EDUCATION LAW CENTER | FACT SHEET

THE RIGHTS OF STUDENTS EXPERIENCING HOMELESSNESS

August 2023

Children and youth who experience homelessness — including those living in shelters, doubled-up due to economic circumstances, in temporary housing, or "couch-surfing" — have important legal rights under a federal law called the "McKinney-Vento Act."[1]

Under the McKinney-Vento Act, students experiencing homelessness have the right to stay in their current school even if they no longer live in the same neighborhood or to immediately enroll in a new school. The law also provides additional services to support students to be successful.

In addition, a new law called Act 1 (codified at 24 P.S. § 13-1331.1) went into effect in Pennsylvania during the 2021-2022 school year and provides additional rights for students experiencing homelessness who have had to *change schools at least once in a single school year*. This law ensures that students are able to fully participate in school and can graduate on time.[2]

This fact sheet explains rights and protections that apply to students experiencing homelessness and what to do if a student needs help.

WHO QUALIFIES AS HOMELESS UNDER THE MCKINNEY-VENTO ACT?

All students attending public schools from preschool until age 21 or high school graduation — including those in charter schools or school programs operated by Intermediate Units (IUs) — qualify for additional rights under the McKinney-Vento Act if they are experiencing homelessness.[3] The protections apply for as long as the student experiences homelessness, and certain protections like school stability and transportation apply for the remainder of the year that the child secures permanent and adequate housing.[4] Courts have recognized that there is no duration to experiencing homelessness, even if it lasts several years or recurs.[5]

Students are considered to be "homeless" under the act if they lack a consistent, adequate, fixed nighttime residence.[6] This includes but is not limited to students who are: "living doubled-up" with friends or family due to economic hardship or loss of housing; "couch-surfing"; living in temporary or emergency shelters; living on campgrounds (including those who are unsheltered, in a tent, recreational camper, or other inadequate accommodations),[7] living in a car, hotel, or trailer park; living in a place that is not ordinarily used for sleeping; living unsheltered; **or** living in housing that is legally recognized as substandard.[8]

CAN YOUTH WHO ARE LIVING ON THEIR OWN QUALIFY AS HOMELESS?

Yes. Students who are experiencing homelessness and living on their own without a consistent nighttime residence qualify and are referred to as "unaccompanied youth."[9] McKinney-Vento recognizes students who are outside of the physical custody of a parent/guardian as

unaccompanied youth regardless of the circumstances that led them to this situation. This includes young people who were pushed out of their homes, have run away, or are separated from family for another reason.[10] Many of these students have experienced abuse and trauma. Other students may be physically separated from their families and living elsewhere but still maintain a relationship with their family. Being in contact with family or having a family does not change a student's McKinney-Vento eligibility. It is important for schools to ask young people about their living situation in a nonjudgmental way and explain that the information will be used to see if a youth qualifies for McKinney-Vento protections and to determine whether a student is experiencing homelessness, whether with their family or as an unaccompanied youth experiencing homelessness on their own. In many cases, older youth may be moving frequently, even nightly, and staying in different locations.

In the 2023-2024 school year, unaccompanied youth made up approximately 18% of all McKinney-Vento eligible students identified in Pennsylvania.[11]

CAN MIGRATORY CHILDREN QUALIFY AS HOMELESS?

Yes. The definition includes children and youth who meet the definition of "migratory children" and are living in any of the conditions described above.[12] This includes students who are considered "unaccompanied youth" and experiencing homelessness on their own.[13] To learn more about the many different rights of students who are considered to be migratory under the law, see *Protecting Access to Education for Migratory Children: A Resources for Families and Educators*[14] and *Protecting Access to Education for Unaccompanied Children: A Resource for Families and Educators*.[15] See also ELC's Rights of Multilingual and Culturally Diverse Students and Families fact sheet.

DO UNACCOMPANIED YOUNG PEOPLE HAVE ADDITIONAL PROTECTIONS UNDER MCKINNEY-VENTO?

Yes. Unaccompanied youth living on their own are allowed to enroll themselves in school and are entitled to additional protections under the McKinney-Vento Act.[16] For example, schools must help youth enroll in school, access extracurriculars, and apply to college.[17]

McKinney-Vento liaisons — staff who are designated by schools to assist students experiencing homelessness — must also support unaccompanied students who are applying to college by verifying their status as an "unaccompanied homeless student" for purposes of securing independent student status on the Free Application for Federal Student Aid Form (FAFSA).[18] Verification can be made by "documented phone call, written statement, or verifiable electronic data match."[19] This eliminates the need for an unaccompanied student to provide parental income information on the FASFA for purposes of Title IV federal student aid.[20] Title IV student aid provides financial assistance to students with identified "financial or cultural need" to pursue postsecondary education.[21]

In addition, if an unaccompanied homeless youth is also a student with a disability, a school district or charter school must appoint an educational "surrogate parent" to act as that student's special education decision maker through the IEP process.[22] Appropriate staff at emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents until a surrogate parent can be appointed.[23]

Remember: All students have a legal right to attend school until the end of the school term in which they turn 21.[24] Youth who have been out of school may reenroll themselves even if they cannot earn enough credits to graduate or already have a GED.

