information.

58. If runaway youth would just clean their rooms and turn down their music, they could live at home; why should we encourage their bad behavior?

A: Most runaway youth, especially those who are on the streets a significant length of time, have fled from abusive homes for their own survival. Some leave home without a parent's permission; others are forced out of their homes by their parents or guardians. Studies of unaccompanied youth have found that 20 to 50 percent were sexually abused in their homes, while 40 to 60 percent were physically abused.³

Severe dysfunction in the home is also common. Forty percent of callers to the National Runaway Switchboard identified negative family dynamics as the leading reason for leaving home.⁴ For example, over two-thirds of unaccompanied youth surveyed in a recent study reported that at least one parent abused drugs or alcohol.⁵ Many young people are not welcome in their parents' or guardians' homes due to their sexual orientation or identity, pregnancy, or other types of family conflict. Youth often leave home to remove themselves from an immediately painful situation, but without plans for what to do next. 5,000 runaway youth die every year from assaults, illness, or suicide. Yet many runaway youth continue to value education and the opportunities, safety, and stability it provides. Excluding these youth from school will harm them and society.

59. Can unaccompanied youth apply for federal financial aid (through the FAFSA) without providing information about their parents' income and their parents' signature?

A: With advocacy, yes. Under the Higher Education Act, youth who meet the definition of "independent student" can apply for federal aid without parental information or signature. To be considered independent, a student must be an orphan, a ward of the court, a veteran, a graduate student, married, or have a dependent. A financial aid administrator at a college can also designate a student as independent due to "other unusual circumstances." Homelessness or separation from parents can be considered an unusual circumstance. McKinney-Vento liaisons and unaccompanied youth have worked with financial aid administrators to have unaccompanied youth designated as independent. Contact the financial aid administrator at the college of your choice for more information. For more information, download "Legal Tools to End Youth Homelessness" from www.nlchp.org/content/pubs/Youth%20Legal%20Tools.pdf. 20 U.S.C. §1087vv(d).

60. Can unaccompanied youth enroll in Job Corps without parental approval?

A: With advocacy, yes. Job Corps is a comprehensive residential, education and job training program for at-risk youth, ages 16 through 24. It provides academic, vocational, and social skills training to nearly 70,000 students a year, at 118 different sites. Youth who are homeless are eligible for Job Corps. Although the Job Corps law does not require a parent's or guardian's signature for a youth to participate, federal Job Corps policy does. However, Job Corps programs can waive that requirement for youth who have no parent or guardian, cannot find a parent or guardian, or are legally emancipated. The requirement can also be waived for youth whose parents are not willing to sign, as long as they do not object to the youth participating. McKinney-Vento liaisons have used this exception to

³ Robertson, Marjorie and Toro, Paul. "Homeless Youth: Research, Intervention, and Policy." Fosburg, Linda and Dennis, Deborah (Eds.), Practical Lessons: The 1998 National Symposium on Homelessness Research. Washington DC: U.S. Dept. of Housing and Urban Development (1999) available at <http://aspe.os.dhhs.gov/progsys/homeless/symposium/3-Youth.htm>; MacLean, Michael G., Embry, Lara E. & Cauce, Ana Mari (1999). Homeless Adolescents' Paths to Separation from Family: Comparison of Family Characteristics, Psychological Adjustment, and Victimization. *Journal of Community Psychology*, 27(2), 179-187.

⁴ <http://www.nrscrisisline.org/>

⁵ MacLean, supra, note 3.

advocate successfully for unaccompanied youth to participate in Job Corps without a parent's signature. For more information about this program, download "Legal Tools to End Youth Homelessness" from www.nlchp.org/content/pubs/Youth%20Legal%20Tools.pdf. 20 C.F.R. §664.200; 29 U.S.C. §2884(3)(C); Job Corps Policy Requirements Handbook; 29 U.S.C. §2801(25).

61. How can the Runaway and Homeless Youth Act help unaccompanied youth?

A: The Runaway and Homeless Youth Act can help youth in many ways. First, it contains a Basic Center Program that supports emergency shelters for up to 15 days for unaccompanied youth under 18 years old. Second, the law supports Transitional Living Programs for youth, which provide long-term housing for up to 18 months and life skills for youth 16-21 years old. Third, the law contains a Street Outreach Program to provide outreach and services to youth on the streets. Lastly, the law funds the National Runaway Switchboard, trainings for youth workers, and other information and supports. Runaway and Homeless Youth Act programs are required to provide youth with information about the McKinney-Vento Act and to collaborate with their local school district liaisons. For more information about this program, download "Legal Tools to End Youth Homelessness" from www.nlchp.org/content/pubs/Youth%20Legal%20Tools.pdf. 42 U.S.C. §§5701 et seq.; 42 U.S.C. §5712(b)(3); 45 C.F.R. §1351.18(e).

Disputes and Enforcement

62. Does the McKinney-Vento Act contain procedures for resolving disputes?

A: Yes. The McKinney-Vento Act requires each state to establish its own procedures to resolve disputes promptly. 42 U.S.C. §11432(g)(1)(C). The Act requires schools to admit students immediately to the school in which they are seeking enrollment, until the dispute is resolved. 42 U.S.C. §11432(g)(3)(E). The school must provide a written explanation of its decision, including information about the right to appeal. 42 U.S.C. §§11432(g)(3)(B)(iii), (g)(3)(E). The school must then refer the student, parent, or guardian to the district liaison, who must carry out the dispute resolution process as quickly as possible. 42 U.S.C. §11432(g)(3)(E).

63. Does the district liaison have to be the person listening to the grievance procedure?

A: No, although it is considered a good practice. The McKinney-Vento Act requires every state to develop a procedure to promptly resolve disputes. 42 U.S.C. §11432(g)(1)(C). Therefore, the state can determine the specifics of the dispute resolution process. The liaison does not have to be the person listening to the grievances; however, liaisons are required to carry out the dispute resolution process, making sure that families and youth are aware of their rights to appeal and are able to access the dispute process. 42 U.S.C. §11432(g)(3)(E).

64. Does the state need to be involved in resolving disputes?

A: Yes. The McKinney-Vento Act requires states to ensure that school districts comply with the Act. 42 U.S.C. §§11432(f)(6), (g)(2). Without a role in dispute resolution, the state will not be able to ensure compliance. Further, the U.S. Department of Education has outlined dispute resolution procedures which include a state-level appeal. 2003 Guidance, p. 15. Allowing school districts to resolve disputes without state involvement and oversight would allow barriers to school enrollment and retention to arise, in violation of the McKinney-Vento Act. 42 U.S.C. §§11432(g)(1)(I), (g)(7). Finally, state involvement early in the dispute process will be important when inter-district issues arise.

65. Must school districts provide transportation during disputes?

A: Yes, to the extent it would be required if there were no dispute. (See Question 35.) While disputes are pending, students must be enrolled in the school in which they are seeking enrollment. If that school is the school of origin, the school district(s) involved must provide transportation. 2003 Guidance, p. 18; 42 U.S.C. §11432(g)(1)(J)(iii). If that school is the local school, transportation must be provided to the extent it is provided to housed students, and to the extent necessary to ensure it is not a barrier to attendance. 42 U.S.C. §§11432(g)(1)(I), (g)(4), (g)(7). These provisions apply whether the dispute is about school enrollment, school selection, or whether the child or youth is homeless under the McKinney-Vento Act.

66. Does the McKinney-Vento Act apply to schools that are not receiving its funding?

A: Yes, the McKinney-Vento Act applies to every local educational agency in every state. As with most education laws, the Act applies to states receiving the federal funds.

67. If a school district does not follow the law, is there a penalty?

A: Yes. States are required to ensure that school districts in the state comply with the McKinney-Vento Act. 42 U.S.C. §§11432(f)(6), (g)(2). Therefore, the state can sanction noncompliant school districts by withholding federal funds or other means. Families can also sue school districts in state and/or federal court. Several lawsuits have been filed under the McKinney-Vento Act, including lawsuits in Illinois, Maryland, Alabama, and New York. As a result, school districts have been forced to change their policies and practices and pay significant attorney fees. In addition, the U.S. Department of Education monitors state and school district compliance with the McKinney-Vento Act and could withhold or require repayment of federal funds in cases of noncompliance.

Barriers to Academic Success

68. Does the requirement for immediate enrollment include enrollment in optional enrichment programs, extended-day programs, and other supplemental services?

A: Yes. Enrollment is defined to include attending classes and participating fully in school activities. 42 U.S.C. §11434A(1). Enrichment programs and other supplemental services are school activities. Furthermore, liaisons are required to ensure that children and youth in homeless situations have a full and fair opportunity to succeed in school. 42 U.S.C. §11432(g)(6)(A). Enrichment programs clearly support that requirement. To the extent that individual students experiencing homelessness can benefit from such programs, they must be provided access to the programs.

69. Should students in homeless situations be exempt from attendance rules for participating in school sports (for example rules requiring attending school for a semester before being eligible for sports at that school)?

A: Yes. The McKinney-Vento Act requires states and school districts to eliminate barriers to school enrollment and retention for children and youth experiencing homelessness. 42 U.S.C. §§11432(g)(1)(I), (g)(7). Enrollment is defined as attending school and participating fully in school activities. 42 U.S.C. §11434A(1). Sports and other extra-curricular activities are school activities. Courts have determined that school athletic associations are generally considered to be part of the state, due to their close relationship with the state. Therefore, athletic associations must comply with the McKinney-Vento Act's requirement to remove barriers, by exempting homeless students from sports participation rules that students cannot meet due to their homelessness and mobility, such as attendance rules.

70. What if children experiencing homelessness cannot pay fees associated with extra-curricular activities, such as club dues, sports uniforms, etc.?

A: Again, barriers to full participation in school must be eliminated. 42 U.S.C. §§11432(g)(1)(I), (g)(7). Fees for extra-curricular activities should be waived, or paid with other funds (such as McKinney-Vento funds or Title I, Part A funds).

71. If a youth has not been in a school and tries to enroll mid-semester, what obligation does the school have to enroll the student and give him/her credit for the work they do in the remainder of the semester?

A: The McKinney-Vento Act requires the school to enroll the student immediately. 42 U.S.C. §§11432(g)(3)(C). The Act also requires the school district to remove barriers to the student's retention in school. 42 U.S.C. §§11432(g)(1)(I), (g)(7). Since the inability to earn any credit is a disincentive to remaining in school, the school must address that problem. The school must make any necessary adjustments to the student's schedule to permit the student to obtain partial or pro-rated credit for his or her work.

72. Is there any obligation to provide education services to a student who is homeless and is expelled from school due to behavior?

A: Student discipline and expulsion rules apply to students in homeless situations in the same way they apply to housed students. However, schools must be careful not to discipline or penalize students for behavior related to their homelessness. For example, a school district policy that issues suspensions for multiple absences must excuse absences caused by homelessness. The failure to provide such exemptions would create a barrier to the retention in school of students experiencing homelessness, in violation of the McKinney-Vento Act. 42 U.S.C. §§11432(g)(1)(I), (g)(7).

73. Can students who are homeless receive free school meals without documenting income?

A: Yes. The U.S. Department of Agriculture's Child Nutrition Division issued a policy in 2002 (later enacted into law by the Child Nutrition and WIC Reauthorization Act of 2004) that makes any child, identified as homeless by a liaison or shelter director, automatically eligible for free school meals. They do not have to complete an application. When a liaison or a shelter director provides a child's name to the local school food service office, free school meals

should commence immediately. A copy of the USDA policy is available at www.nlchp.org/FA_Education. Some states may also have established policies to support this federal law.

74. To what extent should services for dental, medical and other such needs be provided for children experiencing homelessness?

A: To the extent that such services are available at school, children experiencing homelessness must have access to them. 42 U.S.C. §11432(g)(4). Outside of school, liaisons are required to provide referrals for health, mental health, dental, and other appropriate services in the community. 42 U.S.C. §11432(g)(6)(A)(iii). “Other appropriate services” may include housing, shelter, job training, public assistance, food and nutrition, and legal assistance.

Preschool

75. Does the McKinney-Vento Act address preschool?

A: Yes. The McKinney-Vento Act clearly and specifically includes preschool programs within its definition of free, appropriate public education. 42 U.S.C. §11431(1).

