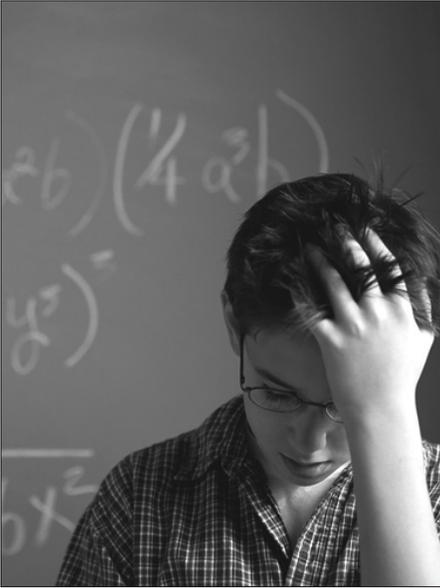


Supporting Homeless Students with Disabilities: Implementing IDEA



Who is homeless?

(McKinney-Vento Homeless Assistance Act of 2001 – Title X, Part C of the No Child Left Behind Act – Sec 725)

The term “homeless children and youth” —

A. means individuals who lack a fixed, regular, and adequate nighttime residence...; and

B. includes —

- i. children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;*
- 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...*
- 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 who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii).*

Over 1.35 million children and youth experience homelessness each year.¹ These children and youth face challenges that include a lack of basic necessities (food, clothing, medical services); discontinuity of education due to mobility; and trauma caused by the chaos, poverty, and instability of their circumstances.

Children and youth who are homeless face additional educational challenges when they have disabilities. Studies indicate that children who are homeless are twice as likely to have learning disabilities and three times as likely to have an emotional disturbance as children who are not homeless.²

Two federal laws that address the needs of homeless children and youth with disabilities are the McKinney-Vento Homeless Assistance Act and the Individuals with Disabilities Education Act (IDEA).

The McKinney-Vento Act gives children and youth experiencing homelessness the right to enroll in school immediately, even without documents normally required for enrollment, and to stay in one school, even if they are changing residences. Every school district has a local homeless education liaison, who must identify and serve children and youth experiencing homelessness. The full text of the McKinney-Vento Act may be found at http://www.serve.org/nche/downloads/mv_full_text.pdf. Additional information and resources on the McKinney-Vento Act may be found on the NCHE (National Center for Homeless Education) website at <http://www.serve.org/nche>.

The Individuals with Disabilities Education Act (IDEA) guarantees rights and services for children and youth with special needs. The full text of IDEA may be found at http://www.serve.org/nche/legis_other.php.

This Q&A brief provides basic information about IDEA and specific ways the law applies to homeless and highly mobile students with special needs. In addition, the brief provides strategies recommended by homeless education and special education staff from across the country for implementing the law in school districts. School district administrators, local

¹ Burt, M. & Laudan, A. (2000). *America's homeless II: Populations and services*. Washington, D.C.: The Urban Institute.

² Better Homes Fund. (1999). *Homeless children: America's new outcasts*. Newton Center, MA: Author.

homeless education liaisons, teachers, and special education staff will find this brief a useful tool to clarify the law and assist them in planning effective ways to implement it. Local liaisons and special education staff should work together to consider the issues addressed in the brief and develop a comprehensive plan to serve homeless students with disabilities.

The U.S. Department of Education also has prepared several Q&A documents to provide guidance for implementing IDEA; these documents can be found at <http://idea.ed.gov/>.

What is IDEA?

The Individuals with Disabilities Education Act is a federal law originally passed in 1975 to ensure that students with disabilities receive a free, appropriate public education. This brief provides information about IDEA, Part B, which covers children and youth from ages 3 through 21. IDEA, Part C, covers children under age 3. For more information on IDEA, Part C, visit NCHE's website at http://www.serve.org/nche/ibt/sc_spec_ed.php, or visit NECTAC's website at <http://www.nectac.org/idea/idea.asp>.

What services does IDEA provide?

IDEA provides special education and related services to students with disabilities. Special education is specially designed instruction to meet the unique needs of a student with a disability, provided by schools at no cost to parents.³ Related services are supportive services to help a student benefit from special education. Some related services include: transportation, speech-language services, psychological services, physical and occupational therapy, student counselling, school health services, parent counselling and training, and social work services.⁴

What are some disabilities covered under IDEA?

