

# **Deciding Residency Status and Determining When a “Homeless” Student has Moved into Permanent Housing**

The “Do’s” and “Don’ts” for Liaisons  
McKinney-Vento and FERPA  
Policies and Practices

Presenter:

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# Immediate Enrollment

- Under the McKinney-Vento Homeless Assistance Act, schools must identify children and youth in homeless situations and provide appropriate services. One such service is immediate enrollment in school, even when students lack paperwork normally required for enrollment, such as school records, proof of guardianship, a birth certificate, immunization or other health records, and proof of residence.
- **Delaying the enrollment of a homeless student violates federal law and may place the student in danger.**



# Is the student eligible under McKinney-Vento?

- In complying with the immediate enrollment mandate, some school districts may be concerned that families or youth may claim falsely to be homeless in order to gain access to services for which they are not eligible or to gain enrollment in a school outside of their local attendance area.
- Due to the stigma associated with homelessness, the vast majority of students and families seeking eligibility for services under McKinney-Vento do so in good faith and with good reason. If a question arises about a student's eligibility, schools may wish to confirm the details of the student's living situation.

**All such efforts must be grounded in sensitivity and respect, keeping the academic well-being and best interest of the student in the forefront.**



# McKinney-Vento and FERPA



- Using invasive or threatening techniques to confirm a student's eligibility can humiliate families and youth and may place an already tenuous temporary living arrangement in jeopardy. This may destabilize the family or youth further and may create a barrier to the student's enrollment, thereby violating the McKinney-Vento Act. Additionally, employing these techniques may violate the Family Educational Rights and Privacy Act (FERPA).

# The cost of failing to follow the law

## Liability and Litigation

- Manassas, VA - *Equal Rights Center, et al. v. City of Manassas, et al.*

### COMPLAINTS FILED AGAINST CITY OF MANASSAS FOR ILLEGAL DISCLOSURES OF CONFIDENTIAL SCHOOL RECORDS

- Allegedly, census information collected from students' parents was used to file overcrowding complaints on an overcrowding hotline. Parents were unaware that MCPS was secretly filing overcrowding complaints against them using their children's confidential school records. This behavior amounts to repeat unauthorized disclosures in violation of FERPA.
- FERPA prohibits educational agencies and institutions receiving federal funds from maintaining a policy and practice of releasing education records, or personally identifiable information contained within those records, without first obtaining parental consent.
- The case resulted in a settlement of \$775,000 in damages and legal fees.

# McKinney-Vento Litigation

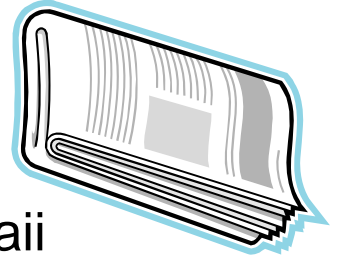
## *Hitting Close to Home*



- In 2004, various Suffolk County school districts, the New York State Education Department (NYSED), and the county and state social services agencies were sued. The lawsuit, which was filed in February 2004, contended that the defendants had neglected to adhere to McKinney-Vento's school of origin, immediate enrollment, and transportation requirements. Also of concern was a local social services policy that required children to miss school (potentially for several days) in order to wait in a government office for emergency housing for their families. By the end of the summer, all 14 of the school district defendants decided to settle with the plaintiffs. Essentially, they agreed to: 1) inform parents of their rights via informational posters, brochures, and one-on-one consultations; 2) identify more homeless students for appropriate services by asking relevant questions during the processes of enrollment and withdrawal; 3) decrease waits for transportation services; 4) increase the availability of staff trainings and support; and 5) reform their dispute resolution processes.

# McKinney-Vento Litigation cont..

## *Still Making News*



- The lawsuit, *Kaleuati v. Tonda*, was filed against the Hawaii Department of Education ("DOE") and Board of Education ("Board") in federal district court in October 2007.
- The lawsuit charged that Hawaii schools had forced homeless children to change schools multiple times in a single year, denied them the ability to enroll, and refused to allow them access to the safe school transportation services enjoyed by non-homeless students.
- One of the biggest barriers for homeless children had been the lack of transportation to and from school. In the settlement agreement, the DOE and Board agreed to take the long-needed step of running additional school buses on the Leeward Coast, the highest density homeless area in the State. Where school buses are not available, the DOE will also offer mileage reimbursement for those parents who wish to drive their children to school, supply bus passes for children (and an adult or guardian when the student is too young to travel alone), and/or modify existing school bus routes to pick up homeless children.

