



Texas
Education
Agency

Texas Education Agency

NCLB Program Coordination



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No Child Left Behind

Public Law 107-110



**GUIDANCE FOR THE IMPLEMENTATION
OF
TITLE X, PART C
MCKINNEY-VENTO HOMELESS EDUCATION
ASSISTANCE IMPROVEMENTS ACT**

SERVICES TO CHILDREN AND YOUTH IN HOMELESS SITUATIONS

**DIVISION OF NCLB PROGRAM COORDINATION
TEXAS EDUCATION AGENCY
IN COORDINATION WITH THE
TEXAS HOMELESS EDUCATION OFFICE**

SEPTEMBER 1, 2005

BASED ON STATUTE, REGULATIONS, AND USDE GUIDANCE DOCUMENTS

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Title X, Part C—McKinney-Vento Homeless Education Assistance Improvements Act (McKinney-Vento)

The information and requirements discussed in Questions 1-45 apply to **all LEAs** in the state, regardless of whether the LEA applies for a competitive grant available under Title X, Part C.

In the Texas state plan under Title X, Part C—McKinney-Vento Homeless Education Assistance Improvements Act (McKinney-Vento), Texas included the following assurances. These assurances result in new requirements for **ALL LEAs** in the areas of 1) policies and practices, 2) personnel, and 3) transportation for youth who are homeless.

Assurances

- 1) The state and LEAs in the state will adopt policies and practices to ensure that homeless children and youths are not stigmatized or segregated on the basis of their status as homeless.
- 2) LEAs will designate an appropriate staff person, who may also be a coordinator for other federal programs, as an LEA liaison for homeless children and youths, to carry out the duties described in Section 725(g)(6)(A).
- 3) The state and its LEAs will 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 in accordance with the following—
 - 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.
 - 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.

Definition of Homelessness

Question 1: What is the definition of a homeless child?

Section 725 (2) of McKinney-Vento includes a definition of a homeless child for the purposes of education. This definition of homeless children and youths is only applicable to education, it does not alter the definition of homelessness that HUD uses for housing:

Section 725. Definitions.

The term 'homeless children and youths' —

- means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1)[cited as *U.S.C., Title 42, Chapter 119, Subchapter I* below]); and
- includes —
 - 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 adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;
 - 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 [within the meaning of section 103(a)(2)(C)];
 - children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
 - migratory children (as such term is defined in section 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described above.

Question 2: Are children who live either by themselves or with their families in emergency shelters for the homeless to be considered homeless?

Generally, yes. In its definition of 'homeless children and youths', Section 725 (2)(B)(i) of McKinney-Vento includes children and youths living in transitional and emergency shelters. In almost every circumstance in which a person resides in a homeless shelter, they are to be considered homeless.

Question 3: Are children who have been placed by the state in transitional or emergency shelters to be considered homeless?

Generally, yes. In its definition of 'homeless children and youths', Section 725 (2)(B)(i) of McKinney-Vento includes children and youths living in transitional and emergency shelters **and** children and youths awaiting foster care placement.

Question 4: Are children who have temporarily moved to Texas due to Hurricane Katrina and live in shelters, with family and friends, hotels, or other similar situations to be considered homeless?

Generally, yes. In its definition of 'homeless children and youths', Section 725 (2)(B)(i) of McKinney-Vento included in Question 1 includes this type of situation.

Question 5: Are children who are incarcerated or in Texas youth correction facilities to be considered homeless?

Generally, no. Children who are incarcerated for violation or alleged violation of law should not be considered homeless even if, prior to incarceration, they would have met the definition provided by McKinney-Vento. However, children who are under the care of the state and are being held temporarily in an institution because they have no other place to live should be considered homeless.

Question 6: Are "unaccompanied youth" to be considered homeless?

The term "unaccompanied youth" is defined in §725(6) of McKinney-Vento as, "a youth not in the physical custody of a parent or guardian." Children and youths are to be considered homeless as long as they meet the McKinney-Vento definition of homeless children and youths. This definition refers to the actual residential status of the student—where they actually reside at night. It does not refer to whether or not they are in the physical custody of a parent or guardian nor does it refer to whether or not there are parents who have provided and are willing to provide a home for them. Therefore, for example, a youth is considered homeless if they reside in an emergency shelter (as per the definition in McKinney-Vento)—even if that youth has parents who have a house and are willing to provide a home for that youth.

When McKinney-Vento was reauthorized in 2001, it included new provisions that specifically address the situation of unaccompanied youth that are homeless [722(g)(1)(J)(iii); 722(g)(6)(A); 722(g)(3)(B); 722(g)(3)(E); 723(c)(3)(G); 723(d)(7)]. Most of these provisions delineate the responsibilities of the district's homeless liaison to students who are unaccompanied; additionally, some require the State and LEA to address problems or situations specific to homeless students who are unaccompanied youth.

Question 7: Are children who run away from home to be considered homeless?

Children and youths are to be considered homeless as long as they meet the McKinney-Vento definition of homeless children and youths. This definition refers to the actual residential status of the student—where they actually reside at night. It does not refer to the relationship that the student has

with the family. Therefore, if a student has run away from home and is now residing in a situation that meets the McKinney-Vento definition of homeless children and youths, then that student is considered to be homeless—even if that youth has voluntarily left their home and has parents who have a house and are willing to provide a home for that youth.

Question 8: Are “throwaway children” to be considered homeless?

“Throwaway children” is the phrase given to describe children whose parents or guardians will not permit them to live at home. Throwaway children have not run away from home, but their parents do not permit them to reside at home. Children and youths are to be considered homeless as long as they meet the McKinney-Vento definition of homeless children and youths. This definition refers to the actual residential status of the student—where they actually reside at night. It does not refer to the relationship that the student has with the family. Therefore, if a student’s parents no longer permit that student to reside at home and that student is now residing in a situation which meets the McKinney-Vento definition of homeless children and youths, then that student is considered to be homeless—even if the parents feel that they had good reason to refuse to allow the student to live at home.

Question 9: Are children who live in doubled-up families (e.g., multiple families living in a single family residence) to be considered homeless?

The McKinney-Vento definition of homeless children and youths includes, “children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason.” Therefore, students and/or families who have moved in with another family due to loss of housing, economic hardship, or for some similar reason are to be considered homeless; however, the host family is not considered homeless.

Although the expanded definition of homeless children and youths in McKinney-Vento specifically addresses doubled-up situations, it does not offer any definitive parameters for determining when doubled-up students are homeless and when they are not. There is no case law, or any other mechanism, that provides more specific thresholds for determining when a doubled-up situation is homeless and when it is not. The designation of homelessness for doubled-up situations requires that the district determine the reason that the student is doubled up. Someone at the district must make a subjective judgment about whether or not the reason that the student is doubled up indicates that this is because of a loss of housing, economic hardship, or a similar reason. In order to make this judgment, it is important to determine the recent residential history of the student, the stability of the doubled-up arrangement, the permanence of the arrangement, and where the family would live if they had to move out. Some questions that can help a district in determining whether or not a doubled-up student is homeless, include: Where did you live before you moved into this doubled-up situation? Why did you move into this doubled-up situation? How long do you expect to live in this doubled-up situation? Where would you reside if you had to leave this doubled-up situation immediately? All loss-of-housing situations are not necessarily related to economics.

Unfortunately, many students and families that are living in doubled-up situations do so in violation of some sort of a contract or lease agreement. It is important that, in attempting to determine the homeless status of a doubled-up student, schools and districts are sensitive to the precarious nature

of many of these arrangements and do not exacerbate the hardships in their district by inadvertently causing both families, the doubled-up family and the host family, to lose their residence.

Question 10: Are all children who live with friends or relatives to be considered homeless?

No. The McKinney-Vento definition of homeless children and youths includes, "children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason." Therefore, a student that is doubled up for some other reason besides a loss of housing, economic hardship, or a similar reason is not considered homeless.

Despite the expanded definition of homeless children and youths in McKinney-Vento, the homeless status of doubled-up students remains difficult to determine conclusively. Question 9, above, addresses the issue in greater detail and offers some suggestions for determining whether or not a doubled-up student is homeless.

Question 11: Are children who qualify for migrant services to be considered homeless?

According to the McKinney-Vento definition of homeless children and youths, migrant students can be considered homeless if they live in circumstances defined as homeless in McKinney-Vento §725(2) (i), (ii), or (iii); however, they are not to be considered homeless simply because they are migrant workers or from a family of migrant workers. Many children who qualify for migrant services reside in a fixed, regular, and adequate nighttime residence and should not be considered homeless.

Question 12: Are children living in campgrounds to be considered homeless?

The McKinney-Vento definition of homeless children and youths includes, "children and youths who are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations." Therefore, students and/or families who are living in campgrounds are to be considered homeless if they reside there due to the lack of alternative adequate accommodations. Children who reside in trailer parks are considered homeless only if the residence is not suitable for human habitation or if they meet other criteria for homelessness.

Question 13: Are school-age mothers to be considered homeless?

