

The Education of Students in Homeless Situations in the 2001 No Child Left Behind Act: Summary of McKinney-Vento Act and Title I Provisions

Who is homeless? (Sec. 725)

The term “homeless children and youth”—

(A) means individuals who lack a fixed, regular, and adequate nighttime residence ...; and

(B) includes—

(i) children and youths 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 accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

(ii) children and youths 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 ...

(iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(iv) migratory children who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii).

The McKinney-Vento Homeless Assistance Act, reauthorized in January 2002, ensures educational rights and protections for children and youth experiencing homelessness. This document summarizes key provisions of the Act, as well as key provisions of the reauthorized Elementary and Secondary Education Act’s Title I statute. It is designed to provide a comprehensive overview of new provisions and language changes by topic area. Key provisions of the McKinney-Vento Act that were not amended are also included. A full copy of the text of the legislation is found on the websites of the organizations listed below. This brief and additional briefs on various topics of the law may be found at the National Coalition for the Homeless website—www.nationalhomeless.org/reauthorization.html.

This document was collaboratively developed by:

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

National Center for Homeless Education (NCHE)—800-308-2145—www.serve.org/nche

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National Law Center for Homelessness and Poverty (NLCHP)—202-638-2535 —www.nlchp.org

National Network for Youth (NN4Y)—202-783-7949—www.NN4Youth.org

School Selection

- According to a child or youth’s best interest, Local Educational Agencies (LEAs), otherwise known as school districts, must either continue the child/youth’s education in the school of origin or enroll the child/youth in school in any public school that nonhomeless students who live in the attendance area where the child/youth is actually living are eligible to attend [Sec. 722(g)(3)(A)].
- “School of origin” is defined as the school the child or youth attended when permanently housed or the school in which the child or youth was last enrolled [Sec. 722(g)(3)(G)].
- In determining best interest, LEAs must, to the extent feasible, keep children/youth in the school of origin, unless it is against the wishes of the parent/guardian [Sec. 722(g)(3)(B)(i)]. **(NEW)**
- A homeless child or youth’s right to attend their school of origin extends for the duration of homelessness [Sec. 722(g)(3)(A)(i)]. **(NEW)**

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- If a child or youth becomes permanently housed during the academic year, he or she is entitled to stay in the school of origin for the remainder of the academic year [Sec. 722(g)(3)(A)(i)(II)]. **(NEW)**
- Children and youth who become homeless in between academic years are entitled to attend their school of origin for the following academic year [Sec. 722(g)(3)(A)(i)(I)].
- If the LEA sends the child/youth to a school other than the school of origin or the school requested by the parent or guardian, the LEA must provide written explanation to the parent or guardian, including the right to appeal under the enrollment disputes provision (see below) [Sec. 722(g)(3)(B)(ii)]. **(NEW)**
- In the case of an unaccompanied youth, the LEA homeless liaison must assist in placement/enrollment decisions, consider the youth's wishes, and provide notice to the youth of the right to appeal under the enrollment disputes provisions (see below) [Sec. 722(g)(3)(B)(iii)]. **(NEW)**
- 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 [Sec. 722(g)(3)(F)]. *(NOTE: the 2001 reauthorization strikes the words "by the parents," which under the previous statute followed the word "elsewhere.")*

