

# McKinney-Vento 201: Navigating the Finer Points of Implementation in Wisconsin



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# Meet Your Presenters



**Christina Dukes**

Founder and Principal  
Pearl Strategies

[christina@pearlstrats.com](mailto:christina@pearlstrats.com)



**Kristine Nadolski**

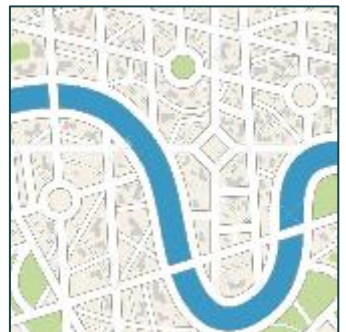
State EHCY Coordinator  
Wisconsin DPI

[Kristine.Nadolski@dpi.wi.gov](mailto:Kristine.Nadolski@dpi.wi.gov)



# Today's Roadmap

- Guiding considerations for navigating advanced homeless education topics
- Advanced homeless education topic framing
- Scenario-based application and discussion
- Q&A





# Guiding Considerations

# Guiding Considerations



- Statutes set the general parameters within which we operate and clarify key legislative concepts and requirements, but may not address nuanced issues explicitly
- Recommendation: If you're not familiar with [McKinney-Vento statute](#) and [guidance](#), you have yourself a breezy beach read waiting for you 😊
- In the absence of a clear position in statute, regulations, or guidance, we find ourselves in “analysis, interpretation, and best practices land”
- Sometimes you'll have some information, but may need to ask questions to gather additional information
- Sometimes multiple issues present themselves in a single scenario; try to separate the issues and consider them one by one
- Sometimes there won't be a clear “correct response”; in those instances, weigh the considerations and make the best decision possible


# Statutes and Guidance

- [Subtitle VII-B of the McKinney-Vento Homeless Assistance Act](#)
- [Education for Homeless Children and Youth \(EHCY\) Program Guidance](#)
- [Other relevant statutes](#)
  - Child Nutrition Act
  - Head Start Act
  - Higher Education Act
  - Individuals with Disabilities Education Act (IDEA)
  - Runaway and Homeless Youth Act
  - Title I, Part A (of the Elementary and Secondary Education Act)
  - **Other statutes you've worked with?**




# Steps for Navigating Advanced Topics

What, if anything, does the law say about this issue?  
If the law addresses the issue, follow the law.  
If the law doesn't address the issue...



What, if anything, does guidance say about this issue?  
If guidance addresses the issue, follow the guidance.  
If guidance doesn't address the issue...



Are there higher-level concepts or “clues” in statute or guidance that might point towards a resolution?  
Prioritize the best interest of the student when “operating in the gray”.

# Common Homeless Education “Advanced Topics”

- Determining eligibility (i.e., if a student meets the definition of *homeless*)
- Best interest determinations (local school vs. school of origin)
- Supporting unaccompanied youth
- Operating at the intersection of multiple statutes (e.g., a student experiencing homelessness with special education needs)
- **Other “201” topics you’ve encountered? (please share via chat or audio)**





**Questions?  
Comments?**



# Framing and Scenarios

# Determining Eligibility Based on the Definition

Children and youth who **lack a fixed, regular, and adequate nighttime residence**, including

- Sharing the housing of other persons, *due to loss of housing, economic hardship, or a similar reason*
- Living in motels, hotels, trailer parks, camping grounds *due to the lack of alternative adequate accommodations*
- Living in emergency or transitional shelters, or abandoned in hospitals
- Living in a public or private place not designed for or ordinarily used as a regular sleeping accommodation
- Living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, *or similar settings*
- Migratory children *living in the above circumstances*

# Eligibility Considerations

- Make eligibility determinations on a case-by-case basis considering the unique circumstances of each student
- Does the student's living arrangement fall under one of the arrangements mentioned in the definition of *homeless*?
- Consider the “finer points” of the definition (e.g. *due to...*)
- If not described explicitly in the definition, is the student living in another type of arrangement that's not fixed, regular, and adequate?
- **Other eligibility considerations? (please share via chat or audio)**

# What Do You Think?

**Since being evicted from their apartment in the Sunrise School District 15 months ago, Ms. Austen and her 5 children have stayed temporarily in the homes of various friends and relatives, mostly in the Horizon School District. In July, they moved in with Ms. Austen's mom in her apartment in the neighboring Sunset School District, where you are the local liaison. You learn from Ms. Austen that she turned down a Section 8 housing option sufficient to accommodate her family because it was in a community where she does not want to live.**

- Would you deem Ms. Austen's children homeless? Yes? No? Not sure?
- What did you consider to help you come to a conclusion?



