

## **TITLE 200 – BOARD OF EDUCATION**

### **CHAPTER 20 – COUNCIL ON ELEMENTARY AND SECONDARY EDUCATION**

#### **SUBCHAPTER 30 – STUDENT SUPPORTS**

##### **PART 5 – State Regulations Education of Homeless Children and Youth**

### **5.1 Authority**

This Part is promulgated pursuant to R.I. Gen. Laws §§ 16-24-2 and 16-64-2.

### **5.2 Definitions**

- A. "Homeless children and youths" means children and youths "who lack a fixed, regular, and adequate nighttime residence," as per the federal McKinney-Vento Homeless Assistance Act of 1987, as amended (the "McKinney-Vento Act") at 42 U.S.C. §§ 11434a(2)(A) and (B), including:
1. Children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to a lack of alternative accommodations; are living in emergency or transitional shelters; are abandoned in hospitals;
  2. Children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
  3. Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings;
  4. Unaccompanied youth (youth not in the physical custody of a parent or guardian); and
  5. Migratory children (as such term is defined at 30 U.S.C. § 6399) who qualify as homeless for the purposes of the McKinney-Vento Act because they are living in circumstances described in §§ 5.2(A)(1) through (4) of this Part above.
- B. "School of origin" means the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled.

- C. "Enroll" and "Enrollment" means attending classes and participating fully in school activities.
- D. "Comparable services" means services offered to other students in the school selected including transportation services, educational services, and meals through school nutrition programs.
- E. "Homeless student" means the same as Homeless Children and Youths.

### **5.3 Stay-put Placement**

- A. Stay-put Placement. If a student becomes homeless during an academic year, or between academic years, the student's School of Origin must—taking into account the best interests of the student—"to the extent feasible, keep the student in the School of Origin, except when doing so is contrary to the wishes of the student's parent or guardian," as per the McKinney-Vento Act, 42 U.S.C. § 11432g(3)(B). The student may stay in his or her School of Origin "for the remainder of the academic year, even if the student becomes permanently housed during an academic year," as per 42 U.S.C. § 11432g(3)(A)(i)(II).
- B. Duration of Stay-put Placement and Parental Best Interest Determination. A Homeless Student has the right, as long as it is in his or her best interest, to remain enrolled in his or her School of Origin until he or she has permanent housing somewhere, as per 42 U.S.C. § 11432g(3)(A). Rhode Island allows the parents of a Homeless Child to decide, subject to school district challenge, whether it is in the best interest of the student to attend school in the town where the student is now living, or to attend the student's School of Origin.
- C. Disputed Best Interest Determination. If a school district disputes a parent's best interest determination, the dispute may be appealed to the commissioner.
- D. Factors Used in Making a Best Interest Determination. The following factors are to be considered in making a best interest determination:
  - 1. special needs of the child;
  - 2. continuity of services;
  - 3. distance/travel time;
  - 4. involvement in special activities or sports;
  - 5. safety; and
  - 6. other relevant information
- E. Burden of Proof. In an appeal, the burden of proof is on the school district to show that the parent's decision is not in the best interest of the child or youth.

- F. Interim Protective Orders. The commissioner has authority to issue interim protective orders to ensure that a Homeless Student is allowed to continue to attend school pursuant to R.I. Gen. Laws § 16-39-3.2.
- G. General Rights. Homeless Children have the right to receive the same education that other students receive, as per 42 U.S.C. §§ 11432e(3) and (g). If a Homeless Student enrolls in a new school district, the student's records must be forwarded to the new school within ten (10) working days. Each school district must designate an appropriate staff person as the district liaison to coordinate the delivery of education to Homeless Children and Youths, as per 42 U.S.C. 11432g(6), and schools must also cooperate with social service agencies working with Homeless Students. Homeless Students must not be "isolated or stigmatized," as per 42 U.S.C. § 11432g(1)(J)(i).
- H. Special Education. In those cases where an individualized education plan has been adopted for a child and the child moves to another town or city, the plan shall remain in effect until a new plan is adopted for the child in the new city or town, as per R.I. Gen Laws § 16-24-1(e). When an unaccompanied Homeless Youth enrolls in a school district, the district shall request the appointment of an Educational Advocate (Surrogate Parent), as per R.I. Gen. Laws § 33-15.1-2 and the federal Individuals with Disabilities Education Act (the "IDEA") at 20 U.S.C. § 1415b(2)(A).
  - 1. All reasonable efforts shall be made to ensure that the appointment of an Educational Advocate takes place within 30 days after the district determines that the Homeless Youth needs an Educational Advocate, as per the IDEA at 20 U.S.C. § 1415b(2)(B).
  - 2. Any due process complaint notices filed on behalf of a Homeless Student shall contain available contact information concerning the Homeless Student, as well as the name of the school the Homeless Child or Youth is attending, as per the McKinney-Vento Act, 42 U.S.C. § 11432b(7)(A).
- I. School districts must provide Homeless Children and Youths with transportation to and from their School of Origin, at the request of a parent or guardian, as per 42 U.S.C. § 11432g(4)(A).
  - 1. For unaccompanied youths, districts must provide transportation to and from the School of Origin at the request of the homeless liaison.
  - 2. If a Homeless Student's temporary residence and the School of Origin are in the same school district, that school district must provide or arrange transportation.
  - 3. If a Homeless Student is temporarily residing outside the district of the School of Origin, the district where the Student is temporarily living and the district of the School of Origin must share the cost and responsibility of providing transportation.

