

The Most Frequently Asked Questions on the Education Rights of Children in Homeless Situations: Preschool and Other Early Childhood Programs

This document is an excerpt from “The Most Frequently Asked Questions on the Education Rights of Children in Homeless Situations,” published by the National Association for the Education of Homeless Children and Youth (NAEHCY) and the National Law Center on Homelessness & Poverty (NLCHP) in September 2016. To download the entire document, see http://www.naehcy.org/sites/default/files/dl/legis/2016-09-16_FAQ_FINAL.pdf

The answers are general responses based on federal statutes, regulations, and guidance; relevant case law; and best practices from across the country. It cannot be emphasized enough that these are general responses, and that answers could change based on the facts of a particular case. McKinney-Vento issues require a case-specific inquiry. This document is meant to provide basic information and tools to assist parents, youth, liaisons, administrators and advocates in understanding the McKinney-Vento Act.

114. Does the McKinney-Vento Act define the term pre-school?

A. While the term “preschool” is not defined in the McKinney-Vento Act, the definition used for McKinney-Vento data collection by the U.S. Department of Education is a helpful reference: “early childhood education programs for children aged 0-5, funded through tax dollars or other public funds, and for which the LEA is a financial or administrative agent or for which the LEA is accountable for providing early childhood education services.” Examples of preschool programs included in federal data collection include preschool programs operated or administered by an LEA; Head Start programs receiving funding from the LEA or for which the LEA is the grant recipient; preschool special education services, operated or funded by the LEA or mandated under the Individuals with Disabilities Education Act; preschool programs and services administered or funded by the LEA through the use of Title I or similar government grants; or home-based early childhood educational services funded and administered by an LEA.” National Center for Homeless Education (2016). *Guide to Reporting Federal Data*, available at <http://nche.ed.gov/downloads/data-guide-15-16.pdf>.

115. Are children experiencing homelessness automatically eligible for preschool programs?

A. State law and local policy often determine eligibility criteria for preschool programs. Liaisons should learn about these policies to see if McKinney-Vento children meet the criteria, either by virtue of their homelessness or other consideration. For example, in some states, all children who are eligible for free meals are also eligible for public preschool programs; since homeless children are automatically eligible for free meals, they also are automatically eligible for preschool. Some states also give children experiencing homelessness a priority for or entitlement to preschool enrollment.

Homeless children are automatically eligible to attend preschool programs funded under Title I. (ESEA section 1115(c)(2)(E)). 2016 Guidance, N-2.

116. How do the McKinney-Vento Act requirements apply to preschool children?

A: To the extent that an LEA offers a public education to preschool children, including LEA-administered Head Start programs, an LEA must meet the McKinney-Vento Act requirements for homeless children in preschool, including ensuring that a homeless child remains in his or her public preschool of origin, unless a determination is made that it is not in the child’s best interest. 42 U.S.C. §§11432(g)(1)(F)(i), (g)(3)(I); 2016 Guidance, N-4 and N-5.

117. How can one determine whether a preschool program is administered by an LEA, and therefore subject to the requirements of the McKinney-Vento Act?

A: Several considerations can help make that determination. First, referencing the definition and examples in the McKinney-Vento data collection definition of preschool is an important first step. See Question 114. Second, questions regarding management and operations can help: Who hires the staff? Who is the governing board? Who signs the checks? Who determines the regulatory body under which the program operates? While the program’s location can contribute to the determination, it is not determinative. For example, there are Head Start programs located in school buildings but completely independent of LEA funding, operations or administration, essentially renting space from the school in the way they would from a community agency or private landowner. Those programs likely are not LEA-administered. On the contrary, other preschool programs are located off school grounds but operated by the LEA, which hires the staff, provides governance and contributes funding. Those programs would be LEA-administered. Lastly, if a preschool is jointly funded or administered by more than one agency, one of which is the LEA, the program should be considered LEA-administered. The McKinney-Vento data collection definition of preschool specifically covers programs “for which the LEA is a financial or administrative agent...” The use of the article “a” includes within the definition programs for which the LEA is one of several financial or administrative agents.

118. Are there any special “best interest” criteria when considering school stability for preschool children?

A: Yes. In addition to other student-centered factors described in Question 27, it can be particularly important that school selection determinations for preschoolers include a consideration of: the child’s attachment to preschool teachers and staff; the impact of school climate on the child; the availability and quality of services to meet the child’s comprehensive needs, including health, developmental, and social-emotional needs; and travel time to and from the school. 2016 Guidance, N-3.

119. Does the McKinney-Vento Act require transportation to the school of origin for preschool aged children?

A: Yes, transportation must be provided as long as remaining in the preschool of origin is in the child’s best interest. This is true even if the LEA(s) does not provide transportation for other preschoolers, and even if a homeless preschooler who is enrolled in a public preschool in one LEA moves to another LEA that does not provide widely available or universal preschool. 42 U.S.C. §§11432(g)(3)(I) and 11432(g)(1)(J)(iii); 2016 Guidance, N-5.

120. What must states do to serve preschoolers experiencing homelessness?

A: State plans must describe procedures to ensure that preschoolers experiencing homelessness have access to public preschool programs administered by the State educational agency or local educational agency. 42 U.S.C. §11432(g)(1)(F)(i). States are required to use McKinney-Vento grants in part to provide activities and services for preschoolers in homeless situations, so they can enroll in, attend, and succeed in preschool programs. 42 U.S.C. §11432(d)(2). State coordinators must coordinate with agencies that serve preschoolers, including child development and preschool personnel, to improve the provision of comprehensive services to children. 42 U.S.C. §11432(f)(4).

121. What must LEAs do to serve preschoolers experiencing homelessness?

A: McKinney-Vento liaisons must ensure that families and children experiencing homelessness have access to and receive educational services for which they are eligible, including services through Head Start programs, Early Head Start programs, early intervention services under part C of the Individuals with Disabilities Education Act, and other preschool programs administered by the LEA. 42 U.S.C. §11432(g)(6)(A)(iii). The U.S. Department of Education emphasizes that “local liaisons should make every effort to enroll preschool-age homeless children in preschool if they are not already enrolled.” 2016 Guidance, N-2.

In order to be able to fulfill this requirement, the local liaison should make special efforts to identify preschool-aged homeless children, including by asking parents of school-age children if there are younger siblings in the household. Liaisons also can identify young homeless children by working closely with shelters, federally qualified health centers, social service agencies, and early childhood education providers. 2016 Guidance, N-1. In addition, liaisons should inform families of preschool opportunities for their children, and assist them to enroll, including by sending their information to preschool programs and departments as soon as an eligible child is identified. Since preschool enrollment often takes place months before the school year starts, it is critical to connect families to preschool programs as soon as possible, even if the child has not yet attained the age necessary for eligibility. Liaisons also should remind preschool program staff of how important preschool services are for homeless children and how waiting lists often create barriers for homeless families who wish to enroll their children. Some preschool programs keep slots open specifically for homeless children. 2016 Guidance, N-2.

122. Can LEAs use McKinney-Vento and Title I homeless set-aside funds to serve preschoolers experiencing homelessness?

A. Yes. Districts can use their McKinney-Vento subgrants and their Title I homeless set-asides to provide early childhood education programs for children in homeless situations, if such programs are not otherwise provided through Federal, State, or local funding. 42 U.S.C. §11433(d)(6).

123. Are children experiencing homelessness eligible to participate in Head Start and Early Head Start?

A: Yes. Homeless children are categorically eligible for Early/Head Start. 45 CFR §1302.12(c)(iii). This means that homeless status, rather than income, qualifies a family for Head Start. The Head Start Act uses the same definition of homelessness as public schools, which includes families living in motels and doubled-up situations, as well as other living arrangements included in the McKinney-Vento Act definition. 45 CFR §1305.2

A family can prove their eligibility for Head Start based on homelessness with a written statement from a homeless services provider, school personnel, or other service agency attesting that the child is homeless, or any other documentation that indicates homelessness, including documentation from a public or private agency, a declaration, information gathered on enrollment or application forms, or notes from an interview with staff to establish the child is homeless. 45 CFR §1302.12(i)(3).

