Homeless Education Advocacy Manual: Disaster Edition

NOVEMBER 2017

with updates for global health emergencies, October 2020

NHLC

NATIONAL HOMELESSNESS LAW CENTER

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PRE-K-12 STUDENTS DISPLACED BY A DISASTER: YOU HAVE THE *RIGHT* TO ATTEND SCHOOL!

If you are a student attending public pre-K-12 schools and have recently been displaced by a disaster, including loss of housing during COVID-19, you may have education rights for support and services under federal law.

WHAT LAW PROTECTS ME?

The Education for Homeless Children and Youth Program under the McKinney-Vento Homeless Assistance Act is **a federal law that allows students who do not have a permanent place to live to stay in their same schools even if they move outside of their school districts**, or to **immediately enroll in the new district** wherever they are.

WHO IS ELIGIBLE?

- Generally, students who lack a fixed, regular, adequate nighttime residence are eligible, including:
- Students living with friends or relatives due to loss of housing, economic hardship, or a similar reason
- Students living in motels, hotels, trailer parks or campgrounds due to lack of alternative adequate accommodations
- Students living in emergency or transitional shelters
- Students who have a primary nighttime residence not designed for or ordinarily used as regular sleeping accommodation for human beings
- Students living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings
- Children abandoned in hospitals
- Children of migrant workers who are in similar situations

WHAT ARE MY RIGHTS?

- To go to school, no matter where you live or how long you have lived there;
  - To go to the school that is in your best interest, including:
  - Staying in the school you were enrolled in before being displaced, with adequate transportation provided to get you back;
- Going to any school you would be eligible to attend based on your new residence, with comparable transportation to what other regularly housed students receive;
- To be *immediately* enrolled in school without typically required enrollment records or without parental or guardian signature for unaccompanied youth, and even if application or enrollment deadlines have been missed during any period of homelessness;
- To participate fully in school activities including extracurricular activities;
- To receive referrals to health care services, dental services, mental health and substance abuse services, housing services, and other appropriate services;
- To be automatically enrolled in free school meal programs;
- To receive related school services that you may need, including being provided PPE if required for physically attending school;
- To stay in the same school for the rest of the academic year even if permanently housed;
- To be free from harassment, isolation, and stigmatization;
- If the school does not believe you have the right to attend that school, you have the right to remain enrolled pending any appeals, to receive a written explanation of the reasons, and to receive assistance from the district's homeless liaison to dispute a school's decision about eligibility, school selection, or enrollment.
- Children with disabilities who are living in similar situations may have additional rights under the Individuals With Disabilities Education Act, including the right to needed changes to their Individualized Education Program as a result of the disaster. Services to address the impact of trauma from the disaster may be requested.

WHOM TO CALL FOR HELP?

If you think you are eligible under the McKinney-Vento Homelessness Assistance Act, please get in touch with the local school district McKinney-Vento liaison.

For additional questions or concerns, you can also contact the following:

Office of the State Coordinator – https://nche.ed.gov/downloads/sccontact.pdf

National Center for Homeless Education Office – 1-800-308-2145 | homeless@serve.org

U.S. Department of Education – (202) 453-6777 | HomelessEd@ed.gov

For legal assistance or referral to a legal advocate:

National Homelessness Law Center – 202-638-2535 | email@nlchp.org

ABOUT THE NATIONAL HOMELESSNESS LAW CENTER

The National Homelessness Law Center is the only national organization dedicated solely to using the power of the law to end and prevent homelessness. We work with federal, state and local policymakers to draft laws that prevent people from losing their homes and to help people out of homelessness. We have been instrumental in enacting numerous federal laws, including the McKinney-Vento Act, the first major federal legislation to address homelessness. We helped enact the federal program that makes vacant government properties available at no cost to non-profits for use as facilities to assist people experiencing homelessness, and we ensure it is enforced including through litigation. We have won federal legal protections for tenants affected by the foreclosure crisis and we are working to make sure lenders comply with it.

We aggressively fight laws criminalizing homelessness and promote measures protecting the civil rights of people experiencing homelessness. We are advocating for proactive measures to ensure that those experiencing homelessness have access to housing, jobs, and public benefits even though they have no address so that they can escape homelessness. We are also upholding the right to vote for those who are experiencing homelessness.

We work to improve access to housing for domestic violence survivors and their children and we were instrumental in adding landmark housing rights amendments to Violence Against Women Act.

We invalidate laws that prevent other charitable organizations from distributing food and social services to people experiencing poverty and homelessness in inner cities.

We protect the right of children and youth experiencing homelessness to stay in school and get the support they need to succeed.

For more information about our organization, access to publications, and to contribute to our work, please visit our website at www.nlchp.org

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Robert Warren
People for Fairness Coalition

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LAW CENTER STAFF**

Maggie Ardiente
Development & Communications Director

Tristia Bauman
Senior Attorney

Lisa DeBone
AmeriCorps VISTA

Janelle Fernandez
Law & Policy Program Coordinator

Maria Foscarinis
Executive Director

Vincenza Githens
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Janet Hostetler
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Sara Kang
AmeriCorps VISTA

LaTissia Mitchell
Executive & Development Specialist

Michael Santos
Attorney

Darrell Stanley
AmeriCorps VISTA

Eric Tars
Senior Attorney

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This manual was updated in 2020 by Brandy Ryan to include global pandemic, in the midst of the COVID-19 outbreaks. For more information about responses to COVID-19 for homeless students or others experiencing homelessness, McKinney-Vento assistance, or the current staff and Board of the Law Center, please visit www.nlchp.org or email Law Center staff attorney Brandy Ryan at bryan@nlchp.org.

LEGAL DISCLAIMER

This advocacy manual is designed to provide an understanding of the relevant provisions of the Education for Homeless Children and Youth Program in Title VII of the McKinney-Vento Homeless Assistance Act (commonly referred throughout the manual as "McKinney-Vento" or the "Act") and the legal advocacy tools needed to effectively assist homeless children and youth. This manual is a guide and resource. It is not intended to serve as a substitute for legal counsel. Contact an attorney if you need legal advice. For non-legal advocates and attorneys alike, do not rely on this information without consulting an attorney or an appropriate agency about the rights of homeless children and youth. Laws and legal procedures are subject to frequent change and differing interpretations, and the Law Center does not guarantee that the information in this manual is current. If you have any questions about the manual or need additional information, please contact the Law Center at email@nlchp.org.

The Law Center is solely responsible for the views expressed in this report.

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FOREWORD - November 2020

The United States and the world are in the midst of an unprecedented public health emergency with the COVID-19 pandemic. As businesses close, people lose income, and temporary eviction moratoria expire, the country is facing a massive eviction crisis adding to a homelessness crisis that existed long before the pandemic.

In addition to all the other hardships the pandemic has brought and will continue to bring, the disruption to education is acute. The second half of the 2019-2020 school year was disrupted as schools closed in-person interactions and emergency procedures were put in place, e.g., using school bus routes to get classwork and meals to students. For the 2020-2021 school year, schools have been able to take more permanent measures, with many resorting to virtual learning rather than physical classrooms and others returning to the physical classroom at various times throughout the semester so far. The digital devices, Internet connection, and quiet spaces needed for access to digital learning are a barrier to education for many students, and will be increasingly more so as the pandemic housing loss floods in.

The National Homelessness Law Center's Homeless Education Advocacy Manual: Disaster Edition, issued first in response to 2005's Hurricane Katrina and updated in 2012 after Hurricane Sandy and in 2017 after Hurricanes Harvey, Irma, Maria and Nate, and now in the midst of the 2020 pandemic, provides further information and resources on how displaced children and youth can retain access to education. Children and youth experiencing homelessness and housing instability, including due to natural, man-made, and global health disasters, have the right to attend school under the Education for Homeless Children and Youth Program under the McKinney-Vento Homeless Assistance Act ("McKinney-Vento"), which is the main focus of this manual.

The McKinney-Vento guarantee to remove barriers to education for students experiencing homelessness is still in full force during the pandemic. Schools, advocates, and government entities should center equal access to all services, including:

- Modifications to curricula and distance learning, including access to course materials, and remembering that not all students will have access to computers, Internet, or other digital methods of learning;
- Access to food and monetary aid and ways to effectively distribute aid to homeless students and unaccompanied minors who may not be able to reach common distribution points;
- Access to personal protection equipment and vaccines if schools required it in order for students to return to physical classrooms;
- Setting up processes to keep up with currently identified students experiencing homelessness and to identify students who may be losing housing during this hard time;
- Heeding CDC guidelines on refraining from forcing people, including children and youth, into group shelters during the pandemic;
- Prioritizing access to housing and healthcare, especially for unaccompanied youth who usually may not meet requirements for certain housing or aid programs.

For more information about the McKinney-Vento Act and for more resources for students experiencing homelessness, please visit www.nlchp.org.

The National Homelessness Law Center (NHLC) responds to requests for technical assistance. We are also interested in finding out about advocacy efforts in your area. We rely on your success stories, and hurdles yet to be overcome, to help others in the future. To receive assistance or provide information, please contact NHLC via e-mail (email@nlchp.org) or phone (202-638-2535).

I. FEDERAL PROTECTIONS FOR DISPLACED STUDENTS

Children and youth displaced by disasters typically find themselves in temporary living situations that may include hotels, motels, trailers, shelters, cars, or sharing the housing of friends or relatives. For those who were previously living in poverty, these seemingly temporary arrangements may last longer than ordinarily expected. Displaced children and youth without permanent and stable housing are considered "homeless" for education purposes. They have much in common with young people who experience homelessness for other reasons. They have similar mobility patterns and face similar educational barriers. The needs of students awaiting permanent housing (displaced or otherwise homeless) are addressed in the federal McKinney-Vento Homeless Assistance Act.

Homelessness and Academic Performance

Past studies have shown that it takes a child 4 to 6 months to recover academically from each school transfer.[1] Children who change schools need 6 to 18 months to regain a sense of equilibrium, security, and control.[2] Homeless children and youth who frequently transfer schools are more likely to repeat a grade, more likely to have poor attendance, and more likely to have worse overall academic performance than their peers who remain in stable school placements.[3] Moreover, school-age homeless children compared to permanently housed children were significantly more likely to have a mental health problem, which could be exacerbated by trauma caused by the disaster.[4]

Educational Barriers Faced By Homeless Children and Youth

Homeless children and youth, including those displaced by disasters, face numerous barriers on the road to receiving a quality education. Such barriers include the following:

- Residential Mobility. With each move, children must learn to adjust to new environments that include shelters and "doubling-up," or living with friends and relatives. Both shelters and doubled-up situations are often overcrowded and uncomfortable with entire families sharing a single room, sharing bathroom facilities with multiple individuals, and/or sleeping on couches and floors. Importantly, children often live with the knowledge that these situations are temporary and must worry about whether they will soon be without a place to live. For displaced children and youth, such current worries are compounded by the trauma of escaping a disaster and the chaos that immediately follows. Homeless children and youth bring these stresses to school with them each day as they prepare to learn.

- School Mobility. Repeated residential moves often lead children and youth to make frequent school transfers. Students who frequently transfer, both homeless and non-homeless, suffer academically, psychologically, and socially. Children and youth who make frequent school moves are increasingly disadvantaged with each and every new school they attend. These young people often find it difficult to make new friends and are more likely to experience alienation, withdrawal, or discipline problems.[5]

- Enrollment Delays. Homeless children and youth often experience delays when enrolling in new schools. These delays typically stem from local requirements for records such as proof of residency, proof of immunization, birth certificates, and academic records. Displaced and other homeless persons often lose such documents during the course of frequent and sometimes sudden moves. In the event of a disaster, these documents are often lost or destroyed. Doubled-up families may be unable to prove residency through items such as lease agreements and utility bills, which usually bear the name of the host family. Students can lose valuable days, and sometimes weeks, of school as parents and schools search for these records.

- Poor Health and Nutrition. When compared to their non-homeless peers, homeless children and youth are more likely to suffer from illnesses such as asthma, ear infections, fevers, chronic illnesses, emotional distress, elevated blood lead levels and stomach problems.[6] Further, they are more likely than other children to make emergency room visits and be hospitalized.[7] These conditions are likely caused by overcrowded and unhealthy living situations. Homeless children and youth are often forced to skip meals and suffer from poor nutrition, which is another contributing

1 Debbie Staub & Mona Meighan, *Improving Educational Success for Children and Youth in Foster Care: Ensuring School Stability*, *available at* http://www.nasponline.org/publications/cq/36/4/fostercare.aspx.

2 Linda Jacobson, *Moving Targets*, Education Week (Apr. 4, 2001); *see also* Nat'l Ctr. for Homeless Educ., NCHE Mobility Study Bibliography (Sept. 2011), center.serve.org/nche/downloads/nche_mobil_biblio.doc. .

3 Homes for the Homeless & The Inst. for Children & Poverty, *Homeless in America: A Children's Story – Part One* (1999); *see also* U.S. Dep't of Educ., Education for Homeless Children and Youths Program Non-Regulatory Guidance n.6 at 2 (2017), *available at* https://www2.ed.gov/policy/elsec/leg/essa/160240ehcyguidance072716updated0317.pdf (citations omitted).

4 Ilen Bassuk, et al., *The Prevalence of Mental Illness in Homeless Children: A Systematic Review and Meta-Analysis* (2014).

5 *See e.g.*, Am. Civil Liberties Union, School-to-Prison Pipeline, https://www.aclu.org/issues/racial-justice/race-and-inequality-education/school-prison-pipeline.

6 NOTE & COMMENT: EDUCATION LAW MINI-SYMPOSIUM: For Better or For Worse?: A Closer Look at the Federal Government's Proposal to Provide Adequate Educational Opportunities for Homeless Children, 51 How. L.J. 863 at 866.

7 THE NAT'L CTR. ON FAM. HOMELESSNESS, HOMELESS CHILDREN: AMERICA'S NEW OUTCASTS (1999).

factor to poor health. Unfortunately, poor health linked to hunger often causes homeless children and youth to miss valuable school days and may make it difficult for them to stay focused in class and ready to learn.

- Stress. Young people who have been displaced because of a disaster may have also experienced stress and as a result of fleeing their homes, possibly leaving behind their belongings, and having to adjust to some place new. Like other homeless children, they may have very real worries about where they are going to live, where they are going to sleep, and whether they will have food to eat. This forced transient lifestyle forces homeless children to face numerous physical, psychological, and emotional challenges that many of their peers do not. They may worry about their parents, who are similarly experiencing stress in relation to those issues while also trying to find employment, negotiate with FEMA, and replace belongings.

- In a Pandemic. Not only are stress and poor health particularly prevalent during a pandemic, but unstably housed students have less ability to quarantine to keep themselves and their family members healthy, forcing a choice between family health and school. Purchasing PPE in order to safely attend school in person could be too big a financial burden. Other school services will be harder to access; meal programs and other special accommodations should be tailored to reach homeless students.

- Distance Learning. Lack of access to wifi, digital devices, and safe, conducive space to use them is a huge barrier that can entirely bar students from their education.

How McKinney-Vento Helps Displaced Students

The Education of Homeless Children and Youth Program under the McKinney-Vento Homeless Assistance Act ("McKinney-Vento"), 42 U.S.C. 11431, as amended and reauthorized by the Every Student Succeeds Act of 2015, is the primary federal legislation focused on the education of homeless children and youth in America. It includes education provisions that are designed to address and alleviate some of the academic problems experienced by homeless children and youth. The goal of the legislation is to improve life outcomes through the following:

- Increasing School Stability. McKinney-Vento allows homeless children and youth to remain in a "school of origin" throughout the duration of homelessness and until the end of the academic year in which they become permanently housed.[8]

  A "school of origin" is the last school in which the child was enrolled or the last school attended while permanently housed, including preschools and receiving schools in a feeder school system.[9] School of origin applies even if students temporarily move to different attendance zones or school districts. School districts are required to provide homeless children with special transportation arrangements that route them to school from their temporary homes. Attendance at the school of origin must be based on the best interests of the child or youth (e.g. two hour bus rides may be deemed against a child's best interest).[10]

- Immediate Access to New Schools. Sometimes enrollment in a new school is in the best interest of the child or youth. To alleviate enrollment delays, McKinney-Vento requires schools to immediately enroll homeless children even if they lack typically required documents such as proof of residency, birth certificates, and immunization records.[11] Further, if a dispute arises over eligibility, school selection, or school enrollment, the homeless child must be admitted to the school where enrollment was sought by the parent or guardian until final resolution of the dispute, including all available appeals.[12]

- Funding for Programs to Address Student Needs. McKinney-Vento provides states with funding to award grants to school districts that want to address the unique needs of their homeless populations. Grants can be used for transportation, tutoring programs, mentoring programs, psychological counseling, school supplies, after-school academic enrichment activities, or for other uses that promote the academic or social growth of homeless children.[13]

- Personnel Dedicated to Student Needs. McKinney-Vento requires state departments of education and school districts to designate personnel able to carry out their duties to implement and comply with the law.[14] State Coordinators of Homeless Education train school personnel on legal requirements and best practices, and provide professional development opportunities for serving homeless children and youth.[15] School district McKinney-Vento liaisons train school personnel, ensure that students are able to enroll in school or remain in their school of origin, oversee the provision of transportation, develop and maintain special programs, and help resolve disputes between schools and families.[16]

8 42 U.S.C. § 11432(g)(3)(A)(i).
9 42 U.S.C. § 11432(g)(3)(I).
10 42 U.S.C. § 11432(g)(3)(B)(i)-(iii) .
11 42 U.S.C. § 11432(g)(3)(C)(i).
12 42 U.S.C. § 11432(g)(3)(E) et seq.
13 42 U.S.C. §§ 11432(d)-(g)
14 42 U.S.C. §11432(d)(3); 42 U.S.C. §11432(g)(6).
15 *See e.g.*, 42 U.S.C. § 11432(f) et seq.
16 *See e.g.*, 42 U.S.C. § 11432(g)(6)(A) et seq.

The Role of Other Education Laws

In addition to the McKinney-Vento Homeless Assistance Act, there are other federal education laws, initiatives and resources that can benefit displaced students and those made homeless due to other factors. There may also be state-specific resources, such as catalogs of local school district homeless liaisons and other relevant contacts, as well as state-specific regulations or statutes. Consult your state department of education for additional state-specific information.

Federal laws include the following:

- Title I of the Elementary and Secondary Education Act (20 U.S.C. § 6301 et seq.). Title I funds programs designed to improve the academic achievement of low-income students. Schools and districts commonly use Title I funds for tutoring programs and other academic supports. Homeless children generally benefit from such programming and Title I requires that they receive services even when attending schools that do not receive Title I funding.

- Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1400 et seq.). IDEA enables students with disabilities to receive special education services that cater to their individual needs. This legislation is vital to homeless students who are at higher risk for developmental delays, speech problems, and learning disabilities. IDEA includes provisions that account for children who move frequently, decreasing the likelihood that school transfers will result in delays in the provision of necessary services.

- Head Start Act (42 U.S.C. § 9801 et seq.). Head Start is a pre-school program that aims to promote school readiness in low-income children. Homeless children are likely to meet the program's low-income criteria, but there is currently a nation-wide shortage of available slots. Due to high demand, communities typically have waitlists that pose difficulties for homeless children who often move away from a neighborhood prior to reaching the top of a list.

- Child Nutrition Act (42 U.S.C. § 1751 et seq.). The Child Nutrition Act provides low-income children with free and reduced price school meals. The law allows homeless parents to forgo the application and proof of income process, making their children automatically eligible for free school meals. Homeless shelters or a school district homeless liaisons must only provide a list of student names to school lunch programs. The legislation also reimburses homeless shelters for meals served to children and youth.

Relevant Segments of McKinney-Vento

This section of the manual refers to the following provisions:

- "**(f) Functions of the Office of Coordinator.** The Coordinator for Education of Homeless Children and Youths established in each State shall—

  "(5) provide technical assistance to and conduct monitoring of local educational agencies in coordination with local educational agency liaisons designated under subsection (g)(1)(J)(ii) of this section, to ensure that local educational agencies comply with the requirements of subsection (e)(3) of this section and paragraphs (3) through (7) of subsection (g) of this section." 42 U.S.C. § 11432(f)

  "(7) respond to inquiries from parents and guardians of homeless children and youths, and (in the case of unaccompanied youths) such youths, to ensure that each child or youth who is the subject of such an inquiry receives the full protections and services provided by this part." 42 U.S.C. § 11432(f)

- "(g) State plan. (1) In general. For any State desiring to receive a grant under this part, the State education agency shall submit to the Secretary a plan to provide for the education of homeless children and youths within the State. Such plan shall include the following:

  (A) Local educational agency shall, according to child or youths best interest, continue school of origin for duration of homelessness or enroll child or youth in any public school in area in which child or youth is actually living.

  (C) A description of procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youths . . .

  (J) Assurances that—

  (ii) local educational agencies will designate an appropriate staff person, able to carry out the duties described in paragraph (6)(A), who may also be a coordinator for other Federal programs, as a local educational agency liaison for homeless children and youths. . ." 42 U.S.C. § 11432(g).

  "(E) Enrollment disputes. If a dispute arises over school selection or enrollment in a school—

  (i) the child or youth shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute, including all available appeals; (ii) the parent or guardian of the child or youth or (in the case of an unaccompanied youth) the youth shall be provided with a written explanation of any decisions

related to school selection or enrollment made by the school, the local educational agency, or the State educational agency involved, including the rights of the parent, guardian, or unaccompanied youth to appeal the decisions;

(iii) the parent, guardian, or unaccompanied youth shall be referred to the local educational agency liaison designated under paragraph (1)(J)(ii), who shall carry out the dispute resolution process as described in paragraph (1)(C) as expeditiously as possible after receiving notice of the dispute; and

(iv) in the case of an unaccompanied youth, the homeless liaison shall ensure that the youth is immediately enrolled in school in which the youth seeks enrollment pending resolution of the dispute." 42 U.S.C. § 11432(g)(3)(E).

II. ADVOCACY BASICS: WHEN EDUCATION RIGHTS ARE DENIED

Obtaining Services for Individual Students

If you are representing or working with a student or the family of a student who has been denied rights guaranteed under the law, it is important to know that McKinney-Vento requires states and school districts to have dispute resolution processes in place. When a dispute arises over eligibility, school selection, or school enrollment, the student must 1) be immediately enrolled to the school in which enrollment is sought and 2) be provided with a written explanation of the school's decision that includes information about the right to appeal. The student can remain at the desired school at least until the dispute is resolved.

What follows are some suggested advocacy steps for effective dispute resolution that may be helpful for advocates and for displaced children, youth, and their families.

NOTE: If you are unsure how to navigate the dispute resolution process, you can bring a lawyer, a non-lawyer advocate, or any other person to assist in such a proceeding or appeal. It is helpful to enlist the assistance of a lawyer if there is potential noncompliance with federal law.

STEP 1

Call or visit the school. Explain the situation, your request for services, and the section of McKinney-Vento that applies to the situation. If meeting in person, you may want to bring a copy of the law with you so that you can show your rights and you can physically point out relevant sections. A copy of the law can be found in Appendix A to this manual. You can also bring the Know Your Rights one-pager found in the beginning of this publication. Be understanding if the school wants to call an administrator at the district or state level to confirm your reading of the law. However, be vigilant in ensuring that this doesn't delay the required immediate enrollment, even in situations where there is a dispute. You can ask the school administrator to call necessary officials while you wait or check back with the school no later than the morning of the next school day. The student should be ready to attend on the day of your first contact or the following morning.

NOTE: Many people, including school staff and administrators, are simply unaware of the law or its requirements. Many problems can be quickly resolved by politely informing schools about the law and how it should apply to displaced students experiencing homelessness.

STEP 2

Call your school district's homeless liaison or homeless coordinator. By law, every school district in the country must appoint someone to ensure that homeless children and youth have access to a free appropriate public education and appropriate related services. If you call the main number for the school district, the operator should be able to refer you to the correct person. If you are unable to come to an agreement with the school, the school is non-responsive, or the school is taking too long to act, it may help to talk to the McKinney-Vento liaison for the school district. The liaison can inform the school of its legal obligations, including the requirement to enroll pending resolution of any dispute. The liaison is also responsible for carrying out the district's dispute resolution process. Processes may vary from district to district, but they often simply require the liaison to hear any relevant information and make a decision either in favor of the student or the school.

NOTE: Although the law requires the appointment of a McKinney-Vento liaison, some school districts may not have one in place because of staff turnover or because of noncompliance. It is possible to encounter liaisons who are not familiar with or have not had the proper training on McKinney-Vento. Federal law requires liaisons to be able to carry out their legal duties.[16a] If you are unable to constructively engage the school district or find a satisfactory resolution by contacting the liaison, you should proceed to step 3.

16a 42 U.S.C. § 11432(g)(6).

STEP 3 **Contact the state coordinator** for homeless education. By law, each state is required to appoint a state-level coordinator able to sufficiently carry out their responsibilities under McKinney-Vento.[16b] The names and contact information for the various state coordinators is available athttps://nche.ed.gov/downloads/sccontact.pdf. The duties of the state coordinator include ensuring that school districts comply with the law, including by responding to direct inquiries from parents and guardians. Finally, the state coordinator should be able to provide you with information about how to file a state-level appeal of any decision made by the school or school district.

NOTE: Many state coordinators have significant experience working on homeless education issues and can be extremely helpful with settling disagreements between families and school districts. They can also assist in addressing any potential noncompliance with McKinney-Vento.

