



Federal and State Programs

Frequently Asked Questions for Educating Homeless Youth

Definitions/Identification

Do local educational agencies (LEAs) have the responsibility to identify children and youth experiencing homelessness?

A: Yes. Every LEA must designate a liaison for children and youth experiencing homelessness who is able to carry out their duties under the law. 42 U.S.C. §11432(g)(1)(J)(ii). The McKinney-Vento Act requires liaisons to ensure that “homeless children and youths are identified by school personnel through outreach and coordination with other entities and agencies.” 42 U.S.C. §11432(g)(6)(A)(i). The purpose of identification is to provide support and offer appropriate services to the family, child and/or youth. Coordination with schools, local social services agencies, and other agencies or entities providing services to homeless children and youth and their families is an essential identification strategy, as are professional development, awareness and training activities within school buildings, LEAs, and the community. See 42 U.S.C. §11432(g)(5)(A)(i). Additional strategies are available at <http://www.serve.org/nche/downloads/briefs/identification.pdf>.

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.

A “Determining Eligibility” tool provides additional guidance and is available at http://www.serve.org/nche/downloads/briefs/det_elig.pdf.

Are children and youth who move in with relatives, friends, or other people covered by the Act?

A: 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). This can include unaccompanied youth who are running away from home, even if their parents state a desire for the youth to return home. Families who share adequate housing on a long-term basis due to preference or convenience would not be covered by the Act.

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.

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). However, there are circumstances in which relatively affluent families may be considered homeless under the Act, such as women and children fleeing domestic violence. Also, that unaccompanied youth may be receiving some financial support from their parents does not necessarily disqualify them from the protections of the Act. Statistically, the mean income of families experiencing homelessness is less than half the federal poverty line.

Are students displaced by a disaster covered by the McKinney-Vento Act?

A: Yes, if they meet the eligibility requirements under the law. Students who lack a fixed, regular and adequate nighttime residence due to a disaster (earthquake, hurricane, tornado, flood, chemical explosion, terrorist attack, etc.) may be considered homeless under the McKinney-Vento Act. They are entitled to the same legal protections and services as other students experiencing homelessness. The National Center for Homeless Education has many resources related to homeless education and natural disasters, at <http://www.serve.org/nche/dis/dis.php>. Additional information is available at https://www.nlchp.org/documents/Homeless_Education_Advocacy_Manual_Disaster_Edition.

Are immigrant students covered by the McKinney-Vento Act?

A: Yes. Immigrant students are covered by the Act if they are living in a homeless situation, without regard to whether they are in the U.S. legally or illegally. 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 documents typically required for enrollment. A child's or youth's immigration status is irrelevant. In fact, it is illegal for school staff to inquire about a student's or family's immigration status, request immigration documents, or to take any other actions that might prevent immigrant students from enrolling in and attending school. The McKinney-Vento Act does not apply to immigrant students who live in a fixed, regular and adequate residence. More information on applying the McKinney-Vento Act to unaccompanied immigrant youth is available at <http://www.naehcy.org/educational-resources/imm>.

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. 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). The McKinney-Vento Act also applies to homeless preschool-aged children and requires liaisons to ensure that they have access to and receive services, if eligible, under LEA-administered preschool programs. 2016 Guidance. For special education students, federal law provides the right to access services until age 22. 20 U.S.C. §1412(a)(1)(A).

How long can a student attend his or her school of origin?

A: Students have the right to remain in the school of origin for the duration of homelessness, if it is their best interest, even if the child's homelessness extends over multiple school years. 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.

If a family with more than one child becomes homeless, and the children would like to attend school in different LEAs (i.e. one child would like to return to the school of origin, and the other child would like to enroll in the local school) does the family have that right?

A: Yes. Siblings in a family that has lost its housing may attend school in different LEAs, as long as each child is attending the school of origin or another school that other children living in the same attendance area are eligible to attend. Such a situation may be appropriate, for example, when an older student can tolerate a longer commute back to the school of origin than a younger sibling. Note, however, that LEAs are encouraged to consider a sibling's school placement as part of the best interest determination.

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, for example?

A: The McKinney-Vento Act does not specify any mileage or time limit for travel to the school of origin. The Act requires LEAs to provide transportation to the school of origin at the request of a parent or guardian or, for unaccompanied youth, at the McKinney-Vento liaison's request. 42 U.S.C. §11432(g)(1)(J)(iii). Therefore, whenever a student is attending the school of origin, providing transportation is required. A commute so lengthy as to be harmful to the child's educational achievement will weigh against placement in the school of origin and should be considered as part of the best interest determination. This determination will depend on the student's circumstances. For example, a lengthy commute may be a more acceptable arrangement for an older youth than for a young child. Similarly, in many rural areas, lengthy commutes to schools 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 and student-centered best interest determination, not blanket limits.

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 adequate and appropriate arrangement for a particular student. For example, if a student is living on or near an extremely busy intersection, it may not be adequate or appropriate to expect the child to cross the intersection and walk to a bus stop some distance away. In such a situation, safety may require door-to-door transportation. The mode and details of transportation cannot present a barrier to the child's attendance in school.

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: It depends on the nature of the summer school participation. 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 full participation in school and academic success. The district must review and revise policies to remove that barrier, so the student can avoid being retained in the same grade.

How does the McKinney-Vento Act define "unaccompanied youth"? Is there an age range?

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

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Please contact Federal and State Programs Department with any questions regarding these or any other questions or concerns. (915) 434-0793