DOES THE PAYMENT OF RENT DISQUALIFY STUDENTS FROM PROTECTION?

No. The McKinney-Vento Act protects students on the basis of their temporary or inadequate housing. Students who are otherwise eligible cannot be denied protections because rent is paid.[25] For example, if a family paid rent to live "doubled-up" or is living in housing that is considered legally substandard, the children would still be entitled to McKinney-Vento protections.[26]

ARE SCHOOLS RESPONSIBLE FOR IDENTIFYING STUDENTS WHO ARE EXPERIENCING HOMELESSNESS?

Yes. School personnel are solely responsible for making sure that all students who are experiencing homelessness are promptly and proactively identified.[27] Students experiencing homelessness on their own and with their families do not need to know that they are McKinney-Vento eligible, use the words "McKinney-Vento" or "homeless," or assert their rights in order to be eligible. That is the school's job.

McKinney-Vento Eligibility Screening Tool

The U.S. Department of Education's Non-Regulatory Guidance for the McKinney-Vento Act recommends that local education agencies (LEAs) adopt a universal screening tool for McKinney-Vento eligibility to make sure eligible students are identified as experiencing homelessness and to eliminate the potential for stigmatization.[28]

You can access ELC's McKinney-Vento and Act 1 Screening Tool for LEAs here. This tool can be used by families and schools to determine whether a student is experiencing homelessness under the McKinney-Vento Act and is eligible for Act 1 protections. It is best practice that schools screen all children and youth every year and upon enrollment to make sure all eligible students are identified and protected.

HOW SHOULD SCHOOLS VERIFY MCKINNEY-VENTO ELIGIBILITY INCLUDING HOUSING?

Schools districts must be reasonable and discreet when confirming housing eligibility for McKinney Vento services.[29] As recognized by the National Center for Homeless Education, which provides technical assistance for the federal Education for Homeless Children and Youth Program, school districts should not follow students or family members, observe them from outside their residences, talk to their neighbors about them, contact anyone outside of the family and school, use law enforcement to conduct home visits, or insist on documents like bills or eviction notices that the family may not have access to.[30]

HOW DO WE ENSURE THAT STUDENTS IDENTIFIED AS HOMELESS ARE NOT STIGMATIZED?

Research has helped us understand that due to centuries of systemic racism and other pervasive forms of discrimination in housing, employment, criminal justice, child welfare, and education,

people of color in our country and in Pennsylvania communities are often prevented from accessing permanent, stable, and adequate housing. As a result of this "pileup of inequities," students experiencing homelessness are disproportionately children of color, who are then often subject to grave educational deprivations and stigmatized as a result of this status.[31]

Importantly, the McKinney-Vento Act expressly prohibits school personnel from stigmatizing students who are experiencing homelessness.[32] To fulfill this requirement, **students experiencing homelessness should be referred to as "McKinney-Vento eligible" to avoid potential stigmatization or disclosure of confidential information about housing status to peers.**

CAN A STUDENT OR FAMILY SELF-IDENTIFY AS EXPERIENCING HOMELESSNESS AND GET PROTECTIONS?

Yes. Students experiencing homelessness living on their own or families seeking to enroll students can self-identify as experiencing homelessness, but this is never required. School personnel remain *solely responsible* for identifying eligible children, even if a student or family does not self-identify.[33] Schools must treat a student who self-identifies or who may be homeless as McKinney-Vento eligible and cannot require the family or student to "prove" that they are experiencing homelessness in order to get protections. If the school disagrees, it can initiate a dispute resolution process (explained later in the fact sheet). Until this process is completely over, a student must be treated as eligible, enrolled in school, and receive all protections of the act.[34]

DO MCKINNEY-VENTO ELIGIBLE STUDENTS HAVE THE SAME RIGHTS IN SCHOOL AS OTHER STUDENTS?

Yes, and they have additional legal protections. Students who qualify as homeless under the act have the same rights to access all educational programs and opportunities as students who are housed and can show proof of residency.[35] Schools are prohibited from segregating students, discriminating against them, or stigmatizing these students because they are experiencing homelessness.[36] Schools cannot adopt policies that deny students equal access to "attend school and fully participate" in school, including during COVID-19 or other times when students are learning remotely.[37] For example, a school cannot require a McKinney-Vento eligible student to "prove" their address to get a school-issued device like a Chromebook or laptop to access remote learning, nor can it deny multiple families access to school-issued devices because they are sharing the same address due to homelessness.

