CHAPTER 10

McKinney-Vento Homeless Assistance Act

For children who have been traumatized by the loss of home, friends, and perhaps death or injury of family members, returning to school is not only important for educational purposes; attendance at a school becomes an oasis of normalcy for them – Michael O'Connor, Esq.[1]

Education for Homeless Children and Youth

The McKinney-Vento Homeless Assistance Act requires that all school districts ensure that children whose families are homeless have access to school. This chapter begins with an overview of the McKinney-Vento Homeless Act, followed by the text of the statute. The statute is cited as 42 U. S. C. § 11431, *et seq*.

Policy Statement

The McKinney-Vento Homeless Assistance Act includes this Statement of Policy:

> Each state shall ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youths . . . to ensure that homeless children and youths are afforded the same free, appropriate public education as provided to other children and youths.[2]

States are prohibited from segregating ". . . homeless children in separate schools or separate programs within a school, based on the child's status as homeless."[3]

Definition of "Homeless Children and Youth"

Homeless children and youth means "individuals who lack a fixed, regular, and adequate nighttime residence . . . and includes children and youth who are sharing the housing of other persons due to loss of housing, economic hardship . . . are living in motels, hotels, trailer parks, or camping grounds . . . in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement . . . are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and migratory children."[4]

"In Best Interest of the Child"

School districts *shall* make decisions in the best interest of the child. In determining the best interest of the child, schools *shall*:

- Keep a homeless child or youth in the school of origin except when doing so is contrary to the wishes of the child's parent or guardian . . .
- Provide a written explanation, including a statement regarding the right to appeal to the parent or guard-

1 *Education Rights of Homeless Children* by Michael O'Connor, Esq. at www.wrightslaw.com/info/homeless.educate.htm, see also www.advocatesforchildren.org

2 42 U. S. C. §11431

3 42 U. S. C. § 11432(e)(3)

4 42 U. S. C. § 11434a(2)

ian if the school district sends a child to a school other than the school of origin or a school requested by the parent or guardian

- Ensure that the homeless liaison helps to make placement and enrollment decisions for an unaccompanied youth.[5]

Immediate Enrollment Required

School districts are required to **immediately enroll** homeless children, even if medical, academic and residency **records are not available**. The school shall immediately contact the last school attended to obtain relevant records. If the child needs immunizations or medical records, the school shall immediately refer the parent or guardian to the school district liaison who shall assist in obtaining the necessary immunizations or medical records.[6]

If there is a dispute about enrollment, the child "shall be **immediately admitted** to the school in which enrollment is sought, pending resolution of the dispute."[7]

Notice of Educational Rights

The law requires that a "**notice of the educational rights** of homeless children and youths is disseminated where such children and youths receive services . . . such as schools, family shelters, and soup kitchens . . . and that the parent or guardian . . . is fully informed of all transportation services . . . ."[8]

Child Find and Surrogate Parents

In IDEA 2004, the "Child Find" requirements that school districts identify, evaluate and provide services to all children with disabilities were specifically extended to homeless children.[9] The law also requires that "unaccompanied youth" (i.e., a homeless adolescent who is not accompanied by a parent or guardian) have a surrogate parent appointed. If the child is living in a homeless shelter, an employee of the shelter may serve as a temporary surrogate. [10]

Children with Disabilities Who Are Homeless

Children with disabilities who are homeless were expressly recognized when IDEA was reauthorized. IDEA incorporated the definition of "homeless children"[11] from the McKinney-Vento Act.

In Summation

In this chapter, you learned about powerful rights in the McKinney-Vento Homeless Assistance Act. States are responsible for ensuring that homeless children receive a free, appropriate public education. School districts are required to make decisions in the "best interests of the child," to ensure that homeless children are not segregated or stigmatized, and to provide notice of the rights of homeless children. The full text of the McKinney-Vento Homeless Assistance Act begins on the following page.

In the next section of ***Wrightslaw: Special Education Law, 2nd Edition***, you learn about special education caselaw. Chapter 11 includes an overview of eight special education cases decided by the U. S. Supreme Court. Chapter 12 includes the full text of these decisions.