# Hawaii Litigation cont...

- **Under additional provisions of the settlement, the DOE shall:**
  - Hire additional homeless liaisons on each island to assist homeless families in navigating the public school system;
  - Inform homeless children and families of their rights under the McKinney-Vento Act (most notably, a child's right to remain in her or his current school – and receive transportation to that school – even if the family moves outside of the school district in search of shelter);
  - Conduct yearly trainings of school personnel, and make annual site visits to schools and homeless shelters statewide;
  - Modify its enrollment forms and computer systems to facilitate the enrollment process and improve attendance for homeless children; and
  - Take affirmative steps to avoid stigmatizing homeless families.

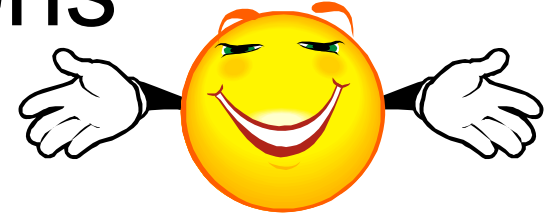
# The Do's and Don'ts for Liaisons

## DO...

- Do conduct ongoing awareness activities in the school district
- Provide annual awareness and sensitivity trainings to all school staff, including administrators, counselors, social workers, teachers, secretaries, registrars, nurses, bus drivers, security staff, attendance officers, and staff from local service agencies that may be working with your students



# The Do's for Liaisons continued...



- Develop relationships with shelters, transitional housing organizations, and local discount motels/hotels to assist in identifying homeless students and/or confirming a student's living arrangement.
- Implement the usage of a district-wide enrollment questionnaire that incorporates informative, yet non-invasive, questions to help enrollment staff determine eligibility
- Have parents, youth, or caregivers sign enrollment forms indicating that McKinney-Vento services are offered based on information they have provided about their living situation. The forms should explain the consequences for providing false information

# The Do's for Liaisons continued...

- Collaborate with local homeless education liaisons from nearby school districts to identify children and youth in homeless situations and confirm eligibility.
- Contact the student's prior school to determine if the student was identified as homeless there
- Collaborate with your State Coordinator for Homeless Education and NYSTEACHS for technical assistance and support in ensuring immediate enrollment.



# The Do's for Liaisons continued...

- Talk with parents and youth about their living situation, focusing on basic questions such as, **“Why did you leave your last residence?”** or **“Where did you sleep last night?”** Let them know you are asking questions of a personal nature to determine if they are eligible for additional services. **Avoid using the word “homeless”** in initial conversations due to the associated stigma; instead, use terminology such as **“in a temporary living arrangement”**.



# The Do's for Liaisons continued...

- Share information about McKinney-Vento services, rights, and definitions when a parent or youth cannot provide proof of residency, guardianship, or other documentation, or when they display other possible indicators of homelessness

Keeping it positive and supportive instead of invasive and threatening is essential!





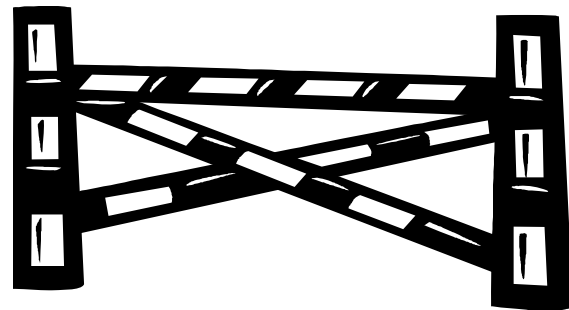
# The Don'ts for Liaisons

- Don't threaten or harass parents or students, violate their privacy, or jeopardize their housing
- Don't contact landlords or housing agencies about a student or family. Such contacts may violate the Family Educational Rights and Privacy Act (FERPA) and the McKinney-Vento Act and may jeopardize already tenuous housing situations. In addition, these contacts generally do not provide useful information.



# The Don'ts for Liaisons continued...

- Don't conduct invasive surveillance of students or families, such as following them, observing them from outside their residences, or talking to neighbors about their living situation.
- **Don't pose barriers to enrollment**
- The McKinney-Vento Act requires schools to eliminate barriers to enrollment and attendance; acts that may threaten or intimidate create barriers that can frighten parents and students away from school



# The Don'ts for Liaisons continued...

- Don't force caregivers to obtain legal custody or guardianship to enroll youth. The McKinney-Vento Act requires school districts to have procedures to enroll unaccompanied youth immediately; **legal custody or guardianship cannot be prerequisites**. Furthermore, custody and guardianship have important legal consequences far beyond education and are not appropriate for many caregiver relationships.



# In Conclusion...

- School district's attempts to verify a student's eligibility for McKinney-Vento services must be governed by respect, sensitivity, and reasonable limits.
- When in doubt, the district must always enroll the student immediately and should seek support from the local liaison, NYSTEACHS or the State Coordinator for Homeless Education.

# Putting the Law into Practice

## Keys to Success

- Affecting LEA policies
- Removing barriers
- Advocacy
- Strategies that work
- Overcoming obstacles

