

13A.05.09.00

Title 13A STATE BOARD OF EDUCATION

Subtitle 05 SPECIAL INSTRUCTIONAL PROGRAMS

Chapter 09 Programs for Homeless Children

Authority: Education Article, §§2-205 and 7-301, Annotated Code of Maryland

13A.05.09.9999

Administrative History

Effective date: January 9, 2000 (26:27 Md. R. 2016)

Regulation .01 amended effective December 11, 2003 (30:24 Md. R. 1744)

Regulation .02B amended effective December 11, 2003 (30:24 Md. R. 1744);

June 29, 2009 (36:13 Md. R. 900)

Regulation .03 amended effective December 11, 2003 (30:24 Md. R. 1744)

Regulation .04 amended effective December 11, 2003 (30:24 Md. R. 1744)

Regulation .05 amended effective December 11, 2003 (30:24 Md. R. 1744)

Regulation .06A, C amended effective December 11, 2003 (30:24 Md. R. 1744)

Regulation .07 amended effective December 11, 2003 (30:24 Md. R. 1744)

13A.05.09.01 Scope.

A. This chapter establishes minimum requirements to ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youth consistent with Title VII, Subtitle B of the McKinney-Vento Homeless Assistance Act as amended by the No Child Left Behind Act of 2001 (Public Law 107-10), Education for Homeless Children and Youth, Title X, Part C, Subtitle B.

B. Homeless children and youth shall have access to the education and other services that they need to ensure that they have an opportunity to meet the same challenging State student academic achievement standards to which all students are held.

C. Homeless children and youth, while receiving a free public education, may not be segregated in a separate school or in a separate program within a school, based on their status as homeless. Homeless children and youth shall be educated as part of a school regular academic program.

13A.05.09.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Child" and "youth" means an individual who is eligible to attend public school or educational programs in Maryland, including:

- (a) Pre-kindergarten through 12th grade;
- (b) Head Start;
- (c) Even Start;
- (d) Special education; or
- (e) Other programs.

(2) "Child awaiting foster care placement" means:

(a) A child placed out of the child's home pursuant to a shelter care order or a voluntary placement agreement documented by the Department of Social Services; or

(b) A child committed to the care and custody of the Department of Social Services who is placed into a temporary, short-term placement of not longer than 90 school days, such as in:

- (i) An emergency or shelter facility;
- (ii) A diagnostic center;

- (iii) A psychiatric respite facility;
- (iv) An emergency foster home; or
- (v) Another temporary, short-term placement.

(3) "Enroll" and "Enrollment" means attending classes and participating fully in school activities.

(4) Homeless Student.

(a) "Homeless student" means a child or youth who lacks a fixed, regular, or adequate nighttime place of residence.

(b) "Homeless student" includes:

(i) Children and youth who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason, are living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations, are living in emergency or transitional shelters, also referred to as transitional housing, are abandoned in hospitals, or are awaiting foster care placement;

(ii) Children and youth who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for individuals;

(iii) Children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings;

(iv) Migratory children, as defined in §6399 of Title 20, who qualify as homeless for the purposes of the McKinney-Vento Act and this chapter because the children are living in circumstances as described in §B(4)(b)(i)—(iii) of this regulation; and

(v) A child awaiting foster care placement.

(5) "Local school system" means the public school system in which the student is enrolled.

(6) "McKinney-Vento Act" refers to the Stewart B. McKinney-Vento Homeless Assistance Act, Subtitle B, Amended by the No Child Left Behind Act of 2001 (P.L. 107-10), Title X, Part C, Subtitle B, Education for Homeless Children and Youth.

(7) "Parent" or "guardian" means the:

- (a) Parent, individual, or public agency having legal or lawful physical custody of the homeless student;
- (b) Person or public agency to whom guardianship of a child or youth has been given by order of court; or
- (c) Homeless student if the student is 18 years old or older and no parent or guardian is available.

(8) "School of origin" means the school that the child or youth attended, when permanently housed or the school in which the child or youth was last enrolled.

(9) "Unaccompanied homeless youth" means a homeless youth not in the physical custody of a parent or guardian.

13A.05.09.03 General Responsibilities.

A. Each local school system in Maryland shall:

(1) Develop, review, and revise policies to eliminate barriers to the enrollment, retention, and success in school of homeless students in a manner which addresses:

(a) Transportation issues;

(b) Enrollment delays caused by residency requirements;

(c) Lack of available records normally required for enrollment such as birth certificates, previous school records, immunization records, medical records, proof of residency, or other documentation;

(d) Guardianship issues;

(e) Uniform or dress code requirements; and

(f) Opportunities to meet the same challenging State student academic achievement standards to which all students are held.

(2) Coordinate with local social services agencies and other agencies or programs providing services to homeless children and youth and their families;

(3) Coordinate with other local school systems on interdistrict issues, such as transportation or transfer of school records;

(4) Provide services to each eligible homeless student that are comparable to services offered to other students in the local school system, including:

(a) Public preschool programs;

(b) Educational programs or services;

(c) Programs in career and technology education;

(d) Special education programs;

(e) Programs for gifted and talented students;

(f) Before-school and after-school programs;

(g) School meal programs; and

(h) Transportation; and

(5) Designate a homeless education coordinator responsible for:

(a) Ensuring that homeless children and youth are identified by school personnel, are enrolled in, and have a full and equal opportunity to succeed in schools of that local school system;

(b) Coordinating the referrals of homeless children to health care, dental care, mental health services, and other appropriate services;

(c) Expediting school placement decisions;

(d) Identifying homeless children, youth, and families in the community;

(e) Coordinating programs and services to prevent duplication of services;

(f) Monitoring programs and projects to ensure their compliance with applicable statutory and regulatory requirements, if the local school system receives funds under the McKinney Act;

(g) Informing parents or guardians of homeless children and youth of the educational and related opportunities available to their children, ensuring that they are provided with meaningful opportunities to participate in the education of their children;

(h) Disseminating public notice of the educational rights of homeless children and youth in the schools, community agencies, family shelters, soup kitchens, and organizations where children and youth receive services;

(i) Ensuring that the parent or guardian of a homeless child or youth and any unaccompanied youth is fully informed of all transportation services, including transportation to the school of origin, is assisted in accessing transportation to the school that is selected, and that enrollment disputes are mediated in accordance with Regulation .07 of this chapter;

(j) Working with Title I administrators to ensure that Title I services are provided in accordance with the reservation of funds required by McKinney-Vento Act;

(k) Coordinating and collaborating with the State coordinator and community and school personnel responsible for the provision of education and related services to homeless children and youth;

(l) Developing and implementing a program to train school personnel on the educational rights of homeless children and youth, policies and procedures to identify and serve homeless children and youth, and on the special needs of homeless children and youth;

(m) Assisting unaccompanied homeless youth in the school selection process; and

(n) Ensuring that enrollment disputes are mediated according to the local school system's appeal process consistent with Regulation .07 of this chapter.

B. The Department shall:

(1) Collect and provide local school systems with monthly information on the number of homeless students reported by shelters, to validate the accuracy of information reported to the Department and correlate information collected by local school systems;

(2) Coordinate and collaborate with educators, including child development and preschool program personnel, providers of services to homeless and runaway children and youth and homeless families, local school system homeless education coordinators, and community organizations and groups representing homeless children and youth and their families;

(3) Facilitate coordination of services to homeless students with other State agencies;

(4) Administer the McKinney-Vento Act grant program;

(5) Prepare and submit reports to the federal government in accordance with the requirements of the McKinney-Vento Act; and

(6) Provide the coordinators technical assistance and other support necessary to assist local school systems coordinators to ensure local school system compliance

13A.05.09.04 School Placement.

A. The local educational agency serving each child or youth shall, according to the child's or youth's best interest, establish a procedure to:

(1) Continue the child's or youth's education in the school of origin for the duration of homelessness:

(a) In any case in which a family becomes homeless between academic years or during an academic year; or

(b) For the remainder of the academic year, if the child or youth becomes permanently housed during an academic year; or

(2) Enroll the child or youth in any public school that nonhomeless students living in the attendance area in which the child or youth is living are eligible to attend.

B. In determining the best interest of the child or youth under §A of this regulation, the local school system shall:

(1) To the extent feasible, keep a homeless child or youth in the school of origin, unless contrary to the wishes of the child's or youth's parent or guardian;

(2) In determining best interest consider the following factors:

(a) The student's age;

(b) The school which the student's siblings attend;

(c) The student's experiences at the school of origin;

(d) The student's academic needs;

(e) The student's emotional needs;

(f) Any other special needs of the family;

(g) Continuity of instruction;

(h) Length of stay in the shelter;

(i) The likely location of the family's future permanent housing;

(j) Time remaining in the school year;

(k) Distance of commute and the impact it may have on the student's education and other student-centered, transportation-related factors; and

(l) The safety of the child;

(3) Provide a written explanation to the homeless child's or youth's parent or guardian, including a statement regarding the right to appeal pursuant to Regulation .07 of this chapter if the local school system sends the child or youth to a school other than the school of origin or a school requested by the parent or guardian; and

(4) In the case of an unaccompanied youth, ensure that the local school system homeless coordinator:

(a) Assists in placement or enrollment decisions;

(b) Considers the views of the unaccompanied youth; and

(c) Provides notice to the youth of the right to appeal pursuant to Regulation .07 of this chapter.

C. The homeless student shall remain in the school determined to be in the student's best interest for as long as the student remains homeless, or if the student becomes permanently housed, until the end of the academic year.

D. Homeless students living separately from their parent shall be offered the same school choice options as other homeless students are offered.

13A.05.09.05 School Enrollment.

A. A school may not deny enrollment to a student solely because the student is living in a shelter, lacks a permanent residence, or is otherwise homeless.

B. The school selected in accordance with Regulation .04 of this chapter shall immediately enroll the homeless child or youth, 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.

C. When a school is notified that a child seeking to enroll is homeless, and the child does not have appropriate transfer or medical documentation, the receiving school shall:

(1) Immediately enroll the child; and

(2) If the child or youth needs to obtain immunizations, or immunization or medical records, immediately refer the parent or guardian of the child or youth to the local school system coordinator, who shall assist in obtaining necessary immunizations, or medical records.

D. The school may not bar enrollment of the homeless student until it has made a diligent effort to assist the parent in obtaining necessary immunizations or records of prior immunization.

E. If a homeless student has left a school without officially transferring and obtaining the student's educational records:

(1) The school where the student is seeking to enroll shall:

(a) Register the student,

(b) Immediately call the former school for transfer information and relevant academic and other records, and

(c) Provide appropriate special education and related services as soon as possible, if the student is a student with disabilities; and

(2) Upon request for information regarding the homeless student, the student's former school shall:

(a) Provide the information by telephone, and

(b) Forward records for the homeless student to the receiving school in a timely manner.

13A.05.09.06 Student Transportation.

A. Each local school system shall:

(1) Promptly provide homeless students with transportation services comparable to the transportation services provided to non-homeless students attending the school that is determined to be in the best interest of the homeless student; and

(2) Notify the student and parent of the availability of transportation services, if these services are necessary for the homeless student to attend the school which is in the student's best interest.

B. If the student requires transportation to attend the school that is determined to be in the student's best interest, transportation shall be provided:

(1) As long as the child or youth attends the school of origin and remains homeless; or

(2) Until the end of the current school year, if the child becomes permanently housed during the school year.

C. If the homeless child or youth no longer resides in the area served by the local school system of origin and the child or youth, though continuing education in the school of origin, begins living in an area served by another local school system:

(1) The local school system of origin and the local school system in which the homeless child or youth is living shall agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin; and

(2) If the local educational agencies are unable to agree upon a method under §C(1) of this regulation, the responsibility and costs for transportation shall be shared equally.

13A.05.09.07 Dispute Resolution.

A. Each local school system shall establish an expedited dispute resolution process to address disputes arising regarding services to homeless children under this chapter, including the following:

(1) Upon receipt of a written complaint from the parent, guardian, or an unaccompanied homeless youth, the principal shall resolve the complaint within 5 school days;

(2) Parents, guardians, or an unaccompanied homeless youth shall be provided with a written explanation of the school's decision of the dispute, including the right to appeal;

(3) If the parent, guardian, or unaccompanied homeless youth is dissatisfied with the resolution, or if the principal does not issue a decision within 5 days, the parent may file a written complaint with the local superintendent;

(4) The local superintendent shall issue a decision within 10 school days;

(5) If the local superintendent does not issue a decision within 10 days, or if the parent is dissatisfied with the decision, the parent may appeal the decision to the local board, in writing, within 30 days, pursuant to Education Article, §4-205(c), Annotated Code of Maryland;

(6) The local board shall decide the appeal on an expedited basis within 45 days of receipt of the appeal; and

(7) If the parent, guardian, or unaccompanied homeless youth is dissatisfied with the decision of the local board, the parent may appeal the decision to the State board, in writing, within 30 days, pursuant to COMAR 13A.01.01.03.

B. During the dispute resolution process, including any appeals, the student shall remain enrolled in the school system.

C. If a dispute arises over school selection or enrollment:

(1) The child or youth immediately shall be:

(a) Admitted to the school in which enrollment is sought, pending resolution of the dispute; and

(b) Provided transportation to the parent-selected school for the duration of the dispute resolution process;

(2) The parent, guardian, or unaccompanied homeless youth shall be provided with a written explanation of the school's decision regarding school selection or enrollment, including the rights of the parent, guardian, or youth to appeal the decision;

(3) The child, youth, parent, or guardian shall be referred to the local school system coordinator, who shall assist with carrying out the dispute resolution process under §A of this regulation, as expeditiously as possible after receiving notice of the dispute; and

(4) In the case of an unaccompanied homeless youth, the homeless liaison shall ensure that the youth is immediately enrolled in school pending resolution of the dispute.