The Most Frequently Asked Questions

on the

Educational Rights of Children & Youth in Homeless Situations



National Association for the Education of Homeless Children and Youth
Michael Santos | National Law Center on Homelessness & Poverty

NEHCY NATIONAL ASSOCIATION FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH

NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

About the National Association for the Education of Homeless Children and Youth

The National Association for the Education of Homeless Children and Youth (NAEHCY) is a national membership association dedicated to educational excellence for children and youth experiencing homelessness. Our members work in early childhood programs, public schools, state departments of education, and community organizations to support the identification, enrollment, attendance, and success of homeless children and youth, from early childhood through post-secondary education.

About the National Law Center on Homelessness & Poverty

The National Law Center on Homelessness & Poverty (NLCHP) is the only national organization dedicated solely to using the power of the law to end and prevent homelessness. Partnering with pro bono attorneys, we bring high impact litigation, lead and support federal, state and local advocacy campaigns, and educate providers, advocates and the public. Our work creates homes and communities for families, children, veterans, elderly and disabled people experiencing homelessness using surplus government property, improves access to housing for domestic violence survivors and their children, secures education rights for children experiencing homelessness, and protects human rights and dignity by striking down laws that prevent people experiencing homelessness from voting and that punish them for their homelessness.

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About This Resource

This document provides answers to frequently asked questions on the McKinney-Vento Homeless Assistance Act and the education rights of children and youth in homeless situations, based on the amendments made by the Every Student Succeeds Act of 2015, which took effect on October 1, 2016.[1]

The answers are general responses based on federal statutes, regulations, and guidance; relevant case law; and best practices from across the country.

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 administrators 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. The terms "McKinney-Vento children and youth", "children and youth experiencing homelessness" and "children and youth in homeless situations" are used interchangeably in this document, along with 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.

The information contained in this document 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.

1 Updates to FAQs drafted by the National Association for the Education of Homeless Children and Youth and the National Law Center on Homelessness & Poverty, 2017. Special thanks to Christina Endres, Amber Damerow, Cyekeia Lee, Audrey Koontz, and Abdiaziz Ahmed for their assistance and contributions.

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Table of Contents

Definitions/Identification 5
Liaisons 15
School Selection 17
Transportation 23
Immediate Enrollment and Attendance 27
Issues Facing Youth 33
Supporting Academic Success 38
Private Schools and Charter Schools 42
Integration 44
Disputes and Enforcement 45
Students Receiving Special Education and Related Services 48
Title I, Part A of the Elementary and Secondary Education Act 53
Preschool and Other Early Childhood Programs 57
Access to Higher Education 62
Coordinating with HUD Homeless Assistance Programs 66
Resources 68
Glossary of Terms 71
Complete List of Questions 72
References 84

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Definitions/Identification

1. 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)].[2]

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[3]:

(1) Fixed: Securely placed or fastened; not subject to change or fluctuation. (*Merriam-Webster's Collegiate Dictionary, 1993*.) A fixed residence is one that is stationary, permanent, and not subject to change.

(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, 1993*.) Consistent. (*Ballentine's Law Dictionary, 1969*.) A regular residence is one which is used on a regular (i.e., nightly) basis.

(3) Adequate: Sufficient for a specific requirement; lawfully and reasonably sufficient. (Merriam-Webster's Collegiate Dictionary, 1993.) Fully sufficient; equal to what is required; lawfully and reasonably sufficient. (Ballentine's Law Dictionary, 1969.) An adequate residence is one that is

[2] Additional strategies are available at https://nche.ed.gov/downloads/briefs/identification.pdf.

[3] An issue brief by the National Center for Homeless Education provides additional guidance and is available at https://nche.ed.gov/downloads/briefs/det_elig.pdf.

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sufficient for meeting both the physical and psychological needs typically met in home environments.

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. 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. In fact, a federal court found that there is no maximum duration of homelessness (L.R. 2010). 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.

It is important to distinguish between questions of eligibility (i.e., does the family or youth meet the legal definition of homelessness?) and questions of school selection (i.e., is it in the child or youth's best interest to continue attending his or her school of origin?). Due to the extended period of homelessness experienced by some students, best interest factors for school selection may change. It is important to establish eligibility first, then consider best interest in school selection (*see* Question 29). A good practice for many local McKinney-Vento liaisons is to review the housing status of students and their best interest factors at the beginning of each school year to see if circumstances have changed.

4. What criteria should be used to determine if housing is "substandard"?

A: ED has determined that factors to consider in determining whether housing is "substandard" include whether the housing "lacks one of the fundamental utilities such as water, electricity, or heat; is infested with vermin or mold; lacks a basic functional part such as a working kitchen or a working toilet; or may present unreasonable dangers to adults, children, or persons with disabilities." The Department further suggests reviewing state and local housing codes for definitions of substandard housing (U.S. Department of Education, 2017, A-3; hereinafter "2017 Guidance").

5. 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 McKinney-Vento 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

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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, it may not be fixed or regular housing.

6. 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. It could also include families who move in with others as a result of an emergency related to a job loss, reduction in work hours or pay, unexpected medical bills, natural disaster, or domestic violence. Families who share adequate housing on a long-term basis due to preference or convenience would not be covered by the Act.

7. Can children or youth be considered homeless if their parents sent them to live with other people because the parents are too poor to provide a regular and adequate home? Is the answer the same if the parents do not live in the United States?

A: Yes and yes. Whether a child meets the definition of homelessness rests upon the child's living situation. A child is eligible for McKinney-Vento services if the child is sharing the housing of others due to loss of housing, economic hardship, or a similar reason. Therefore, a child who has been sent to live with others because his or her parents cannot afford to provide regular, adequate housing may be eligible for the McKinney-Vento Act's protections depending on the nature of the living arrangement. Whether the parents live in the U.S. or elsewhere is irrelevant and not a factor under the law because the question at hand is if the child or youth is homeless (*see* Question 19 for information on immigrant students). Further, the McKinney-Vento Act specifies that the right to choose between the school of origin and local school remains in effect, "regardless of whether the child or youth lives with the homeless parents or has been temporarily placed elsewhere" [42 U.S.C. §11432(g)(3)(F)].

8. In the event that a parent is urgently hospitalized for illness or surgery and the child moves temporarily with a relative in another town, should we consider the child to be homeless?

A: Possibly. To make a determination in situations like this, the circumstances and state law must be taken into consideration.

If a child or youth is staying with others while a parent is in the hospital for a short term stay of a few days, the student is not considered homeless because the student's legal residence is still with the

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parent in the parent's home. State law will require that the student attend the school the child or youth attended prior to the parent entering the hospital because that is where the parent and child have a legal residence.

In some situations, a parent enters the hospital and it is unclear when or if the parent will be able to return to the home. In this instance, if the child or youth is therefore forced to go live with someone else on an emergency basis, the student would lack fixed, regular, and adequate nighttime residence and should be considered homeless.

9. If parents send their children to live with friends or relatives because they want their children to go to another school, do we treat the children as homeless?

A: No. The McKinney-Vento Act provides rights and services for children and youth lacking fixed, regular, and adequate nighttime residence. If children are sharing housing only to attend a different school, they are not covered under the Act because they do not meet the definition of homeless. *See also* Question 24.

10. Are transitional housing programs 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… operators of transitional housing facilities, and providers of transitional living programs for homeless youths" [42 U.S.C. §11432(f)(4)(C)]. A federal court affirmed that transitional housing programs are covered by the McKinney-Vento Act (Bullock, 2002).

11. Are children in foster care covered by the McKinney-Vento Act?

A: The Every Student Succeeds Act of 2015 (ESSA) removed "awaiting foster care placement" from the definition of homeless children and youth under the McKinney-Vento Act. This change is effective on December 10, 2016 for most states. It is effective on December 10, 2017 in states considered covered. To be considered a covered state, the state must have a statutory law that defines or describes the phrase awaiting foster care placement for purposes of a program under the McKinney-Vento Act. [ESSA §9105.]

After these effective dates, children awaiting foster care placement are not considered homeless, unless they meet other definitions provided under the McKinney-Vento Act [42 U.S.C.

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§11434A(2)(B)]. However, ESSA included new provisions for ensuring the educational stability of children in foster care under Title I, Part A.[4]

12. Do child welfare agencies have responsibilities for the school enrollment, attendance, and stability of all children and youth in foster care?

A: Yes. These provisions are specified in the Fostering Connections Act of 2008. Fostering Connections includes educational requirements for child welfare agencies for all children in foster care. Every foster child's case plan must include assurances that the placement of the child in foster care takes into account the proximity to the school of origin. The case plan also must consider the appropriateness of the current education setting. In addition, the child welfare agency must coordinate with the school to ensure that children and youth in foster care remain in the school of origin, if it is in their best interest. Child welfare agencies also must ensure immediate enrollment in a new school for youth who will not remain in their school of origin. Finally, child welfare agencies must ensure that all education records are provided to the new school.[5] The ESSA also includes new provisions for ensuring educational stability of children and youth in foster care under Title I, Part A.[6]

13. Can incarcerated youth qualify for McKinney-Vento protection and services?

A: Possibly. McKinney-Vento eligibility must be based on a student's housing situation and determined on an individual basis. If a student was McKinney-Vento eligible prior to incarceration, the student remains eligible throughout the academic school year during which he or she was incarcerated [42 U.S.C. §722G(3)(A)]. In the case of a McKinney-Vento eligible student who becomes incarcerated and then released later during the school year, the student remains McKinney-Vento eligible until the end of the academic year.

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[4] *See* U.S. Department of Education and Department of Health and Human Services Joint Guidance "Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care" (June 2016), *available at* https://www2.ed.gov/policy/elsec/leg/essa/edhhsfostercarenonregulatorguide.pdf.

[5] For more information on the education of children in foster care, visit the website of the Legal Center for Foster Care and Education, at http://www.fostercareandeducation.org.

[6] *See* U.S. Department of Education and Department of Health and Human Services Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care, (June 2016), *available at* https://www2.ed.gov/policy/elsec/leg/essa/edhhsfostercarenonregulatorguide.pdf.

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14. Does incarceration qualify youth for McKinney-Vento services?

A: No. Children and youth who are incarcerated for a violation or alleged violation of a law should not be considered homeless based solely on their incarceration status (see Question 13). Incarcerated students may be eligible for other, non-homeless, services under Title I, Part D Neglected and Delinquent programs. Note that children and youth residing in shelters or other homeless situations after leaving detention centers are covered by the McKinney-Vento Act.

15. 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 families fleeing domestic violence or displaced by disaster.

16. 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.[7]

17. What are some identification strategies to locate children and youth displaced by disaster?

A: Collaboration and coordination with local relief agencies and emergency and disaster response teams are critical for identifying displaced children and youth. Building such relationships and developing standard operating procedures for communication prior to a disaster will help ensure that relief agencies and schools work together during and after a disaster. Identifying children and youth who are not receiving shelter from relief agencies can be a greater challenge. Visiting motels

[7] The National Center for Homeless Education has many resources related to homeless education and natural disasters, at https://nche.ed.gov/ibt/dis_prep.php. Additional information is available at https://www.nlchp.org/documents/Homeless_Education_Advocacy_Manual_Disaster_Edition.

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and placing flyers or brochures about the local McKinney-Vento program on the windshields of cars with out-of-state license plates may be helpful. Ongoing awareness and identification strategies, such as posters, trainings, and outreach to public assistance and community services agencies, will also support efforts to identify children and youth displaced by disasters.

18. 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)].[8]

19. 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. Undocumented students have the same right to public education as U.S. citizens (Plyler, 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 related actions that might prevent immigrant students from enrolling in and attending school.[9]

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

A: There are no age limits cited in the McKinney-Vento Act. Generally, it 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 its 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. 2017 Guidance. For special education students, federal law provides the right to access services until age 22 [20 U.S.C. §1412(a)(1)(A)].

[8] More information on applying the Act to migrant students is available at https://nche.ed.gov/downloads/briefs/migrant.pdf and https://nche.ed.gov/downloads/briefs/imm_lia.pdf.

[9] *See e.g.*, U.S. Dep't of Justice & U.S. Dep't of Educ., Dear Colleague Letter (May 8, 2014), *available at* https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201405.pdf. More information on applying the McKinney-Vento Act to unaccompanied immigrant youth is available at http://www.naehcy.org/educational-resources/imm.

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21. If a student experiencing homelessness was not identified by the school district as McKinney-Vento eligible until the student found permanent housing, is the student entitled to McKinney-Vento supports and services for the rest of the school year?

A: Yes. McKinney-Vento provisions are retroactively applicable in cases where a student was not identified as experiencing homelessness until later during the school year, when the student found permanent housing. In this scenario, the school district has an ongoing obligation to identify and collect data on homeless students throughout the year [42 U.S.C. §11432(g)(6)(A)(i)]. A homeless family, who later finds permanent housing during the school year, is entitled to stay in that same school until the end of the year – regardless of whether the student was identified later during the year [42 U.S.C. §11432(g)(3)(A)(i)].

22. What are an LEA's responsibilities for advising families and youth about their rights if they 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), (v)]. The Act requires LEAs to disseminate public notice of the education rights of children and youth in locations frequented by parents and guardians of homeless children and youth and unaccompanied youth. This should include schools, shelters, public libraries and soup kitchens, and be in a manner and form understandable to the families and youth [42 U.S.C. §11432(g)(6)(A)(vi)]. Identification and outreach strategies must be conducted sensitively and without stigma, to create an environment in which families, children and youth will be comfortable seeking support [42 U.S.C. §11432(g)(1)(J)(i)].

Once a school has 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. The liaison should ensure the families or unaccompanied homeless youth know they may request assistance at a later date, if their decision should change. The LEA should also count all children and youth who have been identified as homeless in their data collection, even if services are not provided. [10]

[10] Strategies for identification, creating awareness, and disseminating notice are available at https://nche.ed.gov/downloads/briefs/identification.pdf.

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23. 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 LEA must designate a liaison for students experiencing homelessness who is able to carry out their duties under the law [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 homelessness [42 U.S.C. §11432(g)(6)(A)(i)]. Therefore the liaison will oversee the identification of homeless students and should refer housed students to other services which they may also need.

LEAs should use due care to ensure that verification policies and other procedures designed to prevent fraud accommodate the unique needs of homeless families and students and do not create barriers to identification or immediate enrollment [42 U.S.C. §11432(g)(1)(I)]. For example, requiring a sworn statement from a landlord for school enrollment purposes places an undue burden not only on the homeless parent, guardian, or youth but also on their hosts, who may be reluctant to provide documentation for fear of violating their lease terms. Indeed, requiring the parent, guardian, or youth to obtain such a statement from their host may jeopardize the family's living situation further and create even more instability. In this case, the LEA should develop alternative documentation procedures to ensure homeless students are able to enroll without having their or their host's housing jeopardized.

During this process, LEAs must also enroll students suspected or claiming to be experiencing homelessness immediately. If, after enrollment, it is determined that a student intentionally falsely claimed homelessness, LEAs should follow the policies that are in place within the district or state to address other forms of fraud.

LEAs should note while verifying McKinney-Vento eligibility that information about a homeless child's or youth's living situation must be treated as part of the student's education record and therefore protected by applicable privacy laws [42 U.S.C. §11432(g)(3)(G)]. In the instance that a parent, guardian or unaccompanied youth disagrees with the determination made by the liaison, the LEA should provide written notice to the parent, guardian, or youth, that includes information on his or her right to appeal the decision.

24. If a student or family is considered homeless for education purposes according to the McKinney-Vento Act, then do they qualify for services from other agencies like housing, food, etc.?

A: The answer can vary locally. The McKinney-Vento Act's definition of homelessness for education applies to a variety of *educational* services for which homeless children and youth are categorically eligible: including LEA preschool and K-12 education programs, school meals, special education, Title I, Part A, Head Start, and independent student status for unaccompanied youth to access financial aid for college. Eligibility for those educational services is automatic, although access to and provision of those services will usually require additional steps.

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The separate definition of homelessness that is used to determine eligibility for services provided by the U.S. Department of Housing and Urban Development (HUD) is more restrictive and not all McKinney-Vento families and students will meet those criteria. Moreover, local HUD Continuums of Care have flexibility to fund programs for different homeless populations, based on local needs assessments. For example, many families and youth sharing housing and many families and youth staying in motels are not considered homeless by HUD and cannot access HUD Emergency Shelter Grant services for homeless persons.

Continuums of Care (CoCs) are local groups of homeless service providers who join together to compete for HUD funds. The CoC system is designed to address the critical problem of homelessness through a coordinated community-based process of identifying needs and building a system to address those needs.[11]

Families and youth who do meet HUD's definition should still receive McKinney-Vento education benefits, as well as other assistance from HUD funds that are targeted to homelessness prevention and low-income individuals. A homeless liaison who has received the appropriate training may affirm that a child or youth who is eligible for and participating in a McKinney-Vento program provided by the LEA, or the child or youth's immediate family, who meets the eligibility requirements for a HUD homeless assistance program is eligible for such program [42 U.S.C. §11432(g)(6)(D)]; 2017 Guidance.

Many families will be eligible for income-based services offered at the state and local level. In general, that eligibility is determined separately from LEA-based services. Nevertheless, it is part of the McKinney-Vento liaison's responsibilities to coordinate with state and local agencies to streamline the referral process for families even for services offered outside the LEA [42 U.S.C. §11432(g)(5)]. As part of that coordination and collaboration, educators and advocates must work with their HUD Continuums of Care and seek funding and support for programs and processes that benefit the local McKinney-Vento student population. Similarly, HUD Continuums of Care are required to collaborate with LEAs to assist in the identification and enrollment of homeless children and youth, HEARTH Act, Sec. 427(b)(1)(B)(iii), [42 U.S.C. §11386a(b)(1)(B)(iii)].[12]

[11] Local CoC contact information is available at http://hudhre.info/index.cfm?do=viewCocContacts.

[12] More information about the federal definitions of homelessness is available from the 2017 Guidance L-4 and L-5 and at http://www.naehcy.org/educational-resources/housing.

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Liaisons

25. Does every LEA have to have a liaison?

A: Yes. The McKinney-Vento Act requires every local educational agency to "designate an appropriate staff person" who is able to carry out their McKinney-Vento duties to serve as a liaison [42 U.S.C. §11432(g)(1)(J)(ii)].

26. What are the liaison's duties?

A: The McKinney-Vento Act specifies the duties of liaisons[13], as follows from 42 U.S.C. §11432(g)(6)(A):

- identify homeless children and youth
- ensure that children and youth, including unaccompanied youth, experiencing homelessness enroll and have a full and equal opportunity to succeed in school
- ensure that families, children, and youth have access to and receive educational services for which they are eligible, including Head Start, early intervention, and other public preschool programs, and referrals to services for health care, dental, mental health, substance use, housing 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
- ensure that other school personnel receive professional development and other support
- participate in professional development and other technical assistance activities as determined appropriate by the State Coordinator [42 U.S.C. §11432(g)(1)(J)(iv)]

[13] Many resources are available to assist liaisons in accomplishing these duties available at the National Center for Homeless Education (https://nche.ed.gov) and the National Association for the Education of Homeless Children and Youth (http://www.naehcy.org/).

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27. How can an LEA ensure that the liaison is "able to carry out" his or her duties?

A. As noted above, the McKinney-Vento Act requires that LEAs designate local liaisons who are "able to carry out" their duties as outlined in the law [42 U.S.C. §11432(g)(1)(J)(ii)]. Therefore, in designating the McKinney-Vento liaisons, LEAs should allocate sufficient time for liaisons to do their jobs effectively and should support them in fulfilling their duties as outlined in the law and in making timely decisions. 2017 Guidance. LEA administrators should review the legal requirements for the position, as well as data indicating the prevalence and needs of homeless children and youths in the school district. Consideration should be given to the number of identified homeless students in the district as a percentage of students living in poverty, and whether that number indicates a need to improve identification and outreach efforts. LEAs may wish to consider designating school building-level liaisons to assist the LEA liaison in carrying out his or her duties.

LEAs that designate foster care points of contact should ensure that the person designated as foster care point of contact is not the same person as the liaison designated pursuant to section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act, unless the LEA has made a specific finding, based on the number and needs of both homeless students and those in foster care in the LEA, that the liaison is able to carry out the duties prescribed in section 722(g)(6) of the McKinney-Vento Act, in addition to serving as the foster care point of contact.

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School Selection

28. What is meant by the term "school of origin?"

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, including a preschool and a designated receiving school at the next grade level for a feeder school [42 U.S.C. §11432(g)(3)(I)]. The U.S. Department of Education offered the following example of a feeder school: "For example, a student was last enrolled in School A in grade 5, which is the final grade level served by School A. Students at School A are designated to attend School B beginning in the next grade level, grade 6. The school of origin for this student would therefore include School A and the designated receiving school at the next grade level, School B." 2017 Guidance, I-1.

While the term "preschool" is not defined in this context, the definition used for McKinney-Vento data collection by the U.S. Department of Education is a helpful reference: "early childhood education programs for children aged 0-5, funded through tax dollars or other public funds, and for which the LEA is a financial or administrative agent or for which the LEA is accountable for providing early childhood education services." Examples of preschool programs included in federal data collection include preschool programs operated or administered by an LEA; Head Start programs receiving funding from the LEA or for which the LEA is the grant recipient; preschool special education services, operated or funded by the LEA or mandated under the Individuals with Disabilities Education Act; preschool programs and services administered or funded by the LEA through the use of Title I or similar government grants; or home-based early childhood educational services funded and administered by an LEA" (Endres, 2017).

29. What factors should be considered for keeping children at their school of origin?

A: When choosing the school a child experiencing homelessness should attend, the choice must be made "according to the child's or youth's best interest" [42 U.S.C. §11432(g)(3)(A)]. Changing schools significantly impedes students' academic and social progress. 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, in determining the child's best interest, the LEA "shall presume that keeping the child or youth in the school of origin is in the child's or youth's best interest, except when doing so is contrary to the request of the child's or youth's parent or guardian, or (in the case of an unaccompanied youth) the youth" [42 U.S.C. §11432(g)(3)(B)(i)].

Note: This FAQ provides information on school selection under the federal McKinney-Vento Act. Some states, such as Illinois and New York, have state laws that establish different procedures for school selection. Although federal law supersedes state law in cases where there is a conflict, that is not the case where state laws provide additional protections or rights to parents, guardians or youth.

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Therefore, states and school districts must follow their state laws that give additional rights over school selection to parents, guardians or youth.[14]

The best interest determination must be based on a student-centered, individualized analysis of factors related to the "child's or youth's best interest, including but not limited to factors related to the impact of mobility on achievement, education, health, and safety of homeless children and youth, giving priority to the request of the parent, guardian, or unaccompanied youth" [42 U.S.C. §11432(g)(3)(B)(ii)]. LEAs should also consider the school placement of siblings when making a best interest determination. 2017 Guidance, Question I-3. Factors that may be considered also 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 with the best interest determination. Above all, this determination must take into account the benefits of a school placement based on the individual needs of each student.[15] 2017 Guidance, I-3.

30. Are there additional factors that should be considered for keeping preschool aged children at their preschool of origin?

A: When making a placement decision for preschoolers, the same best interest factors should be considered as with other students. However, it is important to understand how changes may impact preschoolers differently than older students. For example, a commute that is acceptable and in the best interest of a 6th grade student may not be in the interests of a preschool student; and a preschool student may be more adversely impacted by a change in teaching staff than a 6th grade student. 2017 Guidance, N-3.

31. 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 their homelessness, if it is their best interest, even if the child's homelessness extends over multiple school years. 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)(II)]. In addition, homeless students who become permanently housed during the school year continue to be eligible for Title I services and free meals for the remainder of the school year; and LEAs must continue to provide transportation to and from the school of origin for the remainder of the academic year. 2017 Guidance, J-5, M-3.

[14] See 105 ILCS 45/1-10(a) and 45/1-15 and 45/1-20; New York State Education Law §3209.

[15] A tool to assist in school selection is available at https://nche.ed.gov/downloads/briefs/sch_sel_checklist.pdf ("Guiding the Discussion on School Selection").

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It is helpful for Liaisons to familiarize themselves with their SEA and LEA's broader enrollment and eligibility policies to ensure McKinney-Vento eligible students receive all possible enrollment protections. Some states, such as New York, extend enrollment rights an additional year if that is the terminal year in that school building (e.g. A student who becomes homeless in 10th grade and finds permanent housing in 11th grade can remain in that school through the end of 11th grade under federal law, and through their 12th grade year under NY state law) [N.Y. Education Law § 3209 (2); 8 N.Y.C.R.R. § 100.2(x)(2)(ii))]. Similarly, in Chicago all high school students may choose to remain at their high school through graduation as long as they continue to reside within LEA boundaries and assuming no other cause for dismissal [Chicago Public Schools Policy 702.1 §I(A)(2)]. Note that SEA and LEA policies on enrollment outside of McKinney-Vento Act provisions may not include transportation or other supports.

The decision about which school the child should attend is based on the child's best interest and should be reevaluated at the beginning of each school year.

32. What is the school of origin for a student who becomes homeless, enrolls in a 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)(I)]. In the situation described, the school of origin can be either the first school in which the student was enrolled, or the school in which the student was last enrolled (i.e. the school near the initial temporary housing).

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

A: The McKinney-Vento Act does not address the cost of educating the child, with the exception of transportation. States may have policies about shared fiscal responsibilities. However, the possibility of nonpayment does not affect LEAs' obligations to provide education and transportation and continued compliance with McKinney-Vento. Inter-district disputes cannot delay the immediate enrollment (defined as attending classes and participating fully in school activities) of children in the school selected. Typically, if there are no state policies to address fiscal responsibility, the responsibility to provide the student's education remains with the district receiving state and federal funds

For transportation, if two LEAs are involved, the McKinney-Vento Act states that the LEAs 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 policies and procedures to assist with inter-district

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transportation issues, including disputes between districts regarding apportioning costs and responsibility. Establishing inter-district transportation procedures and formalized agreements will be essential to ensure that transportation is arranged quickly for students. *See also* Questions 42-43.

34. 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 to a student living across a state line 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 in the child's or youth's best interest. Crossing state lines is not inherently against a student's best interest. 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. LEAs must conduct the best interest determination, based on student-centered factors. Communication among the involved State Coordinators and liaisons can facilitate the provision of services.

35. 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 contrary to the request of the parent, guardian, or unaccompanied youth or is not in the best interest of the child or youth. Missing a period of schooling should not in itself prohibit the child or youth from attending the school of origin. 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. In addition, states and LEAs must review and revise policies to remove barriers to the education of homeless children and youth, "including barriers to enrollment and retention due to outstanding fees or fines, or absences" [42 U.S.C. §11432(g)(1)(I)].

36. Are SEA and LEA-run GED programs covered by McKinney-Vento? Can a GED program be considered a "school of origin"?

A: Yes and yes. Students experiencing homelessness must be given "comparable services" to housed students [42 U.S.C. §11432(g)(4)]; 2017 Guidance, F-3. Therefore, if SEA and LEA-run GED programs are available to housed students, students in homeless situations must also have access to those programs. In addition, McKinney-Vento funds and Title I, Part A funds can be used to cover GED testing costs for youth experiencing homelessness who are still considered to be in high school (i.e., not enrolled in Adult Education).

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37. 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 LEA must enroll the student in the original school of origin, consistent with the request of the parent, guardian, or unaccompanied youth. The LEA is required to inform families of their rights [42 U.S.C. §§11432(g)(6)(A)(i), (v), (vi), (viii)]. A parent, guardian, or unaccompanied youth not knowing their rights does not change their entitlement to them under the law.

38. What if placing a student in a school the parent requests would violate a school desegregation order?

A: The LEA 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 LEA may want to petition the court to amend the desegregation order to account for the McKinney-Vento Act.[16]

39. If a student becomes homeless and wants to enroll in a school for which other students living in the same attendance area are eligible under a school choice program, can the student enroll there? Is transportation required? What about other services?

