



**George E. Pataki**  
Governor

**NEW YORK STATE**  
**OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE**  
40 NORTH PEARL STREET  
ALBANY, NY 12243-0001

**Robert Doar**  
Commissioner

### Administrative Directive

#### Section 1

<b>Transmittal:</b>	06-ADM-15 (Revised)
<b>To:</b>	Local District Commissioners
<b>Issuing Division/Office:</b>	Division of Employment and Transitional Supports
<b>Date:</b>	Revision Date: November 17, 2006/Original Release: October 24, 2006
<b>Subject:</b>	School Attendance of Homeless Children
<b>Suggested Distribution:</b>	Local District Staff: Staff Development Coordinators Services Directors Temporary Assistance Directors Child Care Coordinators Housing Coordinators School District Superintendents and/or Homeless Liaisons Shelter Directors
<b>Contact Person(s):</b>	Bureau of Shelter Services (518-486-7738)
<b>Attachments:</b>	STAC-202
<b>Attachment Available On – Line:</b>	<input checked="" type="checkbox"/>

#### Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
94-ADM-20 96-ADM-20 05-ADM-07 02-ADM-02	95-ADM-3	351.26 385.12 352.35	Education Law 3209 SSL 350-j McKinney-Vento Homeless Assistance Act	TASB Chapter 27, Section F  <a href="http://www.oms.nysed.gov/stac/">http://www.oms.nysed.gov/stac/</a>	

## **Section 2**

### **I. Summary**

Federal and State laws specify situations in which homeless children may attend school in previous school districts instead of the school districts in which they reside while they are temporarily housed. Homeless children may also be entitled to transportation to and from school and other school activities. State law assigns the responsibility for arranging and paying for this transportation to social services districts under specific circumstances. This ADM describes those circumstances, provides background information on legislation and describes social services district responsibilities. These responsibilities include:

- placing children in the their school district of origin if requested by their parents or guardians when possible,
- providing assistance to families as they evaluate their choice of district,
- arranging and paying for transportation within specified timeframes, and
- coordinating with local school district officials.

### **II. Purpose**

This directive describes the responsibilities of social service districts outside the City of New York to transport certain homeless children placed in temporary housing facilities to and from school.<sup>1</sup>

### **III. Background**

In 2000, a report to Congress identified lack of transportation as the primary barrier that homeless children and youth faced in attempting to enroll and attend school regularly. The report also asserted that inconsistent attendance at school had long-term detrimental effects on homeless children.

In response to this report, Congress reauthorized the education provisions of the McKinney-Vento Homeless Assistance Act. This Act establishes and consolidates various programs for the homeless and also defines state and local responsibility for the transportation of homeless children. Title VII-B of the McKinney-Vento Homeless Assistance Act, as amended by the No Child Left Behind Act of 2001, requires that homeless children and youth have equal access to the same free, appropriate public education as other children and youth. Section 3209 of the New York State Education Law implements the McKinney-Vento Act in New York and provides additional detail about the responsibilities of various local agencies including local social services districts.

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<sup>1</sup> In New York City, the City School District of New York has the responsibility for transporting all homeless students.

## Definition of Terms

Following are definitions of terms used in this directive.

1. Temporary Housing. Temporary housing includes motels, hotels, city missions, shelters for homeless families authorized by 18 NYCRR Part 900, room or room and board arrangements provided to a homeless individual or family on a temporary basis and operated by a not-for-profit organization where payment is authorized pursuant to 18 NYCRR 352.8 (b), State-certified shelters for single adults and other accommodations that a district may use, whether there is a fee or not, that will temporarily house the individual/family.

2. Temporary Housing Placement. For the purpose of this directive, a placement has been made whenever a social services district employee or any other entity acting on behalf of the district places, arranges for, provides a voucher or other payment for, or refers homeless individuals/families to temporary housing within or outside of the social services district. This is true whether or not the district provides transportation to temporary housing and whether or not there is a cost for the temporary housing.

