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THE MOST FREQUENTLY ASKED QUESTIONS ON THE EDUCATION RIGHTS OF CHILDREN AND YOUTH IN HOMELESS SITUATIONS[1]

(updated 11/09)

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.[2] The answers are general responses based on federal statutes, regulations, and guidance; relevant case law; and best practices from across the country. While NAEHCY and NLCHP compiled the answers, they include contributions from the National Center for Homeless Education and attorneys and educators who are experts in homeless education.

It cannot be emphasized enough that these are general responses, and that answers could change based on the facts of a particular case. McKinney-Vento issues require a case-specific inquiry. This document is meant to provide basic information and tools to assist parents, youth, educators and advocates in understanding the McKinney-Vento Act.

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

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

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Definitions/Identification

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

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

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

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permanent, and not subject to change. (e.g., Arizona, Massachusetts and Michigan McKinney-Vento State Plans, 2002.)

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

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

International law defines adequate as follows:

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

A flow chart designed to help families and youth determine whether they meet the definition of homelessness under McKinney-Vento is available at http://www.nlchp.org/view_report.cfm?id=278. A "Determining Eligibility" tool is also available at http://www.serve.org/nche/downloads/briefs/det_elig.pdf.

3. Is there a time limit on how long a child or youth can be considered homeless?
A: No, there is no specific time limit on homelessness. Whether a child or youth meets the definition of homelessness depends upon the living situation and the individual circumstances. It is a case-specific inquiry.Due to the extremely limited incomes of most families experiencing homelessness (on average, less than half the federal poverty line) and the severe shortage of affordable housing across the country, experiences of homelessness can sometimes last an extended period of time. 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 the child or youth's best interest to continue attending his or her school of origin?). Families or youth may be homeless for extended periods of time, during the course of which best interest factors may change, depending on specific factors related to their education and housing situation. It is important to establish eligibility first, then consider best interest in school selection (see Question 28). A good practice of many local McKinney-Vento liaisons is to review students' eligibility status and best interest factors at the beginning of each school year to see if circumstances have changed.

4. Are children and youth who live in trailer homes or trailer parks covered by the Act?
A: Under some circumstances, yes. Under the McKinney-Vento Act, children and youth who live in trailer parks are covered by the Act if they live in the trailer park "due to the lack of alternative adequate accommodations." 42 U.S.C. §11434A(2)(B)(i). Therefore, whether

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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 inadequate, it should be considered a homeless situation. The relative permanence of the living situation must also be examined: if the family is living in the trailer temporarily, they are likely to be covered by the Act.

5. Are children and youth who move in with relatives, friends, or other people covered by the Act?
A: Children and youth who are sharing the housing of others due to loss of housing, economic hardship, or a similar reason are covered by the McKinney-Vento Act. 42 U.S.C. §11434A(2)(B)(i). This can include unaccompanied youth who are running away from home, even if their parents state a desire for the youth to return home. Families who share adequate housing on a long-term basis due to preference or convenience would not be covered by the Act.

6. Can children or youth be considered homeless if their parents have sent them to live with friends or relatives because the parents are too poor to provide a stable 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 who has been sent to live with relatives because his or her parents cannot afford to provide safe, stable housing is eligible for the McKinney-Vento Act's protections. The child is sharing the housing of others due to loss of housing, economic hardship, or a similar reason. Whether the parents live in the U.S. or elsewhere is not a factor under the law (see Question 21). 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), 11434A(2).

7. In the event that a parent is hospitalized for illness or surgery and the child moves temporarily with a relative in another town, do we treat the child as homeless?
A: Yes. The child is sharing the housing of others due to loss of housing, economic hardship, or a similar reason. The emergency generating the child's move is similar to the exigencies of homelessness. The child cannot remain at home alone, so the parent has no choice but to make urgent, temporary arrangements with a family member.

8. 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 experiencing homelessness. If children are sharing housing only to attend a different school, they are not covered under the Act. See also Question 24.

9. 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

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with… providers of services to homeless and runaway children and youths and homeless families (including… transitional housing facilities, …and transitional living programs for homeless youths)." 42 U.S.C. §11432(f)(5)(B). A federal court affirmed that transitional housing programs are covered by the McKinney-Vento Act. Bullock v. Board of Education of Montgomery County, Civ. A. DKC 2002-0798 (D. Md.), memorandum decision filed November 4, 2002.

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

When interpreting the McKinney-Vento Act phrase "awaiting foster care placement," state coordinators and McKinney-Vento liaisons should collaborate with state and local child welfare agencies to support the educational needs of individual students. Generally speaking, in the absence of any existing state or local policies that define awaiting foster care placement, the term should apply to children and youth "who lack a fixed, regular, and adequate nighttime residence." Collaboration between education and child welfare agencies is imperative. McKinney-Vento liaisons, child welfare personnel, and advocates should engage in a local dialogue on this issue, to agree upon categories of out-of-home placements that fall within the statute. Communities that have worked collaboratively and systemically have achieved success in applying the McKinney-Vento Act appropriately to children and youth in state custody.

11. Are all children and youth in foster care covered by the McKinney-Vento Act?
A: No. The McKinney-Vento Act covers children "awaiting foster care placement." 42 U.S.C. §11434A(2)(B)(i). However, the Act does not define that phrase. The only state that has defined "awaiting foster care placement" to include all children and youth in foster care is the state of Delaware. Other states have more restrictive definitions that include a limited number of specific living situations and/or are very case-specific. In all states other than Delaware, only a subset of children and youth in foster care are covered by the Act.

12. Who determines if a child is "awaiting foster care placement?"
A: The local school district McKinney-Vento liaison is responsible for making determinations of eligibility. In order to determine if a child meets the definition of "awaiting foster care placement," liaisons should review state and local policy, consult with local child welfare agencies, and request guidance from their McKinney-Vento State Coordinator, if necessary. If there is a disagreement about the eligibility determination, liaisons should inform the agency or party of their right to dispute the determination of eligibility, as per the McKinney-Vento Act's dispute provisions (see Questions 87-92).

13. Once a child or youth has been determined to meet the definition of "awaiting foster care placement," who determines the school placement of the child or youth?