# School Selection and Best Interest

- Children and youth experiencing homelessness have the right to attend
  - **The school of origin** [42 U.S.C. § 11432(g)(3)(I)(i)]
    - The school that a child or youth attended when permanently housed, or the school in which the child or youth was last enrolled
  - **The local attendance area school** [42 U.S.C. § 11432(g)(3)(A)(ii)]
    - Any public school that non homeless students who live in the attendance area in which the child or youth is actually living are eligible to attend
- **Feeder schools:** When the child or youth completes the final grade level served by the school of origin, the term "school of origin" shall include the designated receiving school at the next grade level for all feeder schools

# Best Interest Determinations

- In determining best interest, the school district shall
  - **Presume** that keeping the child or youth in the school of origin is in the child's or youth's best interest, except when doing so is contrary to the request of the parent, guardian, or unaccompanied youth
  - **Consider student-centered factors** related to the child's or youth's best interest, including factors related to the impact of mobility on achievement, education, health, and safety, giving priority to the request of the parent, guardian, or unaccompanied youth

42 U.S.C. §11432(g)(3)(B)

Resource: [Wisconsin Department of Public Instruction Guidance](#)

# What Do You Think?

**Remember the Austen family? Your district (Sunset) deemed Ms. Austen's 5 children to be McKinney-Vento eligible. 3 of her children are in elementary school and 2 of her children are in middle school. It's August and your district is enrolling students for the coming school year. Ms. Austen tells you she wants all of her children except for one to attend the same schools they attended 15 months ago in the Sunrise School District. She wants to enroll the remaining child in Sunset because he was struggling academically in Sunrise and also was scared to go to school because he said "the kids make fun of me".**

- Do Ms. Austen's children have the right to attend their previous schools in the Sunrise District? Yes? No? Not sure?
- Can her other child attend the local school in the Sunset School District? Yes? No? Not sure?
- How might you go about determining best interest for Ms. Austen's children? What things might you consider?





# What Do You Think?

**In August 2022, Cheryl Fulton enrolled her daughter, Priscilla, in Birch Valley Middle School. Cheryl and her husband had separated over the summer and Cheryl and Priscilla had moved in with her parents in neighboring Chelton County, but Cheryl had wanted Priscilla to finish out her middle school years in her school of origin in Birch Valley.**

**It's now August 2023. Cheryl and Priscilla are still living with Cheryl's parents in Chelton County. Cheryl indicates on the enrollment housing questionnaire that they are still experiencing homelessness and she wants to enroll Priscilla in Birch Valley High School, which Birch Valley Middle School "feeds into".**

- Would you deem Priscilla to be homeless for the 2023-2024 school year? Yes? No? Not sure?
- Can Priscilla attend Birch Valley High School?
- If Priscilla is deemed homeless, how might you go about determining best interest? What things might you consider?



# Supporting Unaccompanied Youth

- The term “unaccompanied youth” includes a homeless child or youth not in the physical custody of a parent or guardian

42 U.S.C. §11434a(6)

- For a student to be an unaccompanied youth, they must be
  1. Experiencing homelessness (in a living arrangement that meets the definition of homeless)

**AND**

  2. Unaccompanied (not in the physical custody of a parent or guardian)



# “But the Student Chose to Leave...”



- A student may be considered an unaccompanied youth regardless of whether the student was forced from the home or ran away
- The cause of student/parent separation may not be disclosed readily due to its sensitive or private nature
- Determinations of McKinney-Vento eligibility for unaccompanied youth should be made on a case-by-case basis focusing on the nature of the student’s nighttime residence, not the cause of student/parent separation

# Unaccompanied Youth Rights and Supports

Unaccompanied youth have the **same educational rights** under the McKinney-Vento Act as students experiencing homelessness with a parent or guardian

- Immediate school enrollment, even if lacking required documentation
- School selection (school of origin or local school)
- School of origin transportation
- Access to the dispute resolution process
- College preparation and readiness assistance
- Comparable services
- Access to special education, if needed
- Title I, Part A services
- Free school meals

# What Do You Think?

**Charlene Winston is a single mom with one son, Andrew. They lived in Thistleton where Andrew attended Independence High School. Charlene recently entered a dual diagnosis rehabilitation center for a minimum of 90 days. In the meantime, Andrew is staying with his grandfather in neighboring Boltonville. Andrew's grandfather lives in a one-bedroom apartment on a fixed income and is concerned about caring for a teenager but feels like he needs to help out, at least for now. He's agreed to let Andrew stay with him for the time being.**

- Is Andrew an unaccompanied youth? Yes? No? Not sure?
- What did you consider to help you come to a conclusion?
- Is Andrew still an unaccompanied youth if his mom is able to sign parental paperwork?



