

Chapter Sixteen: Related Legislation



Section 16.1 Connecting with Related Laws

The McKinney-Vento Act provides a strong foundation for serving homeless children and youth. However, other federal laws also specifically address the needs of homeless children and youth, providing additional rights and protections for this vulnerable population. Chapter 11 Collaboration includes strategies for working with other programs while this chapter explains key tenets of, and provides links to, the actual text of the other federal laws, guidance, and memos related to the education of homeless children and youth. This chapter also provides links to NCHE briefs that summarize the laws and offer good practices.

Section 16.2 Title 1, Part A

Title I, Part A of the Elementary and Secondary Education Act (ESEA) is designed to meet the educational needs of low-achieving children in schools with the highest levels of poverty. Homeless students are part of the target population of disadvantaged students served by Title I, Part A and are automatically eligible for services under the program, whether or not they attend a Title I, Part A school or meet the academic standards required for other students to receive services. A summary of key pieces related to the education of students experiencing homelessness follows.

- Plans implemented by Title I, Part A as part of the LEA application must describe how services for students experiencing homelessness are coordinated and integrated with the McKinney-Vento program [20 U.S.C. § 6312(b)(1)(E)(ii)].
- Targeted assistance programs are required to coordinate with federal, state, and local service programs, including housing, nutrition, and violence prevention programs [20 U.S.C. § 6315(c)(1)(H)].
- Each LEA receiving Title I, Part A funds must reserve funds as necessary to provide services to homeless children who are attending elementary, middle, or high schools that are not Title I, Part A schools, comparable to services provided to non-homeless students at Title I schools. Set-aside funds may be used to provide a wide variety of educationally related

support services to students experiencing homelessness. The services may also be provided at shelters or other locations where the students live [20 U.S.C. § 6313(c)(3(A))].

- In addition to serving homeless students not attending Title I, Part A schools, the U.S. Department of Education *Non-Regulatory Guidance for the Education for Homeless Children and Youth* program states that set-asides also can be used to provide services to homeless students who are attending Title I, Part A schools (2004, M-4).

Allowable Title I, Part A Expenditures for Supporting Homeless Students

- 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
- Parental involvement specifically oriented to reaching out to parents of homeless students
- Fees for Advanced Placement and International Baccalaureate testing
- Fees for SAT or ACT testing
- Fees for GED testing of school-aged students

-U.S. Department of Education Guidance
The American Recovery and Reinvestment Act of 2009 (ARRA)

- The intent of Title I, Part A is to supplement educational activities provided through the school with other local, state, and federal programs. Therefore, before using set-aside funds, LEAs should consider resources available through other means and leverage them accordingly. Guidance issued for the ARRA provides a list of possible services that Title I, Part A funds may support for homeless students (ED, 2009). See the text box on page 16-2 for a full list of the allowed expenses provided in the Guidance.
- On December 16, 2014, the President signed into law the Consolidated and Further Continuing Appropriations Act, 2015 (H.R. 83), the omnibus funding bill for Fiscal Year (FY) 2015. The Act, which governs the usage of FY2015 funds, and carryover funds from Fiscal Years 2013 and 2014, reauthorizes the authority for Title I, Part A funds to be used to pay for the salary of the local homeless education liaison and school-of-origin transportation for homeless children and youth that was first authorized under the Consolidated Appropriations Act of 2014. For more information, including a U.S. Department of Education Dear Colleague Letter that provides implementation guidance for SEAs and LEAs, visit <http://center.serve.org/nche/legis/omnibus.php>.