76. What must states do to serve preschoolers experiencing homelessness?

A: State plans must describe procedures to ensure that preschoolers experiencing homelessness have access to preschool programs administered by the State. 42 U.S.C. §11432(g)(1)(F)(i). States are to use McKinney-Vento grants in part to provide activities and services for preschoolers in homeless situations, so they can enroll in, attend, and succeed in preschool programs. 42 U.S.C. §11432(d)(2). State coordinators must coordinate with agencies that serve preschoolers, including child development and preschool personnel, to improve the provision of comprehensive services to children. 42 U.S.C. §§11432(f)(4), (f)(5)(A).

77. What must school districts do to serve preschoolers experiencing homelessness?

A: School district liaisons must ensure that families and children experiencing homelessness can enroll in Head Start and Even Start programs and preschool programs administered by the school district. 42 U.S.C. §11432(g)(6)(A)(iii). Districts can also use their McKinney-Vento subgrants to provide early childhood education programs for children in homeless situations, if such programs are not otherwise provided through Federal, State, or local funding. 42 U.S.C. §11433(d)(6).

78. Does the McKinney-Vento Act require Head Start programs to enroll children without birth certificates or other documents?

A: This depends upon what agency operates the Head Start program. The McKinney-Vento Act applies to state and local education agencies. Therefore, a Head Start program administered by a state or local education agency may be covered by the Act and therefore required to enroll families and children immediately, even without birth certificates or other documents. 42 U.S.C. §11432(g)(3)(C). Head Start bills currently pending in Congress would require all Head Start programs to permit immediate enrollment and to assist families in obtaining necessary documentation.

The U.S. Department of Health and Human Services also issued a policy brief in 1992 encouraging all Head Start programs to comply with many of the McKinney-Vento Act’s requirements. The policy brief further encourages Head Start programs to eliminate barriers to enrolling homeless families, such as reserving spaces for those families, moving them to the top of waiting lists, and conducting outreach activities. A copy of the policy brief is available at www.nlchp.org/FA_Education.

Segregation

79. In a situation where students stay at a shelter for only a short period of time, can a district provide a teacher to teach at the shelter?

A: No. The McKinney-Vento Act prohibits segregating students experiencing homelessness in shelter classrooms, separate schools, or separate programs within a school. 42 U.S.C. §11432(e)(3)(A). No public funds can support separate education for homeless students, for any period of time. Students experiencing homelessness must be immediately enrolled in either the local school or their school of origin. However, supplemental services such as after-school tutoring or mentoring can be provided at a shelter, using McKinney-Vento, Title I, Part A, or other public funds.

80. The McKinney-Vento Act says that its funds can be used to provide services to children experiencing homelessness in a separate setting within a public school, only “as necessary for short periods of time for health and safety emergencies.” How is “health and safety emergencies” defined?

A: McKinney-Vento Act funds must expand or improve upon services provided as part of a school’s regular academic program, and cannot replace regular academic services. 42 U.S.C. 11433(a)(2)(A)(iii). The Act does contain a very limited provision for providing services to students experiencing homelessness in a separate setting within a public school, as described in the question. The very limited “health and safety emergency” exception says:

1. only school districts that get McKinney subgrants
2. can provide services to homeless students in separate settings within a public school (not at a shelter or other location)
3. as necessary
4. for short periods of time
5. for health and safety emergencies

There is no specific definition of “health and safety emergencies.” One possible example of a permissible service under this clause might be for a school in a McKinney-Vento funded school district to keep students who are affected by domestic violence in a separate setting at dismissal time to make sure they get home safely. 42 U.S.C. 11433(a)(2)(B)(ii). Since McKinney-Vento services cannot replace regular academic services, this provision would not allow for separate classes for students in homeless situations, included those affected by domestic violence. For children affected by domestic violence, whether they are residing in shelters or other situations, the public schools they attend must work with the parent to ensure safety, confidentiality, sensitivity, and appropriate services. More information on how schools and shelters can assist victims of domestic violence will soon be available at www.nlchp.org.

Private Schools, Tribal Schools, and Charter Schools

81. What obligations do private schools have under the McKinney-Vento Act? If the school of origin is a private school, must the student be allowed to continue attending?

A: The McKinney-Vento Act does not apply to schools that are entirely privately funded. Therefore, private schools are not required to allow children to continue to attend or to provide transportation. Public schools should offer McKinney-Vento and Title I, Part A services to students experiencing homelessness who are attending private schools, as public schools do for other private school students who are eligible for public education services (for example, special education and Title I, Part A services).

82. Are tribal schools required to designate a liaison for their schools?

A: Probably. The Department of the Interior receives McKinney-Vento funds for schools run by the Bureau of Indian Affairs (BIA). 42 U.S.C. §11432(c)(2)(B)(i). The Secretary of Education and the Secretary of the Interior must enter into an agreement to ensure that such funds are used to meet the purposes of the Act. The Secretary of the Interior must establish goals, objectives and milestones for use of the funds. Since the liaison position is essential to meet the purposes of the McKinney-Vento Act, it is likely that BIA schools would be required to designate a liaison. However, advocates working with Native American children experiencing homelessness should consult the Department of the Interior to obtain a copy of the McKinney-Vento plan and determine what activities are required. 42 U.S.C. §11432(c)(2)(B)(ii).

83. In our state, charter schools do not have to provide transportation to students (except for special education students) unless they choose to do so. Do charter schools have to enroll students experiencing homelessness if the charter school is the school of origin? Do charter schools have to accept students experiencing homelessness if it is an attendance area school and there are other public schools available in the attendance area? Do charter schools have to appoint a homeless liaison?

A: Yes, yes, and yes. Public charter schools have the same responsibility under the McKinney-Vento Act as other schools and school districts. If a student who attends a charter school becomes homeless, the student has the same right to remain in the school of origin as other public school students. If a student experiencing homelessness attempts to enroll in a charter school, the school must enroll him or her as long as other students living in the same area would be eligible to attend the school. If the charter school has particular, skills-related entrance requirements, the student must meet those criteria (for example, a fine arts charter school with requirements related to artistic ability). Charter schools that are considered their own LEAs must designate a liaison for students experiencing homelessness.

