

Purpose

The purpose of this advisory is to provide clarification concerning the education of homeless students in New Hampshire. Varying interpretations of homelessness, school placement, and New Hampshire Residency Law regarding homeless students have led to confusion and in certain instances have prohibited children from enrolling and attending school. This advisory addresses the basic requirements for school districts to meet the needs of homeless students and answers some of the most frequently asked questions.

Definition

The Stewart B. McKinney Homeless Assistance Act, Subtitle VII-B: Education of Homeless Children and Youth, protects homeless children and youth from being excluded from school enrollment due to the nature and impermanence of their night-time residence. Under the McKinney Act, school districts must review any rules or regulations, practices, or policies that may act as barriers to the enrollment of homeless children and undertake steps to revise such regulations, practices or policies to assure that homeless children and youth are afforded the same opportunities as non-homeless children and youth.

"New Hampshire Education for Homeless Children and Youth," means as part of the Stewart B. McKinney Homeless Assistance Act, that a homeless child has the right to:

- A free, appropriate public education.
- Remain in the school of origin (last school attended or school attended when child lost housing) for the remainder of the academic year, or if the child or youth became homeless between academic years, for the following academic year, or attend the school nearest their shelter or temporary home. To the extent feasible, the Local Education Agency (LEA) shall comply with the request made by the parent or guardian regarding school placement, regardless of whether the child or youth lives with the homeless parent(s) or is temporarily living elsewhere.
- Immediate enrollment, even when school or medical records cannot be produced at the time of enrollment.
- A priority to pre-school programs.

Which school may a homeless child attend?

There are options, whichever is in the best interest of the child or youth, either

1. The school of origin, which is the school attended when last permanently housed, or the school in which the child was last enrolled; or
2. Any school in which non-homeless students living in the attendance area are eligible to attend. In making a determination of school attendance, the best interest of the child and the request of the parent and/or youth are to be considered.

Is there any reason to delay enrolling a homeless child or youth?

No. Lack of school records or immunizations **cannot** prevent a homeless student from enrolling in a new school. It is the responsibility of the new school to request health and academic records from the previous schools in a "timely manner" and to refer parents and/or youth to a physician or to a free or low cost clinic for any required immunizations. Homeless students do not need to wait until academic or health records arrive to attend the new school. Federal law requires immediate enrollment of homeless children and youth.

**NEW HAMPSHIRE DEPARTMENT OF EDUCATION
Questions and Answers Regarding Homelessness)*****Who is considered homeless?***

If a family, out of necessity, because of lack of housing, must reside in a shelter, motel, vehicle, campground, on the street, or doubled up with family or friends, they are homeless. Children and youth living under these or similar circumstances with or without other family members, are considered homeless.

Does homelessness have to be proven?

No. If a family reports they are homeless, the case must be decided individually. Present living conditions (i.e., shelter, campground, motel, hotel or doubled-up families) should be reviewed according to present situation of the family and relative permanence and adequateness of the living environment.

Does residency have to be proven in order for a homeless child to enroll in school?

No. Proof of residency is not required for the enrollment of homeless children. A school may require the parents or guardian of a homeless child to submit an address or other information for contact purposes, as they would for any non-homeless child enrolling in their school.

How does the New Hampshire Residency Law deal with school enrollment of homeless students?

- RSA 193: 12 (IV) provides the definition of a homeless child and exceptions to legal residence requirements for homeless pupils. Homeless pupils may attend school in either the district the child/youth is presently residing or, if parents and another district agree, in the best interest of the child, for continuity of education, remain in the school the child/youth was attending when he/she became homeless (known as the school of origin).
- In those cases when there appears to be a conflict in state law and federal law with respect to homeless students, federal law prevails.

What if there is a disagreement on school placement between two superintendents?

The following procedures are in place if superintendents are not able to reach a placement

agreement, taking into consideration the best interest of the student(s), and request of the parent(s):

- The Coordinator for the Education of Homeless Children and Youth, Lynda Thistle Elliott (271-3840) may be called upon to help resolve differences.
- In those instances when an agreement between superintendents cannot be reached within 10 days, the Commissioner of Education will make a determination.
- The Superintendents shall jointly submit to the Commissioner a written Request for Determination of Residency identifying the specific issues involved in the residency dispute.
- The Commissioner, upon receipt of the written Request for Determination of Residency, shall utilize the provisions of Ed 200, except that Ed 213 shall apply to a proceeding before the Commissioner.
- A decision of the Commissioner of Education may not be appealed to the State Board of Education.

What if there is a school placement dispute between homeless constituents and Local - Education Agencies (LE4s)?

The following steps are provided when there is a placement dispute between parents/youth and LEAs:

- Informal discussion between school district personnel and homeless parents/or or homeless youths to reach a mutually agreeable solution.
- The State Coordinator for the Education of Homeless Children and Youth (271-3840) may be called upon to help resolve continued differences.
- If the residency dispute does not involve more than one school district the dispute shall be resolved by the local school board. Such decision may be appealed to the State Board of Education. The State Coordinator will provide information to the homeless parents and or youths and the school district about the state appeals process in accordance with the New Hampshire Code of Administrative Rules, Chapter Ed 200.
- During the pendency of a determination of residency, a pupil shall remain in attendance in the pupil's current school.

Where can you call for more information?

If you have questions about enrolling homeless children or youth or providing services, please call the Department of Education Homeless Education Program at 271-3840 or e-mail: LthistleElliott@ed.state.nh.us

Law Reference:

Appendix Reference:

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