Section 16.2.1 Important Documents Related to Title I, Part A

NCHE Brief: *Serving Students Experiencing Homelessness under Title I, Part A*
<http://center.serve.org/nche/downloads/briefs/titlei.pdf>

Title I, Part A of the ESEA, 20 U.S.C. § 6301 et seq.
<http://www.law.cornell.edu/uscode/text/20/chapter-70/subchapter-I/part-A/subpart-1>

Education for Homeless Children and Youth Program Non-Regulatory Guidance
<http://www2.ed.gov/programs/homeless/guidance.pdf>

Guidance: Using Title I, Part A ARRA Funds for Grants to Local Educational Agencies to Strengthen Education, Drive Reform, and Improve Results for Students
<http://www2.ed.gov/policy/gen/leg/recovery/guidance/titlei-reform.pdf>

Information on the Consolidated and Further Continuing Appropriations Act, 2015, and Dear Colleague Letter issued on July 22, 2014
<http://center.serve.org/nche/legis/omnibus.php>

Section 16.3 Child Nutrition and the WIC Reauthorization Act of 2004

The Child Nutrition and WIC Reauthorization Act of 2004 established that certain homeless, runaway, and migrant children are categorically eligible for free meal benefits under the National School Lunch and School Breakfast Programs. These students and families do not have to complete an application for free meals. Rather, U.S. Department of Agriculture (USDA) policies allow for automatic enrollment of these students to ensure they receive meals quickly.

To expedite the enrollment of homeless students in the free meals programs, liaisons should provide the following information to the program's administrator:

- the student's name or a list of student names,
- the effective date of the homelessness,
- a signature from the local liaison or the director of a homeless shelter where the student resides to indicate the validity of the information.

Once a child is certified as eligible to receive free school meals, eligibility remains in effect for the duration of the current school year and for up to 30 days after the first operating day of the subsequent school year, or until a new eligibility determination is made in the new school year, whichever comes first.

Section 16.2.1 Important Documents Related to Child Nutrition

Child Nutrition and WIC Reauthorization Act of 2004
http://center.serve.org/nche/downloads/nutrition_act_2004.pdf

USDA Interim Rule: *Direct Certification and Certification of Homeless, Migrant, and Runaway Children for Free School Meals* (2011)
<http://www.fns.usda.gov/cnd/governance/regulations/2011-04-25.pdf>

USDA Memorandum: *Duration of Households' Free and Reduced Price Meal Eligibility Determination*
http://center.serve.org/nche/downloads/usda_memo_jul_7_2004.pdf

USDA Memorandum: *Guidance on Determining Categorical Eligibility for Free Lunches and Breakfasts for Youth Served under the Runaway and Homeless Youth Act*
http://center.serve.org/nche/downloads/usda_guidance_sept04.pdf

Section 16.4 The Family Educational Rights and Privacy Act

The Family Educational Rights and Privacy Act (FERPA) is a federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education. Specifically, it prohibits a school from disclosing personally identifiable information from students' educational records without the consent of a parent or eligible student, unless an exception to FERPA's general consent rule applies.

FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when the student reaches the age of 18 or attends a school beyond the high school level. Parents or eligible students have the right to inspect and review the student's records maintained by the school.

Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, if an LEA includes its intent to disclose records in its annual notice to parents and students, FERPA allows schools to disclose student records, without consent, to the following parties or under the following conditions:

- school officials with legitimate educational interest;
- other schools to which a student is transferring,
- specified officials for audit or evaluation purposes;
- appropriate parties in connection with financial aid for a student;
- organizations conducting certain studies for or on behalf of the school;
- accrediting organizations;
- appropriate officials in cases of health and safety emergencies;
- state and local authorities, within a juvenile justice system, pursuant to specific state law; or
- to comply with a judicial order or lawfully issued subpoena.

If a district did not include information about its intent to release information under the circumstances listed above, the district must make reasonable attempts to notify the parents or guardians prior to the release of the information.

Schools may disclose, without consent, directory information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them. Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion in a Parent Teacher Association bulletin, student handbook, or newspaper article) is left to the discretion of each school.

Section 16.4.2 Important Documents and Links Related to FERPA

Family Educational Rights and Privacy Act, 20 U.S.C. § 1232(g)
<http://www.law.cornell.edu/uscode/text/20/1232g>

Family Policy Compliance Office, U.S. Department of Education
FERPA information
<http://www2.ed.gov/policy/gen/guid/fpco/index.html>

Section 16.5.1 Individuals with Disabilities Education Act (IDEA)

The purpose of IDEA is to ensure that all children with disabilities receive a free, appropriate public education (FAPE), including special education and related services, to prepare them for further education. Part B of IDEA addresses the special educational needs of students aged three through 21 and Part C addresses the early intervention needs of children younger than three.