Students Receiving Special Education and Related Services

84. Do students receiving special education who are homeless have the right to remain in their school of origin?

A: Yes. The McKinney-Vento Act applies to students receiving special education services the same way it applies to other students. Therefore, a student receiving special education who is homeless must remain in the school of origin, unless it is not feasible or against the parent's/guardian's wishes. More often than not, the feasibility equation will weigh in favor of keeping a special education student in the same school, because changing schools and educational programs can be particularly detrimental to students with special needs. Of course, if the distance is such that the commute would be more detrimental than changing schools would be, then the student may have to change schools. There are additional legal requirements under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§1400 et seq., that might come into play. However, IDEA does not supersede the McKinney-Vento Act; a special education student retains all McKinney-Vento rights.

85. If a student receiving special education services becomes homeless and elects to remain in the school of origin, who pays for transportation?

A: School districts must provide transportation to the school of origin upon request. 42 U.S.C. §11432(g)(1)(J)(iii). This is true regardless of the services the student receives, including special education and related services. Transportation can be included as a related service in a student's Individualized Education Program (IEP). 20 U.S.C. §1402(22). If transportation is listed as a related service in a student's IEP, the student's transportation should be funded from the special education budget. If transportation is not an appropriate related service, the student's transportation should be funded in the same manner as that of other students experiencing homelessness.

86. Must schools immediately enroll students receiving special education who are homeless?

A: Yes. The McKinney-Vento Act applies to students who are homeless and who receive special education. Those students must be enrolled immediately in school, to include attending classes and participating fully in school activities. There are additional legal requirements under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§1400 et seq., that might come into play. However IDEA does not supersede the McKinney-Vento Act; a special education student retains all McKinney-Vento rights.

87. How can a school determine what services to provide a student receiving special education, if there are no school records?

A: The enrolling school must immediately admit the student and must contact the previous school for records. 42 U.S.C. §§11432(g)(3)(C), (D). The local liaison should work with special education staff to ensure that a child's special needs can be identified and addressed quickly. The district should establish procedures for obtaining a child's school records expeditiously. If the records cannot be transmitted immediately, the enrolling school can speak with staff from the previous school to get basic information about the student. Former teachers, counselors and administrators should be able to provide this information. Even if records are delayed, the student must be enrolled in school and provided the most appropriate services possible immediately. 20 U.S.C. §§1412(a)(1)(A), 1412(a)(4), 1414(d)(2)(A); 34 C.F.R. §§300.341, 300.300. In fact, IDEA's regulations specifically cite students experiencing homelessness as a group which requires special efforts and outreach to ensure such students who have disabilities are identified, evaluated, and served. 34 C.F.R. §300.125(a)(2)(i). State laws and regulations implementing IDEA may also contain procedures for providing interim IEPs and interim services.

88. If a student has special education testing or an Individualized Education Program (IEP) from the previous school, must the new school implement it?

A: The new school must provide a free, appropriate public education for the student. Under IDEA, the new school must hold a meeting with the parents to adopt the previous IEP or create a new IEP. However, until the meeting takes place, the school should implement the previous IEP, to provide appropriate services and avoid disruption in the child's education and the school. If the previous school was in the midst of developing an IEP but hadn't finished it, the new school should: 1) get all the evaluations and other paperwork completed on the student from the old school; 2) talk to the school counselor and/or teachers about the student's needs; and 3) develop an IEP as soon as possible. 20 U.S.C. §§1412(a)(1)(A), 1412(a)(4), 1414(d)(2)(A); 34 C.F.R. §§300.341, 300.300, 300.343(b).

89. If an unaccompanied youth is under 18, who signs for special education services?

A: Under the Individuals with Disabilities Education Act (IDEA), the following people can sign for special education services for a minor: A parent, guardian, adult relative with whom the child is living, a person legally responsible for the child, or in many cases, a foster parent. 34 C.F.R. §300.20. If no such adults are available, the school district may have to assign a surrogate parent. The school district must assign a surrogate if the youth is a ward of the state, or if the district cannot locate a parent or other adult who can sign for services. 34 C.F.R. §300.515. The surrogate parent must be trained in special education procedures and cannot be a school district employee or other person who might have a conflict of interests.

If the youth is not a ward of the state and a parent's location is known, then the parent or another adult who can sign for services must be convinced to participate in the special education process on behalf of the youth. This can be a challenge for unaccompanied youth. Some approaches might include working with the parent; helping the youth find an adult relative who would be willing to get involved; helping a non-relative caretaker take the necessary steps to become legally responsible for the youth; determining whether emancipation is available and appropriate; determining whether terminating the parents' rights is appropriate; and determining whether the youth is a ward of the state (for example, a foster child who has left placement).

Whatever approach is used, since states must ensure that all homeless children with disabilities are identified, located and evaluated, a child under 18 should not be denied access to special education services simply because the parent is not available to sign for services. 34 C.F.R. §300.125.

Title I, Part A of the Elementary and Secondary Education Act

90. Are children and youth in homeless situations eligible for Title I, Part A services? What if they are succeeding in school?

A: Yes. All children and youth in homeless situations are automatically eligible for Title IA services, whether or not they live in a Title I school attendance area or meet the academic standards required of other children for eligibility. 2003 Guidance, p. 24; 20 U.S.C. §6315(b)(2)(E). The poverty, unstable and often unhealthy living situations, and emotional trauma of homelessness place even outstanding students at risk of academic regression and failure.

91. If a student experiencing homelessness attends a school that does not receive Title I, Part A funds, how does the student receive services?

A: Every school district that receives Title IA funds is required to set aside a portion of its allotment to provide comparable services to homeless students attending schools that do not receive Title IA services. 2003 Guidance, p. 24; 20 U.S.C. §6313(c)(3). For example, Title IA funds frequently serve elementary school students. The mandatory set-aside ensures that middle and high school students experiencing homelessness in those districts receive Title IA services.

