What is the McKinney-Vento Homeless Assistance Act?

The McKinney-Vento Homeless Assistance Act is Title X, Part C of the No Child Left Behind Act of 2001. This legislation ensures that children and youth experiencing homelessness have full and equal access to an appropriate public education and that they experience success in school. This Q&A document summarizes key components of the law, including legislative references. While this document refers to McKinney-Vento, it should be noted that the Code of Virginia was amended to align with these requirements in 2004.

Enrollment

Frequent moves are common experiences with homelessness that can lead to enrollment delays and missed school days. The McKinney-Vento Act requires immediate enrollment or the option to remain in the same school even when a student experiencing homelessness no longer resides in the school’s attendance zone. Specifically:

- Schools must enroll homeless children and youth immediately, even when:
  - School or health records are unavailable at the time of enrollment.
  - Birth certificates are not available. [§722(g)(3)(C)]
  - Proof of residency is not available. [§722(g)(3)(A)]
- Students may stay in their school of origin when in their best interest and feasible. [§722(g)(3)(A)]
- Unaccompanied youth must be provided educational access through the support of the local homeless education liaison. [§722(g)(6)]

When parent or student requests for enrollment or maintaining school of origin are denied, schools must provide written explanations of placement decisions and the dispute resolution process. [§722(g)(3)(E)(ii)]

Attendance and Success

Students who receive appropriate educational support are more likely to attend school on a regular basis. Attendance is critical to realize school success. School divisions must provide appropriate case management to ensure students have access to all educational services for which they are eligible.

- Homeless students must receive services comparable to those of housed students. [§722(g)(4)]
- Transportation to the school of origin, when appropriate, must be provided. [§722(g)(1)(J)(iii)]
- Social service agencies and school divisions must work together to serve students. [§722(g)(6)]
- Homeless families and unaccompanied youth must be fully informed of available enrollment options and educational opportunities. [§722(g)(6)]
- Separate schools or programs for homeless children and youth are prohibited, with the exception of several programs not located in Virginia that are specifically named in the McKinney-Vento Act. [§721(3) and §722(g)(1)(J)(i)]

Who is Considered Homeless?

The McKinney-Vento Act [§ 725] defines “homeless children and youth” (school age and younger) as:

- Children and youth who lack a fixed, regular, and adequate nighttime residence, including children and youth who are:
  - Sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;
  - Living in motels, hotels, trailer parks, camping grounds, cars, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings due to the lack of alternative adequate accommodations;
  - Abandoned in hospitals; or
  - Awaiting foster care placement.
- Migratory children who qualify as homeless because they are living in circumstances described above.
- Unaccompanied youth, meaning youth not in the physical custody of a parent or guardian, such as runaways and youth denied housing by their families (sometimes referred to as “throwaway” children and youth).
Are all families that share housing considered homeless?

No. Families that share housing, living in doubled-up settings, must still meet the definition’s requirement that the living situation is due to a loss of housing or other economic hardship. Families that live together due to cultural preference, to save money, or to pool resources to provide a larger/nicer home than would be possible if living individually should not be considered homeless. Some questions that may assist in making the determination of homelessness in a doubled up situation include:

- What would you do if you had more money? (Is a home of their own selected or is some other use for the money identified?)
- Where would you go if you could not live here? (“We would rent our own place” is very different from “There isn’t anywhere to go – maybe we would have to stay in the car.”)

If a child or youth is living with an older sibling or relative, should he or she be considered homeless?

Each situation should be considered individually. While such students may meet the definition of unaccompanied youth, to be considered homeless under the McKinney-Vento Act, a determination of whether the living arrangement is fixed, regular, and adequate also must be made. If the living arrangement is due to economic hardship or the child or youth is a runaway or not permitted to return home, then it would be considered a home less situation. If the living arrangement is for convenience, such as proximity to an after school job or to attend a certain school, then the setting would not be considered homeless. In these cases, it is important to discuss the family’s situation with the child or youth to identify the causes for the living arrangement.

See Appendix S of the Local Homeless Education Liaison Toolkit for further resources for serving unaccompanied youth.

Are children and youth in foster care considered homeless?

By definition, children and youth in foster care placements are wards of the state, so they are not considered homeless. Temporary or short term foster care placements may be considered homeless. "LEA liaisons should confer and coordinate with local public social service agency providers in determining how best to assist homeless children and youth who are awaiting foster care placement,” (US Department of Education Draft Non-regulatory Guidance, July 2004). Virginia Code section 22.1-3.4 addresses immediate enrollment and school of origin options for children and youth in foster care.

