

Breaking Down Barriers: Special Education Strategies for Students Experiencing Homelessness or Foster Care

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Purpose

This presentation explores practical, systems-level strategies to support students with disabilities who are also experiencing homelessness or involved in foster care. Designed for Special Education Directors, it highlights the unique challenges at this intersection, including identification, continuity of services, compliance, and cross-agency coordination. Participants will gain actionable approaches to breaking down barriers, strengthening collaboration, and ensuring students receive equitable, timely, and stable special education supports that promote academic success and well-being.

Agenda

- Student Data
- Barriers
- High Mobility
- Trauma
- Missing Parent/Decision Maker
- Strategies/Best Practices
- Resources
- Discussion
- Questions

Student Data

How many students experience homelessness in NM?

10,547



Students Experiencing
Homelessness

Demographics

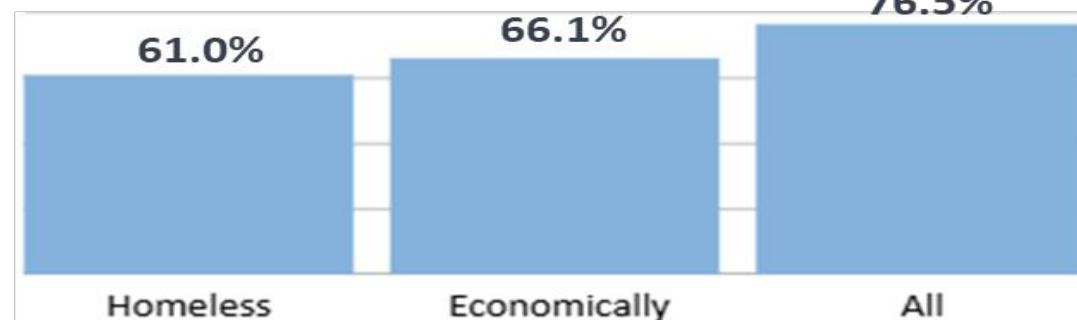
- In School Year 24/25, 10,543 students in grades pre-k through 12th were identified as experiencing homelessness
- 3.3% of the state's total student population identified as experiencing homelessness
- For children 3 and under, 3,029 students were estimated to be experiencing homelessness

Students Experiencing Homelessness in New Mexico: Demographics

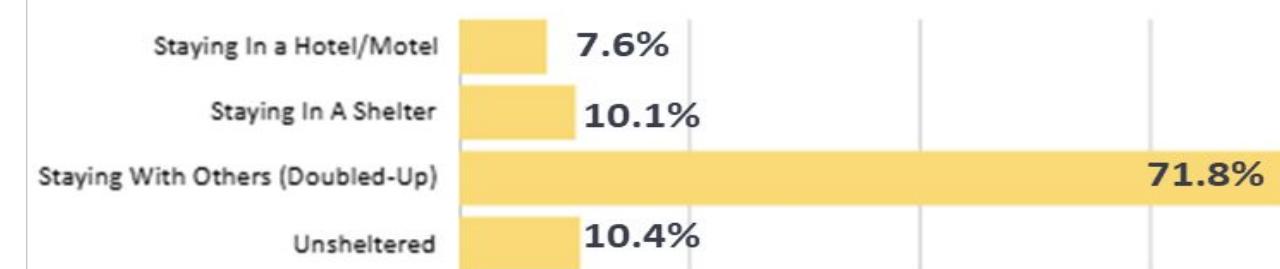
Chronic Absenteeism Rate
Pre K through 12, SY22-23



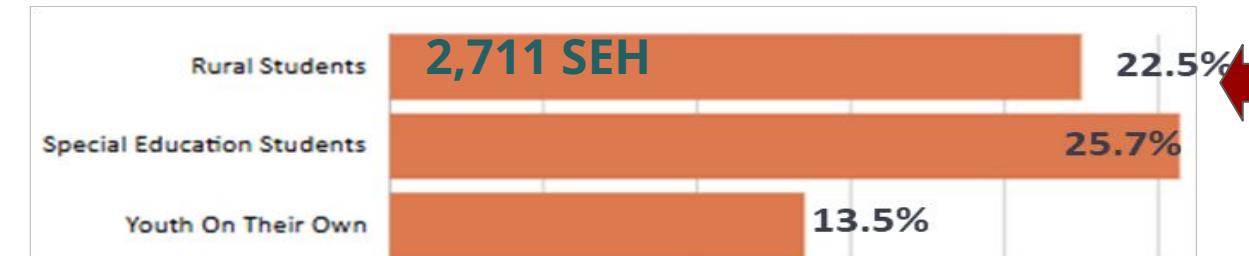
High School Graduation Rate



Where Student Was Staying When Identified as Homeless
Pre K — 12, SY22—23



Other Support Needs Among Student
Pre K — 12, SY22—23s



The McKinney-Vento Act

- Subtitle VII-B of the McKinney-Vento Assistance Act (MVA) is a federal law that applies to all LEAs, regardless of whether they receive the EHCY subgrant or not.
- Was reauthorized by Title IX, Part A of the Every Student Succeeds Act.
- Addresses the unique educational barriers and challenges faced by students experiencing homelessness (PK-12th grade).
- Requires state education departments to designate a State Coordinator for Homeless Education and school districts to designate a homeless liaison.