A: Students experiencing homelessness have the right to enroll in any school in which a housed student living in the same attendance area would be eligible to enroll [42 U.S.C. §11432(g)(3)(A)(ii)]. Therefore, students in homeless situations must be allowed to participate in school choice programs. If the school of choice is already at capacity when a homeless student seeks to enroll for the first time, the district must provide the student with options comparable to those provided to other students. In addition, "LEAs should consider giving children and youth experiencing homelessness a priority if there is a waitlist." 2017 Guidance, I-6. The McKinney-Vento Act further requires LEAs to provide transportation comparable to that provided to housed students [42 U.S.C. §11432(g)(4)(A)]. If a family or youth enrolls in a school under school choice, and subsequently becomes homeless, then that school becomes the school of origin. As such, the child or youth has

[16] See, e.g., U.S. Department of Education, Public School Choice Non-Regulatory Guidance, January 2009, Section G, available at https://www2.ed.gov/policy/elsec/guid/schoolchoiceguid.pdf.

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the right to remain in that school if it is in their best interest, and transportation is required, regardless of other transportation services offered by the school. In addition, the student will be eligible for all other McKinney-Vento services.

40. 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. 2017 Guidance, I-3.

41. Can a distance learning course be considered a school of origin?

A: Yes. Distance learning courses offered by an LEA or SEA are part of the public school system, and students experiencing homelessness have the right to continue participating in those programs as their "school of origin" despite changes in their living situation. The LEA's responsibilities to provide transportation, free meals, and other services are consistent with their responsibilities toward students experiencing homelessness in a regular school setting.

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Transportation

42. Under what circumstances must an LEA provide adequate and appropriate transportation to school for students experiencing homelessness?

A: The McKinney-Vento Act requires LEAs to provide adequate and appropriate transportation for students experiencing homelessness in three situations. First, LEAs must provide adequate and appropriate 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 McKinney-Vento liaison [42 U.S.C. §11432(g)(1)(J)(iii)]; *see e.g.*, 2017 Guidance, J-4. 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 enrichment program, it must also transport students experiencing homelessness. Finally, LEAs 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)].

43. How far is too far to travel to the school of origin?

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. *See* Question 29 for information on the best interest determination process.

44. Is transportation required if the school of origin is in another LEA?

A: Yes. As long as attendance at the school of origin is in the best interest of the child or youth, provision of 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 else split it equally [42 U.S.C. §11432(g)(1)(J)(iii)(II)]. States should develop a system to assist with inter-district transportation issues, including disputes between districts

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regarding apportioning costs and responsibility. The possibility of nonpayment does not affect a district's 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 is essential to ensure that transportation is arranged quickly for students. *See also* Question 42.

45. 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 LEAs and states the flexibility to agree upon a method to apportion transportation 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, the district of residence, or whichever district identifies the student as McKinney-Vento eligible first 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.

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

A: First, students must be provided transportation while the districts agree on how to apportion the costs. If the two districts cannot agree on a way to portion the cost and responsibility, the two districts must split the costs equally [42 U.S.C. 11432(g)(1)(J)(iii)(II)]. States may have policies that provide further guidance regarding the cost or responsibilities of the LEAs; if needed, state coordinators should be consulted to assist the LEAs with resolving potentially conflicting state policy or state policy that only applies to one district in this situation. State coordinators can also provide technical assistance and act as mediators if two LEAs are at an impasse. If the State Coordinators are unable to assist the LEAs, the U.S. Department of Education or NCHE can provide technical assistance.

47. Can an LEA reimburse parents to transport their children? Can an LEA reimburse youth who are transporting themselves?

A: Yes and yes. The U.S. Department of Education suggests LEAs develop a system of providing gas vouchers, cards or mileage reimbursement to parents or youth who have cars and are able to provide transportation, as a cost-effective means to meet the district's obligation. 2017 Guidance, page 29.

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If a parent is providing the transportation for their child, the district must pay the parent mileage reimbursement consistent with what a district employee would receive. For example, the district cannot pay a mileage reimbursement rate that is less than the LEA mileage rate for employees. Additionally, in most instances, the district will need to provide reimbursement for both the time while the student is in the vehicle with the parent and the mileage for the parent's return trip to their residence.

48. 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 [42 U.S.C. §§11432(g)(1)(I), (g)(7)].

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

A: Yes, if the public transportation is adequate and appropriate. For example, young children cannot be expected to use public transportation alone. In such cases, LEAs should provide transit passes for an available 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 [42 U.S.C. §§11432(g)(1)(I), (g)(7)]; *see also* 2017 Guidance, Section J.

50. 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, or, in the case of a high school student, the summer course is required for graduation, the district must provide transportation.

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51. 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 42. 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 LEA (s) involved must provide adequate and appropriate transportation. 2017 Guidance, J-4; [42 U.S.C. §§11432(g)(1)(J)(iii), (g)(3)(E)(i)]. 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)(7)]. These provisions apply whether the dispute is about school enrollment, school selection, or eligibility (i.e. whether the child or youth is homeless under the McKinney-Vento Act).

52. 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 McKinney-Vento liaison's request, in the case of an unaccompanied youth. Communication among the involved liaisons and State Coordinators can facilitate the provision of services. *See* Question 34.

53. How does the McKinney-Vento Act interact with state or local transportation policies related to safety, inter-district transportation, and other issues?

A: As a federal law, the McKinney-Vento Act supersedes conflicting state and local laws and policies. LEAs must comply with the Act's transportation requirements. However, transportation must always be safe and appropriate, and LEAs must comply with safety regulations and the McKinney-Vento Act simultaneously. Inter-district transportation policies usually are related to fiscal issues; such consideration must not interfere with a student's right to be transported under the McKinney-Vento Act.

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Immediate Enrollment and Attendance

54. 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, such as previous academic records, records of immunization and other required health records, proof of residency, or other documentation [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 is silent on the definition of *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.

55. Can schools require verification or proof of residency?

A: No. Schools may not require verification or proof of residency as a condition of enrollment.[17] Due to their precarious living situations, it frequently will be impossible for families and youth experiencing homelessness to provide such verification.

56. Can schools or anyone affiliated with the school contact a landlord, leaseholder, housing authority, or anyone else to discuss a student's or family's living situation?

A: No. Schools must not contact the landlords of host families or any other third party to discuss the student's or family's living situation. Residence information provided by parents, guardians, or youth to schools is part of the student's educational records and protected by federal privacy laws; sharing student and family housing information would be a violation of federal law [42 U.S.C. §11432(g)(3)(G)]. Such contact could also lead to the eviction of the host family. However, the Act does not prohibit schools from requiring parents, guardians, or youth to submit emergency contact information [42 U.S.C. §11432(g)(3)(H); 20 U.S.C. §1232g].

[17] *See generally* 42 U.S.C. §11432(g)(3)(C).

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57. 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.[18]

58. 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 required health 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 McKinney-Vento 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. In this instance, liaisons should work with school nurses to verify state requirements for exemptions, including documentation in school records.

It is recognized among public health practitioners that the fact that most students are immunized prevents serious outbreaks from occurring.[19] 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.

[18] *See generally* 2017 Guidance, Tips on Facilitating Immediate Enrollment at 26.

[19] See Memorandum from U.S. Surgeon General Dr. Joycelyn Elders, at http://www.naehcy.org/sites/default/files/dl/elders-memo.pdf.

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59. 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.

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

A: Yes. The Family Educational 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].[20]

61. 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)(1)(I), (g)(7)]. States and LEAs must review and revise policies to remove barriers to the education of homeless children and youth, "including barriers to enrollment and retention due to outstanding fees or fines, or absences" [42 U.S.C. §11432(g)(1)(I)]. Additionally, the Act requires that LEAs maintain homeless students' records so that they "are available, in a timely fashion, when a child or youth enters a new school or school district" [42 U.S.C. §11432(g)(3)(D)(i)].

62. 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.

[20] There are additional exceptions to the FERPA requirements; visit http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html for more information.

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The enrolling school can also get information regarding class schedules from parents and youth. Quick assessments can be used to evaluate the student's skills. Upon receipt of previous school records, the school can make any necessary adjustments to the student's classes and services. As schools review the student's records, they must also ensure that homeless students receive "appropriate credit for full or partial coursework satisfactorily completed while attending a prior school" [42 U.S.C. §§11432(g)(1)(F)(ii)]; 2017 Guidance, 0-2.[21]

63. If a state or LEA 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 states and LEAs to review and revise policies to remove barriers to the education of homeless children and youth, "including barriers to enrollment and retention due to outstanding fees or fines, or absences" [42 U.S.C. §11432(g)(1)(I)]. Zero tolerance rules for absenteeism can create 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 must not be counted against students, as this would create a barrier to enrollment and retention in school.

In addition, where laws, regulations, policies, or practices may act as a barrier to the identification, enrollment, attendance, or success in school of homeless children and youths, SEAs and LEAs must undertake steps to revise such laws, regulations, policies, or practices to ensure that homeless children and youths are afforded the same free, appropriate public education as provided to other children and youths. The process of reviewing and revising policies should include a review of school discipline policies that disproportionately impact homeless students. 2017 Guidance, A-4.

64. If a student in a homeless situation seeks enrollment in a magnet or alternative school, but the enrollment deadline for that school has passed, what may the McKinney-Vento 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 nonhomeless 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 magnet or alternative school serves other youth living in the same attendance area, and the youth meets the attendance criteria for the alternative school, she must be allowed to enroll. Furthermore, an LEA

[21] Additional enrollment strategies are available at https://nche.ed.gov/downloads/briefs/assessment.pdf.

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must immediately enroll a homeless child or youth, even if the child or youth "has missed application or enrollment deadlines during any period of homelessness" [42 U.S.C. §§11432(g)(3)(C)(i)(II)]. Limits on enrollment timing conflict with the immediate enrollment requirement of the McKinney-Vento Act and are superseded by the Act. States and LEAs must also remove barriers to the enrollment and retention of homeless children and youth in schools [42 U.S.C. §§11432(g)(1)(I), (g)(7)]. Enrollment schedules present a barrier to the enrollment and retention of homeless children and youth in school and should be revised to accommodate McKinney-Vento eligible students who otherwise meet enrollment criteria, but request enrollment outside of the normally scheduled periods. Additionally, states must have procedures that ensure that homeless students "who meet the eligibility criteria do not face barriers to accessing academic and extracurricular activities, including magnet school, summer school, career and technical education, advanced placement, online learning, and charter school programs, if such programs are available at the State and local levels" [42 U.S.C. §§11432(g)(1)(F)(iii)]. The U.S. Department of Education urges LEAs to "anticipate and accommodate the needs of McKinney-Vento-eligible students to enter… magnet schools, and other schools, programs and activities…." These procedures may include giving students experiencing homelessness priority if there is a waiting list for these schools, programs and activities. 2017 Guidance, I-6.

65. 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 homeless or runaway youth of criminal pasts. Children and youth must be enrolled immediately, even if they cannot present documents typically required for enrollment, including proof of good standing [42 U.S.C. §§11432(g)(3)(C)]. Nevertheless, it is important for the McKinney-Vento liaison to gather as much information necessary to provide 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.

66. 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 McKinney-Vento Act provisions 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, Child Protective Services, or if possible, the student's parents, consistent with state law. While law enforcement and/or Child 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

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the situation. The National Center for Missing and Exploited Children also maintains an on-line database and toll-free hotline schools can consult to see if a student has been reported missing.[22][23]

67. Must LEAs publicize information about the McKinney-Vento Act?

A: Yes. McKinney-Vento 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)(v), (vi), (viii)]. Posters, such as the ones provided by the National Center for Homeless Education[24] and other information translated in a manner and form understandable to the parent, guardian, or unaccompanied youth must be disseminated in places frequented by them [42 U.S.C. §§11432(g)(6)(A)(vi)]. The McKinney-Vento Act requires liaisons to ensure that school personnel providing McKinney-Vento services receive professional development and other support. Therefore, to comply with the Act, liaisons must train all school enrollment staff, secretaries, school counselors, school social workers, and principals on the legal requirements for enrollment [42 U.S.C. §§11432(g)(6)(A)(ix)]. School nutrition staff, school nurses, teachers, security guards, 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 85. Trainings should take place on a regular basis to address staff turnover. Information should also be provided in writing, such as in a district handbook.

68. Does the McKinney-Vento Act define the term "enroll" or "enrollment"?

A: Yes. The Act defines both terms to mean "attending classes and participating fully in school activities" [42 U.S.C. §11434A(1)]. The definition clarifies that enrollment means more than noting the student's name on a school roster. Enrollment includes ensuring youth can attend the classes for which they are eligible and participate in school activities for which they are eligible and in which they wish to participate, including other academic and extracurricular activities.

22 See http://www.missingkids.com/ or 1-800-THE-LOST.

23 More information on trafficking and homelessness, including steps that schools can take to respond to signs of trafficking among its students, is available at http://center.serve.org/nche/ibt/trafficking.php.

24 Available at https://nche.ed.gov/

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Issues Facing Youth

69. 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. Thus a student whose parent retains legal custody of a youth, but not physical custody, is considered an unaccompanied youth.

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

A: Since the McKinney-Vento Act does not include any age limits for serving students, it 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 older 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)].

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

A: Yes. Lack of a legal guardian or guardianship documents cannot delay or prevent the enrollment of an unaccompanied youth [42 U.S.C. §§11432(g)(3)(C), (g)(1)(H)(iv)]. States and LEAs have established various procedures for enrolling youth. Many permit the youth to enroll himself or herself; some have the McKinney-Vento liaison handle enrollment; others use caregiver forms to allow adult caregivers, when present, to enroll youth. Whatever procedures are used, they must ensure immediate enrollment, as the McKinney-Vento Act requires states and LEAs to eliminate barriers to identification, enrollment and retention and to enroll unaccompanied youth in school immediately [42 U.S.C. §§11432(g)(1)(I), (g)(7)]. LEAs may adopt their own policies to meet these mandates.[25]

[25] More information about approaches to enroll unaccompanied youth immediately is available at https://nche.ed.gov/downloads/briefs/youth.pdf.

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72. 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 enrollment barriers related to guardianship in school enrollment and requires LEAs to enroll youth in school immediately, even if they lack a legal guardian or typically required enrollment documents, such as divorce decrees [42 U.S.C. §§11432(g)(3)(C), (g)(1)(H)(iv), (g)(1)(I)]. The decision to seek legal guardianship is a serious decision that significantly affects the legal rights of the parent, caregiver and youth well beyond the school arena. While that step will be appropriate in some cases, it will not be in others.