To receive special education, a student must be identified as having a disability that affects his or her education. IDEA contains a list of disabilities that are covered under the law. Some of those disabilities include:

- Learning disabilities.
- Mental retardation.
- Emotional disturbance (includes many psychological disorders).
- Other health impairments (includes ADD/ADHD).
- Hearing impairment or deafness.
- Visual impairment or blindness.
- Autism.⁵

Are schools required to do outreach under IDEA?

Yes. School districts must implement procedures to find and evaluate all students with disabilities, specifically including students experiencing homelessness.⁶ Some ways to identify

³ 20 USC §1401(29); 34 CFR §300.39.

⁴ 20 USC §1401(26); 34 CFR §300.34.

⁵ 20 USC §1401(3); 34 CFR §300.8.

⁶ 20 USC §§1412(a)(3)(A), 1435; 34 CFR §300.103.

such students with special needs are:

- Build collaborations between the local homeless education liaison and special education staff to coordinate special education identification with McKinney-Vento identification.
- Develop short, simple posters and wallet cards that explain special education services; place these posters and cards in all schools and in the community, including shelters, motels, food banks, health clinics, employment and public benefits offices, social services offices, laundromats, and convenience stores.
- Include IDEA and McKinney-Vento basics in information that goes home to parents, such as school newsletters, brochures, and the student handbook.
- Hold family-oriented events during the school year with opportunities to screen children and youth for health and mental health needs and possible disabilities. Offer transportation, food, health services, school supplies, or other incentives to encourage attendance.
- Encourage teachers and school counselors to discuss concerns about students with parents and special education staff.
- Train teachers and school counselors on the basics of IDEA and the McKinney-Vento Act and possible indicators of disabilities and homelessness.
- Work with surrogate parents and parent support centers to identify homeless students with special needs.
- Invite shelter staff and other caseworkers working with children to attend special education training sessions conducted for parents; by doing so, they will understand the special education process and can assist parents, along with school staff.

What services can schools provide before resorting to special education?

Many students with special needs can succeed in school with supports that are not special education. These intervention services can address students' needs without labelling them as having a disability. Some intervention services are:

- Behavior management plans.
- Priority seating in the classroom.
- Assigning a peer and/or adult mentor.
- Writing down homework assignments or instructions.
- Regular meetings with the school counsellor.
- Extra help before or after school.
- Supplemental education services through Title I or similar programs.
- Extra time to complete assignments.
- Other services the special education team or teachers might suggest.

If intervention services do not work or it appears that a student needs more than general education interventions, how can IDEA services be initiated?

The first step in the special education process is for the school district to evaluate the student to see if there is a disability and if the student needs special education. To start this process, the

student's parent must request an evaluation in writing.⁷ Most school districts have a standard form the parent can use to request evaluations. School and school district staff can also refer a student for special education evaluations, but the parent must consent before any evaluation starts.

How can schools help parents start IDEA services?

Occasionally, parents may resist their child's being evaluated for special education services because they are intimidated by the school or the process, they do not want their children labelled as "disabled," or they are simply not engaged actively in their children's lives. Some strategies to address these concerns are:

- Talk to parents about their children's struggles with schoolwork or behavior.
- Tell parents about the services IDEA can provide to help their children do well in school.
- Tell parents about their rights to be involved in every step of the process.
- Connect parents with Parent Training and Information Centers. Local contact information is available at <http://www.taalliance.org/centers/index.htm> or (888) 248-0822.

Do guardians and other caregivers count as "parents"?

Maybe. Biological and adoptive parents, when they can be found, have the right to make special education decisions. If a school cannot identify or locate parents after making and documenting reasonable efforts, IDEA allows other adults to be considered "parents," including:

- Foster parents
- Guardians
- Adults acting in the place of parents, if the student is living with them
- Adults legally responsible for the student⁸

How can we start services for students who do not have an adult who can be considered a parent?

The school district must appoint a "surrogate parent" if it cannot find a person who meets the definition of parent, if the student is in the child welfare/foster care system (a "ward of the state"), or if the student is an unaccompanied homeless youth.⁹ Surrogate parents can initiate the special education process and make all special education decisions.

How are surrogate parents appointed?

The school district must have a process to appoint a surrogate parent within 30 days of determining one is necessary. Judges can appoint surrogate parents for students in the child welfare/foster care system.¹⁰ Surrogate parents must be trained about special education and cannot be employed by an agency involved in the care or education of the student (no child welfare workers, school employees, or staff of other agencies involved in the student's care or

⁷ 20 USC §1414(a)(1); 34 CFR §300.301(b).

⁸ 20 USC §1401(23); 34 CFR §300.30(a)(4).

⁹ 20 USC §1415(b)(2); 34 CFR §300.519.

¹⁰ 20 USC §1415(b)(2); 34 CFR §300.519.

education).¹¹

Is there a way to get a surrogate parent appointed more quickly for unaccompanied youth?

Yes. Unaccompanied youth's mobility and life circumstances make it critical to initiate needed services as soon as possible; therefore, recent changes to IDEA state that unaccompanied youth should have temporary surrogate parents appointed immediately.¹² Temporary surrogate parents can make immediate special education decisions while the school district goes through the regular surrogate parent appointment process. Unlike regular surrogate parents, temporary surrogate parents can be employees of shelters, street outreach programs, schools, and other agencies involved in the student's care or education.

It is important for school districts to develop a simple, expedited procedure for appointing temporary surrogates for unaccompanied youth. Recommended procedures include:

- Talking with the youth about the process.
- Asking the youth to suggest someone appropriate to serve as a temporary surrogate.
- Talking with that candidate to ensure that he/she feels comfortable participating, has a basic understanding of the process, and does not have interests that conflict with those of the youth.

How can schools determine if a youth has a "parent" or identify a potential surrogate parent or temporary surrogate parent?

Ask such students about adults they trust in their lives. See if there are case managers, mentors, family members, outreach workers, neighbors, coaches, social workers, counsellors, or other adults who could serve as surrogate parents.

What happens once a parent or surrogate parent requests special education evaluations?

The school district must evaluate the student to see if the student has a disability. Each state has its own time limit for completing the evaluations process, generally between 45 and 90 days.

Do evaluations continue if a student changes schools or school districts during the process?

Yes. Evaluations continue, and the original time limit established for completing the special education evaluations process remains valid. IDEA states that time limits apply to mobile students: if a student transfers to a new school district once evaluations have started, the new district must complete the process in the time remaining. The only exception to this rule is if the new school district is making "sufficient progress to ensure a prompt completion of evaluations" and the parent agrees to an alternative time line for finishing the evaluations.¹³

How can schools complete the evaluation process quickly for students who are changing school districts?

¹¹ 20 USC §1415(b)(2); 34 CFR §300.519.

¹² 34 CFR §300.519; preamble to regulations.

¹³ 20 USC §1414(a)(1)(C)(ii); 34 CFR §300.301(d)(2).

IDEA requires schools to coordinate with prior schools “as necessary and as expeditiously as possible to ensure prompt completion of full evaluations.”¹⁴

Some strategies for expediting the completion of evaluations include:

- Confer and collaborate with parents to streamline the evaluation process.
- Call the previous school district to talk with the school psychologist and special education team about what evaluations have been completed and what remains to be done.
- Contact the previous school to have all records faxed immediately.
- Use assessments completed by the sending school and limit retesting in areas of concern already addressed. Do not repeat tests that have been administered, as this can affect the validity of the results.
- Confer with the previous school counsellor and teachers about the student’s strengths, weaknesses, and needs.
- Prioritize highly mobile students on evaluation schedules.
- Work with community mental health providers to coordinate and expedite evaluations.

What happens when the evaluations are completed?

The school district must have a meeting to decide if the student is eligible for special education because of a disability. A group of special education staff, teachers, and the parent make that determination. The parent (or surrogate parent) has the right to participate in the meeting and can bring health care professionals, advocates, or other community members with them.¹⁵

How can schools help parents participate in these meetings?

Parents often have work or other activities that make it a challenge to attend meetings at school during the school day. Parents in homeless situations have even more challenges, since they often lack transportation; have jobs without paid or even unpaid leave; and are busy looking for shelter, food, and other basic needs. They also often lack the confidence and information they need to participate actively in school meetings.

