

1 EDUCATION AND WORKFORCE DEVELOPMENT CABINET

2 Kentucky Board of Education

3 Department of Education

4 (Amended After Comments)

5 704 KAR 7:090. Homeless Children and Youth Education Program and Ensuring Educational  
6 Stability of Children in Foster Care.

7 RELATES TO: KRS 156.029, 156.035, [~~156.029,~~] 156.160, 20 U.S.C 6311(g)(1)(E), 20 U.S.C.  
8 6312(c)(5)(B), 42 U.S.C. 11431 et seq. [~~11432~~]

9 STATUTORY AUTHORITY: KRS 156.070, 156.160[~~,156.070~~]

10 NECESSITY, FUNCTION, AND CONFORMITY: In accordance with the McKinney-Vento  
11 Homeless Assistance Act (McKinney-Vento Act), as amended under the Every Student Succeeds  
12 Act of 2015 (ESSA), the Kentucky Department of Education (department), when applying to the  
13 U.S. Department of Education for participation in programs for homeless children and  
14 unaccompanied youth under the McKinney-Vento Act, shall submit an approvable plan and  
15 satisfactory assurances that all requirements of the law set forth in 42 U.S.C. Section 11432 shall  
16 be met. This administrative regulation [~~implements~~] aligns with the Kentucky Board of  
17 Education's duties, pursuant to KRS 156.029 and 156.035, to develop [~~education policy, to~~]  
18 administrative regulations governing activities within the department and implement [~~acts of~~  
19 ~~Congress~~] Congressional action appropriating [~~and apportioning~~] funds to the state [~~and to~~  
20 ~~provide for the proper implementation of federal law~~] in accordance with state and federal law  
21 and Kentucky's consolidated State plan under ESSA [~~the state's current plan~~]. Specifically, this

1 ~~[This]~~ administrative regulation establishes criteria regarding residency policies~~[-, the provision~~  
2 ~~of]~~ and provides for a free, appropriate public education ~~[to]~~ for homeless children and  
3 unaccompanied youth;~~[-, provides]~~ informal procedures for resolving ~~[resolution of]~~ disputes  
4 regarding the educational placement of homeless children and unaccompanied youth;~~[-, provides]~~  
5 grants to local educational agencies (LEAs) for the enrollment, retention, and educational  
6 success of homeless children and unaccompanied youth;~~[-]~~ and, ~~[provides for]~~ an annual count of  
7 homeless children and unaccompanied youth. Additionally, this administrative regulation  
8 requires LEAs to have procedures for awarding credit, including partial credit, for coursework  
9 satisfactorily completed by homeless children and unaccompanied youth in another school as  
10 well as for conferring high school diplomas to homeless children and unaccompanied youth in  
11 accordance with KRS 156.160. Consistent with 20 U.S.C 6311(g)(1)(E) and 20 U.S.C.  
12 6312(c)(5)(B), this regulation also promotes the educational stability of children in foster care  
13 through the implementation of the foster care liaison within each LEA.

14 Section 1. Definitions. (1) "Foster care" shall have the same meaning as defined in KRS  
15 620.020. ~~["Homeless child", "homeless children", and "homeless student" means a child or~~  
16 ~~children who are between the ages of birth and twenty-one (21) years, inclusive, and who lack a~~  
17 ~~fixed, regular, and adequate nighttime residence. The term includes children and youth who are:~~  
18 ~~(a) Sharing the housing of other persons due to loss of housing, economic hardship, or a similar~~  
19 ~~reason;~~  
20 ~~(b) Are living in motels, hotels, trailer parks, or camping grounds due to lack of alternative~~  
21 ~~adequate accommodations;~~  
22 ~~(c) Are living in emergency or transitional shelters;~~  
23 ~~(d) Are abandoned in hospitals;~~

~~(e) 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;~~  
~~(f) Are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and~~  
~~(g) Migratory children who qualify as homeless because they are living in circumstances described above.]~~

(2) "Free, appropriate public education" means the educational programs and services ~~[that are]~~ provided to the children of a resident of a state~~[-and that are]~~ consistent with state school attendance laws. These educational programs and services, for which the child meets the eligibility criteria, may include:

- (a) Magnet schools;
- (b) Charter schools;
- (c) Compensatory education programs for the disadvantaged;
- (d) Educational programs for the handicapped and students with limited English proficiency;
- (e) Programs in vocational education;
- (f) Programs for the gifted and talented;
- (g) School meals programs;
- (h) Extended school programs;
- (i) Preschool programs; and
- (j) Programs developed by the family resource and youth services centers.

(3) "Homeless child," "homeless children," and "homeless student" mean a child or children who are between the ages of birth and twenty-one (21) years, inclusive, and who lack a fixed, regular, and adequate nighttime residence. This definition includes children and youth who:

1 (a) Are sharing the housing of other persons due to loss of housing, economic hardship, or a  
2 similar reason;

3 (b) Are living in motels, hotels, trailer parks, or camping grounds due to lack of alternative  
4 adequate accommodations;

5 (c) Are living in emergency or transitional shelters;

6 (d) Are abandoned in hospitals;

7 (e) Have a primary nighttime residence that is a public or private place not designed for, or  
8 ordinarily used as, a regular sleeping accommodation for human beings;

9 (f) Are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or  
10 train stations, or similar settings; or

11 (g) Are migratory children who qualify as homeless because they are living in circumstances  
12 described above.

13 (4) "School of origin" means the school that the homeless child or youth attended when  
14 permanently housed[;] or the school in which the homeless child or youth was last enrolled.

15 ~~[Consistent with McKinney Vento as reauthorized by ESSA,]~~ This [this] shall include preschool  
16 and designated receiving schools at the grade level for all feeder schools when a student  
17 completes the final grade level served by the school of origin.

18 (5) "Student attendance day" shall have the same meaning as defined in KRS 158.070.

