

DEPARTMENT OF EDUCATION

McKinney-Vento Education for Homeless Children and Youths Program

AGENCY: Department of Education, Office of Elementary and Secondary Education.

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ACTION: Notice of school enrollment guidelines.

SUMMARY: The Secretary issues guidelines on the enrollment of homeless children and youth in schools. The Secretary takes this action under the McKinney-Vento Homeless Assistance Act. These guidelines are designed to help States expedite the school enrollment of homeless children and youth.

McKinney-Vento School Enrollment Guidelines

I. Background

Section 724(g) of the McKinney-Vento Homeless Assistance Act (McKinney-Vento Act), as reauthorized by the No Child Left Behind Act of 2001 (NCLB) (Pub. L. 107-110), requires the Secretary of Education (Secretary) to develop, issue, and publish in the **Federal Register**, no later than 60 days after the date of enactment of the NCLB, school enrollment guidelines that describe:

- (1) Successful ways that a State can assist local educational agencies (LEAs) in immediately enrolling homeless children and youth in school.
- (2) How a State can review its requirements regarding immunization and medical or school records and make whatever revisions are appropriate and necessary to immediately enroll homeless children and youth in school. Under the McKinney-Vento Homeless Children and Youths Program, State educational agencies (SEAs) must ensure that homeless children and youth have equal access to the same free public education, including a public preschool education, as is provided to other children and youth. States must review and undertake steps to revise any laws, regulations, practices, or policies that may act as barriers to the enrollment, attendance, or success in school of homeless children and youth. School districts and schools may not separate homeless students from the mainstream school environment on the basis of their homelessness. Homeless students must also have access to the education and other services that they need to have an opportunity to meet the same challenging State academic achievement standards to which all students are held. (Congressional Statement of Policy in section 721 of the McKinney-Vento Act.) In their reports to the Department under the McKinney-Vento program, many States indicated that they have made progress in addressing school enrollment barriers faced by homeless students. However, these States acknowledged that lack of transportation, immunization requirements, lack of school records, and other problems continue to cause enrollment difficulties. The guidelines in this notice provide examples of successful or promising enrollment practices based on our review of national studies and evaluations and our analysis of reports describing effective enrollment strategies.

II. Definitions

Section 725 of the McKinney-Vento Act defines the following terms:

(a) *Homeless children and youth* means individuals who lack a fixed, regular, and adequate nighttime residence. The term includes—

- (1) Children and youth 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; are abandoned in hospitals; or are awaiting foster care placement.
- (2) Children and youth 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.

(3) Children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings.

(4) Migratory children (as defined in section 1309 of the Elementary and Secondary Education Act of 1965, as amended) who qualify as homeless because they are living in circumstances described in this definition.

(b) *Enroll* and *enrollment* include attending classes and participating fully in school activities.

(c) *Unaccompanied youth* includes a youth not in the physical custody of a parent or guardian.

III. Statutory Enrollment Provisions

(A) *State Responsibilities Regarding Enrollment:*

The McKinney-Vento Act requires States to implement a number of measures to eliminate enrollment barriers faced by homeless children and youth. These measures include the following:

(1) Developing Strategies to overcome enrollment delays resulting from a lack of records and other issues: Each SEA must prepare a State plan that describes, among other things, the State's strategies for addressing problems resulting from enrollment delays that are caused by immunization and medical records requirements; residency requirements; lack of birth certificates, school records, or other documentation; guardianship issues; and uniform or dress code requirements. (Section 722(g)(1)(H)) The plan must demonstrate that the SEA and LEAs in the State have developed, and will review and revise, policies to remove barriers to the enrollment and retention of homeless children and youth in school. (Section 722(g)(1)(I))

(2) Prohibiting the segregation of homeless children and youth: The state plan must contain assurances that the SEA and LEAs in the State will adopt policies and practices to ensure that homeless children and youth are not stigmatized or isolated on the basis of their status as homeless. (Section 722(g)(1)(J)(i)) There is a limited exception in section 722(e)(3) to the prohibition against segregating homeless students that applies only to schools in four "covered counties"—San Joaquin County, CA; Orange County, CA; San Diego County, CA; and Maricopa County, AZ—if certain statutory conditions are met. The Secretary may issue separate instructions concerning this exception to the affected LEAs and to the two States in which they are located.

3) Assisting LEA liaisons in its plan: An SEA must assure that every LEA in the State will designate an appropriate staff person to serve as a liaison for homeless children and youth (Section 722(g)(1)(J)(ii)). The liaison will help ensure that homeless children and youth enroll in, and have a full opportunity to succeed in, schools of that LEA. (Section 722(g)(6)(A)) The Coordinator for Education of Homeless Children and Youth in each State must, among other things, provide technical assistance to LEA liaisons to ensure that LEAs comply with the legislative requirements, including student enrollment requirements. (Section 722(f)(6))

(4) Addressing transportation barriers in its plan: An SEA must assure that the State and its LEAs will adopt practices and policies to ensure that LEAs provide or arrange for the transportation of homeless children and youth, at the request of the parent or guardian—or, in the case of an unaccompanied youth, the liaison—to and from the homeless child's or youth's school of origin. (Section 722(g)(1)(J)(iii)) The McKinney-Vento Act defines "school of origin" as the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled. (Section 722(g)(3)(G)) In the Federal Register / Vol. 67, No. 46 / Friday, March 8, 2002 / Notices 10699, transportation provisions are discussed in greater detail in (III)(b)(6) of the enrollment guidelines in this notice.)