The 2004 reauthorization of IDEA includes amendments that reinforce provisions in both the McKinney-Vento Act and the earlier version of IDEA. It clarifies how the law applies to the education of students experiencing homelessness by addressing issues related to timely assessments, appropriate services and placement, and continuity of services for children and youth with disabilities who experience homelessness and high mobility.

The following summarizes the IDEA provisions for students experiencing homelessness and disabilities:

- IDEA specifically mentions and observes the McKinney-Vento Act’s definition of homeless children and youth [20 U.S.C. § 1401(11)].
- Child Find requirements in IDEA include a specific requirement that all states identify, locate, and evaluate children with disabilities who are homeless [20 U.S.C. § 1412(3)(A)].
- Any state receiving funds under IDEA must ensure the requirements of the McKinney-Vento Act are met for all homeless children and youth with disabilities in the state [20 U.S.C. § 1412(a)(11)(A)(iii)].
- LEAs must complete initial evaluations for special education services within 60 days of a parent’s request, or within the timeframe established by the state if the state has adopted a timeframe less than 60 days [20 U.S.C. § (a)(1)(C)(i)].
- If a child changes LEAs while an evaluation is pending, the evaluation must be completed within the standard timeframe for completing initial evaluations unless the new LEA is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and LEA agree to a specific time when the evaluation will be completed [20 U.S.C. 1414(a)(1)(C)(ii)(I)].
- LEAs must ensure that assessments of children who change LEAs during the school year are coordinated with prior schools [20 U.S.C. § 1414(b)(3)(D)].
- When children with Individualized Education Programs (IEPs) change LEAs during the school year, the new LEA is required to immediately provide a free appropriate public education, including services comparable to those described in the previous IEP, in consultation with the parents [20 U.S.C. § 1414(d)(2)(C)(i)(I)].
- The definition of *parent* includes individuals acting in place of a biological or adoptive parent with whom the child lives [20 U.S.C. § 1401(23)].
- For unaccompanied youth, LEAs must appoint surrogate parents and make reasonable efforts to complete the appointment process within 30 days [20 U.S.C. § 1415(b)(2)]. In the interim, LEAs are to appoint temporary surrogate parents for unaccompanied youth, who can be appropriate staff members of emergency shelters, transitional shelters, independent living programs, street outreach programs, the state, the LEA, or another agency involved in the education or care of the child (C.F.R. §300.519(f)).
- Any state receiving an IDEA Part C grant must make early intervention services available to homeless infants and toddlers with disabilities and their families [20 U.S.C. §1434(i)].

Section 16.5.2 Important Documents Related to the IDEA

Individuals with Disabilities Education Act (2004)

<http://www.law.cornell.edu/uscode/text/20/chapter-33>

Issue Brief: *Individuals with Disabilities Education Improvement Act (IDEIA) of 2004: Provisions for Homeless Children and Youth*

<http://center.serve.org/nche/downloads/briefs/idea.pdf>

Questions and Answers on Special Education and Guidance U.S. Department of Education

<http://www2.ed.gov/policy/speced/guid/spec-ed-homelessness-q-a.pdf>

Section 16.6.1 Fostering Connections to Success and Increasing Adoptions Act of 2008

The Fostering Connections to Success and Increasing Adoptions Act (P.L. 110-351) amends parts B and E of Title IV of the Social Security Act. The Fostering Connections Act includes provisions to promote educational stability for children in foster care. As a result of the Act, child welfare agencies must consider the appropriateness of the educational setting of a child and the proximity of a placement to the school in which the child is enrolled when placing a child in foster care [42 U.S.C. § 675(G)(i)].

Case plans for each child in foster care must contain

- assurances that the child welfare agency has coordinated with appropriate LEAs to ensure that children remain in the school in which they are enrolled at the time child welfare placements are made, or
- assurances by the child welfare agency and LEAs that immediate and appropriate enrollment in a new school is provided and that the new school receives all educational records, if remaining in the same school is not in the child's best interest [42 U.S.C. § 675(1)(G)(ii)].

