

Required

Local

Notice

## HOMELESS CHILDREN

***NOTE:** This policy reflects the state laws and regulations conforming to the federal Every Student Succeeds Act (ESSA) primarily addressing siblings of preschool children and release of student information. In addition, we are reflecting a requirement by the State Education Department (SED) for Title I funds for districts to use a Housing Questionnaire universally to better identify students experiencing homelessness. Note that students awaiting foster care placement are not considered homeless, but Title I requires that districts coordinate with child welfare agencies to transport students to and from their schools of origin consistent with the student's best interests, however, no policy is required and as that is treated separately, we do not believe it should be included in this policy. The NYS Technical and Education Assistance Center for Homeless Students ([www.nysteachs.org](http://www.nysteachs.org)) is a good resource in this area.*

The Board of Education recognizes its responsibility under federal (McKinney-Vento) and state laws and regulations to identify homeless children within the district, encourage their enrollment and eliminate existing barriers to their identification, enrollment, attendance, or success in school which may exist in district practices. The Board will provide homeless children attending the district's schools with access to the same free and appropriate public education and other school programs and activities, including publicly funded preschool education, as other children.

A homeless child is a child who lacks a fixed, regular, and adequate nighttime residence or who has a primary nighttime location in a public or private shelter designed to provide temporary living accommodations, or a place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. This definition also includes a child who shares the housing of others due to loss of housing, economic hardship, or similar reason; lives in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; lives in a car, park, public space or abandoned building, substandard housing, bus or train station or similar setting; has been abandoned in a hospital; or is a migratory child who qualifies as homeless. An unaccompanied youth is a homeless child not in the physical custody of a parent or guardian.

***NOTE:** The SED sample housing questionnaire can be accessed at: [http://www.nysteachs.org/media/INF\\_SED\\_HousingQuest.docx](http://www.nysteachs.org/media/INF_SED_HousingQuest.docx).*

To assist in determine eligibility for services under the McKinney-Vento Act, the district shall use a housing questionnaire for all enrolling students, and those reporting a change of address, which asks for a description of the student's current living arrangements.

## NYSSBA Sample Policy 5151

***NOTE:** The paragraphs below reflect the rights of homeless children, reorganized for greater clarity. New York State law currently permits homeless children to attend an additional year in his/her school of origin, after becoming permanently housed, if that year is the last year served by that school, which expanded the requirements of the previous federal law. ESSA now mandates that if a homeless child completes the final grade level at the school of origin, that child may attend the designated receiving school at the next grade level, and does not put an end limit to such attendance during the period of homelessness, nor through the remainder of the year in which a student becomes permanently housed.*

*We also bring to your attention that ESSA uses the term “school of origin” while New York State law and regulations use the terms “district of origin” and “district of current location” as well as “school of origin.” While there is no difference in the end result – i.e., that homeless children may attend either the school they attended when they became homeless, or the school they last attended, or the school they may attend due to their current location – we are choosing to conform more closely to the federal definitions. Use of the terms “district of origin” and “district of current location” is mostly relevant for districts of current location that seek tuition reimbursement from SED.*

A homeless child or youth has the right to attend his/her school of origin, or any school that permanently housed students who live in the attendance area in which the homeless student is actually living are eligible to attend. For homeless students, a school of origin can be:

1. the public school where he/she attended when permanently housed (i.e., before becoming homeless); or
2. the public school where he/she was last enrolled, or
3. the public school he/she was entitled or eligible to enroll in when the child became homeless, if that child became homeless after such child was eligible to apply, register, or enroll in a public preschool or kindergarten, or he/she is living with a school-age sibling who attends school in the district; or
4. the designated receiving school at the next grade level for any feeder school, where the child has completed the final grade in the feeder school.

Such schools include publicly-funded preschools administered by the district or the State Education Department (SED).

The homeless child is entitled to attend the designated school on a tuition-free basis for the duration of his or her homelessness. If the child becomes permanently housed, the child is entitled to continue attendance in the same school building until the end of the school year and for one additional year if that year constitutes the child’s terminal year in such building. If a homeless child completes the final grade level in his/her school of origin, the child may also attend the designated receiving school at the next grade level for all feeder schools.

The Superintendent of Schools shall develop procedures necessary to expedite the homeless child's access to the designated school. Such procedures shall include:

1. Admission: Upon designation, the district shall immediately admit the homeless child to school, even if the child is unable to produce records normally required for enrollment, such as previous academic records, medical or immunization records (however, the district may temporarily exclude a child from attendance if there are actual symptoms of a communicable disease that poses a significant risk of transmission to others), proof of age or residency or other documentation and even if there is a dispute with the child's parents regarding school selection or enrollment. During a dispute, the student may continue attending the school until final resolution of the dispute, including all available appeals. Homeless children will have the same opportunity as other children to enroll in and succeed in the district's schools. They will not be placed in separate schools or programs based on their status as homeless. The district shall eliminate barriers to identification, enrollment and retention of homeless children, including barriers to enrollment and retention due to outstanding fees, fines or absences.
2. Transportation: The district shall promptly provide transportation for homeless students currently attending district schools as required by applicable law, as described in the accompanying regulation. In general, the district shall ensure that transportation is provided to homeless students enrolled in the district who attend a school of origin, including a publicly funded preschool administered by the district or SED, even if the student lives outside the district's boundaries. Transportation shall be provided for the duration of homelessness, through the remainder of the school year in which the student becomes permanently housed, and one additional year if that is the student's final year in the school.
3. School Records: For homeless students attending school out of the district, the district shall, within five days of receipt of a request for records, forward a complete copy of the homeless child's records including proof of age, academic records, evaluation, immunization records and guardianship paper, if applicable. For homeless students attending school in the district, the district shall request the student's records (academic, medical, etc.) from the school the student last attended.
4. Coordination: The district shall coordinate with local social services agencies and other entities providing services to homeless children and their families for the provision of services to homeless children, and shall coordinate with other school districts on issues of prompt identification, transportation, transfer of records, and other inter-district activities. This shall include ensuring the provision of appropriate services to homeless students with disabilities who are eligible for services under either Section 504 or IDEA.

***NOTE:** The following paragraph reflects a requirement under ESSA regarding funding set-asides for assistance to homeless students (20 USC § 6313) starting with the 2017-18 school year.*

A portion of the district's Title I, Part A funds shall be set aside for homeless children and youth to provide educationally related support services and services not ordinarily provided to other students.

***NOTE:** The following paragraph reflects a requirement under ESSA and state law and regulation, as well as a reference to the policy on student records.*

## NYSSBA Sample Policy 5151

Information about a homeless child's living situation shall be treated as a student education record, and shall not be considered directory information under FERPA. See policy 5500, Student Records, for more information.

The Superintendent shall also designate a McKinney-Vento liaison for homeless children and ensure that this person is aware of, and able to carry out, his or her responsibilities under the law. The Superintendent shall ensure that the liaison receives appropriate professional development on identifying and meeting the needs of homeless students, including the definitions of terms related to homelessness. The liaison's responsibilities shall include, but not be limited to, ensuring that:

*NOTE: Under ESSA, the liaison's responsibilities are greatly expanded. Some duties are listed below, while other more detailed duties are added to the accompanying regulation.*

*Note also that while school districts were already required under McKinney-Vento to provide parents/guardians of homeless children with "meaningful opportunities to participate in the education of their children" (see item 1 below), under ESSA, state educational agencies (i.e., SED) are now required to evaluate the extent to which districts are doing so, in awarding federal funds under McKinney-Vento. In fact, ESSA specifically allows districts to use these funds for such purposes.*

1. parents or guardians of homeless children are informed of the educational and related opportunities available to their children, and are provided with meaningful opportunities to participate in the education of their children;
2. parents and guardians and unaccompanied youth are fully informed of all transportation services available to them, and are assisted in accessing them;
3. enrollment disputes involving homeless children are promptly mediated and resolved;
4. school personnel, through outreach and in coordination with shelters and social service agencies and other appropriate entities, identify homeless children, including homeless preschoolers;
5. homeless children receive educational services, including but not limited to Head Start and preschool services to which they are eligible, as well as referrals to health care and other appropriate services for homeless children and their families;
6. public notice of the educational rights of homeless children is disseminated in locations frequented by homeless unaccompanied youth and parents/guardians of homeless children, in a manner and form understandable to them;
7. staff who provide services to homeless students receive required professional development and support on identifying and meeting the needs of homeless students;
8. homeless unaccompanied youth are informed of their rights, are enrolled in school, and have opportunities to meet the same state standards set for all students, including receiving credit for full or partial coursework earned in a prior school pursuant to Commissioner's regulations.

