

# Educational Stability for Youth in Foster Care

The McKinney-Vento Act<sup>1</sup> applies to many children in DFCS custody and provides those children with rights that promote educational stability.

## What is the McKinney-Vento Act?

- ❖ McKinney-Vento is a federal law that promotes stability, access, and academic success for homeless youth. McKinney-Vento also provides assistance for homeless youth with enrollment in a new school, transportation to school, and other educational and supplemental services. It promotes educational stability by allowing homeless youth to remain in their school of origin even if homelessness has caused them to move outside the school district. School of origin is defined as the school a student attended before becoming homeless or the school where the student was last enrolled.

## Are children in foster care homeless?

- ❖ In order to be eligible for the benefits and services provided for by the McKinney-Vento Act, a student must meet the criteria for homelessness. Some children in foster care meet the criteria and are therefore considered homeless under the Act.
- ❖ The McKinney-Vento Act defines homeless children and youth as "(A) 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...*"<sup>2</sup> Thus, some children in DFCS custody are considered homeless for the purpose of the McKinney-Vento Act, specifically children living in shelters, abandoned in hospitals, and children awaiting foster care placement
- ❖ Using McKinney-Vento to secure rights for children in foster care helps to minimize educational disruption. The child is able to remain in the same school, continue with the current academic curriculum, and is less likely to fall behind academically.

## Are children covered by McKinney-Vento after they move into a foster home?

- ❖ Once the provisions of McKinney-Vento have been met, an eligible child remains eligible for services for the remainder of that school year even if s/he moves into a foster home.
- ❖ When the next school year begins, if the child continues to live in a foster home, s/he will no longer qualify under McKinney-Vento and at that time may have to transfer to a school in the district where s/he is residing.

## What about the documents schools require to enroll a child in school?

- ❖ McKinney-Vento requires schools to immediately enroll homeless children in school even without records normally required for enrollment, such as previous academic records, medical records including immunization records, proof of guardianship, and proof of residency.
- ❖ The enrolling school must contact the last school attended to obtain relevant records to facilitate enrollment and the school should refer the child to the school liaison for assistance in obtaining immunization records.

## What if the child has moved out of district and the old school refuses to allow the child to continue to attend?

- ❖ All decisions about where a homeless child shall be allowed to go to school must be made according to the child's best interests. In determining best interests of the child, the local educational agency shall "to the extent feasible, keep a homeless child or youth in the school of origin, except when doing so is contrary to the wishes of the child's or youth's parent or guardian."<sup>3</sup>

Created by:  
The Barton Child Law and Policy Clinic  
Emory University School of Law  
Gambrell Hall  
Atlanta, GA 30322

Tel 404.727.6664  
[www.childwelfare.net](http://www.childwelfare.net)  
[childlaw@law.emory.edu](mailto:childlaw@law.emory.edu)

- ❖ Whenever there is a disagreement between a school and a parent, guardian, or youth, the school must:
  - Immediately enroll the student in the school the parent, guardian, or youth chooses;
  - Keep the student at that school until the disagreement is settled;
  - Explain, in writing, its decision and the right to have the disagreement settled; AND
  - Send the parent, guardian or youth to the Georgia Liaison/Coordinator of Education for Homeless Children and Youth to settle the disagreement quickly. Please see the contact information below.

**What if it is best to transfer the child to a new school in the district where the foster parents or relative placement live?**

- ❖ Homeless children and youth have the right to stay in the school they went to before they lost their housing, to stay at whatever school they were enrolled in last, or to attend the local school where they are now living.

**Is there any help with transportation?**

- ❖ If McKinney-Vento applies to the child, then the school district must provide or arrange transportation for the student to stay at the school of origin, even if the student moves to a different city, county, or school district.
  - If a student is living in the same school district as the school of origin, then that school district has to provide transportation. If the student moves across district lines, then both districts have to work together to provide transportation.

**What type of transportation will the school provide?**

- ❖ Schools can provide transportation in different ways, including:
  - Re-routing school buses and making sure buses go to shelters, group homes and other places where students live;
  - Providing passes for public buses and subways, including passes for caretakers when needed;
  - Using the transportation systems social services use;
  - Using approved van or taxi services;
  - Reimbursing parents, guardians or youth for gas;
  - Working with service providers and public assistance agencies to make transportation plans or provide transportation;
  - Getting local businesses or other agencies to help with transportation costs; and

**Where can I get more information?**

- ❖ The National Law Center on Homelessness & Poverty, [www.nlchp.org](http://www.nlchp.org).
- ❖ Georgia's Education for Homeless Children and Youth Coordinator is Mr. David Davidson. He can be reached at phone 404-651-7555 or e-mail [ddavidso@doe.k12.ga.us](mailto:ddavidso@doe.k12.ga.us).
- ❖ The Georgia Law Center for the Homeless, [www.galawcenter.org](http://www.galawcenter.org) , phone: 404-681-0680.

---

<sup>1</sup> The McKinney -Vento Act codified as amended at 42 U.S.C.A. §11432 through §11434a(2)(2004).

<sup>2</sup> 42 U.S.C.A. §11434a(2)(B)(2004)(emphasis added).