WHERE CAN MCKINNEY-VENTO ELIGIBLE STUDENTS ATTEND SCHOOL?

McKinney-Vento eligible students have a legal right to stay in their current school or a prior school they attended before becoming homeless. If remaining in such a school is not in the child's best interest, the child can immediately enroll in a new school where they are staying — even without providing any of the documents normally required for enrollment.

- **School stability:** McKinney-Vento eligible students have a right to "school stability," which means that they can continue to attend their current school or the school they attended prior to becoming homeless. Students can continue to stay in the same school even if they move again, until they secure permanent and adequate housing, even if their experience lasts multiple school years.[38] The current school or the school

the student attended prior to experiencing homelessness is called the "school of origin" under the McKinney-Vento Act.[39]

- **Immediate enrollment:** Alternatively, a student can enroll in a new school where they now are living or where they have "a substantial connection."[40] This is particularly important for children and youth who stay in different locations over the course of weeks. Children must be enrolled immediately — on the same day they seek enrollment — even without any documents normally required for enrollment and even if the school does not have the student's education records, including a child's IEP.[41] After enrolling a student, a school may ask for documentation substantiating a student's McKinney-Vento eligibility and other ordinarily required records.[42] The McKinney-Vento liaison must assist in obtaining needed documentation.[43]

WHO MAKES THE 'BEST INTEREST' DETERMINATION?

The determination regarding where a child will attend school is based on the "best interest" of the child as determined by their parent, legal guardian, or youth who is enrolling on his/her own in conjunction with school district staff.[44] It is "presumed" that it is in the best interest of the student to attend their school of origin unless the parent disagrees.[45] Remaining in the same school is preferable because research shows that students lose six to eight months of academic progress with every school move.

This best interest determination is completed by a student's local school district or charter school, called a local education agency (LEA) by the McKinney-Vento Act. Each determination is to be "student-centered" and must be focused on the individual needs of the student who is experiencing homelessness.[46] The determination must take into consideration the preferences of unaccompanied students, or the parent's wishes if the student is experiencing homelessness with their parent or guardian.[47] The school district must consider the "impact of mobility on achievement, education, health, and safety" of each student.

WHAT IF AN UNACCOMPANIED STUDENT OR PARENT DISAGREES WITH A SCHOOL'S BEST-INTEREST DETERMINATION?

If the parent or unaccompanied student disagrees with a school district's determination, they can challenge the process through dispute resolution. In the meantime, **the student has a right to attend the school the unaccompanied youth or parent wants the student to attend until the dispute resolution process is fully resolved.**[48] [49]

CAN A STUDENT EXPERIENCING HOMELESSNESS BE ENROLLED WITHOUT IMMUNIZATION RECORDS?

Yes. Under the law, all McKinney-Vento eligible students must be enrolled immediately, even without documentation ordinarily required for enrollment.[50] This remains true even in COVID-19. However, the new school must *immediately* request the student's records and help an unaccompanied youth obtain these enrollment documents: proof of age, immunization records, and an Act 26 statement, also known as a parent registration form relating to school discipline.[51] McKinney-Vento eligible students must provide an address where they are living, if possible, but they need not do so in order to enroll in

school. If a student needs help obtaining immunization records, the McKinney-Vento liaison at the student's school must help the student obtain these records. They have a specific affirmative duty to help all unaccompanied youth obtain enrollment documents.[52]

DOES A CHILD WHO IS TRANSITIONING TO A NEW MIDDLE SCHOOL OR HIGH SCHOOL HAVE A RIGHT TO SCHOOL STABILITY?

Yes. The right to school stability applies to all feeder schools. This means that a student who is transitioning from an elementary school to a middle school or middle school to high school can remain with their peers in the new school.[53] Students have a right to school stability within a feeder pattern.[54]

DO OLDER STUDENTS EXPERIENCING HOMELESSNESS HAVE TO GO TO A NIGHT SCHOOL OR ACCELERATED OR ALTERNATIVE PROGRAM IF THEY ARE UNDER-CREDITED OR HAVE NOT BEEN IN SCHOOL FOR A WHILE?

No. Until a student turns 21 or graduates, they have the same right to access all educational opportunities and programs as any other student.[55] Students who are under-credited do not have to attend a night school, an accelerated program, or a twilight program. Like other students, McKinney-Vento eligible students may choose to attend such optional programs if they wish.

