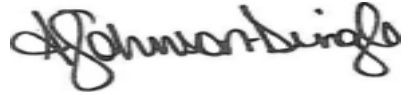





Office of P-12 Instructional and Operational Support  
89 Washington Avenue – Room 875 EBA  
Albany, New York 12234

To: District Superintendents  
Superintendents of Schools  
Administrators of Public, Charter, and Nonpublic Schools  
McKinney-Vento Liaisons

From: Angelique Johnson-Dingle  
Deputy Commissioner for P-12 Instructional Support 

Jason Harmon  
Deputy Commissioner for P-12 Operational Support 

Date: April 2022

Subject: Educational Services for Recently Arrived Evacuees, Refugees,  
Immigrants and/ or Unaccompanied Children

This memo is to inform Local Education Agencies (LEAs) of the educational rights of students who are evacuees who may be living in temporary housing. With many Afghan evacuees being resettled in the United States in recent months, there may be some confusion about the services these students are eligible to receive under Title VI, subtitle B of the McKinney-Vento Homeless Assistance Act (McKinney-Vento Act). These services are available to all students who meet the statute's definition of "homeless children and youths," regardless of their citizenship, immigration, refugee, or evacuee status. As defined in section 725(2) of the McKinney-Vento Act,

"The term 'homeless children and youths'—

- A. means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1)); and
- B. includes—
  - i. children and youths 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 the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;
  - ii. children and youths 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 human beings (within the meaning of section 103(a)(2)(C));
  - iii. children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

- iv. migratory children (as such term is defined in section 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of Title 7, subtitle B, because the children are living in circumstances described in clauses (i) through (iii).”

As noted above, children and youths who lack a fixed, regular, and adequate nighttime residence are eligible to receive services under Title VI, Subpart B of the McKinney-Vento Act. Because the Act identifies students living in hotels as eligible for services, and we understand that many Afghan evacuees have been temporarily resettled in hotels, they would therefore qualify for services under the statute.

LEAs should work with the New York State Refugee Coordinator and local refugee resettlement agencies to identify incoming evacuees who are eligible for services under Title VI, subtitle B of the McKinney-Vento Act as soon as possible to better meet the students’ needs and provide appropriate support. As evacuees may be highly mobile as they move to different areas to resettle, the State Refugee Coordinator and local refugee resettlement agencies, as well as additional partners in various communities, may provide helpful information to identify which evacuee students are eligible for services under the McKinney-Vento Act. These connections will provide support, stability, and continuity in student’s education by facilitating immediate enrollment without documentation, establishing a school of origin, assisting them in maintaining that enrollment while they seek permanent housing, and providing transportation to and from school as families move through different placements.

Under the McKinney-Vento Act, schools must enroll homeless children and youths regardless of whether they have the required documents for enrollment (including immunization records and proof of age) or have missed application or enrollment deadlines (see, e.g., section 722(g)(3)(C)). Enrollment includes attending classes and participating fully in any services, programs, and extracurricular activities that the school offers to students. (See section 725(1)). Providing families with information about the McKinney-Vento Act upon initial identification, allows them to be aware and informed if they seek to enroll elsewhere in the future.

Eligibility for services under the McKinney-Vento Act should be considered on a case-by-case basis in order to account for each student’s specific circumstances. Not all evacuee children will meet the definition of “homeless children and youths” under the McKinney-Vento Act. LEAs should coordinate with the New York State Refugee Coordinator and with local refugee resettlement agencies to better understand the specific circumstances of each evacuee family. It is important, however, to determine their status based on the McKinney-Vento Act’s definition, rather than on outside factors such as whether the family or youth’s housing is being paid for or provided by a non-profit or government agency.

Children and youths who are not in the physical custody of their parents or legal guardians and who do not have a fixed, regular, and adequate night-time residence are considered unaccompanied homeless youths (UHYs) under the McKinney-Vento Act (see section 725(6)). UHYs have additional rights under the McKinney-Vento Act, including the right to immediate enrollment in school without a guardian’s signature.

Section P of the [Education for Homeless Children and Youths Program Non-Regulatory Guidance \(NRG\)](#) provides additional information on addressing the needs of UHYs.

Please support the evacuees in our state by connecting with the New York State Refugee Coordinator by calling 518-402-3096 or with our refugee resettlement agencies that include:

<a href="#">USCRI Albany</a>
<a href="#">Jewish Family Services of Western New York</a>
<a href="#">International Institute of Buffalo</a>
<a href="#">Journey's End Refugee Services, Inc.</a>
<a href="#">Catholic Charities of Buffalo</a>
<a href="#">HIAS New York</a>
<a href="#">International Rescue Committee-New York</a>
<a href="#">Catholic Charities Family and Community Services</a>
<a href="#">Catholic Charities of Onondaga County</a>
<a href="#">Interfaith Works of Central New York, Inc.</a>
<a href="#">RISE</a>
<a href="#">The Center</a>
<a href="#">Catholic Charities Community Services</a>
<a href="#">Catholic Charities of Long Island</a>
<a href="#">World Relief Western New York</a>

In addition to contacting the refugee resettlement agencies, above, the New York State Education Department (NYSED) has several offices that can further support LEAs in their implementation of educational services for the recently arrived evacuees, refugees, immigrants and/or unaccompanied children and youth that include:

- The Office of ESSA-Funded Programs – Provides information and support about McKinney-Vento, the rights of students in temporary housing, and strategies that schools can implement to meet such students' needs. For more information, please contact Melanie Faby or Jane Fronheiser at (518) 473-0295 or [conappta@nysed.gov](mailto:conappta@nysed.gov).
- The Office of Bilingual Education and World Languages – Provides information and support to districts that experience a large influx of Multilingual and English Language Learners due to displacement. For more information, please contact the Office of Bilingual Education and World Languages at [obewl@nysed.gov](mailto:obewl@nysed.gov).
- Bilingual Education Provides information and support to districts that experience an increase in their English Language Learner populations via supports and technical assistance offered by 8 Regional Bilingual Education Resource Networks (RBERNs) throughout the State, which include 7 regional RBERNs and 1 Statewide Language RBERN.

- Student Support Services – Provides information and support regarding enrollment and school health services which include health and immunization records. For more information, please contact the Office of Student Support Services at [StudentSupportServices@nysed.gov](mailto:StudentSupportServices@nysed.gov) or call (518) 486-6090.
- Special Education – Provides information and support regarding the special education services for unaccompanied minors. For more information, please contact the Office of Special Education at [speced@nysed.gov](mailto:speced@nysed.gov) or call (518) 473-2878.

The following list provides access to additional guidance documents regarding immigrant students and their eligibility and rights under the McKinney-Vento Act:

- [Information Regarding Serving Students Who are Afghan Evacuees Under the McKinney-Vento Homeless Assistance Act](#)
- [Provision of Educational Services for Recently Arrived Unaccompanied Children and Youth](#)
- [Unaccompanied Immigrant Children Education and Homelessness](#)