

Frequently Asked Questions

Presented by



*If you have a question about a school-related issue pertaining to students who are homeless,
please contact NYS-TEACHS at (800) 388-2014.*

*NYS-TEACHS is housed at Advocates for Children and is funded by the New York State Education Department.
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DEFINITIONS/ELIGIBILITY

The **McKinney-Vento Homeless Assistance Act** is a federal law that entitles children who are homeless to a free, appropriate public education, and requires schools to remove barriers to their enrollment, attendance, and success in school. The purpose of the McKinney-Vento Act is to promote school continuity for children who are experiencing homelessness. (*M-V Section 721*).

Under what circumstances should a student be designated homeless? A student should be designated homeless if she lacks a fixed, adequate and regular nighttime residence. Examples of housing arrangements that are not fixed, regular, and adequate are included in the box to the right. (*M-V Section 725(2)(A)*).

What does “fixed, regular and adequate” mean? According to the National Center for Homeless Education, a “fixed” residence is one that is stationary, permanent and not subject to change; a “regular” residence is one which is used on a nightly basis; and an “adequate” residence is one that is sufficient for meeting both the physical and psychological needs typically met in home environments. (*National Center for Homeless Education [Determining Eligibility for Rights and Services Under the McKinney-Vento Act](#), available at www.serve.org/nche*).

What is a “doubled-up” living situation? This is where students live in temporary housing situations with relatives, friends, or other individuals because of a loss of housing or economic hardship. It is not uncommon for unaccompanied youth (students who are not in the physical custody of a parent or legal guardian) to live in doubled-up situations.

If a student is placed in what the Department of Social Services (DSS) considers “permanent” housing, can the student still qualify for protection under the McKinney-Vento Act? It depends on the nature of the housing arrangement, i.e. whether it is fixed, adequate and regular. DSS has a more narrow definition of homelessness than does the McKinney-Vento Act. For example, families in doubled up situations are often not considered homeless for DSS purposes, but should be designated as homeless under the McKinney-Vento Act. A family may therefore live in a housing situation arranged by DSS that is not “fixed, adequate, or regular” even though DSS considers it a permanent placement.

Are children in foster care covered under the McKinney-Vento Act? Under state law, a child in foster care is not considered homeless. However, under both state and federal law, children who are “awaiting foster care placement” are considered homeless. (*M-V Section 725(2)(B)(i); N.Y. Education Law § 3209(1)(a)*). The term “awaiting foster care placement” is not defined under either federal or state law. School districts have discretion in determining whether the student has been placed or is awaiting placement in foster care.

Are preschoolers eligible for protections under the McKinney-Vento Act? Preschoolers are covered under the McKinney-Vento Act insofar as permanently housed students are entitled to a public preschool education. For example, if the district offers pre-k services, then these services must be made available to students in temporary housing. (*M-V Section 722(g)(6)(A)(iii)*).

Are migrant students covered under the McKinney-Vento Act? Many migrant children and youth, because of their family’s transient lifestyle, are likely to fit the definition of homeless under the McKinney-Vento Act.

Children and youth should be considered homeless for the purposes of the McKinney-Vento Act when they:

- live in emergency or transitional shelters;
 - share housing due to loss of housing or economic hardship (“doubled-up”);
 - live in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate housing;
 - are awaiting foster care placement;
 - are abandoned in hospitals;
 - live in cars, parks, public spaces, abandoned buildings, substandard housing, or bus or train stations;
 - have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, regular sleeping accommodations;
 - are migratory children living in circumstances described above.
- (*M-V Section 725(2); N.Y. Education Law § 3209(1)(a)*).

Migrant students who meet the definition of homelessness should be designated as such, and share the same rights afforded to other students experiencing homelessness under the Act. (*M-V Section 725(2)*; *N.Y. Education Law § 3209(a)(2)*).

Is transitional housing covered under the McKinney-Vento Act? Yes. The McKinney-Vento Act specifically applies to children and youth living in “transitional shelters,” including transitional housing programs and transitional living programs. (*M-V Section 725(2)(B)(i)*); *Bullock v. Board of Education of Montgomery County*, Civ. A. DKC 2002-0798 (D. Md.)).

Should a school district contact a student’s landlord to verify the student’s living situation? No. If the district does not believe the student to be homeless, they may conduct an investigation after having immediately enrolled the student in school. However, in conducting these investigations, districts must be careful not to disclose any personally identifiable information about the student/family unless they have permission from the parent. Sharing personal information from a student’s education record not only may violate the Family Educational Rights and Privacy Act (FERPA), but could jeopardize the family’s living situation. For more information, see the National Center for Homeless Education’s [Confirming Eligibility for McKinney-Vento Services: Do’s and Don’ts for Local Liaisons](#) and [Confirming Eligibility for McKinney-Vento Services: Do’s and Don’ts for School Districts](#), available at www.serve.org/nche.

Can a student be covered under the McKinney-Vento Act if her family left its home voluntarily and was not evicted by authorities? Yes. For example, a student should be considered eligible under McKinney-Vento where the student’s family left their home because they could no longer afford the rent or mortgage payments and are now temporarily living with friends until they can find permanent housing. (*M-V Section 725(2)*; *N.Y. Education Law § 3209(1)(a)*).

Is there an age range to qualify for the protections of the McKinney-Vento Act? The McKinney-Vento Act covers all school-age children, which in New York State includes all children until they receive their high school diploma, or through the school year in which they turn 21 years old, whichever comes first. (*N.Y. Education Law § 3202*).

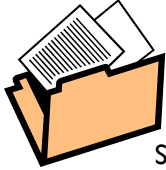
Do youth who have dropped out of high school or earned a GED have the right to return to school? Yes. Youth have the right to attend school either until they earn a high school diploma or through the school year during which the student turns 21 years old. (*N.Y. Education Law § 3202*).

