

NEW JERSEY HOMELESS EDUCATION FREQUENTLY ASKED QUESTIONS

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

Answer: No, there is no specific time limit on homelessness. Homelessness is not confined to a school year. 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.

- NJ Shifts financial responsibility after 12 months, but homeless can continue until the situation is resolved

2. How long can a student attend his or her school of origin?

Answer: Students have the right to remain in the school of origin for the duration of homelessness, if it is their best interest, even if the child's homelessness extends over multiple school years. In addition, if a student moves into permanent housing during the school year, the student can finish that academic year in the school of origin. 42 U.S.C. §11432(g)(3)(A)(II).

- New Jersey the financial responsibility shifts when permanently housed if the student is staying in the district of origin
- N.J.A.C. 6A:17-2.3(c) The district board of education identified in accordance with N.J.S.A. 18A:7B-12 as the school district of residence for a homeless child shall be the school district of residence until the parent establishes a permanent residence. Financial responsibility will remain with the homeless child's school district of residence until the family is deemed domiciled in another jurisdiction, pursuant to N.J.S.A. 18A:38-1.d.
- N.J.S.A. 18A:38-1(d) Any person whose parent or guardian, even though not domiciled within the district, is residing temporarily therein, but any person who has had or shall have his all-year-round dwelling place within the district for one year or longer shall be deemed to be domiciled within the district for the purposes of this section;
- Examples

Examples:

- Homeless 1/1/16 in District A, student attends District A, living in District B
 - Permanently housed in District B 11/1/16 (10 months) – Still attending District A
 - District B would have assumed fiscal responsibility 1/1/17 (one year deemed domiciled)
 - District B is responsible for Tuition and Transportation until the end of the 2016-2017 school year
 - For 2017-2018 student will attend District B

3. In the event that a child's temporary housing is located in a different LEA from the school of origin, which district is financially responsible for the child's education?

Answer: The McKinney-Vento Act does not address the cost of educating the child (for transportation costs, see the following paragraph). States may have policies about shared fiscal responsibilities. However, the possibility of nonpayment does not affect LEAs' obligations to provide education and transportation and continued compliance with McKinney-Vento. Inter-district disputes cannot delay the immediate enrollment (defined as attending classes and participating

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fully in school activities) of children in the school selected. If there are no state policies to address fiscal responsibility, it may be reasonable for the district receiving state and federal funds for the student to retain financial responsibility.

For transportation, if two LEAs are involved, the McKinney-Vento Act states that the LEAs must agree upon a method to apportion the cost and responsibility of transportation, or split it equally. 42 U.S.C. §11432(g)(1)(J)(iii). States should develop policies and procedures to assist with inter-district transportation issues, including disputes between districts regarding apportioning costs and responsibility

- N.J.A.C. 6A:17-2.3(c) The district board of education identified in accordance with N.J.S.A. 18A:7B-12 as the school district of residence for a homeless child shall be the school district of residence until the parent establishes a permanent residence. Financial responsibility will remain with the homeless child's school district of residence until the family is deemed domiciled in another jurisdiction, pursuant to N.J.S.A. 18A:38-1.d.
- N.J.S.A. 18A:38-1(d) Any person whose parent or guardian, even though not domiciled within the district, is residing temporarily therein, but any person who has had or shall have his all-year-round dwelling place within the district for one year or longer shall be deemed to be domiciled within the district for the purposes of this section.

4. If a family with more than one child becomes homeless, and the children would like to attend school in different LEAs (i.e. one child would like to return to the school of origin, and the other child would like to enroll in the local school) does the family have that right?

Answer: Yes. Siblings in a family that has lost its housing may attend school in different LEAs, as long as each child is attending the school of origin or another school that other children living in the same attendance area are eligible to attend. Such a situation may be appropriate, for example, when an older student can tolerate a longer commute back to the school of origin than a younger sibling. Note, however, that LEAs are encouraged to consider a sibling's school placement as part of the best interest determination.

5. Under what circumstances must an LEA provide adequate and appropriate transportation to school for students experiencing homelessness?

Answer: The McKinney-Vento Act requires LEAs to provide adequate and appropriate transportation for students experiencing homelessness in three situations. First, LEAs must provide adequate and appropriate transportation to the school of origin upon the request of a parent or guardian, or in the case of an unaccompanied youth, upon the request of the McKinney-Vento liaison. 42 U.S.C. §11432(g)(1)(J)(iii); **That is 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).

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Therefore, if the district transports housed students to the local school or to a summer program, it must also transport students experiencing homelessness. Finally, LEAs 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)(I), (g)(7).

6. How "immediate" is immediate enrollment?

Answer: The McKinney-Vento Act requires schools to enroll students experiencing homelessness immediately, even if the student is unable to provide documents that are typically required for enrollment, such as previous academic records, records of immunization and other required health records, proof of residency, or other documentation. 42 U.S.C. §11432(g)(3)(C). Enroll means permitting the student to attend classes and participate fully in school activities. 42 U.S.C. §11434A(1). Although the Act is silent on the definition of "immediate", the standard dictionary definition is "without delay." Therefore, the student must begin attending classes and participating fully in school activities without delay. **Generally, that would mean the same or the following day.**

7. If a McKinney-Vento student wishes to enroll in a charter school after the deadline or lottery has passed, and the applicable class in the school is now full, does the school have to go over its legal enrollment limit to enroll the student?