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

A: States and LEAs have established various procedures for educational decision-making. Some permit the youth to make educational decisions on his or her own behalf; some vest the liaison with that authority; others allow adult caregivers, when present, to make such decisions. FERPA allows "an individual acting as a parent in the absence of a parent or a guardian" to access a student's education records, thereby permitting schools to discuss educational issues with such caregivers [34 CFR §§99.3-99.4]. The McKinney-Vento Act requires states and LEAs 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)]. LEAs 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 defining "parent" and appointing a "surrogate parent" to make special education decisions for minors, where a parent or legal guardian is not available. *See* Question 107.

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

A: No, absent other circumstances schools do not have to contact the police. While state law determines the obligations of school staff to contact child protective services (CPS) or law enforcement if they suspect abuse, the McKinney-Vento Act requires states and LEAs to eliminate barriers to identification, enrollment and retention of students experiencing homelessness [42 U.S.C. §§11432(g)(1)(I), (g)(7)]. U.S. Department of Education Guidance elaborates that the "McKinney-Vento Act includes a broad, ongoing requirement for SEAs and LEAs to review policies or practices that may act as barriers to the identification, enrollment, attendance and school success of homeless children and youths…. It is important for SEAs and LEAs to consistently review their policies and practices with regular input from homeless parents, youths, and advocates so that new barriers, or barriers that the SEA or LEA staff may be unaware of, do not prevent children and youths from receiving the free, appropriate public education to which they are entitled." 2017 Guidance, A-4.

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Based on these requirements, schools should exercise care and restraint when deciding whether to contact CPS or law enforcement agencies. Calling CPS or law enforcement as a matter of course would erect a significant barrier to the enrollment of unaccompanied youth. Youth are very unlikely to enroll in or attend school if they fear being taken into custody simply because they are unaccompanied. A recent survey of 3,616 domestic violence survivors and help-seekers found that 48% of those under age 18 did not seek help from someone for fear of being reported (Lippy, Burk, & Hobart, 2016). Other studies have found similar effects of reporting on youth seeking help (League of Women Voters of Oregon Education Fund, 2006; Moore, 2006). While educators and others are required to report reasonable suspicions of child abuse, in many cases unaccompanied youth are in the care of a safe adult or otherwise out of immediate danger, and there is no reason to suspect abuse. It is likely that state mandatory reporting laws would not require contacting CPS or police in such cases. Some states have clarified this in their state code, such as California's law stating that "the fact that a child is homeless or is classified as an unaccompanied minor, as defined in Section 11434a of the federal McKinney-Vento Homeless Assistance Act [42 U.S.C. Sec. 11301 et seq.], is not, in and of itself, a sufficient basis for reporting child abuse or neglect" [CA Penal Code §11165.15].[26] If school personnel have a reasonable suspicion of child abuse, liaisons should work with police and CPS to keep the youth in school and to serve the student's best interest.

75. 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, a parent or guardian could have a cause of action to sue the school for having turned the youth away.[27]

26 A state-by-state guide to mandatory reporting laws is available from the Child Welfare Information Gateway, at https://www.childwelfare.gov/pubPDFs/manda.pdf.

27 A guide to state laws regarding the rights of minors to receive medical care without a parent or guardian in non-emergency situations is available at http://naehcy.org/sites/default/files/pdf/State%20by%20state%20overview.pdf.

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76. If runaway youth would just follow their parents' rules, they could live at home; why should we encourage their bad behavior?

A: Most runaway youth, especially those who stay away from home a significant length of time, have fled abusive homes for their own survival. 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 (Toro, Dworsky, & Fowler, 2007; Robertson & Toro, 1999; Maclean, Embry, & Cauce, 1999). Severe dysfunction in the home is also common. Thirty percent of callers to the National Runaway Switchboard identified negative family dynamics as the leading reason for leaving home. See http://www.1800runaway.org/. For example, over two-thirds of unaccompanied youth surveyed in a recent study reported that at least one parent abused drugs or alcohol (Maclean et al., 1999).

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. For example, 20 to 40% of homeless youth identify as gay, lesbian, bisexual, questioning and/or transgender (Ray, 2006) and 10% of currently homeless female teenagers are pregnant (Toro et al., 2007). More than half of youth living on the streets became homeless for the first time because they were asked to leave home by a parent or caregiver (Family and Youth Services Bureau, 2016)Youth often leave home to remove themselves from an immediately painful situation, but without plans for what to do next. In a recent survey of unaccompanied homeless youth in California, over half felt that being homeless was as safe as or safer than being at home (Bernstein & Foster, 2008). More than 60% of homeless youth report being raped, beaten, robbed or otherwise assaulted while living on the streets, and homelessness is the largest risk factor for commercial sexual exploitation and sex trafficking of minors (Family and Youth Services Bureau, 2016). Despite their dire living situations, 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.

77. How can schools minimize unaccompanied youth's contact with the juvenile and criminal justice systems?

A: Where laws, regulations, practices, or policies may act as a barrier to the identification, enrollment, attendance, or success in school of homeless children and youths, SEAs and LEAs must undertake steps to revise such laws, regulations, practices, or policies to ensure that homeless children and youths are afforded the same free, appropriate public education as provided to other children and youths [42 U.S.C. §§11432(g)(1)(I), (g)(7)]. "The process of reviewing and revising policies should include a review of school discipline policies that disproportionately impact homeless students, including those who are also children and youths of color; those who identify as lesbian, gay, bisexual, transgender, and queer or questioning (LGBTQ); English learners; and students with disabilities." 2017 Guidance, A-4 (citations omitted). In particular, one-strike policies or policies that encourage the involvement of law enforcement rather than school personnel in disciplinary matters should be revised to ensure homeless students are not needlessly entangled with the criminal or juvenile justice system. *See* Question 63.

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78. What steps should SEAs and LEAs take to revise the laws and policies in their communities that serve as barriers to the identification, enrollment, attendance, and success of homeless students?

A. Where laws, regulations, practices, or policies may act as a barrier to the identification, enrollment, attendance, or success in school of homeless children and youths, SEAs and LEAs must undertake steps to revise such laws, regulations, practices, or policies to ensure that homeless children and youths are afforded the same free, appropriate public education as provided to other children and youths [42 U.S.C. §11431(2); 42 U.S.C. §§11432(g)(1)(I), (g)(7)]. This obligation extends to laws and policies that exist outside of the school system itself: SEAs "should also coordinate and consult with State and local policymakers to ensure that legislation and policies do not create barriers for the education of homeless children and youths, which may in some cases fall under their ongoing obligation to review and revise such barriers. For example, status offense laws or ordinances that criminalize homelessness can make it more difficult for homeless families and youths to get to school ready to learn. Likewise, a lack of affordable housing within a community may make it difficult for families to obtain permanent housing and escape the cycle of homelessness." 2017 Guidance, E-8. For example, a student who is forced to stay awake all night because there is no legal place for the student to sleep faces a barrier to her educational retention and success. A student in a state which criminalizes the act of running away may try to keep his status hidden from school officials for fear of criminal consequences, which is a barrier to his identification. Exclusionary zoning laws which prevent the building of youth or family shelters or affordable housing in the community mean more homeless students will have to travel further distances to their school of origin, presenting a barrier to their retention. SEAs should raise the awareness of the public and their policymakers about the harms that laws criminalizing homeless children and youth or preventing affordable housing from being developed can present; LEAs should work with their state coordinators to share information about how statewide policies and laws impact students at a local level.28

79. 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, which provide long-term housing for up to 18 months and life skills for young people 16-21 years old. Third, the law contains

[28] A state-by-state summary of laws affecting unaccompanied youth is available at https://www.nlchp.org/Alone_Without_A_Home. A discussion of the criminalization of homelessness, and resources for advocating in the community is available at https://www.nlchp.org/criminalization.

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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 McKinney-Vento liaisons[29] [42 U.S.C. §§5701 et seq.; 42 U.S.C. §5712(b)(3); 45 C.F.R. §1351.18(e)].

Supporting Academic Success

80. Does the requirement for immediate enrollment include enrollment in optional enrichment programs, gifted 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, McKinney-Vento state plans are required to describe procedures to ensure that "homeless children and youths who meet the relevant eligibility criteria do not face barriers to accessing academic and extracurricular activities, including magnet school, summer school, career and technical education, advanced placement, online learning, and charter school programs, if such programs are available at the State and local levels" [42 U.S.C. §11432(g)(1)(F)(iii)]. Finally, McKinney-Vento 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.

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

A: Yes. The McKinney-Vento Act requires states and LEAs 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, including at the varsity level, are school activities.

Many courts, including the Supreme Court of the United States, have determined that school athletic associations are considered to be state actors, due to their close relationship with the state (Brentwood Academy, 2001). Therefore, athletic associations must comply with the McKinney-

[29] More information about this program is available at http://www.acf.hhs.gov/fysb and http://www.1800runaway.org/.

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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 residency and attendance rules. Athletes experiencing homelessness have won hearings on this issue against several state athletic associations. In addition, some athletic associations have changed their policies to facilitate compliance with the McKinney-Vento Act.

82. What if children experiencing homelessness cannot pay fees associated with extracurricular activities, such as club dues, sports uniforms, etc.?

A: Barriers to full participation in school must be eliminated, including barriers "due to outstanding fees or fines…." [42 U.S.C. §§11432(g)(1)(I), (g)(7)]. Fees for extracurricular activities should be waived or paid with donations or district funds.[30]

83. 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? If the youth has been attending another school, what obligation does the enrolling school have to give him/her credit for partial coursework completed at the prior school?

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 LEA to remove barriers to the student's retention in school, including barriers "due to… absences" [42 U.S.C. §§11432(g)(1)(I), (g)(7)]. Since the inability to earn any credit is a disincentive to remaining in school (and therefore a barrier to retention), the school must address that problem.

Every state must have procedures in place to ensure that all McKinney-Vento students, including those who have been out of school, can receive "appropriate credit for full or partial coursework satisfactorily completed while attending a prior school, in accordance with state, local, and school policies" [42 U.S.C. §11432(g)(1)(F)(ii)]. Liaisons must make particular efforts to ensure those procedures are implemented for unaccompanied youth [42 U.S.C. §§11432(g)(6)(A)(x)(II)]. The school must work with the prior school to calculate, award and receive partial credits, as well as make any necessary adjustments to the student's schedule to permit the student to complete courses started elsewhere and to participate in credit recovery opportunities.

[30] A brief on the McKinney-Vento Act and school fees is available at http://naehcy.org/sites/default/files/pdf/School%20fees.pdf.

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84. 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, an LEA 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)].

The U.S. Department of Education further urges that "[r]emoving students from school (e.g. by suspending a student) should be used only as a last resort; this is particularly important due to the high mobility of homeless students and the lack of access to food and other services that out of school suspension or expulsion may cause." 2017 Guidance, page 33. The Department suggests many strategies to promote supportive discipline for students experiencing homelessness, including instituting trauma-informed practices and implementing discipline alternatives to suspensions or separating homeless children and youths from their peers.

85. Can students who are homeless receive free school meals without documenting income? What about students with an outstanding balance of unpaid school meal fees?

A: Yes and yes. The Child Nutrition and WIC Reauthorization Act of 2004 made any child or youth identified as homeless by a McKinney-Vento 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.[31] States also may have established policies to support this federal law.

Children identified as homeless by a McKinney-Vento liaison or shelter director are entitled to receive those meals immediately, regardless of unpaid fees. Unpaid fees may be waived or paid from other funds, but they cannot delay or prevent the student's access to free meals. To the extent unpaid fees constitute a barrier to the enrollment of homeless children and youth (including attending classes and participating fully in school activities), states and LEAs have an ongoing obligation to review and revise their policies to remove such barrier [42 U.S.C. §11432(g)(1)(I)].

[31] Copies of the law and USDA policies are available at https://nche.ed.gov/legis/cn_wic.php.

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Students who are McKinney-Vento eligible in one LEA and become permanently housed in a second LEA are still eligible and entitled to receive free school meals for the remainder of the academic school year during which they become permanently housed.

86. 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, McKinney-Vento liaisons are required to provide referrals for health, mental health, dental, substance abuse, housing and other appropriate services in the community [42 U.S.C. §11432(g)(6)(A)(iv)]. "Other appropriate services" may include job training, public assistance, food and nutrition, transportation assistance, and legal services.

87. What things should schools do to ensure safety and privacy for students impacted by domestic violence?

A: 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, such as protecting the child's identity in school data systems, arranging for anonymous pick-up and drop-off locations for school buses, enrolling the child in a different school if necessary, sensitizing bus drivers and school personnel to the child's circumstances, training school staff on confidentiality laws and policies, and helping the family to file copies of protective orders with the school. 2017 Guidance, B-3.[32]

[32] More information on how schools and shelters can assist victims of domestic violence is now available at https://nche.ed.gov/downloads/briefs/domestic.pdf.

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Private Schools and Charter Schools

88. 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 who become homeless to continue to attend or to provide transportation.

89. Does the McKinney-Vento Act apply to charter schools?

A: Yes. State law and and/or the school's charter determine whether the school should be treated as a school within an LEA or as its own local educational agency. A charter school determined to be a school must follow the McKinney-Vento Act's requirements for schools and must collaborate with the McKinney-Vento liaison for the LEA to which it belongs. A charter school determined to be an LEA must follow the Act's requirements for LEAs, including designating a McKinney-Vento liaison, identifying homeless students, ensuring immediate enrollment, honoring the right for students to remain in the school of origin, and providing transportation.

McKinney-Vento requires that "homeless children and youths who meet the relevant eligibility criteria do not face barriers to accessing academic and extracurricular activities, including… charter school programs" [42 U.S.C. §11432(g)(1)(F)(iii)]. 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). However, enrollment deadlines and other barriers must be waived for students experiencing homelessness. In particular, charter schools must enroll McKinney-Vento students immediately, even when students have "missed application or enrollment deadlines during any period of homelessness." This would include missing lotteries for charter school enrollment as well [42 U.S.C. §11432(g)(3)(C)(i)(II)]. The U.S. Department of Education urges LEAs to "anticipate and accommodate the needs of McKinney-Vento-eligible students to enter charter schools…" including "giving homeless children and youths priority if there is a waitlist." 2017 Guidance I-6.

