



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234  
Office of P-12 Education


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**NYS FIELD MEMO**  
**NCLB McKinney-Vento**  
**# 04 – 2012**

November 2012

To: District Superintendents  
Superintendents of LEAs and Charter Schools  
Title I Coordinators  
McKinney-Vento Liaisons

From: Roberto Reyes   
Director Title I School and Community Services

Subject: Extreme Weather Events in New York State and the McKinney-Vento Homeless Assistance Act (McKinney-Vento)

Due to the recent extreme weather events in New York, many families have been forced to leave their homes and are temporarily residing with relatives, friends, or in motels or shelters. Under the McKinney-Vento Homeless Assistance Act (McKinney-Vento) and New York Education Law §3209, these families are considered homeless and their children would have a right to return to their school district of origin, including the school building where previously enrolled. A student can attend the school of origin the entire time the student is homeless, and throughout the remainder of the school year in which the student moves into permanent housing. The student can also attend one additional year after becoming permanently housed if it is the student's terminal year in that school building (i.e. 8th grade or 12th grade) (M-V Section 722(g)(3)(A); N.Y. Education Law § 3209 (2); 8 N.Y.C.R.R. § 100.2(x)(2)(ii)).

McKinney-Vento and Education Law §3209 define homeless children as **"children and youths who are sharing the housing of other persons due to loss of housing,"** often described as "doubled-up" or **"are living in motels, hotels, trailer parks, or camping grounds due to the**

**lack of alternative adequate accommodations or are living in emergency or transitional shelters."** The purpose of the McKinney-Vento Act is to promote school continuity for children who are experiencing instability with their housing (M-V Section 721). To see the definition of homeless children as well as the full text of McKinney-Vento, please go to:  
[http://www.nysteachs.org/media/INF\\_LP\\_Fed\\_MV.pdf](http://www.nysteachs.org/media/INF_LP_Fed_MV.pdf)

Please be advised that homeless children temporarily residing out of their school district of origin have a right to choose to either attend the school district of origin or the school district of current location. Every school district has a homeless liaison who should be contacted to help the district identify and enroll children who qualify as homeless regardless of the current extreme situation. The names and contact information for every school districts' homeless liaison can be found at the following website <http://www.nysteachs.org/liaisons/>

To help expedite the enrollment of homeless children affected by the recent extreme weather events in New York State, we are providing you with the following information:

- A homeless child or youth is entitled to enroll in a public school in New York State on a tuition-free basis where they are temporarily residing or may return to their school district of origin. The school district of origin is the school district within the state of New York in which the homeless child was attending a public school on a tuition-free basis or was entitled to attend when circumstances arose which caused such child to become homeless, which is different from the school district of current location. Whenever the school district of origin is designated by the homeless child's parent or guardian or homeless unaccompanied youth, the child or youth is entitled to return to the school building where he or she was previously enrolled (Education Law §3209[1][c]; 8 NYCRR §100.2[x][1][iii]). Attendance should be taken for these students for the time they are attending the district, and they should be included in fall enrollment counts. State Aid will be generated by these students in the current and future years as appropriate based on existing State Aid statute and regulation.
- Many of the displaced students may require assistance with records transfers. A district is required to immediately admit a homeless child or youth even if he or she is unable to produce records normally required for enrollment, such as academic records, medical records, immunization records, proof of residency or other documentation (Education Law §3209[2][e][1]; 8 NYCRR §100.2[x][4][ii]). The homeless child or youth must have access to all of the district's programs, activities and services to the same extent as they are provided to resident students (Education Law §3209[2][e][2]; 8 NYCRR §100.2[x][4][iii]).
- Any homeless child who requires transportation in order to attend a school district outside of the district in which such child is housed, shall be entitled to receive such transportation pursuant to this paragraph. If the designated school district is the school district of origin or a school district participating in a regional placement plan, such school district shall provide transportation to and from the child's temporary housing location and the school the child legally attends. Such transportation shall not be in excess of fifty miles each way except where the commissioner certifies that

transportation in excess of fifty miles is in the best interest of the child. Any cost incurred for such transportation that is allowable pursuant to the applicable provision of parts two and three of article seventy-three of this chapter or herein, shall be aidable pursuant to subdivision seven of section thirty-six hundred two of this chapter, provided that the approved transportation expense shall not exceed an amount determined by the commissioner to be the total cost for providing the most cost-effective mode of such transportation in a manner consistent with Commissioner's regulations. The commissioner shall promulgate regulations setting forth the circumstances pursuant to which parent accompaniment for transportation may be reimbursable, including but not limited to: the age of the child; the distance of the transportation; the cost-effectiveness of the transportation; and whether the child has a handicapping condition (Education Law §3209[4][c]; 8 NYCRR §100.2[x][6][i][ii][iii][iv][v][vi]).

- Children with disabilities who are homeless were expressly recognized in the reauthorization of IDEA in P.L. 108-446. IDEA now incorporates the McKinney-Vento definition of homeless children. Also, the Child Find obligations imposed on school districts to identify, evaluate and provide services to all children with disabilities, no matter how severe, has been expressly extended to homeless children. IDEA 2004 also requires that a surrogate parent be appointed for unaccompanied youths (a homeless adolescent not accompanied by a parent or guardian).

For additional information please contact Melanie Faby or myself at 518-473-0295 or NYS-TEACHS at 800-388-2014. Also, the Department recently posted a Q&A for districts affected by the severe weather. You may view it at:

[http://www.nysteachs.org/media/Extreme Weather Events Guidance for Schools 9.8.11.pdf](http://www.nysteachs.org/media/Extreme_Weather_Events_Guidance_for_Schools_9.8.11.pdf)

c: I. Schwartz  
M. Faby