92. Is there a formula for calculating Title I, Part A set-asides?

A: No, there is no mandated formula for Title IA set-asides. However, the set-aside must be sufficient to provide "comparable services" to students attending non-participating schools. 2003 Guidance, p. 24; 20 U.S.C. §6313(c)(3). Therefore, the set-aside must be based on the number and needs of children and youth experiencing homelessness in the school district. Some states have established statewide guidelines for determining set-aside amounts and have found it beneficial. Some possible methods to calculate the set-aside include: (1) identify and assess the needs of students in homeless situations in the district, and set aside funds accordingly; (2) multiply the number of identified students experiencing homelessness by the Title IA per-pupil allocation; (3) for districts with a McKinney-Vento subgrant, reserve an amount greater than or equal to the district's McKinney-Vento funding request; (4) reserve a specific percentage based on the district's poverty level or total Title IA allocation. (Calculation methods taken from: "Four Methods for Determining New Mandatory Title I, Part A Set-Aside for Homeless Children." *NCLB Financial Compliance Insider* (Nov. 2003).)

93. What kind of services can Title I, Part A funds (including set-asides and other funds) pay for?

A: Title IA funds, including those under the set-aside and other funds, can be used to serve students experiencing homelessness in both Title IA and non-Title IA schools. The services should support the students to succeed in school and to meet academic achievement standards.

The funds can be used to provide services that are not ordinarily provided to other Title IA students. Examples of services school districts have provided with Title IA funds to students experiencing homelessness include: supporting the position of the liaison, mentoring, tutoring, enrichment activities, case management, school supplies, testing fees, clothing, activity fees, graduation fees, and other services to enable students to enroll in, attend, and succeed in school. 2003 Guidance, p. 24-5.

94. Can Title I, Part A set-asides be used to fund liaisons and other school district level activities?

A: Yes. School districts can use Title IA set-asides to serve children and youth experiencing homelessness in both Title I and non-Title I schools. 2003 Guidance, p.24-5. For example, Title IA set-asides may be used to support the liaison position, to allow the liaison to dedicate more time to McKinney-Vento Act activities or to hire additional staff for the McKinney-Vento program. The set-aside can also fund district-wide activities conducted by the liaison (such as identification and professional development), extended day and summer activities, school supplies, and other services. 2003 Guidance, p. 24-5.

95. What can Title I, Part A funds not be used for?

A: The Title I statute states that Title I funds cannot supplant other state or local funds. 20 U.S.C. §6320A(b)(1). In other words, Title I funds cannot be used for services that are part of the core services provided by public schools, and services that schools are required to provide even in the absence of Title I funding.

96. How must a school district plan for serving children experiencing homelessness under Title I, Part A?

A: For a school district to receive Title IA funds, its Title IA plan must describe the services the district will provide to children and youth experiencing homelessness, including but not limited to those services provided with the set-aside. 20 U.S.C. §6312(b)(1)(O); 2003 Guidance, p. 24. School district Title IA plans must also be coordinated with the McKinney-Vento Act. 20 U.S.C. §6312(a)(1); 20 U.S.C. §6312(b)(1)(E)(ii). Finally, State Title I, Part A plans must also be coordinated with the McKinney-Vento Act. 20 U.S.C. §6311(a)(1).

Resources

97. Where can I find information about pending federal legislation related to the education of children and youth in homeless situations?

A: The National Association for the Education of Homeless Children and Youth (NAEHCY) provides updates on pending legislation, as well as many other publications and services geared toward educators specializing in the education of children and youth in homeless situations. Legislative updates are available at www.naehcy.org/legislative_update.html.

98. What is the federal government doing to help schools comply with the McKinney-Vento Act?

A: The U.S. Department of Education (USDE) has been very active in its support of states and local school districts as they implement the McKinney-Vento Act. USDE has established a clearinghouse on the McKinney-Vento Act and its implementation, at the National Center on Homeless Education (www.serve.org/nche). NCHE can provide technical assistance documents, trainings, posters, manuals, outreach materials, and other support. In March 2003, USDE issued Guidance on the law (available at www.nlchp.org/FA_Education). USDE sponsors annual meetings for McKinney-Vento State Coordinators and the Federal McKinney-Vento Coordinator participates in an annual conference of educators who work with the McKinney-Vento Act. The Federal Coordinator for the McKinney-Vento Act responds to phone call and email requests for assistance and is accessible to state and school district staff, as well as other advocates, parents and youth. USDE also conducts document reviews and on-site compliance monitoring across the country.

99. Where can one find national statistics on homelessness, especially on children?

A: Some sources of statistics include:

- *U.S. Conference of Mayors, 2003 Hunger and Homelessness Survey:* www.usmayors.org/uscm/hungersurvey/2003/onlinereport/HungerAndHomelessnessReport2003.pdf
- *National Association for the Education of Homeless Children and Youth:* www.naehcy.org
- *National Law Center on Homelessness and Poverty:* www.nlchp.org

- *National Coalition for the Homeless fact sheets:* www.nationalhomeless.org/facts.html
- *National Low Income Housing Coalition, Out of Reach 2003:* www.nlihc.org/oor2003/
- *Urban Institute, Homelessness: Programs and the people they serve, 12/99:* www.urban.org/Template.cfm?Section=ByTopic&NavMenuID=62&TopicID=189&TopicName=Homelessness

100. Where can I find research on the effects of school mobility on academic achievement?

A: There is a growing body of research on this topic. The National Center for Homeless Education (NCHE) has conducted a review of the literature on this topic and is currently conducting a school stability study. Contact NCHE at (800) 308-2145 for more information. The following bibliography is a small sampling of what has been published:

- Craig, Virginia, "A Report from the Kids Mobility Project," Kids Mobility Project (1998) (612-375-9644).
- Fowler-Finn, Thomas, "Student Stability vs. Mobility," *The School Administrator* 36 (August 2001)
- Heinlein, Lisa Melman and Marybeth Shinn, "School Mobility and Student Achievement in an Urban Setting," 37 *Psychology in the Schools* 349 (2000).
- Jacobson, Linda, "Moving Targets," 20 *Education Week* 32 (2001).
- Kerbow, David, "Pervasive Student Mobility: A Moving Target for School Improvement," *Study of the Chicago Panel on School Policy and the Center for School Improvement at the University of Chicago* (1996).
- Lash, Andrea and Sandra Kirkpatrick, "A Classroom Perspective on Student Mobility," 91 *The Elementary School Journal* 177 (1990).
- Mantzicopoulos, Panayota and Dana Knutson, "Head Start Children: School Mobility and Achievement in the Early Grades," 93 *Journal of Educational Research* 305 (2000).
- Policy Analysis for California Education. "The Educational Consequences of Mobility for California Students and Schools," 1 *PACE Policy Brief* 1 (May 1999) (wwwwgse.Berkeley.edu/research/PACE/pace.html)
- Popp, Patricia, Jenny Hindman, and James Stronge. Students on the Move: Reaching and Teaching Highly Mobile Children and Youth. National Center for Homeless Education (2003). Available at <http://www.serve.org/nche/downloads/studentmobilitydocument.pdf>.
- Reed-Victor, Evelyn and Lynn Pelco, "Helping Homeless Students Build Resilience: What the School Community Can Do," 5 *Journal for a Just and Caring Education* 51 (1999).
- Rogers, Dr. Joy, of the Loyola University Department of Education, Education Report of Rule 706 Expert Panel presented in *B.H. v. Johnson*, 715 F. Supp. 1387 (N.D. Ill. 1989), 1991.
- Rothstein, Richard, "Equalizing Education Resources on Behalf of Disadvantaged Children," in *A Notion at Risk: Preserving Public Education as an Engine for Social Mobility*, ed. by Richard Kahlenberg, Century Foundation Press (2000).
- Rumberger, Russell, "Student Mobility," *The Informed Educator Series*, Educational Research Service (2001).
- Rumberger, Russell and Katherine Larson, "Student Mobility and the Increased Risk of High School Dropout," 107 *American Journal of Education* 1 (1998).
- Stover, Del, "Schools grapple with high student mobility rates," 20 *School Board News*, no. 11 (2000).
- "Student Mobility: How Some Children Get Left Behind," *Journal of Negro Education* Special Issue (Winter 2003).
- Texas Education Agency, "A Study of Student Mobility in Texas Public Schools," Statewide Texas Educational Progress Study Report No. 3 (1997).
- Williams, Debra, "Kids, Schools Suffer from Revolving Door," *Catalyst: Voices of Chicago School Reform* (April 1996).
- Wood, David, et al. "Impact of Family Relocation on Children's Growth, Development, School Function, and Behavior," 270 *Journal of the American Medical Association* 1334 (1993).

APPENDICES

APPENDIX A

QUICK GUIDE FOR DETERMINING ELIGIBILITY*

Does the living situation of the child or youth fit into one of the specific examples of homelessness listed in the law?

- Sharing the housing of other persons due to loss of housing, economic hardship or similar reason.
- Living in a motel, hotel, trailer park, or camping ground due to the lack of alternative adequate accommodations.
- Living in an emergency or transitional shelter.
- Abandoned in a hospital.
- Awaiting foster care placement.
- Living in a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings.
- Living in a car, park, public space, abandoned building, substandard housing, bus or train station, or similar setting.
- Migratory children in the above living situations.

If the living situation of the child or youth does not fit one of the specific examples of homelessness listed in the law, is the child or youth living in another type of situation that is not fixed, regular and adequate? Lacking any one of these conditions would make a child eligible.

Sample Questions:

- Fixed (“A fixed residence is one that is stationary, permanent and not subject to change.”)
 - Is this a permanent or temporary arrangement?
 - Are you looking for another place to live?
 - Why are you living in your current situation?
 - Where would you go if you couldn’t stay where you are?
 - Where were you living before?
 - Could you be asked to leave at any time?
- Regular (“A regular residence is used on a regular basis.”)
 - Do you stay in the same place every night?
 - How long have you been staying in your current situation?
 - How long do you plan to stay?
 - How long did you live in your last place?
- Adequate (“An adequate residence is one that is sufficient for meeting both the physical and psychological needs typically met in home environments.”)
 - How many people are in the living situation?
 - Where are you sleeping?
 - What are the conditions of the living situation?
 - Is there adequate heat, electricity and water?

*Adapted from the National Center for Homeless Education’s Best Practice Issue Brief: “Determining Eligibility for Rights and Services under the McKinney-Vento Act” by Patricia Nix-Hodes of the Law Project of the Chicago Coalition for the Homeless and Matthew Hanafee.

APPENDIX B SAMPLE FORMS

Please note that all forms in this document are available at www.area1liaisons.org under documents.

NAME OF SCHOOL DISTRICT

VERIFICATION OF RESIDENCY AND ENROLLMENT

Child's Name: _____ Birthdate: ___/___/___

I, _____, live at _____
Name of Adult Address

which is located within the boundaries of **NAME OF SCHOOL DISTRICT**.

Step 1: Residency Verification (Part A)

Do you: Own your own home Rent Other: _____

You must provide documentation showing you **live at** the address listed above. Please check and attach a copy of three (3) of the following documents. You should black out account and social security numbers on the documents. If you cannot produce all three (3) documents, skip to Residency (Part B).

All documents must be current and show your name and address.

You must provide one (1) document from Category A **and** two (2) documents from Category B.

Category A – One (1) document

Category B – Two (2) documents

- Real estate tax bill
- Signed lease
- Mortgage document or payment book
- Residency Attestation
- Military housing letter
- Section 8 letter
- Other*: _____

- | | |
|---|--|
| <input type="checkbox"/> Gas bill | <input type="checkbox"/> Public aid card |
| <input type="checkbox"/> Electric bill | <input type="checkbox"/> Medicaid card |
| <input type="checkbox"/> Water/Sewer bill | <input type="checkbox"/> Food stamp card |
| <input type="checkbox"/> Phone bill (no cell) | <input type="checkbox"/> Credit card statement |
| <input type="checkbox"/> Cable bill | <input type="checkbox"/> Pay check stub |
| <input type="checkbox"/> Vehicle registration | <input type="checkbox"/> City sticker receipt |
| <input type="checkbox"/> Bank statement | <input type="checkbox"/> Driver's license/State ID |
| <input type="checkbox"/> Other*: _____ | |

*Please contact the registration staff if you are having trouble collecting all three documents.
The district may require a home visit and/or additional documentation to verify residency.

Step 1: Residency Verification (Part B)

I am unable to provide three (3) of the above documents because: (check all that apply)

Our family has not had a permanent residence since ___/___/___.