90. If a McKinney-Vento student wishes to enroll in a charter school after the deadline or lottery has passed, and the applicable class in the school is now full, does the school have to go over its legal enrollment limit to enroll the student?

A: No, but the school should take steps to remove the barrier of enrollment deadlines and lottery timing. States and LEAs must remove barriers to charter school access, and charter schools must

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enroll McKinney-Vento students immediately, even when students have "missed application or enrollment deadlines during any period of homelessness" [42 U.S.C. §11432(g)(3)(C)(i)(II)]. However, charter schools often have class size limits established by their charters, state law or other rules. McKinney-Vento generally is not interpreted to require a school or classroom to go over capacity. Nonetheless, the U.S. Department of Education urges LEAs to "anticipate and accommodate the needs of McKinney-Vento-eligible students to enter charter schools…", and such schools should work to address capacity issues, through means such as: giving McKinney-Vento students priority on waitlists (2017 Guidance I-6); and using data to calculate and reserve spots for McKinney-Vento student (based on observable trends in attempted enrollment by McKinney-Vento students).

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Integration

91. 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 their school of origin or any school nonhomeless students who live in the attendance area in which the students is living are eligible to attend. 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.

92. 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" or "to provide temporary special and supplementary services." What do these terms mean?

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. There is no specific definition of "health and safety emergencies" or "temporary special and supplementary services.[33] This may include temporary counseling or temporary, intensive academic supports to meet the student's unique needs.

The inclusion of these terms in the McKinney-Vento Act does not justify separating a student from the mainstream school environment; separate classes, activities, or settings for individuals or groups of homeless students; or separation from the mainstream school environment if the student is being disciplined or penalized for behavior related to their homelessness. Such separation is expressly forbidden by the McKinney-Vento Act [42 U.S.C. §11431(3)].

[33] *See* 42 U.S.C.§ 11433(a)(2)(B)(ii).

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Disputes and Enforcement

93. 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)]; 2017 Guidance, K-1. States are encouraged to provide a common local policy that LEAs can adopt to provide consistency across districts. LEAs must use these dispute procedures for all disputes over eligibility, school selection or enrollment [42 U.S.C. §11432(g)(3)(E)]. The Act requires schools to enroll students immediately in the school in which they are seeking enrollment, until the dispute reaches its final resolution, including all available appeals [42 U.S.C. §11432(g)(3)(E)(i)]. For unaccompanied youth, the liaison must ensure the youth is immediately enrolled in the school in which the youth seeks enrollment pending resolution of the dispute [42 U.S.C. §11432(g)(3)(E)(iv)]. Since the Act defines "enroll" as including attending classes and participating fully in school activities, students must be afforded full participation and provided all appropriate services while the dispute is pending. State and local dispute resolution procedures "should address barriers to attending classes and fully participating in school activities." 2017 Guidance, K-2.

At minimum, the parent or guardian, or the unaccompanied youth, must be provided a written explanation of any decisions related to eligibility, school selection or enrollment made by the school, LEA, or SEA, including information about the right to appeal [42 U.S.C. §11432 (g)(3)(E)(ii)]. In addition, if an LEA determines it is not in a student's best interest to attend the school of origin or the school requested by the parent, guardian or unaccompanied youth, the LEA must provide the parent, guardian or youth with a written explanation of the reasons for its determination, in a manner and form understandable to such parent, guardian, or youth, including information regarding the right to appeal [42 U.S.C. §§11432(g)(3)(B)(iii)]. Written explanations must include an explanation of how the school reached its decision regarding eligibility, school selection, or enrollment, as well as contact information for the liaison and State Coordinator and a brief description of their roles. 2017 Guidance, K-3.

The school must then refer the youth, parent, or guardian to the McKinney-Vento liaison, who must carry out the dispute resolution process as quickly as possible [42 U.S.C. §11432(g)(3)(E)(iii)]. Liaisons should assist with "preparing the appeal and should make resources of the school (e.g., copying, mailing, or obtaining records) available to the parent, guardian, or unaccompanied youth." 2017 Guidance, K-2.

Best practices in dispute resolution processes include procedural safeguards to ensure that the process is impartial yet accessible to homeless students and their families. It is recommended that the dispute resolution process include notice of educational rights under the McKinney-Vento Act; the right to file an appeal; a step-by-step description of how to appeal a decision; a list of legal and advocacy service providers in the area; contact information for the homeless liaison and State Coordinator; and relevant timelines. Requiring notarization or authentication of documents or other

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materials and requiring strict legal evidentiary standards is not appropriate. 2017 Guidance, K-1 - K-7 and Tips for Establishing an Effective Dispute Resolution Process.

94. Does the McKinney-Vento liaison have to be the person listening to the grievance procedure?

A: The McKinney-Vento liaison must be the one to carry out the dispute resolution process and it is considered best practice for the liaison to also listen to the grievances. Liaisons are required to carry out the dispute resolution process as expeditiously as possible, making sure that families and youth are aware of their rights to appeal and receive appropriate written explanations and notices, and are able to access the dispute process [42 U.S.C. §11432(g)(3)(E)]. In order for the McKinney-Vento liaison to meet his or her duty in this regard and if the person listening to the grievance procedure is separate from the McKinney-Vento liaison, then the liaison should be involved in the review and provide training to anyone involved in the review process to ensure that the law is followed. If the McKinney-Vento liaison has designated other individuals to make determinations of homeless status, then whomever made the determination regarding homeless status must also be included in the related grievance procedure.

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.

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

A. Yes. The McKinney-Vento Act requires states to ensure that LEAs comply with the Act [42 U.S.C. §§11432(f)(5), (g)(2)]. SEAs are required to develop procedures for the prompt resolution of disputes and should provide technical assistance to LEAs to ensure that policies written for the resolution of disputes at the local level are consistent with the state policy; alternatively, SEAs may offer a common local dispute policy that each LEA can adopt for consistency throughout the state. 2017 Guidance K-1. When a dispute is at the local level, SEAs should provide the technical assistance and training to LEAs to faithfully implement dispute procedures that are consistent with state and federal law. If the dispute is appealed to the state, then the state coordinator intervenes. 2017 Guidance, K-7. It is essential that SEAs provide the tools, training, and oversight for LEAs to resolve disputes consistent with state and federal law to prevent barriers to school enrollment and retention from arising, in violation of the McKinney-Vento Act [42 U.S.C. §§11432(g)(1)(I), (g)(7)]. As part of states' regular monitoring of LEA compliance, SEAs should keep track of requests for help from parents, youth, and community agencies in order to identify LEAs that may not be in compliance with the McKinney-Vento Act.

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96. Must school districts provide transportation during disputes?

A: Yes. *See* Question 51.

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

A: Yes, the McKinney-Vento Act applies to every local educational agency in every state. 81 Fed. Reg. 14432 (March. 3, 2016). As with most education laws, the Act applies to states receiving the federal funds. A notice from the Department of Education (2016b) clarifies, "Because the protections afforded to homeless children and youths apply regardless of whether an LEA receives a McKinney-Vento Act subgrant, the State Coordinator must ensure that technical assistance and professional development opportunities are provided to all LEAs."

98. If my state or local law conflicts with the McKinney-Vento Act, am I supposed to follow the McKinney-Vento Act?

A: Yes. The McKinney-Vento Act is a federal law that applies to every LEA – including LEAs that do not receive funding. 2017 Guidance, B-1. To the extent that state law conflicts with the provisions of McKinney-Vento, federal law prevails (U.S. Const. art. VI; Altria Group, 2008). Furthermore, any state law, policy, or practice that conflicts with McKinney-Vento is without effect (Maryland, 1981). If schools, LEAs, or SEAs have rules that violate the McKinney-Vento Act, the Act mandates those rules to be changed [42 U.S.C. §11431(2), §11434(g)(1)(I)].

99. If an LEA does not follow the law, is there a penalty?

A: Yes. States are required to provide technical assistance to and conduct monitoring of LEAs to ensure that LEAs in the state comply with the McKinney-Vento Act [42 U.S.C. §§11432(f)(5), (g)(2)]. States also must ensure that each parent, guardian and unaccompanied youth who contacts the State Coordinator receives the full protections and services of the McKinney-Vento Act [42 U.S.C. §11432(f)(7)]. To ensure compliance and protect the rights of students, the state can and should sanction noncompliant school districts through monitoring findings, corrective action plans, withholding federal funds, or other means. Parents and students also can sue LEAs in state and/or federal court. Several lawsuits have been filed under the McKinney-Vento Act, including lawsuits in Washington, D.C., Illinois, Maryland, Alabama, Delaware, Louisiana, New York, Hawaii, and Pennsylvania. As a result, LEAs have been forced to change their policies and practices and pay significant attorney fees. In addition, the U.S. Department of Education regularly monitors state and LEA compliance with the McKinney-Vento Act and could require corrective action plans, enact sanctions, or withhold or require repayment of federal funds in cases of noncompliance.

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Students Receiving Special Education and Related Services

100. Do special education laws explicitly refer to students experiencing homelessness?

A: Yes. The Individuals with Disabilities Education Act (IDEA) contains several provisions specific to children in homeless situations. IDEA defines homeless children to include any children or youth considered homeless under McKinney-Vento [20 U.S.C. §1402(11); 34 C.F. R. §300.19]. It includes a specific requirement that states ensure that children with disabilities experiencing homelessness are identified, located and evaluated [20 U.S.C. §1412(a)(3)(A); 34 CFR §300.111]. Additional provisions are described below.[34]

101. 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. In addition, any state receiving IDEA funds must ensure that the requirements of the McKinney-Vento Act are met for all children with disabilities in homeless situations in the state [20 U.S.C. §1412(a)(11)(A)(iii); 34 CFR §300.149(a)(3)]. Therefore, a student receiving special education who is homeless must remain in the school of origin, unless it is not in the student's best interests or it is against the parent's/guardian's/unaccompanied youth's wishes. More often than not, the best interest determination 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. However, there may be particular circumstances in which changing schools is in the student's best interest; for example, if the distance is such that the commute would be more detrimental than changing schools.

IDEA does not supersede the McKinney-Vento Act; a special education student retains all McKinney-Vento rights.

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

A: LEAs 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

[34] General resources on this topic can be found at https://nche.ed.gov/ibt/sc_spec_ed.php.

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education and related services. Transportation can be included as a related service in a student's Individualized Education Program (IEP), when appropriate. "If a child's IEP Team determines that a child requires transportation as a related service, then IDEA funds can be used to provide transportation to the child" (Musgrove, 2013). 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. In addition, special education buses can be used to transport homeless students without disabilities when the buses "are not full and are able to pick up nondisabled homeless children along the usual bus routes, and no additional IDEA funds would need to be expended to transport those nondisabled children" (Musgrove, 2013).

103. 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. This is true even if the student is unable to produce records normally required for enrollment, such as previous academic records and copies of IEPs [42 U.S.C. §11432(g)(3)(C)(i)(I)]. In addition, any state receiving funds under the Individuals with Disabilities Education Act (IDEA) must ensure that the requirements of the McKinney-Vento Act are met for all children with disabilities in homeless situations in the state [20 U.S.C. §1412(a)(11)(A)(iii); 34 CFR §300.149(a)(3)]. IDEA does not supersede the McKinney-Vento Act; a special education student retains all McKinney-Vento rights.

104. Must schools provide special education services immediately to students experiencing homelessness who have IEPs from another school district or state?

A: Yes. When children with current IEPs change LEAs during the school year, the new district must provide the children with a free, appropriate public education (FAPE) immediately, "including services comparable to those described" in the previous IEP, in consultation with the parents. While such services are being provided, the LEA can either adopt the existing IEP or implement a new IEP. If the new LEA is in a different state, the district can choose to conduct a new evaluation and develop a new IEP, while services are being provided [20 U.S.C. §1414(d)(2)(C)(i)].

105. 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)]. To facilitate provision of FAPE for children who change districts during the school year, IDEA specifically requires enrolling schools to promptly obtain the child's records from the previous school, and previous schools to promptly respond to such records requests [20 U.S.C. §1414(d)(2)(C)(ii)]. The McKinney-Vento liaison should work with

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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 FAPE immediately. State laws and regulations implementing IDEA may also contain procedures for providing interim IEPs and interim services.

106. If a student changes LEAs while special education evaluations are underway, must the new LEA continue the evaluation process?

A: Yes. Under IDEA, LEAs must complete initial evaluations within 60 days of a parent's request, or within time frames established by the state. These time limits apply to students who change school districts during the evaluation process, so the new school district cannot "restart the clock" when a student enrolls. The only procedure to extend the time frame is if the new LEA is making sufficient progress to ensure a prompt completion of evaluations, and the parent and school agree to a specific time when the evaluation will be completed. In addition, IDEA specifically requires schools to ensure that assessments of children who change LEAs during the school year are coordinated with prior schools as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations. To expedite evaluations, the new school should immediately get all the evaluations and other paperwork completed on the student from the old school and consult with the previous school psychologist, counselor and/or teachers about the student's needs [20 U.S.C. §§1414(a)(1)(C)(ii), (b)(3)(D)].

In addition, the U.S. Department of Education has noted: "There are compelling reasons for school districts to complete evaluations and eligibility determinations for highly mobile children well within the evaluation time frame that is applicable in a State, and we strongly encourage school districts to complete their evaluations of highly mobile children within expedited time frames (e.g., within 30 days), consistent with each highly mobile child's individual needs, whenever possible"(U.S. Department of Education, Office of Special Education and Rehabilitative Services, August 5, 2013 letter to State Directors of Special Education).[35]

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

A: Under IDEA, the following people can sign for special education services for a minor: a parent or legal guardian; an adult acting in the place of a parent and with whom the youth is living; or if

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consistent with state law, a foster parent [34 C.F.R. §300.30]. If the LEA cannot identify or locate such an adult, it must appoint a surrogate parent. If the student is an unaccompanied youth or a ward of the state, IDEA requires that the district ensure the student's rights are protected, including by assigning a surrogate parent. 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 interest [20 U.S.C. §1415(b)(2); 34 CFR §300.519(a)-(b)].

