

Homeless Student Legislation (2016 – 2020)

By: John D. Moran, Principal Analyst
December 30, 2020 | 2020-R-0357

Issue

Provide a summary of legislation enacted by the Connecticut General Assembly from 2016 to 2020 regarding homeless students in grades pre-kindergarten through 12.

Overview: McKinney–Vento Homeless Assistance Act

Under the federal McKinney–Vento Homeless Assistance Act (“McKinney-Vento”), states must ensure that each homeless child and homeless youth has equal access to the same free, appropriate public education, including public preschool education, as provided to other children. This includes requiring states to take steps to ensure that their laws regarding school district residency do not create obstacles for homeless students to attend school ([42 U.S.C. § 11431](#) et seq.). McKinney-Vento was originally passed in 1987.

From 2016 to 2020, the Connecticut legislature enacted the following laws that address the education rights of homeless students. The changes conform state law with federal law. (No legislation on this issue was enacted in 2020.)

PA 16-100, § 6, An Act Implementing the Recommendations of the Office of Early Childhood

This law expanded the membership of local school readiness councils to include the local homeless education liaison designated by the local or regional board of education under McKinney-Vento. School districts must form these councils to apply for and receive school readiness funding from the state. The councils include municipal, school district, parent, and early childhood program representatives ([CGS § 10-16r](#)).

[PA 17-194](#), § 1, An Act Concerning Access to Student Records for Certain Unaccompanied Youths

This law requires local and regional boards of education to inform certain homeless students of, and provide access to, their educational records, including medical records, in the board's possession ([CGS § 10-253\(f\)](#)). It specifically applies to "unaccompanied youth," as defined under federal law, which includes a homeless child or youth not in the physical custody of a parent or guardian ([42 U.S.C. § 11434a](#)).

By state and federal law, the parents or guardians of a student under age 18 have access to school records for that student (with limited exceptions). Except for the provision mentioned above, only students who are age 18 or older or emancipated have the same rights as adults regarding record access.

[PA 18-172](#), An Act Implementing the Recommendations of the Office of Early Childhood

This 2018 law allows any child care center and group or family child care home to provide child care services to homeless children and youths, as defined under federal law, for up to 90 days without meeting physical examination and immunization requirements. It also requires these centers and homes to keep records of all such children for two years after they leave ([CGS § 19a-79\(e\)](#)).

By state law and regulation, children must, with some exceptions, be adequately immunized, as age-appropriate, against specified illnesses (e.g., tetanus, measles, influenza) in order to attend child care centers and group or family child care homes ([CGS §§ 19a-79 & 19a-87b](#)).

Federal law defines "homeless children and youths" as individuals who lack a fixed, regular, and adequate nighttime residence, and includes those sharing the housing of others due to loss of housing, economic hardship, or a similar reason ([42 U.S.C. § 11434a](#)).

[PA 19-179](#), An Act Concerning Homeless Students' Access to Education

State education law establishes an appeals process when students are denied access to school accommodations, including transportation, to attend a local or regional public school.

[PA 19-179](#) modified that law as follows:

1. adds unaccompanied youth to existing law's appeals process, generally requiring boards of education to notify students of hearings and decisions;
2. modifies the burden of proof in cases where the child is claiming to be homeless; and
3. establishes additional steps that boards must take in the case of a homeless child.

The law uses the federal definition of "unaccompanied youth," which includes a homeless child or youth not in the physical custody of a parent or guardian ([42 U.S.C. § 11434a](#)).

Additionally, it specifically permits unaccompanied and homeless youth to continue attending, or be allowed to enroll in, the school of their choice while the appeals process takes place. These changes are codified at [CGS §§ 10-186](#) & [-253](#).

Existing law (unchanged by [PA 19-179](#)) already permitted this in cases of questioned residency and school accommodation for other types of students.

Public School Accommodation

Under Connecticut's school accommodation law, a school district must provide school accommodation, including transportation, so that each child ages five through 20, who is not a graduate, may attend public school. Additionally, any board of education that denies school accommodation, including denials based on the student not being a school district resident, must inform the child's parents or guardians of their right to a hearing. In the case of an emancipated minor or a student aged 18 or older, the board must notify the student.

[PA 19-179](#) adds to this requirement that in the case of an unaccompanied youth, the board must notify the youth. It also incorporates unaccompanied youths into the appeals process, and specifically requires them to receive appeals notices and hearing and formal session transcripts upon request ([CGS § 10-186](#)).

Burden of Proof

By law, in cases where school access is denied based on residency, the party denied schooling has the burden of proving residency by a preponderance of the evidence in the school district where he or she was denied. The new law changed this only for homeless students. Under the act, if the student claims to be homeless, the party claiming ineligibility has the burden of proving, also by a preponderance of the evidence, that the student denied schooling is not homeless in accordance with the federal law ([CGS § 10-186](#)).

Additional Requirements

[PA 19-179](#) adds specific requirements that a board of education must follow if a homeless child or youth is denied accommodation by the board, a subcommittee, or an impartial hearing board. (Boards of education may use any of those three mechanisms to determine accommodation cases.) The new law requires the board to provide the homeless child or youth, or his or her parent or guardian, with (1) a written explanation of the reasons for the denial that is in a manner and form they can understand and (2) information about the right to appeal the decision. Federal law also imposes these requirements ([42 U.S.C. § 11432\(g\)\(3\)\(E\)](#)).

The board must also refer the child or the child's parent or guardian to the homeless student liaison that each district must designate, as required by federal law.

JM:kc