(B) *LEA Responsibilities Regarding Enrollment:*

The McKinney-Vento Act also requires LEAs to implement a number of measures to eliminate enrollment barriers faced by homeless children and youth. These measures include the following:

(1) Making School Placement Determinations on the Basis of the Best Interest of the Child:

Homeless children and youth frequently move, so maintaining a stable school environment is critical to their success in school. To ensure this stability, the legislation requires that LEAs make school placement determinations on the basis of the “best interest” of the homeless child or youth. (Section 722(g)(3)(A)) In making a placement determination, an LEA must, according to the child’s or youth’s best interest—

(a) Continue the child’s or youth’s education in the school of origin—

(i) For the duration of homelessness if 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 obtains permanent housing during an academic year; or

(b) 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. In determining best interest, an LEA must, to the extent feasible, keep a homeless child or youth in the school of origin, unless doing so is contrary to the wishes of the child’s or youth’s parent or guardian. (Section 722(g)(3)(B)(i)) If an LEA sends a homeless child or youth to a school other than the school of origin or a school requested by the parent or guardian, the LEA must provide a written explanation of its decision to the parent or guardian, together with a statement regarding the right to appeal the placement decision.

(Section 722(g)(3)(B)(ii)) Similar provisions apply to an LEA’s placement of an unaccompanied youth. (Section 722(g)(3)(B)(iii))

(2) Immediately Enrolling Homeless Children and Youth and Providing Assistance with obtaining Records: A school that an LEA selects on the basis of the best interest determination must immediately enroll the homeless child or youth, even if the child or youth is unable to produce records normally required for enrollment (such as previous academic records, medical records, proof of residency, or other documentation). (Section 722(g)(3)(C)(i)) The enrolling school must immediately contact the school last attended by the child or youth to obtain relevant academic or other records. (Section 722(g)(3)(C)(ii)) If a child or youth needs to obtain immunizations, or immunization or medical records, the enrolling school must immediately refer the parent or guardian to the LEA homeless liaison, who must assist in obtaining the immunizations or records. (Section 722(g)(3)(C)(iii)) Any record ordinarily kept by a school regarding each homeless child or youth must be maintained so that it is available in a timely fashion when the child enters a new school or school district. (Section 722(g)(3)(D))

(3) Handling Enrollment Disputes: If a dispute arises between a school district and parents or guardians over school selection or enrollment, the LEA must immediately enroll the child or youth in the school in which the parent or guardian seeks enrollment, pending resolution of the dispute. (Section 722(g)(3)(E)(i)) The LEA must provide to the parent or guardian a written statement of the school placement decision and the appeal rights. (Section 722(g)(3)(E)(ii)) The LEA must refer the child, youth, parent, or guardian to the LEA liaison, who must expeditiously carry out the dispute resolution process described in the State plan. (Section 722(g)(3)(E)(iii)) Similar protections apply to unaccompanied youth. (Section 722(g)(3)(E)(iv))

(4) Prohibiting the Segregation of Homeless Children and Youth: An LEA may not educate homeless children and youth in settings in which they are segregated from non-homeless students, but must mainstream them into the regular school environment. (Section 722(g)(1)(J)(i)) LEAs may segregate homeless students from other students only as necessary for short periods of time

(a) for health or safety emergencies, or

(b) to provide temporary, special, and supplementary services to meet the unique needs of homeless students. (Section 723(a)(2)(B)(ii)) Thus, LEAs may not maintain segregated schools or facilities for homeless children and youth. As noted previously, the Secretary

may issue separate guidance for the LEAs in the four “covered counties” to which a limited exception to this fundamental principle applies and to the two States in which they are located.

(5) Designating an LEA Liaison in Every LEA: In States receiving funds under the McKinney-Vento Act must designate an LEA liaison. (Section 722(g)(1)(J)(ii)) The responsibilities of the liaison include ensuring that—

- (a) Children and youth experiencing homelessness enroll in, and have a full and equal opportunity to succeed in, schools of that LEA;
- (b) The LEA informs the parents or guardians of homeless children and youth of the educational and related opportunities available to their children and provides them with meaningful opportunities to participate in the education of their children;
- (c) The LEA disseminates public notice of the educational rights of homeless children and youth in places in which these children receive services under the McKinney-Vento Act;
- (d) The LEA properly mediates enrollment disputes; and
- (e) The LEA informs the parent or guardian of a homeless child or youth, and any unaccompanied youth, of the transportation services that the LEA must make available, and assists the child or youth in accessing transportation to school. (Section 722(g)(6))

(6) Providing Transportation: The McKinney-Vento Act places new transportation responsibilities on SEAs and LEAs. (Section 722(g)(1)(J)(iii)) As noted previously, SEAs and LEAs must adopt practices and policies to ensure that LEAs provide or arrange for the transportation of homeless children and youth, at the request of the parent or guardian—or, in the case of an unaccompanied youth, the liaison—to and from the homeless child’s or youth’s school of origin. If a homeless student continues to live in an area served by the LEA in which the school of origin is located, the LEA must provide or arrange for transportation of the student to and from the school of origin. If the homeless student is no longer living in the area served by the LEA of origin but is continuing his or her education in the school of origin, the LEA of origin and the LEA in which the homeless student is living must agree on a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the LEAs cannot agree on a method, the costs for transportation must be shared equally.

IV. Effective State Enrollment Practices

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The following is a summary of successful ways in which States have assisted, or may assist, LEAs in immediately enrolling in schools students experiencing homelessness, and ways in which States can review and revise their requirements regarding immunization and medical or school records in order to facilitate immediate enrollment:

(A) Convening a Steering Committee To Identify and Review Requirements and Policies That May Act as Enrollment Barriers:

An SEA may form a broad-based steering committee to examine enrollment barriers. Such a committee could include representatives of the Homeless Coordinator’s office; other SEA offices, including transportation officials; other State agencies (e.g., public health, social services), legislative staff, local liaisons, and advocacy groups. The committee should review State laws, rules, regulations, letters, memoranda, and guidance documents to ensure State and local compliance with the requirements of the McKinney-Vento Act. The committee should pay special attention to issues concerning transportation policies, student records and record-transfer requirements, enrolling unaccompanied youth, guardianship requirements, procedures for resolving enrollment disputes, and barriers resulting from school-related fees or school uniform policies.

(B) Providing LEAs and Schools with Guidelines on the Requirements of the McKinney-Vento Act and Ways to Effectively Address Enrollment Barriers:

We encourage SEAs to prepare and disseminate to their districts and schools memoranda, guidance documents, notices, or letters summarizing the enrollment requirements and other provisions of the McKinney-Vento Act and to share with them guidance provided by the Department. Given that transportation has been one of the biggest enrollment barriers, States should highlight in their guidance to districts the new transportation responsibilities of LEAs under the McKinney-Vento Act. States should work with LEAs to develop practices and policies to ensure that transportation is provided as required under the legislation. State enrollment guidelines should emphasize that an LEA must consider the best interests of the child in making placement decisions and those homeless students must be permitted to enroll in school immediately, even if they cannot produce the documentation normally needed for enrollment. States may encourage districts to implement policies whereby schools immediately enroll homeless children and youth on such bases as oral communications with prior schools; affidavits from parents or guardians in place of immunization documentation, birth certificates, proof of residency, or other records; and other alternatives to the records usually required for enrollment. The local liaisons can facilitate implementation of these measures. States should remind LEAs that any records that a school ordinarily keeps must be maintained in a manner that makes the records readily available when a child or youth enters a new school or district, and that the enrolling school must immediately contact the school last attended by the child or youth to obtain the relevant records. States should inform districts that they should examine any local residency requirements in light of the State's compulsory attendance laws to ensure that those requirements do not act as a barrier to enrollment of children and youth experiencing homelessness. States may also assist LEAs in adopting policies for waiving any school-related fees (such as course fees, activity fees, or field trip expenses) for homeless or poor families. In addition, they may issue guidance to assist LEAs in addressing barriers caused by lack of money for required school uniforms or for appropriate school clothing. States may develop manuals to assist LEAs in addressing the needs of homeless students. The manuals could include sample emergency enrollment forms, examples of affidavits of residency or of immunizations, and forms specifying the rights of youth and parents or guardians, including forms for appeals of placement decisions. Manuals could also include information on best practices to address common issues or concerns raised by LEA and school staff regarding their responsibilities under the McKinney-Vento Act. A State may also consider disseminating to districts or schools self-assessment guides on implementation of the McKinney-Vento Act. In informing districts and schools of enrollment requirements in the McKinney-Vento Act and possible means of addressing enrollment barriers, States should use all available technology, such as e-mail notices, listservs, the SEA website, Statewide hotlines, videos, satellite broadcasts, and teleconferences.

(C) Providing Training and Guidance to LEA Liaisons for Homeless Children and Youth Families, particularly those experiencing homelessness, often have difficulty keeping track of medical and other records, contacting previous schools to initiate school transfers, and working through school bureaucracies. To help alleviate these problems, States must provide technical assistance to LEAs in coordination with LEA liaisons. This may include training and guidance on meaningful ways for liaisons to assist parents, guardians, and unaccompanied youth in the enrollment process, through such means as accompanying a child from a shelter to school, completing enrollment forms, coordinating the transfer of records, arranging for immunizations, and preparing affidavits to facilitate enrollment. States should also provide training and guidance to assist liaisons in expeditiously resolving enrollment disputes in accordance with the procedures in the State plan.