



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234  
Office of Elementary, Middle, Secondary and Continuing Education


---

Office of School Improvement and Community Services (NYC)  
Title I, School and Community Services  
Room 365 EBA  
Tel. (518) 473-0295  
Fax (518) 486-1762

**NYS FIELD MEMO**  
**NCLB McKinney-Vento**  
**#06-2009**

October 2009

To: District Superintendents  
Superintendents of Public Schools  
Charter School LEA Administrators  
Homeless Education Liaisons

FROM: Roberto Reyes, Director   
Title I School and Community Services

SUBJECT: McKinney-Vento Guidance Regarding Shared Housing Affidavit

The State Education Department has recently received requests from the field for clarification concerning the use of shared housing and proof of residency affidavits (“affidavits”) in the enrollment of students claiming to be homeless under the federal McKinney-Vento Act and NYS Education Law and regulations. Typically, such affidavits require the primary resident (for example, an apartment tenant) and the individual moving in (for example, a family member temporarily living in the tenant’s apartment) to provide two residency proofs and a notarized shared housing certificate.

As you may know, under the federal McKinney-Vento Act and NYS Education Law (3209), students who lack a fixed, regular and adequate nighttime residence, including those who are “sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason,” are homeless and therefore entitled to immediate enrollment even if they do not have the documents normally needed for enrollment. Though shared housing and proof of residency affidavits may be intended to ensure that only eligible students are able to enroll in a district’s schools, the use of such forms as a requirement for enrollment, or continued enrollment, may constitute an educational barrier for students who are homeless. For example, when an individual extends temporary living accommodations to a homeless relative and/or friend, he/she may refuse to provide such documentation and/or expel the homeless family out of fear of jeopardizing his/her own living situation. Moreover, in cases where a district establishes a list of required forms of proof, homeless families may not have access to the specific documentation required, but may have other forms of proof that, while they are not on the list, are relevant to the question of McKinney-Vento eligibility.

The Department also recommends that LEAs that use a shared housing affidavit or similar document must use the following language in a prominent position at the top of the form:

Students who are homeless may, but are NOT REQUIRED to complete this form. These students are protected under the McKinney-Vento Act and are eligible for immediate or continued enrollment. If you think that you are homeless, or are living doubled-up, please call the district's LEA liaison as soon as possible at XXX-XXX-XXXX.

As you know, every school district is required by the State Education Department's Title I Office to have all newly enrolled students and all students who change addresses complete a residency questionnaire/enrollment form. To assist districts, the Department has created a sample form, which can be found at the following website:

[http://www.nysteachs.org/media/INF\\_SED\\_SampleEnrollForm\\_ResQuest.doc](http://www.nysteachs.org/media/INF_SED_SampleEnrollForm_ResQuest.doc). To ensure the proper identification of homeless students, the Department recommends that districts place their residency questionnaire/enrollment form as the very first page of any registration packet. This will ensure that homeless students are identified at the earliest point in the registration process and will not be required to complete or submit other forms or affidavits, as discussed above, as a condition for enrollment or continued enrollment.

While the Department recognizes districts' need to collect residency and other information after enrollment, we note that such efforts must be grounded in sensitivity and respect, keeping the academic well-being and best interest of the student in the forefront. An LEA may certainly investigate a claim of homelessness; however, it must immediately enroll the student or continue enrollment while such investigation takes place. In cases where the LEA disputes the claim of homelessness, the LEA must continue enrollment for the duration of the dispute resolution process. Using invasive or threatening techniques to confirm a student's eligibility can humiliate families and youth and may place an already tenuous temporary living arrangement in jeopardy. This may further destabilize the family's or youth's situation, creating a barrier to the student's enrollment in violation of McKinney-Vento, New York State Education Law and Commissioner's Regulations.

My office is available to work with you to help ensure that your district's enrollment and residency requirements both meet the needs of your districts to register students and the urgent need to ensure that children and homeless families are accorded their full rights under the McKinney-Vento Act. Please contact Melanie Faby at 518 473-0295 or NYS-TEACHS at 800 388-2014 for further assistance. I thank you in advance for your anticipated cooperation in this matter.

c: Ira Schwartz  
Sandra Norfleet  
Melanie Faby  
Jennifer Pringle