# District Transfers Under IDEA

- Under the Individuals with Disabilities Education Act (IDEA),
  - If a WI student with an established IEP transfers to a different WI LEA, the enrolling LEA must provide the student with services comparable to those in the established IEP, in consultation with the parent(s). The enrolling LEA then has 30 days to either adopt the existing IEP or develop, adopt, and implement a new IEP that is consistent with federal and state law [20 U.S.C. § 1414(d)(2)(C)(i)(I)].
  - If a student with an established IEP transfers to a WI LEA from another state, the enrolling LEA may conduct an evaluation, if necessary, and develop a new IEP, if appropriate, in consultation with the parent(s) [20 U.S.C. § 1414(d)(2)(C)(i)(II)].



# Educational Decision Makers under IDEA

- Under the Individuals with Disabilities Education Act (IDEA), a parent usually serves as the student's educational decision maker
  - IDEA defines parent as
    - a natural, adoptive, or foster parent;
    - a guardian (but not the state if the child is a ward of the state);
    - an individual acting in the place of a natural or adoptive parent with whom the child lives, or an individual who is legally responsible for the child's welfare
- 20 U.S.C. § 1401(23)
- For unaccompanied youth who do not have a parent who is willing and/or able to act as educational decision maker:
    - A **surrogate parent**, who may not be involved with the care or education of the child, should be appointed within 30 days [20 U.S.C. § 1415(b)(2)(B)]
    - A **temporary surrogate parent**, who may be involved with the care or education of the child, may be appointed immediately [34 C.F.R. § 300.519(f)]

# What Do You Think?

**You are the local liaison for Boltonville Public Schools. Andrew shows up to enroll in Creedence High School. After learning about his situation, you deem Andrew an unaccompanied youth. You're comfortable allowing his grandfather to enroll him in school; but, you learn that Andrew has a special education Individualized Education Plan (IEP) and aren't sure what next steps to take to make sure Andrew gets special education services.**

- Does Boltonville Public Schools have to adopt Andrew's IEP from Thistleton Public Schools or can Boltonville write a new IEP for Andrew?
- Who could serve as educational decisionmaker for Andrew for special education purposes (e.g. attending IEP meetings, approving IEPs, etc.)?





# What Do You Think?

**You realize Andrew's grandfather meets the IDEA definition of parent and can serve as his special education decision maker. You (the Boltonville Public Schools local liaison) and BPS special education staff meet with Andrew's grandfather to discuss his IEP. During the meeting, Andrew's grandfather mentions that his mom said he was doing well under his IEP in Thistleton and asks if he can keep going to Independence High School.**

- Can Andrew continue attending Independence High School? Yes? No? Not sure?
- How do you go about determining the school that is in Andrew's best interest?
- If Andrew continues attending in Thistleton, which district pays for transportation? Which program pays for transportation (homeless education or special education)?



**Questions?  
Comments?**

# What if We Disagree?

- If, after conducting the best interest determination, the district determines that it is not in the student's best interest to attend the school requested by the parent, guardian, or unaccompanied youth
  - The district must provide the parent, guardian, or unaccompanied youth with a **written explanation** of the reasons for its determination...
  - in a **manner and form understandable** to the parent, guardian, or unaccompanied youth...
  - including information regarding the **right to appeal** [42 U.S.C. §11432(g)(3)(B)]
- The child or youth shall be **immediately enrolled** in the school in which enrollment is sought, pending final resolution of the dispute, including all available appeals [42 U.S.C. § 11432(g)(3)(E)(i)]

# Dispute Resolution in Wisconsin

1. Informal Resolution
2. District Dispute Resolution Process
3. DPI's State Education for Homeless Children and Youth Program Resolution

Resource: [Wisconsin DPI Dispute Resolution Guidance](#)

# For More Information

- [Wisconsin Education for Homeless Children and Youth Program webpage](#)
- [SchoolHouse Connection website](#)
- [National Center for Homeless Education website](#)
- [U.S. Department of Education EHCY Program Non-Regulatory Guidance](#)
- [U.S. Department of Education ARP-HCY webpage](#)



# Thanks for Joining!



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Founder and Principal

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[christina@pearlstrats.com](mailto:christina@pearlstrats.com)



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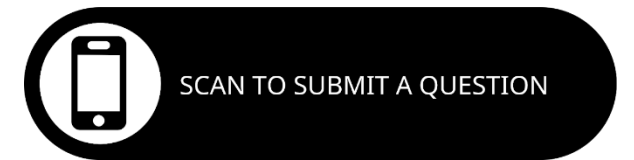
State EHCY Coordinator

Wisconsin DPI

[Kristine.Nadolski@dpi.wi.gov](mailto:Kristine.Nadolski@dpi.wi.gov)



Have a remaining question?



Your question may be shared anonymously and answered in tomorrow's live Q&A session.