

Rights and Protections For Children Experiencing Homelessness and Unaccompanied Youth Under ESSA

The McKinney-Vento Homeless Assistance Act is a critical federal law that has supported students who are homeless to remain in the same school or to immediately enroll in a new school since 1987. The McKinney-Vento Act applies to all local education agencies (including charter schools) regardless of whether or not they receive funding through McKinney-Vento. The Every Student Succeeds Act (“ESSA”) includes important new provisions designed to ensure greater school stability, attendance, and improved educational outcomes for these vulnerable students. Here, we outline these changes, what they mean, and what you can do to better advocate for the education of children experiencing homelessness.

General Rights Under the Law

School stability is one of the most important rights of students under McKinney-Vento. Homeless children have the right to remain in their “school of origin” -- the school that they are currently attending or that they attended before ever becoming homeless -- unless it is not in the child’s best interest or not desired as determined by the parent/youth. Schools must provide transportation to support homeless youth to stay in the same school, even when crossing district or state lines. If there is a dispute about which district pays, the costs must be split between the district where the child lives and where the child attends school. A school must immediately enroll a child or youth who self-identifies as homeless, even without records and before any dispute process may begin. Students who are homeless also have the right to a fair dispute resolution process and a right to remain in their current school during the pendency of any dispute. LEAs must provide a written explanation of the reasons for their determination, in a matter and form understandable (meaning in a language in which they are fluent) to the parent, guardian, or youth, including information about the right to appeal.

Students who are homeless have the right to: special education services and any other reasonable accommodations if they are children with disabilities; additional supports funded by Title I (e.g., uniforms, extra instruction, after-school programs, supplies); equal opportunity to participate in public education programs; equal opportunity and priority in pre-school and Head Start and the right to be free from discrimination or subjected to segregation based on homelessness status.

Changes and New Rights Under the Law: We have highlighted several important revisions to the McKinney-Vento Act under ESSA which are important to keep in mind.

Definition of homelessness: McKinney-Vento still defines children as homeless if they “lack a fixed, regular, and adequate nighttime residence.” This includes: sharing the housing of others due to loss of housing; living in motels, hotels, trailer parks, or camping grounds; living in emergency or transitional shelters or in places not ordinarily used for sleeping (cars, public parks, bus stations, etc.). **The law no longer considers youth who are “awaiting foster care placement” to fall within the definition of children experiencing homelessness because all children in foster care now have the right to school stability and immediate enrollment under ESSA.**

Right to Privacy: Information about a homeless child’s or youth’s living situation shall be treated as a student education record, **and shall not be deemed to be directory information.**

Duration of school stability: An LEA must continue the student’s education in the school of origin for the duration of the student’s homelessness **AND until the end of the academic year in which the student becomes permanently housed, with transportation provided.**

Pre-school: The school of origin now includes pre-school and thus young **children have a right school stability beginning in pre-school.**

Feeder Schools: The **right to school stability applies to the designated “receiving” school** at the next grade level, even if the school is in a different location. This means that if a child is going from elementary school to middle school or middle school to high school, the next grade is still considered the school of origin.

Best Interest Analysis: LEAs must presume that attending the school of origin is in the best interest of the child, unless this is contrary to the request of the parent, guardian, or unaccompanied youth. **Priority is given to the parent’s, guardian’s, or unaccompanied youth’s request.** LEAs must consider student-centered factors, such as attachment to teachers, availability and quality of service, and travel time.

Immediate Enrollment: A school must immediately enroll a homeless student even if the student is unable to produce normally required records. **Enrollment includes extracurricular activities.**

Transportation: **Schools (including preschools) must provide or arrange transportation** for students to and from their school of origin. This transportation must be comparable to what is offered to non-homeless students. Transportation requirements apply until the end of the school year when a student finds permanent housing.

Access to Extracurriculars & Other Services: All states must have procedures to **eliminate barriers to academics and extracurriculars.** LEA liaisons must ensure children have access to and receive services such as Head Start, early intervention services, and other preschool programs. **LEA liaisons must affirm students’ eligibility for HUD assistance.** Under McKinney-Vento guidance, schools are encouraged to provide trauma-informed training, revise policies that may act as barriers to enrollment and success for homeless students, and consider homelessness prior to taking disciplinary action.

Support for Older Youth & Access to Higher Education: All McKinney-Vento youth must be able to receive individualized college counseling. Liaisons must also ensure that unaccompanied youth are informed of their status as independent students and must help them to obtain verification of that status.

Dispute Resolution Process: If you are having any problems, try to resolve them at the school building level or contact your local education agency McKinney-Vento Liaison. If you continue to experience problems, you may use [this form](#) to file a complaint with a Regional or State Coordinator. Here is a listing of Regional Coordinators who may also be contacted by phone or email:

- [Region 1](#) (Philadelphia)
- [Region 2](#) (Berks, Chester, Dauphin and Lancaster, Lebanon and Schuylkill counties)
- [Region 3](#) (Adams, Cumberland, Franklin, Mifflin, Huntingdon, Juniata, Perry and York counties)
- [Region 4](#) (Allegheny, Beaver, Bedford, Fayette, Fulton, Greene, Somerset, Washington and Westmoreland counties)
- [Region 5](#) (Butler, Crawford, Clarion, Erie, Forest, Lawrence, McKean, Mercer, Venango and Warren counties)
- [Region 6](#) (Armstrong, Blair, Cambria, Cameron, Centre, Clearfield, Clinton, Elk, Indiana, Jefferson and Potter counties)
- [Region 7](#) (Bradford, Carbon, Columbia, Lackawanna, Luzerne, Lycoming, Monroe, Montour Northumberland, Pike, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, and Wyoming counties)
- [Region 8](#) (Bucks, Delaware, Lehigh, Montgomery and Northampton counties)

Pennsylvania's McKinney-Vento State Coordinator Storm Camara can be reached at 717 772-2066 or scamara@pa.gov.