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THE EDUCATIONAL RIGHTS OF CHILDREN AFFECTED BY A DISASTER

Introduction

Children and youth who lose their homes as a result of a disaster may qualify for federally mandated special educational rights under the McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11431 *et seq.*, because the disaster has left them homeless. These rights include being allowed to either immediately enroll in public schools in the area they are now living, or continue in and be transported to their school of origin, as well as the right not to be segregated from other students on the basis of their homelessness, and the right to comparable educational opportunities to non-homeless students. The following is a brief summary of the educational rights of children and youth who become homeless after a disaster.

Who Qualifies

The term “homeless children and youth” under the McKinney-Vento Homeless Assistance Act applies to young people who “lack a fixed, regular, and adequate nighttime residence” and includes children and youths in any of the following situations:

- ✓ Sharing housing of other persons due to loss of housing;
- ✓ Living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations;
- ✓ Living in emergency or transitional shelters, or abandoned in hospitals;

- ✓ Awaiting foster care placement
 - ✓ Having 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
 - ✓ Living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings;
 - ✓ Migratory children who are living in the circumstances described above.
- 42 U.S.C. §11434a(2).

Children in low-income families affected by a disaster often find themselves living in one of the above situations. These children qualify for protection of their educational rights under the McKinney Vento Homeless Assistance Act based on their status as homeless children.

The Educational Rights of Homeless Children & Youth

1. School Selection - The parents of homeless children and youths have a right to have them continue attending the school they were attending when they were permanently housed unless they choose not to, for the duration of their homelessness. 42 U.S.C. §11432(g)(3)(A)(i). The parents also have the right to enroll their children and youths in any regular public school in the attendance area in which they are now living. 42 U.S.C. §11432(g)(3)(A)(ii). If the public school district¹ decides to place the

¹ Public school districts are denoted as “Local Educational Agencies (LEAs)”.

child or youth in a school other than the school of origin, it must give the parents a written explanation of the decision and of their right to appeal. 42 U.S.C.

§11432(g)(3)(B)(ii).

Parents have the right to choose the child's or youth's placement regardless of whether s/he is living with the homeless parents or has been temporarily placed elsewhere. 42 U.S.C. §11432(g)(3)(F).

The school district homeless liaison² must assist unaccompanied youths with placement decisions, must consider their views, and must provide them with notice of their right to appeal. 42 U.S.C. §11432(g)(3)(B)(iii).

2. Enrollment - The school must immediately enroll the child or youth even if s/he lacks records normally required for enrollment such as proof of residency, medical records, previous academic records or other documentation. 42 U.S.C.

§11432(g)(3)(C)(i). If the child or youth needs to obtain immunizations, or immunization or medical records, the school district's homeless liaison is required to assist them in obtaining these. 42 U.S.C. §11432(g)(3)(C)(iii). The public school must immediately contact the school last attended to obtain academic and other records. 42 U.S.C. §11432(g)(3)(C)(ii).

If a dispute arises over school selection or enrollment in school, the child or youth must be immediately admitted to the school in which enrollment is sought,

² Public school districts must designate an appropriate staff person to serve as a liaison for homeless children and youth. 42 U.S.C. §11432(g)(1)(J)(ii).

pending resolution of the dispute. 42 U.S.C. §11432(g)(3)(E)(i).

3. *Transportation* - Transportation must be provided to and from the school of origin on the same basis as is provided to other students. 42 U.S.C. §§11432(g)(1)(J)(iii), 11432(g)(4)(A). If the homeless student continues to live in the area served by the original school district, that school district must provide and arrange transportation to the school of origin. 42 U.S.C. §11432(g)(1)(J)(iii)(I). If the student moves to an area served by another school district and continues to attend his/her school of origin, the two school districts must share the expense. 42 U.S.C. §11432(g)(1)(J)(iii)(II).

4. *Comparable Services* - Homeless students must be provided services comparable to those received by other students in the school selected, including transportation services, educational services, vocational and technical education, programs for gifted and talented students and school nutrition programs.³

5. *Prohibition Against Segregation* - Under the McKinney-Vento Homeless Assistance Act, homelessness alone is not a sufficient reason to separate students from the mainstream school environment. 42 U.S.C. §11431(3). States may not segregate homeless children or youth in a separate school, or in a separate program within a school, based on their homelessness.⁴ States and public school districts must

³ Effective July 1, 2004, homeless students are categorically eligible for free meals in the National School Lunch and School Breakfast Programs under the Section 107 of the Child Nutrition and WIC Reauthorization Act of 2004. See attached Guidance memoranda from the U.S. Department of Agriculture, Food and Nutrition Service, Appendix 3.

⁴ Some separate schools already operating in fiscal year 2000 in California and Arizona are exempted from this requirement so long as they meet specific criteria under the Act.

adopt policies and practices to ensure that homeless children and youth are not segregated or stigmatized on the basis of their status as homeless. 42 U.S.C. § 11432(g)(1)(J)(i).

Designated Officials

1. Local Educational Agency (LEA) Liaison - Each public school district must designate an appropriate staff person to serve as a local educational agency liaison for homeless children and youth. 42 U.S.C. §11432(g)(1)(J)(ii). Liaisons for homeless children and youth must ensure that the following is accomplished in their public school district (42 U.S.C. § 11432(g)(6):

(i) Homeless children and youth are identified by school staff and through coordination activities with other entities and agencies;

(ii) Homeless children and youths enroll in, and have a full and equal opportunity to succeed in public schools;

(iii) Homeless families, children and youth receive educational services for which they are eligible, including Head Start, Even Start, and pre-school programs and referrals to health, mental health, dental and other appropriate services;

(iv) Parents or guardians are informed of educational and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children;

(v) Public notice of the educational rights of homeless students is disseminated where children and youth receive services under the McKinney-Vento Homeless

Assistance Act;

(vi) Enrollment disputes are mediated in accordance with 42 U.S.C.

§11432(g)(3)(E);

(vii) The parents/guardians of a homeless child or youth, and any unaccompanied youth, are fully informed of all transportation services, including to the school of origin, and are assisted in accessing transportation services.

A list of the LEA Homeless Liaisons for each county in the state of Florida can be found through a link on the Florida Department of Education web page for homeless and migrant students, <http://www.firn.edu/doe/title1/titlex.htm>.

2. State Coordinator for the Education of Homeless Children and Youth - Each state is required to appoint a Coordinator for Education of Homeless Children and Youth. 42 U.S.C. §11432(d)(3). Under 42 U.S.C. §11432(f), this state coordinator must:

(1) Gather reliable, valid and comprehensive information regarding homeless children and youths;

(2) Develop and carry out the state's plan under the Act;

(3) Collect and transmit reports to the U.S. Department of Education;

(4) Facilitate coordination between the state department of education, the state social services agency and other agencies to provide services to homeless children and their families;

(5) Coordinate and collaborate with educators, providers of services to the homeless, local educational agency liaisons, and community organizations and groups

representing the homeless;

(6) Provide technical assistance to public school districts in coordination with local educational agency liaisons.

Florida's Department of Education web page for homeless and migrant student services is <http://www.firn.edu/doe/title1/titlex.htm>.

Helpful Contacts

For additional information, please contact:

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Other sources of information regarding the McKinney-Vento Homeless Assistance Act:

National Center on Homelessness and Poverty
www.nlchp.org
(202) 638-2535

National Association for the Education of Homeless Children and Youth
www.naehcy.org
(512)475-8765

National Center for Homeless Education
www.serve.org/nche

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