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A: Under the McKinney-Vento Act, school districts must, to the extent feasible, keep eligible children in the school of origin, except when doing so is contrary to the wishes of the child's or youth's parent or guardian. 42 U.S.C. §11432(g)(3)(B). To assist schools in interpreting "feasibility" and best interest, the U.S. Department of Education has clarified that the determination must be based on a student-centered, individualized analysis of factors related to the child's safety and educational well-being (see Question 28; see also "School Selection for Students in Out-of-Home Care", http://www.serve.org/nche/downloads/briefs/school_sel_in_care.pdf). In the case of a child or youth who meets the definition of "awaiting foster care placement," liaisons should consult with child welfare agencies and educational decision-makers in making school selection decisions. Ultimately, under the law, it is the school district that must render a decision. If a school sends a child or youth to a school that is not the school of origin, or the school requested by the child welfare agency, the school is required to put the reasons in writing to the "parent" (child welfare agency and/or educational decision-maker) and inform them of their right to appeal the decision.

14. 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 new 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. However, if a child or youth in foster care meets the definition of "awaiting foster care placement," then the best interest determination will rest with the school district (see Question 13). 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. More information the education of children in foster care, visit the Website of the Legal Center for Foster Care and Education, at http://www.abanet.org/child/education.

15. Can child welfare agencies assist with the costs of transporting children in foster care to their schools of origin?
A: Yes. According to the Fostering Connections Act of 2008, child welfare agencies may use federal funds to provide reasonable travel for children to remain in their school of origin. This provision is new and covers children in foster care who are eligible under Title IV-E of the Social Security Act. Appropriate school district staff should discuss this provision with child welfare agencies to determine how they will assist with transportation costs.

16. Do incarcerated youth qualify for McKinney-Vento protection and services?
A: No. Children and youth who are incarcerated for violation or alleged violation of a law should not be considered homeless. Incarcerated children and youth are part of the juvenile justice system and subject to the requirements and regulations thereof. However, children and youth residing in shelters or other homeless situations after leaving detention centers are covered by the Act. U.S. Department of Education, *Education for Homeless Children and Youth Program, Non-Regulatory Guidance*, July 2004, Appendix A (hereinafter "2004 Guidance").

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17. Does the family's/youth's income affect whether they are covered by the Act?
A: Generally, no. The Act's definition of homelessness centers on the student's living arrangement. There are no specific income limits in the definition. Income is vaguely referenced in the context of children and youth "sharing the housing of others due to loss of housing, economic hardship, or a similar reason." Therefore, in determining whether shared housing meets the Act's definition, it may be appropriate to consider the family's or youth's financial resources. 42 U.S.C. §11434A(2)(B)(i). However, there are circumstances in which relatively affluent families may be considered homeless under the Act, such as women and children fleeing domestic violence. Also, that an unaccompanied youth may be receiving some financial support from their parents does not necessarily disqualify them from the protections of the Act. Statistically, the mean income of families experiencing homelessness is less than half the federal poverty line.

18. Are students displaced by a disaster covered by the McKinney-Vento Act?
A: Yes. Students who lack a fixed, regular and adequate nighttime residence due to a disaster (earthquake, hurricane, tornado, flood, chemical explosion, terrorist attack, etc.) are considered homeless under the McKinney-Vento Act. They are entitled to the same legal protections and services as other students experiencing homelessness. The National Center for Homeless Education has many resources related to homeless education and natural disasters, at http://www.serve.org/nche/dis/dis.php.

19. What are some identification strategies to locate displaced children and youth?
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 a reliable communication system 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 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.

20. Are migrant students covered by the McKinney-Vento Act?
A: Yes, migrant students are covered by the Act if they are living in a homeless situation. 42 U.S.C. §11434A(2)(b)(iv). More information on applying the Act to migrant students is available at http://www.serve.org/nche/downloads/briefs/migrant.pdf and http://www.serve.org/nche/downloads/briefs/imm_lia.pdf.

21. Are immigrant students covered by the McKinney-Vento Act?
A: Yes. Immigrant students are covered by the Act if they are living in a homeless situation, without regard to whether they are in the U.S. legally or illegally. Undocumented students have the same right to public education as U.S. citizens. Plyler v. Doe, 457 U.S. 202 (1982). Therefore, the McKinney-Vento Act applies to them in the same way it would apply to any student; if the student meets the definition of homeless, he or she must be enrolled in school

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immediately, even if lacking documents typically required for enrollment. A child's or youth's immigration status is irrelevant. In fact, it is illegal for school staff to inquire about a student's or family's immigration status, request immigration documents, or to take any other actions that might prevent immigrant students from enrolling in and attending school. The McKinney-Vento Act does not apply to immigrant students who live in a fixed, regular and adequate residence.

22. What ages does the McKinney-Vento Act cover?
A: The McKinney-Vento Act applies to children and youth age 21 and under, consistent with their eligibility for public education services under state and federal law. 2004 Guidance, A-3. State laws vary, but generally provide access to all students until high school graduation or equivalent, or until age 18 (or over in some states). For special education students, federal law provides the right to access services until age 22. 20 U.S.C. §1412(a)(1)(A).

23. What are a district'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), (iv). The Act requires school districts to disseminate public notice of the education rights of children and youth in homeless situations where such children and youth receive services, such as schools, family shelters, and soup kitchens. 42 U.S.C. §11432(g)(6)(A)(v). Identification and outreach strategies must be administered sensitively and without stigma, to create an environment in which families, children and youth will be comfortable seeking support.

Once a school sensitively and discreetly 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 school district should still count all children and youth who have been identified as homeless in their data collection, even if additional services are not provided. Strategies for identification, creating awareness, and disseminating notice are available at http://www.serve.org/nche/downloads/briefs/identification.pdf. Sample brochures using non-stigmatizing language are available at http://wiki.nlchp.org/display/Manual/Foreclosure+Crisis+Materials.

24. Is there any procedure in place to prevent families who have permanent housing from claiming to be homeless just to obtain McKinney-Vento services?
A: Yes. Every school district must designate a liaison for students experiencing homelessness. 42 U.S.C. §11432(g)(1)(J)(ii). One of the liaison's duties is to identify children and youth who meet the statutory definition of homeless. 42 U.S.C. §11432(g)(6)(A)(i). Therefore, the liaison must determine whether a student meets the definition. During that process, school districts must enroll students suspected or claiming to be experiencing homelessness immediately. If, after enrollment, it is determined that a student is not homeless as defined in the law, school districts should follow the policies that are in place to address other forms of fraud. Written notice should be given to the parent, guardian, or youth, including his or her right to appeal the decision.

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25. Does the McKinney-Vento Act's definition of homelessness in the education provisions (Education for Homeless Children and Youths) also qualify the family or youth to access services from other agencies (i.e. housing, food assistance, etc.)?
A: The McKinney-Vento Act's education definition applies for a wide variety of educational purposes, including school district preschool and K-12 education programs, school meals, special education, Head Start, and financial aid for college. The U.S. Department of Housing and Urban Development (HUD) employs a narrower definition. 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.