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5 42 U. S. C. § 11432(g)(3)(B)
6 42 U. S. C. § 11432(g)(3)(C)
7 42 U. S. C. § 11432(g)(3)(E)
8 42 U. S. C. § 11432(g)(6)(A)
9 20 U. S. C. § 1412(a)(3)(A)
10 See Regulation 300.519
11 20 U. S. C. § 1401(11)

McKinney-Vento Homeless Assistance Act
42 U. S. C. § 11431 et seq.

42 U. S. C. §11431 - Statement of policy

42 U. S. C. §11432 - State Grants and Responsibilities

42 U. S. C. §11433 - Local educational agency subgrants

42 U. S. C. §11434a - Definitions

42 U. S. C. §11435 - Appropriations

42 U. S. C. §11431.Statement of policy

The following is the policy of the Congress:

(1) Each State educational agency shall ensure that **each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education**, **including a public preschool education**, as provided to other children and youths.

(2) In any State that has a compulsory residency requirement as a component of the State's compulsory school attendance laws or other laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and youths, the State will review and undertake steps to revise such laws, regulations, practices, or policies **to ensure that homeless children and youths are afforded the same free, appropriate public education as provided to other children and youths**.

(3) Homelessness alone is not sufficient reason to separate students from the mainstream school environment.

(4) **Homeless children and youths should have access to the education and other services that such children and youths need** to ensure that such children and youths have an opportunity to meet the same challenging State student academic achievement standards to which all students are held.

42 U. S. C. §11432. Grants for State and local activities for the education of homeless children and youth

(a) General Authority. The Secretary is **authorized to make grants to States** in accordance with the provisions of this section to enable such States to carry out the activities described in subsections (d) through (g) of this section.

(b) Application. No State may receive a grant under this section unless the State educational agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(c) Allocation and reservations

(1) Allocation.

(A) Subject to subparagraph (B), the Secretary is authorized to allot to each State an amount that bears the same ratio to the amount appropriated for such year under section 11435 of this title that remains after the Secretary reserves funds under paragraph (2) and uses funds to carry out section 11434(d) and (h) of this title, as the amount allocated under section 1122 of the Elementary and Secondary Education Act of 1965 [20 U. S. C. 6332] to the State for that year bears to the total amount allocated under section 1122 of such Act to all States for that year, except that no State shall receive less than the greater of–

(i) $150,000;

(ii) one-fourth of 1 percent of the amount appropriated under section 11435 of this title for that year; or

(iii) the amount such State received under this section for fiscal year 2001.

(B) If there are insufficient funds in a fiscal year to allot to each State the minimum amount under subparagraph (A), the Secretary shall ratably reduce the allotments to all States based on the proportionate share that each State received under this subsection for the preceding fiscal year.

(2) Reservations.

(A) The Secretary is authorized to reserve 0.1 percent of the amount appropriated for each fiscal year under section 11435 of this title to be allocated by the Secretary among the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, according to their respective need for assistance under this part, as determined by the Secretary.

(B)

(i) The Secretary shall transfer 1 percent of the amount appropriated for each fiscal year under section 11435 of this title to the Department of the Interior for programs for Indian students served by schools funded by the Secretary of the Interior, as determined under the Indian Self-Determination and Education Assistance Act (25 U. S. C. 450 et seq.), that are consistent with the purposes of the programs described in this part.

(ii) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of this part, for the distribution and use of the funds described in clause (i) under terms that the Secretary determines best meet the purposes of the programs described in this part. Such agreement shall set forth the plans of the Secretary of the Interior for the use of the amounts transferred, including appropriate goals, objectives, and milestones.

(3) State defined. For purposes of this subsection, the term "State" does not include the United States Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands.

(d) Activities. Grants under this section **shall be used for the following**:

(1) To carry out the policies set forth in section 11431 of this title in the State.

(2) To **provide activities for, and services to, homeless children**, including preschool-aged homeless children, and youths that **enable such children and youths to enroll in, attend, and succeed in school**, or, if appropriate, in preschool programs.

