

NATIONAL LAW CENTER
ON HOMELESSNESS & POVERTY

Education of Homeless Children & Youth
The Guide to Their Rights

June 2011



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ABOUT THE NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

The National Law Center on Homelessness & Poverty is committed to solutions that address the causes of homelessness, not just the symptoms, and works to place and address homelessness in the larger context of poverty.

To this end, we employ three main strategies: impact litigation, policy advocacy, and public education. We are a persistent voice on behalf of homeless Americans, speaking effectively to federal, state, and local policy makers. We also produce investigative reports and provide legal and policy support to local organizations.

You are invited to join the network of attorneys, advocates, students, activists, and committed individuals who support the Law Center. Our network provides a forum for individuals, non-profits, and corporations to participate and learn more about using the law to advocate for solutions to homelessness. For more information about our organization and access to publications such as this report, please visit our website at www.nlchp.org.



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ABOUT THIS BOOKLET

More than 1.35 million children and youth experience homelessness each year. These young people may be living on the streets, but they are most often in shelters or temporarily living with family or friends after losing housing or having financial problems.

THE MCKINNEY-VENTO ACT

Homeless children and youth often have problems enrolling and participating in school. As a result, Congress passed the McKinney-Vento Homeless Assistance Act in 1987.

This law gives homeless children and youth the right to:

- Remain in the same school even if they move;
- Enroll in a new school without typically required records such as proof of residency, immunizations, school records, or other papers;
- Get transportation to school;
- Get all the school services they need; and
- Challenge decisions made by schools and districts.

HELPING STUDENTS WITH SCHOOL NEEDS

Despite McKinney-Vento, homeless children and youth sometimes need help enrolling and participating in school. Various individuals can, and should, step forward to provide assistance. Parents, relatives, family friends, school and school district personnel, shelter providers, youth program workers, social workers, advocates, and the students themselves can all play a role in helping young people get an education. If you are such a person, this booklet will get you started.

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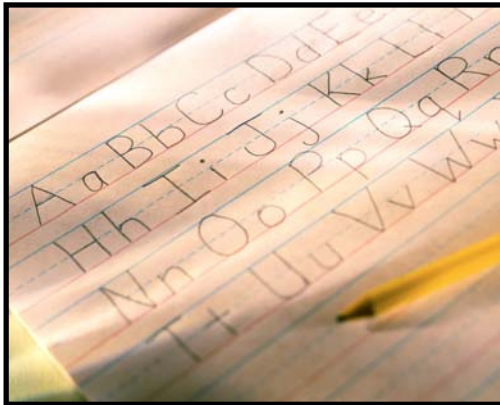
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Q & A:

DEFINING HOMELESSNESS

Q: WHO IS COVERED BY THE MCKINNEY-VENTO ACT?

A: Any child or youth without a fixed, regular, and adequate nighttime residence is considered “homeless” under the law. This includes students who are:

- Living with a friend, relative or someone else because they lost their home or their family is having temporary financial problems;
- Staying in a motel, hotel, trailer park, or campground because they have nowhere else to go;
- Living in a shelter, including emergency or transitional shelters, domestic violence shelters, and runaway and homeless youth shelters;
- Staying in substandard housing;
- Living in places not ordinarily used for sleeping, including cars, parks, public places, abandoned buildings, or bus or train stations;
- Awaiting foster care placement; or
- Abandoned in a hospital.

Q: ARE YOUTH ON THEIR OWN COVERED BY MCKINNEY- VENTO?

A: Yes. McKinney-Vento protects homeless youth who are not living with a parent or guardian. The law calls such students “unaccompanied youth.”

These young people may include those who:

- Were asked to leave home by a parent;
- Left home with the consent of a parent;
- Have no formal custody papers or arrangements while their parents are in jail, the hospital, or a rehabilitation center; or
- Ran away from home.

Youth on their own cannot be kept out of school because they do not have a parent or guardian to enroll them.

Q: ARE STUDENTS WHO TEMPORARILY LOSE HOUSING DUE TO A DISASTER COVERED BY MCKINNEY-VENTO?

A: Oftentimes, yes. If families temporarily lack a fixed, regular, and adequate nighttime residence, they fit within the law’s definition of “homelessness.” These families may be living with family members, friends, or in motels/hotels while trying to find new permanent housing. In the meantime, school needs can be addressed by the McKinney-Vento Act.