Families and youth who do meet HUD's definition should still receive McKinney-Vento education benefits, as well as other HUD funds that are targeted to homelessness prevention and low-income individuals. Educators and advocates should approach their HUD Continuums of Care[3] to seek such funding and support. In fact, the McKinney-Vento Act requires states and school districts that receive McKinney-Vento funds to coordinate with state and local housing agencies and other service providers to minimize educational disruption for children and youth who become homeless. 42 U.S.C. §11432(g)(5). Similarly, HUD Continuums of Care are required to collaborate with school districts to assist in the identification and enrollment of homeless children and youth, HEARTH Act, Sec. 427(a)(1)(B)(iii). More information about the federal definitions of homelessness is available at http://www.naehcy.org/update.html.

Liaisons generally

26. Does every school district have to have a liaison?
A: Yes. The McKinney-Vento Act requires every local educational agency to "designate an appropriate staff person" to serve as liaison. 42 U.S.C. §11432(g)(1)(J)(ii).

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

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

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School Selection

28. What factors should be considered for keeping children at their school of origin to the extent feasible?
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 school district "shall to the extent feasible, keep a homeless child or youth in the school of origin, except when doing so is contrary to the wishes of the child's or youth's parent or guardian." 42 U.S.C. §11432(g)(3)(B). [School of origin is defined as the school the student attended when permanently housed, or the school in which the student was last enrolled. 42 U.S.C. §11432(g)(3)(G).]

To assist schools in interpreting "feasibility" and best interest, the U.S. Department of Education has clarified that the determination must be based on a student-centered, individualized analysis of factors related to the child's safety and educational well-being. Factors that may be considered include: the age of the child or youth; the impact the commute may have on the student's education; personal safety issues; the students' need for special instruction; length of anticipated stay in temporary shelter or other temporary location; and time remaining in the school year. There may be other student-centered factors not enumerated here that will help determine feasibility. Above all, feasibility is a child-centered decision. 2004 Guidance, G-4. A tool to assist in school selection is available at http://www.serve.org/nche/downloads/briefs/sch_sel_checklist.pdf ("Guiding the Discussion on School Selection").

29. How long can a student attend his or her school of origin?
A: Students have the right to remain in the school of origin for the duration of homelessness, even if the child's homelessness extends over multiple school years. In addition, if a student moves into permanent housing during the school year, the student can finish that academic year in the school of origin. 42 U.S.C. §11432(g)(3)(A). Some states, such as New York, extend this right a further 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)). In addition, homeless students who become permanently housed continue to be eligible for Title I services and free meals for the remainder of the school year. 2004 Guidance, I-1.

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

30. 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)(G). In the situation

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described, the school of origin can be either the school the student originally attended when permanently housed or the school in which the student was last enrolled (i.e. the school near the initial temporary housing).

31. In the event that a child's temporary housing is located in a different school district from the school of origin, which district is financially responsible for the child's education?
A: The McKinney-Vento Act does not assign financial responsibility. States may have policies about shared fiscal responsibilities. The possibility of nonpayment does not affect districts' obligation to provide education and transportation. Inter-district disputes cannot delay the immediate enrollment (defined as attending classes and participating fully in school activities) of children in the school selected. If there are no state policies to address fiscal responsibility, it may be reasonable for the district receiving state and federal funds for the student to retain financial responsibility.

For transportation, if two districts are involved, they must agree upon a method to apportion the cost and responsibility of transportation, or split it equally. States should develop policies and procedures to assist with inter-district transportation issues, including disputes between districts regarding apportioning costs and responsibility. The state attorney general's office may also be able to assist. Establishing inter-district transportation procedures and formalized agreements will be essential to ensure that transportation is arranged quickly for students. (See also Questions 42-43.)

32. If a student finds temporary housing across state lines from the school of origin, does the McKinney-Vento Act still apply?
A: Yes. Since the McKinney-Vento Act is a federal law, it applies as in any other situation. Therefore, the student must be placed in the school of origin, unless that is against the parents'/guardians' wishes or is not feasible according to the child'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. Schools must conduct the standard feasibility inquiry, based on the needs and circumstances of the individual student. Communication among the involved State Coordinators and liaisons can facilitate the provision of services.

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

34. Are state-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. 2004 Guidance, I-1. Therefore, if state-run GED programs are available to housed students, students in homeless situations must also have access to those programs. In

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addition, McKinney-Vento funds and Title I, Part A funds can be used to cover GED testing costs for youth experiencing homelessness.

35. Sometimes a student in a homeless situation will enroll in a new school, because the parent/guardian or unaccompanied youth was not informed of the student's right to remain in the school of origin. In that case, does the student still have the right to go back to the school of origin?
A: Yes. If parents or youth are not informed of their rights, then the school district must enroll the student in the original school of origin, consistent with the parent's or youth's wishes (and feasibility). The school district is required to inform families of their rights. 42 U.S.C. §§11432(g)(6)(A)(i), (iv), (v), (vii). Not knowing one's rights does not mean not having the rights.

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

37. 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)(G). 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. The McKinney-Vento Act further requires school districts 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 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 remain eligible for all other McKinney-Vento services.

38. If a family with more than one child becomes homeless, and the children would like to attend school in different school districts (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 school districts, 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.

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39. Can a distance learning course be considered a school of origin?
A: Yes. Distance learning courses offered by a school district or public educational service agency are part of the public school system, and students experiencing homelessness have the right to continue participating in those program as their "school of origin" despite changes in their living situation. The school district's responsibilities to provide transportation, free meals, and other services are consistent with their responsibilities toward students experiencing homelessness in a regular school setting.

Transportation

40. Under what circumstances must a school district provide transportation to school for students experiencing homelessness?
A: The McKinney-Vento Act requires school districts to provide transportation for students experiencing homelessness in three situations. First, school districts must provide transportation to the school of origin upon the request of a parent or guardian, or in the case of an unaccompanied youth, upon the request of the McKinney-Vento liaison. 42 U.S.C. §11432(g)(1)(J)(iii). That is true regardless of whether the district provides transportation for other students or in other circumstances. Second, for other transportation (as opposed to the school of origin), the McKinney-Vento Act requires districts to provide transportation comparable to that provided to housed students. 42 U.S.C. §11432(g)(4)(A). Therefore, if the district transports housed students to the local school or to a summer program, it must also transport students experiencing homelessness. Finally, school districts must eliminate barriers to the school enrollment and retention of students experiencing homelessness. For example, if a student is living on or near an extremely busy intersection, in a very dangerous neighborhood, or is otherwise unable to attend school without transportation, the district must eliminate lack of transportation as a barrier to the child attending school. 42 U.S.C. §§11432(g)(1)(I), (g)(7).