(3) To **establish or designate** an **Office of Coordinator for Education of Homeless Children and Youths** in the State educational agency in accordance with subsection (f) of this section.

(4) To prepare and carry out the State plan described in subsection (g) of this section.

(5) To develop and implement **professional development programs for school personnel** to heighten their awareness of, and capacity to respond to, specific problems in the education of homeless children and youths.

(e) State and local subgrants.

(1) Minimum disbursements by states. From the sums made available each year to carry out this part, the State educational agency shall distribute not less than 75 percent in subgrants to local educational agencies for the purposes of carrying out section 11433 of this title, except that States funded at the minimum level set forth in subsection (c)(1) of this section shall distribute not less than 50 percent in subgrants to local educational agencies for the purposes of carrying out section 11433 of this title.

(2) Use by State educational agency. A State educational agency may use funds made available for State use under this part to conduct activities under subsection (f) of this section directly or through grants or contracts.

(3) Prohibition on segregating homeless students.

(A) In general. Except as provided in subparagraph (B) and section 11433(a)(2)(B)(ii) of this title, in providing a free public education to a homeless child or youth, **no State** receiving funds under this part **shall segregate such child or youth in a separate school, or in a separate program within a school, based on such child's or youth's status as homeless**.

(B) Exception[12]

. . .

(f) Functions of the Office of Coordinator. The Coordinator for Education of Homeless Children and Youths established in each State **shall–**

(1) **gather reliable, valid, and comprehensive information on the nature and extent of the problems homeless children and youths** have in gaining access to public preschool programs and to public elementary schools and secondary schools, the **difficulties in identifying the special needs** of such children and youths, any progress made by the State educational agency and local educational agencies in the State in addressing such problems and difficulties, and the **success of the programs** under this part in allowing homeless children and youths to enroll in, attend, and succeed in, school;

(2) develop and carry out the State plan described in subsection (g) of this section;

(3) collect and transmit to the Secretary, at such time and in such manner as the Secretary may require, a report containing such information as the Secretary determines is necessary to assess the educational needs of homeless children and youths within the State;

(4) **facilitate coordination between the State educational agency, the State social services agency, and other agencies** (including agencies providing mental health services) **to provide services to homeless children**, including preschool-aged homeless children, and youths, and to families of such children and youths;

(5) in order to improve the provision of comprehensive education and related services to homeless children and youths and their families, coordinate and collaborate with–

(A) **educators**, including child development and preschool program personnel;

(B) **providers of services** to homeless and runaway children and youths and homeless families (including domestic violence agencies, shelter operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youths);

(C) **local educational agency liaisons** designated under subsection (g)(1)(J)(ii) of this section for homeless children and youths; and

(D) **community organizations and groups** representing homeless children and youths and their families; and

(6) provide technical assistance to local educational agencies in coordination with local educational agency liaisons designated under subsection (g)(1)(J)(ii) of this section, to ensure that local educational agencies comply with the requirements of subsection (e)(3) of this section and paragraphs (3) through (7) of subsection (g) of this section.

(g) State Plan.

(1) In General. Each State **shall submit to the Secretary a plan to provide for the education of homeless children and youths** within the State. Such plan shall include the following:

(A) A description of how such children and youths are (or will be) given the opportunity to meet the **same challenging State academic achievement standards** all students are expected to meet.

(B) A description of the procedures the State educational agency will use **to identify such children and youths** in the State and to assess their special needs.

(C) A **description of procedures for the prompt resolution of disputes regarding the educational placement** of homeless children and youths.

(D) A description of programs for school personnel (including principals, attendance officers, teachers, enrollment personnel, and pupil services personnel) to heighten the awareness of such personnel of the

12 The exception to 3(A) continued for several pages with numerous procedural safeguard requirements and was limited to San Joaquin County, Orange County, and San Diego County, in California, and Maricopa County, in Arizona. For that reason, it is not included in this document.

specific needs of runaway and homeless youths.

(E) A **description of procedures that ensure** that homeless children and youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local food programs.