The law was particularly helpful to families affected by Hurricane Katrina.

Q: WHAT DOES IT MEAN TO BE “AWAITING FOSTER CARE PLACEMENT?”

A: The law allows each community to decide which children should be placed in this category. School districts often include young people who are in the custody of a social services agency and living in an emergency shelter while waiting to be placed with a family.



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Q: DO ANY SPECIAL RULES APPLY TO MIGRANT OR IMMIGRANT STUDENTS?

A: No. Public schools must serve all migrant and immigrant children and youth. This is true even if the family or student is undocumented. Migrant and immigrant children who fit into one of the homeless categories are covered under McKinney-Vento.



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Q & A: SCHOOL SYSTEM RESOURCES

Q: DOES MY SCHOOL DISTRICT HAVE SOMEONE WHO CAN HELP HOMELESS CHILDREN WITH SCHOOL ISSUES?

A: Yes. Every school district must have a person in charge of making sure students who are homeless can enroll and succeed in school. This person is called a “liaison” or a “coordinator.” Families and youth can call their school district’s central office to get their liaison’s name and phone number.

Q: IN WHAT WAYS DO LIAISONS HELP STUDENTS?

A: According to the McKinney-Vento Act, liaisons must:

- Locate homeless children and youth in their districts, making sure they immediately enroll and have an equal opportunity to succeed in school.
- Make sure that young people receive appropriate services, including transportation, preschool, special education, English language learner services, and vocational education.
- Make referrals to health care services, dental services, mental health services, or other care providers.
- Publicly post the education rights of homeless children and youth in places such as schools and family shelters.
- Assist unaccompanied youth with enrollment, transportation, and disagreements with schools.



- Help students get immunizations and immunization records.
- Make sure that disagreements between students and schools are resolved.

Q: ARE LIAISONS HELPFUL IN OTHER WAYS?

A: Yes. Liaisons can provide useful information. They know about any special programs offered to homeless students. For example, some districts may provide tutoring, mentoring, after school activities, or school supplies to students temporarily without permanent housing.

Q: IN ADDITION TO LIAISONS, ARE THERE ANY OTHER INDIVIDUALS WHO CAN HELP?

A: Yes. Each state must appoint a state coordinator for the education of homeless children and youth.



Q: WHAT DOES THE STATE COORDINATOR DO?

A: The state coordinator must make sure that school districts follow the law. If you disagree with decisions made by a school district or are unable to get a school district to take action, you can call the state coordinator. These individuals also collect data on homeless students and provide trainings, advice, and assistance to school district officials.

Q: HOW DO I FIND MY STATE COORDINATOR?

A: A listing of state coordinators can be found at the back of this booklet. You can also obtain this information on the website of the National Center for Homeless Education (<http://www.serve.org/nche/downloads/sccontact.pdf>), or by contacting your state department of education.



Q & A: SCHOOLS OF ORIGIN

Q: IS IT A GOOD IDEA FOR STUDENTS TO STAY IN THE SAME SCHOOL AFTER THEY LOSE HOUSING?

A: Yes. Students often benefit from staying in one school while they are homeless. Staying put means they are less likely to fall behind in their schoolwork, repeat a grade, receive unsatisfactory scores on standardized tests, or drop out of school. They can also find comfort with familiar teachers, friends, and activities.

Q: CAN MCKINNEY-VENTO HELP STUDENTS STAY IN THEIR SCHOOLS?

A: Yes. Children and youth in homeless situations have the right to stay in the schools they attended before they lost their housing, or to stay at whatever school they were enrolled in last. These schools are called “schools of origin.”



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Q: HOW LONG CAN A STUDENT ATTEND A SCHOOL OF ORIGIN?

A: Students can stay in a school of origin for the entire time they are homeless. When they find permanent housing, they can remain in the school of origin until the end of the school year.

Q: ARE STUDENTS ALWAYS ABLE TO GO TO A SCHOOL OF ORIGIN?

A: No. If it is not “feasible” or in a student’s best interest to stay at his school of origin, he may have to transfer. For example, if a student moved from New York to California, it would not be “feasible” for her to stay at the same school. The best interests of the student may be important in other situations such as when a family is fleeing domestic violence and fears an abuser may learn of their location.

