



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY
12234

TO: The Honorable the Members of the Board of Regents

FROM: James A. Kadamus *James A. Kadamus*

COMMITTEE: Elementary, Middle, Secondary and Continuing Education

TITLE OF ITEM: Proposed Amendment to the Regulations of the
Commissioner Relating to Homeless Children and Youth

DATE OF SUBMISSION: January 13, 2003

PROPOSED HANDLING: Approval (Consent Agenda)

RATIONALE FOR ITEM: Alignment with No Child Left Behind Act

STRATEGIC GOAL: Goals 1 and 2

AUTHORIZATION(S): *K. J. O. B. J.* *Thomas J. Blasko*

SUMMARY:

Attached is a proposed amendment to the Regulations of the Commissioner of Education relating to homeless children and youth for approval. Supporting materials for the proposed amendment are available upon request from the Secretary to the Board of Regents.

The purpose of the proposed amendment to section 100.2(x) of the Regulations of the Commissioner is to conform the Commissioner's Regulations with recent amendments to Subtitle B of Title VII of the federal McKinney-Vento Homeless Education Assistance Act that were enacted pursuant to the No Child Left Behind Act of 2001, as a condition to the State's receipt of federal funds. The proposed amendment requires school districts to immediately review a designation form for a homeless child or youth to assure it has been completed, admit the homeless child, and contact the school district where the child's records are located for a copy of such records. The school district receiving such a request must forward these records within five days. Further, each school district shall establish procedures for the prompt resolution of disputes regarding school selection or enrollment of a homeless child or youth and provide a written explanation, including a statement regarding the right to appeal, to the parent or guardian, if the school district sends the child or youth to a school other than the school of origin or a school requested by the parent or guardian. Each school district shall designate an appropriate staff person as a local educational agency liaison for homeless children and youth and inform school personnel, service providers and advocates working with homeless families of the duties of the liaison. Each school district shall coordinate the provision of services with local social services agencies and other agencies or programs providing services to homeless children and youths and their families and coordinate with other school districts on interdistrict issues, such as

transportation or transfer of school records. Each school district shall collect and transmit to the Commissioner of Education a report containing such information as the Commissioner determines necessary to assess the educational needs of homeless children and youths within the State. A Notice of Proposed Rule Making was published in the State Register on November 20, 2002.

VOTED: That subdivision (x) of section 100.2 of the Regulations of the Commissioner of Education be amended as submitted, effective March 6, 2003.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 215, 305, 3202, 3205, 3209 and 3713

Subdivision (x) of section 100.2 of the Regulations of the Commissioner of Education is amended, effective March 6, 2003, as follows:

(x) Education of homeless children.

(1) Definitions. As used in this subdivision:

(i) Homeless child means:

(a) a child or youth who lacks a fixed, regular, and adequate nighttime residence[;] ,

including a child who is:

(1) sharing the housing of other persons due to a loss of housing, economic hardship or a similar reason;

(2) living in motels, hotels, trailer parks or camping grounds due to the lack of alternative adequate accommodations;

(3) abandoned in hospitals;

(4) awaiting foster care placement; or

(5) a migratory child, as defined in section 1309(2) of the No Child Left Behind Act of 2001, 20 U.S.C. section 6399(2) (Public Law section 107-110, section 1309(2), 115 STAT. 1579-1580; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 2002; available at the Office of Counsel, State Education Building, Room 148, Albany, New York 12234), who qualifies as homeless under any of the provisions of subclauses

(1) through (4) of this clause or clause (b), of this subparagraph; or

(b) a child or youth who has a primary nighttime location that is:

(1) . . .

(2) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; including a child or youth who is living in a car, park, public space, abandoned building, substandard housing, bus or train stations or similar setting;

(c) . . .

(ii) Designator means:

(a) . . .

(b) the homeless child, together with the homeless liaison designated under paragraph (7)(f) of this subdivision, where applicable, [if no parent or person in parental relation is available] in the case of an unaccompanied youth; or

(c) . . .

(iii) School district of origin means 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.

(iv) School district of current location means 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 runaway and homeless youth, is located, which is different from the school district of origin.

(v) Regional placement plan means a comprehensive regional approach to the provision of educational placements for homeless children which has been approved by the commissioner.

(vi) unaccompanied youth means a homeless child for whom no parent or person in parental relation is available.

(2) Choice of district.

(i) . . .