Understanding the Definition

Children and youth who lack a fixed, regular, and adequate nighttime residence. 42 U.S.C. §11434a(2)

Can the student go to:

1. the same place (fixed) - **permanent, not subject to change**
2. every night (regular) - **Used on a predictable, routine, consistent basis**
3. to sleep in a safe and sufficient space (adequate)? - **Sufficient for meeting the physical and psychological needs typically met in a home environment**

Students can qualify under McKinney-Vento if...

- Sharing housing with others due to loss of housing, economic hardship, or similar reason (doubled up).
- Living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations.
- Living in emergency or transitional shelters.
- Living in cars, parks, abandoned buildings, substandard housing, bus or train stations, or similar settings.
- Includes Unaccompanied Youth—a child or youth without a fixed, regular, and adequate nighttime residence and not in the physical custody of a parent or legal guardian.



How many students are in foster care in NM?

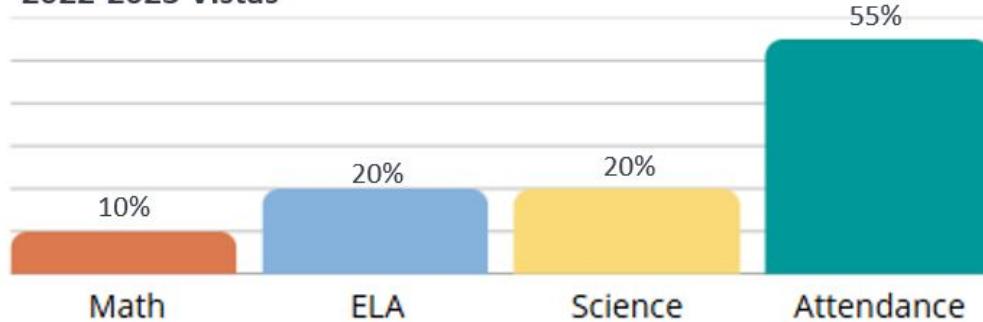
June 2024
2,072
Foster Care

Demographics

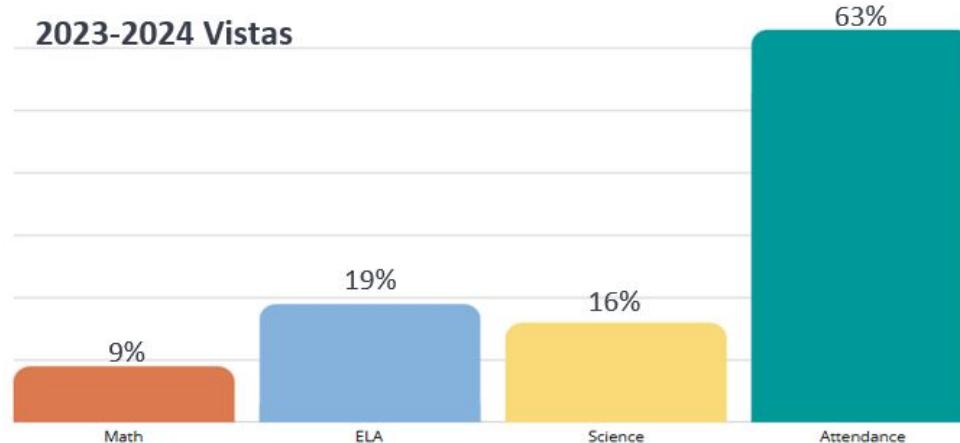
- About 276 students in foster care had an IEP in the 2024 to 2025 school year.
- Approximately 13% of all students in foster care.

