

# **KENTUCKY DEPARTMENT OF EDUCATION**

## **STAFF NOTE**

### **Action/Discussion Item:**

704 KAR 7:090, Homeless Children Education Program (Second Reading)

### **Commissioner's Recommendation:**

The Commissioner recommends approval of the revisions to 704 KAR 7:090 to align the state requirements for the homeless education program with changes made in the McKinney-Vento Act, as reauthorized by the Every Student Succeeds Act (ESSA).

### **Rationale:**

The regulation requires updating to reflect the newly adopted dispute resolution process, as well as align with definitions and priorities of the McKinney-Vento Act, as reauthorized by ESSA.

### **Applicable Statute or Regulation:**

KRS 156.029, 156.035, 156.070, 156.160, 42 U.S.C. 11432

### **Action Question:**

Should the Kentucky Board of Education approve the amendments made to 704 KAR 7:090, Homeless Children and Youth Education Program?

### **History/Background:**

***Existing Policy:*** The McKinney-Vento Homeless Education Act was reauthorized and amended by The Every Student Succeeds Act in 2015. This federal legislation has supported homeless youth for the past thirty years by promoting educational success for students who are experiencing homelessness. Requirements regarding homeless students apply to all districts, regardless of whether the district receives a McKinney-Vento Homeless grant.

McKinney-Vento, 42 U.S.C. § 11434(a), defines “homeless children and youths” as:

(A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 11302(a)(1) of this title); 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 11302(a)(2)(C) of this title);

(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 6399 of Title 20) who qualify as homeless for the purposes of this part because the children are living in circumstances described in clauses (i) through (iii).

Kentucky receives \$922,990 in federal funds through McKinney-Vento. McKinney-Vento funds may be used for college applications, tests and exams, clothing, tutoring, supplemental services, enrichment services, evaluation of strengths and needs of homeless children, professional development, provision of referral services for medical, dental, mental, and other health services, transportation cost (access to academic and extra-curricular), programs to retain homeless children in public schools, mentoring, homework assistance, and costs for obtaining records, education and training to parents about rights and resources.

McKinney-Vento grant recipients include the following districts:

- Ashland Independent
- Campbell County
- Eminence Independent
- Erlanger-Elsmere Independent
- Fayette County
- Greenup County
- Henderson County
- Jefferson County
- Jessamine County
- Knott County
- Newport Independent
- Paducah Independent
- Pike County
- Whitley County

704 KAR 7:090 establishes the Kentucky homeless education program. The regulation sets forth criteria regarding residency policies, provides informal procedures for resolution of disputes regarding education placement of homeless children and unaccompanied youth, provides grants to local educational agencies for the enrollment, retention, and educational success of homeless children and unaccompanied youths, and provides for an annual count of homeless children and unaccompanied youth.

**Summary of Issue:** The necessity for amending this regulation is twofold: (1) definitions and required processes regarding homeless children and unaccompanied youth require

alignment with that of McKinney-Vento, as reauthorized by ESSA; (2) the regulation requires alignment with Kentucky's State Plan regarding homeless education, as submitted to the federal government, specifically with regards to actions to break down barriers for homeless children and unaccompanied youth.

McKinney-Vento, as reauthorized by ESSA, provides a unique opportunity to reevaluate the homeless education program in Kentucky. While this regulation is not all encompassing of the work around homeless education in Kentucky, it does provide a framework for specific processes, including the dispute resolution process. The dispute resolution process has been updated to provide a larger emphasis on local resolution of disputes. The framework also provides more detail to assist districts as they work with families and other districts in resolving any potential disputes regarding identification of students or provision of services.

Several significant changes were made in McKinney-Vento, as reauthorized by ESSA. The regulation has been updated to highlight the increased emphasis in breaking down barriers for homeless children and unaccompanied youth. Consistent with that emphasis, the amended regulation now aligns with the federal law, indicating that homeless children and unaccompanied youth will be provided immediate enrollment and services regardless of any dispute of enrollment or services. McKinney-Vento also expands the age range for services to preschool. Likewise, the definition of school of origin now includes preschool. Additionally, school of origin must include designated receiving schools at the grade level for all feeder schools when a student completes the final grade level served by the school of origin. Districts must ensure accessibility for homeless children and unaccompanied youth for educational programs, now to include magnet programs. Finally, ESSA creates an additional requirement for a Foster Care liaison in every local educational agency. Consistent with that provision, this regulation sets forth the requirements for identifying that liaison and lists the duties of that position.

***Budget Impact:*** The amendment of this administrative regulation has no fiscal impact on the Kentucky Department of Education. Kentucky receives \$922,990 in federal funding under the McKinney-Vento Act.

### **Groups Consulted and Brief Summary of Responses**

LSAC reviewed the amendments to the regulation at its September 26, 2017 meeting. Questions were asked about the requirements under McKinney-Vento including changes to the definition of homeless. There was concern as to whether the definition, which includes a series of different living arrangements as noted above, would lead to a larger number of students classified as homeless. Staff provided an overview of the definition and indicated that the "fixed, regular, and adequate nighttime residence" provision in the definition had to be met as well.

LSAC will review the regulation a second time at its November 28, 2017 meeting and their feedback will be shared with the KBE prior to the December board meeting.

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A handwritten signature in blue ink that reads "Stephen L. Pruitt". The signature is written in a cursive style with a horizontal line underneath the name.

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**Commissioner of Education**

**Date:**

December 2017

Tara Rodriguez  
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