41. How far is too far to travel to the school of origin? What if my state has established a general limit on all school transportation of one hour or 30 miles, for example?
A: The McKinney-Vento Act does not specify any mileage or time limit for travel to the school of origin. The Act requires school districts 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, 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. This determination will depend on the student's circumstances. For example, a lengthy commute that may be harmful to a young child may be feasible for an older youth. Similarly, in many rural areas, lengthy commutes to school are common; the commute of a child experiencing homelessness in such an area would need to be evaluated in that context. Therefore, transportation services must rest on the individualized feasibility determination, not blanket limits. (See Question 28 for information on the feasibility determination process.) State or school district policies that establish blanket limits on transportation violate the McKinney-Vento Act. The federal law supersedes these contrary state or local policies.

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42. Is transportation required if the school of origin is in another school district?
A: Yes. As long as attendance at the school of origin is feasible, transportation is required, even if it requires students to cross district lines. If two districts are involved, they must agree upon a method to apportion the cost and responsibility of transportation, or split it equally. 42 U.S.C. §11432(g)(1)(J)(iii). States should develop a system to assist with inter-district transportation issues, including disputes between districts regarding apportioning costs and responsibility. The state attorney general's office may also be able to assist. States may have policies about shared fiscal responsibilities. The possibility of nonpayment does not affect districts' obligation to provide transportation. Inter-district disputes cannot delay the immediate enrollment (defined as attending classes and participating fully in school activities) of children in the school selected. 42 U.S.C. §§11432(g)(3)(C), 11434A(1). Establishing inter-district transportation procedures will be essential to ensure that transportation is arranged quickly for students (see also Question 43.)

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

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

45. Can a school district reimburse parents to transport their children? Can a school district reimburse youth who are transporting themselves?
A: Yes and yes. School districts may provide gas vouchers 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.

46. Does providing or arranging for transportation mean door-to-door transportation, similar to transportation for students receiving special education services?
A: Generally, no. The McKinney-Vento Act does not require door-to-door transportation, unless that is the only appropriate arrangement for a particular student. For example, if a student is

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living on or near an extremely busy intersection, it may not be 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).

47. Does providing access to public transportation qualify as providing transportation?
A: Yes, if the public transportation is appropriate. For example, young children cannot be expected to use public transportation alone. In such cases, school districts should provide transit passes for an 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. 2004 Guidance, H-1; 42 U.S.C. §§11432(g)(1)(I), (g)(7).

48. If a district doesn't offer transportation to summer school for any students, does it have to provide summer school transportation for students in homeless situations?
A: It depends on the nature of the summer school participation. The McKinney-Vento Act requires schools to provide comparable transportation services for students in homeless situations. If the school does not provide transportation to summer school for housed students, then it is generally not required to provide transportation to homeless students. However, if attendance in summer school is required for the student to pass to the next grade, and lack of transportation will prevent the child from participating, that presents a barrier to the student's full participation in school and academic success. The district must remove that barrier, so the student can avoid being retained in the same grade. 42 U.S.C. §§11432(g)(1)(I), (g)(7).

49. 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 40.) While disputes are pending, students must be enrolled in the school in which they are seeking enrollment. If that school is the school of origin, the school district(s) involved must provide transportation. 2004 Guidance, H-5; 42 U.S.C. §11432(g)(1)(J)(iii). If that school is the local school, transportation must be provided to the extent it is provided to housed students, and to the extent necessary to ensure it is not a barrier to attendance. 42 U.S.C. §§11432(g)(1)(I), (g)(4), (g)(7). These provisions apply whether the dispute is about school enrollment, school selection, or whether the child or youth is homeless under the McKinney-Vento Act.

50. 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 State Coordinators, liaisons and transportation directors can facilitate the provision of transportation (see Question 32).

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

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A: As a federal law, the McKinney-Vento Act supersedes conflicting state and local laws and policies. School districts must comply with the Act's transportation requirements. However, transportation must always be safe and appropriate, and school districts 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.

Immediate Enrollment and Attendance

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

53. Can schools require verification or proof of residency, such as seeing a lease in the case where a family is hosting a student who is not a family member?
A: No. Schools may not require verification or proof of residency as a condition of enrollment. 42 U.S.C. §11432(g)(3)(C). Due to their living situations, it frequently will be impossible for families and youth experiencing homelessness to provide such verification. Further, schools must not contact the landlords of host families or other authorities to discuss living arrangements. Residence information provided by parents or youth to schools is part of the student's educational records and protected by federal privacy laws. Such contact could also lead to eviction of the host family. However, the Act does not prohibit schools from requiring parents, guardians, or youths to submit emergency contact information. 42 U.S.C. §11432(g)(3)(H); 20 U.S.C. §1232g.

54. 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. 2004 Guidance, Appendix D.

55. If we enroll a student who is homeless without requiring proof of immunizations, aren't we putting the entire school at risk?
A: The McKinney-Vento Act requires immediate enrollment, even if students are unable to produce immunization or other medical records, recognizing that families and youth who are homeless are frequently unable to obtain and keep copies of records. 42 U.S.C. §11432(g)(3)(C). The vast majority of homeless students have been enrolled in school before and have had required immunizations. These records should be a part of their school records. Since the

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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. It is recognized among public health practitioners that the fact that most students are immunized prevents serious outbreaks from occurring. See Memorandum from U.S. Surgeon General Dr. Joycelyn Elders, at http://www.naehcy.org/guidance.html. 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.

56. 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.

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

58. 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). Additionally, the Act requires that school districts 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).

59. How can a school determine what classes or services to provide a student if there are no school records?
A: The enrolling school must immediately admit the student and must contact the previous school for records. 42 U.S.C. §§11432(g)(3)(C), (D). If the records cannot be transmitted immediately, the enrolling school can speak with staff from the previous school to get basic information about the student. Former teachers, counselors, and administrators should be able to provide this information. The enrolling school can also get information regarding class schedules from parents and youth. The school can also establish procedures for conducting a quick assessment of the student's skills. Even if records are delayed, the student must be enrolled in school and provided the most appropriate services possible immediately. Upon receipt of

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previous school records, the school can make any necessary adjustments to the student's classes and services. Additional enrollment strategies are available at http://www.serve.org/nche/downloads/briefs/assessment.pdf.

