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| Book | Draft Policies from NYSSBA |
| Section | 5000 Students |
| Title | HOMELESS CHILDREN REGULATION |
| Code | 5151-R |
| Status | First Reading |

NOTE: Included is a section addressing participation by unaccompanied youth in activities where a parent/guardian signature or permission is ordinarily required.

This regulation reflects state laws and regulations conforming to the federal Every Student Succeeds Act (ESSA), which amended the federal McKinney-Vento Homeless Assistance Act. We also use the term "McKinney-Vento liaison" instead of "homeless liaison" to reduce use of the term "homeless" which can be stigmatizing.

Each school in the district will maintain forms provided by the Commissioner of Education for designating a homeless child's district of attendance. These forms must be immediately provided to any homeless child or parent or guardian who seeks to enroll a child in school. The district's McKinney-Vento liaison for homeless students will assist the homeless child and/or parent or guardian in understanding their rights under the law and provide them with information regarding the educational and related opportunities available to them.

School placement decisions for homeless children will be based on the "best interest of the child" and will:

1. presume that keeping the child in the school of origin is in the child's best interest, except when doing so is contrary to the wishes of the parent or guardian or unaccompanied youth; and
2. consider student-centered factors such as the effect of mobility on student achievement, education, health and safety of the child, giving priority to the wishes of the child's parent or guardian or unaccompanied youth.

If the district determines that it is in the best interests of the student to attend a school other than the school of origin or a school requested by the parent or guardian, the Superintendent or designee will provide the parent or guardian or unaccompanied youth with a written explanation of its decision, together with a statement regarding the right to appeal the placement, which will be in a manner and form understandable to them. The Superintendent or designee will refer any such dispute to the district's McKinney-Vento liaison for resolution. The student must be enrolled in the school sought by the parent or guardian or unaccompanied youth and provided with requested transportation pending final resolution of the dispute, including all available appeals.

Admission Procedures

Upon identifying a student experiencing homelessness, the Superintendent of Schools or designee will immediately:

1. ensure that a designation form is given to the parent or guardian or unaccompanied youth and review the designation form to ensure that it is complete;
2. admit the homeless child even if the child or parent or guardian is unable to produce records normally required for enrollment, or the student has missed application or enrollment deadlines, or there is an unresolved dispute regarding eligibility, school selection or enrollment;
3. where applicable, make a written request to the school district where a copy of the child's records are located for a copy of the homeless child's school records;
4. notify the McKinney-Vento liaison of the child's admission. The liaison must:

- a. notify the child and/or the parent or guardian of the educational and related opportunities available to homeless children including transportation to the school of origin, and help arrange for transportation and other services such as those under Title I, Section 504, IDEA, and federal school meals;
- b. ensure that the child receives the educational services for which they are eligible, including Head Start and Early Head Start, early intervention services, and preschool programs administered by the district;
- c. make necessary referrals for the homeless children or their families to health care services, dental services, mental health services, substance abuse services, housing services, and other appropriate services;
- d. ensure that any enrollment disputes are mediated promptly and in accordance with law;
- e. when assisting unaccompanied youth in placement or enrollment decisions, give priority to the views of such youth, and inform them of their status as "independent students" for purposes of applying for federal financial aid for college and assist with that process; and
- f. assist in obtaining required immunizations, health screenings, immunization records or health records.

The Superintendent or designee will forward a copy of the designation form to the Commissioner of Education and the school district of origin where applicable.

Unaccompanied Youth and Parent/Guardian Signatures

NOTE: We suggest adding this section to address barriers to participation that unaccompanied youth may face if they cannot obtain the signatures of their parent/guardian. While not codified in any specific law or regulation, this language is based on guidance from the NYS Technical and Education Assistance Center for Homeless Students (NYS-TEACHS) and the requirement of McKinney-Vento to remove barriers to participation in all district programs. We recommend discussing this with your attorney. Additionally, NYS-TEACHS can assist districts with issues relating to students experiencing homelessness.