## NYSSBA Sample Policy 5151

In accordance with law and regulation, the district will offer a prompt dispute resolution process (described in more detail in the accompanying administrative regulation). A student shall be entitled to continued enrollment in the district's schools, and transportation, pending resolution of the dispute and all available appeals.

In accordance with Commissioner's regulations, the district shall collect and transmit to the Commissioner information necessary to assess the educational needs of homeless children within the State.

Cross-ref: 5150, School Admissions  
5420, Student Health Services  
5500, Student Records

Ref: 20 USC § 6313(c)  
42 USC §§11431 et seq.  
McKinney-Vento Education for Homeless Children and Youth Program, 81 Fed. Reg. 14432-14436 (3/17/16)  
U.S. Department of Education, Education for Homeless Children and Youths Program, Non-Regulatory Guidance (7/27/16), <https://www2.ed.gov/policy/elsec/leg/essa/160240ehcyguidance072716.pdf>  
Education Law §§207; 305; 3202; 3205; 3209  
Executive Law §§532-b; 532-e  
Social Services Law §§17; 62; 397  
8 NYCRR §§100.2(x); 175.6

Adoption date:

**HOMELESS CHILDREN REGULATION**

***NOTE:** This regulation reflects state laws and regulations conforming to the federal Every Student Succeeds Act (ESSA), which amended the federal McKinney-Vento Homeless Assistance Act. We also use the term “McKinney-Vento liaison” instead of “homeless liaison” to reduce use of the term “homeless” which can be stigmatizing.*

Each school in the district shall maintain forms provided by the Commissioner of Education for designating a homeless child’s district of attendance. These forms must be immediately provided to any homeless child or parent or guardian who seeks to enroll a child in school. The district’s McKinney-Vento liaison for homeless students shall assist the homeless child and/or parent or guardian in understanding their rights under the law and provide them with information regarding the educational and related opportunities available to them.

School placement decisions for homeless children will be based on the “best interest of the child” and shall:

1. presume that keeping the child in the school of origin is in the child’s best interest, except when doing so is contrary to the wishes of the parent or guardian or unaccompanied youth; and
2. consider student-centered factors such as the effect of mobility on student achievement, education, health and safety of the child, giving priority to the wishes of the child’s parent or guardian or unaccompanied youth.

If the district determines that it is in the best interests of the student to attend a school other than the school of origin or a school requested by the parent or guardian, the Superintendent or designee shall provide the parent or guardian or unaccompanied youth with a written explanation of its decision, together with a statement regarding the right to appeal the placement, which shall be in a manner and form understandable to them. The Superintendent or designee shall refer any such dispute to the district’s McKinney-Vento liaison for resolution. The student must be enrolled in the school sought by the parent or guardian or unaccompanied youth and provided with requested transportation pending final resolution of the dispute, including all available appeals.

*Admission Procedures*

Upon identifying a student experiencing homelessness, the Superintendent of Schools or designee shall immediately:

## NYSSBA Sample Regulation 5151-R

1. ensure that a designation form is given to the parent or guardian or unaccompanied youth and review the designation form to ensure that it is complete;
2. admit the homeless child even if the child or his/her parent or guardian is unable to produce records normally required for enrollment, or the student has missed application or enrollment deadlines, or there is an unresolved dispute regarding eligibility, school selection or enrollment;
3. where applicable, make a written request to the school district where a copy of the child's records are located for a copy of the homeless child's school records;
4. notify the McKinney-Vento liaison of the child's admission. The liaison shall:
  - a. notify the child and/or the parent or guardian of the educational and related opportunities available to homeless children including transportation to the school of origin, and help arrange for transportation and other services such as those under Title I, Section 504, IDEA, and federal school meals;
  - b. ensure that the child receives the educational services for which they are eligible, including Head Start and Early Head Start, early intervention services, and preschool programs administered by the district;
  - c. make necessary referrals for the homeless children or their families to health care services, dental services, mental health services, substance abuse services, housing services, and other appropriate services;
  - d. ensure that any enrollment disputes are mediated promptly and in accordance with law;
  - e. when assisting unaccompanied youth in placement or enrollment decisions, give priority to the views of such youth, and inform them of their status as "independent students" for purposes of applying for federal financial aid for college and assist with that process; and
  - f. assist in obtaining required immunizations, health screenings, immunization records or health records.

The Superintendent or designee shall forward a copy of the designation form to the Commissioner of Education and the school district of origin where applicable.

### *Transportation*

Unless the homeless child is receiving transportation provided by the Department of Social Services, the district shall provide transportation services to the child in accordance with applicable law. Where the district is designated by the parent/guardian or unaccompanied youth, and the student attends the school of origin as defined in law described in the accompanying policy (including a publicly funded preschool administered by the district or the State Education Department), the district shall

## NYSSBA Sample Regulation 5151-R

provide transportation, even if transportation is not generally provided to permanently housed students and the student is residing outside the district's boundaries. A designated school district that must provide transportation to a homeless child is not required to provide transportation in excess of 50 miles one way, unless the Commissioner of Education determines that it is in the best interest of the child.

***NOTE:** The following paragraph clarifies the district's transportation responsibilities for homeless children.*

Transportation must be provided to the school of origin when the district receives notice of a child's homeless status, for the duration of the student's homelessness, as well as during the pendency of any disputes. Transportation must be provided to the receiving school as defined in Education Law §3209(1)(h) if the student is homeless over multiple school years. If a child becomes permanently housed during the school year, the student has the right to transportation services to the school of origin until the end of the academic year, as well as one additional year if it is the student's final grade level or terminal year in the building.

If the district recommends that a homeless child attend a summer educational program, and lack of transportation is a barrier to participation, the district shall provide transportation. The district shall provide transportation to extracurricular or school activities for homeless students eligible for such activities where lack of transportation is a barrier to participation.

### *Dispute Resolution Process*

If, after the Superintendent reviews the designation form, he/she finds that the student is either not homeless, not entitled to attend the district's school, or not entitled to transportation (if requested) the Superintendent or designee will do the following:

1. Contact the district's McKinney-Vento liaison to assist in dispute resolution process.
2. Contact the student and parent (if available) and inform them of their opportunity to provide more information prior to the district making a final determination.

If, after consideration of any additional information and input from the McKinney-Vento liaison, the Superintendent makes a final determination that a student is not homeless, or not entitled to enrollment or transportation, he/she must provide the student's parent or guardian, or the student, if the student is an unaccompanied youth, with written notice that the student is not entitled to their request. This written notice must also:

1. state the rationale/basis for the district's determination;
2. state the date as of which the student will be excluded from the district's schools (or transportation), which shall be at least 30 days from receipt of the written notice;
3. advise that the district's final determination may be appealed to the Commissioner of Education (Commissioner);

## NYSSBA Sample Regulation 5151-R

4. provide the name and contact information for the district's McKinney-Vento liaison;
5. inform the student's parent or guardian or the student, if the student is an unaccompanied youth, that the district's McKinney-Vento liaison is required to assist him/her in filing such an appeal; and
6. include, as an attachment, the form needed to file an appeal to the Commissioner.

The Superintendent must ensure that the district's final decision is delivered to the parent, guardian, or unaccompanied youth in a timely manner. The student must remain enrolled and provided with transportation (if requested) until the district provides written notice of its final determination and for a minimum of 30 days after receipt of the determination to give the student's parent or guardian or unaccompanied youth the opportunity to appeal to the Commissioner.

***NOTE:** ESSA requires that during disputes, students remain at the school being sought, and receive transportation, "pending final resolution, including all available appeals." State law mirrors that provision.*

If the parent/guardian or student commences an appeal to the Commissioner within 30 days of the final determination, the homeless child or youth will be permitted to continue to attend the school s/he is enrolled in at the time of the appeal and/or receive transportation to that school until the Commissioner renders a decision.

Adoption date: