

14.0 EDUCATION

14.1 Overview

Federal law provides protections for students who are homeless or displaced as the result of natural disasters. The federal McKinney-Vento Act defines “homelessness” as it applies to public school students in pre-K through the 12th grade. Under this law, the definition of “homelessness” includes children and youth who do not have a regular and adequate nighttime residence and specifically applies to children and youth residing in shelters, transitional housing, cars, campgrounds, motels, or staying with friends or family temporarily as a result of economic hardship, loss of housing, and natural disasters. [42 U.S.C. § 11434A\(2\)\(A\)–\(B\)](#). Families and youth living with others on a temporary basis and are unable to return to their homes because of a disaster would even be considered homeless under the Act.

14.2 Homeless/Displaced Students Are Entitled to Immediate Enrollment

McKinney-Vento guarantees the right of homeless students to enroll immediately in the public school which serves the attendance area where the student is staying temporarily. Additionally, [Tex. Edu. Code § 25.001\(b\)\(5\)](#), allows a homeless student to enroll in any school district in Texas regardless of where they are living temporarily. Thus, to make the best and most informed school enrollment selection, families and students dealing with the aftermath of a traumatic situation like a natural disaster may need additional time and guidance to assess their specific circumstances.

14.3 Homeless/Displaced Students Can Enroll Without Documentation

Students displaced as a result of a natural disaster are entitled to immediate enrollment in public school even if they don't have the documentation typically required for school registration, like proof of residency, birth certificates, immunization and health records, etc. In fact, school districts are required to help students obtain these important documents. English Language Learners (ELLs) who enroll without documentation from their previous school should be provided protections which allow access to appropriate programming. Conversations with parents and the students and review of documentation within their possession will assist in this inquiry. Advocates should request that a student's enrolling district make a Texas Records Exchange (TREx) System request to the student's previous district as many impacted districts may still maintain access to electronic student information.

14.4 Homeless/Displaced Students Are Entitled to Additional Protections

First, under the McKinney-Vento Act, homeless students are specifically eligible for free school meals without delay. Second, homeless students have the right to go back to their “school of origin” (the school they attended before the disaster), and the school district must generally provide transportation to and from their “school of origin” if a parent or guardian makes a request. Students who enroll in a new school district as a result of displacement by a natural disaster must receive transportation services that are comparable to the transportation services that other regularly housed students receive. Next, school districts must assess the needs of

homeless students and refer those students and their families to appropriate local resources, including health, mental health, dental, housing, substance abuse, and other community-based supports and services. Third, homeless students are entitled to fully participate in any school and extracurricular activities. Finally, if a receiving school does not agree that a homeless student is eligible to attend that school, the student has the right to remain enrolled pending any appeals, to receive a written explanation of the reasons for the district's objections to enrollment, and to receive assistance from the district's homeless liaison to dispute the school's decision regarding school selection and enrollment.

14.5 Every School District Is Required to Designate a Homeless Liaison

Every school district in Texas is required to have a homeless liaison who is responsible for coordinating efforts to assist and support homeless students. The Texas Homeless Education Office (THEO) maintains a current directory of these liaisons: <http://www.theotx.org/liaison-directory/>. THEO also maintains a toll-free hotline: (1-800-446- 3142).

14.6 Special Education

Homeless status is exclusive of special education identification, thus special education programming follows the student to any school which they enroll. Parents who are forced to enroll a student with a disability in a different district because of displacement due to a disaster are entitled to the same and comparable services as previously received.

A parent should disclose their child was previously receiving special education services on enrollment to ensure expedited special education services. For students with disabilities who enroll with missing or incomplete special education records, school districts must ensure those students receive a free appropriate public education (FAPE) by using whatever information is available at the time of enrollment, including but not limited to records provided by the parent, interviews with the parent and student, and conversations with the student's medical and/or mental health providers.

Temporary individual education programs (IEPs) must be developed within ten school days if there is insufficient documentation received to determine current programming and services. The receiving school is then provided thirty days to gather additional information, develop or propose new IEPs, and determine the need for new assessment. Knowledge of current programs or supports services prohibits dismissal of the programs or services without current assessment. These supports range from special education transportation, counseling, occupational therapy, physical therapy, assistive technology, or speech therapy to behavior supports and specialized instruction.

If records are verified to have been destroyed in a disaster which initially diagnosed a disability or established continued eligibility and consequently were the basis of educational and Admission, Review and Dismissal (ARD) committee decisions, the school district the child is enrolled in must convene an ARD to address. The ARD committee must determine a course of action to address the lack of documentation, as well as to remain in compliance with the federal framework for special education eligibility. The ARD committee by conducting a Review of

Existing Evaluation Determination (REED) will gather, review, and discuss data and observations from teachers and related services staff which might establish continued eligibility. If eligibility cannot be established, new assessment must be conducted with parental consent.

After a disaster, new needs may arise within a student's educational program, whether academic or behavioral. An ARD committee must be convened to determine the best course of action to address the new need.

For a student who has not been identified as eligible for receiving special education services under IDEA (Individuals with Disabilities Educational Act) and is experiencing educational difficulties after a disaster, parents may consider identification under Section 504 of the Rehabilitation Act. Section 504 provides a wider definition of an individual with a disability and allows accommodations and supports within the education environment, which may be appropriate for a trauma based diagnosis.