3. Homeless Child (McKinney-Vento summary). The McKinney-Vento Act (42 USC §11431 et seq.) definition of homeless child includes children who may not be eligible for temporary housing assistance (THA). It defines a homeless child as a child who does not have a fixed, regular, and adequate nighttime residence or whose primary nighttime location is in a public or private shelter designated to provide temporary living accommodations, or a place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. Children who are sharing housing with other persons due to loss of housing or economic hardship or similar reason are also considered homeless. Children who are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations and living in a car, park, public space, abandoned building, substandard housing, bus or train stations or other similar settings are considered homeless, as well as children who are abandoned in hospitals. Although children in foster care are not considered homeless, children who are awaiting foster care placement are considered homeless. Migratory children who are living in one of the circumstances described above would be considered homeless. Children who are living in one of the circumstances described above and for whom no parent or person in parental relation is available are considered homeless unaccompanied youths (8 NYCRR §100.2[x][1][vi]). Education Law §3209 and 8 NYCRR §100.2(x) have the same definition of a homeless child as the McKinney-Vento Act.

4. School district of origin. The school district within the State of New York in which the homeless child was attending a public school on a tuition-free basis or was entitled to attend when circumstances arose which caused such child to become homeless, which is different from the school district of current location (Education Law §3209[1][c]; 8 NYCRR §100.2[x][1][iii]).

5. School district of current location. The public school district within the State of New York in which the hotel, motel, shelter or other temporary housing arrangement of a homeless child, or the residential program for a runaway and homeless youth is located, which is different from the school district of origin (Education Law §3209[1][d]; 8 NYCRR §100.2[x][1][iv]).

6. School district of last attendance. This refers to the school district where the homeless child last attended school on a tuition-free basis. When there are multiple placements into temporary housing, each in a new school district, the school district of last attendance is the school district in which the child last attended school on a tuition-free basis while homeless.

#### **IV. Program Implications**

Under State law, when children first become homeless, they may attend 1) the school district of current location (where he or she is temporarily housed) or 2) the school district of origin (where he or she was attending when he or she first became homeless). When children who already are homeless move to or are placed in a new temporary housing arrangement in a new school district, they may attend: 1) the school district of current location, 2) the school district of origin or 3) the school district of last attendance (where he or she last attended while living in temporary housing).

The choice (designation) as to where a homeless child will attend school is made by: 1) the child's parent or guardian, or 2) the homeless child together with the homeless liaison designated by the school district if no parent or guardian is available, or 3) the director of a residential program for runaway and homeless youth, where applicable, in consultation with the homeless child (Education Law §3209[1][b]; 8 NYCRR §100.2[x][1][ii]). The McKinney-Vento Act grants unaccompanied youth the right to designate a school district and enroll in public school until they are 21 years old or have earned a high school diploma.

Within 60 days of making the designation or before the end of the semester, whichever occurs later, the designator may change the designation if the designator finds the original designation to be educationally unsound (8 NYCRR §100.2[x][2][vi]).

In New York State, a school district is designated by completing the STAC 202 form (see attachment). (An on-line version of the form can be accessed at: <http://www.oms.nysed.gov/stac/>.) Copies of the completed form are returned to the New York State Education Department (SED), the designated school district, the designator, the social services district, the previous school district attended and the school district of origin.

After it receives the designation form, the designated school district must, among other things, immediately admit the homeless child even if the child or youth is unable to produce records normally required for enrollment, such as academic records, medical records, proof of residency or other documentation (Education Law §3209[2][e][1]; 8 NYCRR §100.2[x][4][ii]), and provide the child with access to all of its programs, activities and services to the same extent as they are provided to non-homeless students (Education Law §3209[2][e][2]; 8 NYCRR §100.2[x][4][iii]).