STEP 4 **Litigate your case in court.** In situations where you believe that the student's rights are clearly being violated and despite your efforts to resolve your dispute or address noncompliance, neither the school district nor the state has appropriately intervened, a lawsuit may be the appropriate next step. A temporary restraining order (TRO) can prevent the student from being removed from the desired school even after the state's dispute resolution process is completed. A TRO can also help students immediately gain access to schools that have been unable to attend. When formulating potential claims, attorneys should research applicable federal and state laws. McKinney-Vento is the primary homeless education law on the federal level. Many states also have laws that either govern the education of homeless students or that relate to other relevant topics (e.g. constitutional right to education, compulsory attendance, flexible enrollment or immunization requirements). Non-lawyers should seek legal assistance from local legal aid organizations or local bar association pro bono programs. If you need litigation support or further assistance in identifying local attorneys, NLCHP regularly offers such services.

In general, it is important to gather as much relevant information as possible, as early as possible. If there is a dispute, it may help to present school administrators, school district liaisons, and state coordinators with any available evidence of factors such as homeless status (e.g. a letter from a shelter, documents from FEMA, a parental driver's license from the applicable State, an affidavit of support), immunizations, and previous academic placements (special education, advanced courses, gifted and talented). However, it is important to note that students must be enrolled in school they wish to attend while these documents are collected and disputes are pending.

Pursuing System-Wide Change

System-wide changes move beyond helping an individual child and can greatly improve the educational outcomes of all current and future homeless students within a school district or state. Although such advocacy may require additional resources and time, the benefits can be astounding.

When System-Wide Advocacy Is Appropriate

Advocates should consider system-wide advocacy under the following situations (amongst others):

- A pattern or practice over a period of time whereby several students experience the same problem or problems, including denials of service, difficulties enrolling, etc.
- There is a widespread lack of awareness about the McKinney-Vento Act and related homeless education issues within a school district or state.
- It becomes apparent that a district or state has an effective program in place, but could potentially expand and do more to address the needs of homeless students (including those displaced by hurricanes).

Methods of Achieving System-Wide Changes

- Work with school district McKinney-Vento liaisons and/or state coordinators to identify problems and develop action items for achieving meaningful change.
- Harness the power of the media and public attention. Encourage reporters to develop stories that focus on the educational needs of displaced students including barriers

16b 42 U.S.C. § 11432(d)(3).

to accessing free appropriate public education, denials of rights or services, and ways in which members of the community can help.

- Seek relevant policy changes from your school, school district office, city council, board of education, state education department, and/or state legislature. Policy changes can either reflect or expand the requirements of McKinney-Vento to include needed supports, services, and protections. These can be in the form of increased state and/or local funding for the McKinney-Vento program, informal memoranda or policy statements, resolutions, administrative regulations, or state legislation.

- Pursue a class action lawsuit on behalf of homeless displaced students or homeless students more generally. NLCHP is available to assist local counsel seeking to pursue such cases.

- Form independent organizations or volunteer networks that work with school systems to help provide outreach services to homeless families and youth, public information materials to educators and members of the public, and/or needed supplemental services. If appropriate organizations or volunteer networks are already in place, encourage them to expand their work to include homeless children and youth (displaced or otherwise homeless).

- Work with school districts to help identify alternative sources of funding (e.g. grants, corporate sponsorships, local taxes, etc.) that could expand or support local homeless education programs.

Additional Pointers for Pursuing System-Wide Changes

- Research the problems and needs of displaced and otherwise homeless youth that exist in your community. Allow your findings to guide your efforts. Valuable information can be obtained by speaking to young people and their families, community agencies, relief agencies, educators, and governmental officials. Depending on your individual or organizational capacity, you may want to publish reports, articles, or advocacy materials.

- Form strong coalitions that consist of diverse groups of stakeholders such as attorneys, grassroots advocates, educators, social workers, mental health service providers, relevant government agency officials, parents, and homeless youth.

- Identify potential supporters who may be unable to participate in coalition activities, but who nevertheless care about the cause. Examples include companies or philanthropists who may be able to donate funding. They could also consist of political players such as lobbyists, city council members, or members of the state legislature.

III. DEFINING HOMELESSNESS & MCKINNEY-VENTO ELIGIBILITY

Displaced students who have yet to find permanent housing qualify for services under the federal McKinney-Vento Homeless Education Program. The law applies to all homeless children throughout the United States and defines "homelessness" as "lacking a fixed, regular, and adequate nighttime residence."[17] McKinney-Vento also provides some examples of living situations that qualify as experiencing "homelessness." Some of the examples are common to evacuee children and include the following:

- Sharing the housing of others due to a loss of housing, economic hardship, or similar reason;
- Living in motels, hotels, or trailer parks due to the lack of alternative adequate accommodations; and
- Living in emergency or transitional shelters.

In a Pandemic:
Many families may not know that their children qualify for additional services or accommodations under the McKinney-Vento Act.

Many who have lost their residences due to the COVID crisis may have moved in with family or friends, or be staying at in a motel, or other situation that they do not recognize as encompassed by the McKinney-Vento definition of homelessness. Moreover, families and students may not be regularly coming into school buildings for staff to identify issues. It is therefore essential that schools be making affirmative efforts to reach out to students and families to inform them of their rights and encourage them to contact the district for appropriate services.

Length of Homelessness

It is not uncommon for a homeless family to remain in a temporary housing arrangement for an extended period of time, particularly if their home has been destroyed by a disaster. A displaced family may live in a motel for nearly 6 months while searching for work and trying to secure permanent housing. Another common scenario would be for a family to move in with a parent or grandparent while trying to get back on their feet. Many such extended stays are the result of unaffordable market rate rents and/or an inability to save security deposits while also living in poverty.

Schools and districts may seek periodic updates from families to ensure that they are still homeless and eligible for services. However, federal law requires schools to keep the child or youth in the same school for the remainder of the academic year, if the child or youth becomes permanently housed during an academic year.18 It is important to note that McKinney-Vento does not include an express time limit on homelessness. Thus, families are "homeless" and protected by the Act for however long they fit the definition of "lacking a fixed, regular, and adequate nighttime residence."

While checking in with families, school district personnel may also evaluate at the beginning of the next academic year whether the current living situation is "fixed, regular, and adequate" This can be an issue for doubled-up families who have remained in the same home for a long period of time. The family may still be McKinney-Vento eligible in instances where they may be actively searching for an apartment or employment; are awaiting receipt of FEMA housing assistance, a Section 8 voucher, or placement in transitional or public housing; or may be expecting their host family to ask them to leave sometime soon. Any of the above family circumstances (or related issues) should be shared with a school district McKinney-Vento liaison so they can be connected to the appropriate supports and services.

Varying Definitions Amongst Government Programs

Advocates may be assisting families with various non-educational needs that involve housing and other social services. They may also be developing strategic partnerships with other advocates and governmental agencies not involved in the world of education. In engaging in such activities, advocates should be aware that McKinney-Vento's definition of homelessness is different, and typically more expansive, than that which exists under other federal and state programs. McKinney-Vento liaisons are authorized to affirm that students meet the Department of Housing and Urban Development (HUD) definition of homelessness, to qualify them for HUD homeless assistance programs.[19]

17 42 U.S.C. § 11434A(2).
18 42 U.S.C. § 11432(g)(3)(A)(i).
19 42 U.S.C. § 11432(g)(6)(D).

Combating Stereotypes

Many members of society have stereotypes about homelessness that often involve images of people sleeping on the streets and panhandling for money. These notions don't match the definition of "homeless" under the education provisions of McKinney-Vento. Although some children may be living on the streets, most are in the situations described above. As a result of these stereotypes, many families may not consider themselves to be homeless and may be reluctant to accept the stigma often associated with the label. Further, school personnel unfamiliar with the law may rely on the stereotype rather than the McKinney-Vento definition when determining which students are homeless.

For displaced students, this issue is compounded by the use of the terms "evacuees" and "displaced," which causes families and educators to think of such students as being different from other homeless children and youth. This may be true even as displaced students and those experiencing homelessness for other reasons face the same educational challenges and qualify for the same protections under McKinney-Vento.

Finding effective ways to combat stereotypes is one way to ensure that displaced students receive appropriate services. Some advocacy ideas include the following:

- When working with families, explain how the law can help and the reasons for the law (e.g. transferring schools too often is academically harmful or students shouldn't miss school because they don't have records) before mentioning that the law helps those experiencing "homelessness."
- Develop materials (posters or pamphlets) that de-emphasize the word "homeless" while focusing on the categories of children covered under the act (e.g. sharing the housing of others, living in a shelter).
- Work in conjunction with school district McKinney-Vento liaisons and state coordinator to provide McKinney-Vento trainings and professional development to school staff, as required by law.[20]

Relevant Segments of McKinney-Vento

This section of the manual refers to the following provisions:

"**(2)** The term "homeless children and youths"—

(A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 11302(a)(1) of this title); and

(B) includes—

(i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;

(ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 11302 (a)(2)(C) of this title);

(iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(iv) migratory children (as such term is defined in section 6399 of title 20) who qualify as homeless for the purposes of this part because the children are living in circumstances described in clauses (i) through (iii)." 42 U.S.C. § 11434a(2).

20 *See e.g.*, 42 U.S.C. § 11432(g)(6)(A)(ix).

IV. SCHOOL OF ORIGIN

Allowing displaced students who have yet to find permanent housing to qualify for services under the McKinney-Vento reduces school transfers by allowing children to remain in "schools of origin" while experiencing homelessness. A "school of origin" is a school that a student attended when permanently housed or the school in which the student was last enrolled, including preschools and the designated receiving schools at the next grade level for all feeder schools.[21] Homeless children and youth must be allowed to attend a school of origin until the end of the academic year in which they become permanently housed.[22]

The ability to continue in a school of origin may be limited by the best interests of the child or youth or the request of the parent, guardian, or unaccompanied youth. McKinney-Vento requires school placement decisions (school of origin versus new local school) to be made according to the child or youth's best interests.[23] The law creates a presumption that attending the school of origin is in the best interests of the child or youth.[24] However, other student-centered factors related to the child's or youth's best interest, including factors related to the impact of mobility on achievement, education, health, and safety of homeless children and youth, may lead to a decision that the child's best interests are served by attending a new school.[25]

Choosing to attend the school of origin may also be limited by other student-centered factors, such as whether it's actually possible for the student to stay in the same school. For instance, it wouldn't be feasible for a child living in a shelter in Florida to attend a school in New Jersey. Or if a school of origin has been destroyed or closed as a result of a hurricane or other disaster, it would simply not be possible for the student to continue to attend school there. Finally, a student may not attend a school of origin if parents or guardians decide they want to enroll their children in a new school.

School districts must provide transportation to and from the schools of origin.[26] More information about transportation can be found in Chapter VI.

21 42 U.S.C. § 11432(g)(3)(I).
22 42 U.S.C. § 11432(g)(3)(A)(i).
23 42 U.S.C. § 11432(g)(3)(B).
24 42 U.S.C. § 11432(g)(3)(B)(i).
25 42 U.S.C. § 11432(g)(3)(B)(ii).
26 42 U.S.C. § 11432(g)(1)(J)(iii).

Advocacy Pointers

Maintaining the School Stability of Displaced Students

When a displaced student's school of origin has been destroyed and/or is located far away in another state, educators and families may assume that they will not be able to maintain school stability. However, it is important to inform parents and remind school officials that McKinney-Vento says that a school of origin can be "the school in which the child or youth was last enrolled." But, if it is not possible for students to attend their original schools, they may have to enroll in new schools close to where they are temporarily living. Once they have done so, they have established a new school of origin through the simple act of enrolling. For example, if Ryan from New Jersey is evacuated to Pennsylvania and immediately enrolls in Smith Elementary school, Smith becomes his school of origin should his family later find housing in neighboring attendance zones or school districts.

Communicating Why School of Origin is Important

Sometimes parents, education officials, shelter providers, and other service providers may be unaware of why law makers thought schools of origin were so important for homeless students. Raising awareness in this area may cause those involved to put more effort into ensuring that children and youth are actually able to attend schools of origin.

It may help to point out that school transfers can be academically, socially, and emotionally harmful to young people. School transfers disrupt a child's education and academic progress. Students also require some form of stability after experiencing such disaster-related traumas as living in chaotic and unsafe shelters, losing their homes and all their worldly possessions, experiencing the death of loved ones, being temporarily separated from parents and other family members, or moving to a new state or community. McKinney-Vento recognizes and addresses these realities.

Advocates have found the following statistics to be useful:

- It takes a child 4 to 6 months to recover academically from each school transfer.[27]
- Children who change schools need 6 to 18 months to regain a sense of equilibrium, security, and control.[28]

27 Debbie Staub & Mona Meighan, *Improving Educational Success for Children and Youth in Foster Care: Ensuring School Stability*, *available at* http://www.nasponline.org/publications/cq/36/4/fostercare.aspx.
28 Linda Jacobson, *Moving Targets*, Education Week (Apr. 4, 2001); *see also*

- Homeless children and youth who frequently transfer schools are more likely to repeat a grade, more likely to have poor attendance, and more likely to have worse overall academic performance than their peers who remain in stable school placements.[29]

Best Interests and Student-Centered Factors

As noted above, school districts must determine which school placements are in the best interests of homeless students. The law presumes that it is the best for a student to continue in a school of origin. The school district must consider student-centered factors related to the child's or youth's best interest, including factors related to the impact of mobility on achievement, education, health, and safety of homeless children and youth.[30] The U.S. Department of Education, provides also recommends to consider the school placement of siblings when making the best interest determination.[31]

Within McKinney-Vento, Congress established a presumption that it is in the best interest of the student to remain in a school of origin, unless the parent, guardian or unaccompanied youth thinks otherwise.