(F) A description of procedures that ensure that–

(i) homeless children have **equal access to the same public preschool programs**, administered by the State agency, as provided to other children in the State;

(ii) homeless youths and youths separated from the public schools are identified and accorded **equal access to appropriate secondary education and support services**; and

(iii) homeless children and youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local **before- and after-school care programs**.

(G) Strategies to address problems identified in the report provided to the Secretary under subsection (f)(3) of this section.

(H) Strategies to address other problems with respect to the education of homeless children and youths, including **problems resulting from enrollment delays** that are caused by–

(i) immunization and medical records requirements;

(ii) residency requirements;

(iii) lack of birth certificates, school records, or other documentation;

(iv) guardianship issues; or

(v) uniform or dress code requirements.

(I) A demonstration that the State educational agency and local educational agencies in the State have developed, and shall review and revise, **policies to remove barriers to the enrollment and retention of homeless children and youths in schools** in the State.

(J) Assurances that–

(i) the State educational agency and local educational agencies in the State will adopt policies and practices to **ensure that homeless children and youths are not stigmatized or segregated** on the basis of their status as homeless;

(ii) local educational agencies will designate an appropriate staff person, who may also be a coordinator for other Federal programs, as a local educational agency liaison for homeless children and youths, to carry out the duties described in paragraph (6)(A); and

(iii) the State and its local educational agencies will adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, the liaison), to and from the school of origin, as determined in paragraph (3)(A), in accordance with the following, as applicable:

(I) If the homeless child or youth continues to live in the area served by the local educational agency in which the school of origin is located, the child's or youth's **transportation to and from the school** of origin **shall be provided or arranged** by the local educational agency in which the school of origin is located.

(II) If the homeless child's or youth's living arrangements in the area served by the local educational agency of origin terminate and the child or youth, though continuing his or her education in the school of origin, begins living in an area served by another local educational agency, the local educational agency of origin and the local educational agency in which the homeless child or youth is living shall agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the local educational agencies are unable to agree upon such method, the responsibility and costs for transportation shall be shared equally.

(2) Compliance.

(A) In general. Each plan adopted under this subsection shall also describe how the State will ensure that local educational agencies in the State will comply with the requirements of paragraphs (3) through (7).

(B) Coordination. Such plan shall indicate what technical assistance the State will furnish to local educational agencies and how compliance efforts will be coordinated with the local educational agency liaisons designated under paragraph (1)(J)(ii).

(3) Local educational agency requirements.

(A) In general. The **local educational agency serving each child or youth** to be assisted under this part **shall, according to the child's or youth's best interest**–

(i) **continue the child's or youth's education** in the school of origin for the duration of homelessness–

(I) in any case in which a **family becomes homeless between academic years or during an academic year**; or

(II) for the **remainder of the academic year**, if the child or youth becomes permanently housed during an academic year; or

(ii) enroll the child or youth in any public school that non-homeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.

(B) Best interest. In determining **the best interest of the child or youth** under subparagraph (A), the local educational agency **shall**–

(i) to the extent feasible, **keep a homeless child or youth in the school of origin**, except when doing so is contrary to the wishes of the child's or youth's parent or guardian;

(ii) **provide a written explanation, including a statement regarding the right to appeal** under subparagraph (E), to the homeless child's or youth's parent or guardian, if the local educational agency sends such child or youth to a school other than the school of origin or a school requested by the parent or guardian; and

(iii) in the case of **an unaccompanied youth**, ensure that **the homeless liaison** designated under paragraph (1)(J)(ii) **assists in placement or enrollment decisions** under this subparagraph, considers the views of such unaccompanied youth, and provides notice to such youth of the right to appeal under subparagraph (E).

(C) Enrollment.

(i) The school selected in accordance with this paragraph **shall immediately enroll the homeless child or youth, even if the child or youth is unable to produce records normally required for enrollment**, such as previous academic records, medical records, proof of residency, or other documentation.

(ii) The enrolling school **shall immediately contact the school last attended** by the child or youth to obtain relevant academic and other records.

(iii) If the child or youth **needs to obtain immunizations, or immunization or medical records**, the enrolling school **shall immediately refer the parent or guardian** of the child or youth **to the local educational agency liaison** designated under paragraph (1)(J)(ii), **who shall assist** in obtaining necessary immunizations, or immunization or medical records, in accordance with subparagraph (D).