19 (6) [(4)] "Unaccompanied youth" means a youth that meets the definitions of unaccompanied  
20 youth and homeless included in the McKinney-Vento Homeless Assistance Act.

21 Section 2. Criteria for Homeless Children and Youth Education Program Implementation. (1)

22 Homeless children and ~~[or]~~ unaccompanied youth who reside within the boundaries of an LEA

23 ~~[local school district]~~ shall be provided a free, appropriate public education. ~~[Programs for~~

~~homeless children and unaccompanied youth shall be provided in a timely fashion and shall be ensured by the following actions:]~~

(2) [(4)] Each LEA [~~local district~~] shall designate a person [~~in the district~~] to be a homeless child education liaison (liaison), [~~shall~~] submit the name of the person acting as liaison to the department [~~Kentucky Department of Education~~], and [~~shall~~] allocate sufficient time to the homeless child education liaison to perform the required responsibilities.

(3) The homeless child education liaison[’s] shall be responsible for [~~responsibilities shall be to~~]:

(a) Obtaining [~~Obtain~~] all necessary records, including birth certificates and immunization records, of each homeless student and unaccompanied youth identified as living within the boundaries of the LEA [~~school district~~] and immediately placing [~~place the~~] each homeless student and unaccompanied youth in appropriate programs. [~~In cases where~~] Where educational records are not readily available, the liaison shall personally make direct contact with [~~contact~~] the LEA(s) [~~school district(s)~~] or schools of last attendance for verbal confirmation of essential information, including coursework that has been satisfactorily completed. The liaison shall assist the homeless student or unaccompanied youth to obtain essential records which are not in existence;

(b) Receiving [~~Receive~~] and resolving [~~resolve~~] any requests for resolution of disputes related to the educational placement of homeless students and [~~or~~] unaccompanied youth within the LEA [~~district~~]. The liaison shall provide the necessary information to the department [~~Department of Education~~] for final resolution whenever such [~~a request~~] requests cannot be [~~is received and is not~~] resolved at the local level;

- (c) Assisting [~~Assist~~] the homeless student or unaccompanied youth to obtain the appropriate program and services, including transportation and referrals to medical, dental, mental health, and other appropriate programs and services;
- (d) Developing [~~Develop~~] procedures to ensure that homeless student or unaccompanied youth records are readily available upon request by a new receiving LEA or school [~~district~~];
- (e) Developing relationships [~~a relationship~~] with known homeless service providers and state agencies in the community to identify and enroll homeless students or unaccompanied youth living there;
- (f) Reviewing [~~Review~~] local data indicating the prevalence of homelessness in the community and assessing [~~assess~~] needs of local homeless children and unaccompanied youth with LEA administrators based on the review of data;
- (g) Ensuring [~~Ensure~~] school personnel providing McKinney-Vento services receive professional development and other support related to addressing the challenges of homelessness and supporting homeless children and unaccompanied youth, including runaway youth;
- (h) Ensuring [~~Ensure~~] unaccompanied youth are enrolled and receive support to accrue credits and access higher education; and
- (i) Receiving [~~Receive~~] annual department-approved training to cover at least the following topic areas:
1. The rights and services provided for homeless children and unaccompanied youth;
  2. Identification of homeless children and unaccompanied youth;
  3. The state dispute resolution process, data utilization, monitoring, and reporting requirements under this regulation; and
  4. Best practices to serve homeless children and unaccompanied youth.

1 (4) Consistent with KRS 156.160(1)(p), and to the extent feasible, homeless children and  
2 unaccompanied youth shall be awarded credit, including partial credit, for all coursework  
3 satisfactorily completed.

4 (5) To ensure credit, including partial credit, is awarded for all coursework satisfactorily  
5 completed by homeless children and unaccompanied youth, an LEA shall adopt written  
6 procedures addressing:

7 (a) The tool or methodology the LEA shall use to calculate credit, including partial credit, to be  
8 awarded for all coursework satisfactorily completed by homeless children and unaccompanied  
9 youth;

10 (b) The consolidation of partial credit, where appropriate, to provide opportunities for credit  
11 accrual that eliminate academic and nonacademic barriers for homeless children and  
12 unaccompanied youth;

13 (c) How the LEA shall provide students experiencing homelessness access to extracurricular and  
14 summer programs, credit transfer and electronic course services, and after-school tutoring and  
15 other extended school services available in the district to the fullest extent practicable and at  
16 nominal or no costs;

17 (d) The ways in which the LEA shall lessen the impact of school transfers for homeless children  
18 and unaccompanied youth, which shall include:

19 1. Identifying systems that are in place to ease the transition of students experiencing  
20 homelessness, particularly during the first two weeks at a new school;

21 2. Requiring counselors to provide timely assistance and advice to improve college and career  
22 readiness for students experiencing homelessness; and

3. Granting priority placement in classes offered by the LEA that meet state minimum graduation requirements for students who change schools at least once during a school year as a result of homelessness;

(e) How and in what circumstances the LEA shall allow a student experiencing homelessness who was previously enrolled in a course required for high school graduation to complete that course at no cost before the beginning of the next school year as required by KRS 156.160(1)(p)(2); and

(f) The required review of credit accrual and the personal graduation plan for each homeless student and unaccompanied youth that is not on track to receive a high school diploma before the fifth year of high school enrollment.