Is there a limit on the amount of time a person can be considered homeless? No. A youth can be designated as homeless for an unspecified amount of time. Given the limited availability of affordable housing, it is not unusual for a temporarily housed student to be designated as homeless for more than one year.

What happens if families who are temporarily housed do not identify as or consider themselves homeless? LEA liaisons have an affirmative obligation to identify all students who are homeless regardless of whether the family considers the student homeless. Families and youth who are homeless oftentimes do not identify themselves as such for a variety of reasons. Most families and youth are unaware of the McKinney-Vento Act, and school districts must therefore work to ensure that these individuals are informed about the Act, who it covers, and what it provides. Those who are aware of the Act often do not self-identify because of the stigma attached to being homeless.

Must a student be poor to be covered under McKinney-Vento? No. There are no income eligibility requirements under the McKinney-Vento Act. All students who lack a fixed, regular, and adequate nighttime residence are considered homeless under the Act.

What forms have to be filled out after a student is identified as homeless? A designation form, also known as the STAC-202 form, must be filled out for each student identified as homeless. Please see [STAC Forms and Tuition Reimbursement](#) for more information.



STAC FORMS & TUITION REIMBURSEMENT

STAC (System to Track and Account for Children) and Special Aids is the unit within the State Education Department (SED) responsible for processing requests for Commissioner's approval for tuition reimbursement. This includes reimbursement approval for students who have been designated homeless. This form is known as the STAC-202 form. SED only uses the STAC-202 forms for reimbursement purposes. However, the STAC-202 form is also the designation form and school districts must fill out this form for each student identified as homeless. Completed STAC forms help districts report on such things as the number of students who are homeless in the school district.

What is a STAC-202 form? A STAC-202 form is the designation form school districts must use to identify students who are homeless and indicate in what district the students will be attending school. It is also the reimbursement form used by the school district of current location to seek tuition aid from the State Education Department in cases where the student was last permanently housed in a different district. (*N.Y. Education Law § 3209(2)(d)*).

When does a STAC-202 form need to be filled out? A STAC-202 form should be filled out for each student identified as homeless who is seeking enrollment in the district. (*N.Y. Education Law § 3209(2)(d)*).

Who fills out a STAC-202 form? Whoever decides where the student will attend school should also fill out a STAC-202 form indicating in what school district the student will attend. Under state law, parents, guardians, unaccompanied youth, and directors of residential runaway and homeless youth programs may decide where the student will attend school. If the student is residing in a shelter, staff at the facility should make the form available and help the parent complete the form. (*N.Y. Education Law § 3209(2)(d)*).

Is it necessary for a parent to sign the STAC-202 form? No. If the parent is unable to sign the form or if the form is for an unaccompanied youth, the person submitting the form can do so without getting the parent's signature.

Who gets copies of the completed STAC-202 form? The form should be given to:

1. State Education Department, STAC Unit, if the student was last permanently housed in a different district from the district of attendance (the district where enrollment is sought)
2. School district of attendance (district where enrollment is sought)
3. School district of origin (district where the student was last permanently housed)
4. School district where last enrolled
5. Parent/Guardian/Unaccompanied youth/director of a residential program for runaway and homeless youth
6. Local Department of Social Services (DSS), only if the student was placed in temporary housing by DSS (*N.Y. Education Law § 3209(2)(d); 8 N.Y.C.R.R. § 100.2(x)(3)*).

What is the process for tuition reimbursement?

Districts can receive tuition reimbursement from the State Education Department (SED) for students who are homeless and were last permanently housed in a different district from where they are currently enrolled in school. **If the student who is homeless attends the school district of origin, the district of origin is not eligible for tuition reimbursement.** If the student who is homeless has decided to attend the school in the district of current location, and it is different from the district of origin:

- A STAC-202 form should be completed and sent to the STAC Unit at SED.
- The STAC Unit will send the district partially completed STAC-4 forms for those students.
- The district must complete and return the STAC-4 forms to the STAC Unit.
- The state aid officer at the district will be sent an Automatic Verification List (AVL).
- After the AVL is completed by the district and returned to SED, the district will receive payment.

Please contact the STAC Unit for more information at: (518) 474-7116.

When should a STAC-202 form be submitted to SED? District liaisons should only submit completed STAC-202 forms to SED for tuition reimbursement when the student was last permanently housed in a different district.

Should STAC-202 forms be submitted to SED if a student is attending school in the district of origin? No. The school district of origin need not submit STAC-202 forms to SED, but should keep the completed forms on file in the district for record keeping purposes.

Does a new STAC-202 form need to be filled out for the same student each year? No, the STAC-202 form is open-ended and the STAC Unit will not change the designation of "homeless" until someone informs them that the student is no longer homeless.

What is a STAC-4 form? STAC-4 forms are used for general state aid. After a school district has submitted a STAC-202 form and it has been approved, a partially completed STAC-4 form will be sent to the district. Upon submission of the completed STAC-4 form and AVL (see text box), the district will receive tuition reimbursement.

Does a new STAC-202 form need to be submitted when a student moves from one temporary address to another? Yes.

Does a new STAC-202 form need to be submitted when a student moves into permanent housing? No, but the LEA liaison should fill in question number 10, "Date Placed in Permanent Housing," and re-submit the form to the necessary people.

Where can you get a STAC form? STAC forms should be available from all school districts, LEA liaisons, departments of social services, and runaway and homeless youth shelters. (*N.Y. Education Law § 3209(2)(d); 8 N.Y.C.R.R. § 100.2(x)(3)*). You can also print copies of STAC forms here: http://www.oms.SED.gov/stac/Contact_Us/REQUEST_FOR_STAC_FORMS.htm or http://www.nysteachs.org/media/INF_SED_STAC202_Form.pdf



LEA RESPONSIBILITIES

The McKinney-Vento Act requires every Local Educational Agency (LEA) or school district to “designate an appropriate staff person” to serve as the LEA liaison for the school district. This person is responsible for ensuring the immediate enrollment of and securing transportation for students experiencing homelessness in the school district. (M-V Section 722(g)(1)(j)(ii)).

