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OFFICE OF THE ATTORNEY GENERAL

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NEW YORK STATE EDUCATION DEPARTMENT

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COMMISSIONER OF EDUCATION

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Dear Colleagues,

During the 2019-2020 school year, an estimated 143,500 students experienced homelessness across the State of New York.<sup>1</sup>

- x Ensuring children have the opportunity to continue education in the school of origin. LEAs must ensure that a child experiencing homelessness is offered the opportunity to continue their education in their school of origin for the duration of their homelessness.<sup>5</sup> An LEA must permit a child experiencing homelessness to enroll in public school at their school of origin or their school of current location per the discretion of the appropriate designator (usually the child's parent or guardian).<sup>6</sup> This is true regardless of whether the school of current location is in the same school district as the school of origin.<sup>7</sup> There is an initial presumption that remaining in the school of origin is in the best interest of the child, except when doing so is contrary to the request of the child or their designator.<sup>8</sup>

An LEA must permit a homeless child to attend the school of their designator's choice that is consistent with the student's best interests, until the student finds permanent housing.<sup>9</sup> If a child obtains permanent housing during the school year, the child has the right to stay in their current school until the end of the school year.<sup>10</sup>

- x Providing transportation. In most instances, LEAs must provide transportation for a homeless child to and from the child's temporary housing location and their school of origin or school they legally attend.<sup>11</sup> If the child is entitled to transportation to and from school because they are entitled to emergency assistance, then such emergency support

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<sup>5</sup> 42 U.S.C. § 11432(g)(3)(A)(i); N.Y. Educ. L. § 3209(2)(b)(3); N.Y. Comp. Codes R. & Regs. tit. 8, § 100.2(x)(2)(iii).

<sup>6</sup> N.Y. Educ. Law § 3209(1)(b); N.Y. Educ. Law § 3209(2); N.Y. Comp. Codes R. & Regs. Tit. 8, § 100.2(x)(2)(ii).

<sup>7</sup> N.Y. Educ. Law § 3209(2)(a); N.Y. Comp. Codes R. & Regs. Tit. 8, § 100.2(x)(2)(i).

<sup>8</sup> 42 U.S.C. § 11432(g)(3)(B)(i); N.Y. Educ. Law § 3209(2)(f)(3)(i); N.Y. Comp. Codes R. & Regs. tit. 8, § 100.2(x)(4)(iii)(a).

<sup>9</sup> 42 U.S.C. § 11432(g)(3)(A); N.Y. Educ. Law § 3209(2)(c); N.Y. Comp. Codes R. & Regs. tit. 8, §§ 100.2(x)(2)(iii)-(vi).

<sup>10</sup> 42 U.S.C. § 11432(g)(3)(A)(II); N.Y. Educ. Law § 3209(2)(c)(1); N.Y. Comp. Codes R. & Regs. tit. 8, §§ 100.2(x)(2)(iii)-(vi). Additionally, students in New York may remain in their current school for one additional year if that year constitutes the child's terminal year of instruction in such building. N.Y. Educ. Law § 3209(2)(c)(1); N.Y. Comp. Codes R. & Regs. tit. 8, §§ 100.2(x)(2)(iii)-(vi).

<sup>11</sup> 42 U.S.C. § 11432(e)(3)(E)(i)(III). If transportation exceeds fifty miles each way to and from school, the Commissioner of Education must certify that such transportation is in the best interest of the child. N.Y. Educ. Law § 3209(4)(c).



and youth may be McKinney-Vento eligible. Further, LEAs are directed to post information on the educational rights of homeless children in locations frequented by families experiencing homelessness, including shelters, public libraries, and soup kitchens.<sup>20</sup> LEA liaisons' contact information should be clearly reflected on these materials, and should also be publicly and prominently displayed on LEA websites to ensure that anyone seeking services and supports can identify the appropriate contact.<sup>21</sup>

LEAs should coordinate with other entities and agencies, including social services agencies that serve individuals who are homeless, to identify homeless children and youth who may need assistance..

remove barriers that prevent homeless children and youth from receiving appropriate credit for full or partial coursework satisfactorily completed while attending a prior school.<sup>26</sup>

LEAs must immediately enroll a homeless child even if a student is “unable to produce records normally required for enrollment” such as academic transcripts, immunizations, proof of residency, or other documentation, or if a student “has missed application or enrollment deadlines during any period of homelessness.”<sup>27</sup> LEAs are required to immediately contact the last school the student attended to obtain any relevant records, and to the extent the student needs to obtain immunizations or other required health records, the LEA should refer the student to the McKinney-Vento liaison for further assistance.<sup>28</sup>

- x Providing comparable and additional supports. Children and youth experiencing homelessness are also entitled to services comparable to those received by other students.<sup>29</sup> These include transportation services; educational services, such as those 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; educational programs for English learners; and school nutrition programs, among others.<sup>30</sup> LEAs should ensure that homeless children and youth receive referrals to additional supports and services to which they may be entitled, including health care and dental services, mental health and substance abuse services, and housing services.<sup>31</sup>
  
- x Maintaining a dispute resolution process All LEAs are required to maintain processes to promptly address disputes related to a child’s eligibility under the McKinney-Vento Act, including, a3 -1.15 Td [(i)-2 (nc)4 (l)-2 (udi)-2 (ng, a3 -1.15 Td (.98i1 unde)4 (r)3 ( m1 un4 Tc 0.0

dispute under this process, the LEA must immediately enroll the child in the school for which enrollment is sought, pending resolution of the dispute, including all available appeals.<sup>33</sup>

Parents and guardians must be provided with a written statement about an LEA's determination regarding the child's school selection and eligibility under the McKinney-Vento Act. This written statement must also include information about how to appeal the LEA's decision and contact information for the LEA's McKinney-Vento liaison, who is required to provide assistance in navigating the appeals process.<sup>34</sup>

- x Using federal education funds to support students experiencing homelessness. LEAs may use Title I, Part A funds to provide a wide variety of services to homeless students. In some situations, allowable use of Title I, Part A funds may include expenditures related to helping these students overcome barriers to education that are related to the Covid-19 pandemic.

Two principles govern the use of Title I, Part A funds to provide services to homeless students.<sup>35</sup> First, the services must be reasonable and necessary to assist homeless students in taking advantage of educational opportunities.<sup>36</sup> Second, Title I, Part A funds must be used only as a last resort when funds or services are not available from other public or private sources, such as public health clinics or local discretionary funds (sometimes provided by the PTA) used to provide similar services for economically disadvantaged students.<sup>37</sup> Thus, for example, during the Covid-19 pandemic, if personal protective equipment (PPE) is required for students to attend classes or participate fully in school activities, and if the school does not already generally provide PPE for all students, then the LEA should provide PPE to McKinney-Vento students using Title I, (P)-4 (E)16d94itt-1 (i)0 Tc 0



## Enrollment Resources

- x [National Center for Homeless Education Issue Brief: Enrolling Children and Youth Experiencing Homelessness in School](#)
- x [NYS-TEACHS landing page for resources on enrollment and school selection](#)
- x [NYS-TEACHS McKinney-Vento enrollment checklist](#)
- x [NYS-TEACHS Sample Enrollment Process that school districts may follow for immediately enrolling students y\(nr\)3 \(ol\)-2 \(l\)-5\(l\)udent](#)