

Back to School with McKinney-Vento Q&A

Q: Are migrant students identified as MV as well- or is that a different designation? We have many students who are identified as migrants.

A: Many migrant children and youth are likely to fit the definition of homelessness under the McKinney-Vento Act, due to their frequent moves. Migrant students who meet the definition of homelessness should be designated as eligible for services under the McKinney-Vento Act. Migrant students have the same rights as other students experiencing homelessness. 42 U.S.C. § 11434a(2)(B)(iv); N.Y. Education Law § 3209(1)(a)(1)(iv).

It is important to not confuse immigrants with migrants! Please see the following memo regarding this: https://nche.ed.gov/wp-content/uploads/2018/10/imm_lia.pdf In response to the question, in some instances, migrant students may experience homelessness and qualify for services provided by the McKinney-Vento Act. Please see: <https://nche.ed.gov/wp-content/uploads/2018/10/migrant.pdf>

In addition, NYSED's Migrant Education Program (Title I, Part C) information follows. The New York State Migrant Education Program (NYS-MEP) seeks to establish or improve programs of education, including support services, for migratory children and their families. The overarching purpose of the MEP is to ensure that children of migrant workers have access to and benefit from the same free, appropriate public education, including public preschool education, provided to other children. To achieve this purpose, MEP funds help state and local educational agencies remove barriers to the school enrollment, attendance, and achievement of migrant children. <http://www.nysed.gov/essa/parents/migrant-education>

Q: Is the 50 mile radius for transportation still accurate?

A: Yes. Transportation must be provided for students who are temporarily housed within 50 miles one way of their school building. If the school is more than 50 miles away, the school district is not required to provide transportation for the student unless the Commissioner of the State Education Department determines it is in the best interest of the student to do so. N.Y. Education Law § 3209(4)(c). You can review this information here: <https://www.nysteachs.org/post/let-s-review-school-transportation-and-mckinney-vento-provisions>

NYS TEACHS will host an upcoming webinar addressing transportation on September 28, 2023. Here is the link for the transportation webinar: https://us06web.zoom.us/webinar/register/WN_ViLRQ5yQRR-3ezqljEh4lg

Q: Is a hotel or Airbnb considered regular?

A: Section 725(2) of the McKinney-Vento Act¹⁰ defines “homeless children and youths” as individuals who lack a fixed, regular, and adequate nighttime residence.

The term includes— Children and youths who are:

o sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason (sometimes referred to as “doubled-up”);

o living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations;

o living in emergency or transitional shelters; or o abandoned in hospitals;

A hotel or Airbnb is **not** considered regular if the situation is due to the lack of alternative adequate accommodations.

Q: How does the unaccompanied youth designation work with athletics as often there are sectional, declines or delays to the transfer approvals?

A: The McKinney-Vento Act requires schools to enroll homeless students immediately⁴, and “enroll” is specifically defined as “attending classes and participating fully in school activities.”⁵ Therefore, McKinney-Vento students must be allowed to participate in sports, extra-curricular activities, and other school activities immediately. Please refer to the [NCHE Brief on Ensuring Full Participation in Extracurricular Activities for Students Experiencing Homelessness](#).

There is an exemption for students that are temporarily housed explained in the [NYSPHSAA Handbook](#). Please refer to the section on Transfers: Exemptions #5 (page 47)

Q: What about a student who had been homeless, then has an apartment with his girlfriend (lessee) and now has a child of their own. Is he now considered an emancipated student? Does this mean the student is now considered emancipated - no longer unaccompanied?

A: The described situation appears to be the student status is now unaccompanied youth, but not homeless. An unaccompanied youth is a student who is not in the physical custody of their parent or legal guardian; this includes young people who have run away from home, have been kicked out of their homes, or have been abandoned by parents. There is no age limit for unaccompanied youth, but these students are most often in their teens. Unaccompanied youth are protected under the McKinney-Vento Act when the student also does not have a fixed, adequate, and regular nighttime residence. 42 U.S.C. § 11434a(2.) In New York State, a court declaration of emancipation does not exist, and there is no legal paperwork needed to declare oneself an emancipated minor. There are no court declarations or legal paperwork needed to declare oneself an emancipated minor in New York State.

Q: Are PreK students guaranteed transportation if they are identified as MV? Does the district have to transport PreK students?

A: The McKinney-Vento Act applies to preschools – including Head Start programs – that are funded or administered in whole or in part by local educational agencies. If your district is the fiscal agent, this means that the transportation requirements of the McKinney-Vento Act also apply: comparable transportation; school of origin transportation (if a McKinney-Vento child moves after enrolled in the

preschool, and subject to best interest, the child has the right to remain in the preschool and be transported by the district); and removing barriers caused by transportation. If transportation is a barrier, the LEA(s) must provide it for LEA administered public preschool programs (UPK, SUFDPK, TPK, Head Start, IDEA services, etc). Preschools have been added to the school of origin definition by the Every Student Succeeds Act, so that transportation to a preschool of origin now is REQUIRED, as long as remaining in that preschool is in the child's best interest. This is true, even if the school district does not otherwise provide preschool transportation.

Please see our webinar resources here: <https://www.nysteachs.org/webinar-supporting-young-children-experiencing-homelessness>

Q: When the court has issued a temporary court order to move a 16-year-old student from the parents to give temporary custody to a grandparent who resides in your district, the grandparent enrolled the student in the district. Is the student considered MV? The student has fixed, adequate, regular housing with the grandparent who has court ordered temporary custody.

A: From these facts as presented and the custody order, this student appears to have a "fixed, regular, and adequate nighttime residence," so is not McKinney-Vento. But these situations need to be looked at as a case-by-case basis as most students who have been directly placed will likely be eligible under the McKinney-Vento Act, at least initially, because their housing typically is not "regular." In other words, when the child is first directly placed with the relative, there often is some question as to whether the housing arrangement will be a long-term, consistent housing arrangement. See National Center for Homeless Education, "[Determining Eligibility for Rights and Services Under the McKinney-Vento Act](#)" and [Field memo on Direct Placement](#).

Q: If a child is placed in a permanent residence and had bus service would the child still be entitled to a bus service? This child was placed in a different borough of the school they attended and our school does not have bus service for general education and this child does not have an IEP.

A: NYC travel/bussing for public and charter schools is accomplished through the Office of Pupil Transportation. <https://www.schools.nyc.gov/school-life/transportation/contact-information>

For additional questions, please contact your Transportation liaison: [Transportation Resources for Schools](#).

Q: 50 miles is at least an extra hour on the bus EACH way how does that help the student?

A: The 50 mile limit is in Ed Law 3209 4.c. <https://www.nysteachs.org/nys-ed-law-3209>
Ed Law 3209 states that the designated school district of attendance shall provide transportation to and from the child's temporary housing location and the school of origin. 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.

Factors that an LEA may consider when determining the best interest of a child include: • the age of the child or youth, • the distance of the commute to and from the school of origin and its impact on the student's education, • personal safety issues, • the student's need for special instruction (e.g., special education and related services), • the anticipated length of stay in a temporary shelter or other temporary location, and • the time remaining in the school year.

Q: Does a STAC/Housing Questionnaire have to be filled out for every student?

A: Yes, the [STAC 202 form](#) and the [Housing Questionnaire](#) must be completed for every McKinney-Vento eligible student.

The STAC-202 form indicates that a student has been designated as homeless, and specifies the name of the district the student will be attending. It is also used by local districts to request reimbursement from NYSED for the costs of education of a temporarily housed student who moves into the district from another school district in New York State.

The Housing Questionnaire asks about students' living arrangements to identify students experiencing homelessness in the school district. It should be used by all school districts as the first page of the enrollment packet for all newly enrolling students. The Housing Questionnaire should also be given to all students/families any time they report a change of address.

Q: Can the STAC be shared with social workers or case workers?

A: A student's housing status (e.g., whether the student is sharing the housing of others due to loss of housing) is considered a part of a student's educational record and is protected. 42 U.S.C. § 11432(g)(3)(G).

STAC forms can be shared on a "need to know" basis with social workers or case workers, specifically if it is in the best interest of the child and the family. See our webinar: <https://www.nysteachs.org/webinar-stac-202>

Q: Is there language available to help liaisons and other school professionals connect with students that may be MV eligible but too embarrassed/unwilling to share this information?

A: Conversations about a family's housing situation can be tense, uncomfortable, or invasive. Here are [some techniques](#) and conversation starters for some of the most common conversations you will encounter with students, families, and district administration.

Q: Can you clarify- if a family becomes homeless and moves to a new district, which district is responsible for providing assistance/services? The district of origin (the last district in which the student was enrolled) or the district in which the student is currently residing?

A: Under the McKinney-Vento Act, school districts must keep homeless children and youth in the 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)(B) (i), 2001). The family has a choice where the children attend school. They can choose:

- The school attended when they were last permanently housed, or
- The school last attended, even if the student was temporarily housed during that time, or
- The local school where the student is currently temporarily housed.

The McKinney-Vento liaison in the school district where the children are enrolled can assist the family and provide the educational services for eligible students.

Q: Can you recommend any literature for primary and intermediate age students regarding homelessness that children can identify with?

A: Please see these resources as potential literature suggestions for primary and intermediate age children:

<https://www.rebekahgienapp.com/homelessness-books/>

<http://www.booknerdmommy.com/12-excellent-picture-books-about-poverty-homelessness/>

<https://www.readbrightly.com/picture-books-about-homelessness/>

<https://readingmiddlegrade.com/middle-grade-books-about-homelessness-poverty/>