

RIGHTS AND RESPONSIBILITIES OF UNACCOMPANIED HOMELESS YOUTH

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<p>McKINNEY-VENTO HOMELESS ASSISTANCE ACT</p>	<ul style="list-style-type: none"> • Insures that children who are homeless are entitled to a free, appropriate public education • Children can be considered homeless if they live in emergency or transitional housing, are “doubled up”, are awaiting foster care placement, live in public spaces (e.g. train stations, abandoned buildings) or any other place not designed for regular sleeping accommodations • Covers all school-age children; in New York State would cover all children until they receive a high school diploma or equivalent, or through the end of the school year in which the young person turns twenty-one years old, whichever comes first • Relevant state law – Education Law 3209 on education of homeless children
<p>Unaccompanied Homeless Youth</p>	<ul style="list-style-type: none"> • A young person who meets the definition under the McKinney-Vento Assistance Act and is not living with a parent or legal guardian • Such a young person can enroll in school without the involvement of a parent or legal guardian – discussed in New York City Department of Education Chancellor’s Regulation No. A-101, dated January 19, 2017, and Regulation No. A-780, dated June 29, 2009; both regulations are available at http://schools.nyc.gov/NR/rdonlyres/1CC25F63-74E8-41A6-8031-490F206F148D/0/A101asof20170123.pdf . • In addition, the youth must be <u>immediately</u> enrolled, “even if the child or youth is unable to produce records normally required for enrollment” – Regulation A-780, p. 3. The school staff has an affirmative obligation to assist the unaccompanied youth in obtaining documentation (e.g. school transcripts, health records, birth certificate).
<p>RIGHTS OF UNACCOMPANIED HOMELESS YOUTH</p>	
<p>EMANCIPATION IN NEW YORK STATE</p>	<ul style="list-style-type: none"> • No court procedure available to obtain the status of an emancipated minor • As a result, uncertainty in the status of being emancipated. Emancipation is not a universal or broad concept – it only applies in particular contexts (as discussed below). In New York State there is no general status of being “emancipated”. • In New York State, the term is usually but not always used in relation to minors (young people under eighteen years old)

<p style="text-align: center;">Child Support</p>	<ul style="list-style-type: none"> • Parent obligated to provide support until child reaches age of 21; parent has potential defense of actual or constructive emancipation • Actual emancipation (economic independence, military service, or marriage) • Constructive emancipation - withdrawal from parental control and supervision without cause – <u>see, e.g., Matter of Roe v. Doe</u>, 29 N.Y.2d 188, 193 (1971), available at http://tinyurl.com/q5835g6. • Whether an unaccompanied homeless youth is able to get child support would depend on the history of the young person’s relationship with his or her parent(s) or legal guardian (e.g. runaway from abuse vs. order of protection against child)
<p style="text-align: center;">Public assistance (“welfare”) benefits</p>	<ul style="list-style-type: none"> • A young person who is emancipated may receive public assistance benefits if otherwise eligible. (N.Y. Comp. Codes R. & Regs. tit. 18 § 349.5(a), 370.2(c)(1)(i) (2006) • Emancipated minor – “a person over 16 years of age who has completed his compulsory education, who is living separate and apart from his family and is not in receipt of or in need of foster care” – 18 NYCRR 349.5(a). Requirement that young person have completed compulsory education was declared unconstitutional. <u>Freedman v. Blum</u>, 435 N.Y.S.2d 667 (1981); <u>compare Aliessa v. Novello</u>, 754 N.E.2d 1085, 1093 (2001) • Unaccompanied homeless youth under eighteen years old could be eligible to get own welfare case if student meets the “emancipated minor” requirements – but the categories are not identical. (Consider, for instance, a young person awaiting foster care placement.) • Additional requirements for a young person under eighteen years old who is pregnant or parenting – see “The Rights of Pregnant and Parenting Teens”, p. 49, available at http://www.nyclu.org/publications/booklet-rights-of-pregnant-and-parenting-teens-2006
<p style="text-align: center;">Medicaid</p>	<ul style="list-style-type: none"> • Emancipated minors can be eligible for Medicaid benefits (health insurance), using the same “emancipated minor” definition as for welfare benefits - NYS Medicaid Reference Guide (http://www.health.state.ny.us/health_care/medicaid/reference/mrg/other.pdf) at page 433
<p style="text-align: center;">Public education</p>	<p>NYC Department of Education Chancellor’s Regulations define emancipation for the purpose of school enrollment - “Only those students who are independent and living apart from their parents and who are not in need or receipt of Foster Care may be considered emancipated for purposes of establishing a residence apart from their parents. “ New York City Department of Education, Regulation of the Chancellor No. A-101§ VIII.B, p. 18.</p>