Must a Board of Cooperative Educational Services (BOCES) and charter school designate a LEA liaison? Yes.

The New York State Education Department has concluded that charter schools and BOCES are both LEAs under the McKinney-Vento Act; therefore, charter schools and BOCES must comply with the McKinney-Vento Act’s provisions including designating a LEA liaison. (Revision to Q & A on Education of Homeless Students, Guidance Issued by Shelia Evans-Tranumn, Associate Commissioner, New York State Education Department, June 2004).

If a student’s temporary housing is located in a different school district from the school district of origin, which district is fiscally responsible for the student’s education?

If the student chooses to attend the local school and it is located in a different district than where the student was last permanently housed, then the local school district is eligible for tuition reimbursement by the State Education Department (SED). SED will then seek a tuition charge back from the school district of origin. If the student chooses to attend the district of origin, that district is fiscally responsible for the student’s education. (N.Y. Education Law § 3209(3)).

Can a school receive additional funding for enrolling a homeless student?

Districts can receive tuition reimbursement from SED for students who are homeless and who were last permanently housed in a different district. However, districts are not entitled to tuition reimbursement if the student continues to attend school in the district of origin (the district where last permanently housed). (N.Y. Education Law § 3209(3)).

Can an LEA liaison disclose a student’s homeless designation to others within the district, such as teachers and administrators?

Yes, if it is for the purpose of data collection or of better meeting the student’s educational needs. The heightened need for sensitivity regarding students in temporary housing demands a cautious approach by the district. Policies for disclosure of student housing status among school personnel must clearly state that McKinney-Vento eligible students must neither be stigmatized nor segregated. To maintain confidentiality of housing status in district data collection systems, it is recommended that districts use codes or indicators (i.e. non-stigmatizing language describing living situations) in the student information system for children and youth in homeless situations. Furthermore, it should be made clear that the purpose of disclosure is for the mobilization of school-based supports for students exhibiting and/or experiencing stress due to housing status. Finally, districts should ensure that school personnel are aware of McKinney- Vento’s protections and are trained to respectfully manage this sensitive information.

What are the responsibilities of LEA liaisons?

Liaisons have the responsibility to ensure that:

- Homeless children and youth are identified by school personnel and through coordination activities with other agencies;
- Homeless children and youth enroll in, and have a full and equal opportunity to succeed in, schools of that LEA;
- Homeless families, children and youth receive educational service for which such families and youth are eligible;
- The parents/guardians of homeless children and youth are informed of the educational and related opportunities available to their children and are provided with meaningful opportunities to participate in their children’s education;
- Public notice of the educational rights of homeless children and youth is disseminated where such children and youth receive services, such as schools, family shelters, and soup kitchens;
- Enrollment disputes are mediated; and
- The parent or guardian of a homeless child or youth, and any unaccompanied youth, is fully informed of all transportation services, including transportation to the school of origin.

(M-V Section 722(g)(6)(A)).



ENROLLMENT/ATTENDANCE

The McKinney-Vento Act requires school districts to immediately enroll students experiencing homelessness, even if the student is unable to provide documents typically required for enrollment, such as school records, medical records including immunization records, proof of residency, guardianship papers, birth certificate, or other documents normally needed. (*M-V Section 722(g)(3)(c)(i)*).

Who is responsible for getting the documents normally needed for enrollment for students who are homeless? The enrolling school has the responsibility to get the student's records from the former school. Within five days of receiving a records request from the new school, the district in which the student was last enrolled must forward all records to the new school. Students have the right to attend classes while the school waits for the student's records. (*M-V Section 722(g)(3)(C)*; *N.Y. Education Law § 3209(2)(e)-(f)*)

Can a school require that a student who is homeless provide proof of residence before enrolling the student? No. Students who are homeless are entitled to immediate enrollment and are not required to submit the documents normally needed for enrollment. Often times, students experiencing homelessness have no official documentation of where they are currently living. However, if there is any question about where the student is currently residing or if the school does not believe the student is homeless, the school district may conduct an investigation after immediately enrolling the student in school. For more information about this process, please see [Dispute Resolution & Appeals Process](#).

Can a previous school refuse to send records due to fees owed for textbooks, etc.? No. In this case, the school would be creating a barrier to the enrollment and retention of the child in school, which violates the McKinney-Vento Act. (*M-V Section 722(g)(1)(l)*).

Are students in temporary housing allowed to enroll in after-school programs? Yes. Districts must make sure that students in temporary housing have the same access to programs and services available to permanently housed students. This includes both before- and after-school programs. (*M-V Section 722(g)(4)*).

Can a district refuse to enroll undocumented immigrants, i.e. immigrants who are in this country illegally, who are temporarily housed? No. Undocumented students have the same right to attend public schools as U.S. citizens. (*Plyler v. Doe, 457 U.S. 202 (1982)*). If the undocumented student is designated as homeless, the student has the same rights and protections under the McKinney-Vento Act as would a U.S. citizen.

Can a student who has been attending private school, becomes homeless, and is temporarily living in another school district enroll in the public school in the district of origin? Yes. Under state law, a student who is homeless has the right to attend school in the district where she was last permanently housed. (*N.Y. Education Law § 3209(1)(c)* & *N.Y.C.R.R. § 100.2(x)(1)(iv)*).

Does a student who has identified himself as homeless have the right to enroll in school, even if the school does not believe the student is temporarily housed? Yes. The school district must immediately enroll the student, after which time the district may begin an investigation into the student's living situation to determine whether or not the student has the right to enroll in the particular school. (*M-V Section 722(3)(E)(l)*); National Center for Homeless Education's [Confirming Eligibility for McKinney-Vento Services: Do's and Don'ts for Local Liaisons](#) and [Confirming Eligibility for McKinney-Vento Services: Do's and Don'ts for School Districts](#),

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

Yes. The Family Education Rights and Privacy Act (FERPA) protects the privacy of educational records and generally 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 to schools to which a student is transferring without permission from the parent. (*20 U.S.C. § 1232(g)*).

available at www.serve.org/nche). For more information about this process, please see [Dispute Resolution & Appeals Process](#).

Should a student be held accountable for absences caused by homelessness? No. Absences caused by homelessness should not be counted against students. Students in homeless situations will oftentimes miss days of school because of their living situation. For example, if a family is evicted from its home and is bouncing around from one family member's home to another, the student may miss several days of school. (M-V Sections 722(g)(1)(I) & (g)(7)).



SCHOOL SELECTION

Under the McKinney-Vento Act, students in temporary housing have the right to attend the school of origin or the local school. The school of origin is defined as the school where they were enrolled when last permanently housed or the school they last attended. The local school is any school permanently housed students who are living in the same area as the students who are temporarily housed can attend. (M-V Sections 722(g)(3)(A) & (G)).

If a child was permanently housed in one town, and subsequently became homeless and was forced to move to another town, can the child continue to attend her original school? Yes. A student designated as homeless is entitled to immediate enrollment in and transportation to the school of origin even if the student is temporarily residing outside of the school district boundaries. (M-V Section 722(g)(3)(A); N.Y. Education Law § 3209(2)).

How long can a student attend the school of origin or the local school? A student can attend either school for the entire time the student is homeless and for the remainder of the school year in which the student moves into permanent housing. Also, the student can attend one additional year after becoming permanently housed, if it is the student's terminal year in that school building (i.e. 8th grade or 12th grade). (M-V Section 722(g)(3)(A); N.Y. Education Law § 3209(2)).

What happens if a child chooses to attend the local school, and soon after decides that she would rather attend the school of origin? A temporarily housed student has the right to attend the school of origin, even if the student has already enrolled in the local school. Students have 60 days or until the end of the semester, whichever is later, to change schools. To do this, the designator (see box at right) will need to complete a new STAC-202 form. The LEA liaisons in two school districts should speak about the best process to transfer the student to the school of origin. (8 N.Y.C.R.R. § 100.2(x)(2)(vi)).

Does the McKinney-Vento Act cover students attending private schools? Not usually. The McKinney-Vento Act only covers students who attend public schools. The exception to this rule is in cases where the student has been placed in a private school by the Committee on Special Education (CSE). In such cases, if the student becomes homeless, she would be entitled to continued enrollment in the private school placement and would be eligible to receive transportation to that school under McKinney-Vento. Whether a student can continue to attend a private school where placement has not been made by the CSE is at the discretion of that private school; the McKinney-Vento Act does not apply in such situations. See Transportation for more information about transportation to private schools.

Can a student who was attending private school transfer to a public school in the district of origin? Under state law, students who were attending private school and are temporarily housed in another school district may enroll in public school in the district where they were last permanently housed, i.e. the district of origin. Students in such situations may also choose to enroll in public school in the district of current location. (N.Y. Education Law §§ 3209(1)(c)& (2)).

If a child enrolls in the district where she is temporarily living and then has to move to another temporary housing location, in what districts may the child attend school? The child may attend school in 1) the district of origin, which is the district where the child was last permanently housed, 2) the

Who decides where the student attends school?

The “designator” decides in which district a homeless child or youth will attend school. A designator is:

- the parent or person in parental relation to a homeless child; or
- the homeless child, with the LEA liaison if no parent or guardian is available (unaccompanied youth); or
- the director of a residential program for runaway and homeless youth, in consultation with the homeless child, where a homeless youth is living in such program.

(N.Y. Education Law § 3209(1)(b)).

district where the child was last enrolled, or 3) the district where the child is currently temporarily housed. All homeless students have the right to attend school in one of, at most, three school districts. (N.Y. Education Law § 3209(2)(a) & (c)).

What happens if a child becomes temporarily housed within the same school district the child had attended, but in a different attendance zone from the one where the child was last permanently housed? The student would have the right to choose between the school zoned for the area in which the student is temporarily residing, and the school the student was attending while permanently housed. (N.Y. Education Law § 3209(2)(b)(1)).

If a family with more than one child becomes homeless, and the family would like the children 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) can the family choose to do that? Yes. Siblings in a family that has become temporarily housed may choose to attend school in different school districts, as long as the district designated is the district of current location or the district of origin. Temporarily housed siblings do not necessarily have to attend school in the same district.



TRANSPORTATION

While the McKinney-Vento Act allows students experiencing homelessness to attend their school of origin, the lack of **transportation** creates a potential barrier to the academic success of these students. In an attempt to remove this barrier, students who are homeless are entitled to transportation to their school of origin under the McKinney-Vento Act, even if transportation is not provided for students who are permanently housed. (*M-V Section 722(g)(1)(J)(iii)*).

Who is responsible for arranging transportation services?

The LEA liaison for the district where the student is enrolled in school make sure transportation is arranged. (*M-V Section 722(g)(6)(A)(vii)*; *N.Y. Education Law § 3209(4)*).

Are transportation services available to students who enroll in the local school where they are temporarily residing?

Students who transfer to the local school are entitled to the same transportation services, if any, offered to permanently housed students living in the district. (*N.Y. Education Law § 3209(4)(d)*).

How long must a school district provide transportation?

A school district must provide transportation for the entire time the youth is in temporary housing. Also, school districts are encouraged to provide transportation using Title I, Part A set-aside funding for formerly homeless students who move into housing midway through the school year and choose to continue attending school in that district. (*M-V Sections 722(g)(1)(J)(iii) & (g)(3)(A)*). See Comparable & Supplemental Services and Title I Funding for more information.

What happens if the school of origin is very far away from where the student is temporarily residing?

Transportation must be provided for students temporarily residing within 50 miles one way of the school building. If the school is more than 50 miles away, the school district is not required to provide transportation for the student unless the Commissioner of the State Education Department determines it is in the best interest of the student. (*N.Y. Education Law § 3209(4)(c)*).

