

Evicted? Doubled up?

Your Child Has the Right to Stay in School!

**A Know Your Rights Toolkit for
New York Families who Lack
Stable Housing**



Does my child have rights?

- **Yes!** This toolkit is about students' rights under a federal law known as the **McKinney-Vento Homeless Assistance Act**, and under NY state law.
- Students have these rights whether they are homeless alone or with their families.
- **Unaccompanied youth** – including those who are **couch-surfing**—can exercise all the rights in this Toolkit without a parent or guardian.
- The law gives students who experience homelessness the right to **equal access** to the same education as all other students.
- Students have the rights in this toolkit during the **entire time** they are homeless, even if they are homeless for more than one school year.
- These rights apply to all homeless students, even those who are **not U.S. citizens**.



Who is homeless?

Students are homeless if they lack a fixed, regular, and adequate night-time home.

Homeless students include:

- Students who are staying with a friend or relative because they lost their housing or cannot afford housing. This includes children who are couch surfing.
- Students who spend most nights in a shelter or transitional housing.
- Students who live in a hotel, motel, camp ground, or trailer park.
- Students who spend most nights in a public space like a car, park, abandoned building, or bus or train station.
- Children abandoned in hospitals.
- Children of migratory farm workers who are in similar situations.

What are my child's rights?

1. School Choice: Your child can either stay in the school they attended before you lost your housing—their school of origin—or go to the school near where they stay now.

- Choose the school that best fits your child's needs.
- Even if the school thinks your child should not be going there, they must enroll them until a final decision from your appeal is made.
- Your child can keep attending their school of origin the whole time you are homeless.
- The school cannot charge a fee because you are out of district.
- Your child can keep attending this school even if you move to a new state.
- After you find permanent housing, your child can stay at their school until at least the end of the school year.
- If your child only has one more year in their school building, they can stay until their last year ends. For example, if you find housing in a different district in the middle of 7th grade and the school goes through 8th, they can stay until the end of 8th.

2. Enroll today: The school you choose must enroll your child as soon as they get your designation form.

- Ask your child's school for a **designation form** and for help filling it out. Also ask them to help you turn it in and enroll your child in school if you choose a new school.
- Even if you are **missing records** like ID or proof of residency, the school must enroll your child.
- Even if it is **after the enrollment deadline**, the school must enroll your child.
- If you are an unaccompanied youth and you **do not have a parent** or legal guardian to sign papers, the school still must enroll you.

3. Transportation: You have the right to transportation help for your child to and from school if you are staying within 50 miles.

- If you are more than 50 miles away, you still might be able to get transportation help.
- The school must also provide transportation to after school activities.

4. School Services: You have the right to the school services you need.

This includes:

- All programs offered to other students such as sports, after school activities, tutoring, gifted and talented programs, and summer school
- Special education services—schools must implement your child's IEP immediately
- English language services
- Referrals to health, dental, and other services
- Extra academic help and resources
- Help applying to college
- Clothing, uniforms, shoes, books, food, and school supplies needed to attend school

5. No separation: Your child has the right to attend classes, activities, and programs with all other students.

- Schools cannot put homeless students in separate classes.

6. Privacy and Confidentiality: You and your child have the right to privacy.

- Unless the school has your permission, they cannot share information about your family except with school employees.
- Schools cannot call a landlord, employer, or someone else and tell them you are homeless.

What if a school violates my child's rights?

You can challenge the school's decisions by filing an appeal.

- If you challenge the school's decision, they must let the student keep going to that school until a final decision.
- The school must explain their decision in writing.
- A **lawyer** can be very helpful in challenging a school's decision! See last page for how to find a lawyer.



Which school decisions can I appeal?

You have the right to appeal any decision the school makes that you believe violates your child's rights. This includes but is not limited to:

- Whether your child is homeless
- Which school your child attends
- Which programs your child can participate in
- Whether fees should be waived
- Whether paperwork is required before your child is enrolled
- Whether the school system must provide **transportation**

How do I file an appeal?

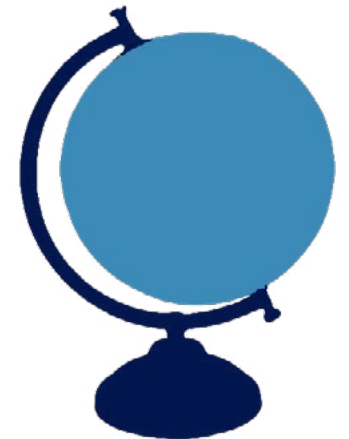
- Don't wait! You have **30 days** to file an appeal from the date you receive a written decision from the school.
- Take these steps to file your appeal:
 1. Fill out an **appeal form** found here: <https://bit.ly/2TWsBrf>
 2. When answering questions on the appeal form, remember to give as much information as possible. If you need to attach another sheet of paper in order to tell your whole story, you should do that.
 3. If you would like to speak directly to the Board to argue your case, make a request for **oral argument** on your appeal form. If you do not request this, the Board will make its decision based only on the papers you submit.
 4. Attach other official papers or photos known as **evidence**. See next page for examples of evidence and a checklist for use in your case.
 5. **Serve the appeal** on the school: To serve your appeal, give the papers to your School Homeless Liaison (see last page).