<p>Leaving home without permission</p>	<ul style="list-style-type: none"> • See Family Court Act Section 718 - "a police officer may return to a parent or other person legally responsible for such child's care any child under the age of eighteen who has run away from home without just cause or who, in the reasonable conclusion of the officer, appears to have run away from home without just cause". • Parent or legal guardian also has the ability to start a "Person in Need of Supervision" (PINS) case in Family Court to try to get a court order to require a minor to return home. • To officially have the right to stay away from home, young person would need to be the subject of a court order displacing the authority of the parent (e.g. custody, guardianship, Article 10 proceeding in Family Court [neglect or abuse] leading to foster care placement)
<p>Foster care</p>	<ul style="list-style-type: none"> • In New York City, the Administration for Children's Services (ACS) is responsible for investigating situations where a minor may have been the subject of abuse, neglect or abandonment, or is destitute. ACS has this responsibility even if the minor may be considered "emancipated" in some other context, and even if the minor is an unaccompanied homeless youth. • There is no legal way for a young person to become "emancipated" in order to avoid investigation by ACS and possible placement in foster care.
<p>Financial aid for college</p>	<ul style="list-style-type: none"> • Students under the age of approximately 24 years old as of January 1 in a particular school year are assumed to be "dependent" students unless they fit into an exception • No way to become "emancipated" to avoid parental involvement in financial aid application process, and parent's finances being considered re eligibility for financial aid • However, even if student is not automatically considered independent, a college financial aid office can evaluate student's situation and, based on her or his "unusual circumstances", classify the student as an "independent student" • In addition, an unaccompanied homeless youth who is certified as such by a high school homeless liaison, director of an emergency shelter, or director of a runaway or homeless youth basic center would normally automatically be considered independent for purposes of federal financial aid. See https://fafsa.ed.gov/fotw1819/help/fftoc02k.htm.

Being a payee for Social Security benefits	<ul style="list-style-type: none"> • Social Security Administration does not use the term “emancipated minor” • However, in limited circumstances a minor may be able to be the payee for her or his own disability, survivors’, or other Social-Security-related benefits – see 20 CFR Section 404.2010, available at http://tinyurl.com/hh8kxy6 .
Marriage	<ul style="list-style-type: none"> • Minors (persons under eighteen years old) need parental permission in order to marry
Health care	<ul style="list-style-type: none"> • Minor who understands the risks and benefits of proposed and alternative treatments can consent to- Reproductive health care Mental health services under many circumstances Certain alcohol and drug abuse services Sexual assault treatment • Minors can also receive health care treatment in an emergency See generally Teenagers, Health Care & The Law (NYCLU 2009), available at https://www.nyclu.org/en/publications/booklet-teenagers-health-care-and-law-english-and-spanish-2009 • These rights generally also apply to minors who are not emancipated (for instance, living with a parent)
TWO BENEFITS TIPS	
Food Stamps and health insurance	<ul style="list-style-type: none"> • Generally public assistance recipients are automatically eligible for SNAP benefits (formerly known as “Food Stamps”) and Medicaid (but some legal immigrants, and all undocumented immigrants, are not eligible for SNAP) • All people under 19 years old are eligible for Child Health Plus (a form of health insurance) even if the young person is undocumented
	<ul style="list-style-type: none"> •
UNDOCUMENTED YOUTH	
School Enrollment	<ul style="list-style-type: none"> • Young people who are undocumented (without legal immigration status in the United States) are entitled to receive a free public school education through the school year in which the young person turns twenty-one years old. See the New York City Comptroller’s Immigrant Rights and Services Manual at http://comptroller.nyc.gov/wp-content/uploads/documents/immigrant_rights_and_services_manual.pdf, or http://tinyurl.com/zy2ljpf, at page 18.

Emergency shelter	<ul style="list-style-type: none"> • If a person is homeless in New York City, the person is entitled to receive emergency shelter, without respect to the person’s immigration status.
Legal Services	<ul style="list-style-type: none"> • Many young people who are undocumented may be eligible to apply for some form of legal status based on the young person’s situation. For example, a young person who is deprived of the care of one or both parents due to abuse, neglect or abandonment may be able to seek Special Immigrant Juvenile status, which may enable the person to become a lawful permanent resident. • Since there are often time limits to apply for particular forms of legal relief, it is important that a young person who is undocumented be referred to a legal worker familiar with immigration law sooner rather than later so that the worker can identify if there are any legal remedies for the young person.
THE DOOR - 555 Broome Street, New York, New York and 424 East 147th Street, Bronx, New York 212-941-9090; www.door.org	
Wide range of services	<ul style="list-style-type: none"> • The Door provides the following services to young people between the ages of 12 and 21 years old: college advisement, tutoring, counseling, arts, English instruction for speakers of other languages, free dinner, help for young people in foster care, high school equivalency classes, health services (including dental and vision services), help finding jobs and internships, opportunities to develop leadership skills, legal services, services geared toward young people who are lesbian, gay, bisexual, transgender or questioning (LGBTQ), music, dance, sexual health and birth control, and referrals to supportive housing. <p style="text-align: center;">Though some services are provided only for young people up to 21 years old, many services are provided to older youth up to the age of 24 years old.</p>
Runaway and Homeless Youth	<ul style="list-style-type: none"> • The Door provides services specifically for young people who are runaways or who are homeless, including help finding food, clothing and shelter. These services include two meals per day, recreation and access to all other services at The Door.