If a student is sent someplace other than the school of origin or the school requested by the parent, guardian or unaccompanied youth, the school district must put its decision in writing and provide information about appeal rights to the parent, guardian or unaccompanied youth.[32] Advocates who disagree about best interest determinations should be prepared to support their views. Since best interest concerns often involve transportation, it may be helpful to compare what your district believes it is capable of providing with the services offered by similar districts—helpful resources are discussed in Chapter VI.

Relevant Segments of McKinney-Vento

This section of the manual refers to the following provisions:

"(3) LOCAL EDUCATIONAL AGENCY REQUIREMENTS-

(A) IN GENERAL- The local educational agency serving each child or youth to be assisted under this part shall, according to the child's or youth's best interest —

(i) continue the child's or youth's education in the school of origin for the duration of homelessness —

(I) in any case in which a family becomes homeless between academic years or during an academic year; or

(II) for the remainder of the academic year, if the child or youth becomes permanently housed during an academic year; or

(ii) enroll the child or youth in any public school that non-homeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.

(B) SCHOOL STABILITY- In determining the best interest of the child or youth under subparagraph (A), the local educational agency shall —

(i) presume that keeping the child or youth in the school of origin is in the child's or youth's best interest, except when doing so is contrary to the request of the child's or youth's parent or guardian, or (in the case of an unaccompanied youth) the youth;

(ii) consider student-centered factors related to the child's or youth's best interest, including factors related to the impact of mobility on achievement, education, health, and safety of homeless children and youth, giving priority to the request of the child's or youth's parent or guardian or (in the case of an unaccompanied youth) the youth;

(iii) if, after conducting the best interest determination based on consideration of the presumption in clause (i) and the student-centered factors in clause (ii), the local educational agency determines that it is not in the child's or youth's best interest to attend the school of origin or the school requested by the parent or guardian, or (in the case of an unaccompanied youth) the youth, provide the child's or youth's parent or guardian or the unaccompanied youth with a written explanation of the reasons for its determination, in a manner and form understandable to such parent, guardian, or unaccompanied youth, including information regarding the right to appeal under subparagraph (E); and

(iv) in the case of an unaccompanied youth, ensure that the local agency liaison designated under paragraph (1)(J)(ii) assists in placement or enrollment decisions under this subparagraph, gives priority to the views of such unaccompanied youth, and provides notice to such youth of the right to appeal under subparagraph (E) . . .

(I) SCHOOL OF ORIGIN DEFINED- In this paragraph, the term "school of origin" means the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled, including a preschool." 42 U.S.C. § 11432(g)(3).

Nat'l Ctr. for Homeless Educ., NCHE Mobility Study Bibliography (Sept. 2011), center.serve.org/nche/downloads/nche_mobil_biblio.doc. .

29 Homes for the Homeless & The Inst. for Children & Poverty, *Homeless in America: A Children's Story – Part One* (1999); *see also* 2017 McKinney-Vento Guidance, n.6 at 2 (citations omitted). .

30 42 U.S.C. § 11432(g)(3)(B)(ii).

31 U.S. Dep't of Educ., Education for Homeless Children and Youths Program Non-Regulatory Guidance (2017), *available at* https://www2.ed.gov/policy/elsec/leg/essa/160240ehcyguidance072716updated0317.pdf.

32 42 U.S.C. § 11432(g)(3)(B)(iii).

V. TRANSPORTATION

McKinney-Vento includes provisions related to the transportation of homeless children and youth. Specifically, it requires the following:

- School of origin transportation. School districts must provide transportation to and from schools of origin.[33] This rule applies even when students must cross attendance zones or school district lines.

- Comparable transportation services. Homeless students must also receive transportation services that are comparable to those offered to non-homeless students in the schools they attend.[34] Thus, homeless students must have equal access to commonly offered transportation services.

The law does not specify the type of transportation, but it must be adequate and appropriate in order to ensure that it does not create a barrier to the enrollment or attendance of the child or youth. School districts tend to use a variety of methods including school buses, passes for public transportation, shuttle services, taxis, or gas and mileage reimbursements for shelters and families.

In a public health crisis*: the obligation to ensure that transportation is not a barrier to education still remains. Transportation may look different when personal protection measures are in place, but homeless students should still receive comparable transportation services if schools are open for in-person learning. This may include providing free PPE for travel.*

Advocacy Pointers

Transportation Costs Are a Concern for School Districts

Depending on the school district and the individual student circumstances, school of origin transportation can be costly for school districts. Funds provided through the federal McKinney-Vento program often do not meet the needs of school districts and states. Expenses for these services are even higher for districts serving large numbers of evacuees with unstable housing. Concerns about cost may affect the ways in which schools and districts implement school of origin and transportation requirements. However, the cost of transportation is irrelevant to the student's best interest determination and should not factor in a student's school placement or enrollment.

Thus, it is helpful for advocates to be aware of what McKinney-Vento requires the states and school districts about transportation. Also, advocates can work with students and districts to identify the most cost effective modes of transportation. Additional resources are available through the National Center for Homeless Education (www.nche.ed.gov).

Prompt Provision of Transportation Services

On occasion, homeless children and youth find it difficult to obtain transportation services in a timely manner. The transportation systems that school districts have in place may require or cause delays while paperwork is completed and bus routes are altered. For students who live in one school district, but attend a school of origin in another school district, unnecessary delays may occur while the two districts reach an agreement about who will pay for transportation.

To minimize absences caused by transportation delays, advocates can:

- Be vigilant in requesting services. Make follow-up phone calls.

- Work with families to provide necessary information as quickly as possible.

- Work with districts and families to identify methods of providing temporary transportation while buses are being rerouted. Examples could include the district providing taxi service or gas reimbursements for individuals who can offer rides (e.g., shelters or other service providers, parent car pools, community volunteers, friends, or relatives). Such arrangements benefit students who have missed, or could miss, several days of school while awaiting transportation.

- Work with districts to identify methods of making the entire transportation process more efficient. Advocates should research transportation wait times for other students (e.g., regular education, special education) and the systems utilized by similar districts. This research could inform conversations about how to streamline processes for providing homeless students with transportation services.

33 42 U.S.C. § 11432(g)(1)(J)(iii)(I).
34 42 U.S.C. § 11432(g)(1)(J)(iii)(II).

Relevant Segments of McKinney-Vento

This section of the manual refers to the following provisions:

"(iii) the State and its local educational agencies will adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, the liaison), to and from the school of origin (as determined in paragraph (3)(A)), in accordance with the following, as applicable:

(I) If the child or youth continues to live in the area served by the local educational agency in which the school of origin is located, the child's or youth's transportation to and from the school of origin shall be provided or arranged by the local educational agency in which the school of origin is located.

(II) If the child's or youth's living arrangements in the area served by the local educational agency of origin terminate and the child or youth, though continuing the child or youth's education in the school of origin, begins living in an area served by another local educational agency, the local educational agency of origin and the local educational agency in which the child or youth is living shall agree upon a method to apportion the responsibility and costs for providing the child or youth with transportation to and from the school of origin. If the local educational agencies are unable to agree upon such method, the responsibility and costs for transportation shall be shared equally." 42 U.S.C. § 11432(g)(1)(J)(iii).

"Each homeless child or youth to be assisted under this part shall be provided services comparable to services offered to other students in the school selected under paragraph (3), including the following:

(A) Transportation services.

(B) Educational services for which the child or youth meets the eligibility criteria, such as services provided under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. § 6301 et seq.) or similar State or local programs, educational programs for children with disabilities, and educational programs for English learners.

(C) Programs in career and technical education.

(D) Programs for gifted and talented students.

(E) School nutrition programs." 42 U.S.C. § 11432(g)(4).

VI. ENROLLMENT

Young people experiencing homelessness, including evacuees and displaced students, have the right to **immediately enroll** in new schools even if they don't have documents that school districts normally require for enrollment (e.g., birth certificates, academic records, proof of residency, proof of immunization or other medical records) and even though they have missed the application or enrollment deadlines for the schools. To "enroll" in school means to attend classes and participate fully in school activities. The enrolling school is responsible for obtaining academic records and homeless liaisons must assist families and youth with obtaining immunizations or immunization/ medical records.

Advocacy Pointers

Academic Records and Assessments

Academic records may not be immediately available. Schools may have to wait for records to be delivered. If the student was living in an area struck by a disaster, delays may last longer than usual if schools are closed or some records were destroyed. Importantly, most states maintain electronic records so that all is not lost even if the disaster has affected the student's actual school building. For instance, states affected by Hurricane Sandy were able to retrieve and transfer electronic records to schools enrolling evacuee children.

Some schools may hesitate to enroll children without academic records out of a concern that they will be unable to make proper placement decisions. Under such circumstances, advocates can:

- Solicit the involvement of school district McKinney-Vento liaisons and, if necessary, the state coordinator of homeless education.
- Remind school administrators that McKinney-Vento requires immediate school enrollment even if normally required documents are unavailable. They can further point out that the supremacy clause requires following federal law as opposed to conflicting state and local policies.
- Work with students and families to present information about previous school placements. This information will likely be verbal and based on parent, guardian, and/ or student recollection about classes taken and previous academic progress and challenges. Such reports should help schools make preliminary placements.
- Students should be encouraged to participate in available placement tests. However, such tests should not interfere with the immediate enrollment requirement. System-wide advocacy could involve encouraging schools and districts to identify such placement tests and have them ready and available for any homeless student seeking to enroll in school.

Immunizations

Schools and districts typically require students to be immunized and produce immunization records. Evacuees, like other homeless students, are often displaced from their homes with little to no notice. It is unlikely that they would think to bring immunization records when evacuating. These records may be included within academic records maintained by school districts. They may also be available electronically via state health agencies.

School administrators sometimes apply state and local immunization policies without considering the federal requirements of McKinney-Vento. They may have concerns about the potential health consequences of enrolling children for whom they do not have official immunization records. Under such circumstances, advocates can:

- Request the assistance of the school district McKinney-Vento liaisons in obtaining records or immunizations. The law requires them to provide such supports and they can also help to secure enrollment while records are obtained or immunizations are being completed.
- Remind school administrators that McKinney-Vento requires immediate school enrollment even if normally required documents are unavailable. Advocates can further point out that the supremacy clause requires following federal law as opposed to state and local policies.
- Present information that may alleviate health concerns, such as
    1. The Centers for Disease Control, following Hurricane Katrina, recommended to States that if immunization records were not available for enrollment in school or child care, children aged 10 years and younger should be treated as if they were up-to-date with recommended immunizations and given any doses that are recommended for their current age.[35]

35 U.S. Dep't of Health & Human Servs., Administration for Children and Families, Child Care Immunization Requirement Changes for Hurricane Katrina Evacuees (Sept. 13, 2012), https://www.acf.hhs.gov/occ/resource/child-care-immunization-requirement-changes-for-hurricane-katrina.

2. Most states have exceptions to the immunization requirements, allowing some students to attend school without being immunized and without fear of a major health risk. Typical exceptions include religious objections and grace periods for students who still need to be immunized.
3. Most students in the school building have been immunized. Therefore, those individual students are not at risk and there is no risk of an epidemic spreading throughout the school building.

In a Pandemic: *when personal protective equipment is required in order for students to physically attend school, homeless students should be provided with free equipment if buying it would prevent them from attending school. Homeless students should not be segregated from their housed peers on the basis of their homelessness, even during public health crises. If there are segregated classes based on testing results, students experiencing homelessness should be placed in those classes by the same criteria used for all students.*

When immunizations for COVID-19 are made available to the public, the above advice about immunization will apply. If required for physical return to school, schools may be obligated to provide assistance or exceptions when lack of immunization would be a barrier to education for homeless students.

"Enrollment" includes attending classes and full participation in school activities. For homeless students participating in virtual school, a duty exists on the district to not only accommodate the need for physical infrastructure, such as wifi access and digital devices, but also other measures to ensure practical accessibility. These may include providing safe spaces for homeless students to do schoolwork during the day with adult supervision if their parents are out looking for housing or employment, or anything else needed to remove barriers to their education. Schools can use flexible CARES Act funding for these purposes.

Shelter Classrooms and Other Segregated Facilities

McKinney-Vento prohibits the segregation of homeless students.[36] Children should not be confined to classrooms in shelters or other settings where they would be isolated from their non-homeless peers. The anti-segregation provisions allow children and youth who have experienced the trauma of evacuation to quickly return to a sense of normalcy by daily leaving shelters (and other reminders of homeless status) and attending regular schools with other students. The provisions are also based on the fact that many shelter schools tend to be inadequate educational environments, lacking in supplies, qualified t eachers, opportunities for physical fitness, and necessary services such as special education.

