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THE 100 MOST FREQUENTLY ASKED QUESTIONS
ON THE EDUCATION RIGHTS OF
CHILDREN AND YOUTH IN HOMELESS SITUATIONS¹

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Definitions/Identification

1. Do school districts have the responsibility to identify or locate children and youth experiencing homelessness?

A: Yes. Every school district must designate a liaison for children and youth experiencing homelessness. 42 U.S.C. §11432(g)(1)(J)(ii). The McKinney-Vento Act requires school district liaisons to ensure that “homeless children and youths are identified by school personnel and through coordination with other entities and agencies.” 42 U.S.C. §11432(g)(6)(A). The purpose of identification is to offer appropriate services to the family, child or youth. Coordination with schools and community agencies is an essential identification strategy, as are professional development, awareness and training activities within school buildings and school districts. Additional strategies are available at www.naehcy.org/IdentifyingStudents.pdf.

2. Is there any guidance on what “fixed, regular, and adequate nighttime residence” means?

A: The McKinney-Vento Act states that children and youth who lack “a fixed, regular, and adequate nighttime residence” will be considered homeless. 42 U.S.C. §11434A(2)(A). The Act does not define those terms. However, the following definitions may provide guidance:

(1) Fixed: Securely placed or fastened; Not subject to change or fluctuation. (Merriam-Webster’s Collegiate Dictionary, Tenth Edition.) A fixed residence is one that is stationary, permanent, and not subject to change. (e.g., Arizona, Massachusetts and Michigan McKinney-Vento State Plans, 2002.)

(2) Regular: Normal, standard; Constituted, conducted, or done in conformity with established or prescribed usages, rules, or discipline; Recurring, attending, or functioning at fixed or uniform intervals. (Merriam-Webster’s Collegiate Dictionary, Tenth Edition.) Consistent. (Ballentine’s Law Dictionary, 3rd Edition.) A regular residence is one which is used on a regular (i.e., nightly) basis. (e.g., Arizona, Massachusetts and Michigan McKinney-Vento State Plans, 2002.)

(3) Adequate: Sufficient for a specific requirement; Lawfully and reasonably sufficient. (Merriam-Webster’s Collegiate Dictionary, Tenth Edition.) Fully sufficient; Equal to what is

required; Lawfully and reasonably sufficient. (Ballentine's Law Dictionary, 3rd Edition.) An adequate residence is one that is sufficient for meeting both the physical and psychological needs typically met in home environments. (e.g. Arizona, Massachusetts and Michigan McKinney-Vento State Plans, 2002.)

International law defines adequate as follows:

"Adequate shelter means ... adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities - all at a reasonable cost."

International Covenant on Economic, Social and Cultural Rights, General Comment 4, paragraph 7 (1991), citing Commission on Human Settlements and the Global Strategy for Shelter to the Year 2000.

3. Is there a time limit on how long a child or youth can be considered homeless?

A: No, there is no specific time limit on homelessness. Whether a child or youth meets the definition of homelessness depends upon the living situation and the individual circumstances. It is a case-specific inquiry. Due to the extremely limited incomes of most families experiencing homelessness (on average, less than half the federal poverty line) and the severe shortage of affordable housing across the country, experiences of homelessness can sometimes last an extended period of time.

4. Are children and youth who live in trailer homes or trailer parks covered by the Act?

A: Under some circumstances, yes. Under the McKinney-Vento Act, children and youth who live in trailer parks are covered by the Act if they live in the trailer park "due to the lack of alternative adequate accommodations." 42 U.S.C. §11434A(2)(B)(i)

housing programs are covered by the McKinney-Vento Act. Bullock v. Board of Education of Montgomery County, Civ. A. DKC 2002-0798 (D. Md.), memorandum decision filed November 4, 2002.

7. To what extent are children awaiting foster placement covered by the McKinney-Vento Act?

A: The McKinney-Vento Act specifically covers children awaiting foster care placement. 42 U.S.C. §11434A(2)(B)(i). However, the Act does not define that phrase. Before attempting to apply the McKinney-Vento Act to children and youth in state custody, educators and advocates should consult their state laws, regulations and policies (both education and social services) to see if they contain authority for keeping foster children in their schools of origin, providing transportation, and/or requiring immediate enrollment. State or local social services officials and child welfare attorneys will have access to social services laws and policies.

When interpreting the McKinney-Vento Act phrase “awaiting foster care placement,” state coordinators and school district liaisons should collaborate with state and local social services agencies to advocate for educational services that support the educational needs of individual students. Generally speaking, the definition must apply to children and youth “who

10. What are a district's responsibilities for advising families about their rights if families do not identify or consider themselves as homeless?

