

FOR YOUR INFORMATION

News for School Clients

**THE MCKINNEY-VENTO
ACT'S HOMELESS STUDENT
TRANSPORTATION REQUIREMENT**

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The McKinney-Vento Act's Homeless Student Transportation Requirement

The October 2002 issue of our client newsletter, For Your Information, provided an overview of the McKinney-Vento Homelessness Assistance Act. Recent guidance from the U.S. Department of Education clarifies whether a school district continues to be obligated to provide transportation to a formerly “homeless child or youth” who wishes to continue to attend his or her “school of origin.”

The goal of the Act is to ensure the availability of educational opportunities for “homeless children and youths.” The Act does not apply to all students, but only to those who are considered “homeless children and youths” within the meaning of the Act. Children and youths who lack a fixed, regular, and adequate nighttime residence are “homeless children and youths” under the Act. The term also applies to children and youths who are living with a friend, relative or third party because they have lost their housing or cannot afford housing; children and youths who are living in motels, hotels, trailer parks or camp grounds due to a lack of alternative accommodations; and children and youths who are living in shelters or are awaiting foster care placement. The definition of

“homeless children and youths” encompasses any child or youth who has 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.

The Act has three basic features: (1) homeless children and youths have the right to attend their “school of origin;” (2) children and youths who are no longer homeless must be permitted to finish the current school year at their school of origin; and (3) school districts must provide transportation for homeless children and youths to and from their school of origin.

First, the Act grants a homeless child or youth the right to attend his/her “school of origin.” The student’s “school of origin” is defined by the Act as the school the student attended when last “permanently housed” or the school in which the homeless child or youth was last enrolled. “Permanently housed” means that the child has fixed, regular, and adequate nighttime housing.

Second, the Act requires that a school district not only permit the homeless child or youth to maintain enrollment in the “school of origin” for the duration of his or her

homelessness, but also to complete the school year even when the student becomes “permanently housed” during a school year. If the student becomes “permanently housed” at any point during a school year, the student still retains the right to continue to attend his or her “school of origin” for the remainder of that school year.

Third, the Act requires that school districts provide or arrange for the transportation of homeless children and youths to and from their “school of origin” at the request of the student’s parent or guardian, based on the student’s best interest and the feasibility of the transportation.

Until recently, it was unclear whether the Act required school districts to continue to provide transportation to and from a student’s “school of origin” once the student becomes “permanently housed.” The Office of General Counsel of the U. S. Department of Education has now provided clarification on this issue. The Office of General Counsel has determined that the provision of

the Act that requires transportation of homeless children and youths to their “school of origin” applies only to students who are currently “homeless” under the Act’s definition. Homeless children and youths who become “permanently housed” must be permitted to remain in their “school of origin” for the remainder of the school year, but the school district is not under any obligation to provide such students with transportation to and from their schools of origin. However, if a school district wishes to continue to provide transportation to a student who has become permanently housed, the Office of General Counsel has determined that the district may use federal Title I or Title V funds to pay for the excess costs of such transportation for the remainder of the school year, if the student would otherwise qualify for Title I, Part A, services. This is an important pronouncement because school districts may not use Title I or Title V funds to pay for the transportation of students who are homeless.

If you have any questions regarding this topic, please call any of the following members of the Lathrop & Clark LLP School, Municipal, Labor and Employment Law Team.

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