

Frequently Asked Questions: Fostering Connections, McKinney-Vento and Children in Out-of-Home Care

The McKinney-Vento Homeless Assistance Act (McKinney-Vento) provides educational stability for some children in out-of-home care, and the Fostering Connections to Success and Increasing Adoptions Act (Fostering Connections) supports educational stability for all children in out-of-home care. Both laws recognize the need for school stability and continuity for these highly mobile children, but each provides a different set of rights and responsibilities. This FAQ provides an overview of the overlap between the two laws, and the importance of collaboration between the education and child welfare systems, including Child Welfare Case Management Providers (CWCMPs), to appropriately serve the needs of children in out-of-home care.

Question:

Who is eligible under each law and can some children be eligible under both?

Answer:

Homeless children are eligible for McKinney-Vento and children in foster care are eligible for Fostering Connections. If a child is in out-of-home care and also meets the definition of awaiting foster care placement, both Fostering Connections and McKinney-Vento apply. The application of one law does not diminish the rights provided by the others. Rather, each law adds a layer of rights and protections for children, based on their circumstance and needs.

Question:

Does Fostering Connections impact eligibility for McKinney-Vento protections for children in out-of-home care?

Answer:

No. The passage of Fostering Connections, a child welfare law, does not change the rights and protections of McKinney-Vento. Children in out-of-home care may continue to be eligible under McKinney-Vento if they are living in transitional or emergency shelters, are “awaiting foster care placement,” or are unaccompanied homeless youth.

Question:

What educational rights do the Fostering Connections Act and the McKinney-Vento Act provide for children in out-of-home care? Who is eligible? How do the two laws overlap?

Answer:

The chart on page 2 summarizes the educational rights available under each law, who is eligible, and the overlap between the laws in terms of rights and who is covered.



Law	Eligibility	Rights		
		Remain in School	Transportation	Immediate Enrollment and Expedited Records Transfer
McKinney-Vento Homeless Assistance Act	Homeless children, including: children in emergency or transitional shelters, unaccompanied homeless youth, or those “awaiting foster care placement” as defined by state or school district policy or at the discretion of the McKinney-Vento Liaison.	If in their best interest, children are entitled to remain in their school of origin unless their parent disagrees.	Local Education Agencies (LEAs) are required to provide or arrange transportation to the school of origin, if necessary. (When disputes between LEAs arise, they must split the cost.)	Schools must enroll children immediately, even without typically required documents (e.g. birth certificate, immunization record). Schools must maintain records so they are available in a timely fashion when a child enters a new school or school district.
Fostering Connections to Success and Increasing Adoptions Act of 2008	Every child in out-of-home care.	Unless not in the child’s best interest, the CWCMP must work with the education agency to ensure child can remain in their school at the time of placement. Legislative intent of providing school stability and continuity justifies not only a child’s initial placement into out-of-home care, but each subsequent move while in care. Appropriateness of the educational setting is addressed at each case planning conference.	No specific mandate, but for IV-E eligible children in out-of-home care, “foster care maintenance payments” may include reasonable transportation to a child’s school. Legislative intent of providing children in foster care with school stability and continuity implies that CWCMPs responsibility to “ensure” school stability for children in foster care includes providing transportation to the child’s school when necessary and appropriate.	When staying in the same school is not in the child’s best interest, CWCMPs and LEAs must provide immediate and appropriate enrollment in a new school, with all of the education records of the child provided to the school. In Kansas, the CWCMPs use the Educational Enrollment Information Form (EEIF).
McKinney-Vento AND Fostering Connections	Children in out-of-home care who are McKinney eligible including: children in emergency or transitional shelters, unaccompanied homeless youth, and those “awaiting foster care placement.”	Unless not in the child’s best interest, the CWCMPs and the McKinney Vento liaison must work together to ensure child remains in the school of origin. While both CWCMPs and McKinney-Vento liaisons must determine what is best for the child, if the child is being found eligible under McKinney-Vento, the McKinney-Vento liaison oversees the final decision. If disagreement occurs, the McKinney-Vento dispute procedures can be followed.	Unless another state or local agreement exists between education and CWCMPs, LEA must provide transportation to the school of origin, if necessary.	CWCMPs and education agency must work together to ensure immediate enrollment, even without typically required documents, and to expedite record transfers. In Kansas, the CWCMPs use the EEIF.

Question:

How should best interest school selection decisions be made under Fostering Connections and McKinney-Vento and who should make these determinations?

Answer:

The passage of Fostering Connections, a child welfare law, does not change in any way the best interest determination for children who qualify for McKinney-Vento. This decision is still made by the McKinney-Vento liaison. Just as before, best practice suggests that the McKinney-Vento liaison should gather information about a child from the child, foster parent, child’s caseworker and child advocate or attorney in making a best interest determination. While the input of a case manager is very critical in making a best interest determination under the McKinney-Vento Act, it is only the McKinney-Vento liaison and parent who will ultimately make this decision.

However, when a child in out-of-home care is not eligible for McKinney-Vento, the rights of Fostering Connections still apply. The CWCMPs assess educational needs and appropriateness of the educational setting with the Case Planning Team at each Case Planning Conference, which is held within 20 days of out-of-home placement and at least every 170 days thereafter. Best practice would suggest that education agency staff should be a part of the Case Planning Team and consulted regarding these decisions.

Question:

What is the role of the parent in making education decisions?

Answer:

Unless a court has limited a parent’s education rights, the parent continues to be the decision maker for all special and general education decisions. This is true under both Fostering Connections and McKinney-Vento.

Question:

How is transportation covered under both laws?

Answer:

Children in care who are eligible under McKinney-Vento and require transportation to remain in their schools of origin are still entitled to transportation under McKinney-Vento by the education agency. CWCMPs should collaborate to support these efforts as much as possible. For children in care not eligible under McKinney-Vento, CWCMPs may need to provide transportation to comply with the requirement to keep children in the same school when it is in a child’s best interest.

Adapted from American Bar Association & Casey Family Programs “Foster Care and Education Q & A.” See also <http://ksde.org/LinkClick.aspx?fileticket=PBjfHeX34mE%3d&tabid=372&mid=10709> and <http://ksde.org/Default.aspx?tabid=372>