(D) Records. Any record ordinarily kept by the school, including immunization or medical records, academic records, birth certificates, guardianship records, and evaluations for special services or programs, regarding each homeless child or youth shall be maintained–

(i) so that the records are available, in a timely fashion, when a child or youth enters a new school or school district; and

(ii) in a manner consistent with section 1232g of title 20.

(E) Enrollment disputes. If a dispute arises over school selection or enrollment in a school–

(i) the **child or youth shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute**;

(ii) the **parent or guardian** of the child or youth **shall be provided with a written explanation of the school's decision regarding school selection or enrollment, including the rights of the parent, guardian, or youth to appeal the decision**;

(iii) the child, youth, parent, or guardian **shall be referred to the local educational agency liaison** designated under paragraph (1)(J)(ii), who shall **carry out the dispute resolution process** as described in paragraph (1)(C) **as expeditiously as possible** after receiving notice of the dispute; and

(iv) in the case of **an unaccompanied youth**, the homeless liaison shall ensure that the youth **is immediately enrolled in school pending resolution of the dispute**.

(F) Placement choice. The **choice regarding placement** shall be made regardless of whether the **child or youth lives with the homeless parents or has been temporarily placed elsewhere**.

(G) School of origin defined. In this paragraph, the term "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.

(H) Contact information. Nothing in this part shall prohibit a local educational agency from requiring a parent or guardian of a homeless child to submit contact information.

(4) Comparable services. Each homeless child or youth to be assisted under this part **shall be provided services comparable to services offered to other students in the school** selected under paragraph (3), including the following:

(A) **Transportation services**.

(B) **Educational services for which the child or youth meets the eligibility criteria**, such as services provided under title I of the Elementary and Secondary Education Act of 1965 [20 U. S. C. 6301 et seq.] or similar State or local programs, educational programs for children with disabilities, and educational programs for students with limited English proficiency.

(C) Programs in **vocational and technical education**.

(D) Programs for **gifted and talented students**.

(E) **School nutrition programs**.

(5) Coordination.

(A) In general. Each local educational agency serving homeless children and youths that receives assistance under this part **shall coordinate**–

(i) the **provision of services** under this part with local social services agencies and **other agencies or programs providing services** to homeless children and youths and their families, including services and programs funded under the Runaway and Homeless Youth Act (42 U. S. C. 5701 *et. seq.*); and

(ii) with other local educational agencies on inter-district issues, such as transportation or transfer of school records.

(B) Housing assistance. If applicable, each State educational agency and local educational agency that receives assistance under this part shall coordinate with State and local housing agencies responsible for developing the **comprehensive housing affordability strategy** described in section 12705 of this title **to minimize educational disruption for children and youths who become homeless**.

(C) Coordination purpose. The coordination required under subparagraphs (A) and (B) shall be designed to–

(i) ensure that homeless children and youths have access and reasonable proximity to available education and related support services; and

(ii) raise the awareness of school personnel and service providers of the effects of short-term stays in a shelter and other challenges associated with homelessness.

(6) Local educational agency liaison.

(A) Duties. Each local educational agency liaison for homeless children and youths, designated under paragraph (1)(J)(ii), **shall ensure** that–

(i) **homeless children and youths are identified by school personnel** and through coordination activities with other entities and agencies;

(ii) **homeless children and youths enroll in, and have a full and equal opportunity to succeed in, schools of that local educational agency**;

(iii) homeless families, children, and youths **receive educational services** for which such families, children, and youths are eligible, including Head Start and Even Start programs and preschool programs administered by the local educational agency, **and referrals** to health care services, dental services, mental health services, and other appropriate services;

(iv) the **parents or guardians** of homeless children and youths **are informed of the educational and related opportunities available** to their children and are provided with meaningful opportunities to participate in the education of their children;

(v) **public notice of the educational rights of homeless children and youths is disseminated where such children and youths receive services under this chapter, such as schools, family shelters, and soup kitchens**;

(vi) enrollment disputes are mediated in accordance with paragraph (3)(E); and

(vii) the **parent or guardian** of a homeless child or youth, and any unaccompanied youth, **is fully informed of all transportation services**, including transportation to the school of origin, as described in paragraph (1)(J)(iii), and is assisted in accessing transportation to the school that is selected under paragraph (3)(A).