(6) To ensure credit, including partial credit, is awarded for all coursework satisfactorily completed by homeless children and youth, an LEA may adopt procedures providing for:

(a) The timely placement of a student experiencing homelessness in electives comparable to those in which the student was enrolled in or earned partial credit for the successful completion of at the previous school(s);

(b) Engaging homeless students and unaccompanied youth by offering curricula that connect schoolwork with college and careers;

(c) Flexibility for homeless students and unaccompanied youth to complete credits, particularly those required for high school graduation, which may include flexible scheduling options, open entry and exit, extended year programming, or self-paced learning-based on competency;

(d) Small, personalized learning environments for students experiencing homelessness;

(e) Blended learning opportunities such as computer-based or digital learning options for students experiencing homelessness;



1 (f) Work-based learning programs, apprenticeships, or alternative education programs that allow  
2 homeless students and unaccompanied youth to recover credits or earn income while completing  
3 credits; or

4 (g) The integration of content standards from multiple subject areas into a single course for  
5 which students can earn simultaneous credit. Curriculum for integrated courses addresses  
6 standards across subject matters and may emphasize interdisciplinary connections from technical  
7 or academic areas.

8 (7) An LEA shall adopt written procedures for awarding a high school diploma to homeless  
9 children and unaccompanied youth who transfer after completion of the second year of high  
10 school and meet the requirements outlined in KRS 156.160(1)(p).

11 ~~[(2) Each local district shall designate a person in the district to be a foster care liaison, shall~~  
12 ~~submit the name of the person to the Kentucky Department of Education, and shall allocate~~  
13 ~~sufficient time to the foster care liaison to perform required responsibilities. The foster care~~  
14 ~~liaison may also be the homeless education liaison. The foster care liaison's responsibilities shall~~  
15 ~~be to ensure that:~~

16 ~~(a) A child in foster care remains in his or her school of origin, unless it is determined that~~  
17 ~~remaining in the school of origin is not in that child's best interest;~~

18 ~~(b) If it is not in the child's best interest to stay in his or her school of origin, the child is~~  
19 ~~immediately enrolled in the new school even if the child is unable to produce records normally~~  
20 ~~required for enrollment; and~~

21 ~~(c) That the new (enrolling) school immediately contacts the school of origin to obtain relevant~~  
22 ~~academic and other records.]~~

Section 3. Residency and Enrollment in the Homeless Children and Youth Education Program.

~~(1) [The school district of residence shall be the district in which the homeless student or unaccompanied youth physically resides with his or her parent or legal custodian, unless by reason of marriage, emancipation, or basic physical necessity the child resides elsewhere.]~~

In the best interest of the homeless student or unaccompanied youth, an LEA serving a homeless student or unaccompanied youth ~~[The school district of residence]~~ shall ensure that:

~~(a) [The homeless student or unaccompanied youth is enrolled in the school attendance area in which he or she is physically located;]~~ The homeless student's or unaccompanied youth's education is continued in the school of origin for the duration of homelessness; ~~[remainder of the academic year, or in any case in which the family becomes homeless between academic years, for the following academic year;]~~

1. In any case in which the homeless child or unaccompanied youth becomes homeless between academic years or during an academic year; and

2. For the remainder of the academic year, if the homeless child or unaccompanied youth becomes permanently housed during an academic year; or

(b) The homeless student or unaccompanied youth is enrolled ~~[enroll the child or youth]~~ in any school that non-homeless students who live in the attendance area in which the child or youth is actually living are eligible to attend~~[, whichever is in the best interest of the homeless student or unaccompanied youth].~~

(2) In determining the best interests of the homeless child or unaccompanied youth for purposes of making a school assignment under Section 3(1) of this administrative regulation, an LEA serving a homeless student or unaccompanied youth shall; ~~[consideration shall be given to a request made by the parent or unaccompanied youth regarding school selection]~~

1 (a) Presume that it is in the best interest of the homeless child or unaccompanied youth to remain  
2 in the school of origin, unless doing so is contrary to a request made by the unaccompanied  
3 youth or by the parent or guardian of the homeless child regarding school selection;

4 (b) Consider student-centered factors, including the impact of mobility on achievement,  
5 education, health, and safety, giving priority to a request made by the unaccompanied youth or  
6 by the parent or guardian of the homeless child regarding school selection;

7 (c) If, after conducting the best interest determination based on the presumption in paragraph (a)  
8 of this subsection and on the student-centered factors in paragraph (b) of this subsection, the  
9 LEA determines that it is not in the homeless child's or unaccompanied youth's best interest to  
10 attend the school of origin or the school requested by the unaccompanied youth or by the parent  
11 or guardian of the homeless child, provide a written determination explaining the reasons for the  
12 determination to the unaccompanied youth or the parent or guardian of the homeless child in a  
13 manner and form that is understandable. The written determination shall also contain information  
14 regarding the rights of the unaccompanied youth or the parent or guardian of the homeless child  
15 to dispute the determination pursuant to the procedures set forth in Section 4 of this  
16 administrative regulation; and

17 (d) In the case of an unaccompanied youth, ensure the homeless child education liaison assists in  
18 placement or enrollment decisions, gives priority to the views of the unaccompanied youth, and  
19 provides notice to such youth of the right to dispute his education placement pursuant to the  
20 procedures set forth in Section 4 of this administrative regulation.

21 (4) The school selected for purposes of making a school assignment under Section 3(1) of this  
22 administrative regulation shall immediately enroll the homeless child or unaccompanied youth,

1 even if the student is unable to produce records normally required for enrollment, or has missed  
2 application or enrollment deadlines during any period of homelessness.

3 (5) [(3)] A homeless student or unaccompanied youth shall not be denied enrollment [~~in the~~  
4 ~~school district of residence~~] due to the absence of a parent or a court-appointed guardian or  
5 custodian. Such a homeless student or unaccompanied youth shall be enrolled and provided  
6 educational services until such time that the LEA [~~school district~~] can substantiate that the  
7 enrollment is contrary to the best interests of the child or youth pursuant to Section 3(2) of this  
8 administrative regulation [~~Section 1(2) of this administrative regulation~~].

9 (6) [(4)] In the absence of a parent[, and a court-appointed custodian or guardian, any medical,  
10 dental, and other health services may be rendered to a homeless student or unaccompanied youth  
11 who is a minor of any age when, in the judgment of the school principal or other professional,  
12 [~~that~~] the risk to the minor's health is of such a nature that treatment should be given without  
13 delay and the requirements of consent would result in delay or denial of treatment as stated in  
14 KRS 214.185(3)(4).