(ii) Where the school district in which a homeless child is temporarily housed is the same district the child attended on a tuition-free basis or was entitled to attend when circumstances arose which caused the child to become homeless, the child shall be entitled to attend the schools of such district without the payment of tuition for the duration of homelessness. In lieu of attending the school serving the attendance zone in which the child is temporarily relocated, such child may choose to remain in the public school building he or she previously attended until the end of the school year and for one additional year if that year constitutes the child's terminal year in such building.

(iii) . . .

(iv) . . .

(v) . . .

(vi) . . .

(3) . . .

(4) Upon receipt of a designation form, the designated school district shall immediately:

(i) . . .

(ii) admit the homeless child, even if the child or youth is unable to produce records normally required for enrollment, such as previous academic records, medical records, proof of residency or other documentation;

(iii) . . .

(iv) [make a written request to] immediately contact the school district where the child's records are located for a copy of such records; [and]

(v) if the child or youth needs to obtain immunizations or immunization or medical records, the school admitting such child or youth shall immediately refer the parent or guardian of the homeless child or youth to the local educational agency liaison designated under paragraph (7)(f) of this subdivision who shall assist in obtaining necessary immunizations or immunization or medical records in accordance with section 42 U.S.C. section 11432(g)(3)(C) and (D) (Public Law 107-110, Title X, section 1032, 115 STAT. 1998; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 2002; available at the Office of Counsel, State Education Building, Room 148, Albany, New York 12234).

(vi) forward the designation form to the commissioner, and the school district of origin, where applicable.

(5) Within five days of the receipt of a request for school records, the school district shall forward a complete copy of the homeless child's records including, but not limited to, proof of age, academic records, evaluations, immunization or medical records, and guardianship papers, if applicable.

(6)

(7) School district responsibilities.

(a) Enrollment. Each school district shall:

(i) ensure that homeless children and youth are not segregated in a separate school, or in a separate program within a school, based on their status as homeless; and

(ii) to the extent feasible and consistent with the requirements of paragraphs (2) and (4) of this subdivision, keep a homeless child or youth in the school of origin except when doing so is contrary to the wishes of the child's or youth's parent or guardian.

(b) Dispute resolution. Each school district shall:

(i) establish procedures, in accordance with 42 U.S.C. section 11432(g)(3)(E), for the prompt resolution of disputes regarding school selection or enrollment of a homeless child or youth (Public Law 107-110, Title X, section 1032, 115 STAT. 1998; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 2002; available at the Office of Counsel, State Education Building, Room 148, Albany, New York 12234); and

(ii) provide a written explanation, including a statement regarding the right to appeal pursuant to 42 U.S.C. section 11432(g)(3)(E)(ii), to the homeless child's or youth's parent or guardian, if the school district sends such child or youth to a school other than the school of origin or a school requested by the parent or guardian (Public Law 107-110, Title X, section 1032, 115 STAT. 1998; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 2002; available at the Office of Counsel, State Education Building, Room 148, Albany, New York 12234).

(c) Local educational agency liaison. Each school district shall:

(i) designate an appropriate staff person, who may also be a coordinator for other federal programs, as a local educational agency liaison for homeless children and youth to carry out the duties described in 42 U.S.C. section 11432(g)(6) (Public Law 107-110, Title X, section 1032, 115 STAT. 2000; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 2002; available at the Office of Counsel, State Education Building, Room 148, Albany, New York 12234).

(ii) in the case of an unaccompanied youth, ensure that the local educational agency liaison assists in placement or enrollment decisions under this paragraph, considers the views of such unaccompanied youth, and provides notice to such youth of the right to appeal pursuant to 42 U.S.C. section 11432(g)(3)(E)(ii) (Public Law 107-110, Title X, section 1032, 115 STAT.

1998; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 2002; available at the Office of Counsel, State Education Building, Room 148, Albany, New York 12234); and

(iii) inform school personnel, service providers and advocates working with homeless families of the duties of the local educational agency liaison.

(d) Coordination. Each school district shall coordinate:

(i) the provision of services provided pursuant to Subtitle B of Title VII of the McKinney-Vento Homeless Education Assistance Act, as amended, (42 U.S.C. sections 11431 et seq.) with local social services agencies and other agencies or programs providing services to homeless children and youths and their families, including services and programs funded under the Runaway and Homeless Youth Act (42 U.S.C. sections 5701 et seq.); and

(ii) coordinate with other school districts on interdistrict issues, such as transportation or transfer of school records.

(c) Reporting. Each school district shall collect and transmit to the Commissioner, at such time and in such manner as the Commissioner may require, a report containing such information as the Commissioner determines is necessary to assess the educational needs of homeless children and youths within the State.