Do I need a lawyer?

- You have a much better chance of success if you have a lawyer. The school will have their own lawyer.
- See "how do I find a lawyer" section on last page.

What is "evidence"?

- Evidence is any papers, photos, documents, or receipts that can help prove your case. On the next page is a list of types of evidence you might use to prove your child is homeless, that you cannot afford housing, or that you are staying somewhere that is unsafe or temporary. There may be other evidence you have that is not on this list. Submit **as much evidence as possible**.



Types of Evidence

Photos – Photos can be very persuasive evidence. Include a description of what is in the photo. For example, you could include a photo of where your child sleeps at night with a caption reading “This is the couch where my child sleeps in our friend’s home.”

Letters – Letters from people who know your situation are helpful. For example, you could get letters from each person you have stayed with recently.

Court papers – Court papers related to eviction or foreclosure can show you are currently homeless. These include notices and court orders.

Citations or Warnings – Because these are usually issued by government officials, citations and warnings are very helpful. One example is a citation from the police for camping in public.

Applications – Housing applications can help show that you do not have and are looking for permanent housing. Applications for public benefits can prove you cannot afford housing.



Utility bills or shut off notices – A shut off notice from the gas, water, or electric company can prove the unit you stay in is not safe.

Inspection notices – These can be powerful evidence that a unit is overcrowded or unsafe.

Housing and income receipts – Receipts from payment made to a hotel or campground show where you stay at night is temporary. Receipts showing you receive government benefits can show you cannot afford housing.

Which evidence should I use in my case?

- The New York State Board of Education will make their decision based on the papers or evidence you give them when you file your appeal. This is your **only opportunity** to present evidence to the Board.
- Everything on your appeal form must be backed up by evidence. For example, if you state on the appeal form that you are staying with a relative, you need a letter from that relative as evidence.
- Use this evidence list to help you gather the papers you need to prove your case. For all categories that apply to you or your child, **check the boxes next to the evidence you have or can get.**

1. You or your child are couch-surfing or doubled-up

A letter from your host that says whose home it is, how big it is, and how many people stay there

Letters from other people who you or your child have stayed with

2. Your housing is temporary

A letter from your host that says you can only stay there short-term (if you have been given a date to leave, the letter should state that)

A letter from someone who is helping you find permanent housing

A letter showing you are on a wait list for permanent housing

Copies of applications you have made for permanent housing

3. You cannot afford your own housing

Papers showing you have applied for or are receiving benefits like TANF, Social Security, Medicaid, or SNAP

Papers showing you recently lost a job

4. Your housing is unsafe, or unhealthy

A bill or letter showing the electricity, water, or gas has been shut off

A letter or notice from an inspector or caseworker stating there is no heat, water, working toilets, electricity, or hot water

A letter or notice from an

inspector saying the unit is not safe or sanitary, that it failed inspection, or has been condemned

5. Your housing is overcrowded

A letter from a person you stay with describing how overcrowded it is, including number of beds, number of persons, and where your child sleeps

Photos of where your child sleeps and a description of the photo

Notice from an inspector or other government official that unit is overcrowded

6. You recently lost your housing or are about to lose it

Eviction notice, warning from landlord, court papers

Foreclosure notice or warning

7. You are staying in a shelter, transitional housing program, hotel, motel, or campground

A letter from the shelter or housing program

Receipt from campground, hotel, or motel

8. You are staying outside or in other places not meant for sleeping like a car, a bus or train station, or an abandoned building

Photos of the inside of the car that you are sleeping in

Citations from police for sleeping or camping in public

Photos of where you sleep outside or in a station or abandoned building

How do I find a lawyer?

- **New York lawyers** (county by county) who assist with education cases: https://nysteachs.org/wp-content/uploads/2018/08/INF_TEACHS_ListOfLegalServiceProviders_111418.pdf
- **New York programs** that help homeless youth: https://www.americanbar.org/content/dam/aba/images/homelessness_poverty/NEW%20YORK.pdf
- **NYS-TEACHS:** 800-388-2014 – call for referral to lawyer or answers to questions.
Website: www.nysteachs.org/parents-families/

Who else can help me?

School Liaison

- Every school must have a School Liaison who is in charge of making sure homeless students get help.
- You can call your school district's central office for the liaison's name and number.
- Write your liaison's name and number **here**:

Name: _____

Number: _____

State Coordinator

- The New York State Coordinator must make sure all New York schools follow the law.
- **NY State Coordinator: Melanie Faby**
(518) 473-0295 or Melanie.faby@nysed.gov
- **National Center for Homeless Education:**
(800) 308-2145
- **National Law Center on Homelessness & Poverty:**
(202) 638-2535 or email@nlchp.org