

KSBA RECOMMENDED LANGUAGE IN YELLOW

LEGAL: THE “EVERY STUDENT SUCCEEDS ACT OF 2015 (P. L. 114-95)” REQUIRES DISTRICTS TO ADDRESS ADMISSION OF FOSTER CHILDREN AND HOW THEY WILL BE TRANSPORTED.

FINANCIAL IMPLICATIONS: POSSIBLE INCREASED TRANSPORTATION COSTS

LEGAL: THE “EVERY STUDENT SUCCEEDS ACT OF 2015 (P. L. 114-95)” AND MCKINNEY-VENTO ACT REQUIRE DISTRICTS TO ADDRESS ADMISSION OF HOMELESS YOUTH INCLUDING HOW THEY WILL BE TRANSPORTED AND A DISPUTE RESOLUTION PROCESS.

FINANCIAL IMPLICATIONS: POSSIBLE INCREASED TRANSPORTATION COSTS

LEGAL: HB 527 DEFINES BEST INTEREST OF THE CHILD AS IT RELATES TO EDUCATIONAL STABILITY.

FINANCIAL IMPLICATIONS: COST OF TRANSPORTING STUDENTS

LEGAL: CHANGES TO 704 KAR 7:090 ADD UNACCOMPANIED YOUTH, AND REVISE THE APPEALS PROCESS.

FINANCIAL IMPLICATION: NONE ANTICIPATED

JCPS STAFF/GENERAL COUNSEL RECOMMENDED LANGUAGE IN BLUE

STUDENTS

09.12

Admissions and Attendance

RESIDENCE DEFINED

Students in the custody of a parent or guardian who resides in the District, or as otherwise provided by state or federal law, shall be considered residents and entitled to the privileges of the District's schools.

All other students shall be classified as nonresidents for school purposes.¹

SCHOOL OF ORIGIN DEFINED

“School of origin” is the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled, including a preschool or a charter school; provided, if a determination is made that it is not in the child’s or youth’s best interest to remain in the school of origin at the time of a change in foster care placement, the new school in which the child or youth is enrolled would then become the school of origin. When a child or youth completes the final grade level served by the school of origin, the school of origin includes the designated receiving schools at the next grade level for all feeder schools, if applicable.

HOMELESS CHILDREN AND UNACCOMPANIED YOUTH

The ~~Jefferson County Public School~~ District is dedicated to ensuring all students experiencing homelessness (McKinney-Vento eligible students) have "equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youths" in accordance with the McKinney Vento Homeless Assistance Act (reauthorized under the Every Student Succeeds Act, December 10th, 2015). It is the policy of **the District JCPS** that every homeless child and youth **and homeless children or youth not in the physical custody of a parent or guardian (unaccompanied youth)** be sensitively identified, permitted admission in an immediate and sensitive manner, and enrolled in and attend school on a daily basis as required by federal law.

²

This policy promotes the educational stability and continuity of homeless students.

1. Homeless **Definition.** According to the McKinney Vento law a student experiencing homelessness is defined as a child or youth who lacks a fixed, regular, and adequate nighttime residence. This includes a child or youth who is living:
 - a. With a friend, relative, or someone else due to economic hardship, loss of housing, or a

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- similar reason.
- b. In a motel, hotel, trailer park, or camp grounds due to lack of alternative accommodations.
 - c. In an emergency or transitional shelter.
 - d. In a public or private space not ordinarily designed for or used as a sleeping accommodation.
 - e. In a car, park, abandoned building, bus or train station, substandard housing, or similar setting.
2. Children and **Unaccompanied** Youth Experiencing Homelessness have the right to:
- a. Go to school, including a public preschool **or charter school**, no matter where they live or how long they have lived there.
 - b. Continue in the school of origin **for the duration of homelessness when deemed in the best interest of the child, or for the remainder of the school year if the family becomes permanently housed during the school year. It is presumed that staying in the school of origin is in the child's best interest, unless it is against the wishes of the parent, guardian, or unaccompanied youth (the school attended when permanently housed or the school in which last enrolled) if that is the parent's or youth's choice.**
 - c. **Receive transportation to and from the school of origin. Transportation must be arranged promptly to ensure immediate enrollment and so as not to create barriers to homeless students' attendance, retention, and success.**
 - d. Enroll in school immediately even if documents normally required for enrollment are missing.
 - e. Enroll and attend classes while the school **and district arrange** for the transfer of immunization records or any other documents required for enrollment.
 - f. Enroll and attend classes in either the school of origin or the reside school even while the school and parent or youth seek to resolve a dispute over the selected school.
 - g. Receive the same special programs and services, if needed, as provided to all other students served in these programs.
 - h. Receive transportation to and from school and school programs, comparable to that of housed students.
 - i. **If a dispute arises over eligibility, or school selection or enrollment in a school :**
 - i. **The child or youth shall be immediately enrolled in—their the school of origin, or other school in which enrollment is sought in accordance with the District's student assignment policy, pending final resolution of the dispute, including all available appeals.**
 - ii. **The parent or guardian of the child or youth, or in the case of an unaccompanied youth, the youth, shall be provided with a written explanation of any decisions related to school selection or enrollment made by the school, the District, or the Kentucky Department of Education involved, including the rights of the parent, guardian, or unaccompanied**

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youth to appeal such decisions.

- iii. The parent, guardian, or unaccompanied youth shall be referred to the District Homeless Liaison, who shall carry out the dispute resolution process as expeditiously as possible after receiving notice of the dispute.
- iv. In the case of an unaccompanied youth, the District Homeless Liaison shall ensure that the youth is immediately enrolled in their the school of origin, or other school in which the youth seeks enrollment in accordance with the District's student assignment policy pending resolution of such dispute.
- v. The Dispute Resolution for Homeless form located on the KDE website shall be used.

3. The District shall provide guidelines that detail the rights of McKinney-Vento eligible students and the responsibilities the schools have to meet their needs and eliminate barriers to school enrollment and attendance.

The District shall provide comparable transportation to the school of origin for homeless children at the request of the parent or guardian (or in the case of an unaccompanied youth, the liaison) if the school of origin is located within the area served by the District and the child continues to live within the area served by the District in which the school of origin is located. If a child whose school of origin is located within the area served by another school district locates to the a-District other than that of his/her school of origin, the District and the other district districts shall work together to apportion transportation to and from the school of origin and associated costs. If the districts are unable to reach agreement, responsibility and costs for transportation shall be shared equally.

DISTRICT HOMELESS LIAISON

The District shall designate an appropriate staff person to serve as liaison to homeless children and unaccompanied youth. The scope of responsibilities of the District Homeless Liaison shall align with the requirements under the McKinney-Vento law. In addition to coordination of McKinney-Vento implementation in the District, The liaison is responsible for ensuring:

2. Homeless children and youths are identified by school personnel through outreach and coordination activities with other entities and agencies.
3. Homeless children and youths are enrolled in, and have a full and equal opportunity to succeed in, schools of the District.
4. Homeless families and homeless children and youths have access to and receive educational services for which such families, children, and youths are eligible, including services through Head Start programs (including Early Head Start programs) under the Head Start Act (42 U.S.C. 9831 et seq.), early intervention services under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.), and other preschool programs administered by the District.
5. Homeless families and homeless children and youths receive referrals to health care services, dental services, mental health and substance abuse services, housing services, and other appropriate services.

