



New Mexico McKinney-Vento 201
October 4, 2022

Tricks and Tools for Addressing Unaccompanied Youth

Legal Backup!

- 1) Are there legal services for immigrant youth in your community? Visit <https://www.immigrationlawhelp.org/> to find out.
- 2) USDA issued a [brief](#) clarifying what constitutes a “parental control” for unaccompanied youth staying with other people.
- 3) Legal liability is based on negligence, which means a failure to exercise reasonable care.
- 4) The McKinney-Vento dispute resolution process requires local educational agencies to provide parents or unaccompanied youth with information about a decision regarding eligibility, enrollment, or school selection and instructions to appeal. 42 U.S.C. §11432(g)(3)(E).
- 5) Attorneys who have represented McKinney-Vento students in hearings before the state athletic association have won their cases. SchoolHouse Connection has an [issue brief](#) on this issue and can share copies of legal briefs and decisions.
- 6) The McKinney-Vento Act requires schools to give priority to the wishes of unaccompanied youth in regard to school selection and enrollment. 42 U.S.C. §11432(g)(3)(iv).
- 7) The American Bar Association has started a national Homeless Youth Legal Network. Find legal services near you at www.ambar.org/HYLN.
- 8) USDA issued a [brief](#) clarifying what constitutes a “household” for unaccompanied youth.
- 9) [New Mexico law](#) gives unaccompanied youth the right to request their own birth certificates, without parental signature. (Liaisons and social workers also can get birth certificates for their students/clients and siblings!)
- 10) N.M. Stat. [§24-7A-6.2](#) states that a minor 14 years of age or older who has capacity to consent may give consent for medically necessary health care if the minor is living apart from the minor's parents or legal guardian, or a parent.

McKinney-Vento to the Rescue!

1. Consult the definition of homeless and unaccompanied in the McKinney-Vento Act. 42 U.S.C. §11434a.
2. The McKinney-Vento Act requires immediate enrollment of homeless children and youth. 42 U.S.C. §11432(g)(3)(C). “Enrollment” is specifically defined to include participating fully in school activities. 42 U.S.C. §11434a.
3. The McKinney-Vento Act requires states to have procedures to ensure MV students who meet the relevant eligibility criteria (such as academic standards and skill level) do not face barriers to accessing extracurricular activities 42 U.S.C. §11432(g)(1)(F)(iii).

4. The McKinney-Vento Act requires states and districts to remove barriers to identification, enrollment, and retention in school. 42 U.S.C. §11432(g)(1)(I).
5. McKinney-Vento liaisons have the legal authority and responsibility to determine eligibility. 42 U.S.C. §11432(g)(6)(A)(i).
6. The Department of Education has determined that to the extent that lack of access to transportation is a barrier to extracurricular activities, LEAs are required to provide transportation to and from extracurricular activities (ED Guidance J11).
7. The McKinney-Vento Act requires states to have procedures to identify and remove barriers that prevent McKinney-Vento students from receiving appropriate credit for full or partial coursework satisfactorily completed. 42 U.S.C. §11432(g)(1)(F)(ii).
8. The Higher Education Act gives McKinney-Vento liaisons the authority to verify homelessness for the purpose of financial aid. 20 USC 1087vv(d)(1)(H).

Is There Anybody Out There?

1. Consult NCHE's "[Determining Eligibility](#) for Rights and Services Under the McKinney-Vento Act" brief.
2. Consult SchoolHouse Connection's "[Full Participation in Extra-Curricular Activities for Students Experiencing Homelessness](#)" brief.
3. The US Department of Education has issued [guidance](#) stating that schools can provide FERPA rights to minor students. See questions 5 and 6.
4. Share SchoolHouse Connection's "[Información en Español](#)" webpage with the student if navigating information in English may be challenging for her.
5. The US Department of Education's [Application and Verification Guide](#), which all post-secondary institutions must follow, states: "If a student does not have and cannot get documentation from any of the authorities given on page 33 [including the MV liaison], you (the FAA) must determine if she is an unaccompanied youth who is homeless or is self-supporting and at risk of being homeless;" and "It is not conflicting information if you disagree with an authority's determination that a student is homeless."
6. PED has put out a [memo](#) on SB 541, which gives students who experience disruption in their education the right to receive partial credit for high school courses, including a credit calculator.

Phone a Friend

- 1) I've talked with that guy at the state activity association a few times over the years.
- 2) That school nurse supervisor really gets McKinney-Vento.
- 3) I've worked with a local family mediation program to convince parents to provide basic support and documents to youth.
- 4) One of our assistant superintendents attended a student panel I arranged two years ago and listened to students talk about the causes and impacts of their homelessness.
- 5) I always run into my district's dropout prevention specialist at Starbucks.
- 6) That one person at the SNAP office is always nice to the youth I send over.

- 7) For the last couple of years, I've been having lunch three times a year with the Financial Aid Administrator at the college in my town.