A: Families and youth in homeless situations frequently will not identify themselves as such. This may be due to the stigma and prejudices associated with homelessness or because the youth or family does not recognize that the living situation would be considered a homeless situation under the McKinney-Vento Act. Indeed, most families and youth are likely unaware of the McKinney-Vento Act. Therefore, schools must ensure that families and youth are aware of the Act, who it covers, and what it provides. 42 U.S.C. §§11432(g)(6)(A)(i), (iv). The Act requires school districts to disseminate public notice of the education rights of children and youth in homeless situations where such children and youth receive services, such as schools, family shelters, and soup kitchens. 42 U.S.C. §11432(g)(6)(A)(v). Identification and outreach techniques must be administered sensitively and without stigma, to create an environment in which families, children and youth will be comfortable seeking support. Once a school has sensitively and discretely explained the rights available under the McKinney-Vento Act, families or youth may choose not to take advantage of McKinney-Vento services, at their discretion. Strategies for identification, creating awareness, and disseminating notice are available at www.naehcy.org/IdentifyingStudents.pdf.

11. Does the family's/youth's income affect whether they are covered by the Act?

A: Generally, no. The Act's definition of homelessness centers on the student's living arrangement. There are no specific income limits in the definition. Income is vaguely referenced in the context of children and youth "sharing the housing of others due to loss of housing, economic hardship, or a similar reason." Therefore, in determining whether shared housing meets the Act's definition, it may be appropriate to consider the family's or youth's financial resources. 42 U.S.C. §11434A(2)(B)(i). Statistically, the mean income of families experiencing homelessness is less than half the federal poverty line.

12. Is there any procedure in place to prevent families who have permanent housing from claiming to be homeless just to obtain McKinney-Vento services?

A: Yes. Every school district must designate a liaison for students experiencing homelessness. 42 U.S.C. §11432(g)(1)(J)(ii). One of the liaison's duties is to identify children and youth who meet the statutory definition of homeless. 42 U.S.C. §11432(g)(6)(A)(i). School districts must enroll students experiencing homelessness immediately. If, after enrollment, it is determined that a student is not homeless as defined in the law, school districts should follow the policies that are in place to address other forms of fraud. Written notice should be given to the parent, guardian, or youth, including his or her right to appeal the decision. Over the past 17 years, documented cases of families falsely claiming to be homeless have been extremely rare; the few cases that have been documented were resolved quickly at the district level.

13. Does the McKinney-Vento Act's definition of homelessness in the education provisions (Education for Homeless Children and Youths) also qualify the family or youth to access services from other agencies (i.e. housing, food assistance, etc.).

A: At this time, the education definitions apply only for educational purposes. The U.S. Department of Housing and Urban Development (HUD) and ol has

access HUD Emergency Shelter Grant services for homeless persons. However, these families can access HUD funds that are targeted to low-income individuals. Educators and advocates should approach their HUD Continuums of Care to seek such funding and support. In fact, the McKinney-Vento Act requires states and school districts that receive McKinney-Vento funds to coordinate with state and local housing agencies and other service providers to minimize educational disruption for children and youth who become homeless. 42 U.S.C. §11432(g)(5).

14. Are migrant students covered by the McKinney-Vento Act?

A: Yes, migrant students are covered by the Act if they are living in a homeless situation. 42 U.S.C. §11434A(2)(b)(iv). More information on applying the Act to migrant students is available at www.naehcy.org/issuebriefs.html.

15. Can a district refuse to enroll undocumented immigrants who have no proof of guardianship?

A: No, not if they are covered by the McKinney-Vento Act. Undocumented students have the same right to public education as U.S. citizens. Plyler v. Doe, 457 U.S. 202 (1982). Therefore, the McKinney-Vento Act applies to them in the same way it would apply to any student: if the student meets the definition of homeless, he or she must be enrolled in school immediately, even if lacking proof of guardianship. The McKinney-Vento Act does not apply to immigrant students who live in a fixed, regular and adequate residence.

Liaisons generally

16. Does every school district have to have a liaison?

A: Yes. The McKinney-Vento Act requires every local educational agency to “designate an appropriate staff person” to serve as liaison. 42 U.S.C. §11432(g)(1)(J)(ii).

17. What are the liaison’s duties?

A: The McKinney-Vento Act specifies the duties of liaisons, as follows: identify homeless children and youth; ensure that children and youth experiencing homelessness enroll in, and have a full and fair opportunity to succeed in, school; ensure that families, children and youth receive educational services for which they are eligible, including Head Start, Even Start and other public preschool programs, and referrals to health care, dental, mental health and other appropriate services; inform parents and guardians of the educational and related opportunities available to their children and provide them with meaningful opportunities to participate in that education; disseminate public notice of educational rights; ensure that enrollment disputes are mediated; inform families and youth about transportation services and assist them in accessing transportation. Many resources are available to assist liaisons in accomplishing these duties,

For transportation, if two districts are involved, they must agree upon a method to apportion the cost and responsibility of transportation, or split it equally. States should develop a system to assist with inter-district transportation issues, including disputes between districts regarding apportioning costs and responsibility. The state attorney general's office may also be able to assist. Establishing inter-district transportation procedures and formalized agreements will be essential to ensure that transportation is arranged quickly for students. (See also Question 28.)

Transportation

26. Under what circumstances must a school district provide transportation to school for students experiencing homelessness?

A: The McKinney-Vento Act requires school districts to provide transportation for students experiencing homelessness in three situations. First, school districts must provide transportation to the school of origin upon the request of a parent or guardian, or in the case of an unaccompanied youth, at the request of the school of origin. 42 U.S.C. §11432(g)(1)(s) (require liaison) true regardless of whether the district provides transportation for other students or in other circumstances. Second, for other transportation (as opposed to the school of origin), the McKinney-Vento Act requires districts to provide transportation comparable to that provided to housed students. 42 U.S.C. §11432(g)(4)(A). Therefore, if the district transports housed students to the local school or to a summer program, it must also transport students experiencing homelessness. Finally, school districts must eliminate barriers to the school enrollment and retention of students experiencing homelessness. For example, if a student is living on or near an extremely busy intersection, in a very dangerous neighborhood, or is otherwise unable to attend school without transportation, the district must eliminate lack of transportation as a barrier to the child attending school. 42 U.S.C. §§11432(g)(1)(l), (g)(7).

27. How far is too far to travel to the school of origin? What if my state has established a general limit on all school transportation of one hour or 30 miles?

A: The McKinney-Vento Act does not specify any mileage or time limit for travel to the school of origin. The Act requires school districts to provide transportation to the school of origin at the request of a parent or guardian or, for unaccompanied youth, at the liaison's request. 42 U.S.C. §11432(g)(1)(j)(iii). Therefore, whenever a student is attending the school of origin, transportation is required. (See Question 18.) A commute so lengthy as to be harmful to the child's educational achievement will weigh against placement in the school of origin. This determination will depend on the student's circumstances. For example, a lengthy commute that may not be harmful to the child before, the child may be harmed by the commute.

42 U.S.C. §§11432(g)(3)(C), 11434A(1). Establishing inter-district transportation procedures will be essential to ensure that transportation is arranged quickly for students. (See also Question 22.)

29. If a student is crossing district lines to remain at the school of origin, which district has primary responsibility to arrange and fund the transportation?

A: The McKinney-Vento Act first gives school districts and states the ability to agree upon a method to apportion cost and responsibility. The Act further states that in the absence of agreement, the two districts must apportion cost and responsibility equally. 42 U.S.C. §11432(g)(1)(J)(iii). However responsibility is divided, students must be provided with transportation without delay. In practice, states may wish to designate either the district of origin or the district of residence as the lead agency, to avoid any delays in initiating services while such disagreements are resolved. Any such delays would violate the McKinney-Vento Act's requirement that students be immediately enrolled in the selected school.

30. When two states are involved in a dispute regarding provision of transportation and either state absolutely refuses to pay any of the cost, is there a provision for a federally-enforced resolution?

A: The states may call the USDE for technical assistance in resolving the dispute. The state attorney general's office also may be able to assist. States may have policies about shared fiscal responsibilities. The possibility of nonpayment does not affect districts' obligations to provide transportation. Inter-state disputes cannot delay the immediate enrollment (defined as attending classes and participating fully in school activities) of children in the school selected. 42 U.S.C. §§11432(g)(3)(C), 11434A(1). Establishing inter-state transportation procedures will be essential to ensure that transportation is arranged quickly for students. Communication among the involved State Coordinators and liaisons can facilitate the provision of services.

31. Can a school district pay parents to transport their children?

A: Yes. School districts may reimburse parents or youth who have cars and are able to provide transportation, as a cost-effective means to meet the district's obligation.

