

WASHINGTON-SARATOGA-WARREN-HAMILTON-ESSEX  
BOARD OF COOPERATIVE EDUCATIONAL SERVICES

ADMINISTRATIVE REGULATION

EDUCATION OF HOMELESS YOUTH AND CHILDREN

**Definitions**

Homeless Child

Pursuant to Commissioner's Regulations, a "homeless child" means a child or youth who lacks a fixed, regular, and adequate nighttime residence; including a child who is:

- 1) Sharing the housing of other persons due to a loss of housing, economic hardship or a similar reason;
- 2) Living in motels, hotels, trailer parks or camping grounds due to the lack of alternative adequate accommodations;
- 3) Abandoned in hospitals;
- 4) Awaiting foster care placement; or
- 5) A migratory child who qualifies as homeless in accordance with Commissioner's Regulations. As defined in the No Child Left Behind Act of 2001, the term "migratory child" *includes* a child who is, or whose parent or spouse is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who has moved from one school district to another in the preceding 36 months, in order to obtain, or accompanies such parent or spouse in order to obtain, temporary or seasonal employment in agricultural or fishing work.
- 6) A child or youth who has a primary nighttime location that is:
  - a. A supervised, publicly or privately operated shelter designed to provide temporary living accommodations including, but not limited to, shelters operated or approved by the state or local department of social services, and residential programs for runaway and homeless youth established pursuant to Article 19-H of the Executive Law; or
  - b. A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; including a child or youth who is living in a car, park, public space, abandoned building, substandard housing, bus or train station or similar setting.
- 7) Considered an "unaccompanied youth":
  - a. An unaccompanied youth is a homeless child (for whom no parent or person in parental relation is available) or youth not in the physical custody of a parent or legal guardian.
  - b. An unaccompanied youth shall not include a child or youth who is residing with someone other than a parent or a legal guardian for the sole reason of taking advantage of the schools of the district.

The term "**homeless child**" shall not include a child in foster care or receiving educational services pursuant to Education Law Sections 3202(4), (5), (6), (6a) or (7) or pursuant to Articles 81, 85, 87 or 88. For example, a child in a family home at board, a school for the mentally retarded, a hospital or other institution for the care, custody and treatment of children; youths under the direction of the Division for Youth incarcerated in county correctional facilities or youth shelters; or children residing in child care institutions or schools for the deaf or blind would not be considered "homeless."

## Designator

"Designator" means:

- 1) The parent or person in parental relation to a homeless child; or
- 2) The homeless child, together with the homeless liaison designated by the BOCES in the case of an unaccompanied youth; or
- 3) The director of a residential program for runaway and homeless youth established pursuant to Article 19-H of the Executive Law, in consultation with the homeless child, where such homeless child is living in such program.

School district of origin means the school district within New York State in which the homeless child was attending a public school on a tuition-free basis or was entitled to attend when circumstances arose which caused such child to become homeless, which is different from the school district of current location.

School district of current location means the public school district within New York State in which the hotel, motel, shelter or other temporary housing arrangement of a homeless child, or the residential program for runaway and homeless youth, is located, which is different from the school district of origin.

Regional placement plan means a comprehensive regional approach to the provision of educational placements for homeless children which has been approved by the Commissioner of Education.

Unaccompanied youth means a homeless child for whom no parent or person in parental relation is available.

Local educational agency liaison is the staff person designated by the BOCES, who may also be a coordinator for other federal programs, as the person responsible for carrying out the duties assigned to the liaison pursuant to the McKinney-Vento Act as well as state law and regulations, and applicable guidance issued by the U.S. and New York State Education Departments.

## **Choice of District**

The designator shall have the right to designate one of the following as the school district within which a homeless child shall be entitled to attend upon instruction:

- 1) The school district of current location;
- 2) The school district of origin; or
- 3) A school district participating in a regional placement plan.

As of July 1, 2002, education law has expanded the options to enable a student experiencing homelessness to:

- 1) Choose to continue attendance at the same school building previously attended, even if the child has moved to temporary housing outside the attendance area of that building;
- 2) Choose to attend the same school building that resident children living in the attendance zone of their temporary housing are entitled to attend;
- 3) Return to the same school building where the child previously attended when the student has moved out of district/BOCES and designates the school of origin.

A homeless child or youth's right to attend their school of origin extends for the duration of homelessness. If a child or youth becomes permanently housed during the academic year, he/she is entitled to stay in the school of origin for the remainder of the academic year. Children and youth who become homeless in between academic years are entitled to attend their school of origin for the following academic year. The choice regarding placement must be made regardless of whether the child or youth resides with the homeless parent or has been temporarily placed elsewhere. Students have the right to stay at their school of origin whether or not they live with their parent(s). The homeless liaison must assist "unaccompanied youth" with placement/enrollment decisions.

Depending on which designated category is applicable to the School District, attendance areas/school building, duration of attendance, and transportation requirements shall be in accordance with law and/or regulation.

### **Transportation**

If the local social service district or the Office of Children and Family Services is not required to provide transportation, the designated district is responsible for the provision and the cost of the student's transportation. Where a homeless student designates the school district of current location as the district the student will attend, that district shall provide transportation to the student on the same basis as a resident student. Where the homeless student designates the school district of origin or a school district participating in a regional placement plan, then that district must provide transportation to and from the homeless child's temporary housing and school. Transportation responsibilities apply to all school districts regardless of whether or not they receive McKinney-Vento funds. Transportation must be provided during the pendency of enrollment disputes. If the designated district provides transportation for non-homeless preschool children, it must also provide comparable transportation services for homeless preschool children.

### **Reimbursement**

If the School District is designated the district of attendance and the District is either the school district of current location or a school district participating in a regional placement plan, and the homeless child's school district of origin is within New York State, the District is eligible for reimbursement by the State Education Department for the direct cost of educational services. Pursuant to Commissioner's Regulations, the school district of origin (if not designated the district of attendance) shall reimburse the State Education Department in accordance with law.

### **Designation Form**

A designation form provided by the Commissioner of Education shall be completed by the appropriate designator as defined above. Upon receipt of a designation form, the School District (if designated the district of attendance) shall immediately:

- 1) Review the designation form to assure that it has been completed;
- 2) Admit the homeless child 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;
- 3) Provide the child with access to all of its programs, activities and services to the same extent as they are provided to resident students;
- 4) Immediately contact the school district where the child's records are located for a copy of such records;

- 5) If the child or youth needs to obtain immunizations or immunization or medical records, the school admitting such child or youth shall immediately refer the parent or guardian of the homeless child or youth to the District liaison who shall assist in obtaining necessary immunizations or immunization or medical records.

The designation form shall be forwarded to the Commissioner of Education and, where applicable, the school district of origin.

Within five days of the receipt of a request for school records, the school district receiving such request shall forward a complete copy of the homeless child's records including, but not limited to, proof of age, academic records, evaluations, immunization or medical records, and guardianship papers, if applicable.

### **Responsibilities of the BOCES**

#### Enrollment, Retention and Participation in the Educational Program

Enrollment of homeless children shall not be delayed and their ability to continue or participate in the educational program shall not be restricted due to issues such as:

- a) Transportation;
- b) Immunization requirements;
- c) Residency requirements;
- d) Birth certificates, medical records, IEPs, school records and other documentation;
- e) Guardianship issues;
- f) Comprehensive assessment and advocacy referral processes;
- g) Resolution of disputes regarding school selection;
- h) Proof of social security numbers;
- i) Attendance requirements;
- j) Sports participation rules;
- k) Inability to pay fees associated with extracurricular activities such as club dues and sports uniforms; or
- l) Other enrollment issues.

The BOCES shall:

- 1) Ensure that homeless children and youth are not segregated in a separate school, or in a separate program within the school, based on their status as homeless; and
- 2) To the extent feasible and consistent with the applicable requirements in Commissioner's Regulations, keep a homeless child or youth in the school of origin except when doing so is contrary to the wishes of the child or youth's parent or guardian.

To facilitate immediate enrollment, the School District and/or BOCES may consider, but is not limited to, the following practices:

- 1) Training all school enrollment staff such as secretaries, guidance counselors, school social workers, and principals on the legal requirements regarding immediate enrollment;
- 2) Reviewing all District policies and regulations to ensure that they comply with federal and state requirements pertaining to the education of homeless children and youth;
- 3) Collaborating with community-based or public agencies to provide uniformity within and among neighboring districts;

- 4) Contacting the previous school for records and assistance with placement decisions; and
- 5) Expeditiously following up on any special education referrals or services and language assistance services.

### Educational Programs and Services

The School District and/or BOCES shall provide homeless children and youth with access to all of its programs, activities and services to the same extent that they are provided to resident students.

Homeless children and youth shall be educated as part of the school's regular academic program. Services must be provided to homeless children and youth through programs and mechanisms that integrate homeless children and youth with their non-homeless counterparts, including programs for special education, vocational and technical education, gifted and talented students, before and after school, English language learners/limited English proficiency, Head Start, Even Start, and school nutrition. BOCES will not segregate homeless students in separate schools, separate programs within schools, or separate settings within schools. Services provided with McKinney-Vento funds must expand upon or improve services provided as part of the regular school program.

All homeless children and youth are automatically eligible for Title I Part A services whether or not they meet the academic standards or live in a Title I school attendance area. Homeless students may receive Title I educational or support services from schoolwide and targeted-assistance school programs.

### **Dispute Resolution**

The BOCES shall establish procedures, in accordance with the McKinney-Vento Act, for the prompt resolution of disputes regarding school selection or enrollment of the homeless child or youth. The BOCES shall provide a written explanation, including a statement regarding the right to appeal as enumerated in the McKinney-Vento Act, to the homeless child or youth's parent or guardian if the School District sends such child or youth to a school other than the school of origin or school requested by the parent or guardian.

Pursuant to the McKinney-Vento Act, if a dispute arises over school selection or enrollment in a school:

- 1) The child or youth shall be immediately admitted to the school in which enrollment is sought, pending the resolution of the dispute;
- 2) The parent or guardian of the child or youth shall be provided with a written explanation of the school's decision regarding school selection or enrollment, including the rights of the parent, guardian, or youth to appeal the decision;
- 3) The student will remain enrolled until a final determination is made by the District and for a minimum of thirty (30) days after the final determination to allow the parent/guardian opportunity to appeal to the Commissioner of Education. If the student files an appeal that contains a request for a stay within thirty (30) days of such final determination, the District must continue to enroll the student until the Commissioner rules on the stay request.
- 4) The child, youth, parent, or guardian shall be referred to the District and/or BOCES liaison who shall carry out the dispute resolution process as expeditiously as possible after receiving notice of the dispute; and
- 5) In the case of an unaccompanied youth, the District liaison shall ensure that the youth is immediately enrolled in the school pending resolution of the dispute.

### **Duties of the BOCES Liaison**

The BOCES liaison for homeless children and youth shall ensure that:

- 1) Homeless children and youths are identified by school personnel and through coordination activities with other entities and agencies;
- 2) Homeless children and youths enroll in, and have full and equal opportunity to succeed in schools in the BOCES;
- 3) Homeless families, children, and youths receive educational services for which they are eligible, including Head Start and Even Start programs and preschool programs administered by the BOCES; and referrals to health care services, dental services, mental health services, and other appropriate services;
- 4) The parents or guardian 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;
- 5) Public notice of the educational rights of homeless children and youths is disseminated where such children and youths receive services pursuant to the McKinney-Vento Act, such as in schools, family shelters, and soup kitchens;
- 6) Enrollment disputes are mediated in accordance with the requirements of the McKinney-Vento Act, as well as other applicable laws and regulations;
- 7) 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, pursuant to law and/or regulation; and is assisted in accessing transportation to the school that is selected;
- 8) In the case of an unaccompanied youth, assistance is provided in placement or enrollment decisions, considering the views of such unaccompanied youth, and providing notice to such youth of the right to appeal pursuant to law and regulation.

The BOCES shall inform school personnel, service providers and advocates working with homeless families of the duties of the BOCES liaison.

### **Coordination**

The BOCES shall coordinate the provision of services as enumerated in the McKinney-Vento Homeless Education Assistance Act with local social services agencies and other agencies or programs providing services to homeless children and youths and their families, including services and programs funded under the Runaway and Homeless Youth Act. Further, the BOCES shall coordinate with other school districts on interdistrict issues, such as transportation or transfer of school records.

### **Reporting**

The BOCES shall collect and transmit to the Commissioner of Education, at such time and in the manner as the Commissioner may require, a report containing such information as the Commissioner determines is necessary to assess the educational needs of homeless children and youths within the state.