Address of last permanent residence: _____

Last school attended: _____

- Living in a shelter Sharing housing with others due to loss of housing, economic hardship, or similar reason Living at a train or bus station, park or in a car Living in a hotel, motel, campground, or other similar situation Abandoned apartment/building Disaster victim
- Unaccompanied youth The child is temporarily housed, awaiting DCFS permanent foster care placement.

Other _____

*Your child may qualify for additional services—please ask the registration staff for more information or contact the District's McKinney-Vento Liaison at **XXX-XXX-XXXX**.*

Please indicate any social service agency you are currently working with: _____

NAME OF SCHOOL DISTRICT

VERIFICATION OF RESIDENCY AND ENROLLMENT

Child's Name: _____ Birthdate: ___/___/___

Step 2: Relationship to Student

You must provide a certified, original birth certificate. A copy will be made and the original returned to you. If the birth certificate is not available at the time of registration, other proof of the child's identity and date of birth is required, along with a signed affidavit.

Check one below:

- I am the natural or adoptive parent listed on the birth certificate. Please provide custody agreement, if applicable.
- I was granted court-ordered guardianship (provide copy of court document).
- I receive public aid on behalf of the child (provide copy of documentation showing receipt of aid).
- I have assumed and exercise responsibility for the child and provide him/her with a fixed, nighttime abode. **Please check each of the following boxes to be true and accurate.**
 - The child is living with me because _____.
 - I am at least 18 years of age.
 - The child eats and sleeps at my residence on a regular basis.
 - The child is not living with me for the sole purpose of having access to the educational programs of the school district.

Step 3: Affirmation and Warning (Must be completed in the presence of a District employee)

Please read the following statements and **initial each**:

_____ I affirm that the information presented in this verification form, in connection with any investigation of my residency or the residency and custody of the student, is true, complete and accurate.

_____ I understand that knowingly or willfully providing false information to a school district regarding the residency of a child for the purpose of enabling that child to attend any school in that district without the payment of nonresident tuition is a Class C misdemeanor.

_____ I understand that knowingly enrolling or attempting to enroll a child in the school of a school district on a tuition-free basis when I know the child to be a nonresident of the school district, unless the nonresident child has a lawful right to attend, is a Class C misdemeanor and I will be liable for payment of tuition, fees, and all other applicable fines.

_____/_____/_____
Date

Adult (Signature)

Adult (Print Name)

FOR OFFICE USE ONLY

_____/_____/_____
Date

Enrollment Personnel (Signature)

Enrollment Personnel (Print Name)

Form Complete **Form Incomplete**

For Office Use Only:

Date of Verification ___/___/___

Signature of Residency Officer: _____

NAME OF SCHOOL DISTRICT

VERIFICACIÓN DE DOMICILIO Y MATRICULACIÓN

Nombre del niño (a): _____ Fecha de nacimiento: ___/___/___

Yo, _____, vivo en _____
Nombre del adulto *Dirección*

la cual se encuentra dentro de los límites de asistencia del Distrito Escolar de **Name of School District**.

Paso 1: Prueba de Domicilio (Parte A)

Usted: Es dueño (a) de la propiedad Renta Otro: _____

Usted debe proveer documentación que demuestre que usted **vive en** la dirección especificada arriba. Por favor marque y adhiera una copia de tres (3) de los siguientes documentos. Usted debe borrar o tachar números de cuenta o seguro social si aparecen en los documentos. Si usted no puede proveer tres (3) documentos, siga a la prueba de domicilio (Parte B).

Todos los documentos deben ser recientes y deben mostrar su nombre y su dirección.

Usted debe proveer un (1) documento de la Categoría A y dos (2) documentos de la Categoría B.

Categoría A – Un (1) documento

- Prueba de pago de impuestos sobre la propiedad
- Contrato de arrendamiento actual firmado
- Documento de la hipoteca o el libro de pago de la hipoteca
- Declaración jurada de prueba de domicilio
- Carta de domicilio militar
- Carta de la sección 8
- Otro*: _____

Categoría B – Dos (2) documentos

- Pago del gas
- Pago de la electricidad
- Pago de agua o alcantarillado
- Pago del teléfono (no cel.)
- Pago del Cable
- Registro del vehículo
- Estado de cuenta del banco
- Otro*: _____
- Tarjeta de ayuda pública
- Tarjeta de Medicaid
- Tarjeta de estampillas de alimento
- Estado de cuenta de crédito
- Comprobante de cheque
- Recibo de pago de la calcomanía vehicular
- Licencia de manejo e identificación del estado

*Por favor llame al personal de matriculación si usted tiene problemas para obtener los tres documentos.
Puede ser que el distrito requiera que se haga una visita a su domicilio o que usted presente documentación adicional para comprobar su residencia.

No complete (Parte B) Si usted tiene los tres (3) documentos.

Paso 1: Prueba de Domicilio (Parte B)

No puedo proveer tres (3) de los documentos de domicilio porque: (marque todos los que aplican)

Nuestra familia no ha tenido un domicilio fijo desde ___/___/___.

Dirección del el último domicilio fijo: _____

Nombre de la última escuela a la que asistió: _____

- Vivo en un albergue Comparto el domicilio con otros debido a la pérdida de domicilio, problemas económicos o razones similares
- Vivo en un tren o estación de autobús, en un parque o en un carro Vivo en un hotel, motel, campamento, o en otras situaciones similares
- vivo en un apartamento abandonado/edificio
- Soy víctima de desastre Joven no acompañado El niño (a) tiene un hogar temporal, esperando encontrar un hogar fijo con la ayuda de DCFS.

Otro _____

Su niño (a) puede calificar para servicios adicionales—por favor si necesita más información pregunte al personal de matriculación o llame al Coordinador (a) del Distrito McKinney-Vento XXX-XXX-XXXX.

Por favor especifique con qué agencia de servicios sociales está usted trabajando: _____

NAME OF SCHOOL DISTRICT

Residency Attestation Form

To be used when a lease is not available:

In order to comply with the **Name of School District's** proof of residency requirement, I verify the following information for _____

Names of Student(s) and Custodian(s)

I, _____, am the owner leaseholder landlord of the residence

First and Last Name

located at _____

(Number, Street, Apt. #)

(City)

(State)

(Zip)

I attest that the student(s) named above and his/her custodian(s) have been living at the above address

since ____/____/____ and to the best of my knowledge will continue to reside at this address until ____/____/____.