Q: WHAT IF A STUDENT NEEDS TRANSPORTATION TO THE SCHOOL OF ORIGIN?

A: School districts **must** provide or arrange transportation for students who want to stay at their schools of origin, even if students move to a different city, county, or school district. The liaison must help set up the transportation.

The law does not say what kind of transportation must be provided, but school districts often use school buses, passes for public transportation (buses or subways), taxis, or vans.

Q & A: ENROLLING IN NEW SCHOOLS

Q: IF STUDENTS WANT TO GO TO A NEW SCHOOL, CAN THEY?

A: Yes. Sometimes students cannot attend a school of origin because they moved too far away or for other reasons. Some children and youth do not want to stay in the same school. These young people have the right to attend schools that serve the area where they are currently living.

Q: ARE THERE ANY SPECIAL RULES FOR ENROLLING HOMELESS STUDENTS?

A: Yes. Schools must immediately enroll homeless students, allowing them to attend classes and participate fully in school activities. These students are able to enroll even if they do not have records or other items that are required for non-homeless students, such as:

- Immunizations or immunization records;
- Physical examinations or medical records;
- Academic records;
- Proof of residency;
- A parent or legal guardian;
- Birth certificates;
- and/or Other documents.



Q: WHEN AND HOW DOES THE SCHOOL GET NECESSARY RECORDS?

A: While students are enrolled and attending classes, schools may try to get normally required records. The new school must call the student's last school to get records. The last school must send those records. Liaisons are required to help students get immunizations, immunization records, or other medical records.

Q: WHAT HAPPENS IF SCHOOLS NEVER GET THESE DOCUMENTS?

A: Sometimes schools will not be able to get normally required documents. For example, unaccompanied youth may never be able to bring a parent or guardian to school. Families may never be able to prove residency through documents such as lease agreements. If youth or families can never produce such items, that should not become a barrier to their school enrollment and attendance.

Q: WHAT IF A STATE OR SCHOOL DISTRICT HAS RULES THAT SAY STUDENTS CANNOT GO TO SCHOOL WITHOUT CERTAIN RECORDS?

A: Schools must still follow the McKinney-Vento Act even if there are state or local laws or policies that conflict with it. If schools, school districts, or states have rules that keep students who are homeless out of school, McKinney-Vento says those rules must be changed.

Q: CAN STUDENTS ENROLLING IN NEW SCHOOLS RECEIVE TRANSPORTATION SERVICES?

A: When students enroll in new schools, they must be provided with any transportation services that are offered to non-homeless students. Some school districts do not offer school bus service to non-homeless students. In those districts, homeless students would also not be able to ride a school bus to school.

However, McKinney-Vento requires school districts to change policies that are educational barriers to homeless students. If not providing transportation prevents homeless children from enrolling and attending classes, the school district must rethink that policy.

Q: CAN STUDENTS IN HOMELESS SITUATIONS BE SENT TO SEPARATE SCHOOLS?

A: Most separate schools, including homeless only charter schools and classrooms in homeless shelters, are against the law. However, certain separate schools for homeless students are legal in a small number of communities in California and Arizona.

Students in those communities cannot be forced to attend a separate school. They **can** choose to attend a regular school with non-homeless students.

Public schools cannot put students experiencing homelessness in separate classes or programs simply because they are homeless.

Q & A: SPECIAL SERVICES

Q: CAN HOMELESS STUDENTS ACCESS PROGRAMS AND SERVICES OFFERED TO NON-HOMELESS STUDENTS?

A: Yes. Schools must make sure children and youth in homeless situations have equal access to school programs and services.

Q: WHAT TYPES OF PROGRAMS AND SERVICES ARE AVAILABLE?

A: Schools and districts may offer a variety of programs and services that must be made equally available to homeless students, including tutoring, before and after-school programs, vocational education, and gifted and talented education. Homeless students must also have access to the following:

SCHOOL MEAL PROGRAMS

Students in homeless situations automatically qualify for free breakfast and lunch at schools that offer meals as a part of the federal lunch program.

Families do not have to fill out an application or

provide proof of income. Liaisons and shelter providers can simply give school nutrition officials a list of homeless students who need meals.



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PRE-SCHOOL

Liaisons must ensure that homeless children have access to preschool programs such as Head Start, Even Start, and others. However, all homeless children may not be able to find a space

in a preschool program. Liaisons often try to work with preschool providers to find solutions to this problem. Such solutions may include reserving spaces for homeless students.