Enrollment

- The school selected shall immediately enroll the child/youth in school, even if the child or youth lacks records normally required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation [Sec. 722(g)(3)(C)(i)]. **(NEW)**
- The terms "enroll" and "enrollment" are defined to include attending classes and participating fully in school activities [Sec. 725(3)]. **(NEW)**
- The enrolling school must immediately contact the last school attended to obtain relevant academic and other records [Sec. 722(g)(3)(C)(ii)]. **(NEW)**
- If a child or youth lacks immunizations or immunization or medical records, the enrolling school must refer parent/guardian to the liaison, who shall help obtain necessary immunizations or immunization or medical records (see Records, below) [Sec. 722(g)(3)(C)(iii)]. **(NEW)**
- The Act does not prohibit LEAs from requiring parents or guardians to submit contact information [Sec. 722(g)(3)(H)]. **(NEW)**
- The McKinney-Vento plan submitted by the state to the U.S. Department of Education must include strategies to address problems resulting from enrollment delays caused by immunization **and medical records** requirements; residency requirements; lack of birth certificates, school records, or other documentation; guardianship issues; **or uniform or dress code requirements** [Sec. 722(g)(1)(H)]. *(NOTE: Bold text indicates new language in the 2001 reauthorization.)*
- The McKinney-Vento plan submitted by the state must include a demonstration that the State Educational Agency (SEA) and LEAs in the state have developed, and shall review and revise, policies to remove barriers to the enrollment and retention of homeless children and youth in the state [Sec. 722(g)(1)(I)].

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Resolution of Disputes

- The McKinney-Vento plan submitted by the state must include a description of procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youth [Sec. 722(g)(1)(C)].
- If a dispute arises over school selection or enrollment, the child/youth must be immediately admitted to the school in which he/she is seeking enrollment, pending resolution of the dispute [Sec. 722(g)(3)(E)(i)]. **(NEW)**
- The parent or guardian must be provided with a written explanation of the school's decision on the dispute, including the right to appeal [Sec. 722(g)(3)(E)(ii)]. **(NEW)**
- The parent/guardian/youth must be referred to the liaison, who will carry out the state's grievance procedure as expeditiously as possible after receiving notice of the dispute [Sec. 722(g)(3)(E)(iii)]. **(NEW)**
- In the case of an unaccompanied youth, the homeless liaison shall ensure that the youth is immediately enrolled in school pending resolution of the dispute [Sec. 722(g)(3)(E)(iv)]. **(NEW)**

Records

- Any record ordinarily kept by the school, including immunization **or medical records**, academic records, birth certificates, guardianship records, and evaluations for special services or programs, of each homeless child or youth must be maintained so that the records are available, in a timely fashion, when a child or youth enters a new school or school district and in a manner consistent with Section 444 of the General Education Provisions Act [Section 722(g)(3)(D)]. *(NOTE: Words in bold text are new in the 2001 reauthorization.)*

Transportation

- The state and its LEAs are required to adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, the liaison), to and from the school of origin. If the homeless student continues to live in the area served by the LEA in which the school of origin is located, that LEA must provide or arrange transportation. If the homeless student moves to an area served by another LEA, though continuing his or her education at the school of origin, the LEA of origin and the LEA in which the student is living must agree upon a method to apportion responsibility and costs for transportation to the school of origin. If the LEAs cannot agree upon such a method, the responsibility and costs must be shared equally [Section 722(g)(1)(J)(iii)]. **(NEW)**
- In addition, LEAs must provide services to homeless children and youth that are comparable to those received by other students in the school selected, including transportation (see Comparable Services, below) [Section 722(g)(4)].

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Access to Comparable Services

- Children and youth are to be provided services comparable to those received by other students in the school selected, including transportation services and education programs for which students meet eligibility criteria, such as services provided under Title I or similar state or local programs, programs for students with disabilities, programs for students with limited English proficiency, vocational or technical programs, gifted and talented programs, and school nutrition programs [Section 722(g)(4)]. (NOTE: 2001 law replaces “school meals” programs with “school nutrition.”)
- The McKinney-Vento plan submitted by the state must include a description of procedures that ensure that homeless children have equal access to the same public preschool programs administered by the state agency as provided to other children in the state, that **homeless youth and youth separated from the public schools are identified and accorded equal access to appropriate secondary education and support services**, and that homeless children and youth who meet the relevant eligibility criteria are able to participate in federal, state, or local before- and after-school care programs [Sec. 722(g)(1)(F)]. (NOTE: Words in bold text are new in the 2001 reauthorization.)

Academic Achievement Standards

- It is the policy of Congress that homeless children and youth should have access to the education and other services they need to ensure that they have an opportunity to meet the same challenging state student **academic achievement** standards to which all students are held [Sec. 721(4)]. (NOTE: The 2001 reauthorization replaces the phrase “performance” from the previous statute and replaces it with “academic achievement.”)
- The McKinney-Vento plan submitted by the state to the Secretary must include a description of how homeless children and youth are or will be given the opportunity to meet the same challenging state **academic achievement** standards all students are expected to meet [Sec. 722(g)(1)(A)]. (NOTE: The 2001 reauthorization replaces the phrase “student performance” from the previous statute and replaces it with “academic achievement.”)

LEA Liaisons

- All LEAs must designate an appropriate staff person, who may also be a coordinator for other federal programs, as a LEA liaison for homeless children and youth to perform duties described in paragraph 6(A) [Section 722(g)(1)(J)(ii)]. (NEW)

LEA Liaisons’ Duties

- LEA liaisons must ensure that:
 - Homeless children and youth are identified by school personnel and through coordination activities with other entities and agencies. (NEW)
 - Homeless students enroll in, **and have full and equal opportunity to succeed in**, the schools of the LEA (NOTE: Bold text represents new language in the 2001 reauthorization).
 - Homeless families, children, and youth receive educational services for which they are eligible, including Head Start, Even Start, and preschool programs

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LEA Liaisons' Duties (continued)

- administered by the LEA, and referrals to health, mental health, dental, and other appropriate services.
- 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. **(NEW)**
 - Public notice of the educational rights of homeless students is disseminated where children and youth receive services under the Act (such as schools, family shelters, and soup kitchens). **(NEW)**
 - Enrollment disputes are mediated in accordance with the Enrollment Disputes Section, Sec. 722(g)(3)(E). **(NEW)**
 - The parent/guardian of a homeless child or youth, and any unaccompanied youth, is fully informed of all transportation services, including to the school of origin, and is assisted in accessing transportation services [Section 722(g)(6)(A)]. **(NEW)**
 - Liaisons are required to assist unaccompanied youth in placement/enrollment decisions, including considering the youth's wishes in those decisions and providing notice to the youth of the right to appeal such decisions under the enrollment disputes provisions [Sec. 722(g)(3)(B)(iii)]. **(NEW)**
 - Liaisons are required to ensure that unaccompanied youth are immediately enrolled in school pending resolution of disputes that might arise over school enrollment or placement [Sec. 722(g)(3)(E)(iv)]. **(NEW)**
 - Liaisons are required to assist children and youth who do not have immunizations, or immunization or medical records, to obtain necessary immunizations or immunization or medical records [Sec. 722(g)(3)(C)(iii)]. **(NEW)**
 - State coordinators and LEAs must inform school personnel, service providers, and advocates who work with homeless families of the duties of the liaison [Sec. 722(g)(6)(B)].
 - As part of their duties, liaisons are required to collaborate and coordinate with state coordinators and community and school personnel responsible for the provision of education and related services to homeless children and youth [Sec. 722(g)(6)(C)]. **(NEW)**

Segregation

- It is the policy of the Congress that homelessness alone **is not** sufficient reason to separate students from the mainstream school environment [Sec.721(3)]. *(NOTE: The 2001 reauthorization replaces "should not be" from the previous statute and replaces it with "is not.")*
- States that receive McKinney-Vento Act assistance are prohibited from segregating homeless students in separate schools, separate programs within schools, or separate settings within schools, except as is described below [Sec. 722(e)(3)]:
 - States that have a separate school operated in FY2000 in a "covered county" are excluded from the prohibition and are eligible to receive McKinney funds providing that the schools and the LEAs that the homeless children enrolled in the separate schools are entitled to attend meet the requirements set forth in this section. (Covered counties are Orange County, CA; San Diego

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Segregation (continued)

County, CA; San Joaquin County, CA; and Maricopa County, AZ.) Among these requirements are provision of notice about choice of schools signed by parents, efforts to remove barriers that lead to the creation of separate schools, a prohibition on other schools referring children to separate schools, and no new school sites [Sec. 722(e)(3)(B)].

- If McKinney-Vento services are provided on school grounds, schools must not provide services in settings within a school that segregate homeless children and youth from other children and youth, except as is necessary for short periods of time for health and safety emergencies or to provide temporary, special, and supplementary services [Sec. 723(a)(2)(B)(ii)]. **(NEW)**
- States and LEAs are required to adopt policies and practices to ensure that homeless children and youth are not **segregated on the basis of their status as homeless** or stigmatized [Sec.722(g)(1)(J)(i)]. *(NOTE: The 2001 reauthorization replaces “isolated” in the previous statute with “segregated on the basis of their status as homeless.”)*
- LEA applications for McKinney-Vento Act funds must include a description of policies and procedures, **consistent with the prohibition on segregation** (see above), that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and youth [Sec. 723(b)(5)]. *(NOTE: The language in bold is new in the 2001 reauthorization.)*
- Services provided with McKinney-Vento Act funds must not replace the regular academic program and must be designed to expand upon or improve services provided as part of the school’s regular academic program [Sec. 723(a)(3)].

Statewide Technical Assistance

- The Office of State Coordinator is required to provide technical assistance, in coordination with local liaisons, to LEAs in order to ensure statewide compliance with paragraphs 3 through 7 of subsection g (school choice/placement, best interest determination, enrollment, enrollment disputes, records, comparable services, coordination, local liaison duties, and review and revision of policies) and with Sec. 722(e)(3) (the prohibition on segregation) [Section 722(f)(6)]. **(NEW)**
- The McKinney-Vento plan submitted by the state must indicate what technical assistance the state will furnish to LEAs and how compliance efforts will be coordinated with local liaisons [Sec. 722(g)(2)(B)]. **(NEW)**

Statewide Reservation of Funds

- States must distribute at least 75% of their McKinney-Vento allocation to LEAs, except that states funded at the minimum level must distribute at least 50% of their McKinney-Vento Act allocations to LEAs [Section 722(e)(1)]. **(NEW)**

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Definitions

- The term “homeless child and youth” means
 - Children and youth 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 lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement.
 - Children and youth who have a primary nighttime residence that is a private or public place not designed for or ordinarily used as a regular sleeping accommodation for human beings.
 - Children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings.
 - Migratory children who qualify as homeless because they are living in circumstances described above [Sec. 725]. **(NEW)**
- The term “unaccompanied youth” includes a youth not in the physical custody of a parent or guardian. **(NEW)**
- The terms “enroll” and “enrollment” include attending classes and participating fully in school activities. **(NEW)**

Coordination and Collaboration

- The State Coordinator for the Education of Homeless Children and Youth is required to facilitate coordination between the SEA, the state social services agency, and other agencies **(including agencies providing mental health services) to provide** services to homeless children, including preschool-aged homeless children, youths, and families of such children and youths [Sec. 722(f)(4)]. *(NOTE: Text in bold represents new language in the 2001 reauthorization).*
- In order to improve the provision of comprehensive services, the State Coordinator is required to coordinate and collaborate work with educators, including child development and preschool program personnel, providers of services to homeless and runaway children and youths and homeless families (including domestic violence agencies, shelter operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youths), **local liaisons, and community organizations and groups representing homeless children, youth, and families** [Sec. 722(f)(5)]. *(NOTE: Text in bold represents new language in the 2001 reauthorization).*
- As part of their duties, liaisons are required to collaborate and coordinate with state coordinators and community and school personnel responsible for the provision of education and related services to homeless children and youth [Sec. 722(g)(6)(C)]. **(NEW)**
- LEAs that receive McKinney subgrants are required to coordinate the provision of McKinney-Vento-funded services with local social service agencies and other agencies or programs providing services to homeless children and youth and their families, including services and programs funded under the Runaway and Homeless Youth Act [Sec.722(g)(5)(A)(i)].

