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ADDRESSING THE EDUCATIONAL NEEDS OF HOMELESS CHILDREN A Guide for Michigan Child Welfare Practitioners

HELPFUL WEBSITES

The vast majority of the information contained in this report was drawn from the following websites and the links provided therein.

- **Michigan Department of Education, Office of Field Services, Education of Homeless Children and Youth:** <http://www.michigan.gov/mde/0,1607,7-140--53390--,00.html>.
 - This site is a great resource for Michigan-specific provisions and requirements regarding homeless education. It contains links to the lists of local homeless liaisons and grant recipients, as well as links to federal guidelines regarding enrollment, transportation, and nutrition programs for homeless youth.
 - NOTE: Unfortunately, this webpage can be somewhat difficult to locate on the Michigan Department of Education's main website. If entering the web address above does not work, here is an alternative way to get to the Education of Homeless Children and Youth page:
 - Go to the MI Department of Ed's main site, <http://www.michigan.gov/mde>.
 - In the "Search" box in the top right corner of the page, type in "Education of Homeless Children and Youth."
 - Click on the search result "Education of Homeless Children and Youth" (it should be the first result).
- **The National Center for Homeless Education:** <http://www.serve.org/nche>.
 - This site is a comprehensive database containing policy briefs and information regarding the requirements of the McKinney-Vento Act on the federal level.
- **The National Association for the Education of Homeless Children and Youth:** <http://www.naehcy.org>.
 - This site is another excellent tool describing the federal requirements applicable to all states. Take note of the fact sheets, issue briefs, and liaison toolkit accessible at <http://www.naehcy.org/training.html>. Topics covered include transportation, Title I, domestic violence, migrant children, school selection, enrollment, school meals, and requirements for local homeless liaisons.

INTRODUCTION:

As an attorney, advocate, or judge in the field of child welfare law, you may initially wonder how your practice may involve the needs of homeless youth. When one thinks of a homeless child, common visions that come to mind may include children who have slipped through the cracks or were abandoned by their parents, forced to make it on their own, living in abandoned buildings, cars, motels, parks, or wherever they can sleep without being disturbed by predators or the police.

While these unfortunate youngsters certainly fit all definitions of “homeless,” the definition for purposes of eligibility to receive educational services and assistance under the federal McKinney-Vento Act is considerably broader. This definition, as described in Step 1 below, includes children who are often involved in the child welfare system. For the purposes of this pamphlet, “homeless” will refer to youth in the child welfare system who meet the federal eligibility requirements for educational assistance.

School districts, homeless shelters, community action agencies, and other organizations receive subgrants from the state under McKinney-Vento, and these groups are continually searching for more efficient ways to *locate* homeless children who reside in their service area and are eligible for the services the subgrant recipients provide. This is where child advocates in the legal system come into the picture.

Lawyers, advocates, social workers, and judges in the child welfare system operate from a unique vantage point for identifying children meeting the homeless definition because knowledge and assessment of the child’s living situation is part of the legal decision making process. Educators and homeless education advocates do not operate from this standpoint, and are interested in referrals and other ways to locate homeless children, who for obvious reasons can be very difficult to find and do not often show up on the schoolhouse steps requesting to be enrolled.

Communication and partnership between child welfare practitioners and homeless education specialists in local school districts is a “win-win-win” situation:

- **Lawyers/Social Workers/Parents:** Securing a stable and consistent daily setting for the child through enrolling him or her in school alleviates concerns over the child’s unsupervised activities and removes the parent, foster parent, or social worker’s burden of seeking out day care services. The child’s lawyer or caseworker will then have more time to focus on ensuring that the child’s parent complies with the service plan, assisting the parent in securing stable housing and employment, and otherwise advancing the progress of the case. The provisions of McKinney-Vento allow the lawyer, social worker, or parent to take advantage of the expertise of homeless education professionals and educators experienced in dealing with the needs of youth living in unstable environments.
- **Educators:** Locating more homeless students is a goal of every subgrant recipient, and getting referrals from child welfare cases is an effective way to reach students in need of a stable school environment. Once more homeless

students are identified and served by the school district, the local grant recipient can request more funding from the state to engage in additional outreach and improve the quality of services provided.

- **The Child:** The law’s focus on educational continuity and stability for homeless youth will mitigate the tremendous disruption the child faces in his home life due to his family’s involvement with the child welfare system. Having a daily routine and a predictable environment in which to spend his or her days will greatly benefit a child whose life is otherwise turbulent.

STEP 1: Is Your Child Client Considered “Homeless” Under the Definition Provided in the McKinney-Vento Homeless Assistance Act?

The definition of “homeless” for purposes of qualifying for educational assistance is considerably broader than that used in everyday discussion. A child is considered “homeless” under the McKinney-Vento Homeless Assistance Act if he or she lacks a “fixed, regular, and adequate nighttime residence,” and includes:

- Children who are **“sharing the housing of other persons due to loss of housing, economic hardship, or similar reasons;”**
- Children who are “living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative accommodations;”
- Children who are “living in emergency or transitional shelters;”
- Children who are “abandoned in hospitals;”
- Children **“awaiting foster care placement;”**
- Children whose “primary nighttime residence is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;”
- Children “living in cars, parks, public spaces, abandoned buildings, **substandard housing**, bus train stations, or similar settings,” and
- “Migratory children who qualify as homeless” because they are living in one or more of the conditions described above.

Source: McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11434a(2).

The portions of the definition most likely to apply to children in the child welfare system are noted in boldface. Note that children living with friends or relatives during the course of a child welfare investigation will most likely qualify as temporarily “homeless” during the course of the investigation. Children whose homes are under investigation by Child Protective Services may be considered to be living in “substandard housing.” If you are unsure whether or not your client meets the statutory definition, it is worthwhile to err on the side of inclusion, and allow the school district or department of education make the final determination.

STEP 2: Could Your Child Client Benefit from Homeless Education Services?

The answer to this question will almost inevitably be “yes.” The McKinney-Vento Act requires a wide array of services and accommodations for homeless youth, and grant recipients throughout the state provide a fantastic variety of assistance to homeless youth in their service area.

The Act itself requires the following for homeless children:

- The right to immediate enrollment in school, even if lacking paperwork normally required for enrollment;
- The right to attend school in his or her school of origin, if requested by the parent or unaccompanied child and it is feasible, or to attend school in the attendance area where the family or child is currently residing;
- The right to receive transportation to his or her school of origin, if requested by the parent or unaccompanied child;
- The right to receive services comparable to those received by classmates who are not homeless, including transportation and supplemental educational services;
- The right to attend schools and classes not segregated according to homelessness, segregation based on a child’s homeless status is strictly prohibited; and
- The posting of homeless students’ rights in all schools and other places around the community.

Sources: The McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11432; “Homeless Education: An Introduction to the Issues,” The National Center for the Education of Homeless Children and Youth (available at: <http://www.naehcy.org/training.html>).

The rights listed above are required by federal law and **must** be provided by all school districts. Here in Michigan, a number of organizations, ranging from individual schools to school districts to homeless shelters to community action agencies, have received subgrants from the state to provide the services listed above to their school district. Some of these go far beyond what is required under the law, including:

- Assistance in securing permanent housing for children and families living in motels, shelters, parks, etc.;
- Assistance in locating short-term emergency housing, including one-week vouchers for local motels;
- Assistance in registering for free school breakfast and lunch, which all homeless children are automatically eligible for;
- Seasonally appropriate clothing and school uniforms if required;
- Passes for public transit, gas cards, ride-share information, and even auto repair vouchers for students with cars;
- Backpacks containing school supplies and nonperishable foods that are continually replenished;
- Information on available free laundry and kitchen facilities located on or near the school grounds;
- Gift certificates to local grocery stores;
- Summer immunization clinics;

- Provision of school services such as special education screening, automatic eligibility for Title I assistance, guidance counseling, self-esteem counseling, after-school tutoring, and summer school services.