SPECIAL EDUCATION

Schools must make sure students with disabilities, including preschool children, get the special education and related services they need. Sometimes homeless students have trouble getting these services if they move or transfer schools frequently. However, federal special education law can help. To learn more, read “Connecting Homeless Students to Special Education Services: A Guide to Rights and Resources,” available on NLCHP’s website.

TITLE I SERVICES

Title I is a federal law that gives schools money to educate disadvantaged students. Title I services often include extra academic help and resources such as tutoring. Children and youth in homeless situations must get Title I services no matter where they go to school, and school districts must set aside money to make sure homeless students get services.

Q & A: PRIVACY

Q: WHAT IF A FAMILY DOES NOT WANT ANYONE TO KNOW THEY ARE HOMELESS, OR ABOUT WHERE THEY ARE LIVING?

A: Federal law, the Family Educational Rights and Privacy Act (FERPA), requires schools and school districts to protect the privacy of students. Unless they have a parent's permission, schools can not give out any information about the student to people who are not involved in his/her education. School employees such as homeless liaisons, attendance officers, principals, and teachers may be able to review the student information without permission.



Q: CAN SCHOOLS AND DISTRICTS CALL LANDLORDS, HOUSING AGENCIES, OR EMPLOYERS TO LEARN INFORMATION ABOUT A FAMILY'S HOUSING OR INCOME?

A. No. Schools and districts cannot call outside agencies and companies and have conversations where they reveal information from student records, including information about a student being homeless or where the student is currently living. A parent must give permission before a school or district can give out any information. A parent always has the right to say no. If the parent says no, the student can still attend school.

Q & A: DISPUTES & DISAGREEMENTS

Q: WHAT HAPPENS IF FAMILIES OR STUDENTS DISAGREE WITH DECISIONS MADE BY SCHOOLS?

A: Whenever there is a disagreement or dispute between a school and a parent, guardian, or youth, the school must:

- Provide a written document explaining its decision and the student's or family's right to file an appeal;
- Allow students to enroll in their desired school and receive necessary services until the dispute is resolved
- Refer the student or family to the liaison who must help to resolve the dispute quickly.

Q: WHAT IF THE SCHOOL DISTRICT DOES NOT SETTLE THE DISPUTE?

A: States and school districts must abide by McKinney-Vento. If students or families disagree with a school district decision or a school district fails to take action, students/families can:

Call their state coordinator. Every state has a state coordinator who is required to ensure that all school districts in the state follow the McKinney- Vento Act. There is a list of state coordinators at the end of this booklet.





Call a lawyer for help. A lawyer may be able to help students and families understand their rights, and help schools understand their responsibilities. You may contact the National Law Center on Homelessness & Poverty at the phone number or e-mail address provided in this

guide. You can also use the following websites to help you find free legal services in your area:

- www.lawhelp.org
- www.lsc.gov

Contact the U.S. Department of Education. The Department can investigate states and school districts that do not follow the law. To reach the Department's Education for Homeless Children and Youths Program, call (202) 260-4412.



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OTHER RESOURCES

If you continue to have questions and need the advice of an expert, contact:

The National Law Center on Homelessness & Poverty

(202) 638-2535

www.nlchp.org

The National Association for the Education of Homeless Children & Youth

(202) 364-7392

www.naehcy.org

The National Center for Homeless Education

(800) 308-2145

www.serve.org/nche

For information on *special education*:

Technical Assistance Alliance for Parent Centers

(800) 248-0822

www.taalliance.org

Council for Exceptional Children

(866) 915-5000

www.cec.sped.org

For information on *unaccompanied youth* :

The National Network for Youth

(202) 783-7949

www.nn4youth.org

Covenant House

(800) 999-9999 (Crisis Hotline for Teens)

www.covenanthouse.org

READ THE LAW

The McKinney-Vento Act (42 U.S.C. 11431) and related guidance can be found on the website of the U.S. Department of Education:

<http://www.ed.gov/programs/homeless/legislation.html>



STATE COORDINATORS

For assistance with any issues related to the education of a homeless student, contact your school district and ask to speak to the homeless liaison. You may also contact your State Coordinator.

Visit www.serve.org/nche for the most current contact information.

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