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Coordination and Collaboration (continued)

- LEAs that receive McKinney subgrants are required to coordinate with other LEAs on interdistrict issues, such as transportation or transfer of school records [Sec. 722(g)(5)(A)(ii)]. **(NEW)**
- If applicable, SEAs and LEAs that receive McKinney-Vento Act funding must coordinate with state and local housing agencies responsible for developing the comprehensive housing affordability strategy of the Cranston-Gonzalez National Affordable Housing Act to minimize educational disruption for students who become homeless [Sec. 722(g)(5)(B)].
- The coordination efforts of LEAs that receive McKinney-Vento funds must be designed to ensure that homeless children and youth have access and reasonable proximity to available education and related support services and to raise the awareness of school personnel and service providers of the effects of short-term stays in a shelter and other challenges associated with homelessness [Sec. 722(g)(5)(C)]. **(NEW)**

Subgrant Awards

- States are required to award competitive subgrants to school districts based on need of agencies for assistance **and quality of the application submitted** [(Sec. 723(c)(1)]. *(NOTE: Text in bold represents new language in the 2001 reauthorization.)*
- In determining need, states may consider the number of homeless students within the area served by the agency and must consider the needs of such students and the ability of the agency to meet such needs. States may also consider:
 - The extent to which the proposed use of funds would facilitate the enrollment, retention, and educational success of homeless children and youth.
 - The extent to which the application reflects coordination with other local and state agencies that serve homeless children and youth and **describes how the grantee will meet the LEA requirements under 722(g)(3)**.
 - The extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youth.
 - Such other criteria as the agency determines appropriate [(Sec. 723(c)(2)]. *[NOTE: The 2001 reauthorization replaces “as well as the state plan required by Section 722(g)” with “describes how the applicant will meet the requirements of 722(g)(3)”].*
- In determining quality of applications, states must consider:
 - The applicant’s needs assessment provided as part of the LEA application and the likelihood that the program presented in the application will meet such needs.
 - The types, intensity, and coordination of the services to be provided by the program.
 - The involvement of parents or guardians.
 - The extent to which homeless children and youth are integrated into regular education programs.
 - The quality of the applicant’s evaluation plan.

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Subgrant Awards (continued)

- The extent to which services provided under the subtitle will be coordinated with other available services.
- Such other measures as the state may consider indicative of a high-quality program, such as the extent to which the LEA will provide case management or related services to unaccompanied youth [(Sec. 723(c)(2)]. **(NEW)**

State Data Collection

- State coordinators are required to gather information on the problems homeless children face in accessing school, the identification of special needs, progress made in addressing those problems and needs, and the success of the programs under the subtitle [Sec. 722(f)(1)]. *(NOTE: The 2001 reauthorization eliminates previous statutory requirements for states to provide an estimate of the number of children and youth.)*
- State coordinators must collect and transmit to the Secretary, at such time and in such manner as the Secretary may require, a report containing such information as the Secretary determines is necessary to assess the educational needs of homeless children and youth [Sec. 722(f)(3)]. **(NEW)**

Federal Activity

- The Secretary is required to use a peer review process in reviewing McKinney-Vento state plans and is required to evaluate whether state laws, policies, and practices described in the plan adequately address the problems of homeless children and youth relating to access to education and placement as described in the plan [Sec. 724(a)].
- The Secretary is required to provide support and technical assistance to SEAs to assist in carrying out their responsibilities under the subtitle, if it is requested by SEAs [Sec. 724(b)].
- The Secretary is required to create a public notice of the educational rights of homeless children and youth and disseminate such notice nationwide and to other federal agencies, programs, and grantees, including Head Start grantees, health care for the homeless projects, emergency food and shelter grantees, and homeless assistance programs administered by the Department of Housing and Urban Development [Sec. 724(c)]. **(NEW)**
- The Secretary is required to conduct evaluation and dissemination activities of programs [Sec. 724(d)].
- The Secretary is required to determine the extent to which SEAs are ensuring that each homeless child and homeless youth has access to a free, appropriate public education, based on information received from the states and gathered by the Secretary [Sec. 724(f)].
- The Secretary is required to publish school enrollment guidelines in the Federal Register that describe successful ways in which a state may assist LEAs to immediately enroll homeless students and how states can review and revise state requirements on immunization, school, or medical records in order to enroll homeless students immediately [Sec. 724(g)]. **(NEW)**

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Federal Activity (continued)

- The Secretary is required to periodically collect and disseminate data and information on the number and location of homeless children and youth, the educational services they receive, the extent to which their educational needs are being met, and such other data and information as the Secretary determines to be necessary and relevant. The Secretary is required to coordinate data collection and dissemination with the agencies and entities that receive McKinney-Vento funds and administer McKinney-Vento programs [(Sec. 724(h)]. **(NEW)**
- The Secretary is required to submit a report to the President and to Congress on the status of the education of homeless children and youth, including information on the education of homeless children and youth and the actions of the Secretary and the effectiveness of McKinney-Vento programs, not later than four years after the date of enactment [Sec. 724(i)]. *(NOTE: The 2001 reauthorization changes this provision by eliminating the requirement to submit a report every three years and by requiring more specific content in the report).*

Funding

- No state shall receive less than the greater of \$150,000, one-quarter of one percent of the overall appropriation, or the amount the state received in FY2001. If there are insufficient funds to allot to each state the minimum amount, the Secretary must ratably reduce the allotments to all states based on the proportionate share that each state received in the preceding fiscal year [Sec. 722(c)(1)].
- \$70 million is authorized for FY2002 and such sums as may be necessary for fiscal years 2003 through 2007 (Sec. 726).¹

¹ *The authorized funding level is the ceiling, or maximum amount, that Congress sets for a program. The amount of funding that is actually provided is determined annually by the congressional appropriations process. In FY2002, Congress appropriated \$50 million for the EHCY program.*

Amendments to Title I of the Elementary and Secondary Education Act

State Plans

- ❑ Any state desiring to receive funding under Title I, Part A, must submit a plan to the Secretary that is coordinated with the McKinney-Vento Homeless Assistance Act [Section 1111 (a)(1)]. **(NEW)**

Local Plans

- ❑ An LEA may receive funding under Title I, Part A, only if the LEA has on file with the State Educational Agency a plan, approved by the SEA, that is coordinated with the McKinney-Vento Homeless Assistance Act [Section 1112(a)(1)]. **(NEW)**
- ❑ Each LEA Title I plan must include a description of the services that will be provided to homeless children, including services provided with funds from the Reservation of Funds set-aside (see below) [Section 1112(b)(1)(O)]. **(NEW)**

Reservation of Funds

- ❑ LEAs must reserve such funds as are necessary to provide services comparable to those provided to children in Title I, Part A-funded schools to serve homeless children who do not attend participating schools, including providing educationally related support services to children in shelters **and other locations where children may live** [Section 1113(c)(3)(A)]. *(NOTE: The 2001 reauthorization strikes the phrase “where appropriate, eligible,” which appeared under the previous statute before “homeless children.” The 2001 reauthorization adds “and other locations where children may live” after the word “shelters.”)*

Targeted Assistance Schools

- ❑ A child who is homeless and attending any school in the LEA is eligible for services in a Targeted Assistance School Program [Sec. 1115(b)(2)(E)]. *(NOTE: The 2001 reauthorization strikes “may be eligible” from the previous statute and replaces it with “is eligible.”)*



Every state is required to have a coordinator for the education of homeless children and youth, and every school district is required to have a liaison for homeless students. These individuals will assist you with the implementation of the McKinney-Vento Act. To find out who your state coordinator is, visit the NCHE website at www.serve.org/nche.



For further information on the McKinney-Vento Act and resources for implementation, call the NCHE HelpLine at 800-308-2145 or e-mail homeless@serve.org.

<p>Local contact information:</p>
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