Section 16.6.2 Important Documents Related to Fostering Connections

**Fostering Connections to Success and Increasing Adoptions Act
Statutory Language and Administrative Guidance**

[http://www.americanbar.org/content/dam/aba/publications/center_on_chi
ldren_and_the_law/education/toolkit_appendix2012.pdf](http://www.americanbar.org/content/dam/aba/publications/center_on_children_and_the_law/education/toolkit_appendix2012.pdf)

Factsheet: *Foster Care and Education Q & A*

[http://www.americanbar.org/content/dam/aba/migrated/child/education
/publications/qa_fostering_connections_final.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/migrated/child/education/publications/qa_fostering_connections_final.authcheckdam.pdf)

**Issue Brief: *When Working Together Works: Academic Success for Students in
Out-of-Home Care***

<http://center.serve.org/nche/downloads/briefs/wwtw.pdf>

Section 16.7.1 The Reconnecting Homeless Youth Act of 2008

The Reconnecting Homeless Youth Act of 2008 reauthorized the Runaway and Homeless Youth Act that enables community-based organizations and shelters to serve and protect runaway, homeless, missing, and sexually exploited youth. The Act supports funding for Basic Center programs, which provide emergency shelters; Transitional Living Programs, which offer longer-term care that helps prepare older youth for self-sufficiency and adulthood; and Street Outreach programs to serve youth on the streets.

Programs are required to increase access to education for youth and coordinate with McKinney-Vento local liaisons.

Section 16.7.2 Important Documents and Links Related to the Reconnecting Homeless Youth Act

Reconnecting Homeless Youth Act of 2008

<http://www.acf.hhs.gov/programs/fysb/resource/rhy-act>

**U.S. Department of Health and Human Services
Family and Youth Services Bureau
Runaway and Homeless Youth Program**

[http://www.acf.hhs.gov/programs/fysb/programs/runaway-homeless-
youth/about](http://www.acf.hhs.gov/programs/fysb/programs/runaway-homeless-youth/about)

Section 16.8.1 The College Cost Reduction and Access Act (CCRAA) of 2007

The CCRAA includes specific provisions designed to remove barriers for unaccompanied homeless youth in accessing federal financial aid for college. The Act enables these youth to be qualified as independent students for the purpose of completing the Federal Application for Financial Student Aid, thereby removing the need for these youth to provide parental financial information and a parent signature.

Youth must be determined as unaccompanied and homeless, or as unaccompanied and at risk of homelessness, and self-supporting during the school year in which they apply for aid. Determination of independent student status must be made by the

- LEA homeless education liaison,
- director or the director's designee of a U.S. Department of Housing and Urban Development emergency shelter program,
- director or the director's designee of a Runaway and Homeless Youth Act program, or
- college financial aid advisor.

Section 16.8.2 Important Documents Related to the CCRAA

College Cost Reduction and Access Act (CCRAA) of 2007
<http://www.govtrack.us/congress/bills/110/hr2669/text>

Issue Brief: *Increasing Access to Higher Education for Unaccompanied Homeless Youth: Information for Colleges and Universities*
http://center.serve.org/nche/downloads/briefs/higher_ed.pdf

Template: *Unaccompanied Homeless Youth Documentation of Independent Student Status for the FAFSA*
http://www.naehcy.org/sites/default/files/images/dl/uy_fafsa_verif_12.doc

Information by Topic: NCHE Higher Education webpage
http://center.serve.org/nche/ibt/higher_ed.php

Section 16.9.1 Improving Head Start for School Readiness Act of 2007

The Improving Head Start for School Readiness Act of 2007 reauthorized the Head Start program and included specific provisions on serving homeless children.

Relevant to serving young homeless children, the Act

- includes a definition of homelessness consistent with the McKinney-Vento Act;
- specifies that homeless children are categorically eligible for Head Start services;
- allows Head Start agencies to serve some families with incomes up to 130% of the poverty line, but only if the agency implements procedures to meet the needs of homeless children and youth below the poverty line first; and
- requires new applicants for Head Start grants to include a plan to meet the needs of homeless children and children in foster care, including transportation needs.

