



COMMONWEALTH of VIRGINIA
Department of Education

DATE: December 13, 2019

TO: Division Superintendents

FROM: James F. Lane, Ed.D., Superintendent of Public Instruction

SUBJECT: Determining McKinney-Vento Eligibility for Student Not Residing with Their Parents

Virginia recently received information from the National Center for Homeless Education (NCHE) that may affect how school divisions identify students experiencing homelessness who are not accompanied by a parent or guardian. To ensure Virginia's process is thoughtful and supports students and school divisions, the insights of McKinney-Vento liaisons is critical. Please take the time to complete the short survey at the end of this memo. You may direct any questions to Patricia Popp or Laura Hackett in the Project HOPE-VA office.

Section 725(2) of the Education of Homeless Children and Youth Program (EHCY), authorized as Title IX, Part A, of the *Every Student Succeeds Act* (typically referred to as McKinney-Vento) defines homelessness as follows:

(2) The term 'homeless children and youths'--

(A) means individuals who lack a fixed, regular, and adequate nighttime residence within the meaning of section 103(a)(1)); 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; or are abandoned in hospitals;
- (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 103(a)(2)(C));

- (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 1309 of the *Elementary and Secondary Education Act of 1965*) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii).

Determining whether a student meets the definition of homelessness under McKinney-Vento often includes the consideration of case-specific factors. While federal and state technical assistance can provide general guidelines, it is not possible to address the myriad of circumstances our students and their families' experience. School division homeless liaisons are responsible for ensuring identification of students experiencing homelessness (Section 722(g)(6)(A)(i)). This includes determining eligibility based on the definition. When the parent or youth disagrees with a determination, eligibility may be disputed (Refer to Superintendent's Memo #215-17 for the process used in Virginia). The following information does not change the liaison's responsibility to make a determination based on all factors nor to follow the dispute process, but offers the current thinking related to unaccompanied youth provided by NCHE to the Virginia EHCY State Coordinator through face-to-face conversations, phone calls, and email correspondence.

McKinney-Vento states: "The term 'unaccompanied youth' includes a homeless child or youth not in the physical custody of a parent or guardian" [Section 725(6)]. To be identified as an unaccompanied homeless youth (UHY), the student first must meet the definition of homeless. Children and youth may be separated from their parents and living with others who do not have custody for a variety of reasons. If the reason is clearly related to the loss of housing, students should meet the definition of homeless. Further, this traditionally has included runaway youth and those unable to return home ("throwaway" youth) as eligible under McKinney-Vento.

If the reason the student is not with a parent or guardian is not clearly related to the parent's or guardian's loss of housing, NCHE suggests that placements resulting from an unplanned event be separated from placements where there was a plan. The attachment to this memo reviews four commonly identified situations with examples that may or may not meet the EHCY homeless definition based on the existence of a plan.

We need your assistance to determine the potential impact that this recent interpretation may have on the students you serve. Please complete the [Determining McKinney-Vento Eligibility for Students Not Residing With Their Parents - Impact Survey](#).

We estimate that this survey will take approximately 10 minutes for smaller divisions and up to 30 minutes for divisions with large numbers of students identified. While your name and school division are requested; only aggregated data will be reported publicly and no individual responses will be identified. Responses must be submitted by **Friday, January 10, 2020**.

Please direct questions to the Project HOPE-Virginia office:

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Attachments

- A. [Examples of Planned and Unplanned Unaccompanied Youth Scenarios](#) (Word)