However, as the process of appointing a surrogate parent can take several weeks, LEAs should appoint immediate, "temporary" surrogate parents for unaccompanied youth. Temporary surrogate parents can consent for evaluations or sign IEPs so that assessments and services can begin immediately, while a regular surrogate is being appointed. Due to their more limited role, appropriate candidates for temporary surrogates include staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs, as well as McKinney-Vento liaisons or other school district staff [34 CFR §300.519(f); 71 Fed. Reg. 46712 (August 14, 2006)].[36]

108. If a student's poor academic achievement may be attributable to his or her homelessness, does that mean that an LEA should not evaluate for special education?

A: No. Students experiencing homelessness may miss school, have poor physical health, and struggle with behavior issues related to the stress of losing their housing. IDEA cautions that students should not be found eligible for special education if their difficulties are caused by lack of instruction or environmental, cultural, or economic disadvantage. At the same time, IDEA places clear obligations on LEAs to conduct special education evaluations upon a parent's request. Only through conducting evaluations and analyzing the results will a school district be able to determine if a student has a disability requiring special education and related services or is merely reacting to the realities of homelessness. Therefore, IDEA requires schools to determine whether lack of instruction is causing a child's disabilities "upon completion of the administration of assessments and other evaluation measures." The law similarly requires schools to consider environmental, cultural, or economic disadvantage "as part of the evaluation." These considerations are part of the evaluation and eligibility determination process; they do not substitute for the process or eliminate an LEA's responsibilities to engage in the process.

In many cases it will be appropriate for the school to put interventions and services in place for such students, to support their achievement and avoid unnecessary special education services. This often is referred to as a Response to Intervention (RTI) process. The U.S. Department of Education has emphasized that an RTI process cannot be used to delay or deny special education evaluations. "The

[36] A more detailed explanation of special education decision-making for unaccompanied youth is available in the NASDSE/NAEHCY publication "Surrogate Parents and Unaccompanied Homeless Youth Under the Individuals with Disabilities Education Act", available at http://naehcy.org/sites/default/files/dl/legis/uhysurrogateparents.pdf.

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regulations at 34 CFR §§300.301(b) allow a parent to request an initial evaluation at any time to determine if a child is a child with a disability. The use of RTI strategies cannot be used to delay or deny the provision of a full and individual evaluation…." (Musgrove, 2011). In addition, for children who change LEAs during the evaluation process, "the new school district may not delay the evaluation or extend the evaluation time frame in order to implement an RTI process" (U.S. Department of Education, Office of Special Education and Rehabilitative Services, August 5, 2013 letter to State Directors of Special Education).[37] Instead, such interventions should be provided while the evaluation is in progress [20 USC §§1414(b)(4)-(5); 34 CFR §§300.306, 300.309(b)-(c)].

109. If a student who is in a private day placement pursuant to an IEP becomes homeless and moves into temporary housing in a neighboring LEA, which LEA must pay for the placement? What if the LEA where the student has moved does not believe the placement is necessary?

A: A student experiencing homelessness has rights under both IDEA and the McKinney-Vento Act. In this situation, IDEA gives the child the right to receive a free, appropriate public education consistent with his or her IEP. The McKinney-Vento Act entitles the student to remain in the school of origin. Therefore, the student has the right to remain in the private day placement. (If it were a public placement, such as a county special education program or other program, the answer would be the same.) Neither IDEA nor the McKinney-Vento Act assign fiscal responsibility. Typically, the LEA that developed the IEP and made the placement will continue to pay for the placement. That district is also likely receiving federal and state funds for the pupil. However, if state law, the state education agency or the LEAs determine that a different financial arrangement is appropriate, federal law does not prevent an alternative arrangement. If the allocation of fiscal responsibility is in dispute, the student's education and services must not be interrupted or disturbed while the dispute is resolved [20 U.S.C. §1412(a)(11)(A)(iii); 34 CFR §300.149(a)(3); U.S. Department of Education Office of Special Education and Rehabilitative Services (2008, E-2)].

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

110. 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 I, Part A services, whether or not they live in a Title I school attendance area or meet the academic standards required of other children for eligibility. 2017 Guidance, M-1; [20 U.S.C. §6315(c)(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.

111. 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 LEA that receives Title IA funds is required to set aside a portion of its allotment to provide comparable services to homeless students who attend schools that do not receive Title 1A funds and additional services for homeless students whose schools receive Title 1A funds. 2017 Guidance, M-5; [20 U.S.C. §6313(c)(3)(A)]. The procurement and budget process will vary for each school district and McKinney-Vento liaisons should coordinate closely with their local Title 1 program directors to ensure a smooth process is in place to provide these services.

112. 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 assist homeless students in meeting the state's academic standards and may include services not otherwise provided to Title I students. 2017 Guidance, M-5; [20 U.S.C. §6313(c)(3)(A)]. The set-aside may be determined based on a needs assessment of homeless children and youth in the LEA, taking into consideration the number of homeless children and youth identified in the LEA, and their unique needs. 2017 Guidance, M-6, [20 U.S.C. §6313(c)(3)(A)(i)]. One method for conducting needs assessments to determine an appropriate set-aside for homeless children and youth includes reviewing homeless student enrollment averages over a few years, and multiplying that number by the average per-pupil Title I cost. It is also very important to take into account the overall poverty rate in the LEA, and efforts that may be necessary to increase the identification of homeless children and youth. In addition, LEAs should consider what is necessary and reasonable for each student to fulfill the purposes of the Title I and McKinney-Vento programs in their district, as well as the effectiveness of past activities in accomplishing the goals of those programs for individual students as well as the overall programs.

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113. 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, 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, including educationally related support services to children in shelters and other locations where they are living [20 U.S.C. §6313(c)(3)(A)]. For example, to help students effectively take advantage of educational opportunities, and when the items or services are not available from other sources or other sources have been depleted, Title IA funds can be used to provide the following as listed in 2017 Guidance, M-4:

- Items of clothing, particularly if necessary to meet a school's dress or uniform requirement;
- Clothing and shoes necessary to participate in physical education classes;
- Student fees that are necessary to participate in the general education program;
- Personal school supplies such as backpacks and notebooks;
- Birth certificates necessary to enroll in school;
- Immunizations;
- Food;
- Medical and dental services;
- Eyeglasses and hearing aids;
- Counseling services to address anxiety related to homelessness that is impeding learning;
- Outreach services to students living in shelters, motels, and other temporary residences;
- Extended learning time (before and after school, Saturday classes, summer school) to compensate for lack of quiet time for homework in shelters or other overcrowded living conditions;
- Tutoring services, especially in shelters or other locations where homeless students live;
- Parental involvement specifically oriented to reaching out to parents of homeless students;
- Fees for AP and IB testing;
- Fees for SAT/ACT testing; and
- GED testing for school-aged students.

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114. Can Title I, Part A funds be used to fund transportation?

A: Yes. The Consolidated Appropriations Act, 2016 (Pub. L. 114-113) specifically authorizes an LEA to use FY 2016 Title I funds (and, consistent with GEPA section 425(b), Title I carryover funds) to pay transportation costs associated with transporting homeless children and youth to and from their school of origin. These allowable costs are the incremental costs to transport a homeless child or youth to his or her school of origin above what the LEA would have otherwise provided to transport the student to his or her assigned school.[38] LEAs must continue to provide homeless children and youth with comparable services beyond transportation. The Every Student Succeeds Act also authorizes the use of Title I Part A funds for transportation to the school of origin; therefore, this policy will continue into future fiscal years [20 U.S.C. 6313(c)(3)(C)(ii)].

Title IA funds can also be used to help fund other kinds of transportation, such as transportation to early childhood education programs, extra-curricular activities and academic enrichment services.

115. Can Title I, Part A set-asides be used to fund McKinney-Vento liaisons?

A: Yes. An individual paid, in whole or in part, with Title I, Part A funds may serve as the McKinney-Vento liaison, even if that person has no Title I duties [Consolidated Appropriations Act, 2016 (Pub. L. 114-113); 2017 Guidance, M-10; 20 U.S.C. 6313(c)(3)(C)(ii)]. An LEA may also use Title I funds to support additional staff carrying out the required duties of the local liaison.

116. 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. 6321(b)]. 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, such as fees that are waived under other SEA or LEA policies.

Title IA funds also may not pay for rental assistance, prom expenses, yearbook or class ring expenses, or clothing for parents experiencing homelessness.

[38] See "Letter from the Office of Safe and Healthy Students Director to the Education for Homeless Children and Youths State Coordinators and Title 1 State Directors" at https://www2.ed.gov/programs/homeless/legislation.html).

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117. Must an LEA include in its Title I, Part A plan information about services for homeless children and youth?

A: Yes. For an LEA to receive Title IA funds, its Title IA plan must describe the services the LEA 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); 2017 Guidance, M-8]. ESSA's amendments require LEA Title I plans starting with the 2017-18 school year to describe the services the LEA will provide to support the enrollment, attendance, and success of homeless children and youth [20 U.S.C. §6312(b)(6)]. An LEA's Title I, Part A application also should include a description of the method used for determining the amount reserved, whether by a needs assessment or some other method (e.g., past homeless student enrollment and support service cost data), and how the liaison was consulted or involved in determining the set-aside. 2017 Guidance, M-8.

Finally, State Title I, Part A plans must also be coordinated with the McKinney-Vento Act [20 U.S.C. §6311(a)(1)].

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Preschool and Other Early Childhood Programs

118. Does the McKinney-Vento Act define the term pre-school?

A. While the term "preschool" is not defined in the McKinney-Vento Act, the definition used for McKinney-Vento data collection by the U.S. Department of Education is a helpful reference: "early childhood education programs for children aged 0-5, funded through tax dollars or other public funds, and for which the LEA is a financial or administrative agent or for which the LEA is accountable for providing early childhood education services." Examples of preschool programs included in federal data collection include preschool programs operated or administered by an LEA; Head Start programs receiving funding from the LEA or for which the LEA is the grant recipient; preschool special education services, operated or funded by the LEA or mandated under the Individuals with Disabilities Education Act; preschool programs and services administered or funded by the LEA through the use of Title I or similar government grants; or home-based early childhood educational services funded and administered by an LEA" (Endres, 2017).

119. Are children experiencing homelessness automatically eligible for preschool programs?

A. State law and local policy often determine eligibility criteria for preschool programs. Liaisons should learn about these policies to see if McKinney-Vento children meet the criteria, either by virtue of their homelessness or other consideration. For example, in some states, all children who are eligible for free meals are also eligible for public preschool programs; since homeless children are automatically eligible for free meals, they also are automatically eligible for preschool. Some states also give children experiencing homelessness a priority for or entitlement to preschool enrollment.

Homeless children are automatically eligible to attend preschool programs funded under Title I [ESEA section 1115(c)(2)(E)]. 2017 Guidance, N-2.

120. How do the McKinney-Vento Act requirements apply to preschool children?

A: To the extent that an LEA offers a public education to preschool children, including LEA-administered Head Start programs, an LEA must meet the McKinney-Vento Act requirements for homeless children in preschool, including ensuring that a homeless child remains in his or her public preschool of origin, unless a determination is made that it is not in the child's best interest [42 U.S.C. §§11432(g)(1)(F)(i), (g)(3)(I); 2017 Guidance, N-4.]

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121. How can one determine whether a preschool program is administered by an LEA, and therefore subject to the requirements of the McKinney-Vento Act?

A: Several considerations can help make that determination. First, referencing the definition and examples in the McKinney-Vento data collection definition of preschool is an important first step. *See* Question 118. Second, questions regarding management and operations can help: Who hires the staff? Who is the governing board? Who signs the checks? Who determines the regulatory body under which the program operates? While the program's location can contribute to the determination, it is not the only factor to consider. For example, there are Head Start programs located in school buildings but completely independent of LEA funding, operations or administration, essentially renting space from the school in the way they would from a community agency or private landowner. Those programs likely are not LEA-administered. On the contrary, other preschool programs are located off school grounds but operated by the LEA, which hires the staff, provides governance and contributes funding. Those programs would be LEA-administered. Lastly, if a preschool is jointly funded or administered by more than one agency, one of which is the LEA, the program should be considered LEA-administered. The McKinney-Vento data collection definition of preschool specifically covers programs "for which the LEA is **a** financial or administrative agent…" The use of the article "a" includes within the definition programs for which the LEA is one of several financial or administrative agents.

122. Does the McKinney-Vento Act require transportation to the school of origin for preschool aged children?

A: Yes, transportation must be provided as long as remaining in the preschool of origin is in the child's best interest. This is true even if the LEA(s) does not provide transportation for other preschoolers, and even if a homeless preschooler who is enrolled in a public preschool in one LEA moves to another LEA that does not provide widely available or universal preschool [42 U.S.C. §§11432(g)(3)(I) and 11432(g)(1)(J)(iii); 2017 Guidance, N-5].

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

A: State plans must describe procedures to ensure that preschoolers experiencing homelessness have access to public preschool programs administered by the state educational agency or local educational agency [42 U.S.C. §11432(g)(1)(F)(i)]. States may 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)].

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124. What must LEAs do to serve preschoolers experiencing homelessness?

A: McKinney-Vento liaisons must ensure that families and children experiencing homelessness have access to and receive educational services for which they are eligible, including services through Head Start programs, Early Head Start programs, early intervention services under part C of the Individuals with Disabilities Education Act, and other preschool programs administered by the LEA [42 U.S.C. §11432(g)(6)(A)(iii)]. The U.S. Department of Education emphasizes that "local liaisons should make every effort to enroll preschool-age homeless children in preschool if they are not already enrolled." 2017 Guidance, N-2.

In order to be able to fulfill this requirement, the local liaison should make special efforts to identify preschool-aged homeless children, including by asking parents of school-age children if there are younger siblings in the household. Liaisons also can identify young homeless children by working closely with shelters, federally qualified health centers, social service agencies, and early childhood education providers. 2017 Guidance, N-1. In addition, liaisons should inform families of preschool opportunities for their children, and assist them to enroll, including by sending their information to preschool programs and departments as soon as an eligible child is identified. Since preschool enrollment often takes place months before the school year starts, it is critical to connect families to preschool programs as soon as possible, even if the child has not yet attained the age necessary for eligibility. Some preschool programs keep slots open specifically for homeless children. 2017 Guidance, N-2.

125. Can LEAs use McKinney-Vento and Title I homeless set-aside funds to serve preschoolers experiencing homelessness?

A. Yes. Districts can use their McKinney-Vento subgrants and their Title I homeless set-asides 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)].

126. Are children experiencing homelessness eligible to participate in Head Start and Early Head Start?

A: Yes. Homeless children are categorically eligible for Early/Head Start [45 CFR §1302.12(c)(iii)]. This means that homeless status, rather than income, qualifies a family for Head Start. The Head Start Act uses the same definition of homelessness as public schools, which includes families living in motels and doubled-up situations, as well as other living arrangements included in the McKinney-Vento Act definition [45 CFR §1305.2].

A family can prove their eligibility for Head Start based on homelessness with a written statement from a homeless services provider, school personnel, or other service agency attesting that the child is homeless, or any other documentation that indicates homelessness, including documentation from

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a public or private agency, a declaration, information gathered on enrollment or application forms, or notes from an interview with staff to establish the child is homeless [45 CFR §1302.12(i)(3)].

127. Are Head Start and Early Head Start programs required to follow any special policies or procedures regarding families and children experiencing homeless?

A: Yes. The Head Start Act required the Office of Head Start (OHS) to issue regulations requiring programs to identify and prioritize homeless children for enrollment; to allow homeless families to enroll and attend Head Start programs while required documents are obtained; and to coordinate with efforts to implement the McKinney-Vento Act. In September of 2016, OHS issued those regulations in the form of new Head Start Performance Standards. The new Performance Standards permit Head Start programs to reserve one or more enrollment slots for pregnant women and children experiencing homelessness, when a vacancy occurs. No more than 3 percent of a program's funded enrollment slots may be reserved. If the reserved enrollment slot is not filled within 30 days, the enrollment slot becomes vacant and then must be filled within 30 days [45 CFR §1302.15(c)]. This policy is very important, because lack of available slots during the program year is one of the most common barriers to Early/Head Start enrollment for children experiencing homelessness. Allowing programs to reserve slots for homeless children gives programs an opportunity to plan better for families' predictable mobility and ensure that Early/Head Start can reach children who are categorically eligible for services.

In addition, the new Performance Standards require Early/Head Start programs to: actively locate and recruit homeless children; allow homeless children to attend without immunization and other records for up to 90 days, or as long as allowed under state licensing requirements; make efforts to maintain the enrollment of homeless children if they move to a different service area; and utilize community resources, where possible, to provide transportation for homeless children if they are unable to attend classes regularly because the family does not have transportation. Head Start programs also must report how they are meeting the needs of homeless, foster, and other children, if they are proposing to serve over-income children.[39]

128. What can liaisons do to fulfill their duty to ensure that homeless families have access to and receive Head Start and Early Head Start?

A. Liaisons can assist homeless families to enroll in Head Start by providing documentation indicating the family's homeless status to Head Start programs; providing immunization and other records to the Head Start program; and helping families to fill out Head Start applications. In order

39 For a complete summary of Head Start Performance Standards children and families experiencing homelessness, see http://www.naehcy.org/sites/default/files/dl/legis/Summary%20of%20Final%20Head%20Start%20Regulations%20Related%20to%20Homelessness%20FINAL.pdf.

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to assist Head Start programs to reserve adequate slots for homeless children, liaisons should provide data to Head Start programs on homeless children in the service area; Head Start programs must include this data for their community needs assessments, which are the basis for reserving slots and developing selection criteria for Head Start programs [45 CFR §1302.11(b)(1)(i); 45 CFR §1302.15(c)].

129. Do any federal or state policies help families experiencing homelessness access child care?

Yes. The Child Care Development and Block Grant Act of 2014 contains several provisions to increase access and continuity for homeless children and families. The legislation and final regulations require States to:[40]

- Use the definition of homelessness in the education subtitle of the McKinney-Vento Act.
- Prioritize children experiencing homelessness for child care services.
- Establish a grace period that allows children experiencing homelessness to receive child care while their families take action to comply with immunization and other health and safety requirements.
- Use funds for activities that improve access to child care services, including
- procedures to permit enrollment of homeless children (after an initial eligibility determination) while required documentation is obtained,
- training and technical assistance on identifying and serving homeless children and their families, and
- specific outreach to homeless families.
- Coordinate services with early childhood programs serving children experiencing homelessness.
- Establish a sliding fee scale that is not a barrier to families receiving federal child care assistance.
- Collect and submit data on homeless children receiving federal child care assistance.

[40] For more information, *see* http://naehcy.org/educational-resources/early-childhood.

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Access to Higher Education

130. Can students experiencing homelessness request waivers of fees for SAT and ACT testing and college applications?

A: Yes. Students should be eligible for waivers for all of those fees, due to their income level and/or their homelessness. However, SAT and ACT waivers are available only when a student is enrolled in high school. School counselors should be familiar with the procedures for fee waivers.[41]

131. What must an LEA do to help prepare youth experiencing homelessness for college?

A. LEAs must ensure that counselors provide advice to McKinney-Vento youth to help prepare and improve their readiness for college [42 U.S.C. 11432(g)(1)(K)]. The local liaison, along with guidance counselors and other LEA staff tasked with college preparation, should ensure that all high school students experiencing homelessness receive information and individualized counseling regarding college readiness, college selection, the application process, financial aid, and the availability of on-campus supports. 2017 Guidance, Q-1.

132. What must LEA liaisons do to assist unaccompanied homeless youth to apply for financial aid for post-secondary education?

A. Local liaisons must ensure that unaccompanied homeless youth are informed of their status as independent students for college financial aid. See Question 131. In addition, liaisons must assist youths to receive verification of their independent student status for federal student aid purposes [42 U.S.C. 11432(g)(6)(A)(x)(III); 2017 Guidance, Q-2].

133. Can unaccompanied homeless youth apply for federal financial aid (through the Free Application for Federal Student Aid, or FAFSA) without providing information about their parents' income and their parents' signature?

A: Yes. Generally, youth under age 24 must provide parental information when completing the FAFSA. However, under the Higher Education Act, youth who are both (1) unaccompanied and (2) homeless (or self-supporting and at risk of homelessness) can apply for federal aid independently,

41 More information is also available at https://www.act.org/content/dam/act/unsecured/documents/FeeWaiver.pdf and http://www.collegeboard.com/student/testing/sat/calenfees/feewaivers.html.

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without parental information or signature. Their eligibility must be verified, in the year in which the youth completes the FAFSA, by (1) a McKinney-Vento liaison; (2) a U.S. Department of Housing and Urban Development homeless assistance program director or his/her designee; (3) a Runaway and Homeless Youth Act program director or his/her designee; or (4) a financial aid administrator.

For youth who do not have, and cannot obtain, verification from their liaison or a shelter provider (for example, youth who have graduated from high school, were not identified as homeless in high schools, or did not stay in a shelter), the college financial aid administrator must make a determination of homelessness based on the legal definitions of "unaccompanied" and "homeless." In these instances, a financial aid administrator may make a determination of homeless status on the basis of a documented interview (U.S. Department of Education, 2016a). Financial aid administrators, McKinney-Vento liaisons and shelter staff should verify homelessness by consulting with and gathering information from the youth; they should not require the youth to provide extensive documentation "proving" homelessness (Mahaffie, 2015).[42]

134. Who can make a determination of homeless and unaccompanied status once a youth is no longer in high school?

A. A local liaison may continue to make a determination of a youth's status as either unaccompanied and homeless, or as self-supporting and at risk of being homeless, for federal student aid purposes for as long as the liaison has access to the information necessary to make such a determination for a particular youth. 2017 Guidance, Q-2. If a liaison does not have the information that is necessary to make the determination, either because the youth became homeless after high school, or because the liaison is no longer familiar with the youth's circumstances, the financial aid administrator must make the determination.43

[42] More information about helping unaccompanied youth apply for financial aid is available at http://www.naehcy.org/educational-resources/higher-ed.

[43] A tool to assist financial aid administrators to make determinations of unaccompanied and homeless status is available at http://www.naehcy.org/educational-resources/higher-ed.

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135. A student answered "yes" to the questions on the FAFSA about being a homeless unaccompanied youth. Now the financial aid office is asking the student for a determination of a student's homeless status from the McKinney-Vento liaison or shelter director. What kind of documentation must the liaison or shelter director (or designee) provide to satisfy this requirement?

A: There is no specific documentation that a liaison or a shelter provider must provide to a financial aid office.[44] Financial aid administrators, McKinney-Vento liaisons, and shelter directors should work together to establish an expeditious process, including standard forms.

136. Are there other circumstances in which a youth can apply for financial aid without parental signature or financial information?

A: Yes. Youth who meet the federal definition of "independent student" can fill out the FAFSA without their parents. Independent students include students who are 24 years of age or older, orphans, a youth who was in foster care at any time after the age of 13, a youth who was a ward or dependent of the court, emancipated youth, veterans, graduate students, and youth who are married, have children or other legal dependents that they support. A financial aid administrator at a college can also designate a student as independent for "other unusual circumstances", through a process known as a dependency override. Youth should contact the financial aid administrator at the college of their choice for more information about this process [20 U.S.C. 1087vv(d)].

137. What address should a youth experiencing homelessness use on the FAFSA and college applications?

A: By definition, students experiencing homelessness are likely to lack a stable address. For the FAFSA, college applications, and similar documents, homeless students should use a safe, reliable mailing address, where they will be able to retrieve mail on an on-going basis with a minimal risk of mail being lost or stolen. This can be the address of a relative or friend who has given them permission to use it, or it can be their school's address, as long as they have contacted the school for permission and instructions for insuring that mail they receive at the school reaches them (U.S. Department of Education, 2016a).

[44] A sample template for this purpose is available on the NAEHCY web site at http://www.naehcy.org/educational-resources/higher-ed.

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138. A student's FAFSA has been rejected. What should the student do?

A: There are many reasons a FAFSA may be rejected. The student should contact the Federal Student Aid Information Center at (800) 433-3243 to find out the specific problem with the student's FAFSA. The college financial aid administrator also may be able to help. FAFSA corrections can be made on-line via the federal financial aid website[45], which also contains detailed instructions and answers to Frequently Asked Questions.

139. Are there other college access programs from which youth experiencing homelessness might benefit?

A: Yes. The Federal TRIO programs consist of programs that support at-risk junior high and high school students to graduate from high school, enter college, and complete their degrees. These programs include Talent Search, Upward Bound, Student Support Services, Educational Opportunity Centers and Staff Development Activities. The Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR-UP) program also can support McKinney-Vento students. Students experiencing homelessness are explicitly recognized as eligible populations in these federal programs.

45 The site is: http://www.fafsa.ed.gov/.

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Coordinating with HUD Homeless Assistance Programs

140. What is the difference between the definition of homelessness used by public schools and early childhood programs, and the definition of homelessness used by the U.S. Department of Housing and Urban Development (HUD)?

A. The HUD definition of homelessness is more restrictive than the definition of homelessness used by public schools and early care programs.46 For the most part, it excludes families and youth who are staying with other people due to loss of housing and economic hardship, as well as families and youth who are staying in motels that are not paid for by government agencies or charities.

141. Can LEA liaisons determine whether a family or youth is homeless according to the HUD's definition of homelessness?

A. Yes. Local liaisons who have received training from the State Coordinator on the different federal definitions of homelessness are authorized to affirm whether children and youth meet the HUD's definition of homelessness, to qualify them for HUD homeless assistance programs [42 U.S.C. 11432(g)(6)(D)]. Local liaisons may make this affirmation in the form of a signed letter on district letterhead that, at a minimum, identifies the most recent primary nighttime residence of the child, youth, or family that was verified by the local liaison.47

142. Does meeting the HUD definition of homelessness mean that a family or youth will receive HUD homeless assistance housing or services?

A. No. Meeting the HUD definition of homeless does not necessarily mean that a family or youth is eligible for a locally-operated HUD-funded homeless assistance project. Many local projects funded by HUD have additional eligibility requirements aside from meeting the definition of homeless. See also Question 22. 2017 Guidance, L-4 and L-5.

46 A chart explaining federal definitions of homelessness is available at http://naehcy.org/educational-resources/housing.

47 To determine to whom to address or send the letter, contact the Collaborative Applicant for the HUD Continuum of Care at https://www.hudexchange.info/grantees/?granteesaction=main.searchresults&programid=3.

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143. Are HUD-funded homeless assistance programs required to coordinate with LEAs to enroll homeless children and youth in schools and early childhood programs?

A. Yes. Continuum of Care (CoC) applicants are required to demonstrate that they are collaborating with LEAs to assist in the identification of homeless families, as well as informing these families and youth of their eligibility for McKinney-Vento education services [42 U.S.C. §11386a(b)(1)(B)(iii)]. In addition, CoC applicants must demonstrate that they are considering the educational needs of children when families are placed in emergency or transitional shelter and, to the maximum extent practicable, placing families with children as close as possible to their schools of origin so as not to disrupt the children's education [42 U.S.C. §11386(b)(7)].

Project applicants must demonstrate that their programs are establishing policies and practices that are consistent with, and do not restrict the exercise of, rights provided by the education subtitle of the McKinney-Vento Act, and other laws relating to the provision of educational and related services to individuals and families experiencing homelessness [42 U.S.C. §11386(b)(4)(C)]. Lastly, project applicants must demonstrate that programs that provide housing or services to families are designating a staff person to ensure that children are enrolled in school and connected to the appropriate services within the community, including early childhood programs such as Head Start, Part C of the Individuals with Disabilities Education Act, and McKinney-Vento education services [42 U.S.C. §11386(b)(4)(D)].[48]

[48] For more information, see http://naehcy.org/educational-resources/housing.

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Resources

144. 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.[49]

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

A: The U.S. Department of Education (ED) has established a technical assistance center on the McKinney-Vento Act and its implementation, at the National Center for Homeless Education[50]. NCHE can provide technical assistance documents, trainings, posters, manuals, outreach materials, webinars, Helpline technical assistance[51], and other support. ED sponsors annual meetings for McKinney-Vento State Coordinators and representatives from ED's Education for Homeless Children and Youth Program Office participate in an annual conference of educators who work with the McKinney-Vento Act. ED also conducts document reviews and on-site compliance monitoring across the country.

146. Is there any data on high school graduation rates for homeless students?

A: Prior to 2017, only five states publish disaggregated graduation rates for homeless students.[52] However, starting in the 2017-2018 school year, state report cards must include disaggregated information on the graduation rates and academic achievement of homeless children and youth [20 U.S.C. §6311(h)(1)(C)(ii) and (iii)]. A recent national study found that 42% of homeless youth surveyed dropped out of school at least once, while 60% said it was hard to stay in school while they were homeless.[53]

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[49] Legislative updates are available at http://www.naehcy.org/.

[50] The National Center for Homeless Education's website is https://nche.ed.gov/.

[51] Helpline technical assistance can be reached at 800-308-2145.

[52] http://www.icphusa.org/national/shadows-state-state-ranking-accountability-homeless-students/.

[53] For more information, see *Hidden in Plain Sight: Homeless Students in America's Public Schools* at http://civicenterprises.net/MediaLibrary/Docs/HiddeninPlainSightOfficial.pdf.

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

A: Some sources of statistics include:

- National Association for the Education of Homeless Children and Youth
  - http://www.naehcy.org/
- National Center for Homeless Education, Data and Statistics on Homelessness
  - https://nche.ed.gov/ibt/sc_data.php
  - https://nche.ed.gov/ibt/aw_statistics.php
- National Coalition for the Homeless fact sheets
- http://www.nationalhomeless.org/factsheets/
- National Law Center on Homelessness & Poverty
  - http://www.nlchp.org/
- National Low Income Housing Coalition, Out of Reach Surveys
  - http://www.nlihc.org/
- National Network for Youth
  - https://www.nn4youth.org/
- Toward *Understanding Homelessness: The 2007 National Symposium on Homelessness Research.* Washington, DC: U.S. Dept. of Health and Human Services.
  - http://aspe.hhs.gov/hsp/homelessness/symposium07/index.htm
- U.S. Conference of Mayors, Hunger and Homelessness Surveys
  - http://www.usmayors.org/
- U.S. Department of Education, ED Data Express
  - http://eddataexpress.ed.gov/

148. 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. A comprehensive research bibliography is available at: https://nche.ed.gov/downloads/nche_mobil_biblio.doc. Additional

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research related to homelessness and education is available at: https://nche.ed.gov/ibt/research.php.

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Glossary of Terms

LEA – Local Education Agency

FAFSA – Free Application for Federal Student Aid

HUD – United States Department of Housing and Urban Development

ESSA – Every Student Succeeds Act

GED – General Education Development

FERPA – The Family Educational Rights and Privacy Act

IDEA – Individuals with Disabilities Education Act

CPS – Child Protective Services

SEA – State Education Agency

IEP – Individualized Education Plan

RTI – Response to Intervention

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Complete List of Questions

Definitions/Identification

1. Do local educational agencies (LEAs) have the responsibility to identify children and youth experiencing homelessness?
2. Is there any guidance on what "fixed, regular, and adequate nighttime residence" means?
3. Is there a time limit on how long a child or youth can be considered homeless?
4. What criteria should be used to determine if housing is "substandard"?
5. Are children and youth who live in trailer homes or trailer parks covered by the Act?
6. Are children and youth who move in with relatives, friends, or other people covered by the Act?
7. Can children or youth be considered homeless if their parents sent them to live with other people because the parents are too poor to provide a regular and adequate home? Is the answer the same if the parents do not live in the United States?
8. In the event that a parent is urgently hospitalized for illness or surgery and the child moves temporarily with a relative in another town, should we consider the child to be homeless?
9. If parents send their children to live with friends or relatives because they want their children to go to another school, do we treat the children as homeless?
10. Are transitional housing programs considered a homeless situation?
11. Are children in foster care covered by the McKinney-Vento Act?
12. Do child welfare agencies have responsibilities for the school enrollment, attendance, and stability of all children and youth in foster care?
13. Can incarcerated youth qualify for McKinney-Vento protection and services?
14. Does incarceration qualify youth for McKinney-Vento services?
15. Does the family's/youth's income affect whether they are covered by the Act?

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16. Are students displaced by a disaster covered by the McKinney-Vento Act?
17. What are some identification strategies to locate children and youth displaced by disaster?
18. Are migrant students covered by the McKinney-Vento Act?
19. Are immigrant students covered by the McKinney-Vento Act?
20. What ages does the McKinney-Vento Act cover?
21. If a student experiencing homelessness was not identified by the school district as McKinney-Vento eligible until the student found permanent housing, is the student entitled to McKinney-Vento supports and services for the rest of the school year?
22. What are an LEA's responsibilities for advising families and youth about their rights if they do not identify or consider themselves as homeless?
23. Is there any procedure in place to prevent families who have permanent housing from claiming to be homeless just to obtain McKinney-Vento services?
24. If a student or family is considered homeless for education purposes according to the McKinney-Vento Act, then do they qualify for services from other agencies like housing, food, etc.?

Liaisons

25. Does every LEA have to have a liaison?
26. What are the liaison's duties?
27. How can an LEA ensure that the liaison is "able to carry out" his or her duties?

School Selection

28. What is meant by the term "school of origin?"
29. What factors should be considered for keeping children at their school of origin?

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30. Are there additional factors that should be considered for keeping preschool aged children at their preschool of origin?
31. How long can a student attend his or her school of origin?
32. What is the school of origin for a student who becomes homeless, enrolls in a new school near the temporary housing, and then moves again to a third attendance area?
33. In the event that a child's temporary housing is located in a different LEA from the school of origin, which district is financially responsible for the child's education?
34. If a student finds temporary housing across state lines from the school of origin, does the McKinney-Vento Act still apply?
35. 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?
36. Are SEA and LEA-run GED programs covered by McKinney-Vento? Can a GED program be considered a "school of origin"?
37. 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?
38. What if placing a student in a school the parent requests would violate a school desegregation order?
39. If a student becomes homeless and wants to enroll in a school for which other students living in the same attendance area are eligible under a school choice program, can the student enroll there? Is transportation required? What about other services?
40. 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?
41. Can a distance learning course be considered a school of origin?

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Transportation

42. Under what circumstances must an LEA provide adequate and appropriate transportation to school for students experiencing homelessness?
43. How far is too far to travel to the school of origin?
44. Is transportation required if the school of origin is in another LEA?
45. 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?
46. When two states are involved in a dispute regarding provision of transportation and the LEAs in either state refuse to pay the cost, is there a provision for a federally-enforced resolution?
47. Can an LEA reimburse parents to transport their children? Can an LEA reimburse youth who are transporting themselves?
48. Does providing or arranging for transportation mean door-to-door transportation, similar to transportation for students receiving special education services?
49. Does providing access to public transportation qualify as providing transportation?
50. 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?
51. Is transportation required while a dispute is being resolved?
52. If a student's temporary housing is across state lines from the school of origin, is transportation still required?
53. How does the McKinney-Vento Act interact with state or local transportation policies related to safety, inter-district transportation, and other issues?

Immediate Enrollment and Attendance

54. How *immediate* is immediate enrollment?

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55. Can schools require verification or proof of residency?
56. Can schools or anyone affiliated with the school contact a landlord, leaseholder, housing authority, or anyone else to discuss a student's or family's living situation?
57. How can schools verify age for enrollment in kindergarten without a birth certificate?
58. If we enroll a student who is homeless without requiring proof of immunizations, aren't we putting the entire school at risk?
59. 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?
60. Can the previous school transfer records to the new school without a parent's signature?
61. Can a previous school refuse to send records due to fees owed for textbooks, etc.?
62. How can a school determine what classes or services to provide a student if there are no school records?
63. If a state or LEA 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?
64. If a student in a homeless situation seeks enrollment in a magnet or alternative school, but the enrollment deadline for that school has passed, what may the McKinney-Vento liaison do to ensure that the student receives appropriate services?
65. How should a school handle the enrollment of a youth in a homeless situation who was recently involved in a criminal act?
66. What if a child has been abducted? If the enrolling school does not require proof of guardianship, how will abducted children be found?
67. Must LEAs publicize information about the McKinney-Vento Act?
68. Does the McKinney-Vento Act define the term "enroll" or "enrollment"?

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Issues Facing Youth

69. How does the McKinney-Vento Act define "unaccompanied youth"? Is there an age range?
70. Is there an age limit on serving secondary students?
71. Must schools enroll youth in school without proof of guardianship?
72. Can a school require a caregiver to get legal guardianship to enroll a student in school?
73. Who can make educational decisions for an unaccompanied youth?
74. Do schools have to contact the police when enrolling unaccompanied youth?
75. What if an unaccompanied youth gets injured in school? How will the child receive medical care without a parent? Will the school be liable?
76. If runaway youth would just follow their parents' rules, they could live at home; why should we encourage their bad behavior?
77. How can schools minimize unaccompanied youth's contact with the juvenile and criminal justice systems?
78. What steps should SEAs and LEAs take to revise the laws and policies in their communities that serve as barriers to the identification, enrollment, attendance, and success of homeless students?
79. How can the Runaway and Homeless Youth Act help unaccompanied youth?

Supporting Academic Success

80. Does the requirement for immediate enrollment include enrollment in optional enrichment programs, gifted programs, extended-day programs, and other supplemental services?
81. Should students in homeless situations be exempt from residency and attendance rules for participating in school sports (for example rules requiring school residency or attendance for a semester before being eligible for sports at that school)?

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82. What if children experiencing homelessness cannot pay fees associated with extracurricular activities, such as club dues, sports uniforms, etc.?

83. 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? If the youth has been attending another school, what obligation does the enrolling school have to give him/her credit for partial coursework completed at the prior school?

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

85. Can students who are homeless receive free school meals without documenting income? What about students with an outstanding balance of unpaid school meal fees?

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

87. What things should schools do to ensure safety and privacy for students impacted by domestic violence?

Private Schools and Charter Schools

88. 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?

89. Does the McKinney-Vento Act apply to charter schools?

90. If a McKinney-Vento student wishes to enroll in a charter school after the deadline or lottery has passed, and the applicable class in the school is now full, does the school have to go over its legal enrollment limit to enroll the student?

Integration

91. 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?

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92. 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" or "to provide temporary special and supplementary services." What do these terms mean?

Disputes and Enforcement

93. Does the McKinney-Vento Act contain procedures for resolving disputes?
94. Does the McKinney-Vento liaison have to be the person listening to the grievance procedure?
95. Does the state need to be involved in resolving disputes?
96. Must school districts provide transportation during disputes?
97. Does the McKinney-Vento Act apply to LEAs that are not receiving its funding?
98. If my state or local law conflicts with the McKinney-Vento Act, am I supposed to follow the McKinney-Vento Act?
99. If an LEA does not follow the law, is there a penalty?

Students Receiving Special Education and Related Services

100. Do special education laws explicitly refer to students experiencing homelessness?
101. Do students receiving special education who are homeless have the right to remain in their school of origin?
102. If a student receiving special education services becomes homeless and elects to remain in the school of origin, who pays for transportation?
103. Must schools immediately enroll students receiving special education who are homeless?
104. Must schools provide special education services immediately to students experiencing homelessness who have IEPs from another school district or state?

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

106. If a student changes LEAs while special education evaluations are underway, must the new LEA continue the evaluation process?

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

108. If a student's poor academic achievement may be attributable to his or her homelessness, does that mean that an LEA should not evaluate for special education?

109. If a student who is in a private day placement pursuant to an IEP becomes homeless and moves into temporary housing in a neighboring LEA, which LEA must pay for the placement? What if the LEA where the student has moved does not believe the placement is necessary?

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

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

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

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

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

114. Can Title I, Part A funds be used to fund transportation?

115. Can Title I, Part A set-asides be used to fund McKinney-Vento liaisons?

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

117. Must an LEA include in its Title I, Part A plan information about services for homeless children and youth?

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Preschool and Other Early Childhood Programs

118. Does the McKinney-Vento Act define the term pre-school?
119. Are children experiencing homelessness automatically eligible for preschool programs?
120. How do the McKinney-Vento Act requirements apply to preschool children?
121. How can one determine whether a preschool program is administered by an LEA, and therefore subject to the requirements of the McKinney-Vento Act?
122. Does the McKinney-Vento Act require transportation to the school of origin for preschool aged children?
123. What must states do to serve preschoolers experiencing homelessness?
124. What must LEAs do to serve preschoolers experiencing homelessness?
125. Can LEAs use McKinney-Vento and Title I homeless set-aside funds to serve preschoolers experiencing homelessness?
126. Are children experiencing homelessness eligible to participate in Head Start and Early Head Start?
127. Are Head Start and Early Head Start programs required to follow any special policies or procedures regarding families and children experiencing homeless?
128. What can liaisons do to fulfill their duty to ensure that homeless families have access to and receive Head Start and Early Head Start?
129. Do any federal or state policies help families experiencing homelessness access child care?

Access to Higher Education

130. Can students experiencing homelessness request waivers of fees for SAT and ACT testing and college applications?
131. What must an LEA do to help prepare youth experiencing homelessness for college?

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132. What must LEA liaisons do to assist unaccompanied homeless youth to apply for financial aid for post-secondary education?

133. Can unaccompanied homeless youth apply for federal financial aid (through the Free Application for Federal Student Aid, or FAFSA) without providing information about their parents' income and their parents' signature?

134. Who can make a determination of homeless and unaccompanied status once a youth is no longer in high school?

135. A student answered "yes" to the questions on the FAFSA about being a homeless unaccompanied youth. Now the financial aid office is asking the student for a determination of a student's homeless status from the McKinney-Vento liaison or shelter director. What kind of documentation must the liaison or shelter director (or designee) provide to satisfy this requirement?

136. Are there other circumstances in which a youth can apply for financial aid without parental signature or financial information?

137. What address should a youth experiencing homelessness use on the FAFSA and college applications?

138. A student's FAFSA has been rejected. What should the student do?

139. Are there other college access programs from which youth experiencing homelessness might benefit?

Coordinating between HUD Homeless Assistance Programs

140. What is the difference between the definition of homelessness used by public schools and early childhood programs, and the definition of homelessness used by the U.S. Department of Housing and Urban Development (HUD)?

141. Can LEA liaisons determine whether a family or youth is homeless according to the HUD's definition of homelessness?

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142. Does meeting the HUD definition of homelessness mean that a family or youth will receive HUD homeless assistance housing or services?

143. Are HUD-funded homeless assistance programs required to coordinate with LEAs to enroll homeless children and youth in schools and early childhood programs?

Resources

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

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

146. Is there any data on high school graduation rates for homeless students?

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

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

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