<sup>3</sup> 42 U.S.C.A. §11432(3)(B)(i)(2004).

origin, as determined in paragraph (3)(A), in accordance with the following, as applicable:

(I) If the homeless child or youth continues to live in the area served by the local educational agency in which the school of origin is located, the child's or youth's transportation to and from the school of origin shall be provided or arranged by the local educational agency in which the school of origin is located.

(II) If the homeless child's or youth's living arrangements in the area served by the local educational agency of origin terminate and the child or youth, though continuing his or her education in the school of origin, begins living in an area served by another local educational agency, the local educational agency of origin and the local educational agency in which the homeless child or youth is living shall agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the local educational agencies are unable to agree upon such method, the responsibility and costs for transportation shall be shared equally.

**(2) COMPLIANCE-**

(A) IN GENERAL- Each plan adopted under this subsection shall also describe how the State will ensure that local educational agencies in the State will comply with the requirements of paragraphs (3) through (7).

(B) COORDINATION- Such plan shall indicate what technical assistance the State will furnish to local educational agencies and how compliance efforts will be coordinated with the local educational agency liaisons designated under paragraph (1)(J)(ii).

**(3) LOCAL EDUCATIONAL AGENCY REQUIREMENTS-**

(A) IN GENERAL- The local educational agency serving each child or youth to be assisted under this subtitle shall, according to the child's or youth's best interest--

(i) continue the child's or youth's education in the school of origin for the duration of homelessness--

(I) in any case in which 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 becomes permanently housed during an academic year; or

(ii) enroll the child or youth in any public school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.

(B) BEST INTEREST- In determining the best interest of the child or youth under subparagraph (A), the local educational agency shall--

(i) to the extent feasible, keep a homeless child or youth in the school of origin, except when doing so is contrary to the wishes of the child's or youth's parent or guardian;

(ii) provide a written explanation, including a statement regarding the right to appeal under subparagraph (E), to the homeless child's or youth's parent or guardian, if the local

educational agency sends such child or youth to a school other than the school of origin or a school requested by the parent or guardian; and

(iii) in the case of an unaccompanied youth, ensure that the homeless liaison designated under paragraph (1)(J)(ii) assists in placement or enrollment decisions under this subparagraph, considers the views of such unaccompanied youth, and provides notice to such youth of the right to appeal under subparagraph (E).

(C) ENROLLMENT- (i) The school selected in accordance with this paragraph shall 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.

(ii) The enrolling school shall immediately contact the school last attended by the child or youth to obtain relevant academic and other records.

(iii) If the child or youth needs to obtain immunizations, or immunization or medical records, the enrolling school shall immediately refer the parent or guardian of the child or youth to the local educational agency liaison designated under paragraph (1)(J)(ii), who shall assist in obtaining necessary immunizations, or immunization or medical records, in accordance with subparagraph (D).

(D) 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, regarding each homeless child or youth shall be maintained--

(i) so that the records are available, in a timely fashion, when a child or youth enters a new school or school district; and

(ii) in a manner consistent with section 444 of the General Education Provisions Act (20 U.S.C. 1232g).

(E) ENROLLMENT DISPUTES- If a dispute arises over school selection or enrollment in a school--

(i) the child or youth shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute;

(ii) 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;

(iii) the child, youth, parent, or guardian shall be referred to the local educational agency liaison designated under paragraph (1)(J)(ii), who shall carry out the dispute resolution process as described in paragraph (1)(C) as expeditiously as possible after receiving notice of the dispute; and

(iv) 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.

(F) PLACEMENT CHOICE- The choice regarding placement shall be made regardless of whether the child or youth lives with the homeless parents or has been temporarily placed elsewhere.

(G) SCHOOL OF ORIGIN DEFINED- In this paragraph, the term 'school of origin' means the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled.

(H) CONTACT INFORMATION- Nothing in this subtitle shall prohibit a local educational agency from requiring a parent or guardian of a homeless child to submit contact information.

(4) COMPARABLE SERVICES- Each homeless child or youth to be assisted under this subtitle shall be provided services comparable to services offered to other students in the school selected under paragraph (3), including the following:

(A) Transportation services.

(B) Educational services for which the child or youth meets the eligibility criteria, such as services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, educational programs for children with disabilities, and educational programs for students with limited English proficiency.

(C) Programs in vocational and technical education.

(D) Programs for gifted and talented students.

(E) School nutrition programs.

(5) COORDINATION-

(A) IN GENERAL- Each local educational agency serving homeless children and youths that receives assistance under this subtitle shall coordinate--

(i) the provision of services under this subtitle 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 (42 U.S.C. 5701 et seq.); and

(ii) with other local educational agencies on interdistrict issues, such as transportation or transfer of school records.

(B) HOUSING ASSISTANCE- If applicable, each State educational agency and local educational agency that receives assistance under this subtitle shall coordinate with State and local housing agencies responsible for developing the comprehensive housing affordability strategy described in section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) to minimize educational disruption for children and youths who become homeless.

(C) COORDINATION PURPOSE- The coordination required under subparagraphs (A) and (B) shall be designed to--

(i) ensure that homeless children and youths have access and reasonable proximity to available education and related support services; and

(ii) 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.

(6) LOCAL EDUCATIONAL AGENCY LIAISON-

(A) DUTIES- Each local educational agency liaison for homeless children and youths, designated under paragraph (1)(J)(ii), shall ensure that--