

Intersection of McKinney Vento Homeless Assistance Act and the Individuals with Disabilities Education Act

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Intersection of McKinney Vento Homeless Education Act and the Individuals with Disabilities Education Act

Introduction

The following questions and answers provide guidance to districts to ensure students with disabilities who are experiencing homelessness receive the educational services for which they are entitled while complying with both the Education of Homeless Children and Youth Program under the [McKinney-Vento Homeless Assistance Act \(McKinney-Vento\)](#) and [the Individuals with Disabilities Education Act \(IDEA\)](#).

The term "*homeless children and youths*"-- means individuals who lack a **fixed, regular, and adequate** nighttime residence and includes, 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,
- 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 103(a)(2)(C),
- are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings, and
- migratory children living in the above situations.

Questions and Answers

Q1. If a student with a disability is experiencing homelessness, where can I find information to ensure McKinney-Vento and IDEA are implemented?

The following resources delineate how McKinney-Vento and IDEA interface when a student with a disability experiences homelessness:

- United States Department of Education (USED), Office of Special Education and Rehabilitative Services (OSERS), and Office of Elementary and

Secondary Education (OESE). [Questions and Answers on Special Education and Homelessness \(2008\)](#)

- [National Center on Homeless Education](#) (NCHE) has a dedicated [Special Education Page](#) for students with disabilities.

Q2. Can the disability of a student experiencing homelessness be a factor in determining whether continuing in a school of origin is in his/her best interest? [\(OSERS-OESE,2008, E-1\)](#)

Yes. The requirements for schools of origin are found in the NCHE publication, [Determining Eligibility for McKinney-Vento Rights and Services](#). The McKinney-Vento Act defines “school of origin” as the school the student or youth attended when permanently housed or the school in which the student or youth was last enrolled. If a student becomes homeless, districts must, depending on what is in the best interest of the student, either:

Continue the student’s education in the school of origin, **or**

Enroll the student in any public school that students who are not experiencing homelessness and live in the attendance area eligible to attend (referred to as the school of residency).

In determining best interest, the district must do all of the following:

- ✓ Presume that keeping the child or youth in the school of origin is in the child’s or youth’s best interest, unless it is against the wishes of the parent or guardian, or (in the case of an unaccompanied youth) the youth.
- ✓ 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.
- ✓ 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 the school selection; **and**
- ✓ In the case of an unaccompanied youth, ensure the local homeless education liaison assists in placement or enrollment decisions, gives priority to the views of the unaccompanied youth, and provides notice to such youth of the right to appeal.

Determinations regarding best interest are fact-specific and need to be made on an individual basis. Additionally, there may be circumstances in which the existence of

a disability may factor into best interest determinations affecting school placements.

Under [34 CFR §300.116\(a\)\(1\)](#), when determining the educational placement of a student with a disability, including a preschool student with a disability, each student's placement decision must be:

- ✓ Made by a group of persons, including the parents, and other persons knowledgeable about the student, which may include the local homeless education liaison, the meaning of evaluation data, and placement options.
- ✓ Determined at least annually and based on the student's Individualized Education Program (IEP).

The IEP Team and, as appropriate, the local homeless education liaison would determine whether it would be in the best interest of the student to continue the placement in their school of origin or to enroll in the school of residency.

Q3. Can a parent challenge a best interest determination regarding school of origin?

Yes. When a parent does not agree with best interest determination, the school, in collaboration with the school district, must provide written notification, including information about the state's dispute process for Homeless Education. The [Homeless Education Webpage](#) includes information related to concerns regarding the Homeless Education eligibility determination or school selection.

Best interest must be determined on factors related to the individual student's education and well-being. If the IEP includes transportation, the local homeless education liaison must consult with the IEP Team to determine if the disability may be a factor in determining the best interest for school of origin. The NCHE publication, [School Selection and Best Interest Determination](#), includes a best interest checklist to support with the placement determination.

Q4. Can a student's homeless status be a factor in IEP Team determinations?

Yes. If a change in placement for a student with a disability who is experiencing homelessness is considered by the IEP Team, the team will consult with the local homeless education liaison and ensure that the parents, guardians, or in the case of an unaccompanied homeless youth, the youth, have been informed of the student's right to remain in the school of origin under McKinney-Vento. The IEP Team should balance the importance of least restrictive environment and school stability. The

local homeless education liaison, or if necessary, a designee should be included in the IEP meeting to ensure school stability is considered as part of the placement, or school selection decision. If the IEP Team determines the student's educational needs cannot be met in the current school, then the school of origin can no longer be considered "in the student's best interest." If the student still resides in the same school district as the school of origin, the same school district will be responsible for the new placement. If the student is residing in another school district, IEP responsibilities for FAPE transfer to the new school district. (School of origin does not mean districts of origin. See Q6 of this document or refer to E-2 of [Questions and Answers on Special Education and Homelessness \(2008\)](#).)

Q5. If a student experiencing homelessness moves to a new school within the state of Michigan during the same school year and elects to attend the school of origin, which school district is responsible for providing special education?

If the student still resides in the same school district as the school of origin, the same school district will be responsible for the placement. If the student is residing in another school district, IEP responsibilities for FAPE transfer to the new school district. See Q6 of this document or refer to E-2 of [Questions and Answers on Special Education and Homelessness \(2008\)](#).)

McKinney-Vento addresses educational stability by providing students with the option to remain in their school of origin when it is in the student's best interest. McKinney-Vento does not address school district of origin. Students experiencing homelessness, including unaccompanied youths, may enroll in either their district of origin (the last district attended) or the district in which they are living. Districts shall immediately enroll these students while engaging the local homeless education liaison. Immediate enrollment must occur even if the child, parent, or guardian is unable to produce the documentation normally required for enrollment. Under the McKinney-Vento Act, the "terms 'enroll', and 'enrollment' include attending classes and participating fully in school activities". [42 U.S.C. 11434A(1)]

Q6. If a student experiencing homelessness moves to a new school district in Michigan during the same school year and elects to attend the school of origin, but subsequently needs a change in placement, which school district is responsible for providing special education and related services?

If the student still resides in the same school district as the school of origin, the same school district will be responsible for the placement. If the student is residing in another school district, IEP responsibilities for FAPE transfer to the new school

district. (School of origin does not mean districts of origin. See also E-2 of [Questions and Answers on Special Education and Homelessness \(2008\)](#).)

McKinney-Vento addresses educational stability by providing students with the option to remain in their school of origin when it is in the student's best interest. The law does not address school district of origin. When a change in placement is considered by the IEP Team, the Team will include the local homeless education liaison or designee to ensure that the student's right to remain in the school of origin under McKinney-Vento is part of the decision-making process. If the IEP Team determines the student's needs can no longer be met in the current school, the school of origin is no longer in the student's best interest. The school district in which the student resides has sole responsibility for providing FAPE (as defined in IDEA) once the student is enrolled in the school of residency. The student should be immediately enrolled in the appropriate school for the student's current residence consistent with McKinney-Vento and the IEP process for a transfer student should be followed.

Districts shall immediately enroll these students while engaging the local homeless education liaison. Immediate enrollment must occur even if the child, parent, or guardian is unable to produce the documentation normally required for enrollment. Under the McKinney-Vento Act, the "terms 'enroll', and 'enrollment' include attending classes and participating fully in school activities". [42 U.S.C. 11434A(1)]

Q7. If a student with a disability experiencing homelessness moves into a new school district within Michigan but elects to attend the school of origin, which school district is responsible for the provision of transportation to the school of origin?

The following three scenarios address common situations:

Transportation is not a related service in the IEP. If the student with a disability experiencing homelessness does not require specialized transportation due to the disability and transportation is not addressed in the IEP, school districts must comply with [McKinney-Vento §722\(g\)\(1\)\(J\)\(iii\)](#) and follow their normal procedures for coordinating McKinney-Vento school of origin transportation.

Transportation is a related service in the IEP. If the student with an IEP experiencing homelessness requires specialized transportation due to a disability and transportation is a related service in the IEP, the school district may be responsible for providing the transportation. School districts should refer to cooperative agreements to determine coordination of transportation and the costs.

- **The IEP Team may revisit transportation as a related service because of changes in the commute to maintain the school of origin placement.** It is possible that a student’s disability may impact how transportation to the school of origin is provided. (For example, the longer commute may necessitate having an aide accompany the student.) The IEP Team may add transportation as a related service and apportion some reasonable part of the expense as a special education responsibility. Cooperation between school districts to provide school of origin transportation is encouraged. The IEP Team and best interest determination participants may determine that the school of origin is no longer in the student’s best interest due to issues such as safety, or the impact of a long commute considering the disability.

Q8. If a student with a disability (or suspected disability) experiences homelessness as an unaccompanied youth, who can act as parent under the IDEA?

In accordance with [34 CFR §300.519\(f\)](#), in the case of a child who is a youth that is experiencing homelessness, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to 34 CFR §300.519(d)(2)(i), until a surrogate parent can be appointed that meets all the requirements of 34 CFR §300.519(d). For more information on surrogate parent provisions, see Appointment of Surrogate Parents for Special Education and Early Intervention Services.

Additional Resources:

- [MDE Homeless Education Webpage](#)
- [U.S. Department of Education EHCY Program Non-Regulatory Guidance](#)
- [National Center on Homeless Education: Special Education](#)

Questions may be directed to the Michigan Special Education Information Line at 888-320-8384 or by email at MDE-OSE@Michigan.gov.