Advocates should raise these McKinney-Vento requirements with school or district personnel seeking to educate evacuees in separate settings.

Relevant Segments of McKinney-Vento

This section of the manual refers to the following provisions of McKinney-Vento:

"(C) Immediate Enrollment

(i) In general. The school selected in accordance with this paragraph shall immediately enroll the homeless child or youth, even if the child or youth is (I) unable to produce records normally required for enrollment, such as previous academic records, records of immunization and other required health records, proof of residency, or other documentation, or (II) has missed application or enrollment deadlines during any period of homelessness.

(ii) Relevant academic records. The enrolling school shall immediately contact the school last attended by the child or youth to obtain relevant academic and other records.

(iii) Relevant health records. If the child or youth needs to obtain immunizations or other health records, the enrolling school shall immediately refer the parent or guardian of the child or youth (or in the case of an unaccompanied youth) the youth, to the local educational agency liaison designated under paragraph (1)(J)(ii), who shall assist in obtaining necessary immunizations or screenings, or immunization or other required health records, in accordance with subparagraph (D)." 42 U.S.C. § 11432(g)(3)(C).

"The terms 'enroll' and 'enrollment' include attending classes and participating fully in school activities." 42 U.S.C. § 11434a(1).

36 42 U.S.C. § 11431(3).

VII. YOUTH LIVING AWAY FROM PARENTS

Children and youth can find themselves living apart from their parents in the immediate aftermath of a disaster. For instance, Hurricane Sandy caused some families to send their children to live with friends and relatives in other cities and states while parents tried to find employment and rebuild households. Such young people are "unaccompanied youth," which the law defines as students who are "not in the physical custody of a parent or guardian."[37] McKinney-Vento also protects homeless unaccompanied youth. They are able to immediately enroll in school even if they lack typically required documents such as guardianship papers or parental signatures. They can also maintain a school of origin and benefit from related transportation services.

Additionally, unaccompanied youth should receive special assistance from the school district McKinney-Vento liaison. McKinney-Vento requires the liaison to assist with placement or enrollment decisions while prioritizing the views of the youth.[38] The liaison is further responsible for 1) notifying unaccompanied youth of the right to appeal placement decision and 2) ensuring that they are immediately enrolled in school pending resolution of the dispute.

Advocacy Pointers

Proof of Guardianship

Schools and districts typically require a parent or guardian to be a resident and physically available for the enrollment process. Administrators who are unaware of homeless education legal requirements may try to apply those rules out of a belief that they will incur legal liability for enrolling a student without a legal guardian. They may deny enrollment. They may also pressure another adult to assume guardianship, an action that affects the rights of the natural parent. Neither option is appropriate under McKinney-Vento, which allows homeless unaccompanied youth to immediately enroll in school even if proof of guardianship is unavailable.

If confronted with such a scenario, advocates can:

- Present information about relevant laws. Sufficient support can be found in McKinney-Vento's immediate enrollment provision and in its definitions for "homeless" and "unaccompanied youth."[39] Inform administrators that they can be found liable for failure to follow the law. If you want to go the extra mile, additional legal support for enrollment may be available within state law. For example, most states have compulsory attendance laws that require children and youth within a certain age group to attend school. State constitutions and statutes may also include an explicit right to a public education.

- Request the assistance of the school district McKinney-Vento liaison and, if necessary, the state coordinator for homeless education.

- If possible, be prepared to offer an appropriate adult contact person for the student. Sometimes schools are concerned about having someone who can sign report cards, consent to field trips, or assume other similar duties. Parents or guardians may be able to do some of these things from afar. Alternatively, some states and school districts have policies that allow other adult caretakers (*e.g.*, relatives or family friends) to assume such responsibilities. Advocates should be careful not to allow the identification of a contact person to delay enrollment. Even if this is important to the school, homeless students remain entitled to immediate enrollment.

Relevant Segments of McKinney-Vento

This section of the manual refers to the following provisions:

"The term "unaccompanied youth" includes a youth not in the physical custody of a parent or guardian." 42 U.S.C. § 11434a(6).

42 U.S.C. § 11432(g)(1)

"For any State desiring to receive a grant under this part, the State education agency shall submit to the Secretary a plan to provide for the education of homeless children and youths within the State. Such plan shall include the following-:

(D) A description of programs for school personnel (including liaisons designated under subparagraph (J)(ii), principals and other school leaders, attendance officers, teachers, enrollment personnel, and specialized instructional support personnel) to heighten the awareness of such school personnel of the specific needs of homeless children and youths, including such children and youths who are runaway and homeless youths.

(F) A description of procedures that ensure that-—

(i) homeless children have access to public preschool programs, administered by the State educational agency or local educational agency, as provided to other children in

37 42 U.S.C. § 11434A(6).
38 42 U.S.C. § 11432(g)(3)(B)(ii).
39 42 U.S.C. § 11432(g)(3)(C); 42 U.S.C. § 11434A(6).

the State;

(ii) youths described in section 11434a(2) of this title and youths separated from public schools are identified and accorded equal access to appropriate secondary education and support services, including by identifying and removing barriers that prevent youths described in this clause from receiving appropriate credit for full or partial coursework satisfactorily completed while attending a prior school, in accordance with State, local, and school policies; and

(iii) homeless children and youths who meet the relevant eligibility criteria do not face barriers to accessing academic and extracurricular activities, including magnet school, summer school, career and technical education, advanced placement, online learning, and charter school programs, if such programs are available at the State and local levels.

42 U.S.C. § 11432(g)(3)

(A) In General. The local educational agency serving each child or youth shall, according to the child or youth's best interest () continue the child's or youth's education in the school of origin for the duration of homelessness or (ii) enroll the child or youth in any public school that nonhomeless students who live in the attendance area are eligible to attend.

(B) School Stability. "In determining the best interest of the child or youth under subparagraph (A), the local educational agency shall—

(iii) in the case of an unaccompanied youth, ensure that the homeless liaison designated under paragraph (1)(J) (ii) assists in placement or enrollment decisions under this subparagraph, considers the views of such unaccompanied youth, and provides notice to such youth of the right to appeal under subparagraph (E)." 42 U.S.C. § 11432(g)(3)(B)

(E) Enrollment Disputes. "If a dispute arises over school selection or enrollment in a school—

(iv) in the case of an unaccompanied youth, the homeless liaison shall ensure that the youth is immediately enrolled in school pending resolution of the dispute." 42 U.S.C. § 11432(g)(3)(B).

VIII. SPECIAL SERVICES

Displaced students experiencing homelessness may be eligible for special services that promote educational development and provide for basic needs. This section will highlight a few of the most relevant programs.

McKinney-Vento Services

Some school districts receive McKinney-Vento grants that allow them to provide a broad range of services. Examples include tutoring programs, before and after school programs, summer school, free school supplies, expedited assessments to determine appropriate placements, and counseling services. Advocates should inquire about the availability of such programs and services within the student's school district.

School Meals

Homeless students are automatically eligible for the free school meals program. According to the Child Nutrition Act, homeless families and unaccompanied youth do not have to complete the typically required forms or present proof of income eligibility. Rather, U.S. Department of Agriculture guidance allows service providers and school district homeless liaisons to simply provide a list of eligible students to school nutrition programs. Once signed up for services, children can receive lunches for the remainder of the school year. They may continue to qualify for up to 30 days of the next school year. The 30-day carry-over of the previous year's eligibility for school meals is based on operating days.

A school providing meals to significant numbers of children determined homeless due to a disaster situation can be designated an "emergency shelter" (even though the school is not providing actual shelter) and therefore eligible to participate in the Child and Adult Care Food Program (CACFP). CACFP participants remain eligible for free meal benefits for 12 months.

Advocates may have to inform relevant school personnel of these legal provisions.

Special Education

Displaced students with special education needs greatly benefit from the rights guaranteed under the Individuals with Disabilities Education Act (IDEA). This legislation includes requirements for students who transfer to new school districts. For instance, it allows for a continuation of previously received services. IDEA also encourages the efficient completion of evaluations for services that were interrupted by a school transfer. To learn more about IDEA and its relation to homeless students, please refer to "No Barriers: A Legal Advocates' Guide to Ensuring Compliance with the Education Program of the McKinney-Vento Act" which is available on NLCHP's website (https://www.nlchp.org/documents/NoBarriers).

Challenges for displaced students may include the timely transfer of special education records. Disasters may cause records to be destroyed or delayed. Without these documents, new schools may be unsure about placement decisions and appropriate services. Advocates can:

- Ask parent and students to recall as much as possible about previous placements and services. They could then encourage schools to use that informal information to make interim placement decisions while documents are being gathered or students are being re-evaluated for service needs.

- If necessary, encourage schools to complete new assessments as expeditiously as possible.

Relevant Segments of the Law

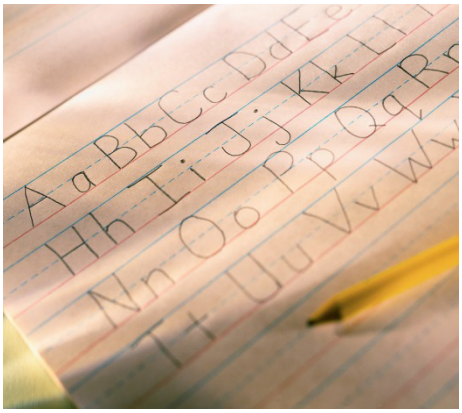
This section of the manual refers to the following provisions from Disaster Response, Memo Code SP 46-2014, CACFP 12-2014, SFSP 18-2014 (May 19, 2014):

"Children residing in or evacuated from disaster areas may be determined homeless under the McKinney-Vento Homeless Assistance Act. These children are categorically (automatically) eligible for free meals in the Child Nutrition Programs. A school district's homeless coordinator makes a determination of homelessness and provides a list of all children determined homeless due to a disaster situation. The SFA [school food authorities], institution, or sponsor must certify these children for free meals…Institutions or sponsors that require eligibility information can receive certification of the participant's homeless status from the agency that assisted with the evacuation or that is providing shelter. If the child is not residing in an emergency shelter, the institution should have an adult living with the child complete an income eligibility form indicating that the child is homeless. No further information is required to certify the child's eligibility."

"Emergency shelters that provide temporary housing to displaced families are eligible to participate in CACFP. Where significant numbers of persons are being temporarily housed, State agencies may designate any appropriate facility as an emergency shelter, and may waive institution application

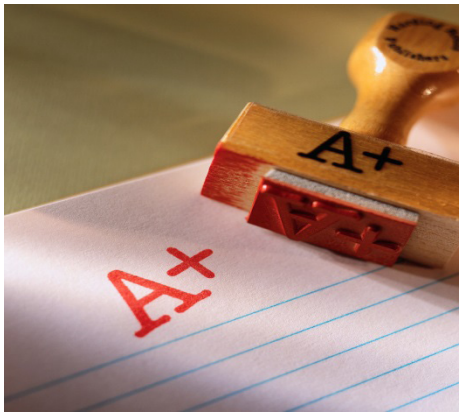
requirements in these situations. When State agencies have designated a facility as an emergency shelter, all children through age 18 may receive up to three free meals (breakfast, lunch, and supper) each day…. An "appropriate facility" may include a school or an institution which, although it is not providing actual shelter, is nevertheless providing meals to displaced families who are being temporarily housed elsewhere, in locations that may not have the means to provide meal services to these temporary residents."

"Their eligibility, including eligibility based on homeless status…remains in effect for the entire school year and up to 30 days in the next school year. CACFP participants remain eligible for free meal benefits for 12 months…. A child's prior year free or reduced price eligibility continues until eligibility status for the current school year is established or upon the completion of 30 operating days, whichever is less.



IX. HELPFUL RESOURCES

The list of organizations and agencies below are not exhaustive but they can serve as helpful resources for understanding education laws and programs that can provide valuable services to homeless students. These groups are likely to provide special disaster-related assistance, information, and publications. They include the following:



- National Homelessness Law Center
  202-638-2535
  www.nlchp.org

- National Association for the Education of Homeless Children and Youth
  866-862-2562
  www.naehcy.org

- National Center for Homeless Education
  1-800-308-2145
  https://nche.ed.gov

- SchoolHouse Connection
  202-364-7392
  https://www.schoolhouseconnection.org/

- U.S. Department of Education
  https://www2.ed.gov/programs/homeless/index.html

For resources related to the COVID-19 pandemic, please see www.nlchp.org/coronavirus and find the Youth & Education section.