Before receiving additional funds to expand their programs, existing Head Start grantees must show

- the extent to which applicants have undertaken community-wide strategic planning needs assessments involving the local liaison and organizations providing services to children in foster care, homeless children, child abuse prevention services, and protective services and
- the extent to which applicants coordinate with local liaisons.

The Head Start Act also requires the Secretary of the U.S. Department of

Health and Human Services to issue regulations requiring programs to

- ensure homeless children are identified and prioritized for enrollment;
- allow homeless families to apply to, enroll in, and attend Head Start programs while required documents are obtained within a reasonable time frame;
- coordinate with individual Head Start centers and programs on efforts to implement the education provisions of the McKinney-Vento Act.

Section 16.9.2 Important Documents Related to Head Start

Improving Head Start for School Readiness Act of 2007

http://eclkc.ohs.acf.hhs.gov/hslc/standards/Head%20Start%20Act/HS_ACT_PL_110-134.pdf

Section 16.10.1 Other Related Early Childhood Education Policy

In January 2013, the U.S. Administration for Children and Families (ACF) disseminated a memorandum to Head Start programs, Child Care and Development Fund (CCDF) administrators, and other programs receiving ACF funds with the goal of increasing services for homeless children. Related technical assistance documents recommended that the programs

- prioritize access to services for homeless families;
- institute policies for families who become temporarily homeless after a disaster;
- offer flexibility to homeless families related to providing required documentation for enrollment and immunizations;
- coordinate with State Coordinators and local liaisons to reach out to homeless children and families and connect them to available early childhood education resources, health and social services;
- work with homeless coalitions to ensure the unique needs of young children are represented; and
- coordinate Head Start and CCDF policies to ensure alignment, allowing the delivery of services to homeless families in a consistent and family-friendly manner.

Section 16.10.2 Important Documents Related to Early Childhood Education Policy

**U.S. Health & Human Services Dear Colleague letter
Providing early care and education (ECE) services to homeless children**
https://www.acf.hhs.gov/sites/default/files/ece/acf_homeless_letter.pdf

Fact Sheet: *Policies & Procedures to Increase Access to ECE Services for Homeless Children & Families*
https://www.acf.hhs.gov/sites/default/files/ece/acf_homeless_policies_and_procedures.pdf

Fact Sheet: *Early Childhood & Family Homeless Resources List*
https://www.acf.hhs.gov/sites/default/files/ece/acf_homeless_resource_list.pdf

HHS Fact Sheet: *Strategies for Increasing ECE Services for Homeless Children*
https://www.acf.hhs.gov/sites/default/files/ece/acf_homeless_strategies.pdf

Section 16.11.1 Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009

The Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009 added new education-related requirements for Continuum of Care and homeless service grant applicants. Specifically, to receive funding, Continuum of Care programs must do the following:

- collaborate with local education authorities (school districts) to assist in the identification of homeless families and inform homeless families and youth of their eligibility for McKinney-Vento education services;
- consider the educational needs of children when families are placed in emergency or transitional shelter and, to the maximum extent practicable, place families with children as close as possible to their school of origin so as not to disrupt the children's education;
- establish policies and practices consistent with the McKinney-Vento Act and other laws relating to the provision of educational and related services to individuals and families experiencing homelessness (policies and practices must not restrict a youth's education rights);
- designate a staff person to ensure that children are enrolled in school and connected to the appropriate services within the community, including early childhood programs such as Head Start, Part C of IDEA, and McKinney-Vento education services. (This requirement only applies to programs providing housing or services to families or unaccompanied youth.)

Section 16.11.2 Important Documents and Links Related to the HEARTH Act

Issue Brief: *Housing and Education Collaborations To Serve Homeless Children, Youth, and Families*

<http://center.serve.org/nche/downloads/briefs/hud.pdf>

Continuum of Care Contacts

<http://www.hudhre.info/index.cfm?do=viewCocContacts>