124. Are Head Start and Early Head Start programs required to follow any special policies or procedures regarding families and children experiencing homelessness?

A: Yes. The Head Start Act required the Office of Head Start (OHS) to issue regulations requiring programs to identify and prioritize homeless children for enrollment; to allow homeless families to enroll and attend Head Start programs while required documents are obtained; and to coordinate with efforts to implement the McKinney-Vento Act. In September of 2016, OHS issued those regulations in the form of new Head Start Performance Standards. The new Performance Standards permit Head Start programs to reserve one or more enrollment slots for pregnant women and children experiencing homelessness, when a vacancy occurs. No more than 3 percent of a program's funded enrollment slots may be reserved. If the reserved enrollment slot is not filled within 30 days, the enrollment slot becomes vacant and then must be filled within 30 days. 45 CFR §1302.15(c). This policy is very important, because lack of available slots during the program year is one of the most common barriers to Early/Head Start enrollment for children experiencing homelessness. Allowing programs to reserve slots for homeless children gives programs an opportunity to plan better for families' predictable mobility and ensure that Early/Head Start can reach children who are categorically eligible for services.

In addition, the new Performance Standards require Early/Head Start programs to: actively locate and recruit homeless children; allow homeless children to attend without immunization and other records for up to 90 days, or as long as allowed under state licensing requirements; make efforts to maintain the enrollment of homeless children if they move to a different service area; and utilize community resources, where possible, to provide transportation for homeless children if they are unable to attend classes regularly because the family does not have transportation. Head Start programs also must report how they are meeting the needs of homeless, foster, and other children, if they are proposing to serve over-income children. For a complete summary of Head Start Performance Standards children and families experiencing homelessness, see [http://www.naehcy.org/sites/default/files/dl/legis/Summary of Final Head Start Regulations Related to Homelessness FINAL.pdf](http://www.naehcy.org/sites/default/files/dl/legis/Summary%20of%20Final%20Head%20Start%20Regulations%20Related%20to%20Homelessness%20FINAL.pdf)

125. What can liaisons do to fulfill their duty to ensure that homeless families have access to and receive Head Start and Early Head Start?

A. Liaisons can assist homeless families to enroll in Head Start by providing documentation indicating the family's homeless status to Head Start programs; providing immunization and other records to the Head Start program; and helping families to fill out Head Start applications. In order to assist Head Start programs to reserve adequate slots for homeless children, liaisons should provide data to Head Start programs on homeless children in the service area; Head Start programs must include this data for their community needs assessments, which are the basis for reserving slots and developing selection criteria for Head Start programs. 45 CFR §1302.11(b)(1)(i); 45 CFR §1302.15(c).

126. Do any federal or state policies help families experiencing homelessness access child care?

A. Yes. The Child Care Development and Block Grant Act of 2014 contains several provisions to increase access and continuity for homeless children and families. The legislation requires States to:

- Establish a grace period that allows children experiencing homelessness to receive child care while their families take action to comply with immunization and other health and safety requirements.
- Use funds for activities that improve access to child care services, including
 - procedures to permit enrollment of homeless children (after an initial eligibility determination) while required documentation is obtained,
 - training and technical assistance on identifying and serving homeless children and their families, and
 - specific outreach to homeless families.
- Coordinate services with early childhood programs serving children experiencing homelessness.
- Establish a sliding fee scale that is not a barrier to families receiving federal child care assistance.
- Collect and submit data on homeless children receiving federal child care assistance.

For more information, see <http://naehcy.org/educational-resources/early-childhood>.