For more guidance on foster care students, see Virginia Department of Education Superintendent’s Memo No. 125, June 24, 2005

Are children and youth who qualify for migrant services considered homeless?

The children of migrant workers should only be considered homeless if they meet the definition of homelessness cited on page 1. A migratory lifestyle is not sufficient to be considered homeless.

See the National Center for Homeless Education (NCHE, page 7), Reauthorization Brief, Migrant Children and Youths Experiencing Homelessness

Are children or youth incarcerated or in correction facilities considered homeless?

No. According to 1995 US Department of Education Pre-
Must a school enroll homeless children or youth without proof of immunizations or physicals?

Yes. The school must enroll students who do not have health records immediately if they fall under the definition of homeless. The school should refer the family or youth to the local homeless education liaison for assistance in obtaining the necessary documentation and/or medical assistance. The student’s previous school may provide a copy of the health record to the parent when the student leaves or fax a copy to the new school to facilitate this process.

Can a school require proof of residency (rent/lease agreement, utility receipt) that prevents or delays enrollment?

No. Students experiencing homelessness, by definition, lack a fixed residence and cannot be required to provide traditional proof of residency. An affidavit can be completed to explain the lack of proof of residency. Subsequent verification of status, as noted below, is permissible.

Must schools enroll students experiencing homelessness who do not have previous school records?

Yes. Students experiencing homelessness must be enrolled in school while waiting for the previous school records to be received. Upon enrollment, the receiving school must contact the previous school immediately to obtain records that are needed. [§722(g)(3)(C)(ii)] Parents may request copies of critical documents such as Individualized Educational Programs (IEPs), gifted testing records, and report cards from the student’s previous school.

Parent Packs, developed by NCHE, may assist families in maintaining important school documents.

How Quickly Must Children and Youth Experiencing Homelessness be Enrolled in School?

Schools must enroll a child or youth experiencing homelessness immediately, even if the child or youth is unable to produce records normally required for enrollment. [§722(g)(3)(C)] Enrollment is defined as “attending classes and participating fully in school activities.” [§722(1)]

When children or youth experiencing homelessness are not living with parents or legal guardians, is the school required to enroll the child?

Yes. Proof of guardianship cannot be a barrier to enrollment. Some students may not be able to live with their family, and others are not permitted by their parents or guardians to live at home. The local liaison should be contacted to assist unaccompanied youth who wish to enroll in school and to coordinate needed services with other agencies. [§722(g)(6)]

For more information about enrollment and verification of eligibility, see NCHE brief, Determining Eligibility.
Where Can Students Experiencing Homelessness Attend School?

Students who are homeless may remain enrolled in their school of origin or the school zoned for their current residence. The school of origin is the school that the child attended when permanently housed or the last school in which the student was enrolled.

If families experiencing homelessness move within a school division, can students stay at the same school, even if they move out of the school's attendance zone?

Yes. The McKinney-Vento Act states that students have a right to stay in the school of origin when it is in their best interest. Determination of best interest should be decided by the parent, guardian, or youth together with the school division. [§722(g)(3)(A) & (B)] The school division is responsible for transportation to the school of origin. [§722(g)(1)(J)i]

If families experiencing homelessness move to a different school division, can students stay at the school of origin?

Yes. Students have a right to stay in the school of origin, when it is in their best interest, even when they move to another school division. In such instances, the school divisions involved should work together, including sharing responsibility for transportation. [§722(g)(1)(J) (ii)]

What services must school divisions provide to children and youth in homeless situations?

The McKinney-Vento Act requires school divisions to provide services to students experiencing homelessness that are comparable to those provided to other students. Students must not be segregated or stigmatized. Homeless children and youth must have access to any educational services for which they qualify, including special education, gifted education, school nutrition programs, before and after school activities, and Title I services. [§722(g)(4) and Title I, §1115(b)(2)(E)]

Can Title I funds be used to address the educational needs of children and youth experiencing homelessness?

Yes. According to the No Child Left Behind Act, children and youth experiencing homelessness automatically qualify for Title I, Part A services, whether students attend schoolwide, targeted continued on page 6
Principal’s Checklist for Homeless Education Resources

___ Do you know the definition of homeless?

___ Do you know who is the designated local homeless education liaison for your school division?

___ Do you have posters defining homelessness and describing the rights of students experiencing homelessness displayed in enrollment areas where parents will see them?

___ Do you have family brochures (What Families Need to Know…) available where families will see them?

___ Are children and youth experiencing homelessness immediately enrolled in your school?

___ Are the parents of children and youth experiencing homelessness notified of their educational rights under the McKinney-Vento Act?

___ Do you have procedures established to assist students and their families when they are identified as homeless?

___ Do you have a procedure that ensures students experiencing homelessness receive free meals at school?

___ Do you have a system for flagging students as homeless in your student data system?

___ Do you know your division’s homeless education policy for enrollment decisions and dispute resolution?

___ Do you provide written notice when enrollment decisions are not consistent with the family’s request?

___ Has your staff been trained to identify and support students who may be homeless?

Local Liaison: _____________________________________________________

Phone: ________________________     Fax: ____________________________

Email: ___________________________________________________________
assistance, or non-Title I schools. Title I must coordinate services in order to promote the academic achievement of students experiencing homelessness. [Title I, §1112(a)(1)]

**May homeless children and youth attending non-Title I schools be served under Title I?**

Yes. Title I, Part A funds must be reserved to provide comparable services to homeless children who attend schools that do not receive Title I funding. [Title I §1113(c)(3)(A)] Funds may be used to provide educationally related support services to children in shelters, such as referrals, supplies, or tutoring.

**Can students experiencing homelessness access school nutrition programs?**

Yes. Students who are homeless meet the requirements for categorical eligibility. The Child Nutrition and WIC Reauthorization Act of 2004 extended categorical eligibility for National School Lunch and School Breakfast Programs to children and youth identified as homeless, migrant, or runaway, and some military families. The student names, dates of eligibility, and the signature of the local homeless education liaison, the Runaway Youth provider, or shelter director are sufficient for enrollment in the program. Completion of the regular meal application is not needed. Once a student is determined eligible for free meals, the student remains eligible for the remainder of the school year and through the beginning of the next year.

**Are children experiencing homelessness eligible to enroll in pre-kindergarten classes?**

Yes. Students who are experiencing homelessness should have the same access to programs as students who are housed. [§722(g)(6)(a)(iii)] Head Start and Even Start may reserve slots for students experiencing homelessness to avoid waiting list delays when children arrive after the school year has begun. School division preschool programs should be accessible as well.

**How should special education programs serve students experiencing homelessness?**

Not all students experiencing homelessness are students with disabilities; however, requirements in IDEA address the special needs of students who have disabilities and are living in homeless situations. Such students should be included in Child Find efforts, be considered for expedited evaluations, when needed, and be ensured a continuity of educational programming despite potential school moves.

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**For information on coordination with Title I, Part A, see US Department of Education Draft Non-Regulatory Guidance, July 2004 and NCHE Reauthorization Brief, Title I and Homelessness**

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**Initial guidance regarding the implementation of the Act was issued on September 24, 2004 in Virginia Superintendents’ Regulatory Memo No. 8. Reauthorization memoranda from the US Department of Agriculture are available at: http://www.fns.usda.gov/regulations.htm**

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**See Project HOPE-Virginia Information Briefs on Homelessness and Special Education:**
- Unlocking Potential: What Educators Need to Know About Homelessness and Special Education
- Unlocking Potential: What Families and Shelters Need to Know About Homelessness and Special Education
- Using the Best That We Know: Supporting Young Children Experiencing Homelessness
- Helping Young Children Grow and Learn: A Guide for Families and Shelter Providers

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**For an overview of legislative changes found in IDEA that have an impact on students experiencing homelessness, NCHE has developed the brief, Individuals with Disabilities Education Improvement Act: Provisions for Children and Youth with Disabilities Who Experience Homelessness. See Additional Resources on the next page.**
What academic concerns commonly affect students experiencing homelessness?

Due to changing schools and the stress of being homeless, students may fall behind academically, causing delays and gaps in learning of many months. Students may not have quiet places to study or access to school supplies, books, or computers. Students should be informed of study halls and after school tutoring availability. If a child was receiving special education services or was participating in gifted and talented programs, the continuity of instruction must be maintained.

What are some of the common health-related issues affecting homeless students?