60. If a state or school district has zero tolerance rules for absences (for example, requiring students with 10 absences to be referred to juvenile court, or to fail classes automatically), how do those rules apply to students in homeless situations?
A: The McKinney-Vento Act requires schools to identify and remove all barriers to enrollment and retention in school for children and youth in homeless situations. 42 U.S.C. §§11432(g)(1)(I), (g)(7). Zero tolerance rules for absenteeism can be such barriers, particularly when they result in class failures, exclusion from school, or court involvement. Frequently, students in homeless situations will miss school due to their living situations. Absences caused by homelessness must not be counted against students, as this would create a barrier to enrollment and retention in school.

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

62. How should a school handle the enrollment of a youth in a homeless situation who was recently involved in a criminal act?
A: It is inappropriate to suspect runaway youth of criminal pasts. 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 as possible about the youth's background for the primary purpose of obtaining appropriate services. If the liaison discovers that the youth has been involved in criminal activity, district policies relating to students with a criminal background would take effect.

63. 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, children's protective services, or if possible, the student's

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parents, consistent with state law. While law enforcement and/or children's protective services are conducting their investigations, the safest place for the student is school, rather than isolated with a potential abductor. It is advisable to involve the school counselor or social worker, who can closely monitor the situation. 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; see http://www.missingkids.com/ or 1-800-THE-LOST.

64. Must school districts 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)(iv), (v), (vii). Posters, such as the ones provided by the U.S. Department of Education (available at http://www.serve.org/nche) and other information translated into languages represented in the community must be placed where homeless families and youth receive services. To comply with the McKinney-Vento Act, the district should train all school enrollment staff, secretaries, school counselors, school social workers, and principals on the legal requirements for enrollment. School nutrition staff, school nurses, teachers, 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 80). Trainings should take place on a yearly basis to address staff turnover. Information should also be provided in writing, as in a district handbook.

65. 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.

Issues Facing Youth

66. How does the McKinney-Vento Act define "unaccompanied youth"? Is there an age range?
A: Unaccompanied youth is defined as a youth not in the physical custody of a parent or guardian. 42 U.S.C. §11434A(6). The Act does not provide an age range.

67. Is there an age limit on serving secondary students?
A: The McKinney-Vento Act applies to children and youth age 21 and under, consistent with their eligibility for public education services under state and federal law. 2004 Guidance, A-3. 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).

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

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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), (g)(1)(F)(ii). States and school districts have established different procedures for enrolling youth. Some permit the youth to enroll himself or herself; some have the McKinney-Vento liaison handle enrollment; others use caregiver forms to allow adult caregivers to enroll youth. The McKinney-Vento Act requires states and school districts to eliminate barriers to enrollment and retention and to enroll unaccompanied youth in school immediately. 42 U.S.C. §§11432(g)(1)(I), (g)(7). School districts may adopt their own policies to meet these mandates. More information about approaches to enroll unaccompanied youth immediately is available at http://www.serve.org/nche/downloads/briefs/youth.pdf.

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

70. Who can make educational decisions for an unaccompanied youth?
A: States and school districts have established different procedures for educational decision-making. Some permit the youth to make educational decisions on his/her own behalf; some vest the liaison with that authority; others allow adult caregivers 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 school districts to eliminate barriers to enrollment and retention and to enroll unaccompanied youth in school immediately. 42 U.S.C. §§11432(g)(1)(I), (g)(7). School districts may adopt their own policies to meet these mandates. It should be noted that the Individuals with Disabilities Education Act (IDEA) has its own rules and procedures for appointing a "surrogate parent" to make special education decisions for minors, where a parent or legal guardian is not available (see Question 100).

71. Do schools have to contact the police when enrolling unaccompanied youth?
A: Generally, no. Very few states require schools to report runaway youth. State law determines the obligation of a McKinney-Vento liaison, school staff, or service provider to contact child protective services or law enforcement if they suspect abuse. Regardless of such obligations, the McKinney-Vento Act requires schools to enroll unaccompanied youth in school immediately. 42 U.S.C. §11432(g)(3)(C). Further, contacting the police when enrolling youth is likely to violate the Act's requirement that school districts and states eliminate barriers to enrollment and retention in school. 42 U.S.C. §§11432(g)(1)(I), (g)(7). U.S. Department of Education Guidance elaborates that "the McKinney-Vento statute provides a broad mandate to States and districts to change policies or practices that act as a barrier to the enrollment, attendance, and school success of homeless children." 2004 Guidance, G-7.

Based on these requirements, schools should exercise care and concern when contacting social services or law enforcement agencies. Youth are unlikely to enroll in or attend school if

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they fear being taken into custody simply because they are unaccompanied. While educators are required to report reasonable suspicions of child abuse, in many cases unaccompanied youth are in the care of an 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 police in such cases. A state-by-state guide to mandatory reporting laws is available from the Child Welfare Information Gateway, at http://www.childwelfare.gov/systemwide/laws_policies/statutes/manda.pdf. If school personnel have a reasonable suspicion of child abuse, liaisons should work with police and child protective services to keep the youth in school and to serve the student's best interest. Where state law provides a choice, as most do, schools should contact child protective services rather than the police. Child protective services agencies should have the training and facilities to respond more appropriately to such reports.

72. 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.

As state laws vary regarding the rights of minors to receive medical care without a parent or guardian, McKinney-Vento liaisons and other advocates may wish to contact the Center on Adolescent Health and the Law (http://www.cahl.org/) or state/local resources for more information. A legal memorandum on unaccompanied youth's access to medical care is available at http://www.naehcy.org/memos.html.

73. 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 are on the streets a significant length of time, have fled from abusive homes for their own survival. Some leave home without a parent's permission; others are forced out of their homes by their parents or guardians. Studies of unaccompanied youth have found that 20 to 50 percent were sexually abused in their homes, while 40 to 60 percent were physically abused.[4] Severe dysfunction in the home is also common. Forty percent of callers to the National Runaway Switchboard identified negative family dynamics as the

[4] Toro, P., et al. (2007). "Homeless Youth in the United States: Recent Research Findings and Intervention Approaches." *Toward Understanding Homelessness: The 2007 National Symposium on Homelessness Research*. Washington, DC: U.S. Dept. of Health and Human Services; Robertson, Marjorie and Toro, Paul (1999). "Homeless Youth: Research, Intervention, and Policy." Practical Lessons: The 1998 National Symposium on Homelessness Research. Washington DC: U.S. Dept. of Housing and Urban Development; MacLean, Michael G., Embry, Lara E. & Cauce, Ana Mari (1999). Homeless Adolescents' Paths to Separation from Family: Comparison of Family Characteristics, Psychological Adjustment, and Victimization. Journal of Community Psychology, 27(2), 179-187.