APPENDIX A

42 U.S.C. § 11431 - STATEMENT OF POLICY

The following is the policy of the Congress:

(1) Each State educational agency shall ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youths.
(2) In any State where compulsory residency requirements or other requirements, in laws regulations, practices, or policies, may act as a barrier to the identification of, or the enrollment, attendance, or success in school of, homeless children and youths, the State educational agency and local educational agencies in the State will review and undertake steps to revise such laws, regulations, practices, or policies to ensure that homeless children and youths are afforded the same free, appropriate public education as provided to other children and youths.
(3) Homelessness is not sufficient reason to separate students from the mainstream school environment.
(4) Homeless children and youths should have access to the education and other services that such children and youths need to ensure that such children and youths have an opportunity to meet the same challenging State academic standards to which all students are held.

42 U.S.C. § 11432 - GRANTS FOR STATE AND LOCAL ACTIVITIES FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTHS

(a) GENERAL AUTHORITY - The Secretary is authorized to make grants to States in accordance with the provisions of this section to enable such States to carry out the activities described in subsections (d) through (g) of this section.
(b) GRANTS FROM ALLOTMENTS. The Secretary shall make the grants to States from the allotments made under subsection (c)(1).
(c) ALLOCATION AND RESERVATIONS

(1) ALLOCATION –

(A) Subject to subparagraph (B), the Secretary is authorized to allot to each State an amount that bears the same ratio to the amount appropriated for such year under section 11435 of this title that remains after the Secretary reserves funds under paragraph (2) and uses funds to carry out section 11434 (d) and (h) of this title, as the amount allocated under section 1122 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6332] to the State for that year bears to the total amount allocated under section 1122 of such Act to all States for that year, except that no State shall receive less than the greater of—

(i) $150,000;
(ii) one-fourth of 1 percent of the amount appropriated under section 11435 of this title for that year; or
(iii) the amount such State received under this section for fiscal year 2001.

(B) If there are insufficient funds in a fiscal year to allot to each State the minimum amount under subparagraph (A), the Secretary shall ratably reduce the allotments to all States based on the proportionate share that each State received under this subsection for the preceding fiscal year.

(2) RESERVATIONS –

(A) The Secretary is authorized to reserve 0.1 percent of the amount appropriated for each fiscal year under section 11435 of this title to be allocated by the Secretary among the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, according to their respective need for assistance under this part, as determined by the Secretary.

(B)(i) The Secretary shall transfer 1 percent of the amount appropriated for each fiscal year under section 11435 of this title to the Department of the Interior for programs for Indian students served by schools funded by the Secretary of the Interior, as determined under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), that are consistent with the purposes of the programs described in this part.

(ii) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of this part, for the distribution and use of the funds described in clause (i) under terms that the Secretary determines best meet the purposes of the programs described in this part. Such agreement shall set forth the plans of the Secretary of the Interior for the use of the amounts transferred, including appropriate goals, objectives, and milestones.

(3) STATE DEFINED - For purposes of this subsection, the term "State" does not include the United States Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands.

(d) ACTIVITIES - Grants under this section shall be used for the following:

(1) To carry out the policies set forth in section 11431 of this title in the State.

(2) To provide services and activities to improve the identification of homeless children and youths (including preschool-aged homeless children) and enable such children and youths to enroll in, attend, and succeed in school, including, if appropriate, in preschool programs.

(3) To establish or designate in the State educational agency an Office of the Coordinator for Education of Homeless Children and Youths that can sufficiently carry out the duties described for the Office in this subtitle in accordance with subsection (f).

(4) To prepare and carry out the State plan described in subsection (g) of this section.

(5) To develop and implement professional development programs for liaisons designated under subsection (g)(1)(J)(ii) and other local educational agency personnel--

(A) to improve their identification of homeless children and youths; and

(B) to heighten the awareness of the liaisons and personnel of, and their capacity to respond to, specific needs in the education of homeless children and youths.

(e) STATE AND LOCAL SUBGRANTS

(1) MINIMUM DISBURSEMENTS BY STATES - From the sums made available each year to a State through grants under subsection (a) to carry out this part, the State educational agency shall distribute not less than 75 percent in subgrants to local educational agencies for the purposes of carrying out section 11433 of this title, except that States funded at the minimum level set forth in subsection (c)(1) of this section shall distribute not less than 50 percent in subgrants to local educational agencies for the purposes of carrying out section 11433 of this title.

(2) USE BY STATE EDUCATIONAL AGENCY - A State educational agency may use the grant funds remaining after the State education agency distributes subgrants

under paragraph (1) to conduct activities under subsection (f) of this section directly or through grants or contracts.

(3) PROHIBITION ON SEGREGATING HOMELESS STUDENTS

(A) IN GENERAL - Except as provided in subparagraph (B) and section 11433 (a)(2)(B)(ii) of this title, in providing a free public education to a homeless child or youth, no State receiving funds under this part shall segregate such child or youth in a separate school, or in a separate program within a school, based on such child's or youth's status as homeless.

(B) EXCEPTION - Notwithstanding subparagraph (A), paragraphs (1)(J)(i) and (3) of subsection (g) of this section, section 11433 (a)(2) of this title, and any other provision of this part relating to the placement of homeless children or youths in schools, a State that has a separate school for homeless children or youths that was operated in fiscal year 2000 in a covered county shall be eligible to receive funds under this part for programs carried out in such school if—

(i) the school meets the requirements of subparagraph (C);

(ii) any local educational agency serving a school that the homeless children and youths enrolled in the separate school are eligible to attend meets the requirements of subparagraph (E); and

(iii) the State is otherwise eligible to receive funds under this part.

(C) SCHOOL REQUIREMENTS - For the State to be eligible under subparagraph (B) to receive funds under this part, the school described in such subparagraph shall—

(i) provide written notice, at the time any child or youth seeks enrollment in such school, and at least twice annually while the child or youth is enrolled in such school, to the parent or guardian of the child or youth (or, in the case of an unaccompanied youth, the youth) that—

(I) shall be signed by the parent or guardian (or, in the case of an unaccompanied youth, the youth);

(II) sets forth the general rights provided under this part;

(III) specifically states—

(aa) the choice of schools homeless children and youths are eligible to attend, as provided in subsection (g)(3)(A) of this section;

(bb) that no homeless child or youth is required to attend a separate school for homeless children or youths;

(cc) that homeless children and youths shall be provided comparable services described in subsection (g)(4) of this section, including transportation services, educational services, and meals through school meals programs; and

(dd) that homeless children and youths should not be stigmatized by school personnel; and

(IV) provides contact information for the local liaison for homeless children and youths and the State Coordinator for Education of Homeless Children and Youths;

(ii)(I) provide assistance to the parent or guardian of each homeless child or youth (or, in the case of an unaccompanied youth, the youth) to exercise

the right to attend the parent's or guardian's (or youth's) choice of schools, as provided in subsection (g)(3)(A) of this section; and
(II) coordinate with the local educational agency with jurisdiction for the school selected by the parent or guardian (or youth), to provide transportation and other necessary services;
(iii) ensure that the parent or guardian (or, in the case of an unaccompanied youth, the youth) shall receive the information required by this subparagraph in a manner and form understandable to such parent or guardian (or youth), including, if necessary and to the extent feasible, in the native language of such parent or guardian (or youth); and
(iv) demonstrate in the school's application for funds under this part that such school—
(I) is complying with clauses (i) and (ii); and
(II) is meeting (as of the date of submission of the application) the same Federal and State standards, regulations, and mandates as other public schools in the State (such as complying with section 1111 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311, 6316] and providing a full range of education and related services, including services applicable to students with disabilities).

(D) SCHOOL INELIGIBILITY - A separate school described in subparagraph (B) that fails to meet the standards, regulations, and mandates described in subparagraph (C)(iv)(II) shall not be eligible to receive funds under this part for programs carried out in such school after the first date of such failure.

(E) LOCAL EDUCATIONAL AGENCY REQUIREMENTS - For the State to be eligible to receive the funds described in subparagraph (B), the local educational agency described in subparagraph (B)(ii) shall—
(i) implement a coordinated system for ensuring that homeless children and youths—
(I) are advised of the choice of schools provided in subsection (g)(3)(A) of this section;
(II) are immediately enrolled, in accordance with subsection (g)(3)(C) of this section, in the school selected under subsection (g)(3)(A) of this section; and
(III) are promptly provided necessary services described in subsection (g)(4) of this section, including transportation, to allow homeless children and youths to exercise their choices of schools under subsection (g)(3)(A) of this section;
(ii) document that written notice has been provided—
(I) in accordance with subparagraph (C)(i) for each child or youth enrolled in a separate school under subparagraph (B); and
(II) in accordance with subsection (g)(6)(A)(vi) of this section;
(iii) prohibit schools within the agency's jurisdiction from referring homeless children or youths to, or requiring homeless children and youths to enroll in or attend, a separate school described in subparagraph (B);

(iv) identify and remove any barriers that exist in schools within the agency's jurisdiction that may have contributed to the creation or existence of separate schools described in subparagraph (B); and
(v) not use funds received under this part to establish—
(I) new or additional separate schools for homeless children or youths; or
(II) new or additional sites for separate schools for homeless children or youths, other than the sites occupied by the schools described in subparagraph (B) in fiscal year 2000.

(F) REPORT –
(i) Preparation The Secretary shall prepare a report on the separate schools and local educational agencies described in subparagraph (B) that receive funds under this part in accordance with this paragraph. The report shall contain, at a minimum, information on—
(I) compliance with all requirements of this paragraph;
(II) barriers to school access in the school districts served by the local educational agencies;
(III) the progress the separate schools are making in integrating homeless children and youths into the mainstream school environment, including the average length of student enrollment in such schools; and
(IV) the progress the separate schools are making in helping all students meet the challenging State academic standards."
(ii) Compliance with information requests For purposes of enabling the Secretary to prepare the report, the separate schools and local educational agencies shall cooperate with the Secretary and the State Coordinator for Education of Homeless Children and Youths established in the State under subsection (d)(3) of this section, and shall comply with any requests for information by the Secretary and State Coordinator for such State.
(iii) Submission The Secretary shall submit the report described in clause (i) to—
(I) the President;
(II) the Committee on Education and the Workforce of the House of Representatives; and
(III) the Committee on Health, Education, Labor, and Pensions of the Senate.

(G) DEFINITION - For purposes of this paragraph, the term "covered county" means—
(i) San Joaquin County, California;
(ii) Orange County, California;
(iii) San Diego County, California; and
(iv) Maricopa County, Arizona.

(f) **FUNCTIONS OF THE OFFICE OF COORDINATOR** - The Coordinator for Education of Homeless Children and Youths established in each State shall—
(1) gather and make publicly available reliable, valid, and comprehensive information on

(A) the number of homeless children and youths identified in the State, which shall be posted annually on the State educational agency's website;
(B) the nature and extent of the problems of homeless children and youths have in gaining access to public preschool programs and to public elementary schools and secondary schools;
(C) the difficulties in identifying the special needs and barriers to the participation and achievement of such children and youths;
(D) any progress made by the State educational agency and local educational agencies in the State in addressing such problems and difficulties; and
(E) the success of the programs under this subtitle in identifying homeless children and youths and allowing such children and youths to enroll in, attend, and succeed in, school;

(2) develop and carry out the State plan described in subsection (g);
(3) collect data for and transmit to the Secretary, at such time and in such manner as the Secretary may reasonably require, a report containing information necessary to assess the educational needs of homeless children and youths within the State, including data necessary for the Secretary to fulfill the responsibilities under section 724(h);
(4) in order to improve the provision of comprehensive education and related services to homeless children and youths and their families, coordinate activities and collaborate with –

(A) educators, including teachers, special education personnel, administrators, and child development and preschool program personnel;
(B) providers of services to homeless children and youths and their families, including public and private child welfare and social services agencies, law enforcement agencies, juvenile and family courts, agencies providing mental health services, domestic violence agencies, child care providers, runaway and homeless youth centers, and providers of services and programs funded under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.);
(C) providers of emergency, transitional and permanent housing to homeless children and youths, and their families, including public housing agencies, shelter operators, operators of transitional housing facilities, and providers transitional living programs for homeless youths;
(D) local educational agency liaisons designated under subsection (g)(1)(J)(ii) for homeless children and youths; and
(E) community organizations and groups representing homeless children and youths and their families

(5) provide technical assistance to and conduct monitoring of local educational agencies in coordination with local educational agency liaisons designated under subsection (g)(1)(J)(ii), to ensure that local educational agencies comply with the requirements of subsection (e)(3) and paragraphs (3) through (7) of subsection (g);
(6) provide professional development opportunities for local educational agency personnel and the local educational agency liaison designated under subsection (g)(1)(J)(ii) to assist such personnel and liaison in identifying and meeting the needs of homeless children and youths, and provide training on the definitions of terms related to homelessness specified in section 103, 401, and 725 to the liaison; and

(7) respond to inquiries from parents and guardians of homeless children and youths, and (in the case of unaccompanied youths) such youths, to ensure that each child or youth who is the subject of such an inquiry receives the full protections and services provided by this subtitle.

(g) STATE PLAN

(1) IN GENERAL. - For any State desiring to receive a grant under this subtitle, the State educational agency shall submit to the Secretary a plan to provide for the education of homeless children and youths within the State. Such plan shall include the following:

(A) A description of how such children and youths are (or will be) given the opportunity to meet the same challenging State academic standards all students are expected to meet.