School-age mothers are to be considered homeless if they live in any situation described in the McKinney-Vento definition of homeless children and youth. However, if they are staying in a home for school-age mothers only temporarily to receive specific health care or other services, and intend to move to other adequate accommodations, they should not be considered homeless.

Question 14: Are children abandoned in hospitals to be considered homeless?

Yes. The McKinney-Vento definition of homeless children and youths includes "children and youths who are abandoned in hospitals."

School Responsibilities for Enrollment

Question 15: Should homeless children and youth be enrolled in school?

Yes, immediately. Both the Texas Education Code and McKinney-Vento require the enrollment of homeless children and youth.

Section 721(1) of McKinney-Vento states:

(1) Each State educational agency shall ensure that each child of a homeless individual and each homeless youth has equal access to the same, free, appropriate public education, including public preschool education, as provided to other children and youth.

Section 722(g)(3)(C)(i) of McKinney-Vento states:

(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

TEC §25.001(b)(5) establishes that Texas school districts shall admit children and youth who are homeless. If a child or youth is homeless, the district shall admit that child or youth regardless of their residence, or the residence of their parent(s), guardian(s), or anyone else having lawful control of them.

Question 16: Where can children and youth experiencing homelessness enroll in school?

There are two different laws that address the question of where children and youth experiencing homelessness can enroll. TEC §25.001(b)(5) states that a school district shall enroll a person that is homeless, regardless of the residence of that person or either parent of that person, or of the person's legal guardian or other person having lawful control of that person. Therefore, if a student is homeless, he can enroll in any district in the state, regardless of where he or his parents or guardians reside. The TEC does not specify a process for establishing which school within a district the homeless student will attend.

The second law that affects the school in which children and youth experiencing homelessness can enroll is Section 722(g)(3) of McKinney-Vento. This section of McKinney-Vento requires that homeless children and youth have a choice, according to the child's or youth's best interest, of being enrolled either in their "school of origin" or in the public school of the attendance area where they now reside. They have this choice for the entire duration in which they are homeless or, in the case where a homeless student becomes permanently housed during an academic year, for the remainder of that academic year.

In determining the best interest of the student experiencing homelessness, the LEA shall, to the extent feasible, keep the homeless student in the school of origin, unless to do so is contrary to the wishes of the student's parent or guardian. If the LEA sends a homeless student to any other school besides the school of origin or the school requested by the parent or guardian, the LEA must provide a written explanation, including a statement regarding the right of the parent or guardian to appeal this decision, to the parent or guardian.

In cases where the homeless student is an unaccompanied youth, the homeless liaison shall assist in placement or enrollment decisions. The liaison will consider the views of the unaccompanied youth and provide notice to the youth of the right to appeal the LEA placement decision. In situations where the unaccompanied youth appeals the placement decision, the homeless liaison shall ensure that the youth is immediately enrolled in school pending resolution of the dispute.

The school of origin is defined in Section 722(g)(3) of McKinney-Vento as the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled.

Section 722(g)(3)(E) of McKinney-Vento outlines the enrollment dispute resolution process. If a dispute arises over a school selection decision, then the child or youth shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute. The parent or guardian must be provided with a written explanation of the school's decision regarding school selection or enrollment. This written explanation must include information about the rights of the parent, guardian, or unaccompanied youth to appeal this decision. The appealing party (child, youth, parent, or guardian) shall be referred to the LEA's homeless liaison who will carry out the dispute resolution process as quickly as possible after receiving notice of the dispute.

Because these two laws, Section 25.001(b)(5) of the TEC and the school choice provisions of McKinney-Vento, are similar, they are often confused. However, they do provide for different things. Section 25.001(b)(5) of the TEC concerns the district in which a child or youth experiencing homelessness can enroll. The school choice provision of McKinney-Vento concerns the specific **school** in which a child or youth experiencing homelessness can attend. This school choice provision stipulates a minimum standard with which a state must comply for students who become homeless—it must allow at least for the choice between the school of origin and the school of the new location; however, it does not limit the state to only these two choices. Thus the TEC and the school choice provision of McKinney work in conjunction with each other to allow for continuity and flexibility for students experiencing homelessness.

There is an additional provision of the TEC that, indirectly, has the potential to affect the school that a child or youth experiencing homelessness attends. TEC §25.033 provides parents or persons standing in parental relation to a child the opportunity to request assignment to a specific school. This could provide an additional option for parents or caregivers of homeless children when those children have been homeless for longer than one year and are thus ineligible for the school choice provisions in the McKinney Act.

Question 17: Can a school require proof of residency (rent receipt, lease agreements, utility receipts, property tax receipts, etc.) that prevents or delays the enrollment of children or youth experiencing homelessness?