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6. The parents or guardians of homeless children and youths are informed of the educational and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children.
7. Public notice of the educational rights of homeless children and youths is disseminated in locations frequented by parents or guardians of such children and youths, and unaccompanied youths, including schools, shelters, public libraries, and soup kitchens, in a manner and form understandable to the parents and guardians of homeless children and youths, and unaccompanied youths.
8. School placement decisions are made on the basis of the best interest of the child and wishes of the parent, guardian, or unaccompanied youth.
9. Enrollment disputes are mediated in accordance with this policy.
10. The parent or guardian of a homeless child or youth, and any unaccompanied youth, is fully informed of all transportation services, including transportation to the school of origin, and is assisted in accessing transportation to the school that is selected.
11. School personnel providing services under this subtitle receive professional development and other support.
12. Unaccompanied youths:
 - a. Are enrolled in school.
 - b. Have opportunities to meet the same challenging State academic standards as the State establishes for other children and youth.
 - c. Are informed of their status as independent students under section 480 of the Higher Education Act of 1965 (20 U.S.C. 1087vv) and that the youths may obtain assistance from the District Homeless Liaison to receive verification of such status for purposes of the Free Application for Federal Student Aid.
13. Coordination and collaboration with State Coordinators and community and school personnel responsible for the provision of education and related services to homeless children and youths. Such coordination shall include collecting and providing to the State Coordinator the reliable, valid, and comprehensive data needed to meet the requirements.

The District Homeless Liaison may affirm, without further agency action by the Department of Housing and Urban Development, that a child or youth who is eligible for and participating in a program provided by the District, or the immediate family of such a child or youth, who meets the eligibility requirements of a program or service authorized under Title IV of ESSA, is eligible for such program or service.

- ~~• “Outreach” to other entities and agencies so that homeless students are identified;~~
- ~~• Providing public notice of the educational rights of homeless children in locations frequented by parents/guardians and unaccompanied youths. This notice is to be in a manner and form that is understandable;²~~
- ~~• Seeing that school personnel who provide McKinney-Vento Services receive professional development and other support; and~~

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HOMELESS CHILDREN AND UNACCOMPANIED YOUTH (CONTINUED)

- Ensuring that unaccompanied youths are enrolled in school and receive support to accrue credits and access to higher education.

The District shall inform school personnel, service providers, and advocates working with homeless families, parents, guardians and homeless children and unaccompanied youths of the duties of the liaison.

All concerns regarding the education of homeless children and unaccompanied youth shall be referred to the District Homeless Liaison. If a complaint arises regarding services or placement of homeless children and unaccompanied youth, the dispute resolution procedures as set forth in 704 KAR 7:090 shall apply.

Disputes over eligibility, school selection, or enrollment are to be appealed to the Kentucky Department of Education using the Dispute Resolution for Homeless form located at the link below:

<https://education.ky.gov/federal/progs/txc/Documents/Homeless%20Dispute%20Resolution%20Form.pdf>

The liaison shall provide a copy of the referenced form to the complainant.

The District shall provide services for homeless children and unaccompanied youths with disabilities as required by law.

POLICY REVIEW AND REVISION

The District shall review and revise any policies that may act as barriers to the identification of homeless children and youths or the enrollment of homeless children and youths in schools. In reviewing and revising such policies, consideration shall be given to issues concerning transportation, immunization, residency, birth certificates, school records and other documentation, and guardianship. Special attention shall be given to ensuring the identification, enrollment, and attendance of homeless children and youths who are not currently attending school.

BEST INTEREST DETERMINATION FOR HOMELESS CHILD

In determining a child's or youth's best interest, the District Homeless Liaison must presume that keeping the homeless child or youth in the school of origin is in the child's or youth's best interest, except when doing so is contrary to the request of the child's or youth's parent or guardian, or in the case of an unaccompanied youth, the youth. When determining a child's or youth's best interest, the District must consider student-centered factors, including factors related to the impact of mobility on achievement, education, health, and safety of homeless children and youths, giving priority to the request of the child's or youth's parent or guardian or (in the case of an unaccompanied youth) the youth.

COMPARABLE SERVICES FOR HOMELESS STUDENTS

The District shall provide services to each homeless child and youth that are comparable to services offered to other students in the District. These services include public preschool programs and

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CHILDREN IN FOSTER CARE (CONTINUED)

other educational programs or services for which a homeless student meets the eligibility criteria, such as programs for children with disabilities, programs for English learners, programs in career and technical education, programs for gifted and talented students, before-and after-school programs, school nutrition programs, transportation and charter school programs.

CHILDREN IN FOSTER CARE

“Foster care” is defined as “24-hour substitute care for children placed away from their parents or guardians and for whom the Cabinet for Health and Family Services has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes...”³

The District is committed to increasing educational stability and improving educational outcomes for students in foster care. Students in foster care shall have equal access to all educational programs and services, including transportation, which all other students enjoy.

If a foster child is placed in a new school, the child shall be immediately enrolled in that school. The District shall collaborate with the Cabinet to ensure immediate and appropriate enrollment of the child and immediately contact the student’s previous school for relevant records. The previous school shall provide the new school records maintained within the student information system by the Kentucky Department of Education within three (3) working days of receipt of a request. Remaining records shall be provided within ten (10) working days of the request.

The Superintendent shall appoint a Foster Care Liaison to coordinate activities relating to the District’s provision of services to children placed in foster care, including transportation services, when the District is notified by the Cabinet for Health and Family Services in writing that the Cabinet has designated its Foster Care Liaison for the District. The Superintendent may appoint the District Foster Care Point of Contact prior to such notice from the Cabinet.

Placement of Children in Foster Care

It is presumed to be in a child’s best interest to remain in the school of origin. If a determination is made at the time of such change in placement that it is in the child’s best interest to be placed in a school other than the school of origin, the new school shall be considered the school of origin for future school placement decisions.⁴

Children in foster care, including preschool aged children if the District offers a preschool program, shall be eligible to attend their “school of origin” unless a determination is made that it is not in the child’s best interest. Such determination will be made in collaboration with the child welfare agency. Dispute resolutions shall be handled by all agencies involved in the determination of the foster child’s placement.

When possible, a child exiting the foster care program during the school year shall be allowed to complete the school year in the school of origin.

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CHILDREN IN FOSTER CARE (CONTINUED)

BEST INTEREST OF THE CHILD IN FOSTER CARE

Determining the best interest of the child takes into consideration the following factors, including but not limited to:

- The benefits to the child of maintaining educational stability;
- The appropriateness of the current educational setting;
- The child's attachment and meaningful relationships with staff and peers at the current educational setting;
- The safety of the child; and
- The proximity of the placement to the school of origin, and how the length of a commute would impact the child.
- The influence of the school's climate on the child;

The District and the Cabinet shall have flexibility in determining the factors to be considered in evaluating the appropriateness of the educational setting of a child in foster care, and determining a school placement that is in the child's best interest. Best interest determinations should include input from relevant parties, including the child, foster parents, biological relatives, and school staff. Though the specific factors may vary depending on context, a variety of student-centered factors should be considered when determining the most appropriate educational setting for a child. The District and Cabinet shall consult U.S. Department of Education guidance regarding the factors that may be considered. ⁴

Dispute resolution

The District and Cabinet shall make every effort to reach agreement regarding the appropriate school placement of children in foster care. If a conflict arises between a social service worker and the District regarding school placement, the social service worker shall address the matter through the Cabinet and District Foster Care Liaison. During a dispute, the District shall ensure transportation for the child to the school of origin until a resolution is reached. If an agreement cannot be reached, the final decision regarding a child's best interest rests with the Cabinet. ⁴

Transportation

The District shall collaborate with child welfare agencies to ensure that transportation to a child's school of origin for students in foster care is provided, arranged, and **funded for the duration of the time the student is in foster care.** Transportation costs shall not be considered as a factor when determining a child's best interest regarding school placement. The District's Foster Care Liaison shall assist in exploring transportation options.

Immediate enrollment

When a determination is made that it is not in the child's best interest to remain in school of origin at the time of a change in placement, the District shall immediately enroll the child in a new school in accordance with the District's student assignment plan and enrollment procedures.

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even if the child does not have required documentation. The District shall contact the student's prior school for relevant records.

When the placement of a state agency child, including a child in foster care, is changed, and the child is transferring from one school to another, the sending school shall prepare a Cabinet Educational Passport form within two (2) days of the transfer and provide it to the social service worker, who shall present it to the receiving school within two days of enrollment.⁵

IMMIGRANTS

No student shall be denied enrollment based on his/her immigration status, and documentation of immigration status shall not be required as a condition of enrollment.

The District may provide an approved high school program to a student who is a refugee or legal alien until the student graduates or until the end of the school year in which the student reaches the age of twenty-one (21), whichever comes first.

NONRESIDENTS

Nonresident students may be admitted to the District's schools in accordance with Board policy and upon approval of the Superintendent.⁶

Written nonresident student contract information shall be kept on file at both the attending and resident districts.

Nonresident students designated as homeless or foster children may be required to be enrolled consistent with the "best interest of the child" or "school of origin" requirements under the Every Student Succeeds Act (ESSA) and the McKinney-Vento Act as amended by ESSA.

TRANSFER OF ADA

Nonresident students may be admitted to the District schools upon payment of tuition and/or transfer of the student's average daily attendance as defined under Kentucky's public school fund.^{7&8}

NON-IMMIGRANT FOREIGN STUDENTS

Non-immigrant foreign students qualifying for F-1 immigration status or who obtain an F-1 student visa may be admitted to the District based on the following guidelines:

1. These students shall not be permitted to attend any publicly funded adult education program.
2. These students may be permitted to attend in grades nine through twelve (9-12), but not at earlier grade levels.
3. As required by law, these students shall pay a tuition fee equal to the full, unsubsidized per capita cost to the District for providing education to the student for the period of attendance.
4. The period of attendance shall not exceed twelve (12) months.

These requirements do not apply to immigrant students residing in the District or foreign students in any other immigration status, including exchange students.

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The parent, guardian, Principal, or other person or agency responsible for the student shall provide to the school prior to admission, a sworn statement or affirmation concerning any of the following that have occurred in or outside Kentucky:

1. If a student has been expelled from school; or
2. If a student has been adjudicated guilty/convicted of, homicide, assault, or an offense in violation of state law or school regulations relating to weapons, alcohol, or drugs.

Assault shall mean any physical assault, including sexual assault.

The sworn statement or affirmation shall be on a form provided by the appropriate state agency and shall be sent to the receiving school within five (5) working days of official notification that a student has requested enrollment in the new school.⁹

If a student is suspended or expelled for any reason, or faces charges that may lead to suspension or expulsion, but withdraws prior to a hearing from any public or private school in Kentucky or any other state and then moves into the District and seeks to enroll, the District shall review the details of the charges, suspension, or expulsion and determine if the student will be admitted, and if so, what conditions may be imposed upon the admission. Prior to a decision to deny admission, the District shall offer the student, parent/guardian.

REFERENCES:

¹KRS 159.010; OAG 78-64

²42 U.S.C. 11431 et seq. (McKinney-Vento Act) & S1177 Sec.9101.

³45 C.F.R.1335.20(a)

⁴Non-regulatory Guidance on Foster Care Provisions in Title I, Part A of the Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act of 2015.

⁵45 C.F.R.1335.20(a)

⁶KRS 158.120; OAG 80-47; OAG 79-327; OAG 75-602

⁷KRS 157.320

⁸702 KAR 7:125

⁹KRS 158.155; KRS 157.330, KRS 158.150

KRS 157.360; KRS 158.100

KRS 199.802

704 KAR 7:090; OAG 91-171

P. L. 104-208

P. L. 114-95 (Every Student Succeeds Act of 2015), 20 U.S.C. § 6301 et seq.

8 U.S.C. Sections 1101 and 1184; 8 C.F.R. Section 214

Plyler v. Doe, 457 U.S. 202 (1982)

Equal Educational Opportunities Act of 1974 (EEOA)

RELATED POLICIES:

06.32; 08.1114; 09.11; 09.121; 09.1223; 09.123; 09.124; 09.125

09.126 (re requirements/exceptions for students from military families)

09.14; 09.211