



NATIONAL ASSOCIATION FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH

*NAEHCY's Every Student Succeeds Act Resource Series*

## **The McKinney-Vento Act and School Fees**

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### **Legal References**

State and local educational agencies (SEAs and LEAs) must develop, “review and revise, policies to remove barriers to the identification of homeless children and youths, and the enrollment and retention of homeless children and youths in schools in the State, including barriers to enrollment and retention due to outstanding fees or fines, or absences.” 42 USC §11432(g)(1)(I)

States must enact procedures to ensure that “homeless children and youths who meet the relevant eligibility criteria do not face barriers to accessing academic and extracurricular activities....” 42 USC §11432(g)(1) (F)(iii)

“The school selected in accordance with this paragraph shall immediately enroll the homeless child or youth....” 42 USC §11432(g)(3)(C)(i)

“Each local educational agency liaison for homeless children and youths, designated under paragraph (1)(J)(ii), shall ensure that... homeless children and youths enroll in, and have a full and equal opportunity to succeed in, schools of that local educational agency” 42 USC §11432(g)(6)(A)(ii)

“The terms ‘enroll’ and ‘enrollment’ include attending classes and participating fully in school activities.” 42 USC §11434a(1)

SEAs and LEAs should “ensure that costs do not prevent students from participating in activities by waiving fees; using funds and strategies for homeless students comparable to those used to allow other low-income students to participate; paying for equipment and fees with school district funds or appropriate Federal funds, such as McKinney-Vento grant funds; seeking sponsorships from parent groups, civic organizations, and local businesses; using donations; or holding fundraisers.” US Dept. of Education (July 2016). *Education for Homeless Children and Youths Program Non-Regulatory Guidance*. p. 25.

### **Overarching Principles**

1. The McKinney-Vento Act is a federal law providing educational rights to students experiencing homelessness. It provides McKinney-Vento students with rights that other students do not have, in recognition of severe challenges to academic success that other students do not have.
2. Federal laws supersede state and local laws and policies where there is a conflict. This principle is established by Article VI of the US Constitution, known as the “Supremacy Clause.”

3. The McKinney-Vento Act requires all LEAs to eliminate barriers to homeless students' identification, enrollment, and retention in school, specifically including barriers to enrollment and retention due to outstanding fees or fines. Enrollment means "attending classes and participating fully in school activities." Retention is not defined in the law, but a standard definition would include keeping the student enrolled until high school graduation.
4. If a fee is a barrier to enrollment or retention in school, the LEA must eliminate the barrier.

### **Considerations**

1. Does the fee pose a barrier to the student attending classes?
2. Does the fee pose a barrier to the student participating fully in school activities?
3. Does the fee pose a barrier to the student remaining in school and graduating from high school?

If the answer to any of these questions is yes, the barrier must be eliminated.

### **Methods to Eliminate the Barrier**

1. Waive the fee: The LEA absorbs the cost.
2. What's in place for other students who can't afford the fee? Are there funds available through the PTA, booster club, local civic groups, faith community or other agencies?
3. McKinney-Vento funds are very flexible and can be used to assist homeless students to participate in extra-curricular activities. They can pay for transportation to activities, fees, needed clothing and supplies, etc. The allowable uses of McKinney-Vento funds are found in the law. Two specific uses that are especially relevant to paying fees are:
  - "(7) The provision of services and assistance to attract, engage, and retain homeless children and youths, particularly homeless children and youths who are not enrolled in school, in public school programs and services provided to nonhomeless children and youths."
  - "(16) The provision of other extraordinary or emergency assistance needed to enable homeless children and youths to attend school and participate fully in school activities."
4. Title I, Part A set-asides can be used for services not ordinarily provide to other Title I students. The services must be reasonable and necessary to enable the student to take advantage of educational opportunities and must be a last resort when services are not reasonably available from another public or private source.
  - The farther you get from the school day, the more carefully you should consider the expenditure.
  - Is there a connection to academics? Is it a retention issue? College access?