(B) Notice. State coordinators established under subsection (d)(3) of this section and local educational agencies shall inform school personnel, service providers, and advocates working with homeless families of the duties of the local educational agency liaisons.

(C) Local and State coordination. Local educational agency liaisons for homeless children and youths shall, as a part of their duties, coordinate and collaborate with State coordinators and community and school personnel responsible for the provision of education and related services to homeless children and youths.

(7) Review and revisions.

(A) In general. Each State educational agency and local educational agency that receives assistance under this part shall review and revise any policies that may act as barriers to the enrollment of homeless children and youths in schools that are selected under paragraph (3).

(B) Consideration. In reviewing and revising such policies, consideration shall be given to issues concerning transportation, immunization, residency, birth certificates, school records and other documentation, and guardianship.

(C) Special attention. Special attention shall be given to ensuring the enrollment and attendance of homeless children and youths who are not currently attending school.

42 U. S. C. §11433 – Local educational agency subgrants for education of homeless children and youth

(a) General authority.

(1) In general. The State educational agency shall, in accordance with section 11432(e) of this title, and from amounts made available to such agency under section 11435 of this title, make subgrants to local educational agencies for the purpose of facilitating the enrollment, attendance, and success in school of homeless children and youths.

(2) Services.

(A) In general. Services under paragraph (1)–

(i) may be provided through programs on school grounds or at other facilities;

(ii) shall, to the maximum extent practicable, be provided through existing programs and mechanisms that integrate homeless children and youths with non-homeless children and youths; and

(iii) shall be designed to expand or improve services provided as part of a school's regular academic program, but not to replace such services provided under such program.

(B) Services on school grounds. If services under paragraph (1) are provided on school grounds, schools–

(i) may use funds under this part to provide the same services to other children and youths who are determined by the local educational agency to be at risk of failing in, or dropping out of, school, subject to the requirements of clause (ii); and

(ii) except as otherwise provided in section 11432(e)(3)(B) of this title, shall not provide services in settings within a school that segregate homeless children and youths from other children and youths, except as necessary for short periods of time–

(I) for health and safety emergencies; or

(II) to provide temporary, special, and supplementary services to meet the unique needs of homeless children and youths.

(3) Requirement. Services provided under this section shall not replace the regular academic program and shall be designed to expand upon or improve services provided as part of the school's regular academic program.

(b) Application. A local educational agency that desires to receive a subgrant under this section **shall submit an application** to the State educational agency at such time, in such manner, and containing or accompanied by such information as the State educational agency may reasonably require. Such application shall include the following:

(1) An **assessment of the educational and related needs of homeless children and youths** in the area served by such agency (which may be undertaken as part of needs assessments for other disadvantaged groups).

(2) A **description of the services and programs** for which assistance is sought to address the needs identified in paragraph (1).

(3) An assurance that the local educational agency's combined fiscal effort per student, or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such agency for the fiscal year preceding the fiscal year for which the determination is made, was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

(4) An assurance that the applicant complies with, or will use requested funds to comply with, paragraphs (3) through (7) of section 11432(g) of this title.

(5) A description of policies and procedures, consistent with section 11432(e)(3) of this title, that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and youths.

(c) Awards.

(1) In general. The State educational agency shall, in accordance with the requirements of this part and from amounts made available to it under section 11435 of this title, make competitive subgrants to local educational agencies that submit applications under subsection (b) of this section. Such **subgrants shall be awarded on the basis of the need** of such agencies for assistance under this part and the quality of the applications submitted.

(2) Need. In determining need under paragraph (1), the State educational agency may consider the number of homeless children and youths enrolled in preschool, elementary, and secondary schools within the area served by the local educational agency, and **shall consider the needs of such children and youths and the ability of the local educational agency to meet such needs**. The State educational agency may also consider the following:

(A) The extent to which the proposed use of funds will **facilitate the enrollment, retention, and educational success** of homeless children and youths.

(B) The extent to which the application–

(i) reflects coordination with other local and State agencies that serve homeless children and youths; and

(ii) describes how the applicant will meet the requirements of section 11432(g)(3) of this title.

(C) The extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youths.

(D) Such other criteria as the State agency determines appropriate.

(3) Quality. In determining the quality of applications under paragraph (1), the State educational agency shall consider the following:

(A) The applicant's needs assessment under subsection (b)(1) of this section and the likelihood that the program presented in the application will meet such needs.

(B) The types, intensity, and coordination of the services to be provided under the program.

(C) The involvement of parents or guardians of homeless children or youths in the education of their children.

(D) The extent to which homeless children and youths will be integrated within the regular education program.

(E) The quality of the applicant's evaluation plan for the program.

(F) The extent to which services provided under this part will be coordinated with other services available to homeless children and youths and their families.

(G) Such other measures as the State educational agency considers indicative of a high-quality program, such as the extent to which the local educational agency will provide case management or related services to unaccompanied youths.

(4) Duration of grants. Grants awarded under this section shall be for terms not to exceed 3 years.

(d) Authorized activities. A **local educational agency may use funds** awarded under this section for activities that carry out the purpose of this part, including the following:

(1) The provision of **tutoring, supplemental instruction, and enriched educational services** that are linked to the achievement of the same challenging State academic content standards and challenging State student academic achievement standards the State establishes for other children and youths.

(2) The provision of **expedited evaluations of the strengths and needs of homeless children** and youths, including **needs and eligibility for programs and services** (such as educational programs for gifted and talented students, **children with disabilities**, and students with limited English proficiency, services provided under title I of the Elementary and Secondary Education Act of 1965 [20 U. S. C. 6301 *et seq*.] or similar State or local programs, programs in vocational and technical education, and school nutrition programs).

(3) **Professional development** and other activities **for educators and pupil services personnel** that are designed to **heighten the understanding and sensitivity** of such personnel **to the needs of homeless children and youths, the rights of such children and youths** under this part, and the **specific educational needs of runaway and homeless youths**.

(4) The provision of **referral services** to homeless children and youths for medical, dental, mental, and other health services.

(5) The provision of assistance to defray the **excess cost of transportation** for students under section 11432(g)(4)(A) of this title, not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected under section 11432(g)(3) of this title.

(6) The provision of **developmentally appropriate early childhood education programs**, not otherwise provided through Federal, State, or local funding, for preschool-aged homeless children.

(7) The provision of services and assistance **to attract, engage, and retain homeless children and youths, and unaccompanied youths**, in public school programs and services provided to non-homeless children and youths.

(8) The provision for homeless children and youths of **before- and after-school, mentoring, and summer programs** in which a teacher or other qualified individual provides **tutoring, homework assistance, and supervision of educational activities**.

(9) If necessary, the payment of fees and other costs associated with tracking, obtaining, and transferring records necessary to enroll homeless children and youths in school, including birth certificates, immunization or medical records, academic records, guardianship records, and evaluations for special programs or services.

(10) The **provision of education and training to the parents** of homeless children and youths about the rights of, and resources available to, such children and youths.

(11) The development of coordination between schools and agencies providing services to homeless children and youths, as described in section 11432(g)(5) of this title.

(12) The **provision of pupil services (including violence prevention counseling)** and referrals for such services.

(13) Activities to address the particular **needs** of homeless children and youths **that may arise from domestic violence**.

(14) The adaptation of space and **purchase of supplies for any non-school facilities** made available under subsection (a)(2) of this section to provide services under this subsection.

(15) The **provision of school supplies**, **including those supplies to be distributed at shelters or temporary housing facilities**, or other appropriate locations.

(16) The **provision of other extraordinary or emergency assistance needed to enable homeless children and youths to attend school**.

42 U. S. C. §11434. Secretarial responsibilities.

(a) Review of State plans. In reviewing the State plan submitted by a State educational agency under section 11432(g) of this title, the Secretary shall use a peer review process and shall evaluate whether State laws, policies,

and practices described in such plan adequately address the problems of homeless children and youths relating to access to education and placement as described in such plan.

(b) Technical assistance. The Secretary shall provide support and technical assistance to a State educational agency to assist such agency in carrying out its responsibilities under this part, if requested by the State educational agency.

(c) Notice. The Secretary shall, before the next school year that begins after January 8, 2002, create and disseminate nationwide a public notice of the educational rights of homeless children and youths and disseminate such notice to other Federal agencies, programs, and grantees, including Head Start grantees, Health Care for the Homeless grantees, Emergency Food and Shelter grantees, and homeless assistance programs administered by the Department of Housing and Urban Development.

(d) Evaluation and dissemination. The Secretary shall conduct evaluation and dissemination activities of programs designed to meet the educational needs of homeless elementary and secondary school students, and may use funds appropriated under section 11435 of this title to conduct such activities.

(e) Submission and distribution. The Secretary shall require applications for grants under this part to be submitted to the Secretary not later than the expiration of the 60-day period beginning on the date that funds are available for purposes of making such grants and shall make such grants not later than the expiration of the 120-day period beginning on such date.

(f) Determination by Secretary. The Secretary, based on the information received from the States and information gathered by the Secretary under subsection (h) of this section, shall determine the extent to which State educational agencies are ensuring that each homeless child and homeless youth has access to a free appropriate public education, as described in section 11431(1) of this title.

(g) Guidelines. The Secretary shall develop, issue, and publish in the Federal Register, not later than 60 days after January 8, 2002, school enrollment guidelines for States with respect to homeless children and youths. The guidelines shall describe-

(1) successful ways in which a State may assist local educational agencies to immediately enroll homeless children and youths in school; and

(2) how a State can review the State's requirements regarding immunization and medical or school records and make such revisions to the requirements as are appropriate and necessary in order to enroll homeless children and youths in school immediately.

(h) Information.

(1) In general. From funds appropriated under section 11435 of this title, the Secretary shall, directly or through grants, contracts, or cooperative agreements, periodically collect and disseminate data and information regarding-

(A) the number and location of homeless children and youths;

(B) the education and related services such children and youths receive;

(C) the extent to which the needs of homeless children and youths are being met; and

(D) such other data and information as the Secretary determines to be necessary and relevant to carry out this part.

(2) Coordination. The Secretary shall coordinate such collection and dissemination with other agencies and entities that receive assistance and administer programs under this part.

(i) Report. Not later than 4 years after January 8, 2002, the Secretary shall prepare and submit to the President and the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the status of education of homeless children and youths, which shall include information on--

(1) the education of homeless children and youths; and

(2) the actions of the Secretary and the effectiveness of the programs supported under this part.

42 U. S. C. §11434a – Definitions

For purposes of this part:

(1) The terms "**enroll**" and "**enrollment**" include attending classes and participating fully in school activities.

(2) The term "**homeless children and youths**"–

(A) **means individuals who lack a fixed, regular, and adequate nighttime residence** (within the meaning of section 11302(a)(1) of this title); and

(B) **includes** -

(i) **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 the lack of alternative adequate accommodations; are **living in emergency or transitional shelters**; are abandoned in hospitals; or are awaiting foster care placement;

(ii) **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 (within the meaning of section 11302(a)(2)(C) of this title);

(iii) children and youths who are **living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings**; and

(iv) **migratory children** (as such term is defined in section 6399 of title 20 who qualify as homeless for the purposes of this part because the children are living in circumstances described in clauses (i) through (iii).

(3) The terms "**local educational agency**" and "**State educational agency**" have the meanings given such terms in section 7801 of title 20.

(4) The term "**Secretary**" means the Secretary of Education.

(5) The term "**State**" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(6) The term "**unaccompanied youth**" includes a youth not in the physical custody of a parent or guardian.

42 U. S. C. §11435. Authorization of Appropriations

For the purpose of carrying out this part, there are authorized to be appropriated $70,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2007.

End of McKinney-Vento Homeless Assistance Act