Schools can help parents participate by:

- Initiating and maintaining cooperative, respectful relationships with parents, understanding that they may have had bad experiences with schools in the past and may be overwhelmed by their efforts to provide for their family’s basic needs.
- Explaining to parents in advance what will happen at the meeting and why it is important for them to attend.
- Providing parents with evaluation reports well before meetings and reviewing the reports with them in their native language.
- Using an IEP preparation tool with parents; one such tool is available from *Parents Helping Parents* at <http://www.php.com/include/blurb.php?item=iepprep>.
- Being flexible with meeting times, to accommodate parents’ work schedules.
- Holding meetings at shelters, case managers’ offices, or locations on public transit lines.

¹⁴ 20 USC §1414(b)(3)(D); 34 CFR §300.304(c)(5).

¹⁵ 20 USC §1414(f); 34 CFR §§300.322, 300.328.

- Giving parents bus passes or other transportation assistance.
- Letting parents know they can attend meetings with advocates, family members, or other members of the community.
- Assisting parents to participate fully by telephone if participation in person is not possible.
- Connecting parents with Parent Training and Information Centers. Local contact information is available at <http://www.taalliance.org/centers/index.htm> or (888) 248-0822.

What happens if the evaluations show that a student needs special education because of a disability?

The school district must develop an IEP (Individualized Education Program) within 30 days, or less if state time limits are shorter.¹⁶ The IEP will list all the special education and related services the student will receive; it will also list educational goals for the student.

If a student changes school districts, does the new school still have to follow the IEP?

Yes. The new school must provide appropriate services immediately, including services comparable to what is in the IEP, in consultation with the parent.¹⁷ The new school must also get the school records from the previous school promptly, and the previous school must send them promptly to the new school.¹⁸ The new school district can then write its own IEP, with the parent, or adopt the existing IEP. If the student has moved to a new state, the school district can do new evaluations. In any case, the student must receive appropriate services in the meantime.

If the transfer of school records is delayed, how can schools find out if a student has an IEP and what special education and related services the student needs?

Although school records provide the most complete information for serving a student, the school can use other strategies to gather enough information to place the child immediately. Some strategies include:

- Call the previous school district and ask the special education team, school counselor, or teachers about the student’s education program.
- Ask the parent and student for any papers that might include information about the student’s needs, such as:
 - Report cards: Are there signs that the student had certain classes or services in small groups or with a separate teacher?
 - Teachers’ notes/observations: Do the notes refer to any special needs or services?
 - Child study team notes: Did the team indicate that evaluations were underway or about to be started, or that interventions were not working?
 - Withdrawal forms: Does the withdrawal form from the previous school indicate that a special education evaluation was being conducted or that services were being provided? Some schools include this information on all withdrawal paperwork.
 - Homework assignments: Does the work assigned indicate the student was not completing regular

¹⁶ 20 USC §1414(d); 34 CFR §§300.320, 300.323.

¹⁷ 20 USC §1414(d)(2)(C)(i); 34 CFR §300.323(e).

¹⁸ 20 USC §1414(d)(2)(C)(ii); 34 CFR §300.323(g).

class work?

- Ask the parent questions about the prior school, such as:
 - Did you ever ask the school to give your child extra help? Did you talk about doing testing to see what kinds of services your child might need?
 - Did you ever go to a meeting at school with a lot of teachers, a doctor, or someone from the school district office?
 - Did you ever sign any papers that talked about goals for your child or special school services?
- Ask the student questions about his or her school day, such as:
 - What was your school day like?
 - How many students were in your class? How many teachers were in your class?
 - Did you ever spend time alone or in a small group with a different teacher or counselor or in a different classroom?
 - Were you receiving any special support to help with your schoolwork or your grades? Did you get extra time to do tests?
- Consult with special education staff and teachers.
- Be flexible and respond quickly to suggestions from teachers, staff, and parents.
- Let parents, students, and teachers know that the student's services and classes may change when the school receives records.

Can the school district refuse to do evaluations because the student has missed a lot of school or is under a lot of physical or emotional stress?

No. Homelessness can cause gaps and inconsistencies in education and lead students to struggle with academics and behavior. Crowded or unhealthy conditions may affect students' health and their ability to concentrate in school. To avoid labelling a student as having a disability when their school difficulties are actually the result of lack of instruction, economic disadvantage, or other challenges related to homelessness, the IEP team must consider these factors during the evaluation process and eligibility determination; but they are not an excuse to deny evaluations.¹⁹

Parents and schools might agree to put other services in place before or during the special education evaluation process to see if those services are enough to help the student. For students suspected of having a learning disability, IDEA may require the school district to provide those intervention services. Still, once a parent requests an evaluation, the school district must begin the evaluation process. If the school district refuses, it must provide the parent with written notice explaining the refusal, the parent's right to appeal the refusal to a due process hearing, and sources for support and assistance for the parent.²⁰

How can schools determine if a student has a disability or is just struggling in school because of poor attendance or the stress of homelessness?

19 20 USC §1414(b)(4)-(5); 34 CFR §§300.306, 300.309(b)-(c); 71 Fed. Reg. 46656, 46658, 46659; U.S. Department of Education Office of Special Education and Rehabilitative Services (OSERS) "Topic Brief: Identification of Specific Learning Disabilities", accessed May 30, 2007 at <http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CTopicalBrief%2C23%2C>.

20 34 CFR §300.503.

Evaluating the effects of homelessness on a student can be very challenging. Some strategies include:

- Get all possible records of evaluations, assessments, discipline referrals, report cards, and teachers' notes/observations from before the student became homeless.
- Talk with teachers from schools the student attended before becoming homeless.
- Compare past achievement and behavior to the student's current situation.
- Talk with parents about their child's conduct and achievement in previous schools and behavior at home both before and after they lost their housing; this will help to compile a broader view of the student's needs.
- Ask an experienced special education teacher or child psychologist to meet individually with the student or observe him or her in class or other settings.
- Talk with community health and mental health providers, social workers, and case managers who have a history with the student, and review available records.
 - Do psychiatric, psychological, or other mental health records diagnose conditions that could affect the student's education?
 - Do health records indicate a physical disability or illness that could affect education?
- Use the best available evaluation instruments.
- Provide support services and interventions during the evaluation process to see if they can help the student.
- Use the strengths of the entire IEP team, including the parent, to analyze the information available.

What policies and procedures can school districts put in place to serve highly mobile students with disabilities better?

- Implement procedures to expedite evaluations for highly mobile students.
- Work with parent involvement specialists and Parent Training and Information Centers to support parents throughout the evaluation and IEP process.
- Develop expedited surrogate parent appointment procedures for unaccompanied youth.
- Develop clear policies to help district staff navigate the intersections of IDEA and McKinney-Vento, paying particular attention to transportation, school of origin, and immediate enrollment.
- In anticipation of inter-district mobility, organize regular meetings among special education staff and local liaisons from area school districts. Get to know one another's policies and procedures, and develop policies and procedures collaboratively to expedite evaluations for highly mobile students.

How should a school district begin to develop these policies?

- Ensure that homeless education and special education staff know each other and are familiar with the legal requirements and procedures of both programs.
- Include the local liaison on existing special education advisory committees.
- Form a school district advisory committee on special education and highly mobile students.

The local homeless education liaison, special education staff, migrant education staff, parent involvement specialists, child find team, and other district staff should meet regularly to develop, review, and revise policies and procedures that affect the students they serve.

What are some areas where IDEA and the McKinney-Vento Act intersect?

Homeless students with disabilities have rights under both IDEA and the McKinney-Vento Act. Schools must comply with both laws.²¹ Some common areas of intersection are:

- *Immediate enrollment:* The McKinney-Vento Act gives students in homeless situations the right to enroll in school immediately, even when lacking documentation normally required for enrollment. This also applies to homeless students with disabilities and means that those students can enroll and receive all appropriate services immediately, even if the enrolling school does not have a copy of the student's IEP. When deciding what services to provide to students without records, schools can use some of the strategies included in this booklet. When documents are lacking, enrolling schools must request records from the student's previous school(s) immediately.
- *School placements:* The McKinney-Vento Act gives students in homeless situations the right to remain in one school regardless of changes in their living situations, even if that school is a special education placement. As long as it is in the best interest of the student, a student can remain in his or her "school of origin", even if it requires crossing school district lines. The school of origin is the school the student attended when permanently housed or the school where the student was last enrolled. Any special education placement made by a school district, including out-of-district placements and non-public placements, will be the school of origin if the student was attending the placement when permanently housed or if it is the placement where the student was last enrolled.
- *Payment for school placements:* Since students in homeless situations have the right to remain in their schools of origin, even if that requires crossing school district lines, questions may arise regarding what school district must pay for special education placements and services. Federal law does not assign financial responsibility to any particular school district for special education placements when homeless students are crossing district lines to remain in their school of origin. Generally, states have their own policies, such as requiring the school district receiving state and federal money for the student to pay, or requiring the involved districts to share the cost.
- *Transportation:* Under the McKinney-Vento Act, students in homeless situations have the right to receive transportation to their school of origin. Under IDEA, students with disabilities have the right to receive transportation if it is listed as a related service in their IEP. If a student is entitled to receive transportation under both laws, the school district(s) involved will have to decide who pays for the service, with assistance from the state, if necessary.