(B) A description of the procedures the State educational agency will use to identify such children and youths in the State and to assess their needs.

(C) A description of procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youths.

(D) A description of programs for school personnel (including liaisons designated under subparagraph (J)(ii), principals and other school leaders, attendance officers, teachers, enrollment personnel, and specialized instructional support personnel) to heighten the awareness of such personnel of the specific needs of homeless children and youths who are runaway and homeless youths.

(E) A description of procedures that ensure that homeless children and youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local nutrition programs.

(F) A description of procedures that ensure that—

(i) homeless children have access to public preschool programs, administered by the State educational agency or local educational agency, as provided to other children in the State;

(ii) youths described in section 725(2) and youths separated from public schools are identified and accorded equal access to appropriate secondary education and support services, including by identifying and removing barriers that prevent youths described in this clause from receiving appropriate credit for full or partial coursework satisfactorily completed while attending a prior school, in accordance with State, local, and school policies; and

(iii) homeless children and youths who meet the relevant eligibility criteria do not face barriers to accessing academic and extracurricular activities, including magnet school, summer school, career and technical education, advanced placement, online learning, and charter school programs, if such programs are available at the State and local levels.

(G) Strategies to address problems identified in the report provided to the Secretary under subsection (f)(3).

(H) Strategies to address other problems with respect to the education of homeless children and youths, including problems resulting from enrollment delays that are caused by—

(i) requirements of immunization and other required health records;

(ii) residency requirements;

(iii) lack of birth certificates, school records, or other documentation;
(iv) guardianship issues; or
(v) uniform or dress code requirements.

(I) A demonstration that the State educational agency and local educational agencies in the State have developed, and shall review and revise, policies to remove barriers to the identification of homeless children and youths, and the enrollment and retention of homeless children and youths in schools in the State, including barriers to enrollment and retention due to outstanding fees or fines, or absences.

(J) Assurances that the following will be carried out:

(i) The State educational agency and local educational agencies in the State will adopt policies and practices to ensure that homeless children and youths are not stigmatized or segregated on the basis of their status as homeless.

(ii) The local educational agencies will designate an appropriate staff person, able to carry out the duties described in paragraph (6)(A),who may also be a coordinator for other Federal programs, as a local educational agency liaison for homeless children and youths.

(iii) The State and the local educational agencies in the State will adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, the liaison), to and from the school of origin (as determined in paragraph (3)), in accordance with the following, as applicable:

(I) If the child or youth continues to live in the area served by the local educational agency in which the school of origin is located, the child's or youth's transportation to and from the school of origin shall be provided or arranged by the local educational agency in which the school of origin is located.

(II) If the child's or youth's living arrangements in the area served by the local educational agency of origin terminate and the child or youth, though continuing the child's or youth's education in the school of origin, begins living in an area served by another local educational agency, the local educational agency of origin and the local educational agency in which the child or youth is living shall agree upon a method to apportion the responsibility and costs for providing the child or youth with transportation to and from the school of origin. If the local educational agencies are unable to agree upon such method, the responsibility and costs for transportation shall be shared equally.

(iv) The State and the local educational agencies in the State will adopt policies and practices to ensure participation by liaisons described in clause (ii) in professional development and other technical assistance activities provided pursuant to paragraphs (5) and (6) of subsection (f), as determined appropriate by the Office of the Coordinator.

(K) A description of how youths described in section 725(2) will receive assistance from counselors to advise such youths, and prepare and improve the readiness of such youths for college.

(2) COMPLIANCE

(A) IN GENERAL. - Each plan adopted under this subsection shall also describe how the State will ensure that local educational agencies in the State will comply with the requirements of paragraphs (3) through (7).

(B) COORDINATION - Such plan shall indicate what technical assistance the State will furnish to local educational agencies and how compliance efforts will be coordinated with the local educational agency liaisons designated under paragraph (1)(J)(ii).

(3) LOCAL EDUCATIONAL AGENCY REQUIREMENTS

(A) In general - The local educational agency serving each child or youth to be assisted under this subtitle shall, according to the child's or youth's best interest—

(i) continue the child's or youth's education in the school of origin for the duration of homelessness—

(I) in any case in which a family becomes homeless between academic years or during an academic year; and

(II) for the remainder of the academic year, if the child or youth becomes permanently housed during an academic year; or

(ii) enroll the child or youth in any public school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.

(B) SCHOOL STABILITY - In determining the best interest of the child or youth under subparagraph (A), the local educational agency shall—

(i) presume that keeping the child or youth in the school of origin is in the child's or youth's best interest, except when doing so is contrary to the request of the child's or youth's parent or guardian, or (in the case of an unaccompanied youth) the youth;

(ii) consider student-centered factors related to the child's or youth's best interest, including factors related to the impact of mobility on achievement, education, health, and safety of homeless children and youth, giving priority to the request of the child's or youth's parent or guardian or (in the case of an unaccompanied youth) the youth;

(iii) if, after conducting the best interest determination based on consideration of the presumption in clause (i) and the student-centered factors in clause (ii), the local educational agency determines that it is not in the child's or youth's best interest to attend the school of origin or the school requested by the parent or guardian, or (in the case of unaccompanied youth) the youth, provide the child's or youth's parent or guardian or the unaccompanied youth with a written explanation of the reasons for its determination, in a manner and form understandable to such parent, guardian, or unaccompanied youth, including information regarding the right to appeal under sub-paragraph (E); and

(iv) in the case of an unaccompanied youth, ensure that the local educational agency liaison designated under paragraph (1)(J)(ii) assists in placement or enrollment decisions under this subparagraph, gives priority to the views of such unaccompanied youth, and provides notice to such youth of the right to appeal under subparagraph (E).

(C) IMMEDIATE ENROLLMENT

(i) IN GENERAL. - The school selected in accordance with this paragraph shall immediately enroll the homeless child or youth, even if the child or youth

(I) is unable to produce records normally required for enrollment, such as previous academic records, records of immunization and other required health records, proof of residency, or other documentation; or

(II) has missed application or enrollment deadlines during any period of homelessness.

(ii) RELEVANT ACADEMIC RECORDS. – The enrolling school shall immediately contact the school last attended by the child or youth to obtain relevant academic and other records.

(iii) RELEVANT HEALTH RECORDS – If the child or youth needs to obtain immunizations or other required health records, the enrolling school shall immediately refer the parent or guardian of the child or youth, or (in the case of an unaccompanied youth) the youth, to the local educational agency liaison designated under paragraph (1)(J)(ii), who shall assist in obtaining necessary immunizations or screenings, or immunization or other required health records, in accordance with subparagraph (D).

(D) RECORDS - Any record ordinarily kept by the school, including immunization or other required health records, academic records, birth certificates, guardianship records, and evaluations for special services or programs, regarding each homeless child or youth shall be maintained—

(i) so that the records involved are available, in a timely fashion, when a child or youth enters a new school or school district; and

(ii) in a manner consistent with section 444 of the General Education Provisions Act (20 U.S.C. 1232g).

(E) ENROLLMENT DISPUTES - If a dispute arises over eligibility, or school selection or enrollment in a school—

(i) the child or youth shall be immediately enrolled in the school in which enrollment is sought, pending final resolution of the dispute, including all available appeals;

(ii) the parent or guardian of the child or youth or (in the case of unaccompanied youth) the youth shall be provided with a written explanation of any decisions related to school selection or enrollment made by the school, the local educational agency, or the State educational agency involved, including the rights of the parent, guardian, or unaccompanied youth to appeal such decisions;

(iii) the parent, guardian, or unaccompanied youth shall be referred to the local educational agency liaison designated under paragraph (1)(J)(ii),

who shall carry out the dispute resolution process as described in paragraph (1)(C) as expeditiously as possible after receiving notice of the dispute; and

(iv) in the case of an unaccompanied youth, the liaison shall ensure that the youth is immediately enrolled in school in which the youth seeks enrollment pending resolution of such dispute.

(F) PLACEMENT CHOICE - The choice regarding placement shall be made regardless of whether the child or youth lives with the homeless parents or has been temporarily placed elsewhere.

(G) PRIVACY - Information about a homeless child's or youth's living situation shall be treated as a student education record, and shall not be deemed to be directory information, under section 444 of the General Education Provisions Act (20 U.S.C. 1232g).

(H) CONTACT INFORMATION – Nothing in this subtitle shall prohibit a local educational agency from requiring a parent or guardian of a homeless child or youth to submit contact information.

(I) SCHOOL OF ORIGIN DEFINED - In this paragraph:

(i) IN GENERAL- the term "school of origin" means the school that a child or youth attended when permanently housed or the school in which the child or youth was last enrolled, including a preschool.

(ii) RECEIVING SCHOOL. – When the child or youth completes the final grade level served by the school of origin, as described in clause (i), the term "school of origin" shall include the designated receiving school at the next grade level for all feeder schools.

(4) COMPARABLE SERVICES - Each homeless child or youth to be assisted under this subtitle shall be provided services comparable to services offered to other students in the school selected under paragraph (3), including the following:

(A) Transportation services.

(B) Educational services for which the child or youth meets the eligibility criteria, such as services provided under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) or similar State or local programs, educational programs for children with disabilities, and educational programs for English learners.

(C) Programs in career and technical education.

(D) Programs for gifted and talented students.

(E) School nutrition programs.

(5) COORDINATION -

(A) IN GENERAL - Each local educational agency serving homeless children and youths that receives assistance under this subtitle shall coordinate—

(i) the provision of services under this subtitle with local social services agencies and other agencies or entities providing services to homeless children and youths and their families, including services and programs funded under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.); and

(ii) transportation, transfer of school records, and other interdistrict activities, with other local educational agencies.

(B) HOUSING ASSISTANCE - If applicable, each State educational agency and local educational agency that receives assistance under this subtitle shall coordinate with State and local housing agencies responsible for developing the comprehensive housing affordability strategy described in section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) to minimize educational disruption for children and youths who become homeless.

(C) COORDINATION PURPOSE - The coordination required under subparagraphs (A) and (B) shall be designed to—

(i) ensure that all homeless children and youths are promptly identified;

(ii) ensure that all homeless children and youths have access to, and are in reasonable proximity to, available education and related support services; and

(ii) raise the awareness of school personnel and service providers of the effects of short-term stays in a shelter and other challenges associated with homelessness.

(D) HOMELESS CHILDREN AND YOUTHS WITH DISABILITIES. – For children and youths who are to be assisted both under this subtitle, and under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), each local educational agency shall coordinate the provision of services under this subtitle with the provision of programs for children with disabilities served by that local educational agency and other involved local educational agencies.

(6) LOCAL EDUCATIONAL AGENCY LIAISON -

(A) DUTIES - Each local educational agency liaison for homeless children and youths, designated under paragraph (1)(J)(ii), shall ensure that—

(i) homeless children and youths are identified by school personnel through outreach and coordination activities with other entities and agencies;

(ii) homeless children and youths enroll in, and have a full and equal opportunity to succeed in, schools of that local educational agency;

(iii) homeless families and homeless children and youths have access to and receive educational services for which such families, children, and youths are eligible, including services through Head Start programs (including Early Head Start programs) under the Head Start Act (42 U.S.C. 9831 et seq.), early intervention services under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.), and other preschool programs administered by the local educational agency;

(iv) homeless families and homeless children and youths receive referrals to health care services, dental services, mental health and substance abuse services, housing services, and other appropriate services;

(v) the parents or guardians of homeless children and youths are informed of the educational and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children;

(vi) public notice of the educational rights of homeless children and youths is disseminated in locations frequented by parents or guardians of

such children and youths, and unaccompanied youths, including schools, shelters, public libraries, and soup kitchens, in a manner and form understandable to the parents and guardians of homeless children and youths, an unaccompanied youths;
(vii) enrollment disputes are mediated in accordance with paragraph (3)(E);
(viii) 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, as described in paragraph (1)(J)(iii), and is assisted in accessing transportation to the school that is selected under paragraph (3)(A).
(ix) school personnel providing services under this subtitle receive professional development and other support; and
(x) unaccompanied youths –
(I) are enrolled in school;
(II) have opportunities to meet the same challenging State academic standards as the State establishes for other children and youth, including through implementation of the procedures under paragraph (1)(F)(ii); and
(III) are informed of their status as independent students under section 480 of the Higher Education Act of 1965 (20 U.S.C. 1087vv) and that the youths may obtain assistance from the local educational agency liaisons to receive verification of such status for purposes of the Free Application for Federal Student Aid described in section 483 of such Act (20 U.S.C. 1090).

(B) NOTICE - State coordinators established under subsection (d)(3) and local educational agencies shall inform school personnel, service providers, and advocates working with homeless families, parents and guardians of homeless children and youths, and homeless children and youths of the duties of the local educational agency liaisons, and publish an annually updated list of the liaisons on the State educational agency's website.

