CHAPTER 5: UNDERSTANDING THE MCKINNEY-VENTO ACT

5.1 Executive Summary

The McKinney-Vento Act mandates the office of the state coordinator and shapes the EHCY program through requirements for services to ensure students served by SEAs and LEAs have equitable access to the same free and appropriate public education as provided to other children and youth.

State coordinators must navigate several federal laws to manage an effective EHCY program. However, much of your day-to-day work is governed by a particular law, the McKinney-Vento Act.

In this chapter, we will outline:

- an overview of the creation and purpose of the McKinney-Vento Act;
- operating definitions essential to your work in identifying and serving students and youth experiencing homelessness through your state programs;
- key provisions of the McKinney-Vento Act; and
- additional resources to understand the law.

5.2 Purpose of the McKinney-Vento Act

The McKinney-Vento Act was first enacted in 1987 as a subsection of the Stewart B. McKinney Homeless Assistance Act. It was reauthorized in 2015 as Title IX, Part A of the Every Student Succeeds Act.

The McKinney-Vento Act ensures that children and youth experiencing homelessness can enroll in and attend school without barriers. Specifically, the Statement of Policy provides an overview of the purpose of the McKinney-Vento Act:

(1) Each State educational agency shall ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education, including public preschool education, as provided to other children and youths.

(2) In any State where compulsory residency requirements or other requirements in laws, regulations, practices, or policies, may act as a barrier to the identification of, or the enrollment,

attendance, or success in school of, homeless children and youths, the State educational agency and local educational agencies in the State will review and undertake steps to revise such laws, regulations, practices, or policies to ensure that homeless children and youths are afforded the same free, appropriate public education as provided to other children and youths.

(3) Homelessness is not sufficient reason to separate students from the mainstream school environment.

(4) Homeless children and youths should have access to the education and other services that such children and youths need to ensure that such children and youths have an opportunity to meet the same challenging State academic standards to which all students are held. (42 U.S.C. § 11431)

As discussed in the last chapter, the McKinney-Vento Act establishes program governance and requirements for the EHCY program with clear mandates for the state coordinator for the EHCY program, the SEA, LEA, and local liaisons. In addition to setting expectations for administrators and educators, the legislation offers key definitions for terms related to homelessness as well as provisions to ensure that all students have access to a quality education.

5.3 EHCY Program Definition of Homelessness

The McKinney-Vento Act contains one critical piece of information to guide your work in the EHCY program: the legislative definition of *homelessness*. All aspects of the EHCY program operate under this definition, including determining a student's eligibility for rights and services guaranteed by the McKinney-Vento Act. Please be aware that the work of other federal and state agencies may be mandated by other laws that define homelessness differently; for example, the U.S. Department of Housing and Urban Development (HUD) uses a different definition of homelessness for the provision of its services.

The McKinney-Vento Act defines homeless children and youth as follows:

> The term "homeless children and youths"--
>
> (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; or 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).

5.4 Key Provisions Related to Rights of and Services for Children and Youth Experiencing Homelessness

The McKinney-Vento Act guarantees critical rights and services for children and youth experiencing homelessness designed to ensure that these children can receive continuous and supportive services to enable them to be successful in school. Following are several key provisions from legislation that you should be aware of, including:

Topic	Legislative Requirements	MV Citation
Identification	The Act requires LEAs to designate an appropriate staff person as the local homeless education liaison. Among this liaison's responsibilities is a requirement to conduct outreach and coordination to support school personnel in the identification of students and youth experiencing homelessness.	42 U.S.C. § 11432(g)(6)(A)(i)
Immediate Enrollment	The Act requires the immediate enrollment of children and youth experiencing homelessness, even in the absence of records normally required for enrollment.	42 U.S.C. § 11432(g)(3)(C)(i)
School Selection	The Act mandates that LEAs must keep children and youth experiencing homelessness in their school of origin, to the extent feasible, except when doing so is contrary to the wishes of the parent or guardian (or in the case of an unaccompanied homeless youth, against the youth's wishes).	42 U.S.C. § 11432(g)(3)(A)(i)(II) 42 U.S.C. § 11432(g)(3)(B)
Transportation	To avoid further disruption to the education of students experiencing homelessness, the Act requires the LEA to provide or arrange transportation to and from the school of origin. If a student begins living in an area served by another LEA, the LEA of origin and the new LEA serving the student must agree to apportion the responsibility and costs for providing transportation, or—if an agreement is not reached—responsibility and costs will be shared equally.	42 U.S.C. §11432(g)(1)(J)(iii) 42 U.S.C. §11432(g)(3)(A)(2) 42 U.S.C. §11432(g)(4)(A)
Academic Performance	The Act requires that students experiencing homelessness receive "comparable services" to other students in the LEA, including educational services provided under Title I, Part A, IDEA, English language learner supports, CTE programs, gifted and talented programs, and other supports.	42 U.S.C. §11432(g)(4)(B) 42 U.S.C. §11432(g)(4)(C) 42 U.S.C. §11432(g)(4)(D)

Additional Resources

- Legislative Overviews
  - NCHE Webinar: Basic Requirements of the McKinney-Vento Act
  - Module Series: 10 in 10
  - Non-regulatory Guidance: EHCY Programs
  - NCHE Brief: Children and Youth Experiencing Homelessness: An Introduction to the Issues

- Eligibility and School Selection Resources
  - NCHE Brief: Determining Eligibility for McKinney-Vento Rights and Services
  - NCHE Resource: Flowchart for Eligibility Determinations
  - NCHE Briefs and Resources on School Selection and Best Interest
  - NCHE Briefs and Resources on Enrollment