WHOSE JOB IS IT TO HELP MCKINNEY-VENTO ELIGIBLE STUDENTS AT SCHOOL?

Every school district or charter school must designate a liaison,[56] sometimes called a "McKinney-Vento liaison," to assist students experiencing homelessness. It is their job to help identify students who are experiencing homelessness, ensure eligible students receive McKinney-Vento protections, connect unaccompanied students or a student's parents to resources, and inform unaccompanied students or a student's parent or guardian about their rights under the law.[57] Liaisons tell unaccompanied students and parents about their right to disagree with a school's decision and how to challenge it.[58] In some districts, school counselors serve in this role or assist liaisons.

HOW CAN A MCKINNEY-VENTO LIAISON SUPPORT UNACCOMPANIED YOUTH WHO ARE ON THEIR OWN?

If a student is an unaccompanied youth, the liaison has additional responsibilities to make sure the student enrolls in school, has the same opportunities as other students, receives credit for coursework completed, and accesses higher education, including helping youth secure financial aid by completing the FAFSA application or applying for state grants.[59]

CAN A STUDENT EXPERIENCING HOMELESSNESS RECEIVE EXPEDITED EVALUATIONS OR REEVALUATIONS TO DETERMINE THEIR ELIGIBILITY OR CONTINUED ELIGIBILITY FOR SPECIAL EDUCATION SERVICES?

Yes. Generally, under the Individuals with Disabilities Education Act (IDEA), a key special education law, all students who are suspected of having disabilities that would make them eligible for special education, must be evaluated or reevaluated within 60 days after receiving a signed Permission to Evaluate (PTE) or Permission to Reevaluate (PTRE). However, evaluations for "highly mobile students" including students experiencing homelessness and students in the child welfare and/or juvenile justice system can be completed within **30 days rather than within 60 days**, in

accordance with guidance from the U.S. Department of Education's Office of Special Education and Rehabilitative Services.[60] It is best practice to evaluate all "highly mobile" on an expedited basis because they often experience frequent and recurring educational disruptions and challenges, which often interrupt the evaluation or reevaluation process.[61]

To learn more about students' rights to timely evaluations, see ELC's fact sheet on Special Education Evaluations, and to learn more about students' rights in the special education context, see ELC's guide for parents and advocates, The Right to Special Education in Pennsylvania.

ARE THERE ANY SUPPORTS FOR MCKINNEY-VENTO ELIGIBLE STUDENTS TO ENSURE EQUAL ACCESS TO SCHOOL AND TIMELY GRADUATION UNDER PENNSYLVANIA STATE LAW?

Yes. In January 2022, Pennsylvania adopted Act 1, which seeks to remove educational and graduation barriers for students who experience education instability (school disruptions) due to homelessness, foster care, involvement in the juvenile justice system, or court-ordered placements. Act 1 addresses barriers to school participation and timely graduation by ensuring that each eligible student has a "Point of Contact" to facilitate records transfer, ensure access to extracurricular activities, and support timely graduation. Students experiencing homelessness who have had to *change schools at least one time in a single school year* qualify to receive the protections of Act 1.[62]

Act 1 applies to students who experienced one or more school disruptions in a year. It applies to those returning to a formerly attended school, starting at a new school, or reengaging in school after an extended absence. The act also applies to students who attended school in the 2021-2022 school year. You can learn more about Act 1 in ELC's fact sheet here.

HOW DOES ACT 1 SUPPORT TIMELY GRADUATION?

Under federal law, McKinney-Vento eligible students should receive full or partial credit for all work they completed satisfactorily at a prior school.[63] Act 1 builds on this protection by requiring school districts to accept all full and partial credits earned at prior schools if a student enters school midyear or the student did not fully complete a class or took classes that are not offered at their new school.[64]

In addition, each student must have a Graduation Plan that considers different methods of earning or waiving missing credits and alternative pathways to graduation. Schools can waive courses, including those required for graduation, if the student has previously completed similar coursework or can "demonstrate competency" in a subject area.[65] See ELC's Request for Credit Assessment self-advocacy tool to request that an Act 1 eligible student's credits be assessed so that all earned credits count.

HOW DOES ACT 1 ENSURE EQUAL ACCESS TO EDUCATION?

The McKinney-Vento Act requires Pennsylvania's Department of Education and LEAs to identify and remove barriers faced by eligible students to ensure that they have "equal access to appropriate secondary education and support services."[66] For example, McKinney-Vento eligible students must be given equal access to credit recovery programs, SAT prep classes, and other supports.[67] The

McKinney-Vento Act requires schools to "review and revise policies, to remove barriers" to retaining students experiencing homelessness.[68] Act 1 provides more specific support. Under Act 1, schools must permit students to participate in extracurricular activities even if they have missed the deadline to enroll. In addition, schools must waive fines and fees, which act as barriers to a student's participation in school.[69]

WHAT PROTECTIONS DO ELIGIBLE STUDENTS HAVE AGAINST FINES AND FEES?