If the school district declines to either enroll and/or transport the child or youth to the school requested by the designator, the school district must provide a written explanation for this determination and advise the designator of his/her right to appeal this final determination to the Commissioner of Education (8 NYCRR §100.2[x][7][ii][b]). The school district must also delay for 30 days the implementation of a final determination to decline to either enroll and/or transport the child or youth to the requested school. If the parent or guardian or the unaccompanied youth commences an appeal to the Commissioner of Education with a stay application within 30 days of the final determination, the homeless child or youth or unaccompanied must be permitted to continue attending the school he or she

was enrolled in at the time of the appeal until the Commissioner of Education renders a decision on the stay application. In addition, the child or youth would also be entitled to continued transportation to and from school during this time period (8 NYCRR §100.2[x][7][ii][c]). If the stay request is denied, the child or youth can be asked to leave the school immediately (8 NYCRR §100.2[x][7][ii][c]). If the Commissioner of Education grants the stay request and issues a stay order, the child or youth can continue attending the school and/or receiving transportation until an appeal decision is issued. However, if the Commissioner of Education dismisses the appeal, the child or youth will no longer be entitled to attend the school or to receive transportation (8 NYCRR §100.2[x][7][ii][c]). Additionally, if the parent or guardian or the unaccompanied youth fails to commence an appeal to the Commissioner of Education with a stay application within 30 days of the final determination, on the 31<sup>st</sup> day after the final determination, the child or youth will no longer be entitled to attend the school or to receive transportation.

## **V. Required Action**

### **A. Placement of Families**

Because of the potential harm caused by school disruption and the costs associated with school transportation, social services districts must attempt to place families applying for THA in the school district that has been or will be designated. When feasible and desired by the designator, social services districts should make every reasonable effort to preserve the homeless child's connection to the school he or she is attending provided that this arrangement continues to be in the best interest of the child.

### **B. Local District Responsibilities Related to School District Designation**

Whenever a family applying for or receiving THA is placed in a new school district, a new school district designation must be made using a SED form, the STAC 202. Social services districts must provide assistance in making designations and must provide parents, caretakers and unaccompanied youth with the STAC 202 or arrangement for the STAC 202 to be provided to them within two business days of their application for THA or transfer to a new facility. If needed, social services districts must also provide or arrange for assistance in filling out the STAC 202 and enrolling in the designated school districts within two business days. Social services districts must make families aware of school attendance options. This information may be provided by mail, by shelter providers, during visits to the temporary housing site or at appointments at social services district offices.

The methods chosen to inform and assist clients must allow designations to be made during the temporary housing placement process or immediately after the placement is made. Local procedures regarding STAC 202 designations must operate in a way that avoids unnecessary interruptions in school attendance.

### **C. Social Services District Responsibilities Related to School Transportation**

The responsibility for providing transportation may reside with a school district, certain shelters for runaway youth or the social services district. Under the provisions of Education Law §3209, the social services district is responsible for arranging and paying for transportation if all of the following three conditions exist: (1) the child or family is eligible for Emergency Assistance for Families (EAF) as defined in SSL §350-j, (2) the child was placed by the social services district in temporary housing, and

(3) the designated school district is not the school district in which the temporary housing is located. In other words, transportation must be provided to EAF-eligible homeless children if the designated school district is outside the school district where the temporary housing is located. If the temporary housing is located in the designated district, the designated school district is responsible for transportation.

**Transportation must be arranged as expeditiously as possible to minimize the number of missed school days.** Standards for the maximum time before transportation is made available are contained in Table 1 below. When children are initially placed in temporary housing or a new designation is made by the designator, no more than three school days may elapse between the designation and the availability of transportation, if the information provided on the STAC 202 is accurate. Planned transfers from one temporary housing placement to another must be accomplished with no more than a one-day interruption in school attendance. No more than three school days may elapse between a designation and the commencement of transportation when children are transferred between temporary housing placements even if the transfer is unplanned or is done on an emergency basis.