(Date)

(Date)

Owner/Leaseholder/Landlord: _____ Date: ____/____/____

(Signature)

Address: _____ Phone: _____ - _____ - _____

Property owners must attach a copy of their current real estate document.

Leaseholders must attach a copy of their current lease.

Landlords may be asked to provide additional information at a later time.

NAME OF SCHOOL DISTRICT

Declaración Jurada de Residencia

Para ser usada cuando no hay un arrendamiento disponible:

Para cumplir con el requisito de prueba de domicilio del Distrito Escolar de **Name of School District**, yo verifico la siguiente información con respecto a _____

Nombre del estudiante(s) y padre (madre) o tutor

Yo, _____, soy el propietario persona en el contrato de arrendamiento dueño de la casa

Nombre y apellido

alquilada de la residencia localizada en _____

(Número, Calle, No. de Apt.)

(Ciudad)

(Estado)

(Código Postal)

Yo declaro que el estudiante(s) nombrado arriba y sus padre (madre) o tutor han estado viviendo conmigo en esta dirección desde ____/____/____ y en la medida de mi conocimiento continuaran viviendo en este domicilio hasta

(Fecha)

____/____/____.

(Fecha)

Propietario(a)/Persona en el contrato de arrendamiento/Dueño: _____

(Firma)

____/____/____

(Fecha)

Dirección: _____ Teléfono: ____ - ____ - ____

El dueño de la propiedad debe incluir prueba de que es el propietario. Las personas que tienen un contrato de alquiler deben incluir una copia del contrato actual. Es posible que se le pida al dueño de la propiedad información adicional mas adelante.

APPENDIX C

LOCATING RESOURCES FOR HOMELESS STUDENTS

Created by the Opening Doors Project, Arlington Heights, IL- www.homelessed.net

Homeless students often have many needs outside the classroom, some of which may include finding food, clothing, transportation, and counseling. To most efficiently assist homeless students and their families, it is important to become familiar with resources and services that are available locally. The following points may help you to locate resources that will appropriately meet their needs.

Begin your search using personal connections to resources. For example, you may know a secretary at a church, a clerk at a resale shop, a nurse at a public health facility, or an administrator at a community-based agency. Ask them where they would refer homeless families for basic services. Be sure to ask them for the name and phone of a helpful staff person at the resource agency.

If you do not have personal contacts in the community, directly call local organizations such as township offices, newspaper offices, police stations, and/or churches. Explain your role at school and ask them where you can find free or low-cost meals, shelter, and other basic needs. Also ask them to call you if/when they sponsor special community programs for families in need.

Check out the resources as personally as possible—make a visit or a phone call to find out what services they really provide. Keep up-to-date on changes in resources' phone numbers, addresses, and services by calling them periodically.

Attempt to identify both public and private resources, but be aware that the services of private organizations may be available only on a temporary basis. Keep up-to-date on their existence.

Be aware that some resources do not want to become widely-known; they may be providing services with very limited supplies. Find out their philosophy from the start. Avoid handing out resource listings that have a definite order; the first resource on the list will become overwhelmed while the final ones will be under-utilized.

Try to avoid making inappropriate referrals by carefully matching the families' needs to the service providers' resources. Be aware that the family may not have the spare time or money to spend on dead-end phone calls.

Try to locate resources for services beyond the obvious. For example, service clubs may be able to provide mentoring or tutoring, camps for children, or summer employment for youth. Recognize that the contacts you make at community agencies may become your allies in getting children into school. Ask them to call you when they "hear" about homeless families in the community.

Helpful Links:

Illinois State Board of Education: www.isbe.net/homeless
ISBE Homeless Education Project: www.homelessed.net
National Association for the Education of Homeless Children and Youth: www.naehcy.org
National Center for Homeless Education: www.serve.org/nche
Alliance to End Homelessness in Suburban Cook County: www.suburbancook.org
National Low Income Housing Coalition: www.nlihc.org
National Runway Switchboard: www.1800runaway.org

REQUEST FOR TRAINING

District Name: _____

District No.: _____

Type of training: _____

No. of trainees: _____

Requested date(s): _____



What type of district members will be attending (social workers, enrollment staff, administrators, etc.)?

Are there specific questions or topics you would like to be addressed during this training session?

What situations or problems does the district encounter regarding residency or homelessness?

Contact person: _____

Position: _____

Phone: _____

E-mail: _____

Please send your Request for Training form to:

final note...

On the Area 1 website, www.area1liaisons.org, under the documents section you will also find electronic versions of the Verification of Residency and Enrollment and Attestation of Residency forms in the following languages:

Arabic
Chinese
English

Korean
Polish
Russian

Spanish
Urdu
Vietnamese

EDITOR'S NOTE: THESE FORMS ARE EXAMPLES. THEY HAVE BEEN VETTED BY THE ISBE LEGAL DEPARTMENT AND HAVE BEEN FIELD TESTED BY SEVERAL SCHOOL DISTRICTS. PLEASE FEEL FREE TO ADAPT THEM FOR USE IN YOUR DISTRICT.

If you have questions on how these guidelines are laid out or the process of the committee, you may email Matt Hanafee, Area 1 Assistant Lead Liaison, at mhanafee@willcountyillinois.com.

The committee would like to thank the ISBE Opening Doors: Homeless Education Technical Assistance Project for reproducing copies of this reference guide. Download additional copies at www.homelessed.net



Opening Doors is an ISBE grant funded project provided through the McKinney-Vento Homeless Education Assistance Improvements Act of 2001. Project Partners include the Adult Learning Resource Center/The Center; Regional Office of Education #26 Hancock/McDonough; and Regional Office of Education #3 Bond/Fayette/Effingham. Section 507 of Public Law 104-208 (the Stevens Amendment). 100% of the funds for reproducing these copies were derived from a grant from the U.S. Department of Education. Title X, Part c. Section VII – McKinney-Vento Homeless Education.