Must the school district provide transportation even if they believe the student is not entitled to attend school in that district?

Yes. Youth are entitled to transportation during any dispute regarding school selection, enrollment, or transportation. (*8 N.Y.C.R.R. §100.2(x)(7)(ii)(c)*). See Dispute Resolution/Appeal Process for more information.

When is the Department of Social Services (DSS) responsible for providing transportation? DSS is responsible for transportation students to and from school where DSS placed the student in temporary housing outside of the school district of attendance and the student is eligible for Emergency Assistance for Families (EAF). Examples of temporary housing include: shelters, hotels, and motels. (*N.Y. Education Law § 3209(4)(a)*; *Office of Temporary and Disability Assistance, Administrative Directive 06-ADM-15*).

How can school districts pay for transporting homeless students?

- 1) Districts are eligible for **aid from the State Education Department** for allowable costs associated with transporting students who are homeless. This includes additional costs incurred transporting such students across school district lines. Districts will be reimbursed using the same transportation aid ratios as those used for permanently housed students. (*N.Y. Education Law § 3209(4)(c)*; *8 N.Y.C.R.R. Section 100.2(x)(6)(vi)*).
- 2) School districts may also apply for a **McKinney-Vento Act sub-grant** through SED. Funding from the sub-grants may be used to pay for transportation expenses of homeless students.
- 3) **Title I, Part A set-aside funding** may be used to pay for transportation for students who decide to stay in the school of origin for the remainder of the school year after moving into permanent housing. Title I funds may not be used to pay for transportation for students who are currently homeless. (*Title I of ESEA Section 1115(b)(3)*).

When is it appropriate for DSS to provide public transportation passes versus busing for students it has placed in temporary housing? It depends on what modes of transportation are offered by the school district of attendance. DSS should provide the same or comparable mode of transportation (e.g. yellow school bus, van) as that used by the school district for students who are permanently housed. (*Office of Temporary and Disability Assistance, Administrative Directive 06-ADM-15*).

Who is responsible for transportation for students residing in runaway and homeless youth (RHY) shelters? For students attending the school of origin who are temporarily living in a different district, RHY shelters may provide transportation and will be fully reimbursed by the State Education Department by filing an RHYA Transportation Form. If the RHY shelter is unwilling or unable to provide transportation, the school district of attendance must provide transportation. The school district will be fully reimbursed for the expense by the State Education Department by filing an RHYA Transportation Form. For students attending school in the district of current location, that district should arrange for transportation to the extent that it is offered to permanently housed students in the district. (*N.Y. Education Law § 3209(4)*).

Can a Department of Social Services (DSS) or a Runaway and Homeless Youth (RHY) shelter contract with a school district or BOCES to provide transportation? Yes. A social services district or an RHY facility may contract with a school district or BOCES to provide transportation for students experiencing homelessness. (*N.Y. Education Law § 3209(4)(a) and (b)*).

Can school districts provide transportation to parents to accompany their children to school? Yes. For example, in cases where busing was not arranged, districts have provided parents with gas cards or reimbursed parents who use their own cars to bring their kids to school. Districts have also provided public transportation passes to parents to accompany their children on public transportation where busing was unavailable.

Who is responsible for providing transportation assistance to parents? Whichever entity is responsible for transporting the child, which is usually either the district of attendance or DSS, is also responsible for the parent's transportation costs. (*N.Y. Education Law § 3209(4)(c); Office of Temporary and Disability Assistance, Administrative Directive 06-ADM-15*).

Can students experiencing homelessness receive transportation to private school? Sometimes. If the school district in which the student is temporarily living provides transportation to private schools for permanently housed students, the school district must provide such transportation to temporarily housed students living in the district. Under New York State law, school districts that do provide such transportation are only required to transport students attending private schools up to 15 miles. (*M-V Section 722(g)(4); N.Y. Education Law § 3635(1)(b)(ii)*).

Transportation Assistance for Parents of Children who are Homeless

When determining which parents are eligible for transportation assistance, school districts should consider the following factors:

- age of the child,
- distance of the transportation
- complexity of the transportation arrangement,
- need to travel through a high crime area,
- cost-effectiveness of the parent transporting the child,
- whether the child is disabled, and
- a combination of such factors.

(8 N.Y.C.R.R. § 100.2(x)(6)(v)).



UNACCOMPANIED YOUTH

An **unaccompanied youth** is a student who is not in the physical custody of a parent or guardian; this includes youth who have run away from home, been kicked out of their homes, or been abandoned by parents. There is no age range for unaccompanied youth, but these students are generally adolescents. Such students are covered under the McKinney-Vento Act when the student also lacks a fixed, adequate and regular nighttime residence. (*M-V Section 725(2) and (6); 8 N.Y.C.R.R. § 100.2(x)(1)(vi)*). Without a parent or guardian to advocate on behalf of unaccompanied youth, these students may not understand their educational rights or know how to acquire this information.

Do unaccompanied youth experiencing homelessness need their parents in order to enroll in school? No. Unaccompanied youth may enroll by themselves or with an adult who is not their parent or legal guardian. Lack of guardianship papers cannot delay or prevent the enrollment of an unaccompanied youth. (*M-V Section 722(g)(3)(C); N.Y. Education Law § 3209(2-a)*).

Who decides where an unaccompanied homeless youth will attend school? The unaccompanied youth together with the LEA liaison decides where the youth will attend school. (*N.Y. Education Law §§ 3209(1)(b) & (2)(a); 8 N.Y.C.R.R. § 100.2(x)(1)(ii)*).

Is a student considered to be an unaccompanied youth if she is living with a parent only temporarily? During the time the student is living with her parent, the student is not considered to be an unaccompanied youth. But, she may be considered a homeless if she lacks a fixed, adequate and regular nighttime residence, regardless of whether she is living with a parent. (*M-V Section 725(6)*).

Is a student considered an unaccompanied youth if she is receiving financial support from her parents? Any student who is not living in the physical custody of her parents, and is temporarily housed, should be considered an unaccompanied homeless youth. Whether or not a student is receiving financial support from her parents should have no bearing on a student's designation as an unaccompanied youth.

If an unaccompanied youth has left home, but her parents will allow the student back home, is the student still eligible for protections under the McKinney-Vento Act? Yes. Despite the fact that the youth's parents will allow the student to return home, if the student meets the definition of homeless under McKinney-Vento, it does not matter whether or not the student can return home.

Are all unaccompanied youth automatically eligible for services under McKinney-Vento?

Unaccompanied youth who do not meet the definition of homeless are not necessarily eligible for the same services. For instance, a student who is not living with a parent or guardian but who is permanently housed is not protected under the McKinney-Vento Act. (*M-V Section 723(c)(3)(d)*).

Can an unaccompanied homeless youth leave out her parents' financial information when applying for financial aid for college?

Yes. Unaccompanied homeless youth do not need to include their parents' financial information when completing the **FAFSA form**.

Unaccompanied homeless youth are considered

"independent students"

upon verification of their living situation by an LEA liaison, a shelter director, transitional shelter, independent living program, or the financial aid administrator. Unaccompanied youth at risk of becoming homeless who are self-supporting are also considered independent students. *For more information about how*

unaccompanied youth can access financial aid for college please see the National Association for the Education of Homeless Children and Youth's website at:

http://naehcy.org/higher_ed.html

What is an “emancipated minor”? For purposes of establishing residency under New York State Education Law § 3202, a student is considered emancipated if she is beyond the compulsory school age, living separate and apart from her parents in a manner inconsistent with parental custody and control, not receiving financial support from her parents, and has no intent to return home. In New York State, there is no such thing as a court declaration of emancipation; there is no legal paperwork necessary to declare oneself an emancipated minor. Students who are married or in the military are automatically considered emancipated; pregnant minors, however, are not automatically considered emancipated. It is important to keep in mind that emancipation usually relieves parents of obligations to their children, depriving the minor of the right to demand food, clothing and shelter from his parents.

What does LGBTQ mean? LGBTQ stands for Lesbian, Gay, Bisexual, Transgender, Queer/Questioning. Thousands of LGBTQ youth are forced out onto the streets every year, and they comprise a reported 40% of the total homeless youth population. *For more information see Homeless LGBT Youth and LGBT Youth in Foster Care, available at <http://www.safeschoolscoalition.org/RG-homeless.html>.*

Does the McKinney-Vento Act cover students seeking enrollment in GED programs? It depends. If the GED program is being offered through the school district or BOCES, the McKinney-Vento Act applies.



DISPUTE RESOLUTION & THE APPEAL PROCESS

If a school district and a parent or unaccompanied youth disagree about school selection, enrollment, or transportation, the Local Educational Agency must immediately enroll the student in the school in which enrollment is sought and provide transportation if requested, pending **resolution of the dispute**. All school districts must have a policy for the prompt resolution of disputes regarding school selection or enrollment of a child who is homeless or an unaccompanied youth. (*M-V Section 722(3)(E); 8 N.Y.C.R.R. § 100.2(x)(7)(ii)*).

If a student claims to be homeless but the district disagrees, must the district enroll the student and/or provide transportation? Yes. If a school believes that a student, who claims to be homeless, is not eligible under McKinney-Vento, the school **must:**

- Give the parent or youth a written explanation of the school's decision, including a statement regarding the right to appeal – the explanation must include the name, post office address, and phone number of the liaison in the school district, as well as the petition form used to file an appeal with the Commissioner;
- Immediately admit the student to the school where enrollment is sought while the dispute is being resolved;
- Provide transportation if the student is attending the school of origin and such service is requested; and
- Refer the parent or youth to the LEA liaison for assistance with an appeal

(*M-V Section 722(3)(E); 8 N.Y.C.R.R. § 100.2(x)(7)(ii)*).

Can a student continue to attend school and receive transportation during the appeal process? Yes. Under state law, if the parent of a child who is homeless or an unaccompanied youth files an appeal to the Commissioner within 30 days of a district's determination and completes the stay order section of the petition, the student is permitted to continue attending the school she had been attending at the time of the appeal, until the Commissioner makes a decision on the stay request. If the Commissioner grants the stay request and issues a stay order, the homeless child or unaccompanied youth can continue attending the same school until the Commissioner issues a final decision. If the Commissioner dismisses the stay, the district can implement its original determination while the appeal is pending. (*8 N.Y.C.R.R. § 100.2(x)(7)(ii)(c); Parts 275 & 276 of the Regulations of the Commissioner of the New York State Education Department*).

The liaison's responsibilities include:

- providing the parent, guardian, or youth with the appeal forms and stay application (Copies of the appeal form and instructions can be found at: <http://www.counsel.SED.gov/appeals/homelessForms.htm>);
- helping the parent, guardian, or youth fill out the appeal form and stay application;
- making copies of the appeal forms and any supporting documents at no cost to the parent, guardian, or youth;
- accepting service of the appeal forms and stay application;
- making sure the appeal is properly filed with the State within 5 days, and
- giving or sending the parent, guardian, or youth verifications that s/he has properly filed and served the appeal.

(*8 N.Y.C.R.R. § 100.2(x)(7)(ii) & (iii)*).



SPECIAL EDUCATION

Children and youth who are homeless are entitled to the same **special education** services available to permanently housed students in the school district. The McKinney-Vento Act, together with the Individuals with Disabilities Education Improvement Act (IDEA) work to ensure that the needs of homeless students with disabilities are met. (*IDEA 2004 Part A, Section 602(29)*).

What happens when a student with an Individualized Education Program (IEP) changes school districts? If a temporarily housed student changes school districts, the new school district must immediately provide comparable services to those in the IEP. The new district can then hold an IEP meeting to either adopt the IEP or implement a new one, but in the meantime the student should be enrolled and attending classes. (*IDEA Section 614(d)(2)(C)(i)*).