This is not a complete list, and not every service is offered in each school district. To find out what is available in your local school district or the district in which your client is eligible to attend, contact your local Subgrant Coordinator, whose names and contact information are listed in the attached **McKinney-Vento Grant Recipients in Michigan** chart. This chart is created by the Michigan Department of Education. The grant coordinators will give you information about the services their organization provides to students in the district. General questions may also be directed to the Michigan State Homeless Education Consultant, Mike McGraw, at (517) 241-1162. It is clear that every homeless student could greatly benefit from at least one of the services listed above, making the inquiry well worth the effort.

STEP 3: Homeless Advocacy in the Courtroom

As an attorney, advocate, or judge working in child welfare, the primary forum for addressing homeless education issues will be the courtroom, referee's chambers, or negotiating table. Beginning the school enrollment process could be part of a service plan implemented by DHS or carried out by a parent or foster parent under court supervision. *All* parties involved in the child's case should be on the lookout to see if the child falls under the broad definition of homeless described above. Remember that children awaiting foster care placement and children temporarily living with relatives or foster parents fall into this definition.

Once the parties to the case determine that the child is or may be considered homeless, the parent, caseworker, or child's attorney should contact the local homeless liaison (see Step 4 below). It is worth mentioning that requiring the child's enrollment in school may at first appear to be another burden imposed on the already-strained foster care system and distraught parents. However, here is some good news about the homeless education enrollment process:

- If all goes well, the enrollment process will be a "handoff" to local homeless liaisons and educators. It is the responsibility of the liaisons, and not the child's parent, lawyer, or social worker, to acquire all necessary paperwork and ensure that the child's educational needs are met according to the law.
 - If all does *not* go well and there are disputes with the homeless liaison and the school district, go to Step 5 below.
- The decision to enroll the child in school will not normally be contested by any of the parties in the legal arena, and should not require extended discussion and negotiation.
- Even if the child's temporary foster care placement is not in his or her home school district, the law allows the child to enroll in the district where they now reside. Many schools provide cross-district transportation, when feasible, to allow the student to remain at the school they last attended.

- Immediately enrolling the child in school will free up time for the parent to work on other requirements of the service plan, including the search for employment, attending school, or securing stable housing without having to worry about their child's unsupervised whereabouts or how to get the child to and from school.

The child's attorney may request a court order from the family court directing that the homeless child be enrolled in his or her local public school. This direction from the judge creates an enforceable obligation on the caseworker to take immediate action in beginning the enrollment process and informs the school officials of the child's homeless status and their resultant duties under the law. While some school officials may contest the family court's jurisdiction over the enrollment determination, the order bears the official sanction of the state and will generally carry more weight than an enrollment request from an individual caseworker or attorney.

STEP 4: How to Begin the Process of Enrollment

Every school district is required to have a homeless liaison, and this is the first person you should contact if you believe that your client qualifies for homeless education services. The names and contact information for every liaison in the state are listed in the attached document "**2004-05 Homeless Liaisons**," created and distributed by the Michigan Department of Education. Contact the liaison in the district your child last attended school or the district in which they currently reside. Describe your child's current living situation, and the liaison will begin the enrollment process. Do not worry if you are unable to locate the child's prior school records; McKinney-Vento requires *immediate* enrollment while the records are being located and even if they cannot be found. The law aims to avoid disruption in the child's educational experience, so do not worry if keeping the child in his school of origin now requires inter-district transportation, because this is allowed for under the law.

Upon contacting the local school liaison, your child client should be immediately enrolled in his or her local school of origin, and your job in the educational realm will be finished. It is important, however, to continue discussing your client's educational experience with him or her to ensure that all of the law's requirements are met. The child and his or her parents may not even be aware that they are being denied services by the school district. If you are experiencing difficulty with the continuity and quality of your client's education experience, move on to Step 6.