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leading reason for leaving home.[5] For example, over two-thirds of unaccompanied youth surveyed in a recent study reported that at least one parent abused drugs or alcohol.[6]

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 in one study identified themselves as gay, lesbian, bisexual and/or transgender, compared to only 3-5% of the overall population[7], and 10% of currently homeless female teenagers are pregnant.[8] 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.[9] 5,000 runaway youth die every year from assaults, illness, or suicide. Yet many runaway youth continue to value education and the opportunities, safety, and stability it provides. Excluding these youth from school will harm them and society.

74. Can unaccompanied youth enroll in Job Corps without parental approval?
A: With advocacy, yes. Job Corps is a comprehensive residential, education and job training program for at-risk youth, ages 16 through 24. It provides academic, vocational, and social skills training to nearly 70,000 students a year, at 118 different sites. Youth who are homeless are eligible for Job Corps. Although the Job Corps law does not require a parent's or guardian's signature for a youth to participate, federal Job Corps policy does. However, Job Corps programs can waive that requirement for youth who have no parent or guardian, cannot find a parent or guardian, or are legally emancipated. The requirement can also be waived for youth whose parents are not willing to sign, as long as they do not object to the youth participating. McKinney-Vento liaisons have used this exception to advocate successfully for unaccompanied youth to participate in Job Corps without a parent's signature. The Job Corps Policy Requirements Handbook is available at http://www.jobcorps.gov/AboutJobCorps/program_admin.aspx (see page 11 of Exhibit 1-1). 20 C.F.R. §664.200; 29 U.S.C. §2884(3)(C); Job Corps Policy Requirements Handbook; 29 U.S.C. §2801(25).

75. How can the Runaway and Homeless Youth Act help unaccompanied youth?
A: The Runaway and Homeless Youth Act can help youth in many ways. First, it contains a Basic Center Program that supports emergency shelters for up to 15 days for unaccompanied youth under 18 years old. Second, the law supports Transitional Living Programs for youth, which provide long-term housing for up to 18 months and life skills for youth 16-21 years old. Third, the law contains a Street Outreach Program to provide outreach and services to youth on the streets. Lastly, the law funds the National Runaway Switchboard, trainings for youth workers, and other information and supports. Runaway and Homeless Youth Act programs are required to provide youth with information about the McKinney-Vento Act and to collaborate with their McKinney-Vento liaisons. More information about this program is available at

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[5] http://www.1800runaway.org/
[6] MacLean, et al. (1999).
[7] The National Gay and Lesbian Task Force and the National Coalition for the Homeless (2007). *Lesbian, gay, bisexual and transgender youth: An epidemic of homelessness*. Washington DC: Authors.
[8] Toro, P., et al. (2007).
[9] Bernstein, N. & Foster, L.K. (2008). *Voices from the Street: A Survey of Homeless Youth by Their Peers*. Sacramento, CA: California Research Bureau.

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http://www.acf.hhs.gov/programs/fysb/content/youthdivision/index.htm. 42 U.S.C. §§5701 et seq.; 42 U.S.C. §5712(b)(3); 45 C.F.R. §1351.18(e).

Supporting Academic Success

76. Does the requirement for immediate enrollment include enrollment in optional enrichment programs, extended-day programs, and other supplemental services?
A: Yes. Enrollment is defined to include attending classes and participating fully in school activities. 42 U.S.C. §11434A(1). Enrichment programs and other supplemental services are school activities. Furthermore, 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.

77. 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 school districts to eliminate barriers to school enrollment and retention for children and youth experiencing homelessness. 42 U.S.C. §§11432(g)(1)(I), (g)(7). Enrollment is defined as attending school and participating fully in school activities. 42 U.S.C. §11434A(1). Sports and other extra-curricular activities are school activities. Many courts, including the Supreme Court of the United States, have determined that school athletic associations are considered to be part of the state, due to their close relationship with the state. Therefore, athletic associations must comply with the McKinney-Vento Act's requirement to remove barriers, by exempting homeless students from sports participation rules that students cannot meet due to their homelessness and mobility, such as attendance rules. Athletes experiencing homelessness have won hearings on this issue against several state athletic associations. In addition, some athletic associations have changed their written policies to facilitate compliance with the McKinney-Vento Act.

78. What if children experiencing homelessness cannot pay fees associated with extra-curricular activities, such as club dues, sports uniforms, etc.?
A: Again, barriers to full participation in school must be eliminated. 42 U.S.C. §§11432(g)(1)(I), (g)(7). Fees for extra-curricular activities should be waived or paid with donations or district funds.

79. If a youth has not been in a school and tries to enroll mid-semester, what obligation does the school have to enroll the student and give him/her credit for the work they do in the remainder of the semester?
A: The McKinney-Vento Act requires the school to enroll the student immediately. 42 U.S.C. §§11432(g)(3)(C). The Act also requires the school district to remove barriers to the student's retention in school. 42 U.S.C. §§11432(g)(1)(I), (g)(7). Since the inability to earn any credit is a disincentive to remaining in school, the school must address that problem. The school must make

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any necessary adjustments to the student's schedule to permit the student to obtain partial or pro-rated credit for his or her work and to participate in credit recovery opportunities.

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

81. 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 U.S. Department of Agriculture's Child Nutrition Division issued a policy in 2002 (later enacted into law by the Child Nutrition and WIC Reauthorization Act of 2004) that makes any child identified as homeless by a 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. Copies of the USDA policies are available at http://www.naehcy.org/guidance.html. 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.

82. 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, and other appropriate services in the community. 42 U.S.C. §11432(g)(6)(A)(iii). "Other appropriate services" may include housing, shelter, job training, public assistance, food and nutrition, and legal assistance.

Private Schools and Charter Schools

83. 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. Public schools should offer McKinney-Vento and Title I, Part A services to students experiencing homelessness who are attending private schools, as

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public schools do for other private school students who are eligible for public education services (for example, special education and Title I, Part A services).

84. 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 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 school district to which it belongs. A charter school determined to be a local educational agency must follow the Act's requirements for local educational agencies, including designating a liaison, identifying homeless students, ensuring immediate enrollment, honoring the right for students to remain in the school of origin, and providing transportation.

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 must be waived for students experiencing homelessness. Charter schools that are considered their own LEAs must designate a McKinney-Vento liaison for students experiencing homelessness.

Integration

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

86. The McKinney-Vento Act says that its funds can be used to provide services to children experiencing homelessness in a separate setting within a public school, only "as necessary for short periods of time for health and safety emergencies." How is "health and safety emergencies" defined?
A: McKinney-Vento Act funds must expand or improve upon services provided as part of a school's regular academic program, and cannot replace regular academic services. 42 U.S.C. 11433(a)(2)(A)(iii). The Act does contain a very limited provision for providing services to students experiencing homelessness in a separate setting within a public school, as described in the question. The very limited "health and safety emergency" exception says:

1. only school districts that get McKinney subgrants,
2. can provide services to homeless students in separate settings within a public school (not at a shelter or other location),
3. as necessary,

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4. for short periods of time,
5. for health and safety emergencies.

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

Disputes and Enforcement

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

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

89. Does the state need to be involved in resolving disputes?
A. Yes. The McKinney-Vento Act requires states to ensure that school districts comply with the Act. 42 U.S.C. §§11432(f)(6), (g)(2). Without a role in dispute resolution, the state will not be able to ensure compliance. Further, the U.S. Department of Education has outlined dispute resolution procedures which include a state-level appeal. 2004 Guidance, G-9. Allowing school districts to resolve disputes without state involvement and oversight would allow barriers to school enrollment and retention to arise, in violation of the McKinney-Vento Act. 42 U.S.C. §§11432(g)(1)(I), (g)(7). Finally, state involvement early in the dispute process will be important when inter-district issues arise.

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90. Must school districts provide transportation during disputes?
A: Yes. See Question 49.

91. Does the McKinney-Vento Act apply to school districts that are not receiving its funding?
A: Yes, the McKinney-Vento Act applies to every local educational agency in every state. As with most education laws, the Act applies to states receiving the federal funds.

92. If a school district does not follow the law, is there a penalty?
A: Yes. States are required to ensure that school districts in the state comply with the McKinney-Vento Act. 42 U.S.C. §§11432(f)(6), (g)(2). The U.S. Department of Education has clarified that state educational agencies must provide technical assistance and ensure compliance of all school districts in the state. 2004 Guidance, D-4, D-5. Therefore, the state can sanction noncompliant school districts by withholding federal funds or other means. Families can also sue school districts in state and/or federal court. Several lawsuits have been filed under the McKinney-Vento Act, including lawsuits in Illinois, Maryland, Alabama, New York, Hawaii, and Pennsylvania. As a result, school districts have been forced to change their policies and practices and pay significant attorney fees. In addition, the U.S. Department of Education regularly monitors state and school district compliance with the McKinney-Vento Act and could withhold or require repayment of federal funds in cases of noncompliance.

Students Receiving Special Education and Related Services

93. 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.

94. 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 feasible or against the parent's/guardian's wishes. More often than not, the feasibility equation will weigh in favor of keeping a special education student in the same school, because changing schools and educational programs can be particularly detrimental to students with special needs. Of course, if the distance is such that the commute would be more detrimental than changing schools would be, then the student may have to change schools.

There are additional legal requirements under the IDEA, 20 U.S.C. §§1400 et seq., that might come into play. However, IDEA does not supersede the McKinney-Vento Act; a special education student retains all McKinney-Vento rights.

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

96. 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. 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). There are other legal requirements under the IDEA, 20 U.S.C. §§1400 et seq., that might come into play. However IDEA does not supersede the McKinney-Vento Act; a special education student retains all McKinney-Vento rights.

97. 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 school districts 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 district can either adopt the existing IEP or implement a new IEP. If the new school district 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).

98. 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 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.

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

99. If a student changes school districts while special education evaluations are underway, must the new school district continue the evaluation process?
A: Yes. Under IDEA, school districts 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 district 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 districts 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).

100. 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 consistent with state law, a foster parent. 34 C.F.R. §300.30. If the school district cannot identify or locate such an adult, the district 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, school districts 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).

101. If a student's poor academic achievement may be attributable to his or her homelessness, does that mean that a school district 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. The 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 school districts 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

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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 a school district'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. However, the U.S. Department of Education has emphasized that such interventions can be provided while an evaluation is in progress, rather than delaying the evaluation process. A memo discussing this issue in greater detail is available at: http://www.naehcy.org/idea.html. 20 USC §§1414(b)(4)-(5); 34 CFR §§300.306, 300.309(b)-(c); 71 Fed. Reg. 46656, 46658-9; U.S. Department of Education Office of Special Education and Rehabilitative Services (OSERS) "Questions and Answers on Response to Intervention (RTI) and Early Intervening Services (EIS)".

102. If a student who is in a private day placement pursuant to an IEP becomes homeless and moves into temporary housing in a neighboring school district, which district must pay for the placement? What if the school district 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 school district 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 local districts or the state education agency determines 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 (February 2008). "Questions and Answers on Special Education and Homelessness", E-2.

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

103. Are children and youth in homeless situations eligible for Title I, Part A services? What if they are succeeding in school?
A: Yes. All children and youth in homeless situations are automatically eligible for Title IA services, whether or not they live in a Title I school attendance area or meet the academic standards required of other children for eligibility. 2004 Guidance, M-1; 20 U.S.C. §6315(b)(2)(E). The poverty, unstable and often unhealthy living situations, and emotional

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trauma of homelessness place even outstanding students at risk of academic regression and failure.

104. If a student experiencing homelessness attends a school that does not receive Title I, Part A funds, how does the student receive services?
A: Every school district that receives Title IA funds is required to set aside a portion of its allotment to provide comparable services to homeless students attending schools that do not receive Title IA services. 2004 Guidance, M-3; 20 U.S.C. §6313(c)(3). For example, Title IA funds frequently serve elementary school students. The mandatory set-aside ensures that middle and high school students experiencing homelessness in those districts receive Title IA services.

105. Is there a formula for calculating Title I, Part A set-asides?
A: No, there is no mandated formula for Title IA set-asides. However, the set-aside must be sufficient to provide "comparable services" to students attending non-participating schools. 2004 Guidance, M-3; 20 U.S.C. §6313(c)(3). Therefore, the set-aside must be based on the number and needs of children and youth experiencing homelessness in the school district. Some states have established statewide guidelines for determining set-aside amounts and have found it beneficial. Some possible methods to calculate the set-aside include: (1) identify and assess the needs of students in homeless situations in the district, and set aside funds accordingly; (2) multiply the number of identified students experiencing homelessness by the Title IA per-pupil allocation; (3) for districts with a McKinney-Vento subgrant, reserve an amount greater than or equal to the district's McKinney-Vento funding request; (4) reserve a specific percentage based on the district's poverty level or total Title IA allocation. (Calculation methods taken from: "Four Methods for Determining New Mandatory Title I, Part A Set-Aside for Homeless Children." *NCLB Financial Compliance Insider* (Nov. 2003). Available at http://www.serve.org/nche/downloads/calculating_setasides.pdf.)

106. What kind of services can Title I, Part A funds (including set-asides and other funds) pay for?
A: Title IA funds, including those under the set-aside and other funds, can be used to serve students experiencing homelessness in both Title IA and non-Title IA schools. The services should support the students to succeed in school and to meet academic achievement standards. The funds can be used to provide services that are not ordinarily provided to other Title IA students, 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, Title IA funds can be used to provide:
• 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;

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• 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; and
• Fees for SAT/ACT testing.
2004 Guidance, M-3, M-4; U.S. Department of Education, *The American Recovery and Reinvestment Act of 2009: Using Title I, Part A ARRA Funds*, September 2, 2009, G-11 (hereinafter "2009 Guidance"), available at http://www.ed.gov/policy/gen/leg/recovery/guidance/titlei-reform.pdf.

107. Can Title, Part A funds be used to fund transportation?
A: Sometimes. In general, LEAs may not use funds under Title I, Part A to transport students experiencing homelessness to or from their school of origin. 2004 Guidance, H-3. However, once a student becomes permanently housed, Title IA funds can pay to transport the student to and from their school of origin, so he or she may complete the academic year at that school. Title IA funds can also be used to help fund other kinds of transportation, such as transportation to extra-curricular activities and academic enrichment services.

108. 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 also serve as the McKinney-Vento liaison. Liaisons funded with Title IA dollars must perform at least some Title IA duties for the expense to be allowable. 2009 Guidance, G-11.

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

110. How must a school district plan for serving children experiencing homelessness under Title I, Part A?
A: For a school district to receive Title IA funds, its Title IA plan must describe the services the district will provide to children and youth experiencing homelessness, including but not limited to those services provided with the set-aside. 20 U.S.C. §6312(b)(1)(O); 2004 Guidance, M-3. School district Title IA plans must also be coordinated with the McKinney-Vento Act. 20 U.S.C. §6312(a)(1); 20 U.S.C. §6312(b)(1)(E)(ii). Finally, State Title I, Part A plans must also be coordinated with the McKinney-Vento Act. 20 U.S.C. §6311(a)(1).

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Preschool

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

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

113. What must school districts do to serve preschoolers experiencing homelessness?
A: McKinney-Vento liaisons must ensure that families and children experiencing homelessness can enroll in Head Start and Even Start programs and preschool programs administered by the school district, including Title I preschool programs. 42 U.S.C. §11432(g)(6)(A)(iii). Districts can also 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).

114. Are children experiencing homelessness eligible to participate in Head Start?
A: Yes. Homeless children are categorically eligible for Head Start. 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.

115. Are Head Start programs required to follow any special policies or procedures regarding families and children experiencing homeless?
A: Yes. The Head Start Act requires 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. As of this writing, OHS has not issued regulations on these provisions. However, OHS has issued several policy clarifications relating to homelessness. These policy clarifications may be found at http://eclkc.ohs.acf.hhs.gov/hslc. A two-page summary of all of the Head Start requirements related to homelessness may be found at http://www.naehcy.org/early.html.

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Access to Higher Education

116. 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. School counselors should be familiar with the procedures for fee waivers. More information is also available at http://www.act.org/aap/pdf/feewaiver.pdf and http://www.collegeboard.com/student/testing/sat/calenfees/feewaivers.html.

117. Can unaccompanied homeless youth apply for federal financial aid (through the FAFSA) without providing information about their parents' income and their parents' signature?
A: Yes. Generally, youth under age 24 must have their parents complete the FAFSA. However, under recent amendments to 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, without parental information or signature. Their eligibility must be verified, in the year in which the youth completes the Free Application for Federal Student Aid (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. In these instances, there is no prescribed method for financial aid administrators to document homeless status; they may make a determination on the basis of a documented interview (U.S. Department of Education, *Federal Student Aid Application and Verification Guide*, 2008-2009). 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. The College Cost Reduction and Access Act of 2007 (P.L. 110-84). More information about helping unaccompanied youth apply for financial aid is available at http://www.naehcy.org/higher_ed.html.

118. 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 verification 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 verification requirement?
A: As of this writing, there is no specific documentation that a liaison or a shelter provider must provide to a financial aid office. A sample template for this purpose is available on the NAEHCY web site at http://www.naehcy.org/higher_ed.html. Financial aid administrators, McKinney-Vento liaisons, and shelter directors should meet to establish an expeditious process, including standard forms.

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

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A: Yes. Youth who meet the federal definition of "independent student" can fill out the FAFSA without their parents. Independent students include orphans, a youth who was in foster care at any time after the age of 13, veterans, graduate students, and youth who are married or have legal dependents. 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)

120. 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, student 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.

121. 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 financial aid office 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, which also contains detailed instructions and answers to Frequently Asked Questions. The site is: http://www.fafsa.ed.gov/.

122. Are there other college access programs from which homeless youth 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, Staff Development Activities, and Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR-UP). Students experiencing homelessness are at great risk of academic failure due to their extreme poverty and residential instability, and are now explicitly recognized as eligible populations in these federal programs.

Resources

123. Where can I find information about pending federal legislation related to the education of children and youth in homeless situations?
A: The National Association for the Education of Homeless Children and Youth (NAEHCY) provides updates on pending legislation, as well as many other publications and services geared toward educators specializing in the education of children and youth in homeless situations. Legislative updates are available at http://www.naehcy.org/.

124. What is the federal government doing to help schools comply with the McKinney-Vento Act?
A: The U.S. Department of Education (ED) has been very active in its support of states and local school districts as they implement the McKinney-Vento Act. ED has established a technical assistance center on the McKinney-Vento Act and its implementation, at the National Center for

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Homeless Education (http://www.serve.org/nche). NCHE can provide technical assistance documents, trainings, posters, manuals, outreach materials, Webinars, online professional development communities, Helpline technical assistance (800-308-2145), and other support. ED sponsors annual meetings for McKinney-Vento State Coordinators and the Federal McKinney-Vento Coordinator participates in an annual conference of educators who work with the McKinney-Vento Act. ED also conducts document reviews and on-site compliance monitoring across the country.

125. 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
http://www.serve.org/nche/ibt/sc_data.php
http://www.serve.org/nche/ibt/aw_statistics.php
National Coalition for the Homeless fact sheets
http://www.nationalhomeless.org/facts.html
National Law Center on Homelessness & Poverty
http://www.nlchp.org/
National Low Income Housing Coalition, Out of Reach Surveys
http://www.nlihc.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/

126. 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:
http://www.serve.org/nche/downloads/nche_mobil_biblio.doc. Additional research related to homelessness and education is available at: http://www.serve.org/nche/ibt/research.php.

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