

Dear Colleagues;

As stated previously, from time to time the Department will add to its guidance on the McKinney-Vento Education for Homeless Children and Youth Program. We have had several inquiries regarding the statutory meaning for children "awaiting foster care placement". After consultation with program and public policy officials at the U.S. Department of Health and Human Services and its Administration for Children and Families, which oversees laws and policies related to foster care, we offer the following information:

Under Section 725(2) of the McKinney Vento Homeless Assistance Act, the term "homeless children and youth" means individuals who lack a fixed, regular, and adequate nighttime residence and includes children and youth who are "awaiting foster care placement". Some questions have arisen concerning the meaning of the phrase "awaiting foster care placement". The purpose of this note is to provide some additional guidance on this issue.

Children and youth who ~~have already been placed in foster care are not considered homeless~~; children and youth who are awaiting foster care placement are considered homeless. In interpreting the phrase "awaiting foster care placement", we are guided by the definition of "foster care" in 45 CFR 1355.20, a regulation promulgated by the Department of Health and Human Services. Under this regulation, children and youth in the following circumstances have been placed in foster care and, therefore, are not considered to be homeless:

"Foster care means 24-hour substitute care for children placed away from their parents or guardians and for whom the State agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, childcare institutions, and preadoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the State or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is Federal matching of any payments that are made."

In determining whether a child or youth is "homeless" under the McKinney-Vento legislation because he or she is "awaiting foster care placement", local school officials should consult with their district liaison for homeless children and youth as well as their local public social service agency providers. The determination should include public social service agency providers' input, in as much as the agency may be able to define its relationship to the child or youth based on current or prior family court actions.

*Gary*

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