In general, the mode of transportation (e.g., yellow school bus, van) used for homeless children should be the same or comparable to the mode that would be used for non-homeless children attending the same school. A social services district may enter into contracts with a board of education or a board of cooperative educational services for the provision of such transportation. Social services districts may also reimburse parents or caretakers who agree to transport their homeless children to school.

**Table 1: Standards for Maximum Allowable Time Before Transportation is Available**

<b>Situation</b>	<b>Standard</b>
<u>Initial THA Placement.</u> Family has been found eligible for THA, was not in temporary housing at the time of application and has provided an accurate STAC 202.	3 school days
<u>New Designation.</u> Designator makes a new designation while in temporary housing and has provided an accurate STAC 202.	3 school days
<u>Planned Transfer.</u> Social services district has initiated a transfer of the family from one temporary housing location to another.	1 school day
<u>Unplanned or Emergency Transfer.</u> Family has been transferred to a new temporary housing location results from noncompliance with house rules, facility closure, or other circumstances that were unforeseen or were not disclosed to the social services district. An accurate STAC 202 has been received.	3 school days

For short periods, social services districts may use alternative modes of transportation to minimize the amount of time that homeless children are absent from school. If taxis or public transportation are used as an alternative for children, the parents or caretakers must accompany children to and from school and school activities whenever such accompaniment is necessary to ensure the safety of the child, regardless of the age of the child. Use of alternative forms of transportation should be minimized to avoid conflicts with the work schedules of accompanying adults and to afford these adults with opportunities to participate in housing search, job search and other activities that will help them find and retain permanent housing.

Special circumstances, such as age or disability of the child, may dictate that a parent or caretaker accompany the child to and from school on a long-term basis. This arrangement is allowable whenever parental assistance is instrumental to the education and/or security of the child. The social services districts must pay for the transportation of those accompanying homeless children to and from school and school activities. If necessary, the social services district must also provide childcare for other children in the family while that parent accompanies the child to and from school. Social services districts may not sanction or penalize accompanying adults for non-compliance with employment or other rules if the non-compliance results from such accompaniment and accompaniment is warranted by the homeless child's educational or security needs. Adjustments to the adult's work assignment schedule may be needed in those instances where the adult's accompaniment is necessary.

Expenditures for childcare and transportation to continue school and search for permanent housing are considered to be EAF under 18 NYCRR 372.4(d). EAF may be authorized for families who meet the eligibility criteria set forth in 18 NYCRR 372.2(a). Any such payments made to provide transportation or childcare (related to transporting homeless children to and from school) do not count as income for determining food stamp eligibility and benefits amounts. The "Determination of Eligibility for Emergency Assistance to Families (EAF)" (DSS-4403) form must be completed and placed in the case record. More generally, case records must contain sufficient documentation to support EAF claims. In addition, case records must contain the STAC 202 and other case notes related to the school district designation and the time required for the district to make transportation requirements.

#### D. Eligibility Determination Procedures

Social services districts are required to meet immediate needs and provide temporary housing assistance as described in 94-ADM-20, 96-ADM-20, 02-ADM-02 and 05-ADM-07. The local procedures used to perform these functions must not needlessly cause homeless children to be absent from school. Districts are encouraged to carefully review their procedures to ensure that adequate provision has been made for school attendance.

#### E. Cooperation with School Districts

The McKinney-Vento Act requires that all school districts establish homeless liaisons to handle issues that arise with respect to homeless students. Social services districts are strongly encouraged to contact and establish procedures for working with school district liaisons.

On a case-by-case basis, school district liaisons should be contacted in the following situations:

- Designator or parent does not complete STAC 202. School district liaisons have the primary responsibility for ensuring that a designation is made. If the parent, caretaker or unaccompanied youth fails or refuses to complete the STAC 202 form after a temporary housing placement

and/or does not make a good faith effort to notify the social services district about this designation, the social services district should inform the liaison for the school district of residence unless the parent, caretaker or unaccompanied youth has specifically asked that the school district not be informed of his/her homeless status. If parents or caretakers of unaccompanied youths do not want to file STAC 202 forms or disclose their homeless status, social services districts still must arrange transportation, if otherwise required. If the homeless student has not enrolled or is not attending school, the social service district must notify the school district's homeless liaison.

