

## The McKinney-Vento Act and School Fees

### Legal references

“A demonstration that the State educational agency and local educational agencies in the State have developed, and shall review and revise, policies to remove barriers to the enrollment and retention of homeless children and youths in schools in the State.” 42 USC §11432(g)(1)(I)

“The school selected in accordance with this paragraph shall immediately enroll the homeless child or youth....” 42 USC §11432(g)(3)(C)(i)

“Each local educational agency liaison for homeless children and youths, designated under paragraph (1)(J)(ii), shall ensure that... homeless children and youths enroll in, and have a full and equal opportunity to succeed in, schools of that local educational agency” 42 USC §11432(g)(6)(A)(ii)

“Each State educational agency and local educational agency that receives assistance under this subtitle shall review and revise any policies that may act as barriers to the enrollment of homeless children and youths in schools....” 42 USC §11432(g)(7)(A)

“The terms ‘enroll’ and ‘enrollment’ include attending classes and participating fully in school activities.” 42 USC §11434a(1)

### Overarching principles

1. The McKinney-Vento Act is a federal law providing educational rights to homeless students. It provides homeless students with rights that other students do not have, in recognition of severe challenges to academic success that other students do not have.
2. Federal laws supersede state and local laws and policies where there is a conflict. This principle is established by Article VI of the US Constitution, known as the “Supremacy Clause.”
3. The McKinney-Vento Act requires all LEAs to eliminate barriers to homeless students’ enrollment and retention in school. Enrollment means “attending classes and participating fully in school activities.” Retention is not defined in the law, but a standard definition would include keeping the student enrolled until high school graduation.
4. If a fee is a barrier to enrollment or retention in school, the LEA must eliminate the barrier.

## Considerations

1. Does the fee pose a barrier to the student attending classes?
2. Does the fee pose a barrier to the student participating fully in school activities?
3. Does the fee pose a barrier to the student remaining in school and graduating from high school?

## How to eliminate the barrier

1. Waive the fee: The LEA absorbs the cost
2. What's in place for other students who can't afford the fee?
  - Are there funds available through the PTA, booster club, local civic groups, faith community or other agencies?
  - Is the child involved in the child welfare system?
3. McKinney-Vento funds are very flexible and can be used to assist homeless students to participate in extra-curricular activities. They can pay for transportation to activities, fees, needed clothing and supplies, etc.. The allowable uses of McKinney-Vento funds are found in the law. Two specific uses that are especially relevant to paying fees are:
  - “(7) The provision of services and assistance to attract, engage, and retain homeless children and youths, and unaccompanied youths, in public school programs and services provided to nonhomeless children and youths.”
  - “(16) The provision of other extraordinary or emergency assistance needed to enable homeless children and youths to attend school.”
4. Title I, Part A set-asides can be used for services not ordinarily provide to other Title I students. The services must be reasonable and necessary to enable the student to take advantage of educational opportunities and must be a last resort when services are not reasonably available from another public or private source.
  - The farther you get from the school day, the more carefully you should consider the expenditure.
  - Is there a connection to academics? Is it a retention issue? College access?