Fees and fines prevent students from being able to fully participate in school and place undue hardship on students and families. McKinney-Vento eligible students cannot face barriers to enrollment or retention due to fines and fees.[70] Schools should waive all fines and fees issued to McKinney-Vento eligible students. Act 1 explicitly requires that *all fees* be waived for students experiencing homelessness who have had to *change schools at least once in a single school year*.[71] See ELC's Request to Eliminate Fees and Fines self-advocacy tool to request an Act 1 eligible student's fines and fees be waived.

WHAT IS THE ROLE OF THE MCKINNEY-VENTO LIAISON UNDER ACT 1?

A school's McKinney-Vento liaison and, if applicable, Act 1 Point of Contact (a school representative in charge of implementing the requirements of Act 1, preferably at the building level) should work together to assess the credits or partial credits students have and need and how they will graduate. A McKinney-Vento liaison must ensure that all students are aware of the benefits of Act 1, including a graduation plan and that Act 1 eligible students are identified and assigned a Point of Contact. See ELC's Request for Assignment of Point of Contact self-advocacy tool if an Act 1 eligible student has not been assigned a Point of Contact.

WHO IS RESPONSIBLE FOR TRANSPORTING MCKINNEY-VENTO ELIGIBLE STUDENTS TO AND FROM SCHOOL?

Local educational agencies (LEAs) must provide *free transportation* to and from a student's "school of origin." Even if a student becomes permanently housed in the middle of the year, the school must continue to provide free transportation *until the end of the school year*.[72]

If a student needs to be transported across district or state lines, and it is in their best interest to continue attending their "school of origin," the LEAs from both jurisdictions must work together to transport the student.[73] The schools must also consider the student's needs when arranging for transportation and must treat students who are McKinney-Vento eligible the same way they would treat students who are not experiencing homelessness.[74] The McKinney-Vento liaison can work with the transportation department at the student's school district to set up the transportation.[75]

WHAT OTHER SUPPORTS OR SERVICES ARE AVAILABLE TO HELP STUDENTS TO BE SUCCESSFUL IN SCHOOL? WHAT HAPPENS IF A STUDENT NEEDS A SCHOOL UNIFORM, SCHOOL SUPPLIES, TUTORING HELP, OR MEALS AT SCHOOL?

All McKinney-Vento eligible students are automatically entitled to free breakfast (if it is offered at their school) and free lunch.[76] This is true even if schools are physically closed due to COVID-19 or if schools are distributing free meals in another way, such as drop-off sites or community centers.

Under the McKinney-Vento Act, eligible students are also entitled to receive a school uniform and school supplies.[77] Some schools give students what is called a "uniform voucher," which students can turn in to receive a free school uniform. Students must be given up-to-date uniforms so that they are not stigmatized and treated differently from other students. A school cannot give McKinney-Vento eligible students uniforms that look different from other students.[78] In addition, "Title IA" funds, when available, may be used to provide a variety of support services to help eligible students meet academic achievement standards. These supports include tutoring help, counseling, eyeglasses, SAT prep and testing fees, food, etc.

WHAT PROTECTIONS DO ELIGIBLE STUDENTS HAVE IN TERMS OF SCHOOL ATTENDANCE?

Experiencing homelessness can cause children and youth to miss school. Schools cannot count absences that are caused by a student's housing status as unexcused or "illegal."[79] Schools must work with McKinney-Vento eligible students to remove barriers to attending and staying in school, and revise polices that cause such barriers.[80] This remains true even during the ongoing COVID-19 pandemic. *See* ELC's Addressing Attendance Barriers ('Truancy') & School Attendance FAQs for more information on school attendance and truancy, ELC's Family Needs Self-Assessment to Address Attendance Barriers to identify barriers to school attendance, and ELC's Request for Attendance Record Correction to ensure days that a student misses due to experiencing homelessness are counted as excused.

WHAT CAN UNACCOMPANIED STUDENTS OR PARENTS/GUARDIANS OF STUDENTS EXPERIENCING HOMELESSNESS DO IF THEY DISAGREE WITH A SCHOOL'S DECISION?

If a parent or unaccompanied youth disagrees with an LEA about where the student should attend school based on the student's best interest, or whether the student qualifies as McKinney-Vento eligible, the parent, guardian, or youth may use a dispute resolution procedure to resolve the disagreement.[81]

While resolution of any dispute is pending, the McKinney-Vento Act requires the school district to permit the student to remain in their current "school of origin" or to immediately enroll in a new school as the school of choice. The right to remain in this school placement and receive other McKinney-Vento protections and rights continues *until the dispute resolution process is over*.[82] It is the McKinney-Vento liaison's job to make sure this happens.[83]

WHAT IS THE DISPUTE RESOLUTION PROCESS?

A school must provide a written notice to a parent, guardian, or youth explaining the reasons for the school's decision in a manner that is understandable.[84] This notice, often called a Procedural Safeguards Notice form,[85] must be provided in a parent's or youth's preferred language and must explain the complaint process and right to appeal the school's decision.[86] Unaccompanied students must be directly provided with this notice by the McKinney-Vento liaison, who can assist them to challenge the decision.[87] At first, the dispute will be addressed by the McKinney-Vento liaison at the school. If the parent, guardian, or unaccompanied youth is dissatisfied with the LEA's disposition of a dispute or wants to raise any issues regarding McKinney-Vento Act noncompliance, a parent or youth can file a complaint or appeal with a McKinney-Vento regional coordinator or with Pennsylvania's state coordinator. See Education for Homeless Youth Basic Education Circular from the

Pennsylvania Department of Education for more information, including a listing of how to contact these coordinators and an attached sample complaint. **You can also ask to make a complaint over the phone and ask for a copy of the form to be mailed to you if you do not have access to a computer or printer.**

WHO CAN AN UNACCOMPANIED STUDENT OR PARENT/GUARDIAN OR SHELTER PROVIDER CALL FOR HELP?

If you are an unaccompanied student or a parent or guardian of a McKinney-Vento eligible student who needs help, you can call the Helpline at the Education Law Center at 215-238-6970 (Philadelphia and eastern and central PA) or 412-258-2120 (Pittsburgh and Western PA).

The Education Law Center-PA (ELC) is a nonprofit, legal advocacy organization with offices in Philadelphia and Pittsburgh, dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, community engagement, and policy advocacy, ELC advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, multilingual learners, LGBTQ students, and children experiencing homelessness.

ELC's publications provide a general statement of the law. However, each situation is different. If questions remain about how the law applies to a particular situation, contact ELC's Helpline for information and advice — visit www.elc-pa.org/contact or call 215-238-6970 (Eastern and Central PA) or 412-258-2120 (Western PA) — or contact another attorney of your choice.

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[1] 42 U.S.C. § 11431 *et seq.*
[2] 24 P.S. § 13-1331.1.
[3] 42 U.S.C. § 11431(1); 11432(g)(1)(F)(i).
[4] *Id.* § 11432(g)(3)(A)(i).
[5] *See* G.S. v. Rose Tree Media Area School District, 914 F.3d 206 (3d Cir. 2018).
[6] 42 U.S.C. § 11434a(2)(A)-(B).
[7] N.C. v. Easton Area School District, No. 5:13-CV-07199 (E.D. Pa. Jan. 6, 2014) (ordering immediate re-enrollment of two students who were disenrolled after being improperly classified as ineligible for McKinney-Vento protections because they lived in a recreational camper on a campground outside the catchment of the school district)
[8] 42 U.S.C. § 11434a(2)(B).
[9] *Id.* § 11434a(6).
[10] *Id.* § 11434a(6); *See* Nat'l Ctr. For Homeless Educ., Supporting the Educ. of Unaccompanied Students Experiencing Homelessness, Nat'l Ctr. For Homeless Educ. (Aug. 2017), https://nche.ed.gov/wp-content/uploads/2018/10/youth.pdf.
[11] *See* PENNSYLVANIA DEPARTMENT OF EDUCATION, EDUCATION FOR CHILDREN AND YOUTH EXPERIENCING HOMELESSNESS (ECYEH) 2023-24 STATE EVALUATION REPORT 29 (2025), https://www.pa.gov/content/dam/copapwp-pagov/en/education/documents/instruction/homeless-education/reports/2023-24%20ecyeh%20evaluation%20report.pdf21%20ecyeh%20state%20evaluation%20report.pdf
[12] 42 U.S.C. § 11434a(2)(B)(iv); *Every Student Succeeds Act*, 20 U.S.C. § 6399(3) (2015) (defining a "migratory child" as a "child or youth who made a qualifying move in the preceding 36 months" either "as a "migratory agricultural worker, or migratory fisher" or to "join a parent or spouse who is a migratory agricultural worker or migratory fisher.").
[13] 42 U.S.C. § 11434a(2)(iv); *id.* § 11434a(6).
[14] Protecting Access to Education for Migratory Children, U.S. Dep't. of Justice and U.S. Dep't. of Education (June 2023), https://www2.ed.gov/about/offices/list/ocr/docs/ocr-factsheet-migratory-children-202306.pdf
[15] Protecting Access to Education for Unaccompanied Children, U.S. Dep't. of Justice and U.S. Dep't. of Education (June 2023), https://www2.ed.gov/about/offices/list/ocr/docs/ocr-factsheet-unaccompanied-children-202306.pdf
[16] 42 U.S.C. § 11434a(6).
[17] *Id.* § 11432(g)(6)(A); §11432(g)(1)(K).
[18] Higher Education Act of 1965 § 480(d)(8), 20 U.S.C. § 1070(a).
[19] Annmarie Weisman, Unaccompanied Homeless Youth Determinations – Update (April 14, 2023), https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2023-04-14/unaccompanied-homeless-youth-determinations-update; FAFSA Simplification Act, Title VII, Division FF of P.L. 116-260 (August 4, 2022).

[20] *Id.*
[21] Overview of Title IV, Federal Student Aid, https://fsapartners.ed.gov/knowledge-center/library/functional-area/Overview%20of%20Title%20IV; 20 U.S.C. § 1070 (2023).
[22] 34 C.F.R. § 300.519(f).
[23] Id.
[24] 22 PA. CODE § 11.12 (2004); *see also* 24 P.S. §§ 13-1301 to 13-1306 (explaining that children are considered school age until they are 21).
[25] 42 U.S.C. § 11434a(2)(B).
[26] *Id.* § 11434a(2)(B)(iii) (referencing specifically that students living in "substandard housing" are McKinney-Vento eligible).
[27] *Id.* § 11432(g)(6)(A)(i).
[28] OFFICE OF ELEMENTARY AND SECONDARY EDUCATION, U.S. DEPARTMENT OF EDUCATION, EDUCATION FOR HOMELESS CHILDREN AND YOUTHS PROGRAM NON-REGULATORY GUIDANCE: TITLE VII-B OF THE MCKINNEY-VENTO HOMELESS ASSISTANCE ACT, AS AMENDED BY THE EVERY STUDENT SUCCEEDS ACT 17 (2016), https://www2.ed.gov/policy/elsec/leg/essa/160240ehcyguidance072716.pdf.
[29] 42 U.S.C. § 11432(g)(3)(G); *See* Nat'l Ctr. For Homeless Educ., Confirming Eligibility for McKinney-Vento Rights and Services, Nat'l Ctr. For Homeless Educ. (Aug. 2017), https://nche.ed.gov/wp-content/uploads/2018/10/conf-elig.pdf.
[30] *Id.*
[31] For example, in the 2023-2024, approximately 62% of the 50,030, children/youth identified as experiencing homelessness in Pennsylvania identified as students of color (32% Black, 25% Latinx, and 9% Asian, Multi-Racial, or Indigenous). *See* PENNSYLVANIA DEPARTMENT OF EDUCATION, EDUCATION FOR CHILDREN AND YOUTH EXPERIENCING HOMELESSNESS (ECYEH) 2023-24 STATE EVALUATION REPORT 11 (2025), https://www.pa.gov/content/dam/copapwp-pagov/en/education/documents/instruction/homeless-education/reports/2020-21%20ecyeh%20state%20evaluation%20report.pdf
[32] 42 U.S.C. § 11432e(c)(dd) (describing school requirements for states to be eligible for federal funding).
[33] 42 U.S.C. § 11432(g)(6)(A)(i).
[34] *Id.*
[35] *Id.* § 11432(g)(1)(F); (g)(6)(A)(ii).
[36] *Id.* § 11431(1) (explaining a state's obligation to provide equal access to a "free appropriate public education" to all McKinney-Vento eligible students); *id.* § 11432(e)(3)(C)(III)(dd) (stating school personnel are prohibited from stigmatizing McKinney-Vento eligible students).
[37] *Id.* §11431(1) (requiring that McKinney-Vento eligible students have "equal access to the same free appropriate public education as provided to other children"); *id.* § 11433(d)(16) (requiring schools to remove barriers to make sure that eligible students can "attend school and fully participate in school activities").
[38] *Id.* § 11432(g)(3)(A)(i) (requiring local education agencies to continue the education of students experiencing homelessness in the school of origin for the duration of the homelessness); L.R. ex rel. G.R. v. Steelton-Highspire Sch. Dist., No.1:10-CV-00468, 2010 WL 1433146, at *4 (M.D. Pa. Apr. 7, 2010) Importantly, Districts may not unilaterally determine that " a doubled-up arrangement can transform into a fixed, regular, and adequate residence if it persists long enough." G.S. v. Rose Tree Media Sch. Dist., 914 F. 3d 206, at 211 (3d. Cir. 2019).
[39] *Id.* § 11432(g)(3)(i).
[40] *See* PENNSYLVANIA DEPARTMENT OF EDUCATION, *Education for Homeless Youth* (Dec. 2016), https://www.education.pa.gov/Policy-Funding/BECS/uscode/Pages/EducationforHomelessYouth.aspx.
[41] 42 U.S.C. § 11432(g)(3)(C)(i).
[42] *Id.* § 11432(g)(3)(C); Dukes v. Cold Spring Harbor Cent. Sch. Dist. Bd. of Educ., No. 20CV4532JMAST, 2021 WL 308341 (E.D.N.Y. Jan. 29, 2021) (confirming that students' receiving immediate enrollment on the basis of their McKinney-Vento eligibility may be asked to substantiate their eligibility after being enrolled).
[43] *Id.* § 11432(g)(3)(C)/
[44] *Id.* § 11432(g)(3)(A)-(B).
[45] *Id.* § 11432(g)(3)(B)(i); *see G.S. v. Rose Tree Media School District*, 914 F.3d 206 (3d Cir. 2018).
[46] *Id.* § 11432(g)(3)(B)(ii).
[47] *Id.* § 11432(g)(3)(B)(i)-(iv).
[48] *Id.* § 11432(g)(3)(E)(i).
[49] *Id.*
[50] 42 U.S.C. § 11432(g)(3)(C)(i)(I).
[51] *Id.* § 11432(g)(3)(C)(ii)-(iii).
[52] *Id.* § 11432(g)(3)(C)(iii).
[53] *Id.* § 11432(g)(3)(I)(ii).
[54] *Id.*

[55] *Id.* § 11432(g)(1)(F); (g)(6)(A)(ii).
[56] *Id.* § 11432(g)(1)(J)(ii).
[57] *Id.* § 11432(g)(6)(A).
[58] *Id.* § 11432(g)(6)(A)(vi).
[59] *Id.* § 11432(g)(6)(A)(x).
[60] *Letter from Office of Special Education and Rehabilitative Services to State Director of Special Education (Nov. 10, 2022),* https://sites.ed.gov/idea/files/Letter-to-State-Directors-of-Special-Education-on-Ensuring-a-High-Quality-Education-for-Highly-Mobile-Children-11-10-2022.pdf.
[61] *Id.*
[62] 24 P.S. § 13-1331.1.
[63] 42 U.S.C. § 11432(g)(1)(F)(ii)-(iii).
[64] 24 P.S. § 13-1331.1(a)(2).
[65] *Id.* § 13-1331.1(a)(5)(c)(1).
[66] 42 U.S.C. § 11432(g)(1)(f)(ii).
[67] *Id.* § 11431(1).
[68] *Id.* § 11432(g)(1)(I).
[69] 24 P.S. § 13-1331.1(a)(4).
[70] 42 U.S.C. § 11432(g)(1)(I).
[71] 24 P.S. § 13-1331.1(a)(4).
[72] 42 U.S.C. § 11432(g)(1)(J)(iii).
[73] *Id.* § 11432(g)(5)(A)(ii).
[74] *Id.* § 11432(g)(4)(A).
[75] *Id.* § 11432(g)(1)(J)(iii)(I).
[76] Child Nutrition and WIC Reauthorization Act of 2004, Pub. L. No. 108–265, § 107, 118 Stat. 745.
[77] 42 U.S.C. § 11433(d)(15)-(16).
[78] *Id.* § 11432(e)(3)(C)(i)(III)(dd).
[79] PENNSYLVANIA DEPARTMENT OF EDUCATION, *Compulsory School Attendance, Unlawful Absences, and School Attendance Improvement Conferences* (Feb. 2020), https://www.education.pa.gov/Policy-Funding/BECS/Purdons/Pages/CompulsorySchoolAttendance.aspx ("[A]bsences caused by homelessness must not be counted as unexcused absences.").
[80] 42 U.S.C. § 11432(g)(1)(I).
[81] *Id.* § 11432(g)(3)(E).
[82] *Id.* § 11432(g)(3)(E)(i)-(iv).
[83] *Id.*
[84] *Id.* § 11432(g)(3)(B)(iii).
[85] *See Procedural Safeguards: Notice of Denial of Enrollment*, PENNSYLVANIA DEPARTMENT OF EDUCATION, https://www.pa.gov/content/dam/copapwp-pagov/en/education/documents/resources/codes-and-regulations/basic-education-circulars/us-code/procedural%20safeguards%20notice%20of%20denial%20of%20enrollment.pdf
[86] 42 U.S.C. § 11432(g)(3)(E)(ii).
[87] *Id.* § 11432(g)(3)(B)(iv).