- Family will attend school in a new district. The school that a homeless child attends may change for a number of reasons including the following:

A new district may be designated when the child is transferred from one shelter placement to another.

The family or child may change designations during the 60-day / end-of-semester re-designation period.

The designation was made prior to the time that the designator was informed of various placements options.

A new designation may be made due to the special educational needs of the child.

The family or child may find permanent housing.

The family or child may leave the county.

Circumstances may arise that would normally require a child to change school districts.

Although the school district previously attended by the child would receive a copy of the STAC 202 in some of these circumstances, notification via the STAC 202 may take several days. Because school districts closely monitor the attendance of homeless children, their sudden disappearance without notice will result in investigation or outreach efforts. To avoid unnecessary concern and effort, social services districts should inform the liaison in the school district of last attendance when a homeless child will no longer be attending their school.

- Loss of transportation privileges. Like non-homeless students, homeless children may lose transportation privileges if they are unruly during transport or threaten the health and safety of other children. Social services districts or transportation providers may take appropriate action, including the discontinuance of transportation privileges. When such action is taken by a social services district, the school district attended by the affected child must be notified. Discontinuance of transportation may not have the effect of depriving a homeless child of education. Social services districts must ensure that alternative public or private transportation is sufficiently available to allow school attendance. Social services districts must notify the school district liaison if a homeless child is missing school because he or she is not using the alternative transportation that has been arranged.



## F. Dispute Resolution

Parents, caretakers, unaccompanied youth and social services districts may contact the NYS Technical and Education Assistance Center for Homeless Students (NYS-TEACHS) at (212) 822-9546. This organization is under contract with SED to provide information and training on homeless school attendance issues and to resolve disputes. Social services districts also should contact the OTDA Bureau of Shelter Services (BSS) at (518) 486-7738.

## G. Special Circumstances

The following special circumstances may apply in certain cases:

- Last school of attendance was outside the State or U.S. If the public school or school district the child or youth was attending when the circumstances arose which caused the child or youth to become homeless is located outside the State or U.S., the homeless child or youth is considered to be a resident of the school district in which he or she is temporarily located and will be entitled to attend the schools of this district (8 NYCRR §100.2[x][2][iv]).
- Child lives a short distance from school. In some cases, temporary housing is only a short distance from the school that a homeless child will be attending even though the temporary housing and school are in different school districts. Even in situations in which the child could walk to school, federal law requires that transportation be provided if requested by the family. This requirement only applies to situations in which temporary housing is in a different district from the school. If temporary housing is located in the same school district, the school district is responsible for transporting the child.
- Child resides in shelter for runaway youth. As noted above, the responsibility for transporting homeless children must be assumed by certain shelters for runaway youth. More specifically, Education Law §3209 provides that transportation must be provided by the Division for Youth (now the Office of Children and Family Services) when a child is in a residential program for runaway and homeless youth “established pursuant to article nineteen-H of the executive law.” This definition does not include all shelters in which young people may reside. For this reason, there may be times when the social services district should provide transportation for a child who has been placed in a youth shelter. To avoid delays when homeless children need transportation, social services districts are encouraged to work with youth facilities and school districts to clarify transportation responsibilities in advance of need. If a situation arises in which the agency responsible for transportation cannot be identified, contact the OTDA Bureau of Shelter Services at (518) 486-7738.
- “Doubled up” family situations. As noted above, the federal definition of homelessness includes families that lose their housing and move in with friends or relatives. Social services districts are not responsible for transporting children in this living arrangement because they have not been placed in temporary housing. However, periods of time when children live with family or friends may affect the district considered to be the school district of origin or last school district attended. The McKinney-Vento definition of homeless child (summarized on page 2 above) must be applied when making these determinations.
- Children Awaiting Foster Care Placement. Children who are awaiting foster care placement are considered homeless under state and federal definitions. As noted previously with respect to

doubled-up households, this can affect decisions about the districts that are considered to be the districts of origin or last attendance. Children who are already in foster care are not considered homeless.

- Moves to permanent housing. When a child moves from a temporary housing arrangement into permanent housing, he or she may continue to attend the last school attended while homeless for the remainder of the school year, and one additional year if the additional year constitutes the child's terminal year in that building. Any social services district responsibility to transport the child ends when a child becomes permanently housed.

#### H. Examples

Example 1. A mother and child become homeless in School District A and are placed by the social services district in a hotel located in School District B. The child attends school in School District B for several days. The social services district then finds a more appropriate placement and moves the family to School District C.

- The mother may designate School District A (school district of origin), B (school of last attendance) or C (school district of current location) using the STAC 202.
- If the mother designates A or B, the social services district must arrange and pay for transportation. If either school district challenges the designation, the child would remain enrolled in the designated school and the social services district would remain responsible for transportation while any appeals were processed.
- If the mother designates School District C, School District C is responsible for any transportation that is needed. The mother would contact the school to enroll her child.
- If the mother designates School District A or C, the social services district should inform School District B that the child has moved and will not be attending.

Example 2. A mother and child become homeless in School District A and move in with friends in School District B where the child attends school for several days. The mother and child then move to another friend's house in School District C, but the child continues to attend School B. After being evicted by the primary tenant, the mother and child apply for temporary housing assistance and are placed in temporary housing in School District D by the social services district.

- The mother may designate School District A (school district of origin), B (school of last attendance) or D (school district of current location) using the STAC 202. (She cannot designate School District C because the child did not attend this district.)
- If the mother designates A or B, the social services district must arrange and pay for transportation.
- If the mother designates School District D, this district is responsible for transportation. The mother would contact the school to enroll her child.
- If the mother designates School District A or D, the social service district should inform School District B that the child has moved and will not be attending.

Example 3. A mother and child become homeless in School District A and move in with friends in School District B and then move to another friend's house in School District C. During these moves, the mother transports the child to School District A. School District A determines that the child is no longer living in the district and notifies the mother that her child may no longer attend.

- The mother can designate School District A or School District C. (She cannot designate School District B because the child did not attend this district.)
- The mother should be informed of her options and provided with a STAC 202. She may wish to contact the NYS Technical and Education Assistance Center for Homeless Students (NYS-TEACHS) at (212) 822-9546 if she designates School District A.
- The social services district is not responsible for transportation because the family was not placed by the district in temporary housing.

Example 4. A mother and child become homeless in School District A and move in with friends in School District B. The child continues to attend School A. They find and move to permanent housing in School District C, but the mother loses her job and applies for cash assistance.

- Because the child is not in temporary housing, the social services district is not responsible for transportation.
- The child may be enrolled in School District C or may continue to attend School District A until the end of the school year. The child could continue for an additional year if it constitutes the child's terminal year in that building.

Example 5. A mother and child become homeless in School District A and are placed in a shelter in School District B by the social services district. The mother designates School District B and attempts to enroll her child, but is told her child must attend in School District A. She requests transportation to School District A from the social services district.

- Because the mother has designated School District B and it is the district of current location, her child is entitled to attend.
- The social services district is not responsible for transportation.
- The social services district should contact the OTDA Bureau of Shelter Services at (518) 486-7738.
- The parent or social services district may also wish to contact the NYS Technical and Education Assistance Center for Homeless Students (NYS-TEACHS) at (212) 822-9546.

**VI. Systems Implications**

None

**VII. Effective Date:** *Effective Immediately*

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Issued By

Name: Russell Sykes

Title: Deputy Commissioner

Division/Office: Division of Employment and Transitional Supports