Homeless students are often at increased risk of becoming ill due to their living conditions. If students become sick, they often have no quiet place to rest. They are more likely than their peers to get the flu, have stomach ailments, have respiratory problems, and visit the emergency room. School nurses can help by offering referrals for screenings, maintaining a supplies closet, assisting parents in filling out forms, and ensuring automatic enrollment in school nutrition programs.

Where can I go for more information and assistance?

National Association for the Education of Homeless Children and Youth  www.naehcy.org
National organization whose members are state coordinators, liaisons, homeless services providers, and others interested in homeless education. Their web site contains policy statements and resources for serving students experiencing homelessness, including materials presented at the annual conference. NAEHCY organizes an annual conference on homeless education and manages the LeTendre Education Fund for students who have experienced homelessness.

National Center for Homeless Education  www.serve.org/nche
A clearinghouse for research and papers on serving students in high poverty and homeless situations. Their web site contains free access to many resources and publications, including:
- A McKinney-Vento Toolbox: Constructing a Robust and Rigorous Homeless Education Program, In Case of Disaster and Every Day
  - This toolbox is designed to help school districts implement the McKinney-Vento Act fully, so they can address the needs of children and youth experiencing homelessness on a daily basis and in times of disaster.
- Homeless Education Issue Briefs - in-depth focus on selected issues
  - Best Practices in Homeless Education series
  - Connecting Schools and Displaced Students series
  - McKinney-Vento Law Into Practice series

National Center on Family Homelessness  http://www.familyhomelessness.org/
The Center conducts research, develops model programs, and provides technical assistance and trainings in an effort to stabilize the lives of homeless families and develop long-term solutions aimed at eradicating homelessness.

National Law Center on Homelessness and Poverty  www.nlchp.org
National legal advocacy organization with an attorney dedicated to education issues. The center publishes documents, research, and guidance for serving homeless students and eliminating homelessness.

National Network for Youth  www.n4y.org
National advocacy organization dedicated to issues faced by America's youth. Website contains links to resources, research, and publications to assist in serving youth experiencing homelessness.

Parent Educational Advocacy Training Center  www.peatc.org
- Special education information and support for families of children with disabilities

What other issues commonly affect students experiencing homelessness?

Students experiencing homelessness may not have a safe place to go after school. They may have difficulty establishing friendships. Let students know about community programs, such as a Boys or Girls Club. School counselors or school social workers may assist students dealing with the emotions associated with being homeless. Schools can create open, caring environments by providing welcome packs for all new students and assigning peer buddies to introduce new students to the school.
DEFINITION OF HOMELESS

Anyone who, due to a lack of housing, lives:
- In emergency or transitional shelters;
- In motels, hotels, trailer parks, campgrounds, abandoned in hospitals, awaiting foster care placement;
- In cars, parks, public places, bus or train stations, abandoned buildings;
- Doubled up with relatives or friends,
- In these conditions and is a child or youth not in the physical custody of an adult (unaccompanied youth*),
- In these conditions and is a migratory child or youth.

To determine homelessness, consider the permanence and adequacy of the living situation.

* Unaccompanied youth - a youth without fixed, regular, and adequate housing who are not in the physical custody of a parent or guardian. This would include runaways living in homeless situations and those denied housing by their families (sometimes referred to throwaway children and youth).

PROJECT HOPE-Virginia

Access the Local Homeless Education Liaison Toolkit, Virginia guidelines, information briefs, and many other resources for serving students and implementing McKinney-Vento in schools. HOPE also offers professional development opportunities throughout the year.

US Department of Education
Website contains guidance on implementing the McKinney-Vento Act and ensuring that students succeed in school.

My hope is to be a faithful kid and adult with lots of hopes and dreams, to never let anyone put me down, and to be famous in my own way.
My dream is to be a musician, to go to college, and to be in a symphony.

12 year old boy experiencing homelessness

Original artwork and quotations by students experiencing homelessness courtesy of Fairfax County Public Schools Homeless Education Program

Project HOPE-Virginia
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www.wm.edu/hope

Project HOPE-Virginia is Virginia’s Program for the Education of Homeless Children and Youth. The College of William and Mary administers the program for the Virginia Department of Education. Funding is authorized under the McKinney-Vento Homeless Education Act, Title X, Part C of the No Child Left Behind Act (P.L. 107-110). The purpose of Project HOPE-Virginia is to ensure the enrollment, attendance, and success of homeless children and youth in school.