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# MASSACHUSETTS DEPARTMENT OF ELEMENTARY & SECONDARY EDUCATION

## *Homeless Education Advisory 2004 – 9: Children and Youth in State Care or Custody*

This advisory is intended to provide guidance to local school districts and social service providers in Massachusetts as they implement the provisions of the federal McKinney-Vento Homeless Education Act (McKinney-Vento) regarding the identification, enrollment, attendance, and success in school of children and youth who are in the care of the state while awaiting foster care placement and who are therefore designated as being homeless.

**Definition:** As stated in *Homeless Education Advisory 2002 – 1: Definitions*, the Massachusetts Department of Education has adopted Section 725(2) of McKinney-Vento regarding the definition of homeless children and youth. Included in this definition of homeless are children and youth awaiting foster care placement. In collaboration with the Department of Social Services, the Massachusetts Department of Education has determined that children and youth in state care or custody who have been placed out of their homes into temporary, transitional, or emergency living placements are awaiting foster care placement and therefore are homeless. This would include students living in programs referred to as “shelters,” “hotline homes,” “bridge” homes, and diagnostic placements since such programs, by design, provide temporary, transitional or emergency housing. Additionally, there may be other instances in which children may be placed in residences that are not temporary by design (for example, a foster home used as a short term placement) but are emergency, transitional, or temporary placements for the child in question.

**Identification:** Which children and youth in state care or custody are awaiting foster care placement and therefore should be identified as homeless shall be determined by the homeless liaison based on the above definition in consultation with the students’ social worker. **Note:** children and youth living in shelters, hotline homes, bridge homes or diagnostic placements are considered homeless for purposes of McKinney-Vento; other children and youth in care or custody who may be awaiting foster care must be identified on a case-by-case basis, taking into consideration whether their living situation is an emergency, transitional, temporary placement or is intended as a long term, foster care living arrangement.

For students who age out of state care and are unable to secure permanent housing, refer to *Homeless Education Advisory 2004-8: Unaccompanied Youth*.

**Enrollment:** Homeless children and youth in state care or custody must either remain in their school of origin or be immediately enrolled in the school where they are temporarily residing like any other homeless student. They may be enrolled by the social worker or the parent/guardian. As stated in *Homeless Education Advisory 2002 – 1: Definitions*: **enrollment** shall mean attending classes and participating fully in school activities.

**Attendance and Success:** Children and youth in state care or custody who are identified as homeless have the same rights as other homeless students to fully attend and participate in all school activities, classes, educational opportunities, meals, social and athletic events, clubs, teams, and other services.

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When necessary, the district shall seek the designation of an educational surrogate parent (ESP) for a student with a disability or suspected of having a disability. Lack of an ESP may not impede enrolling a student. Individual Education Plans shall be promptly implemented and team meetings called.

**Dispute Resolution:** Should an enrollment dispute arise with the district, the social worker shall be afforded the rights of a parent under McKinney-Vento, and the student shall remain in the selected school while the dispute is being resolved. (See Advisories 2003 – 7, 7A, and 7B.)

Students in state care or custody who are awaiting foster care and therefore determined to be homeless are entitled to the same educational rights and services, including transportation, under McKinney-Vento as any homeless child or youth in the care of their parent(s)/guardian(s).