What happens if the child changes school districts before evaluations are completed? In this case, the 60-day time frame (see box to the left) no longer applies, but only if the new school district is making sufficient progress to ensure a prompt completion of the evaluation AND the parent and the LEA agree to a specific time when the evaluation will be completed. (*IDEA Section 614(a)(1)(C)(ii)*).

What is a surrogate parent? A surrogate parent is a person appointed by the school district to act as a parent on matters related to special education for a student whose parent is unavailable. Surrogate parents cannot be employees of the LEA/school district or any agency responsible for the care of the student (e.g. department of social service caseworkers), cannot have a conflict of interest with the student, and must have the knowledge and skills to adequately represent the student. LEAs are required by law to keep a list of available surrogate parents in the school district. (*Federal Regulations Section 300.519*).

When should a surrogate parent be appointed for an unaccompanied homeless youth who has a disability?

A surrogate parent should be appointed for an unaccompanied homeless youth within 30 days if no parent is available. Because many youth live in doubled-up situations, often there will be an adult caretaker who meets the definition of "parent" (someone with whom the student lives and who is acting in the place of a natural parent) and who is willing to serve in that role. In such cases there would be no need to appoint a surrogate parent. (*IDEA Section 615(b)(2)*).

When must a surrogate parent be appointed? Surrogate parents should be appointed within 30 calendar days when the parent is unavailable. Please note that **the definition of parent in the IDEA is very broad** and includes a foster parent, and an individual with whom the student lives and who is acting in the place of a natural parent. (*IDEA Section 612(23)*).

What are the responsibilities of a surrogate parent? The person selected as a surrogate parent:

- Can represent (speak for) the child in all matters about the identification, evaluation, educational placement and the provision of a free appropriate public education to the child;
- Must have the knowledge/skills to represent (speak for) the child; and
- Cannot have any interests which conflict with the interests of the child he or she represents, i.e. cannot be employed by the LEA.

What are temporary surrogate parents? Temporary surrogate parents can represent unaccompanied homeless youth who are waiting for a surrogate parent to be appointed so as to prevent any delay in services. Staff members of emergency shelters, transitional shelters, independent living programs, street outreach programs, and staff from the LEA/school district can serve as *temporary* surrogate parents for unaccompanied youth, when appropriate.



PRESCHOOL

Children who are homeless should be placed in pre-k if the parent agrees to the placement and if pre-k services are available in the district. Parents are encouraged to send their children to pre-k because it can help them do better in reading and math, make them more likely to graduate from high school, and make them less likely to repeat a grade.

Are preschoolers eligible for protections under the McKinney-Vento Act? Districts must make preschool services available to homeless children in a manner comparable to that which such services are offered to permanently housed children. For example, if the district offers pre-k or funds a Head Start program, then these services must be made available to students in temporary housing. (*M-V Section 722(g)(6)(A)(iii)*).

What is the process for having a student evaluated for preschool special education services? The person who would like to initiate the evaluation must make a referral to the district Committee on Preschool Special Education (CPSE) Chair, explaining that they'd like an evaluation for the student. The Committee on Preschool Special Education (CPSE) must make an eligibility determination as well as service and/or placement recommendations within 30 school days of when parental consent was given. The district must implement the CPSE recommendations on the nearest July, September or January program start date, or within 30 school days from a CPSE recommendation made within 30 days of the July, September or January program start date. (*Part 200.16(a)-(f) of the Regulations of the Commissioner of the New York State Education Department*).



CHARTER SCHOOLS

A charter school is a public school that operates with freedom from many of the regulations that apply to traditional public schools, granting administrators, faculty and staff autonomy in the education of its students. The “charter” that establishes each school is a contract detailing the school’s mission, program, goals, students served, and methods of assessment. If charter schools do not meet the academic performance and operational goals listed in their charter, they risk having their charter revoked.

Do students attend charter schools on a tuition-free basis? Yes.

Are homeless students entitled to immediate enrollment in a charter school? Yes, provided that the student meets the eligibility criteria for the charter school and there is space in the school.

Who provides transportation to homeless students who attend a charter school? If the charter school is the school of origin, the district of attendance, as indicated on the designation form, must transport the student. If the charter school is not the school of origin, the designated district of attendance must transport the student to the same extent that it transports permanently housed students.

Are charter schools required to do Title I set-asides? No. Charter schools are not mandated to set aside Title I funds for students who are homeless; however, the school may opt to set aside additional funds to serve homeless children and youth.

Are charter schools eligible to receive McKinney-Vento sub-grant funding? Charter schools are considered LEAs and are therefore eligible to receive McKinney-Vento sub-grant funding.

Must a charter school designate a LEA liaison?

Yes. The New York State Education Department has concluded that charter schools are LEAs under the McKinney-Vento Act; therefore, charter schools must comply with the provisions of the McKinney-Vento Act, including designating a LEA liaison.



FREE MEALS

To apply for free meal benefits under the federal Child Nutrition Programs, most households must submit a completed application indicating the household size and income, which are then compared to the Income Eligibility Guidelines issued annually to determine a child's eligibility for free and reduced price meals. Students who are homeless, however, are categorically eligible for free meals.

Are students experiencing homelessness eligible for free meals? Yes. All homeless students are entitled to free meals if they are offered by the school district. (*The Child Nutrition and WIC Reauthorization Act of 2004, Section 107*).

Must students who are homeless fill out an application to get free meals? No. The LEA liaison only has to submit a letter to the USDA to substantiate homeless students' eligibility for free/reduced priced meals. The letter should include: a list of the names of the students that are designated as homeless in the district, the effective date of the students' eligibility determination (the date they were designated homeless), along with the liaison's signature. For updated guidance for homeless children in school nutrition programs see: http://www.nysteachs.org/media/INF_Fed_USDA_FreeMeal_Apr92and02.pdf and http://www.serve.org/nche/downloads/usda_memo_jul2004.pdf



TITLE I FUNDING

Title I of the Elementary and Secondary Education Act (ESEA) targets students most at risk for failing in school, including children and youth experiencing homelessness. The ESEA requires coordination between Title I and the McKinney-Vento Act. All children and youth experiencing homelessness are automatically eligible for Title I, Part A services. (*M-V Section 722(g)(4)(B)*).

What is the Title I, Part A set-aside? Every school district that receives Title I, Part A funds is required to set aside a portion of the school district's allotment to provide comparable services to homeless students attending schools in the district that do not receive Title I, Part A services. Services provided should assist children in meeting New York State academic content and achievement standards. (*Title I of ESEA Section 1113(c)(3)(A)*).

Can Title I, Part A set-aside funds be used to pay for services for a student attending a Title I school? Yes. School districts may use the Title I, Part A set-aside for students attending Title I and non-Title I schools. (*Education for Homeless Children and Youth Program, U.S. DOE Non-Regulatory Guidance, July 2004.*)

How is the amount of Title I set-aside funding calculated? There is no mandated formula for calculating Title I set-aside funding. Some methods include:

- identifying homeless students' needs and fund accordingly;
- obtaining a count of the students who are homeless and multiply that number by the Title I, Part A per-pupil allocation;
- reserving a specific amount of funds greater than or equal to the amount of the district's McKinney-Vento sub-grant; and
- reserving a specific percentage based on the district's poverty level or total Title I, Part A allocation.

For more information, see:

www.serve.org/nche/downloads/calculating_setasides.pdf

Is a district still required to do a set-aside if all of the schools in the district receive Title I funding? No. Title I set-aside funds are only required to provide comparable services, so if all of the schools in a district receive Title I funds, school districts (including BOCES and charter schools) are not mandated to set aside such funds for students who are homeless; however, such districts may choose to set aside additional funds to serve homeless children and youth.

Can Title I set-aside funding that is unused in a given school year be rolled over into next year's Title I set-aside? No. A school district can petition the State Education Department (SED) to have its set-aside funds put back into Title I funding, but Title I set-aside funds cannot be rolled over into next year's Title I set-aside.

Can Title I funds be used to pay for transportation while a student is homeless? Generally no. Title I funds cannot be used for transportation costs while a student is

How may Title I, Part A set-aside funding be used?

The following is a list of some examples of how Title I set-aside funding may be used:

- Before-school, after-school, and/or summer programs with an educational focus;
- Outreach services to students living in shelters, motels, and other temporary residences to help identify homeless children and youth and advise them of available school programming;
- Basic needs such as school uniforms, school supplies, and health-related needs;
- Counseling services;
- Teachers, aides, and tutors to provide supplemental instruction to students whose achievement is below grade level
- Parental involvement programs that make a special effort to reach out to parents in homeless situations;
- Research-based programs that benefit highly mobile students; and
- Data collection to assess the needs and progress of homeless and other highly mobile.

(*Title I of ESEA Section 1115(b)(3)*). For more information about Title I, Part A, set-aside funding, please see the National Center for Homeless Education's "Title I and Homelessness" issue brief available at www.serve.org/nche.

homeless, because they cannot be used to supplant services required under the McKinney-Vento Act. However, Title I funds can be used for non-mandated transportation services for students who are homeless, including transportation to and from after- and before-school activities, transportation to the school of origin after the student has moved into permanent housing, transportation for parents to attend school events, and transportation to medical appointments that relate in some way to the student's education.

Can Title I funds be used to pay for eyeglasses, or medical or dental services for homeless students?

Yes, provided funds are not available from other public or private sources to provide such services, e.g. Medicaid. (*Title I of ESEA Section 1115(e)(2)(B)*).



MCKINNEY-VENTO SUB-GRANT FUNDING

Federal funding is available through the McKinney-Vento Act in the form of competitive sub-grants to school districts. The program awards competitive, three-year sub-grants to school districts to facilitate the enrollment, attendance, academic success of homeless children and youth. Sub-grants are needs-based, and take into account the number of children and youth who are homeless and enrolled in preschool, elementary school, and secondary schools within the school district. (*M-V Section 723(c)*).

How can a school district apply for a McKinney-Vento Act sub-grant? A school district can apply for a McKinney-Vento Act sub-grant from the New York State Education Department.

Are charter schools eligible to receive McKinney-Vento sub-grant funding? Charter schools are considered an LEA and are therefore eligible to receive McKinney-Vento sub-grant funding.

Can McKinney-Vento sub-grant funds be used to pay for temporary housing (i.e. a hotel/motel) for a family whose home has recently become uninhabitable or to prevent an eviction? McKinney-Vento sub-grant funds should not be used to pay for rent or temporary housing for a family whose home has recently become uninhabitable. The family should contact the local department of social services (LDSS) for help securing temporary housing. However, if assistance unavailable from any other source, the district may use McKinney-Vento funds to pay for housing for a limited period of time (e.g. one month's rent).

Can McKinney-Vento sub-grant funds be used for a program that serves both homeless and permanently housed students? Yes. Districts that receive sub-grant funds can integrate the service provision into the overall school or district programming. For example, a district could use these funds to create a tutoring program for at-risk students, which would include services for both homeless and permanently housed students.

What can the McKinney-Vento Act sub-grant funds be used for?

The McKinney-Vento Act sub-grants, which are available to Local Educational Agencies (LEAs) may be used to facilitate the enrollment, attendance, and success of homeless children and youth in school.

Examples of uses of funding include:

- supplemental instruction,
- programs for gifted/talented students, students with disabilities, students with limited English proficiency,
- liaison's salary
- professional development,
- referral services for health services,
- transportation,
- before and after-school programs,
- school supplies and
- emergency assistance.

(*M-V Sections 723(a)&(d)*).