Does my state have its own version of IDEA and the McKinney-Vento Act?

States generally have their own regulations for implementing IDEA and should have policies to eliminate barriers to the school enrollment, attendance, and success of students experiencing homelessness. These regulations and policies must follow the rules established in the federal law, but often include more detail to help schools in your state implement the law.

Where can I get more information and resources on serving homeless children and youth with disabilities?

The following organizations and websites can help:

Council for Exceptional Children (CEC): dedicated to improving educational outcomes for individuals with exceptionalities, students with disabilities, and/or the gifted.

<http://www.cec.sped.org/>

Council of Parent Attorneys and Advocates (COPAA): an independent, nonprofit organization of

²¹ 20 USC §1412(a)(11)(A)(iii); 34 CFR §300.149(a)(3).

attorneys, advocates and parents.

<http://www.copaa.org>

Site includes a resource bank of attorneys and advocates in every state at <http://www.copaa.org/find/index.php>.

National Association for the Education of Homeless Children and Youth (NAEHCY): a national grassroots membership association of educators and advocates supporting the education of children and youth in homeless situations.

<http://www.naehcy.org>

National Association of State Directors of Special Education (NASDSE): established in 1938 to promote and support education programs and related services for children and youth with disabilities in the United States and outlying areas.

<http://www.nasdse.org>

Site allows users to search the publication database for publications by entering the keyword “homeless”.

National Center for Homeless Education (NCHE): a U.S. Department of Education funded clearinghouse providing research, resources, and information enabling communities to address the educational needs of children and youth experiencing homelessness.

<http://www.serve.org/nche>

National Disability Rights Network (NDRN): a nonprofit membership organization for the federally mandated legal services for people with disabilities (Protection and Advocacy Systems and Client Assistance Programs).

<http://www.napas.org>

National Dissemination Center for Children With Disabilities: a central source of information on disabilities in infants, toddlers, children, and youth; IDEA; No Child Left Behind (as it relates to children with disabilities); and research-based information on effective educational practices.

<http://www.nichcy.org>

The site includes a resource bank for every state at <http://www.nichcy.org/states.htm>.

National Law Center on Homelessness & Poverty: a nonprofit organization whose mission is to alleviate, ameliorate, and end homelessness by serving as the legal arm of the national movement to end homelessness.

<http://www.nlchp.org>

Parent Training and Information Centers: serve families of children and young adults from birth to age 22 with all disabilities: physical, cognitive, emotional, and learning. They help families obtain appropriate education and services for their children with disabilities; work to improve education results for all children; train and inform parents and professionals on a variety of topics; resolve problems between families and schools or other agencies; and connect children with disabilities to community resources that address their needs.

<http://www.taalliance.org/centers/index.htm>

(888) 248-0822

U.S. Department of Education’s Office of Special Education Programs: dedicated to improving results for infants, toddlers, children and youth with disabilities ages birth through 21 by providing leadership and financial support to assist states and local districts.

<http://www.ed.gov/about/offices/list/osers/osep/index.html?src=mr>

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Every state is required to have a State Coordinator for Homeless Education, and every school District is required to have a local homeless education liaison. These individuals will assist you with the implementation of the McKinney-Vento Act. To find out who your State Coordinator is, visit the NCHE



website at http://www.serve.org/nche/states/state_resources.php.

For more information on the McKinney-Vento Act and resources for implementation, call the NCHE Helpline at 800-308-2145 or e-mail homeless@serve.org.

Local Contact Information: