

Legal Assistance of Western New York, Inc. ®

Rights of Homeless

We provide free legal aid to people with civil legal problems in western New York.

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Rights of Homeless Students

The McKinney-Vento Act	<p>This act ensures that homeless students (PreK-12) have equal access to a free appropriate public education as other students. Homeless students may not be separated from the mainstream school environment.</p> <ul style="list-style-type: none">• Every district must have a designated local liaison for homeless children and youth.
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<p>Homeless Students</p>	<p>A homeless child as defined in the McKinney-Vento Act is “a child who lacks a fixed, regular, and adequate nighttime residence” this term includes:</p> <ul style="list-style-type: none"> • Children and youth who are: <ul style="list-style-type: none"> ◦ sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason (sometimes referred to as doubled-up); ◦ living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations; ◦ living in emergency or transitional shelters; ◦ abandoned in hospitals; ◦ awaiting foster care placement. • Children and youth who have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; • Children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; or • Migratory children who qualify as homeless because they are living in circumstances described above.
<p>Who decides where homeless students will attend school?</p>	<ul style="list-style-type: none"> • If a homeless child is under the age of sixteen, the parents select the school. If there is no parent, either the child or the director of a residence for runaways and homeless youth can make the selection. If the child is over sixteen, he or she makes the selection. The local agency caring for the student must inform the student of these options.
<p>What school options are available to homeless students?</p>	<p>A homeless student can attend school in the district where the student presently lives, the “district of current location” or in the district where the student lived before becoming homeless, the “district of origin.”</p>

<p>Can homeless students receive comparable services?</p>	<p>Yes. Districts are required to provide the same services offered to other students, so they receive the same level of public education. These services can include: services for students with disabilities (IEP & 504 Plans), programs for students with limited English proficiency, before-and-after school programs, and transportation.</p>
<p>Who is responsible for transportation of homeless students?</p>	<p>School districts are responsible for providing transportation to all students, including homeless children and youth. If a student has moved to another district area due to homelessness but is still attending school at the “district of origin” then the districts must decide who will be responsible for transporting the student. If no agreement is reached the districts must share the responsibility equally. If a student remains in the “district of origin” or continues their education in the “district of current location” it is the responsibility of the district the student is attending to provide transportation.</p>

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This article provides general information about this subject. Laws affecting this subject may have changed since this article was written. For specific legal advice about a problem you are having, get the advice of a lawyer. Receiving this information does not make you a client of our office.

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