Students in Foster Care in New Mexico: Demographics

2022-2023 Vistas



2023-2024 Vistas



Fostering Connections to Success and Increasing Adoptions Act (2008)

Fostering Connections Act requires providing educational stability to students in foster care:

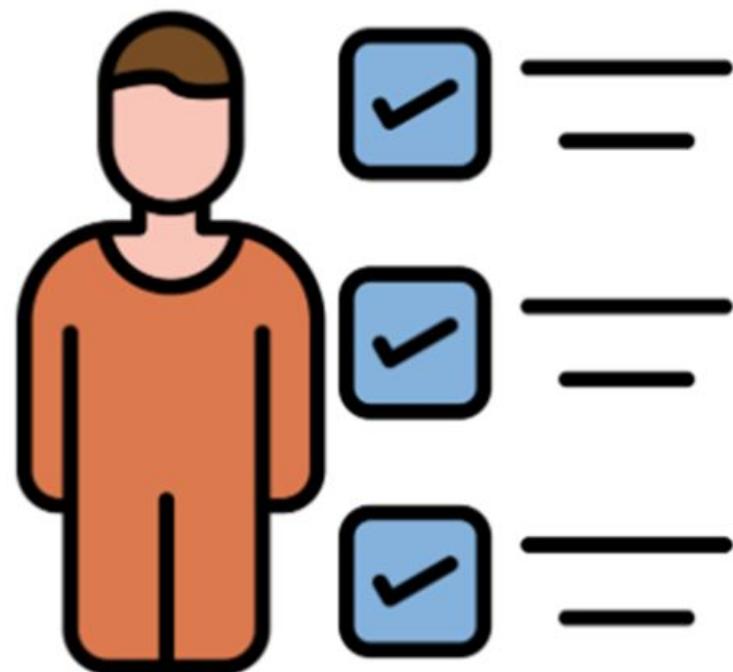
- State agencies are required to consider school issues like proximity to the child's current school, fit with educational setting, etc.... when making placement decisions. School officials must keep children in their current school if it is in the student's best interest. States can now claim partial federal reimbursement for the cost of transporting children to their school of origin.
- If a child must change schools, the State must ensure immediate enrollment in a new school and the immediate transfer of the student's records. Unless medically incapable, every school aged child receiving federal foster care, guardianship, or adoption payments must be enrolled full time in an elementary or secondary school or have completed secondary school.



Eligibility: Foster Care

Foster care means 24-hour substitute care for children placed away from their parents or guardians and for whom the child welfare agency has placement and care responsibility. Under this definition, foster care includes, but is not limited to, the following placements:

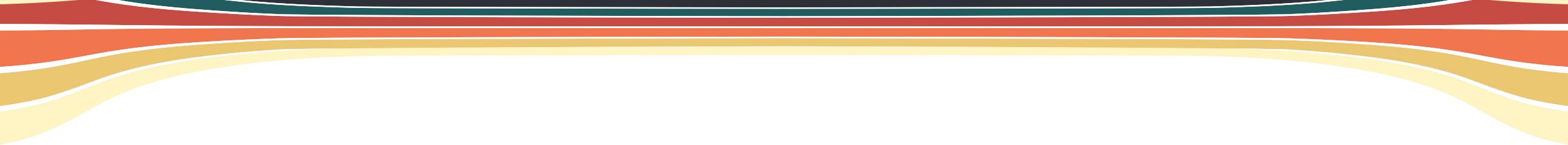
- Foster Family Homes
- Foster Homes of Relatives (Formal Kinship Care)
- Group Homes
- Emergency Shelters
- Residential Facilities
- Childcare Institutions
- Pre Adoptive Homes



Students in Foster Care have the right to:



- Remain in their school of origin
 - Determined by Best Interest Determination meetings
- Immediate enrollment in school
- Transportation to their school of origin
- Seamless and Quick transfer of their educational records
- Access to before and after school programming
- Outstanding fees paid by the Child Welfare Agency



High Mobility

Who are Highly Mobile Students?

A **highly mobile student** is a child or youth who experiences **frequent changes in residence and/or school enrollment** during the school year.

This includes students who are:

- Experiencing **homelessness** (including doubled-up or in shelters)
- In **foster care or kinship care**
- Migratory or seasonal agricultural families
- Involved in **residential treatment**, juvenile justice, or placement disruptions
- From families facing housing instability, poverty, or domestic instability

Unique Needs of Highly Mobile Students

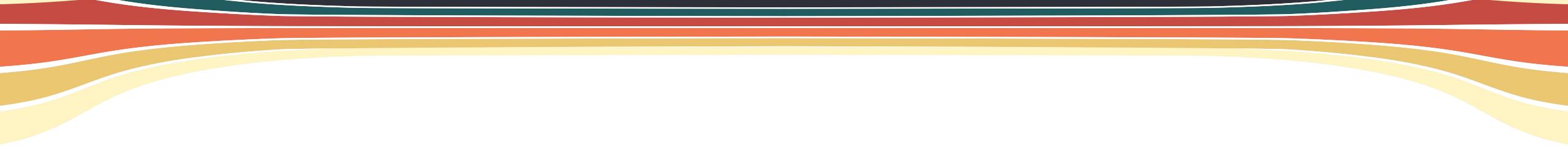
Highly mobile students often require:

- Immediate enrollment and rapid access to services
- Timely transfer and implementation of IEPs/504 Plans
- Consistent special education services across settings
- Social-emotional and behavioral supports
- Trauma-informed practices and mental health services
- Academic remediation and credit recovery
- Strong cross-agency coordination (schools, child welfare, housing, health)

High Mobility Challenges and Effects



Challenges	Effects
Due to high mobility, students may:	As a result, students with high mobility are more likely to:
• Be unable to meet school enrollment requirements	• Be chronically absent from school
• Move around and change schools frequently	• Get lower grades
• Be hungry, tired, and anxious	• Have special education needs
• Not have school supplies or a quiet place to study	• Score poorly on assessment tests
• Not have access to reliable transportation	• Drop out of school
• Not have a parent or guardian to help them	• Not have access to services they need

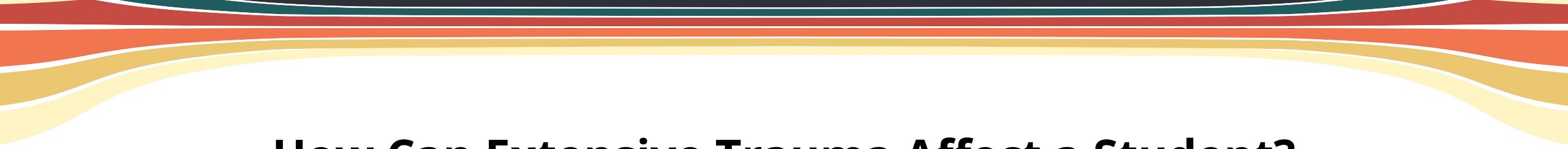


Trauma

Who are Students with Extensive Trauma?

Students with Extensive Trauma

- Has experienced **chronic or multiple adverse events**, which may include:
 - Abuse or neglect
 - Domestic or community violence
 - Housing instability or homelessness
 - Caregiver substance use or mental illness
 - Foster care involvement
 - Significant loss or separation



How Can Extensive Trauma Affect a Student?

Trauma may:

- Disrupt brain development
- Impact emotional regulation
- Affect trust in adults
- Interfere with consistent engagement in learning environments

Unique Needs of Students with Extensive Trauma

Students with extensive trauma often require:

- Predictable, safe, and supportive environments
- Strong, trusting relationships with consistent adults
- Trauma-informed instructional practices
- Social-emotional and mental health supports
- Flexible responses to behavior that prioritize regulation over punishment
- Coordinated services across special education, general education, counseling, and family supports

Extensive Trauma Challenges and Effects



Challenges	Effects
Due to extensive trauma, students may:	As a result, students with extensive trauma are more likely to have:
• Difficulty regulating emotions	• Increased behavioral incidents
• Hypervigilance or heightened stress response	• Difficulty focusing, concentrating, and remaining on task
• Impaired memory and executive functioning	• Challenges with learning, organization, and completing assignments
• Difficulty trusting adults	• Limited engagement with teachers and support staff
• Difficulty with social relationships	• Peer conflict and social isolation
• Delayed or disrupted evaluations and services	• Inconsistent special education supports

Barriers

Barriers to Special Education for Highly Mobile Students

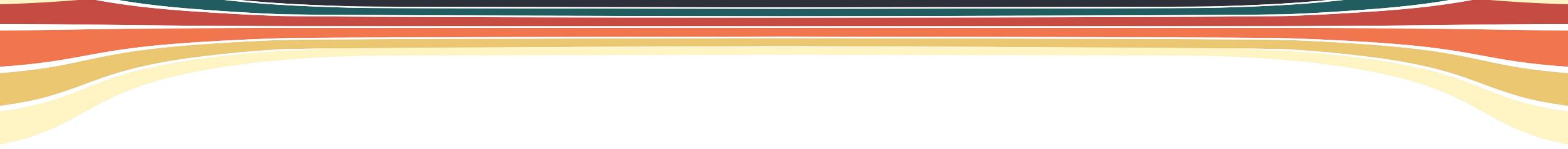
For students with disabilities, mobility creates additional challenges:

- Delays in IEP transfer, implementation, or review
- Disruptions in related services (speech, OT, PT, counseling)
- Inconsistent service delivery minutes
- Delayed evaluations or re-evaluations
- Lack of continuity in accommodations and behavior supports
- Inadequate records transfer or incomplete documentation
- Differences in eligibility criteria, service models, or staffing across LEAs

Barriers to Special Education for Students with Extensive Trauma

Trauma creates significant barriers to accessing and benefiting from education, including:

- Difficulty with attention, memory, and executive functioning
- Behavioral responses that may be misinterpreted as defiance or noncompliance
- Frequent absences, mobility, or school changes
- Challenges with assessment, leading to under-identification or misidentification of disabilities
- Disciplinary removals that limit access to specially designed instruction
- Inconsistent family engagement due to crisis or instability

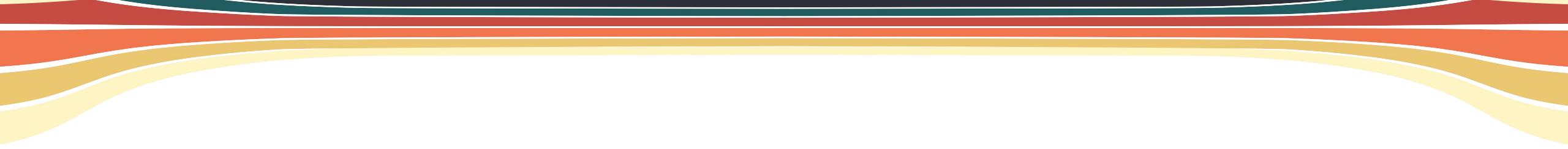


Missing Parent/Decision Maker



Why Does This Matter?

- Students without a parent or guardian face unique challenges in accessing special education.
- IDEA requires consent and collaboration for evaluations, services, and IEP implementation.
- Delays and gaps can have long-term effects on learning and stability.



Barrier 1: Delays in Evaluations and Services

- Parental consent is required for initial evaluations and services.
- Without a decision-maker, schools may be unable to proceed.
- Consequence: Missed timelines and prolonged lack of support.

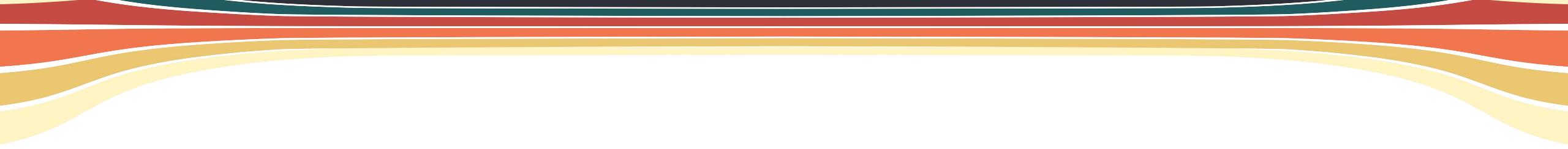
Barrier 2: Limited Participation in IEP Process

- IEPs require input from someone who knows the student's history, needs, and strengths.
- Missing input can lead to plans that don't fully meet student needs.
- Students may receive services that are less effective or inappropriate.

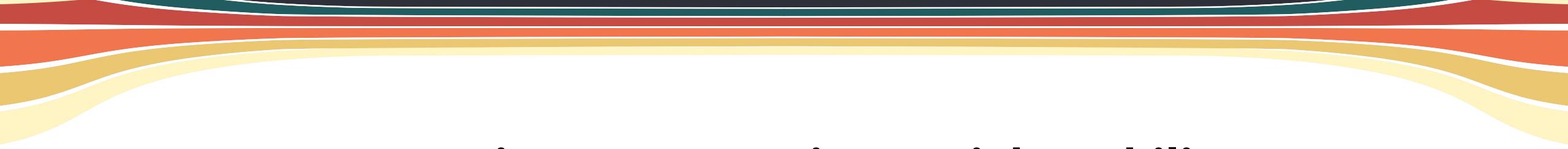


Barrier 3: Compliance and Accountability Challenges

- Unclear authority for consent creates confusion about who can approve services.
- Delays in appointing surrogate parents can slow evaluations and support.
- Schools bear increased responsibility to ensure legal compliance.



Strategies/Best Practices



Strategies/Best Practices - High Mobility

- Identification and referral practices
- Continuity of services across placements and districts
- Collaboration between special education, McKinney-Vento, and child welfare
- Student-centered and strengths-based approaches

Strategies/Best Practices - Extensive Trauma

- Build strong, trusting relationships with consistent adults
- Use trauma-informed instructional strategies
- Incorporate social-emotional learning and mental health supports
- Provide individualized accommodations and modifications
- Focus on positive behavior supports over punitive discipline
- Coordinate services across special education, general education, and community supports
- Ensure flexible responses to attendance and transitions
- Monitor progress frequently and adjust interventions as needed
- Engage families and caregivers in supportive, nonjudgmental ways



Strategies/Best Practices - Missing Parent/Decision Maker

- Timely identification and assignment of surrogate parents.
- Cross-agency collaboration (special education, child welfare, McKinney-Vento liaison).
- Student-centered decision-making and advocacy supports.
- Clear protocols for consent, records transfer, and continuity of services.

Educational Decision-Making for Unaccompanied Youth

Decision-making authority varies by state

- May rest with the **youth, Homeless Liaison, or an adult caregiver**
- **Under the NM Kinship Guardian Act** (NMSA 1978 § 40-10B-1 et seq., “**caregiver**” means an adult, who is not a parent of a child, with whom a child resides and who provides that child with the care, maintenance and supervision consistent with the duties and responsibilities of a parent of the child. NMSA 1978 § 40-10B-3

FERPA

- Allows schools to share records with an *individual acting as a parent* when no parent or guardian is available

McKinney-Vento Act

- Requires removal of enrollment and retention barriers
- Mandates **immediate enrollment** of unaccompanied youth

Special Education (IDEA)

- Has separate procedures
- Requires appointment of a **surrogate parent** when no parent/guardian is available

Educational Decision-Making for Unaccompanied Youth

Signature Issues Beyond Initial Enrollment

Enrollment under McKinney-Vento includes attending classes **and** participating fully in school activities

Districts must have policies that address **who may sign** for ongoing school participation, including:

- School absences
- Extracurricular activities, field trips, and school programs
- Medical services for unaccompanied youth under the age of majority (Minors' Consent for Health Care Services in New Mexico says Minors 14+ can consent to medically necessary care (physical, mental, behavioral) if living apart from parents or is a parent, with specific rules for mental health services (NMSA 32A-6A-14, 15). Also includes Drug/Alcohol Abuse, Reproductive Health, Emergency Care

No single federal approach is required

- Districts have discretion to determine the most appropriate approach based on each youth's circumstances
- Policies must ensure **immediate enrollment** and **full participation** in school

Source: National Center for Homeless Education (NCHE) – Educational Decision-Making for Unaccompanied Youth

Individuals with Disabilities Education Act (IDEA)

§ 300.300 Parental Consent

- The school wishing to conduct an initial evaluation to determine if a child has a disability must provide notice and obtain informed consent from the parent prior to conducting the evaluation
- Exceptions:
 - if the school cannot locate the parent
 - if the child's parents rights have been terminated
 - if a judge has changed a parent's EDM rights and another individual "appointed by the judge to represent the child" consents
- Consent for the evaluation is not the same as consent to receive special education and related services

Individuals with Disabilities Education Act (IDEA)

§ 300.30 The IDEA defines a parent as:

- a biological or adoptive parent of a child
- a foster parent, unless state law/regulations prohibit a foster parent from acting as a parent
- a guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the state)
- an individual acting in the place of a biological/adoptive parent with whom the child lives (such as a relative) or who is legally responsible for the child's welfare
- a **surrogate parent** who has been appointed

Individuals with Disabilities Education Act (IDEA)

§ 300.30 Exceptions

- If there is more than one person defined as “parent” under the IDEA, the biological/adoptive parent is presumed to be the parent unless the parent does not have EDM rights
- If a court identifies a specific person or persons, then such person or persons shall be determined to be the “parent”

Individuals with Disabilities Education Act (IDEA)

A surrogate parent may be needed under IDEA to test for or provide special education if there is no biological/adoptive parent or court-appointed EDM.

§ 300.519 Surrogate Parents

Schools must ensure that a child's rights are protected when:

- no parent can be identified
- the school cannot locate a parent
- the child is a ward of the state OR
- the child is an unaccompanied homeless youth under McKinney-Vento

A surrogate parent represents a child in all matters re: identification/evaluation/education and the provision of FAPE to a child.

Individuals with Disabilities Education Act (IDEA)

§ 300.519 School's Duty re: Surrogate Parents

Schools have a duty to ensure the assignment of a surrogate parent.

They must:

1. Determine if a child needs a surrogate parent; and
2. If so, assign a surrogate parent to the child (ideally within 30 days)

For children who are wards of the state, the judge overseeing the child's case can assign a surrogate parent.

Individuals with Disabilities Education Act (IDEA)

§ 300.51(c) Surrogate Parent Criteria

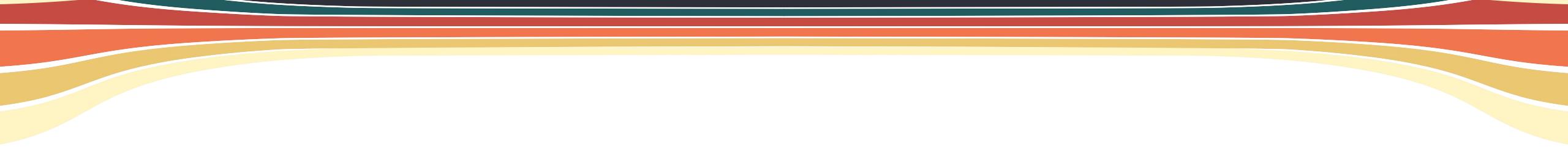
A surrogate parent cannot be:

- An employee of the school, child welfare agency, or other agency involved in the child's care/education

OR

- A person with a personal or professional conflict of interest

A surrogate parent also must have the knowledge and skills that ensure adequate representation of the child.



Resources

Resources - Homeless Liaisons

View Public Events Calendar



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At-Risk Programs

Education for Homeless Children and Youth Program

Family Engagement

Family Income Index (FII)

Foster Care

New Mexico Erin's Law Resources and Materials

PED Family Cabinet

Education for Homeless Children and Youth Program

Home > Offices and Programs > Student Support Services Division > At-Risk Intervention Response > Education for Homeless Children and Youth Program

Vision: To ensure that children experiencing homelessness or unaccompanied youth have equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youths.

Mission: To work with school districts, schools and other partners in order to provide educational stability to students experiencing homelessness by removing barriers such as enrollment in school, transportation, access to school meals, appropriate education and extra-curricular activities.

Federal Definition of a Homeless Child or Youth

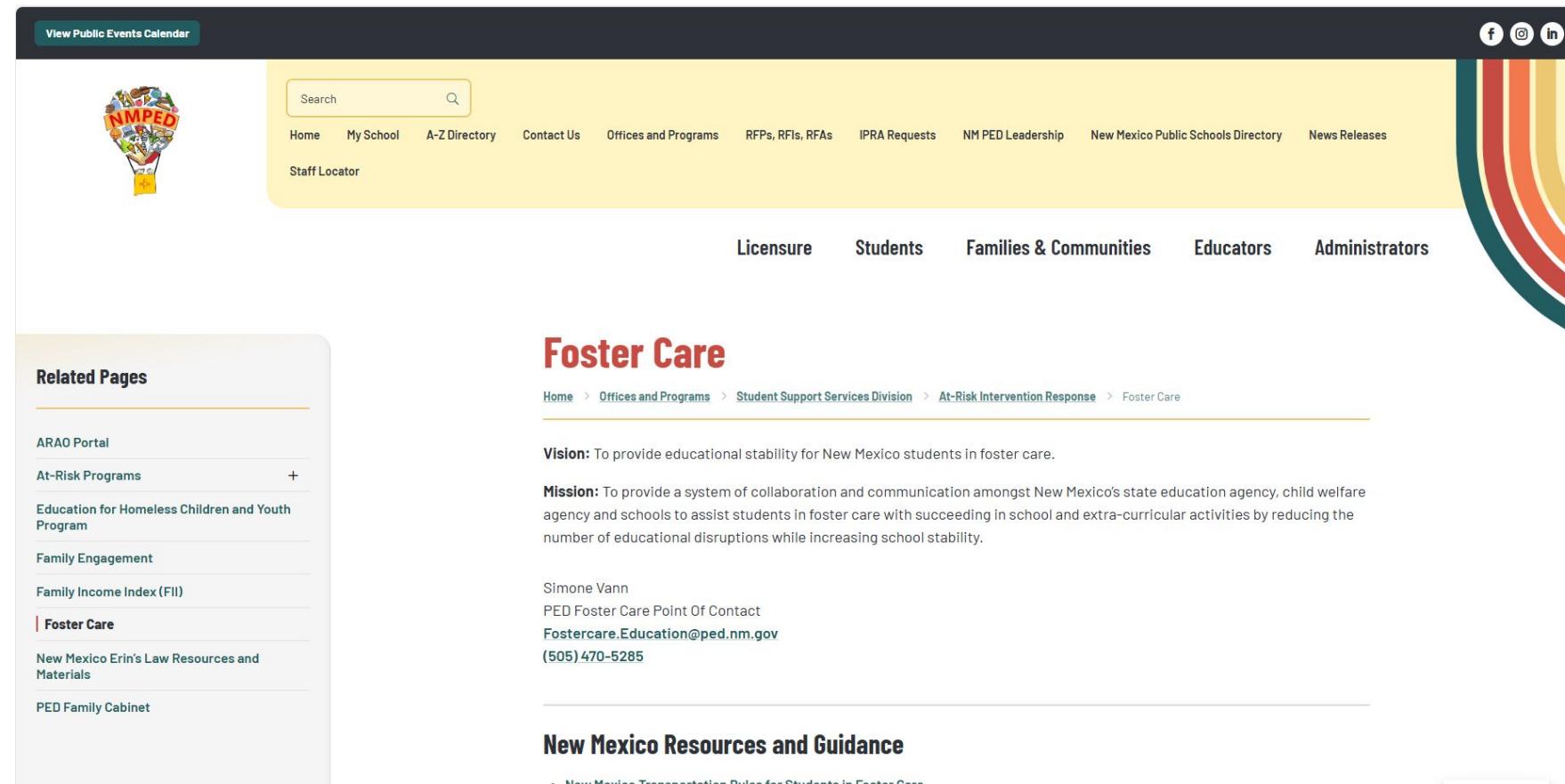
Students who qualify for this program include children and youth who lack a fixed, regular, and adequate nighttime residence.

The term includes—Children and youths who are:

- sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason (sometimes referred to as "doubled-up");

[Education for Homeless Children and Youth Program | New Mexico Public Education Department \(NMPED\)](#)

Resources - LEA Foster Care Point of Contacts



The screenshot shows the NMPED website with a yellow header bar. The header includes a 'View Public Events Calendar' button, a search bar, and social media links for Facebook, Instagram, and LinkedIn. The main menu bar below the header contains links for Home, My School, A-Z Directory, Contact Us, Offices and Programs, RFPs, RFIs, RFAs, IPRA Requests, NM PED Leadership, New Mexico Public Schools Directory, and News Releases. A 'Staff Locator' link is also present. The main content area features a navigation bar with links for Licensure, Students, Families & Communities, Educators, and Administrators. On the left, a sidebar titled 'Related Pages' lists links to ARAO Portal, At-Risk Programs (with a plus sign), Education for Homeless Children and Youth Program, Family Engagement, Family Income Index (FII), Foster Care (which is highlighted with a red border), New Mexico Erin's Law Resources and Materials, and PED Family Cabinet. The main content area is titled 'Foster Care' and includes a breadcrumb trail: Home > Offices and Programs > Student Support Services Division > At-Risk Intervention Response > Foster Care. It also contains sections for Vision and Mission, contact information for Simone Vann (PED Foster Care Point Of Contact, Fostercare.Education@ped.nm.gov, (505) 470-5285), and a 'New Mexico Resources and Guidance' section with a link to 'New Mexico Transportation Rules for Students in Foster Care'.

[Foster Care | New Mexico Public Education Department \(NMPED\)](#)

Resources - Surrogate Parent Guidance

Federal Law & U.S. Department of Education Guidance

IDEA Regulations

The primary legal authority on surrogate parents is in the **Individuals with Disabilities Education Act (IDEA) regulations**:

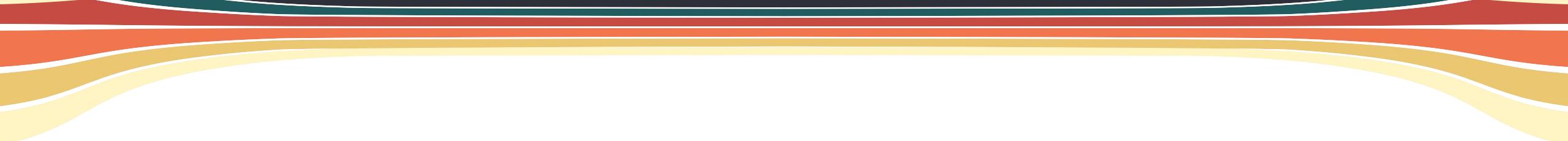
- **34 CFR §300.519 — Surrogate parents** outlines when a surrogate must be appointed, how to determine need, selection criteria, and surrogate duties. This regulation applies to all public agencies, including districts.

Key elements include:

- Conditions triggering the need for a surrogate (e.g., no identified parent, parent cannot be located, ward of the state, unaccompanied homeless youth).
- Requirements for how LEAs must assign surrogate parents and ensure they have the skills and no conflicts of interest.
- Surrogate parents' authority to act in all special education decisions (evaluations, placement, IEPs, FAPE).

Where to access:

Look up **34 CFR §300.519** on the eCFR or Cornell Law School's Legal Information Institute for the full regulatory text.



Discussion



Is a POA or Caregiver's Affidavit required for every student (under 18) that does not live with a parent/guardian?

No, not for every student under 18. Some students under 18 may not have a caregiver, a parent, or a guardian. These students may be “unaccompanied youth” under McKinney Vento. Unaccompanied youth have their own rights under the McKinney-Vento Act.



If a student is raised by a family member since infancy and they do not have guardianship, is the child McKinney Vento?

Not necessarily. To be eligible for McKinney-Vento, a youth must be a “homeless child or youth.” Apply the definition of “homeless child or youth” in 42 USC 11434a to make the determination.



Is every student that has a Caregiver's Affidavit or POA considered McKinney Vento (as this would indicate they are not with their legal guardian)?

No, not every student. An “unaccompanied youth” is a “homeless child or youth not in the physical custody of a parent or guardian.” You have to apply the definition of “homeless child or youth.” For example, a student living with grandparents, who are not guardians, may have fixed, regular, and adequate housing that is essentially permanent (and not due to economic hardship or loss of housing) and may not be considered a McKinney-Vento eligible “homeless child or youth.”



What contact can be made with parent/legal guardian if a POA or Caregiver's Affidavit is on file?

If a parent retains his/her parental rights, or there is a legal guardian, the fact that there is an educational power of attorney or Caregiver affidavit does not preclude the school from contacting a parent or legal guardian.

Questions



For More Information

For Questions

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