(C) LOCAL AND STATE COORDINATION - Local educational agency liaisons for homeless children and youths shall, as a part of their duties, coordinate and collaborate with State coordinators and community and school personnel responsible for the provision of education and related services to homeless children and youths. Such coordination shall include collecting and providing to the State Coordinator the reliable, valid, and comprehensive data needed to meet the requirements of paragraphs (1) and (3) of subsection (f).

(D) HOMELESS STATUS. – A local educational agency liaison designated under paragraph (1)(J)(ii) who receives training described in subsection (f)(6) may affirm, without further agency action by the Department of Housing and Urban Development, that a child or youth who is eligible for and participating in a program provided by the local educational agency, or the immediate family of such a child or youth, who meets the eligibility requirements of this Act for a program or service authorized under title IV, is eligible for such program or service.

(7) REVIEW AND REVISIONS

(A) IN GENERAL - Each State educational agency and local educational agency that receives assistance under this subtitle shall review and revise any policies that may act as barriers to the identification of homeless children and youths or the enrollment of homeless children and youths in schools that are selected under paragraph (3).

(B) CONSIDERATION - In reviewing and revising such policies, consideration shall be given to issues concerning transportation, immunization, residency, birth certificates, school records and other documentation, and guardianship.

(C) SPECIAL ATTENTION - Special attention shall be given to ensuring the identification, enrollment, and attendance of homeless children and youths who are not currently attending school.

42 U.S.C. § 11433 - LOCAL EDUCATIONAL AGENCY SUBGRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTHS

(a) GENERAL AUTHORITY

(1) IN GENERAL - The State educational agency shall, in accordance with section 11432 (e) of this title, and from amounts made available to such agency under section 11435 of this title, make subgrants to local educational agencies for the purpose of facilitating the identification, enrollment, attendance, and success in school of homeless children and youths.

(2) SERVICES

(A) IN GENERAL - Services under paragraph (1)—

(i) may be provided through programs on school grounds or at other facilities;

(ii) shall, to the maximum extent practicable, be provided through existing programs and mechanisms that integrate homeless children and youths with nonhomeless children and youths; and

(iii) shall be designed to expand or improve services provided as part of a school's regular academic program, but not to replace such services provided under such program.

(B) SERVICES ON SCHOOL GROUNDS - If services under paragraph (1) are provided on school grounds, the related schools—

(i) may use funds under this part to provide the same services to other children and youths who are determined by the local educational agency to be at risk of failing in, or dropping out of, school, subject to the requirements of clause (ii); and

(ii) except as otherwise provided in section 11432 (e)(3)(B) of this title, shall not provide services in settings within a school that segregate homeless children and youths from other children and youths, except as necessary for short periods of time—

(I) for health and safety emergencies; or

(II) to provide temporary, special, and supplementary services to meet the unique needs of homeless children and youths.

(3) REQUIREMENT - Services provided under this section shall not replace the regular academic program and shall be designed to expand upon or improve services provided as part of the school's regular academic program.

(4) DURATION OF GRANTS. – Subgrants made under this section shall be for terms not to exceed 3 years.

(b) APPLICATION - A local educational agency that desires to receive a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and containing or accompanied by such information as the State educational agency may reasonably require. Such application shall include the following:

(1) An assessment of the educational and related needs of homeless children and youths in the area served by such agency (which may be undertaken as part of needs assessments for other disadvantaged groups).

(2) A description of the services and programs for which assistance is sought to address the needs identified in paragraph (1).

(3) An assurance that the local educational agency's combined fiscal effort per student, or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such agency for the fiscal year preceding the fiscal year for which the determination is made, was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

(4) An assurance that the applicant complies with, or will use requested funds to comply with, paragraphs (3) through (7) of section 11432 (g) of this title.

(5) A description of policies and procedures, consistent with section 11432 (e)(3) of this title, that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and youths.

(6) An assurance that the local educational agency will collect and promptly provide data requested by the State Coordinator pursuant to paragraphs (1) and (3) of section 722(f).

(7) An assurance that the local educational agency will meet the requirements of section 722(g)(3)

(c) AWARDS

(1) IN GENERAL - The State educational agency shall, in accordance with the requirements of this part and from amounts made available to it under section 11435 of this title, make competitive subgrants to local educational agencies that submit applications under subsection (b) of this section. Such subgrants shall be awarded on the basis of the need of such agencies for assistance under this part and the quality of the applications submitted.

(2) NEED - In determining need under paragraph (1), the State educational agency may consider the number of homeless children and youths enrolled in early childhood education and other preschool programs, elementary schools, and secondary schools within the area served by the local educational agency, and shall consider the needs of such children and youths and the ability of the local educational agency to meet such needs. The State educational agency may also consider the following:

(A) The extent to which the proposed use of funds will facilitate the identification, enrollment, retention, and educational success of homeless children and youths.

(B) The extent to which the Application reflects coordination with other local and State agencies that serve homeless children and youths.

(C) The extent to which the applicant exhibits in the application and in current practice (as of date of submission of the application) a commitment to education for all homeless children and youths.
(D) Such other criteria as the State agency determines appropriate.

(3) QUALITY - In determining the quality of applications under paragraph (1), the State educational agency shall consider the following:

(A) The applicant's needs assessment under subsection (b)(1) of this section and the likelihood that the program presented in the application will meet such needs.
(B) The types, intensity, and coordination of the services to be provided under the program.
(C) The extent to which the applicant will promote meaningful involvement of parents or guardians of homeless children or youths in the education of their children.
(D) The extent to which homeless children and youths will be integrated into the regular education program.
(E) The quality of the applicant's evaluation plan for the program.
(F) The extent to which services provided under this part will be coordinated with other services available to homeless children and youths and their families.
(G) The extent to which the local educational agency will use the subgrant to leverage resources, including by maximizing nonsubgrant funding for the position of the liaison described in section 722(g)(1)(J)(ii) and the provision of transportation.
(H) How the local educational agency will use funds to serve homeless children and youths under section 1113(c)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6313(c)(3)).
(I) The extent to which the applicant's program meets such other measures as the State educational agency considers indicative of a high-quality program, such as the extent to which the local educational agency will provide case management or related services to unaccompanied youths.

(d) AUTHORIZED ACTIVITIES - A local educational agency may use funds awarded under this section for activities that carry out the purpose of this part, including the following:

(1) The provision of tutoring, supplemental instruction, and enriched educational services that are linked to the achievement of the same challenging State academic standards as the State establishes for other children and youths.
(2) The provision of expedited evaluations of the strengths and needs of homeless children and youths, including needs and eligibility for programs and services (such as educational programs for gifted and talented students, children with disabilities, and English learners, services provided under title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.] or similar State or local programs, programs in career and technical education, and school nutrition programs).
(3) Professional development and other activities for educators and specialized instructional support personnel that are designed to heighten the understanding and sensitivity of such personnel to the needs of homeless children and youths, the rights of such children and youths under this part, and the specific educational needs of runaway and homeless youths.

(4) The provision of referral services to homeless children and youths for medical, dental, mental, and other health services.
(5) The provision of assistance to defray the excess cost of transportation for students under section 11432 (g)(4)(A) of this title, not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected under section 11432 (g)(3) of this title.
(6) The provision of developmentally appropriate early childhood education programs, not otherwise provided through Federal, State, or local funding, for preschool-aged homeless children.
(7) The provision of services and assistance to attract, engage, and retain homeless children and youths, particularly homeless children and youths who are not enrolled in school in public school programs and services provided to nonhomeless children and youths.
(8) The provision for homeless children and youths of before- and after-school, mentoring, and summer programs in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities.
(9) If necessary, the payment of fees and other costs associated with tracking, obtaining, and transferring records necessary to enroll homeless children and youths in school, including birth certificates, immunization or other required health records, academic records, guardianship records, and evaluations for special programs or services.
(10) The provision of education and training to the parents and guardians of homeless children and youths about the rights of, and resources available to, such children and youths, and other activities designed to increase the meaningful involvement of parents and guardians of homeless children or youths in the education of such children or youths.
(11) The development of coordination between schools and agencies providing services to homeless children and youths, as described in section 11432 (g)(5) of this title.
(12) The provision of specialized instructional support services (including violence prevention counseling) and referrals for such services.
(13) Activities to address the particular needs of homeless children and youths that may arise from domestic violence and parental mental health or substance abuse problems.
(14) The adaptation of space and purchase of supplies for any nonschool facilities made available under subsection (a)(2) of this section to provide services under this subsection.
(15) The provision of school supplies, including those supplies to be distributed at shelters or temporary housing facilities, or other appropriate locations.
(16) The provision of other extraordinary or emergency assistance needed to enable homeless children and youths to attend school and participate fully in school activities.

42 U.S.C. § 11434 - SECRETARIAL RESPONSIBILITIES

(a) REVIEW OF STATE PLANS - In reviewing the State plan submitted by a State educational agency under section 11432 (g) of this title, the Secretary shall use a peer review process and shall evaluate whether State laws, policies, and practices described in such plan adequately address the problems of homeless children and youths relating to access to education and placement as described in such plan.

(b) TECHNICAL ASSISTANCE - The Secretary shall provide support and technical assistance to a State educational agency to assist such agency in carrying out its responsibilities under this part, if requested by the State educational agency.

(c) NOTICE –

(1) IN GENERAL. - The Secretary shall, before the next school year that begins after the date of enactment of the Every Student Succeeds Act, update and disseminate nationwide the public notice of the educational rights of homeless children and youths and disseminate such notice described in this subsection (as in effect prior to such date) of the educational rights of homeless children and youths.

(2) DISSEMINATION. – The Secretary shall disseminate the notice nationwide to all Federal agencies, and grant recipients, serving homeless families or homeless children and youths.

(d) EVALUATION, DISSEMINATION, AND TECHNICAL ASSISTANCE - The Secretary shall conduct evaluation, dissemination, and technical assistance activities for programs designed to meet the educational needs of homeless elementary and secondary school students, and may use funds appropriated under section 726 to conduct such activities.

(e) SUBMISSION AND DISTRIBUTION - The Secretary shall require applications for grants under this part to be submitted to the Secretary not later than the expiration of the 120-day period beginning on the date that funds are available for purposes of making such grants and shall make such grants not later than the expiration of the 180-day period beginning on such date.

(f) DETERMINATION BY SECRETARY - The Secretary, based on the information received from the States and information gathered by the Secretary under subsection (h) of this section, shall determine the extent to which State educational agencies are ensuring that each homeless child and homeless youth has access to a free appropriate public education, as described in section 11431 (1) of this title. The Secretary shall provide support and technical assistance to State educational agencies, concerning areas in which documented barriers to a free appropriate public education persist.

(g) GUIDELINES - The Secretary shall develop, issue, and publish in the Federal Register, not later than 60 days after the date of enactment of the Every Student Succeeds Act, guidelines concerning ways in which a State—

(1) may assist local educational agencies to implement the provisions related to homeless children and youths amended by that Act; and

(2) may review and revise State policies and procedures that may present barriers to the identification of homeless children and youths, and the enrollment, attendance, and success of homeless children and youths in school.

(h) INFORMATION

(1) IN GENERAL - From funds appropriated under section 11435 of this title, the Secretary shall, directly or through grants, contracts, or cooperative agreements, periodically collect and disseminate data and information regarding—

(A) the number and primary nighttime residence of homeless children and youths in all areas served by local educational agencies;

(B) the education and related services such children and youths receive;

(C) the extent to which the needs of homeless children and youths are being met; and

(D) such other data and information as the Secretary determines to be necessary and relevant to carry out this part.

(2) COORDINATION - The Secretary shall coordinate such collection and dissemination with other agencies and entities that receive assistance and administer programs under this part.

(i) REPORT - Not later than 4 years after January 8, 2002, the Secretary shall prepare and submit to the President and the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the status of education of homeless children and youths, which shall include information on—

(1) the education of homeless children and youths; and

(2) the actions of the Secretary and the effectiveness of the programs supported under this part.

42 U.S.C. § 11434a – DEFINITIONS

For purposes of this part:

(1) The terms "enroll" and "enrollment" include attending classes and participating fully in school activities.

(2) The term "homeless children and youths"—

(A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 11302 (a)(1) of this title); and

(B) includes—

(i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;

(ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 11302 (a)(2)(C) [1] of this title);

(iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(iv) migratory children (as such term is defined in section 6399 of title 20) who qualify as homeless for the purposes of this part because the children are living in circumstances described in clauses (i) through (iii).

(3) The terms "local educational agency" and "State educational agency" have the meanings given such terms in section 8101 of title 20.

(4) The term "Secretary" means the Secretary of Education.

(5) The term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(6) The term "unaccompanied youth" includes a homeless child or youth not in the physical custody of a parent or guardian.

42 U.S.C. § 11435 - AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated to carry out this subtitle $85,000,000 for each of fiscal years 2017 through 2020.

EFFECTIVE DATE: October 1, 2016

NATIONAL
HOMELESSNESS
LAW CENTER

2000 M St., NW, Ste. 210 | Washington, DC 20036 | 202-638-2535

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