No. Section 722(g)(3)(C)(i) of McKinney-Vento states that a child or youth experiencing homelessness must be enrolled immediately, "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."

Additionally, Section 721(1) of McKinney-Vento requires that children in homeless situations be provided equal access to the same free, appropriate public education as provided other children and youth. School districts cannot prevent the enrollment of children and youth without homes through residency requirements. If a child is homeless, inability to provide documentation of permanent residence should not prevent or delay the child's enrollment.

Question 18: When a homeless child or youth is not living with parents or legal guardians, is the school district required to enroll the child?

Yes. TEC §25.001(b)(5) requires school districts to enroll homeless children or youth regardless of the residence of the child, either parent of the child, the child's legal guardian, or any other person having lawful control of the child. Section 722(g)(3) of McKinney-Vento specifies that the choice regarding placement shall be made regardless of whether the child is living with parents or is an unaccompanied youth.

Question 19: If a homeless child or youth attempts to enroll in school without a parent, guardian, or other adult supervision, should the school district enroll the child?

Yes. Section 722(g)(3) of the McKinney Act assures the educational placement of children who are unaccompanied youth (that is, they are living without parents or guardians). TEC §25.001(b)(5) requires school districts to enroll homeless children or youth regardless of the residence of the child, either parent of the child, the child's legal guardian, or any other person having lawful control of the child.

Question 20: If a child or youth in a homeless situation does not have records from a previous school, may the school district delay the student's enrollment until records are received?

No. TEC §25.002(a) gives all students a period of 30 days after enrollment to provide schools with the records necessary for enrollment. TAC 19 §129.1(b) specifically states that children shall not be denied enrollment or be removed solely because they fail to provide school records. In addition, according to Section III (2-2) of the Texas Education Agency's *2002-2003 Student Attendance Accounting Handbook*, upon a student's enrollment in the district, a bona fide effort should be made to secure all records and/or required documentation pertaining to the student from the previous district and/or parent, if applicable. The previous district is required to forward the records under TEC §25.002(a).

Section 722(g)(3)(C)(i) of McKinney-Vento states that a child or youth experiencing homelessness must be enrolled "immediately," "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."

Question 21: If a homeless child or youth does not have proof of immunization, must a school district enroll the student?

Yes. Under TEC 25.002(a), schools cannot deny a child enrollment for lack of proof of immunization. Schools are required to enroll students and give them 30 days to provide the school documentation that they have been immunized as required under law. If a child does not have the required immunizations, the Texas Department of Health shall provide the required immunization to children in areas where no local provision exists to provide those services [TEC 38.001(d)].

Section 722(g)(3)(C)(i) of McKinney-Vento states that a child or youth experiencing homelessness must be enrolled "immediately," "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."

Section 722(g)(3)(C)(iii) of McKinney-Vento states that when an enrolling homeless student 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 education 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)."

School districts may make use of a free immunization tracking service offered by the Texas Department of Health. If the child has been immunized in Texas and the location of the clinic or the doctor's office where the immunization was provided is known, the school can call, toll-free, 1-800-252-9152. The Texas Department of Health will collect the necessary information and send a copy of the immunization record.

Question 22: If a child or youth experiencing homelessness does not have documentation of a tuberculosis screening, can the school require such a screening prior to enrollment?

No. Tuberculosis screening is not an immunization and to prohibit the enrollment of students who have not had a tuberculosis screening exceeds the enrollment requirements found in TEC §38.001(a). Districts are urged to work with public local health care providers to establish a procedure for obtaining tuberculosis screenings in an expedited manner for homeless and other indigent children.

Section 722(g)(3)(C)(i) of McKinney-Vento states that a child or youth experiencing homelessness must be enrolled "immediately" "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."

Question 23: When a child or youth without a home is not living with a parent or legal guardian, can a district require that child or youth's caregiver to acquire legal guardianship?

No. TEC §25.001(b)(5) requires school districts to enroll homeless children regardless of the residence of the child, either parent of the child, the child's legal guardian, or any other person having lawful control of the child.

Question 24: How can a district verify that a student is homeless?

There is no universal system of verification. In situations where homeless children are living in shelters, it may be possible to obtain verification from the shelter provider. In situations where runaway or homeless children are living with friends or relatives, the Department of Protective and Regulatory Services, local shelters for runaway youth, or other social service agencies may be able to verify the student's living arrangements. In situations where children are living in cars, campgrounds, or abandoned buildings, the only viable method of verification may be a visit by school personnel. When children, youth or families cannot verify their homelessness, their right to education is not diminished. It is recommended that denials of educational services only occur when the school district has documented evidence that the child or youth should **not** be considered homeless based upon the definitions of the McKinney Act.

In order to ascertain whether or not a student is homeless, many districts have begun to use a simple student residency questionnaire that quickly and accurately helps to determine whether or not a student lives in a situation defined as homeless by McKinney-Vento. The advantage of such a student residency questionnaire is that anyone can use it and they do not have to be an expert on McKinney-Vento in order to make an accurate determination of whether or not a student is homeless. A sample questionnaire is available on the Texas Homeless Education Office (THEO) website at:

<http://www.utdanacenter.org/theo/enrollmentaids.html>

Question 25: Is a district legally at risk when enrolling a child or youth without parental permission?

The TEC provides school district professionals with immunity as long as they are acting in the scope of their duties and are exercising discretion. TEC §22.051 (a) states that:

A professional employee of a school district is not personally liable for any act that is incident to or within the scope of the duties of the employee's position of employment and that involves the exercise of judgment or discretion on the part of the employee, except in circumstances in which a professional employee uses excessive force in the discipline of students or negligence resulting in bodily injury to students.

TEC§22.051(c) contains a definition of "professional employee" that is expansive, including superintendents, principals, teachers, supervisors, social workers, counselors, nurses, teachers' aides, student teachers, DPS-certified bus drivers, and anyone else whose employment requires certification and an exercise of discretion. TEC§22.053 extends this protection to volunteers who are serving as direct service volunteers of a school district.

TEC§22.051 provides protection to a school district's professional employees when they are acting within the scope of their duties, exercising judgment or discretion, and not using excessive force in disciplining students or have been negligent in disciplining students sufficiently to cause bodily injury. Homeless children and youth are entitled to enroll in any Texas school district under TEC §25.001(a). A school district's professional employees are protected from liability when they are acting within the mandates of the law. Any additional questions concerning liability or immunity should be addressed to the school district's legal counsel.

Question 26: Is a youth whose disabilities of minority have been removed by a court of law to be considered an adult for the purposes of school enrollment and other school-related matters?

Yes. Section 31.006 of the Texas Family Code specifies that except for specific constitutional and statutory age requirements, a minor whose disabilities are removed for general purposes has the power and capacity of an adult, including the power to contract.

Question 27: Do the attendance laws that apply to regular students also apply to homeless students?

Yes. TEC §25.092 provides that a student may not be given credit for a class unless he or she is in attendance for at least 90 percent of the days the class is offered. However, students who do not meet the 90 percent requirement may appeal to the district attendance committee to regain lost credit or make up missed schoolwork if the absences were due to extenuating circumstances. Although there are no uniform criteria in state law to establish what constitutes an acceptable extenuating circumstance, homeless children who do not meet the 90 percent requirement because of the family's homelessness may appeal to the district's attendance committee to obtain credit.

Question 28: Are children experiencing homelessness eligible to enroll in prekindergarten classes?

Yes. Under §29.153(b)(3) of the TEC, the prekindergarten eligibility criteria have been expanded to include homeless children. All preschool-age children experiencing homelessness are eligible to enroll in public school prekindergarten programs.

Question 29: What if it is determined that a child or youth applying for enrollment as homeless does not, in fact, meet the definition of homelessness?

Sometimes children and youth live in circumstances in which it is not immediately clear if they are, or are not, homeless. If it is determined that the child or youth is not, in fact, homeless, the child or youth still belongs in school. TEC §25.085(b) mandates that all youth in Texas are required to attend school until they complete the academic year in which they turn 18 (unless specifically exempted by TEC §25.086).

In these situations, eligibility for enrollment should be determined in the same manner it would for any child or youth that is not experiencing homelessness. In most circumstances, the child or youth is applying for admission into the district in which they reside; therefore, the fact that they are not homeless would not make them ineligible for enrollment in a district in which they already reside. In circumstances in which it is determined that the child or youth is not homeless and not eligible for enrollment in the district in which they are applying for admission, the district should assist the student in determining the appropriate district in which to enroll. It is recommended that no child or youth be denied admission into a district without being told why and without being told the appropriate district in which to enroll.

Question 30: Is there a procedure in place for resolving enrollment disputes?

In situations in which there is a dispute between the student (or family or guardian of the student) and the school regarding whether or not the student meets the definition of homeless, §722(g)(3)(E) of McKinney-Vento outlines an enrollment dispute resolution process. Because the question of whether or not a student is homeless is relevant to enrollment, the enrollment dispute resolution process is pertinent. If a dispute arises over a enrollment, then the child or youth shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute. The parent or guardian must be provided with a written explanation of the school's decision regarding school selection or enrollment. This written explanation must include information about the rights of the parent, guardian, or unaccompanied youth to appeal this decision. The appealing party (child, youth, parent, or guardian) shall be referred to the LEA's homeless liaison who will carry out the dispute resolution process as quickly as possible after receiving notice of the dispute.

For any questions regarding the definition of homelessness or the status of a specific student, please contact the THEO, 1-800-446-3142 (toll-free in Texas). For related questions regarding Texas enrollment laws and rules, contact the Legal Division of the Texas Education Agency, (512) 463-9720.

School Responsibilities for Services

Question 31: What services must school districts provide to children and youth in homeless situations?

Section 722(g)(4) of McKinney-Vento requires that school districts provide services to homeless children and youth that are comparable to services provided to other students in the school district. Specifically, homeless children and youth must have access to any educational services for which they otherwise meet the eligibility requirements, including programs for emerging English proficient children, gifted children, or children with disabilities.

LEAs must provide students experiencing homelessness with transportation to and from the school origin at the request of a parent, guardian, or, in the case of unaccompanied youth, the LEA liaison. For more information about the transportation provisions of McKinney-Vento, refer to the [Transportation and Homeless Students](#) section.

All children and youth who meet the McKinney-Vento definition of "homeless children and youths" are eligible for the following, without regard to school residency requirements or other requirements:

- free-and-reduced meal programs. Please see the School Nutrition Programs Guidance on the THEO website at: http://www.utdanacenter.org/theo/basic_meals.html
- programs for prekindergarten students offered by the school district [all homeless prekindergarten children are eligible for the prekindergarten program, TEC §29.153 (b)(3)];
- programs serving at-risk students [all homeless students meet the criteria for designation as an at-risk student, TEC §29.081 (12)];
- and Title I, Part A services [all homeless students are eligible for Title I, Part A services, NCLB, §1111(a)(1); §1112(A)(1); §1113(c)(3)(A); §1115(b)(2)(E)]

Question 32: Can school districts educate children and youth experiencing homelessness in separate schools (such as classrooms located on shelter sites)?

In general, no. Section 722(e)(3), "PROHIBITION ON SEGREGATING HOMELESS STUDENTS", prohibits the segregation of children and youth experiencing homeless into a separate school, or program within a school, based solely on such student's status as homeless.

However, Section 723(a)(2)(B)(ii) does provide a limited exception to this prohibition "for short periods of time--for health and safety emergencies..." Any type of large scale catastrophe, either natural or manmade, such as a hurricane, flood, terrorist attack, etc. could result in rapid influxes of large numbers of displaced children and youth who meet the McKinney-Vento definition of homelessness. In these circumstances, special arrangements for educating such students in separate facilities may be utilized for the short-term. Students expected to remain in the

district for a significant period of time should be integrated into the general school population as quickly as possible.

Question 33: If a homeless student moves without returning books, can a district withhold the student's records until payment is received or until the books are returned?

No, a district cannot withhold student records from another school district. TEC §25.002(a) requires that the school district in which the student most recently attended must furnish the school in which the student is now enrolling with the student's records.

While TEC §31.104(d) allows a district or school to withhold student records for unreturned textbooks, TEC §25.002(a) requires that school districts furnish these records to other districts within 30 days of the student's enrollment.

Transportation and Homeless Students

Question 34: Are local education agencies required to provide transportation to children and youth experiencing homelessness?

Sections 722(g)(1)(J)(iii) and (g)(4)(A) of McKinney-Vento specifically address LEA responsibilities for providing transportation to homeless students.

Section 722(g)(1)(J)(iii) states that LEAs must provide children and youth experiencing homelessness with transportation to and from their school of origin, at the request of a parent, guardian, or, in the case of unaccompanied youth, homeless liaison. The school of origin is defined as the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled [§722(g)(3)(G)]. If the student's temporary residence and the school of origin are in the same LEA, that LEA must provide or arrange transportation. If the student is living outside the school of origin's LEA, the LEA where the student is living and the school of origin's LEA must determine how to divide the responsibility and cost of providing transportation, or they must share the responsibility and cost equally.

Section (g)(4)(A) requires LEAs to provide students experiencing homelessness with transportation services comparable to those provided other students.

Question 35: Are there state funds available for transportation of a homeless student to his or her "school of origin"?

Yes, the transportation of a homeless student to and from his or her "school of origin" is eligible for funding under the transportation allotment in the Foundation School Program (see TEC §42.155). A school district may report the transportation as regular program transportation, which will be entered under the "Standard" subprogram and included in the computation of linear density (used in determining the effective regular program funding rate for the following year), or as transportation for an alternative education program, which

will be entered under the "Alternative" subprogram and is excluded from the linear density computation. The general rule that funding is not available for transportation to or from a location within two miles of the school, with an exception for hazardous traffic conditions, applies. If the student is a special education student, the provisions regarding special program transportation will apply if the student's IEP provides for transportation as a related service.

Question 36: Is there a difference in funding if there is a district boundary line between the residence and the school of origin?

No.

Question 37: If the residence is within 2 miles of the school of origin does the district have to provide transportation?

The NCLB requires transportation services for homeless students that are “comparable to services offered to other student in the school.” [Sec. 722(g)(4).] Therefore, transportation within 2 miles is not required if such transportation is not provided to other students.

Question 38: How long does a district have to arrange for transportation services for homeless students?

The NCLB requires transportation services to be “promptly provided.” [Sec. 722(g)(3)] A district should provide the services as expeditiously as possible. The amount of time that the Texas Education Agency would consider reasonable would depend upon the facts, but in no case should exceed 10 days.

Question 39: May a district refuse to provide transportation to the school of origin because of the length of time involved in transporting the child, such as 45 minutes?

The NCLB requires that placement decisions be made “according to the child’s or youth’s best interest.” [Sec. 722(g)(3)] In determining best interest, many factors could be considered including distance to school, programs available, etc. Distance alone is not determinative as 45-minute (or longer) travel is common in some districts and may be necessary to provide the option that is in the child’s best interest.

Question 40: What forms of transportation other the district bus transportation may be used? May taxis or gas voucher be used?

There is state transportation funding available for private program student transportation to and from school, which includes transportation by a privately owned vehicle operated by a parent, guardian, or their designated agent or transportation by commercial motor vehicle. Also, there is provision for state reimbursement for the use of mass transit authority bus passes as well as district-contracted services with a mass transit authority (the vehicle must be a passenger car, a school bus, or an MTA motor bus; see TEC §34.003). For more details, contact Philip Cochran, Division of Education Service Center/Higher Education Financial Support, at (512) 463-9371 or Sam Dixon in the School Transportation Unit in the Division of State Funding at (512) 463-9185.

Question 41: If two districts cannot agree on apportioning the costs or transportation to a school of origin, what do they do? Will TEA provide some guidance?

The NCLB provides that the responsibility as well as costs for providing transportation to and from a homeless student’s “school of origin” will be shared equally unless the districts affected agree to a different method of apportionment. This is a decision for the districts involved to make. TEA does not have a role in this decision.

Question 42: Is there any federal funding available for transportation for homeless students?

The Agency is researching this question. Guidance will be provided at a later date.

Question 43: Who can transportation departments call at TEA for assistance?

Transportation departments may call Philip Cochran in the Division of Education Service Center/Higher Education Financial Support at (512) 463-9371 or Sam Dixon in the School Transportation Unit in the Division of State Funding (512) 463-9185.

Additional information of transportation provisions in the McKinney-Vento Act may be found on the THEO website, including links to the TEA transportation Q & A site, at:
http://www.utdanacenter.org/theo/basic_main.html#transportation

LEA Liaisons for Homeless Students

Question 44: Must a local education agency designate a liaison for homeless children and youth?

Yes. Section 722(g)(1)(J)(ii) of McKinney-Vento requires all LEAs to designate an appropriate staff person, who may also be a coordinator for other Federal programs, as a local educational agency liaison for homeless children and youth.

Question 45: What are the responsibilities of the local education agency homeless liaison?

Liaisons must ensure that:

- Children and youth in homeless situations are identified by school personnel and through coordination activities with other entities and agencies;
- Students enroll in, and have full and equal opportunity to succeed in, the schools of the LEA;
- Families, children, and youth receive educational services for which they are eligible, including Head Start, Even Start, and pre-school programs 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;
- Public notice of the educational rights of students in homeless situations is disseminated where children and youth receive services under the Act;
- Enrollment disputes are mediated in accordance with the Enrollment Disputes section; and
- Parents and guardians, and unaccompanied youth, are fully informed of all transportation services, including to the school of origin, and are assisted in accessing transportation services.

Liaisons must:

- assist children and youth who do not have immunizations, or immunization or medical records, to obtain necessary immunizations, or immunization or medical records.
- help unaccompanied youth choose and enroll in a school, after considering the youth's wishes, and provide youth with notice of their right to appeal an enrollment choice that goes against their wishes.
- ensure that unaccompanied youth are immediately enrolled in school pending resolution of disputes that might arise over school enrollment or placement.
- collaborate and coordinate with state coordinators and community and school personnel responsible for the provision of education and related services to children and youth in homeless situations.

LEAs must inform school personnel, service providers, and advocates who work with families in homeless situations of the duties of the liaison.

Title X, Part C Competitive Grants to LEAs

Division Contact: Texas Homeless Education Office (THEO), 800-446-3142
<http://www.utdanacenter.org/theo>

Purpose

The purpose of the McKinney-Vento Homeless Education program is to facilitate the enrollment, attendance, and success in school of homeless children and youths.

Eligibility and Funding

Question 46: Who is eligible to apply for Title X, Part C funds?

Any LEA is eligible to apply for Title X, Part C funds.

Question 47: How will awards be determined?

Awards to LEAs will be determined on a competitive basis, depending on the LEAs' need for assistance under this program and the quality of the applications.

In determining need, the state may consider the number of homeless children and youths enrolled in preschool, elementary, and secondary schools within the area served by the LEA, and shall consider the needs of such children and youths and the ability of the LEA to meet such needs. The state may also consider the following—

- The extent to which the proposed use of funds will facilitate the enrollment, retention, and educational success of homeless children and youths.
- The extent to which the application —
 - reflects coordination with other local and State agencies that serve homeless children and youths; and
 - describes how the applicant will meet the requirements of section 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 youths.
- Such other criteria as the State agency determines appropriate.

In determining the quality of applications, the State educational agency shall consider the following:

- The applicant's needs assessment under subsection (b)(1) 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 under the program.

- The involvement of parents or guardians of homeless children or youths in the education of their children.
- The extent to which homeless children and youths will be integrated within the regular education program.
- The quality of the applicant's evaluation plan for the program.
- The extent to which services provided under this subtitle will be coordinated with other services available to homeless children and youths and their families.
- Such other measures as the State educational agency considers indicative of a high-quality program, such as the extent to which the local educational agency will provide case management or related services to unaccompanied youths.

Grants awarded under this section shall be for terms not to exceed 3 years.

Uses of Funds

Question 48: How may Title X, Part C funds be used?

A local educational agency may use funds awarded under this section for activities that carry out the following:

- The provision of tutoring, supplemental instruction, and enriched educational services that are linked to the achievement of the same challenging State academic content standards and challenging State student academic achievement standards the State establishes for other children and youths.
- The provision of expedited evaluations of the strengths and needs of homeless children and youths, including needs and eligibility for programs and services (such as educational programs for gifted and talented students, children with disabilities, and students with limited English proficiency, services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, programs in vocational and technical education, and school nutrition programs).
- Professional development and other activities for educators and pupil services personnel that are designed to heighten the understanding and sensitivity of such personnel to the needs of homeless children and youths, the rights of such children and youths under this subtitle, and the specific educational needs of runaway and homeless youths.
- The provision of referral services to homeless children and youths for medical, dental, mental, and other health services.
- The provision of assistance to defray the excess cost of transportation for students under section 722(g)(4)(A), not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected under section 722(g)(3).
- The provision of developmentally appropriate early childhood education programs, not otherwise provided through Federal, State, or local funding, for preschool-aged homeless children.

- The provision of services and assistance to attract, engage, and retain homeless children and youths, and unaccompanied youths, in public school programs and services provided to non-homeless children and youths.
- The provision for homeless children and youths of before- and after-school, mentoring, and summer programs in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities.
- If necessary, the payment of fees and other costs associated with tracking, obtaining, and transferring records necessary to enroll homeless children and youths in school, including birth certificates, immunization or medical records, academic records, guardianship records, and evaluations for special programs or services.
- The provision of education and training to the parents of homeless children and youths about the rights of, and resources available to, such children and youths.
- The development of coordination between schools and agencies providing services to homeless children and youths, as described in section 722(g)(5).
- The provision of pupil services (including violence prevention counseling) and referrals for such services.
- Activities to address the particular needs of homeless children and youths that may arise from domestic violence.
- The adaptation of space and purchase of supplies for any nonschool facilities made available under subsection (a)(2) to provide services under this subsection.
- The provision of school supplies, including those supplies to be distributed at shelters or temporary housing facilities, or other appropriate locations.
- The provision of other extraordinary or emergency assistance needed to enable homeless children and youths to attend school.

Question 49: Is there a maintenance of effort provision?

Yes. The LEA's combined fiscal effort per student, or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such agency for the fiscal year preceding the fiscal year for which the determination is made, was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

Question 50: Can these funds be used to provide homeless students with part of the regular academic program?

No. Services provided under this section shall not replace the regular academic program and shall be designed to expand upon or improve services provided as part of the school's regular academic program.

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