Answer: No, but the school should take steps to remove the barrier of capacity limits. States and LEAs must remove barriers to charter school access, and charter schools must enroll McKinney-Vento students immediately, even when students have "missed application or enrollment deadlines during any period of homelessness." 42 U.S.C. §11432(g)(3)(C)(i)(II). However, charter schools often have class size limits established by their charters, state law or other rules. McKinney-Vento generally is not interpreted to require a school or classroom to go over capacity. Nonetheless, the U.S. Department of Education urges LEAs to "anticipate and accommodate the needs of McKinney-Vento-eligible students to enter charter schools...", and such schools should work to address capacity issues, through means such as: giving McKinney-Vento students priority on waitlists (2016 Guidance I-6); and using data to calculate and reserve spots for McKinney-Vento student (based on observable trends in attempted enrollment by McKinney-Vento students).

8. If an LEA does not follow the law, is there a penalty?

Answer: Yes. States are required to provide technical assistance to and conduct monitoring of LEAs to ensure that LEAs in the state comply with the McKinney-Vento Act. 42 U.S.C. §§11432(f)(5), (g)(2). States also must ensure that each parent, guardian and unaccompanied youth who contacts the State Coordinator receives the full protections and services of the McKinney-Vento Act. 42

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U.S.C. §11432(f)(7). To ensure compliance and protect the rights of students, the state can and should sanction noncompliant school districts through monitoring findings, corrective action plans, withholding federal funds, or other means. Parents and students also can sue LEAs in state and/or federal court. Several lawsuits have been filed under the McKinney-Vento Act, including lawsuits in Washington, D.C., Illinois, Maryland, Alabama, Delaware, Louisiana, New York, Hawaii, and Pennsylvania. As a result, LEAs have been forced to change their policies and practices and pay significant attorney fees. In addition, the U.S. Department of Education regularly monitors state and LEA compliance with the McKinney-Vento Act and could withhold or require repayment of federal funds in cases of noncompliance.

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

Answer: Unaccompanied youth is defined as a homeless child or 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.

Since the McKinney-Vento Act does not include any age limits for serving students, it applies to children and youth age 21 and under, consistent with their eligibility for public education services under state and federal law. State laws vary, but generally provide access to all students until high school graduation or equivalent, or until age 18 (or older 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).

10. What kind of services can Title I, Part A funds (including set-asides and other funds) pay for?

Answer: Title IA funds, including those under the set-aside and other funds, can be used to serve students experiencing homelessness in both Title IA and non-Title IA schools. The services should support the students to succeed in school and to meet academic achievement standards. The funds can be used to provide services that are not ordinarily provided to other Title IA students, including educationally related support services to children in shelters and other locations where they are living. Consolidated Appropriations Act, 2016, Pub. L. 114-113; see also 20 U.S.C. §6313(c)(3)(A). For example, to help students effectively take advantage of educational opportunities, and when the items or services are not available from other sources, Title IA funds can be used to provide:

- Items of clothing, particularly if necessary to meet a school’s dress or uniform requirement;
- Clothing and shoes necessary to participate in physical education classes;
- Student fees that are necessary to participate in the general education program
- Personal school supplies such as backpacks and notebooks;
- Birth certificates necessary to enroll in school;
- Immunizations;
- Food;
- Medical and dental services;
- Eyeglasses and hearing aids;
- Counseling services to address anxiety related to homelessness that is impeding learning;
- Outreach services to students living in shelters, motels, and other temporary residences;
- Extended learning time (before and after school, Saturday classes, summer school) to compensate for lack of quiet time for homework in shelters or other overcrowded living conditions;
- Tutoring services, especially in shelters or other locations where homeless students live;

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- Parental involvement specifically oriented to reaching out to parents of homeless students;
- Fees for AP and IB testing; and
- Fees for SAT/ACT testing.
 - Source – 2016 Guidance, Question M-4

11. When is a foreclosure or Almost Foreclosure deemed to be Homelessness?

McKinney-Vento §725(2)

A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1)); **and**

(B) includes –

- (i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals;
- (ii) 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));
- (iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- (iv) 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 in clauses (i) through (iii).

6A:17-2.2 Determination of homeless status

(a) A district board of education shall determine that a child is homeless for purposes of this subchapter when he or she resides in any of the following:

1. A publicly or privately operated shelter designed to provide temporary living accommodations, including:
 - i. Hotels or motels;
 - ii. Congregate shelters, including domestic violence and runaway shelters;
 - iii. Transitional housing; and
 - iv. Homes for adolescent mothers;
2. A public or private place not designated for or ordinarily used as a regular sleeping accommodation, including:
 - i. Cars or other vehicles including mobile homes;
 - ii. Tents or other temporary shelters;
 - iii. Parks;
 - iv. Abandoned buildings;
 - v. Bus or train stations; or
- vi. Temporary shelters provided to migrant workers and their children on farm sites;
3. The residence of relatives or friends where the homeless child resides out of necessity because his or her family lacks a regular or permanent residence of its own;

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4. Substandard housing; or

#554-10 OAL JG and DJ vs Borough of Pt Pleasant

- Petitioners contend that their move out of Point Pleasant following the sale of their house on March 19, 2010 is temporary and was based on personal and financial setbacks beyond their control
- that they are homeless and living temporarily with D.G.'s parents in Brick Township.
- it is undisputed that petitioners are no longer domiciled in Point Pleasant, and have endured significant personal and financial hardship; the issue in this case is whether J.T.G. is homeless for purposes of educational jurisdiction
- petitioners bear the burden of proof to show that they are residing with relatives out of necessity;
- no evidence exists to show that petitioners' temporary living situation was an option undertaken in a crisis of immediacy, or that other options were thoroughly explored;
- Administrative Law Judge rules and adopted by the Commissioner of Education that they not homeless and had to pay tuition to the district

12. Financial Responsibility gets confusing to me – Is there a simple chart I can follow?

See Fiscal Responsibility under N.J.A.C § 6A:17-2.4 outlined below

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Case Data	Transportation Responsibility	Duration
Displaced and Residing in District of Residence (up to 12 months)	District of Residence	Up to 12 months (no change in responsibility)
Displaced and Residing in Temporary Residence (up to 12 months)	District of Residence	Up to 12 months or until permanent residence is established
Displaced and Residing in District of Residence (beyond 12 months)	District of Residence	Indefinitely (no change in responsibility)
Displaced and Residing in Temporary Residence (beyond 12 months)	District of Temporary Residence	Indefinitely, or until such time a permanent residence is established

Chronic Moves (2+)	Tuition/Trans Responsibility	Duration
Moved from District B to District C (up to 12 months)	District of Residence	Up to 12 months or until such time a permanent residence is established
Moved from District B to District C (District B beyond 12 months)	District of B	Indefinitely or until such time a permanent residence or domicile in District C is established.
Additional Moves	District C if domicile is established	Indefinitely or until such time a permanent residence or domicile in District D is established.

13. Do LEA's have to cover the cost of and provide transportation for McKinney-Vento students to participate in extra-curricular activities?

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Answer: Yes under 42 U.S.C. §11432(g)(1)(J)(iii), See Question 5

14. When a student becomes domiciled, but wants to remain attending the district of residence (origin) they have been attending, do they need to enroll/register in the district of temporary residence who is now fiscally responsible for their transportation and tuition?

Answer: The student is now a resident of the district and must register with the district where they are now domiciled so a tuition agreement can immediately be put in place. See Question 16.

15. Does a student sent to live with another family member out of economic hardship or necessity, qualify as a McKinney-Vento student?

Answer: More facts would be needed on this, but most likely would be eligible based on Section 725(2) of the McKinney-Vento Act¹ defines “homeless children and youths” as individuals who lack a fixed, regular, and adequate nighttime residence. The term includes—

- Children and youths who are:
 - sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason (sometimes referred to as “doubled-up”);
 - living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations;
 - living in emergency or transitional shelters; or
 - abandoned in hospitals;
- 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;
- 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 who qualify as homeless because they are living in circumstances described above.

16. Once a student becomes permanently housed during the school year, they have a right to complete the school year where they are attending, but which district is responsible to pay for the transportation for the remainder of the school year? The district in which they are now permanently housed or whomever had been paying to transport the student to the district in which they are enrolled?

¹ All statutory citations are to the McKinney-Vento Act unless otherwise indicated.

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Answer: if a student moves into permanent housing during the school year, the student can finish that academic year in the school of origin. 42 U.S.C. §11432(g)(3)(A)(II).

- New Jersey the financial responsibility shifts when permanently housed if the student is staying in the district of origin
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17. Clarification on students who are “State Responsible” McKinney-Vento students.

Answer: Annually, the New Jersey Department of Education (NJDOE) reimburses districts for the cost of enrolling homeless children and youth who meet certain criteria as specified in N.J.S.A. 18A:7B-12(d). Under this statute, the State assumes fiscal responsibility for the tuition of a homeless student and pays tuition to the school district in which the youth or child is currently enrolled, for as long as the youth or child and his or her parent remain homeless, under the following circumstances:

- If the school district of origin cannot be determined for the homeless child;
- If the school district of origin is outside of the state; or
- If the child resides in an emergency domestic violence shelter licensed by the Department of Community Affairs and, subsequently, in a transitional facility due to domestic violence for more than one year in total from the date residence began in the emergency shelter.

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If the district of residence cannot be determined according to the criteria contained herein, if the criteria contained herein identify a district of residence outside of the State, or if the child has resided in a domestic violence shelter or transitional living facility located outside of the district of residence for more than one year, the State shall assume fiscal responsibility for the tuition of the child. The tuition shall equal the approved per pupil cost established pursuant to section 24 of P.L.1996, c.138 (C.18A:7F-24).