4. If the district in which the Homeless Student is now living and the district of the Student's School of Origin cannot agree on a way to transport the student back to the original district, the cost of the transportation must be divided between the school districts.
  - a. The provision of transportation should not be delayed pending the resolution of an agreement between the district of the School of Origin and the district in which the Homeless Student is temporarily residing.
  - b. Pending an agreement between the two districts, the district of the School of Origin shall assume the responsibility and cost of transportation. In addition, districts must provide students experiencing homelessness with transportation services comparable to those provided to other students.

## **5.4 Responsibilities of Districts**

- A. Out-Reach Responsibilities. A school district must ensure, "the enrollment and attendance of [H]omeless [C]hildren and [Y]ouths who are not currently attending school," as per the McKinney Vento Act, 42 U.S.C. § 11432g(3)(C). Schools must revise their policies so that these policies do not act as a barrier to the enrollment and retention of Homeless Children.
- B. Comparable Services. School districts shall provide each Homeless Child and Youth with services comparable to the services offered to other students, as per 42 U.S.C. § 11432g(4), including transportation services and educational services for which the Homeless Child or Youth meets the eligibility criteria, such as pre-school, compensatory education, special education, LEP, vocational education, gifted and talented, school meal programs, and before- and after-school care programs.
- C. Prevention of Isolation and Stigmatization. A school district shall adopt policies and practices to ensure that Homeless Children and Youth are not isolated or stigmatized, as per 42 U.S.C. § 11432g(1)(J)(i). Homelessness alone shall not be sufficient reason to separate students from the mainstream school environment. Districts may not maintain segregated schools or facilities for Homeless Children and Youth. A school district may separate Homeless Students from other students only as necessary for short periods of time to deal with health or safety emergencies, or to provide temporary, special, and supplementary services to meet the unique needs of Homeless Students.
- D. Opportunity to Meet Challenging Performance Standards. Homeless Students shall have access to the education and other services that they need to ensure that they have an equal opportunity to meet the same challenging State student performance standards to which all students are held accountable, as per 42 U.S.C. § 11432g(4).

- E. District Liaisons for Homeless Children and Youth. Every school district will designate a staff person to serve as a liaison for Homeless Students, as per 42 U.S.C. § 11432g(6). The liaison will help ensure that Homeless Students enroll in, and have a full opportunity to succeed in the schools of the district. The responsibilities of the liaison include ensuring that:
1. Children and youth in homeless situations are identified by school personnel and through coordination activities with other entities and agencies.
  2. Homeless Students enroll in, and have a full and equal opportunity to succeed in, schools of the district.
  3. Families, Homeless Children, and Youth receive educational services for which they are eligible, including Head Start, Even Start, and pre-school programs administered by the district, and referrals to health, mental health, dental, and other appropriate services.
  4. The district informs the parents or guardians of Homeless Students of the educational and related opportunities available to their children and provides them with meaningful opportunities to participate in the education of their children.
  5. The district disseminates public notice of the educational rights of Homeless Students in places in which these children receive services under the McKinney-Vento Act.
  6. The district properly mediates enrollment disputes, as per 42 U.S.C. § 11432g(3)(E).
  7. The district informs the parent or guardian of a Homeless Student, and any unaccompanied youth, of the transportation services that the district must make available, and assists the child or youth in accessing transportation to school.

## **5.5 Elimination of Enrollment Barriers**

- A. Records. A school that a district selects through a best interest determination must immediately enroll the Homeless Student, even if the Student is unable to produce records normally required for enrollment (such as previous academic records, medical records, proof of residency, or other documentation), as per the McKinney Vento Act, 42 U.S.C. § 11432g(3)(E). The enrolling school must immediately contact the school last attended by the child or youth to obtain relevant academic or other records. Any record ordinarily kept by a school regarding each Homeless Child or Youth must be maintained so that it is available in a timely fashion when the child enters a new school or school district.

- B. Immunizations and Medical Records. If a Homeless Child or Youth needs to obtain immunizations, or immunization or medical records, the enrolling school must immediately refer the parent or guardian to the district's local homeless liaison, who must assist in obtaining the immunizations or records.
- C. Legal guardianship issues impacting on school enrollment, which cannot be resolved at the district level, as well as any other unresolved issue relating to school enrollment, shall be referred to the commissioner for decision pursuant to the authority granted by R.I. Gen. Laws § 16-64-6.
- D. Review and Revision. The Rhode Island Department of Education, in conjunction with local school districts and entities fulfilling the role of local school districts, will develop, review and revise policies to remove barriers to the enrollment and retention of Homeless Children and Youth in school.

## **5.6 Enrollment Disputes - Resolution**

- A. Handling Enrollment Disputes. If a dispute arises between a school district and parents or guardians over school selection or enrollment or other issues, such as transportation, the LEA must immediately enroll the Homeless Child or Youth in the school in which the parent or guardian seeks enrollment and immediately provide for other services, such as transportation, pending resolution of the dispute by the commissioner, as per the McKinney-Vento Act at 42 U.S.C. § 11432g(3)(E). The district must provide to the parent or guardian a written statement of the school placement decision and the appeal rights. The district must refer the Child, Youth, parent, or guardian to the district liaison, who must expeditiously carry out the dispute resolution process by filing an appeal with the commissioner. Similar protections apply to unaccompanied youth.
  - 1. Districts with high student mobility should develop and have in place, inter-district agreements regarding the provision of transportation.

## **5.7 Rhode Island Coordinator for Education of Homeless Children and Youth**

Coordinator. The Coordinator for Education of Homeless Children and Youth will, among other things, provide technical assistance to LEA liaisons to ensure that LEAs comply with the legislative requirements, including student enrollment requirements, as per the McKinney-Vento Act at 42 U.S.C. § 11432g(6).

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