32. Does providing or arranging for transportation mean any .0 1Tf (res270 2326 Tob.)ca4milar tety6 w53q 0.1

cannot present a barrier to the child's attendance in school. 2003 Guidance, p. 16; 42 U.S.C. §§11432(g)(1)(I), (g)(7).

34. If a district doesn't offer transportation to summer school for any students, does it have to provide summer school transportation for students in homeless situations?

A: Generally, no. The McKinney-Vento Act requires schools to provide comparable transportation services for students in homeless situations. If the school does not provide transportation to summer school for housed students, then it is generally not required to provide transportation to homeless students. However, if attendance in summer school is required for the student to pass to the next grade, and lack of transportation will prevent the child from participating, that presents a barrier to the student's academic success. The district must remove that barrier, so the student can avoid being retained in the same grade. 42 U.S.C. §§11432(g)(1)(I), (g)(7).

35. Is transportation required while a dispute is being resolved?

A: Yes, to the extent it would be required if there were no dispute. (See Question 28.) While disputes are pending, students must be enrolled in the school in which they are seeking enrollment. If that school is the school of origin, the school district(s) involved must provide transportation. 2003 Guidance, p. 18; 42 U.S.C. §11432(g)(1)(J)(iii). If that school is the local school, transportation must be provided to the extent it is provided to housed students, and to the extent necessary to ensure it is not a barrier to attendance. 42 U.S.C. §§11432(g)(1)(I), (g)(4), (g)(7). These provisions apply whether the dispute is about school enrollment, school selection, or whether the child or youth is homeless under the McKinney-Vento Act.

36. If a student's temporary housing is across state lines from the school of origin, is transportation still required?

A: Yes. Since the McKinney-Vento Act is a federal law, it applies as in any other situation. Therefore, if the student is attending the school of origin, transportation must be provided at the parent's/guardian's request or at the liaison's request, in the case of an unaccompanied youth. Communication among the involved State Coordinators, liaisons and transportation directors can facilitate the provision of transportation. (See Question 22.)

37. Our state legislature is considering a bill that would require school districts to transport students only in official school vehicles. How would this interact with McKinney-Vento's transportation requirements?

A: Such a state law would not violate the McKinney-Vento Act. School districts would still have to continue to provide transportation to the school of origin at the request of parents, guardians, or liaisons (in the case of unaccompanied youth), while complying with the new state transportation law.

Immediate Enrollment and Attendance

38. How "immediate" is immediate enrollment?

A: The McKinney-Vento Act requires schools to enroll students experiencing homelessness

same procedures used to protect unimmunized children can be used to protect students whose immunization records have not yet been obtained.

42. If we enroll a student who is homeless without requiring school records, how do we know the child was not suspended or expelled from the previous school?

A: The enrolling school must immediately admit the student and must contact the previous school for records. 42 U.S.C. §§11432(g)(3)(C), (D). If the records cannot be transmitted immediately, the enrolling school can speak with staff from the previous school to get basic information about the student. Former teachers, counselors and administrators should be able to provide this information.

43. Can the previous school transfer records to the new school without a parent's signature?

A: Yes. The Federal Education Rights and Privacy Act (FERPA) is a federal law that protects the privacy of educational records. Generally, FERPA requires schools to have written permission from a parent before releasing any information from a child's records. However, FERPA allows schools to release records without a parent's permission to schools to which a student is transferring. 20 U.S.C. §1232g. There are additional exceptions to FERPA's requirement for a parent's permission from a child's records.

zero tolerance rules address the realities of homelessness and not create a barrier to enrollment and retention in school.

47. If a student in a homeless situation seeks enrollment in an alternative school that does not enroll students until April (and it is now January), what may the liaison do to ensure that the student receives appropriate services?

A: Youth in homeless situations are entitled to immediate enrollment in the school of origin or "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." 42 U.S.C. §§11432(g)(3)(A), (C). Therefore, if the alternative school serves other youth living in the same attendance area, and the youth meets the attendance criteria for the alternative school, he must be allowed to enroll. Limits on enrollment timing conflict with the immediate enrollment requirement of the McKinney-Vento Act and are superseded by the Act. Furthermore, states and school districts must remove barriers to the enrollment and retention of homeless children and youth in schools. 42 U.S.C. §§11432(g)(1)(I), (g)(7). This enrollment schedule presents a barrier to enrollment and retention of a youth experiencing homelessness in school, and so should be revised to create an exception for youth experiencing homelessness, who meet the attendance eligibility criteria, but enter the district between enrollment periods.

48. How should a school handle the enrollment of a youth in a homeless situation who was recently involved in a criminal act?

A: It is inappropriate to suspect runaway youth of criminal pasts, and it violates the McKinney-Vento Act to require proof of good standing prior to enrollment. 42 U.S.C. §§11432(g)(3)(C). Nevertheless, it is important for the school district liaison to gather as much information as possible about the youth's background for the primary purpose of obtaining appropriate services. If the liaison discovers that the youth has been involved in criminal activity, district policies relating to students with a criminal background would take effect.

49. What if a child has been abducted? If the enrolling school does not require proof of guardianship, how will abducted children be found?

A: The provisions of the McKinney-Vento Act requiring immediate enrollment are even more important in a case of child abduction. If there is legitimate cause for concern, the school should immediately contact the police, children's protective services, or if possible, the student's parents, consistent with state law. While law enforcement and/or children's protective services are conducting their investigations, the safest place for the student is school, rather than isolated with a potential abductor. It is advisable to involve the school counselor or social worker, who can closely monitor the situation.

50. Must school districts publicize information about the McKinney-Vento Act?

A: Yes. Liaisons must make sure that families are aware of the educational and related opportunities available to their children (including transportation) and must post public notice of the education rights of children and youth in homeless situations. 42 U.S.C. §§11432(g)(6)(A)(iv), (v), (vii). Posters, such as the ones provided by the U.S. Department of Education (available at www.serve.org/nche) and other readable information translated into languages represented in the community must be placed where homeless families and youth receive services. To comply with the McKinney-Vento Act, the district should train all school

enrollment staff, secretaries, school counselors, school social workers, and principals on the legal requirements for enrollment. School nutrition staff, school nurses, teachers, and bus drivers should receive training on homelessness that is specific to their field. For example, school nutrition staff should be knowledgeable about the provisions regarding free lunch under the federal school breakfast and lunch programs (see Question 73). The training should take place on a yearly basis to address staff turnover. This information should be provided in writing, as in a district handbook.

Issues Facing Youth

51. How does the McKinney-Vento Act define “unaccompanied youth”? Is there an age range?

A: Unaccompanied youth is defined as a youth not in the physical custody of a parent or guardian. 42 U.S.C. §11434A(6). The Act does not provide an age range.

52. Is there an age limit on serving secondary students?

A: The McKinney-Vento Act applies to children and youth age 21 and under, consistent with their eligibility for public education services under state and federal law. 2003 Guidance, p. 27. State laws vary, but generally provide access to all students until high school graduation or equivalent, or until age 18 (or over in some states). For special education students, federal law provides the right to access services until age 22. 20 U.S.C. §1412(a)(1)(A).

53. Must schools enroll youth in school without proof of guardianship?

A: Yes. Lack of guardianship papers cannot delay or prevent the enrollment of an unaccompanied youth in school. McKinney-Vento Act requires schools to enroll all youth in school without proof of guardianship.

enrollment and retention and to enroll unaccompanied youth in school immediately. 42 U.S.C. §§11432(g)(1)(I), (g)(7). School districts may adopt their own policies to meet these mandates. It should be noted that the Individuals with Disabilities Education Act (IDEA) has its own rules and procedures for appointing a “surrogate parent” to make special education decisions for minors, where a parent or legal guardian is not available (see Question 90).

56. Do schools have to contact the police when enrolling unaccompanied youth?

A: State law determines the obligation of a school liaison or service provider concerning unaccompanied youth. The McKinney-Vento Act requires schools to enroll unaccompanied youth in school immediately. 42 U.S.C. §11432(g)(3)(C). Since the Act requires school districts and states to eliminate barriers to enrollment and retention in school, schools should exercise care and concern when contacting social services or law enforcement agencies. 42 U.S.C. §§11432(g)(1)(I), (g)(7). Liaisons should work with police and social services to keep the youth in school and to serve the student's best interest, recognizing that most unaccompanied youth have fled abuse or severe dysfunction in their homes (see Question 58). In many cases, unaccompanied youth will be in the care of an adult, and there will be no reason to suspect neglect or abuse. It is likely that state mandatory reporting laws would not require contacting police in such cases. However, if school personnel have a reasonable suspicion of child abuse, state law may require staff to contact local social services or police. If this is the case, a liaison or school counselor should work with the youth to support him or her and avoid casting the school as an agent of punishment. Where state law provides a choice, as most do, schools should contact social services rather than the police. Social services agencies should have the training and facilities to respond more appropriately to such reports.

57. What if an unaccompanied youth gets injured in school? How will the child receive medical care without a parent? Will the school be liable?

A: If an unaccompanied youth has a medical emergency, the school can contact the local emergency room. Medical professionals should be familiar with the rules to treat minors and will respond appropriately to medical emergencies. Liability for injuries is based on a party's failure to exercise reasonable care. By exercising reasonable care in creating a safe environment and responding appropriately to medical emergencies, the school can help protect itself from liability. In any event, such concerns do not relieve the school of its responsibilities under the McKinney-Vento Act. Indeed, if a school violates the Act by refusing to enroll an unaccompanied youth in school, and the youth is subsequently injured off school grounds, the school could face liability for having turned the youth away. As state laws vary regarding the rights of minors to receive medical care without a parent or guardian, liaisons and other advocates may wish to contact the Center on Adolescent Health and the Law (www.cahl.org) or state/local resources for more information.

58. If runaway youth would just clean their rooms and turn down their music, they could live at home; why should we encourage their bad behavior?

A: Most runaway youth, especially those who are on the streets a significant length of time, have fled from abusive homes for their own survival. Some leave home without a parent's permission; others are forced out of their homes by their parents or guardians. Studies of unaccompanied youth have found that 20 to 50 percent were sexually abused in their homes,

www.nlchp.org/content/pubs/Youth%20Legal%20Tools.pdf. 20 C.F.R. §664.200; 29 U.S.C. §2884(3)(C); Job Corps Policy Requirements Handbook; 29 U.S.C. §2801(25).

61. How can the Runaway and Homeless Youth Act help unaccompanied youth?

A: The Runaway and Homeless Youth Act can help youth in many ways. First, it contains a Basic Center Program that supports emergency shelters for up to 15 days for unaccompanied youth under 18 years old. Second, the law supports Transitional Living Programs for youth, which provide long-term housing for up to 18 months and life skills for youth 16-21 years old. Third, the law contains a Street Outreach Program to provide outreach and services to youth on the streets. Lastly, the law funds the National Runaway Switchboard, trainings for youth workers, and other information and supports. Runaway and Homeless Youth Act programs are required to provide youth with information about the McKinney-Vento Act and to collaborate with their local school district liaisons. For more information about this program, download “Legal Tools to End Youth Homelessness” from www.nlchp.org/content/pubs/Youth%20Legal%20Tools.pdf. 42 U.S.C. §§5701 et seq.; 42 U.S.C. §5712(b)(3); 45 C.F.R. §1351.18(e).

Disputes and Enforcement

62. Does the McKinney-Vento Act contain procedures for resolving disputes?

A: Yes. The McKinney-Vento Act requires each state to establish its own procedures to resolve disputes promptly. 42 U.S.C. §11432(g)(1)(C). The Act requires schools to admit students immediately to the school in which they are seeking enrollment, until the dispute is resolved. 42 U.S.C. §11432(g)(3)(E). The school must provide a written explanation of its decision, including information about the right to appeal. 42 U.S.C. §§11432(g)(3)(B)(iii), (g)(3)(E). The school must then refer the student, parent, or guardian to the district liaison, who must carry out the dispute resolution process as quickly as possible. 42 U.S.C. §11432(g)(3)(E).

63. Does the district liaison have to be the person listening to the grievance procedure?

A: No, although it is considered a good practice. The McKinney-Vento Act requires every state to develop a procedure to promptly resolve disputes. 42 U.S.C. §11432(g)(1)(C). Therefore, the state can determine the specifics of the dispute resolution process. The liaison does not have to be the person listening to the grievances; however, liaisons are required to carry out the dispute resolution process, making sure that families and youth are aware of their rights to appeal and are able to access the dispute process. 42 U.S.C. §11432(g)(3)(E).

64. Does the state need to be involved in resolving disputes?

A: Yes. The McKinney-Vento Act requires states to ensure that school districts comply with the Act. 42 U.S.C. §§11432(f)(6), (g)(2). Without a role in dispute resolution, the state will not be able to ensure compliance. Further, the U.S. Department of Education has outlined dispute resolution procedures which include a state-level appeal. 2003 Guidance, p. 15. Allowing school districts to resolve disputes without state involvement and oversight would allow barriers to school enrollment and retention to arise, in violation of the McKinney-Vento Act. 42 U.S.C. §§11432(g)(1)(I), (g)(7). Finally, state involvement early in the dispute process will be important when inter-district issues arise.

65. Must school districts provide transportation during disputes?

A: Yes, to the extent it would be required if there were no dispute. (See Question 35.) While disputes are pending, students must be enrolled in the school in which they are seeking enrollment. If that school is the school of origin, the school district(s) involved must provide transportation. 2003 Guidance, p. 18; 42 U.S.C. §11432(g)(1)(J)(iii). If that school is the local school, transportation must be provided to the extent it is provided to housed students, and to the extent necessary to ensure it is not a barrier to attendance. 42 U.S.C. §§11432(g)(1)(I), (g)(4), (g)(7). These provisions apply whether the dispute is about school enrollment, school selection, or whether the child or youth is homeless under the McKinney-Vento Act.

66. Does the McKinney-Vento Act apply to schools that are not receiving its funding?

Yes, the McKinney-Vento Act applies to every local educational agency in every state. As with most education laws, the Act applies to states receiving the federal funds.

67. If a school district does not follow the law, is there a penalty?

A: Yes. States are required to ensure that school districts in the state comply with the McKinney-Vento Act. 42 U.S.C. §§11432(f)(6), (g)(2). Therefore, the state can sanction noncompliant school districts by withholding federal funds or other means. Families can also sue school districts in state and/or federal court. Several lawsuits have been filed under the McKinney-Vento Act, including lawsuits in Illinois, Maryland, Alabama, and New York. As a result, school districts have been forced to change their policies and practices and pay significant attorney fees. In addition, the U.S. Department of Education monitors state and school district compliance with the McKinney-Vento Act and could withhold or require repayment of federal funds in cases of noncompliance.

Barriers to Academic Success

68. Does the requirement for immediate enrollment include enrollment in optional enrichment programs, extended-day programs, and other supplemental services?

A: Yes. Enrollment is defined to include attending classes and participating fully in school activities. 42 U.S.C. §11434A(1). Enrichment programs and other supplemental services are school activities. Furthermore, liaisons are required to ensure that children and youth in homeless situations have a full and fair opportunity to succeed in school. 42 U.S.C. §11432(g)(6)(A). Enrichment programs clearly support that requirement. To the extent that individual students experiencing homelessness can benefit from such programs, they must be provided access to the programs.

69. Should students in homeless situations be exempt from attendance rules for participating in school sports (for example rules requiring attending school for a semester before being eligible for sports at that school)?

A: Yes. The McKinney-Vento Act requires states and school districts to eliminate barriers to school enrollment and retention for children and youth experiencing homelessness. 42 U.S.C. §§11432(g)(1)(I), (g)(7). Enrollment is defined as attending school and participating fully in

school activities. 42 U.S.C. §11434A(1). Sports and other extra-curricular activities are school activities. Courts have determined that school athletic associations are generally considered to be part of the state, due to their close relationship with the state. Therefore, athletic associations must comply with the McKinney-Vento Act's requirement to remove barriers, by exempting homeless students from sports participation rules that students cannot meet due to their homelessness and mobility, such as attendance rules.

70. What if children experiencing homelessness cannot pay fees associated with extra-curricular activities, such as club dues, sports uniforms, etc.?

A: Again, barriers to full participation in school must be eliminated. 42 U.S.C. §§11432(g)(1)(I), (g)(7). Fees for extra-curricular activities should be waived, or paid with other funds (such as McKinney-Vento funds or Title I, Part A funds).

71. If a youth has not been in a school and tries to enroll mid-semester, what obligation does the school have to enroll the student and give him/her credit for the work they do in the remainder of the semester?

A: The McKinney-Vento Act requires the school to enroll the student immediately. 42 U.S.C. §§11432(g)(3)(C). The Act also requires the school district to remove barriers to the student's retention in school. 42 U.S.C. §§11432(g)(1)(I), (g)(7). Since the inability to earn any credit is a disincentive to remaining in school, the school must address that problem. The school must make any necessary adjustments to the student's schedule to permit the student to obtain partial or pro-rated credit for his or her work.

72. Is there any obligation to provide education services to a student who is homeless and is expelled from school due to behavior?

A: Student discipline and expulsion rules apply to students in homeless situations in the same way they apply to housed students. However, schools must be careful not to discipline or penalize students for behavior related to their homelessness. For example, a school district policy that issues suspensions for multiple absences must excuse absences caused by homelessness. The failure to provide such exemptions would create a barrier to the retention in school of students experiencing homelessness, in violation of the McKinney-Vento Act. 42 U.S.C. §§11432(g)(1)(I), (g)(7).

73. Can students who are homeless receive free school meals without documenting income? equires the school district to remove barriersij Er9hool dit requ_te912 Tm /yh345 2h

A: To the extent that such services are available at school, children experiencing homelessness must have access to them. 42 U.S.C. §11432(g)(4). Outside of school, liaisons are required to provide referrals for health, mental health, dental, and other appropriate services in the community. 42 U.S.C. §11432(g)(6)(A)(iii). "Other appropriate services" may include housing,

Segregation

79. In a situation where students stay at a shelter for only a short period of time, can a district provide a teacher to teach at the shelter?

A: No. The McKinney-Vento Act prohibits segregating students experiencing homelessness in shelter classrooms, separate schools, or separate programs within a school. 42 U.S.C. §11432(e)(3)(A). No public funds can support separate education for homeless students, for any period of time. Students experiencing homelessness must be immediately enrolled in either the

A: The McKinney-Vento Act does not apply to schools that are entirely privately funded.

if the distance is such that the commute would be more detrimental than changing schools would

A: The new school must provide a free, appropriate public education for the student. Under IDEA, the new school must hold a meeting with the parents to adopt the previous IEP or create a new IEP. However, until the meeting takes place, the school should implement the previous IEP, to provide appropriate services and avoid disruption in the child's education and the school. If the previous school was in the midst of developing an IEP but hadn't finished it, the new school

A: Every school district that receives Title IA funds is required to set aside a portion of its allotment to provide comparable services to homeless students attending schools that do not receive Title IA services. 2003 Guidance, p. 24; 20 U.S.C. §6313(c)(3). For example, Title IA funds frequently serve elementary school students. The mandatory set-aside ensures that middle and high school students experiencing homelessness in those districts receive Title IA services.

92. Is there a formula for calculating Title I, Part A set-asides?

A: No, there is no mandated formula for Title IA set-asides. However, the set-aside must be sufficient to provide "comparable services" to students attending non-participating schools. 2003 Guidance, p. 24; 20 U.S.C. §6313(c)(3). Therefore, the set-aside must be based on the number and needs of children and youth experiencing homelessness in the school district. Some states have established statewide guidelines for determining set-aside amounts and have found it beneficial. Some possible methods to calculate the set-aside include: (1) identify and assess the needs of students in homeless situations in the district, and set aside funds accordingly; (2) multiply the number of identified students experiencing homelessness by the Title IA per-pupil allocation; (3) for districts with a McKinney-Vento subgrant, reserve an amount greater than or equal to the district's McKinney-Vento funding request; (4) reserve a specific percentage based on the district's poverty level or total Title IA allocation. (Calculation methods taken from: "Four Methods for Determining New Mandatory Title I, Part A Set-Aside for Homeless Children." *NCLB Financial Compliance Insider*)

the core services provided by public schools, and services that schools are required to provide even in the absence of Title I funding.

96. How must a school district plan for serving children experiencing homelessness under Title I, Part A?

A: For a school district to receive Title IA funds, its Title IA plan must describe the services the

National Coalition for the Homeless fact sheets

(www.nationalhomeless.org/facts.html)

National Low Income Housing Coalition, Out of Reach 2004

(www.nlihc.org/oor2004/)

Urban Institute, Homelessness: Programs and the people they serve, 12/99

(www.urban.org/Template.cfm?Section=ByTopic&NavMenuID=62&TopicID=189&TopicName=Homelessness)

100. Where can I find research on the effects of school mobility on academic achievement?

A: There is a growing body of research on this topic. The National Center for Homeless Education (NCHE) has conducted a review of the literature on this topic and is currently conducting a school stability study. Contact NCHE at (800) 308-2145 for more information. The following bibliography is a small sampling of what has been published:

-- Craig, Virginia, "A Report from the Kids Mobility Project," Kids Mobility Project (1998) (612-375-9644).

-- Fowler-Finn, Thomas, "Student Stability vs. Mobility," *The School Administrator* 36 (August 2001)

-- Heinlein, Lisa Melman and Marybeth Shinn, "School Mobility and Student Achievement in an Urban Setting," *37 Psychology in the Schools* 349 (2000).

--Jacobson, Linda, "Moving Targets," *20 Education Week* 32 (2001).

- "Student Mobility: How Some Children Get Left Behind," *Journal of Negro Education* Special Issue (Winter 2003).
- Texas Education Agency, "A Study of Student Mobility in Texas Public Schools," Statewide Texas Educational Progress Study Report No. 3 (1997).
- Williams, Debra, "Kids, Schools Suffer from Revolving Door," *Catalyst: Voices of Chicago School Reform* (April 1996).
- Wood, David, et al. "Impact of Family Relocation on Children's Growth, Development, School Function, and Behavior," 270 *Journal of the American Medical Association* 1334 (1993).