To the extent that district policies and practices require parent/guardian permission or consent, the district will remove barriers to admission and participation for unaccompanied youth due to lack of parent/guardian signatures. This includes, but is not limited to, enrollment, providing medical care and excuses for absences, participating in field trips and extracurricular activities, and accessing or releasing records. Where parent/guardian consent, permission or signatures cannot be obtained for unaccompanied youth, the district will accept signatures from the following:

1. Persons designated by the parent/guardian as a "person in parental relation" under state General Obligations Law Title 15-A;
2. Authorized caregivers age 18 or older so identified by the unaccompanied youth;
3. The unaccompanied youths themselves; or
4. The McKinney-Vento liaison.

NOTE: The first sentence below reflects a provision of FERPA. The second sentence is optional and provided for the Board's consideration.

Parental rights under FERPA pertaining to student records extend to a person acting as a parent in the absence of a parent/guardian. The district grants unaccompanied youth under age 18 the rights under FERPA for eligible students and parents/guardians.

Transportation

Unless the homeless child is receiving transportation provided by the Department of Social Services, the district will provide transportation services to the child in accordance with applicable law. Where the district is designated by the parent/guardian or unaccompanied youth, and the student attends the school of origin as defined in law described in the accompanying policy (including a publicly funded preschool administered by the district or the State Education Department), the district will provide transportation, even if transportation is not generally provided to permanently housed students and the student is residing outside the district's boundaries. A designated school district that must provide transportation to a homeless child is not required to provide transportation in excess of 50 miles one way, unless the Commissioner of Education determines that it is in the best interest of the child.

NOTE: The following paragraph clarifies the district's transportation responsibilities for homeless children.

Transportation must be provided to the school of origin when the district receives notice of a child's homeless status, for the duration of the student's homelessness, as well as during the pendency of any disputes. Transportation must be provided to the receiving school as defined in Education Law §3209(1)(h) if the student is

homeless over multiple school years. If a child becomes permanently housed during the school year, the student has the right to transportation services to the school of origin until the end of the academic year, as well as one additional year if it is the student's final grade level or terminal year in the building.

If the district recommends that a homeless child attend a summer educational program, and lack of transportation is a barrier to participation, the district will provide transportation.

The district will provide transportation to extracurricular or school activities for homeless students eligible for such activities where lack of transportation is a barrier to participation.

Dispute Resolution Process

If, after the Superintendent reviews the designation form, they find that the student is either not homeless, not entitled to attend the district's school, or not entitled to transportation (if requested) the Superintendent or designee will do the following:

1. Contact the district's McKinney-Vento liaison to assist in dispute resolution process.
2. Contact the student and parent (if available) and inform them of their opportunity to provide more information prior to the district making a final determination.

If, after consideration of any additional information and input from the McKinney-Vento liaison, the Superintendent makes a final determination that a student is not homeless, or not entitled to enrollment or transportation, they must provide the student's parent or guardian, or the student, if the student is an unaccompanied youth, with written notice that the student is not entitled to their request. This written notice must also:

1. state the rationale/basis for the district's determination;
2. state the date as of which the student will be excluded from the district's schools (or transportation), which must be at least 30 days from receipt of the written notice;
3. advise that the district's final determination may be appealed to the Commissioner of Education (Commissioner);
4. provide the name and contact information for the district's McKinney-Vento liaison;
5. inform the student's parent or guardian or the student, if the student is an unaccompanied youth, that the district's McKinney-Vento liaison is required to assist in filing such an appeal; and
6. include, as an attachment, the form needed to file an appeal to the Commissioner.

The Superintendent must ensure that the district's final decision is delivered to the parent, guardian, or unaccompanied youth in a timely manner. The student must remain enrolled and provided with transportation (if requested) until the district provides written notice of its final determination and for a minimum of 30 days after receipt of the determination to give the student's parent or guardian or unaccompanied youth the opportunity to appeal to the Commissioner.

NOTE: ESSA requires that during disputes, students remain at the school being sought, and receive transportation, "pending final resolution, including all available appeals." State law mirrors that provision.

If the parent/guardian or student commences an appeal to the Commissioner within 30 days of the final determination, the homeless child or youth will be permitted to continue to attend the school s/he is enrolled in at the time of the appeal and/or receive transportation to that school until the Commissioner renders a decision.

Adoption date: