

RIGHTS OF MASSACHUSETTS HOMELESS YOUTH TO EDUCATION

Prepared by the Mental Health Legal Advisors Committee
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What is the McKinney Vento Act?

The McKinney Vento Act is a federal law that guarantees homeless children or youth (age 3-22) equal rights to education.

How does McKinney Vento define homelessness?

Children who do not have a fixed, regular and adequate nighttime residence are defined as homeless under the Act, and are thus eligible for services. This term includes children who are staying in motels, hotels, trailer parks, campgrounds, or who are sharing the housing of other persons due to economic hardship or loss of housing. It also includes children living in emergency or transitional shelters, cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or any place that is meant to be a place to sleep. Finally, homeless children and youths are also those who are abandoned in hospitals or are awaiting foster care placement.¹ Children who have been displaced by natural disasters are considered for eligibility for services through this Act on a case by case basis.²

What does the McKinney Vento Act require of schools?

The Act states that homeless children and youths should not be separated from the mainstream school environment.³ They should receive services comparable to those that other students in the school receive. This includes the following:

- Transportation services.⁴ If the youth's liaison, parent or guardian requests transportation, it should be provided. If the student lives in an area served by a different local educational agency from the school the student attends, the two local educational agencies must agree upon a method for providing and paying for transportation services.⁵

¹ McKinney-Vento Homeless Education Assistance Improvements Act of 2001 § 725(2)(B), 42 U.S.C. § 11431 *et seq.*

² United States Department of Education, Education for Homeless Children and Youth Program, *Title VII-B of the McKinney-Vento Homeless Assistance Act, as Amended by the No Child Left Behind Act of 2001: Non-Regulatory Guidance* 18 (2004), <http://www2.ed.gov/programs/homeless/guidance.pdf>.

³ United States Department of Education, Education for Homeless Children and Youth Program, *Title VII-B of the McKinney-Vento Homeless Assistance Act, as Amended by the No Child Left Behind Act of 2001: Non-Regulatory Guidance* 2 (2004), <http://www2.ed.gov/programs/homeless/guidance.pdf>.

⁴ McKinney-Vento Homeless Education Assistance Improvements Act of 2001 § 722(g)(3)(B)(iii), amending 42 U.S.C. § 11431 *et seq.*

⁵ McKinney-Vento Homeless Education Assistance Improvements Act of 2001 § 722(g)(1)(J)(iii)(II), 42 U.S.C. § 11431 *et seq.*

- Educational services for which the child or youth is eligible, including special education and limited English proficiency programs.⁶ This means that homeless children and youths have the same entitlement as other student to 504 plans, IEPs, and evaluations to determine eligibility for such services.
- Programs in vocational and technical education, programs for gifted and talented students, and school nutrition programs.⁷
- A dispute resolution process.

It is important that schools do not segregate or separate homeless children or youths from other students. Some schools may find it appropriate to run a supplemental program for homeless children or youths, but it should not be stigmatizing to the children (for example, the program's name should not clearly indicate that it is for homeless children and youths). School districts should ensure that homeless children or youths do not face stigmatization in school.⁸

Unless the child's parent or guardian wants the child to move schools, homeless children or youths should stay in their original school to the extent feasible, and according to the child's best interest.⁹

Once designated as the school the child will attend, schools must immediately enroll the homeless child or youth, even if he does not have records normally required for enrollment, including academic and medical records, proof of residency, or other documentation.¹⁰ If a child needs immunizations or lacks medical records, the local educational liaison must help the child obtain them.¹¹

When does a child get a local educational liaison?

Homeless children who do not have a present parent or guardian (known as an unaccompanied youths) should be assigned a local educational liaison.¹² School districts should pay special attention to unaccompanied youths, because without a parent or guardian they are less likely to be aware of their educational rights and be able to advocate for themselves. As a result, unaccompanied youths are more

⁶ McKinney-Vento Homeless Education Assistance Improvements Act of 2001 § 722(g)(4)(b), amending 42 U.S.C. § 11431 *et seq.*

⁷ McKinney-Vento Homeless Education Assistance Improvements Act of 2001 § 722(g)(4)(c), (d), (e), amending 42 U.S.C. § 11431 *et seq.*

⁸ United States Department of Education, Education for Homeless Children and Youth Program, *Title VII-B of the McKinney-Vento Homeless Assistance Act, as Amended by the No Child Left Behind Act of 2001: Non-Regulatory Guidance* 15 (2004), <http://www2.ed.gov/programs/homeless/guidance.pdf>.

⁹ McKinney-Vento Homeless Education Assistance Improvements Act of 2001 § 722(g)(3)(B)(i), amending 42 U.S.C. § 11431 *et seq.*

¹⁰ McKinney-Vento Homeless Education Assistance Improvements Act of 2001 § 722(g)(3)(C)(i), amending 42 U.S.C. § 11431 *et seq.*

¹¹ United States Department of Education, Education for Homeless Children and Youth Program, *Title VII-B of the McKinney-Vento Homeless Assistance Act, as Amended by the No Child Left Behind Act of 2001: Non-Regulatory Guidance* 16 (2004), <http://www2.ed.gov/programs/homeless/guidance.pdf>.

¹² McKinney-Vento Homeless Education Assistance Improvements Act of 2001 § 722(g)(1)(J)(ii), amending 42 U.S.C. § 11431 *et seq.*

likely to be out of school for longer periods of time.¹³ Each school district should have a local educational liaison responsible for identifying homeless youth, ensuring that they enroll in school, and that they have a full and equal opportunity to succeed.¹⁴

Local educational liaisons should also ensure that homeless families, children and youths receive educational services for which they are eligible and referrals to health care, dental, mental health and other appropriate services.¹⁵ Parents and guardians should be made aware of the educational opportunities and transportation services available to their children, and should have meaningful opportunities to participate in the education of their children.¹⁶ Furthermore, local educational liaisons are responsible for publicizing the educational rights of homeless children in places such as schools, family shelters, and soup kitchens.¹⁷ Liaisons must also ensure that any enrollment disputes are properly mediated.¹⁸

Resources:

Masslegalservices.org, Information for Homeless Children,
<http://www.masslegalservices.org/education?tid=731>

The McKinney Vento Act can be found at <http://www2.ed.gov/policy/elsec/leg/esea02/pg116.html>

Massachusetts Advocates for Children, Educational Rights of Children Affected by Homelessness and/or Domestic Violence, <http://massadvocates.org/publications/educational-rights-of-children-affected-by-homelessness-andor-domestic-violenceeducational-rights-of-children-affected-by-homelessness-andor-domestic-violence/>

¹³ U.S. Department of Education, Education for Homeless Children and Youth Program, *Title VII-B of the McKinney-Vento Homeless Assistance Act, as Amended by the No Child Left Behind Act of 2001: Non-Regulatory Guidance* 23 (2004), <http://www2.ed.gov/programs/homeless/guidance.pdf>.

¹⁴ McKinney-Vento Homeless Education Assistance Improvements Act of 2001 § 722(g)(6)(A)(i), (ii), amending 42 U.S.C. § 11431 *et seq.*

¹⁵ McKinney-Vento Homeless Education Assistance Improvements Act of 2001 § 722(g)(6)(A)(iii), amending 42 U.S.C. § 11431 *et seq.*

¹⁶ McKinney-Vento Homeless Education Assistance Improvements Act of 2001 § 722(g)(6)(A)(iv), (vii), amending 42 U.S.C. § 11431 *et seq.*

¹⁷ McKinney-Vento Homeless Education Assistance Improvements Act of 2001 § 722(g)(6)(A)(v), amending 42 U.S.C. § 11431 *et seq.*

¹⁸ McKinney-Vento Homeless Education Assistance Improvements Act of 2001 § 722(g)(6)(A)(vi), amending 42 U.S.C. § 11431 *et seq.*