15 (7) [(5)] Homeless children or unaccompanied youth shall not include any individual imprisoned  
16 or otherwise detained by act of Congress or a state law. Nor shall a child be classified as  
17 "homeless" to circumvent state law and administrative regulations which:

18 (a) Prohibit the attempted enrollment of nonresident students for the express purposes of  
19 obtaining school accommodations and services without the payment of tuition to the nonresident  
20 LEA [~~school district~~] or for the purpose of obtaining specific programs not available in the  
21 school of residence; or

22 (b) Regulate interschool athletic recruiting by the Kentucky High School Athletic Association.

23 (8) [(6)] LEA [~~School district~~] policy, including policies related to guardianship issues, shall not

1 delay or deny the immediate provision of educational placement and appropriate services to the  
2 homeless student or unaccompanied youth~~[, including policies related to guardianship issues]~~.

3 Section 4. Resolution of Disputes Arising in the Homeless Children and Youth Education

4 Program. (1) Disputes arising between and among more than one LEA regarding the enrollment  
5 of a homeless student or unaccompanied youth shall be resolved by the state homeless education  
6 coordinator in accordance with the procedures established in Section 4(4) through (8) of this  
7 administrative regulation.

8 (2) All other disputes ~~[Disputes arising between or among the school district of residency;~~  
9 ~~another school district; and the parent, youth, or person in parental relationship to the homeless~~  
10 ~~student or unaccompanied youth]~~ regarding ~~[the school district in which the child shall attend~~  
11 ~~school or the educational placement]~~ eligibility, school selection, or enrollment of [the] a  
12 homeless student or unaccompanied youth shall be received and resolved by the LEA in which  
13 enrollment is sought in accordance with the procedures established in Section 4(3) of this  
14 administrative regulation. ~~[resolved through the following procedures:]~~

15 (3) Within thirty (30) student attendance days after notice of a dispute is received, the LEA in  
16 which enrollment is sought by a homeless child or unaccompanied youth shall resolve the  
17 dispute using the following procedures:

18 (a) [(1)] The [local district] homeless child education liaison in the LEA in which enrollment is  
19 sought shall ensure immediate enrollment and the provision of services to the homeless child or  
20 unaccompanied youth throughout the dispute resolution process;[.]

21 (b) [(2)] All concerns regarding the education of a homeless child or unaccompanied youth shall  
22 be referred to the [local district] homeless child education liaison in the LEA of enrollment. If a  
23 complaint arises regarding services or placement of a homeless child or unaccompanied youth,

1 the ~~[school district's]~~ homeless child education liaison in the LEA of enrollment shall inform the  
2 homeless student or unaccompanied youth of his or her rights under the McKinney-Vento Act  
3 and state law, including this administrative regulation;[-]

4 (c) [(3)] The homeless child education liaison in the LEA of enrollment shall promptly and  
5 thoroughly document all communications, determinations, and evidence. All documentation shall  
6 be subject to the provisions of the Family Educational Rights and Privacy Act, 20 U.S.C.  
7 1232(g);

8 (d) [(4)] The ~~[local district]~~ homeless child education liaison in the LEA of enrollment shall  
9 make a determination on the dispute within a reasonable number of days ~~[as to the complaint.~~  
10 ~~The liaison will document this and all subsequent communications, determinations, and~~  
11 ~~evidence.~~ and provide a [A] copy of that determination ~~[shall be presented]~~ to the  
12 complainant;[-]

13 (e) [(5)] If the ~~[complaint]~~ dispute is not resolved, the complainant shall ~~[will]~~ be advised by the  
14 ~~[local district]~~ homeless child education liaison in the LEA of enrollment of the opportunity to  
15 present a written request for mediation and, at the request of the complainant, assist the  
16 complainant with completing [-The local district liaison shall assist the representative to  
17 complete] a written request for mediation, including documenting ~~[an indication of]~~ the specific  
18 point at issue;[-]

19 (f) [(4)] The mediation, if requested by the complainant, shall be facilitated by the homeless  
20 child education liaison in the LEA of enrollment and shall be scheduled within a reasonable  
21 number of days of the written request and on a day and time reasonably calculated to be ~~[shall~~  
22 ~~be]~~ convenient to the needs of the homeless student or unaccompanied youth. The ~~[district~~  
23 ~~liaison, the]~~ LEA ~~[district(s)]~~ representative(s)[-] and the ~~[child's]~~ representative(s) of the

1 homeless child or unaccompanied youth shall have the opportunity to be present at the  
2 mediation;~~[- The local district homeless liaison shall facilitate the mediation.]~~

3 ~~(g) [(5)]~~ During the mediation, the LEA representative(s) ~~[school district(s)]~~ shall discuss  
4 considerations that led to the placement decision and the specific point ~~at [it]~~ issue as  
5 determined previously and specified within the written request for mediation. The mediation may  
6 also include discussion of the ability of the LEA ~~[school district]~~ of enrollment to provide  
7 continuity in educational programs, the need of the homeless student or unaccompanied youth  
8 for special instructional programs, the amount of time and arrangements required to transport the  
9 student to the ~~[original]~~ school in which enrollment is sought ~~[district]~~, the age of the homeless  
10 student or unaccompanied youth, ~~[and]~~ the school placement of siblings to the homeless student  
11 or unaccompanied youth, and the time remaining until the end of the semester or ~~[the end of the]~~  
12 school year;~~[-]~~ and

13 (h) The homeless child education liaison in the LEA of enrollment shall document mediation  
14 ~~[Documentation regarding those]~~ proceedings and ~~[must be]~~ provide~~d~~ such documentation  
15 ~~[with any appeal]~~ to the state homeless education coordinator with any request made pursuant to  
16 Section 4(4) of this administrative regulation.