STEP 6: Recognizing Problems and Dispute Resolution

The following describes *administrative* dispute resolution that will take place entirely within the school system and Department of Education. The issues covered in this process involve disputes between the child and the school district, and will be adjudicated by school administrators or hearing officers, often in a "paper hearing" where neither the child nor his or her advocate is present before the decisionmaker. Keep in mind that disputes involving education that occur between the child, his or her parents,

the court, and DHS are still properly addressed in the courtroom and are unrelated to the administrative procedures that follow.

Recall the law's requirements from Step 2. If your client is experiencing any of the following, you should begin the dispute resolution procedure:

- The child is not immediately enrolled in his local school of origin or the school district in which he or she resides;
- The child is enrolled but is unable to attend school due to a lack of daily transportation;
- The child is separated or segregated from other students in his class based on his or her status as homeless, for example the child is placed in a class or program composed solely of homeless children;
- The child is denied access to special education, Title I, or individual tutoring services that *are* provided to other students in the school;
- The child is not receiving free school lunch or breakfast, if breakfast is offered to other students;
- The child is not receiving school supplies and other materials offered to his or her low-income classmates.

Because the law only entitles homeless students to services “comparable to those received” by classmates who are not homeless, there are limitations to what you may demand from the school. As the child’s advocate, your primary role in this process would be to appear with the child at any oral hearing before school administrators and assist your client in filing appeals if you disagree with the result of the hearing.

In the event of a clear violation, the attached **Michigan Department of Education Dispute Resolution Procedure** states, “if a question concerning the education of a homeless child arises, the first person to contact in the school district is the homeless liaison.” The school district is required to provide the parent or unaccompanied child with information and instructions on the dispute resolution process, and the parent or child must be notified of the right to appeal all decisions, all the way up to the U.S. Secretary of Education if need be. The procedure works as follows:

- “Every effort must be made to resolve the complaint or dispute at the local level before it is brought to the Michigan Department of Education.”
- The local homeless liaison should be contacted, and the complainant should be provided with a copy of the local dispute resolution procedure.
- The local liaison must determine whether the requested services are required under the law or consistent with local school board policy.
- If the dispute is still unresolved, the complainant should present their argument to the local liaison in writing. The complainant is entitled to a response within five days of the receipt of the written complaint.
- If the dispute remains unresolved, the complainant may arrange a meeting with the local superintendent for an oral, in-person discussion of the issue. The complainant is entitled to a written resolution within five days of the meeting.

- If the complaint remains unresolved after meeting with the local superintendent, the complainant may appeal to the local Board of Education.
- Written appeals are then taken to the State Homeless Coordinator, the Director of the Office of School Improvement, the State Deputy Superintendent, and finally the United States Secretary of Education.
- Note that while the dispute is pending, the child **must be enrolled in school**. If the dispute concerns which school is in the child’s “best interest” to attend, the child must be enrolled in the school preferred by his or her parent or guardian while the dispute is pending.

For the content requirements of written appeals, timing, deadlines, and procedures, see the attached **Michigan Department of Education Dispute Resolution Procedure**.

SUMMARY AND CONCLUSION

It is important to bear in mind that, while homeless children are entitled to a wide array of services, beyond the specific requirements listed in Step 2, the McKinney-Vento Act does not, and could not, entitle children to more than the school district can provide to non-homeless children. If, for example, there are *no* children in the school who receive school breakfast, your client does not have a claim against the school as long as he or she is on the same footing as every other child in the school. A school failing to provide services to all students may be out of compliance with Title I or the Individuals with Disabilities Education Act (IDEA), but that is beyond the scope of this pamphlet.

That being said, there are many fantastic grant recipients throughout the state who can provide services to your client that go far beyond the school. The provision of transportation, clothing, school supplies, and participation in after-school and summer programs for children will in turn free up time for the child’s parents to work or search for employment, secure permanent housing, and carry out any obligations imposed by the court in the course of a child welfare proceeding. The education-related services provided by Michigan’s school districts and grant recipients not only help the child’s education, they provide the whole family with outside assistance with the aim of achieving stability and breaking the cycle of homelessness.