17 ~~(4) [(6) Where an agreement cannot be reached by the parties,]~~ Any ~~[either]~~ party to the dispute  
18 may request review by the state homeless education coordinator. Upon written request, the state  
19 homeless education coordinator shall make a determination and communicate with the involved  
20 parties to discuss available alternatives and seek to resolve the dispute. Any party requesting  
21 review by the state homeless education coordinator must provide reasoning for the review,  
22 including specific questions of law or fact.

(5) [(7)] Where such a request for the review [~~assistance~~] of the state homeless education coordinator is made, the LEA of enrollment [~~school district of residence~~] shall provide sufficient information as required by the department, including:

(a) A description of the situation that prompted the complaint and subsequent request for review by the state homeless education coordinator;

(b) The name(s) and age(s) of the homeless child or children or unaccompanied youth involved;

(c) The name(s) of the involved LEA [~~school district~~] personnel and the LEA(s) [~~school district or districts~~] involved; and

(d) Copies of any documentation that served as the basis [~~used up to that point including reasoning~~] for LEA [~~district~~] decisions[~~-, appropriate evidence to substantiate reasoning,~~] and other documentation [~~evidence~~] the LEA deems [~~district sees~~] relevant and appropriate for consideration by the state homeless education coordinator.

[(e) All information is subject to the provisions of the Family Educational Rights and Privacy Act, 20 U.S.C. 1232(g).]

(6) [(8)] The state homeless education coordinator shall collect and review appropriate documentation [~~evidence, review such evidence,~~] and provide an initial decision to the parties to the complaint within twenty (20) student attendance days after a request for review is received by the department pursuant to Section 4(4) of this administrative regulation.

(7) Any party [~~Parties~~] to the complaint may request that the state homeless education coordinator's decision be reviewed by a three (3) member panel which shall be convened by the state homeless education coordinator within the department, and the [~~Department of Education. The~~] three (3) member panel shall [~~review the state coordinator's decision and~~] either adopt or



1 reject the state homeless education coordinator's decision within a reasonable number of days  
2 after being convened ~~[or reject it]~~.

3 (8) If the three (3) member panel rejects the state homeless education coordinator's decision  
4 ~~[rejected]~~, the panel shall provide an alternative finding, which shall be supported with  
5 appropriate reasoning. The panel's decision is a final decision and not appealable. ~~[A final~~  
6 ~~decision will be rendered within a reasonable number of days after receiving a complaint.]~~

7 ~~(9) [Students must be immediately enrolled in the school in which enrollment is being sought in~~  
8 ~~the case of a dispute, including unaccompanied youth. Enrollment must continue until the final~~  
9 ~~resolution of the dispute, including all available appeals.~~

10 ~~(10)~~ Unaccompanied youth as well as parents or guardians of homeless children shall ~~[have the~~  
11 ~~right to]~~ receive ~~[such]~~ written notice~~[-as well as parents or guardians accompanying their~~  
12 ~~children. Written explanation is required]~~ of decisions made by the LEA(s), state homeless  
13 education coordinator, or the three (3) member panel described in Section 4(7) of this  
14 administrative regulation, and such written notice shall be provided ~~[school, LEA, or SEA and~~  
15 ~~must be]~~ in an understandable form.

16 Section 5. Annual Count for the Homeless Children and Youth Education Program. The  
17 department ~~[Department of Education]~~ shall annually conduct a count of all homeless children  
18 and unaccompanied youth in the state as follows:

19 (1) LEAs ~~[Local school districts]~~ shall utilize the state student information system for the  
20 collection of data regarding homeless children and unaccompanied youth; ~~[-]~~

21 (2) LEAs ~~[Local school districts]~~ shall report an unduplicated count by school of homeless  
22 children and unaccompanied youth via the state student information system to the department  
23 ~~[Department of Education]~~ according to the time lines provided; ~~[-]~~ and

(3) The department [~~Department of Education~~] shall develop procedures, as needed or required, to ensure that the homeless child count is accurate and verifiable.

Section 6. Local Education Agency Grants for the Education of Homeless Children and

Unaccompanied Youth. (1) The department [~~Kentucky Department of Education~~] shall make grants to LEAs [~~local education agencies (LEA)~~] when such funds become available through a competitive application process. Grants shall be awarded to LEAs based upon the review and rating of their applications.

(2) [(4)] Not less than fifty (50) percent of amounts provided under a grant to LEAs [~~local districts~~] shall be used to provide primary services of tutoring, remedial education services, or other education services to homeless children or unaccompanied youth.

(3) [(2)] Not less than thirty-five (35) nor more than fifty (50) percent of amounts provided to LEAs [~~local districts~~] shall be used for related activities for homeless children or unaccompanied youth including expedited evaluations, professional development for school personnel, referrals for medical, dental, mental and other health services, transportation, before- and after-school care, and school supplies.

(4) [(3)] An LEA [~~A local district~~] that desires to receive a grant shall submit an application to the department [~~Kentucky Department of Education~~]. Each application shall include:

(a) The number of homeless children and unaccompanied youth enrolled in preschool, elementary and secondary school, the needs of such children, and the ability of the LEA [~~district~~] to meet these needs;

(b) A description of the services and programs for which assistance is sought and the problems sought to be addressed through the provision of such services and programs (i.e., enrollment, retention, and educational success);

- (c) An assurance that assistance under the grant shall supplement and not supplant funds used before the award of the grant for purposes of providing services to homeless children and unaccompanied youth;
- (d) A description of policies and procedures that the LEA [~~district~~] shall implement to ensure that activities carried out by the LEA [~~district~~] shall not isolate or stigmatize homeless children and unaccompanied youth;
- (e) A description of coordination with other local and state agencies that serve homeless children and unaccompanied youth; and
- (f) Other criteria the department [~~Kentucky Department of Education~~] deems appropriate.

Section 7. Ensuring Educational Stability for Children in Foster Care. (1) Each LEA shall:

- (a) Designate a person to be the foster care liaison;
- (b) Submit the name of the foster care liaison to the department; and
- (c) Allocate sufficient time to the foster care liaison to perform required responsibilities.
- (2) The foster care liaison may also be the homeless child education liaison.
- (3) The foster care liaison shall ensure that:
- (a) A child in foster care enrolls or remains in his school of origin, unless it is determined that remaining in the school of origin is not in the child's best interest;
- (b) If it is determined that it is not in the child's best interest to remain in his school of origin, the child is immediately enrolled in a new school, even if the child is unable to produce records normally required for enrollment; and
- (c) The enrolling school immediately contacts the child's school of origin to obtain relevant academic and other records.

1    (4) LEAs shall develop and implement clear written procedures that comply with 20 U.S.C.  
2    6312(c)(5)(B) and govern how transportation shall be provided, arranged, and funded to maintain  
3    a child in foster care in the school of origin, unless it is determined that remaining in the school  
4    of origin is not in the child's best interest.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

---

(Date)

---

Kevin C. Brown  
Interim Commissioner of Education

---

(Date)

---

David Karem, Chair  
Kentucky Board of Education

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation Number: 704 KAR 7:090  
Contact Person: Todd G. Allen, Todd.Allen@education.ky.gov  
Phone Number: 502-564-4474

(1) Provide a brief summary of:

(a) What this administrative regulation does: The McKinney-Vento Homeless Assistance Act, specifically subtitle VII-B, is the primary piece of federal legislation related to the education of children and youths experiencing homelessness. Under the McKinney-Vento Education for Homeless Children and Youth (McKinney-Vento) program, state educational agencies shall ensure that homeless children and youths have equal access to the same free, appropriate public education as provided to other children and youths. To ensure homeless children and youths have equal access to public education, the Kentucky Department of Education (KDE) is required to review regulations and other practices and policies that may act as barriers to the identification, enrollment, attendance, or educational successes of homeless children and youths. This regulation provides the legal framework for Kentucky's homeless education program, including but not limited to criteria for program implementation, requirements related to residency and enrollment, and procedures for the resolution of disputes.

(b) The necessity of this administrative regulation: This regulation is necessary because it provides the legal framework for Kentucky's homeless education program, including but not limited to criteria for program implementation, requirements related to residency and enrollment, and procedures for the resolution of disputes. This amended regulation is also necessary to implement House Bill (HB) 378 (2019), which amended KRS 156.160 to require the Kentucky Board of Education (KBE) to provide through administrative regulation: (1) Procedures that ensure homeless children and youths are awarded credit, including partial credit, for all coursework satisfactorily completed while enrolled at another school; (2) Procedures for homeless children and youths who were previously enrolled at another school in a course required for graduation to be provided the opportunity, to the extent practicable, to complete that course at no cost before the beginning of the next school year; and, (3) Authority for a homeless child or youth transferring schools after successful completion of the second year of high school and meeting the requirements outlined in KRS 156.160(1)(p) to be awarded a high school diploma.

(c) How this administrative regulation conforms to the content of the authorizing statute: In compliance with McKinney-Vento, which requires KDE to ensure that homeless children and youths have equal access to the same free, appropriate public education as provided to other children and youths, this regulation provides the legal framework for Kentucky's homeless education program, including but not limited to criteria for program implementation, requirements related to residency and enrollment, and procedures for the resolution of disputes. This amended regulation also implements changes HB 378 (2019) made to KRS 156.160, which now requires the KBE to provide through administrative regulation: (1) Procedures that ensure homeless children and youths are awarded credit, including partial credit, for all coursework satisfactorily completed while enrolled at another school; (2) Procedures for homeless children and youths who were previously enrolled at another school in a course required for graduation to

be provided the opportunity, to the extent practicable, to complete that course at no cost before the beginning of the next school year; and, (3) Authority for a homeless child or youth transferring schools after successful completion of the second year of high school and meeting the requirements outlined in KRS 156.160(1)(p) to be awarded a high school diploma.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation ensures that homeless children and youths in Kentucky have equal access to the same free, appropriate public education as provided to other children and youths by providing the legal framework for our state's homeless education program, including but not limited to criteria for program implementation, requirements related to residency and enrollment, and procedures for the resolution of disputes. This amended regulation also implements changes HB 378 (2019) made to KRS 156.160 by prescribing: (1) Procedures that ensure homeless children and youths are awarded credit, including partial credit, for all coursework satisfactorily completed while enrolled at another school; (2) Procedures for homeless children and youths who were previously enrolled at another school in a course required for graduation to be provided the opportunity, to the extent practicable, to complete that course at no cost before the beginning of the next school year; and, (3) Authority for a homeless child or youth transferring schools after successful completion of the second year of high school and meeting the requirements outlined in KRS 156.160(1)(p) to be awarded a high school diploma.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Substantive amendments to 704 KAR 7:090 align with HB 378 (2019) and include, for example, a requirement for each Local education agency (LEA) to adopt a methodology for calculating credit, including partial credit; lessen the impact of transfers for homeless children by, among other items, granting priority placement in classes that meet state minimum graduation requirements; and, have written procedures clarifying how and what circumstances a homeless child will be able to complete before the beginning of the next school year and at no cost any course required for graduation in which he or she was previously enrolled. The regulation also provides authority for a homeless child or youth transferring schools after successful completion of the second year of high school and meeting the requirements outlined in KRS 156.160(1)(p) to be awarded a high school diploma. Additional substantive changes are related to the resolution of disputes arising in the Homeless Children and Youth Education Program, including: (1) Requiring disputes arising between two or more LEAs to be handled by the state homeless education coordinator; (2) Clarifying other disputes arising at the local level are to be resolved by the homeless liaison in the student's LEA of enrollment; (3) Requiring the homeless liaison in the LEA of enrollment to resolve disputes within 30 student attendance days; and, (4) Requiring the state homeless education coordinator to resolve disputes within 20 student attendance days.

(b) The necessity of the amendment to this administrative regulation: Substantive amendments to 704 KAR 7:090 are necessary to implement HB 378 (2019), which amended KRS 156.160 to require the KBE to provide through administrative regulation: (1) Procedures that ensure homeless children and youths are awarded credit, including partial credit, for all coursework

satisfactorily completed while enrolled at another school; (2) Procedures for homeless children and youths who were previously enrolled at another school in a course required for graduation to be provided the opportunity, to the extent practicable, to complete that course at no cost before the beginning of the next school year; and, (3) Authority for a homeless child or youth transferring schools after successful completion of the second year of high school and meeting the requirements outlined in KRS 156.160(1)(p) to be awarded a high school diploma. Additional substantive amendments are necessary to comply with McKinney-Vento, which requires KDE to ensure that homeless children and youths have equal access to the same free, appropriate public education as provided to other children and youths.

(c) How the amendment conforms to the content of the authorizing statute: Substantive amendments to 704 KAR 7:090 conform to HB 378 (2019), which revised KRS 156.160 to require the KBE to provide through administrative regulation: (1) Procedures that ensure homeless children and youths are awarded credit, including partial credit, for all coursework satisfactorily completed while enrolled at another school; (2) Procedures for homeless children and youths who were previously enrolled at another school in a course required for graduation to be provided the opportunity, to the extent practicable, to complete that course at no cost before the beginning of the next school year; and, (3) Authority for a homeless child or youth transferring schools after successful completion of the second year of high school and meeting the requirements outlined in KRS 156.160(1)(p) to be awarded a high school diploma. Additional substantive amendments conform to McKinney-Vento, which requires KDE to ensure that homeless children and youths have equal access to the same free, appropriate public education as provided to other children and youths.

(d) How the amendment will assist in the effective administration of the statutes: Substantive amendments to 704 KAR 7:090 assist in the effective administration of HB 378 (2019), which revised KRS 156.160 to require the KBE to provide through administrative regulation: (1) Procedures that ensure homeless children and youths are awarded credit, including partial credit, for all coursework satisfactorily completed while enrolled at another school; (2) Procedures for homeless children and youths who were previously enrolled at another school in a course required for graduation to be provided the opportunity, to the extent practicable, to complete that course at no cost before the beginning of the next school year; and, (3) Authority for a homeless child or youth transferring schools after successful completion of the second year of high school and meeting the requirements outlined in KRS 156.160(1)(p) to be awarded a high school diploma. Additional substantive amendments assist in the effective administration of McKinney-Vento, which requires KDE to ensure that homeless children and youths have equal access to the same free, appropriate public education as provided to other children and youths.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: LEAs, the KBE, and KDE will be impacted by this regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:



(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: LEAs will take measures intended to improve the education outcomes of homeless children and youths, including, for example, adopting a methodology for calculating credit, including partial credit; lessening the impact of transfers for homeless children by, among other items, granting priority placement in classes that meet state minimum graduation requirements; and, having written procedures clarifying how and what circumstances a homeless child will be able to complete before the beginning of the next school year and at no cost any course required for graduation in which he or she was previously enrolled. LEAs will also issue a high school diploma to a homeless child or youth transferring schools after successful completion of the second year of high school and meeting the requirements outlined in KRS 156.160(1)(p). Finally, LEAs will comply with the amended dispute resolution requirements, including the requirement that the homeless liaison in the LEA of enrollment resolve disputes within 30 student attendance days. The KBE and KDE will implement the amended regulation, which aligns with HB 378 (2019) as well as McKinney-Vento. KDE will also comply with the amended dispute resolution requirements, including the requirement that disputes arising between two or more LEAs to be handled by the state homeless education coordinator as well as the requirement that the state homeless education coordinator to resolve disputes within 20 student attendance days.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no anticipated budget impact related to the amendment of this administrative regulation for LEAs, the KBE, or KDE.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): It is anticipated that compliance with this regulation will result in improved educational outcomes for homeless children and youths in Kentucky. Further, this amended regulation conforms to federal and state statutes, including McKinney-Vento and KRS 156.160, and conformance with authorizing statutes ensures clarity and legal compliance for the entities identified in question (3).

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: McKinney-Vento, which was amended by the Every Students Succeeds Act in 2015, requires KDE to ensure that homeless children and youths have equal access to the same free, appropriate public education as provided to other children and youths. Specifically, to ensure homeless children and youths have equal access to public education, KDE is required to review regulations and other practices and policies that may act as barriers to the identification, enrollment, attendance, or educational successes of homeless children and youths. Because the KBE and KDE have already been complying with McKinney-Vento, there is no initial cost for monitoring and support.

(b) On a continuing basis: KDE incurs continuing costs as a result of the obligations in McKinney-Vento to ensure that homeless children and youths have equal access to the same free, appropriate public education as provided to other children and youths by reviewing regulations and other practices and policies that may act as barriers to the identification,

enrollment, attendance, or educational successes of homeless children and youths. Kentucky receives approximately \$1,328,000 in federal funding under the McKinney-Vento program to promote educational successes for students who are experiencing homelessness.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There are no additional anticipated costs for the implementation and enforcement of the amendment of this administrative regulation; however, KDE incurs continuing costs as a result of the obligations in McKinney-Vento to ensure that homeless children and youths have equal access to the same free, appropriate public education as provided to other children and youths. Kentucky receives approximately \$1,328,000 in federal funding under the McKinney-Vento program to promote educational successes for students who are experiencing homelessness.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees or funding is not anticipated to be necessary to implement the amendment to this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees or directly or indirectly increase fees.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering is not applied because the amendment to this administrative regulation applies equally to all local education agencies.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 704 KAR 7:090  
Contact Person: Todd G. Allen, Todd.Allen@education.ky.gov  
Phone Number: 502-564-4474

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Local education agencies, the Kentucky Board of Education (KBE), and the Kentucky Department of Education (KDE).

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 156.029, 156.035, 156.160, 20 U.S.C 6311(g)(1)(E), 20 U.S.C. 6312(c)(5)(B), and 42 U.S.C. 11431 et seq.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There are no additional anticipated costs for the implementation and enforcement of the amendment of this administrative regulation; however, KDE incurs continuing costs as a result of the obligations in the McKinney-Vento Education for Homeless Children and Youth (McKinney-Vento) program to ensure that homeless children and youths have equal access to the same free, appropriate public education as provided to other children and youths. Kentucky receives approximately \$1,328,000 in federal funding under the McKinney-Vento program to promote educational successes for students who are experiencing homelessness.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?  
N/A

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? N/A

(c) How much will it cost to administer this program for the first year? McKinney-Vento, which was amended by the Every Students Succeeds Act in 2015, requires KDE to ensure that homeless children and youths have equal access to the same free, appropriate public education as provided to other children and youths. Specifically, to ensure homeless children and youths have equal access to public education, KDE is required to review regulations and other practices and policies that may act as barriers to the identification, enrollment, attendance, or educational successes of homeless children and youths. Because the KBE and KDE have already been complying with McKinney-Vento, there is no initial cost for monitoring and support.

(d) How much will it cost to administer this program for subsequent years? KDE incurs continuing costs as a result of the obligations in McKinney-Vento to ensure that homeless children and youths have equal access to the same free, appropriate public education as provided to other children and youths. Kentucky receives approximately \$1,328,000 in federal funding

under the McKinney-Vento program to promote educational successes for students who are experiencing homelessness.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): N/A

Expenditures (+/-): NA

Other Explanation: N/A

STATEMENT OF CONSIDERATION  
RELATING TO 704 KAR 7:090  
Homeless Children and Youth Education Program

Kentucky Board of Education  
Department of Education  
(Amended After Comments)

I. A public hearing was scheduled on the above regulation for February 24, 2020 at 10:00 a.m. Eastern Time, in the State Board Room, Kentucky Department of Education, 300 Sower Boulevard, 5<sup>th</sup> Floor, Frankfort, Kentucky but was canceled when no one registered to attend the hearing.

II. The following individuals submitted written comments:

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
Kerri Schelling, Executive Director	Kentucky School Boards Association

III. The following people from the promulgating administrative body responded to written comments:

<u>Name and Title</u>
Dr. Kelly Foster, Associate Commissioner, Office of Continuous Improvement and Support (OCIS)
Todd G. Allen, Interim General Counsel, Office of Legal Services
Tara Rodriguez, Division of School and Program Improvement Director, OCIS
David Millanti, Division of School and Program Improvement Assistant Director, OCIS
Whitney A. Crowe, Executive Advisor, OCIS

IV. Summary of Comments and Responses

- (1) Subject Matter: Definition for “Unaccompanied Youth.”
- (a) Comment: The commenter states, “The amended definition of ‘unaccompanied youth’ appears to go beyond the definitions contained in the applicable federal law and would impose state mandated obligations on KDE and school districts to provide programs and services to student populations who are not by definition homeless and accordingly are not covered by the McKinney-Vento Act. We request that the existing language of this definition be restored and maintained.”
- (b) Response: The agency carefully considered this comment.

42 U.S.C. § 11434a states, in subsection (6), that the term “‘unaccompanied youth’ includes a youth not in the physical custody of a parent or guardian.” Although proposed changes to 704 KAR 7:090, Section 1(6), as renumbered, are intended to provide greater clarity and transparency regarding the precise definition of “unaccompanied youth,” language previously included in this subsection of the regulation has been reinstated in light of the comment received and in an effort to maintain continued alignment with the

McKinney-Vento Homeless Assistance Act. Accordingly, “unaccompanied youth” will continue to be defined in this regulation to mean “a youth that meets the definitions of unaccompanied youth and homeless included in the McKinney-Vento Homeless Assistance Act.”

The agency amended the regulation in response to this comment.

(2) Subject Matter: Clarification of Direct Contact.

- (a) Comment: The commenter states, “We request a clarification in the ‘direct contact’ requirement, as described below.” The commenter continues by addressing use of the phrase “personal, direct contact” in Section 2(3) of the administrative regulation.
- (b) Response: The agency carefully considered this comment.

The commenter is correct that the agency’s intent in Section 2(3)(a) of the administrative regulation is not to require a homeless child education liaison to engage in “face to face contact” with the district(s) and school(s) in which a homeless student previously attended. The agency agrees that the commenter’s proposed language would facilitate information sharing without the potential unintended consequence of overburdening homeless child education liaisons statewide. Accordingly, as proposed by the commenter, the agency has revised 704 KAR 7:090, Section 2(3)(a) to say, “Where educational records are not readily available, the liaison shall **personally make direct contact with** the LEA(s) or schools of last attendance for verbal confirmation of essential information, including coursework that has been satisfactorily completed.”

The agency amended the regulation in response to this comment.

Summary of Statement of Consideration  
And Action Taken by Promulgating Administrative Body

The public hearing on this administrative regulation was scheduled for February 24, 2020 and written comments were received through February 29, 2020. The agency responded to the written comments received and amends the administrative regulation as follows:

Page 4

Section 1(6)

Lines 19-21

After “~~(6)~~[(4)] “Unaccompanied youth,” delete underlined language, remove brackets, and reinstate language that has been struck through, which says, “means a youth that meets the definitions of unaccompanied youth and homeless included in the McKinney-Vento Homeless Assistance Act.”

Page 5

Section 2(3)(a)

Line 13

After “liaison shall,” strike “make personal, direct contact to” and, in its place, insert the following language: “personally make direct contact with.”