



## **LEGAL REQUIREMENTS TO USE STATE AND LOCAL MCKINNEY-VENTO FUNDS TO BENEFIT HOMELESS CHILDREN AND YOUTH EXCLUSIVELY**

While consolidating some federal funds may be an appropriate and legal approach to serve students and schools, funding for students experiencing homelessness must be used specifically for those students. The McKinney-Vento Act is not part of the Elementary and Secondary Education Act. It is separate legislation intended for the exclusive benefit of children and youth experiencing homelessness.

The McKinney-Vento Act provides funding to states “to enable such States to carry out the activities described in subsections (d) through (g).” 42 U.S.C. §11432(a). Those activities are the only allowable uses for McKinney-Vento funds. The activities described in subsections (d) through (g) are very specific and benefit students experiencing homelessness exclusively.

States draft and submit state plans to describe their specific McKinney-Vento Act activities from among those authorized. McKinney-Vento plans must “provide for the education of homeless children and youths within the State.” 42 U.S.C. §11432(g)(1). Providing services to homeless children and youth is the exclusive purpose of the McKinney-Vento Act. The McKinney-Vento Act goes on to define the precise elements required in state plans, all of which are specifically intended to benefit homeless students, exclusively. Therefore, funds reserved by the state must be used only for supporting permitted statewide activities to support homeless children and youth.

A portion of McKinney-Vento funding must be distributed “in subgrants to local educational agencies for the purposes of carrying out section 723.” 42 U.S.C. §11432(e)(1). Section 723 specifies that those subgrants are “for the purpose of facilitating the identification, enrollment, attendance, and success in school of homeless children and youths.” 42 U.S.C. §11433(a)(1). Again, this purpose is explicit and exclusive. The vehicle for “facilitating the identification, enrollment, attendance, and success in school of homeless children and youths” can include “existing programs and mechanisms that integrate homeless children and youths with nonhomeless children and youths.” However, the exclusive allowable purpose of subgrant funds is to benefit homeless children and youth.

Examples of appropriate uses of McKinney-Vento subgrant funds through an existing program or mechanism that integrates homeless and non-homeless youth would include providing a homeless student with uniforms or gear for an extra-curricular activity; paying a fee for a lab or other class that requires a fee; or supporting homeless students in accessing existing academic enrichment activities. McKinney-Vento funds cannot be used to support extra-curricular activities, labs or other classes, or academic enrichment activities for non-homeless students. Such uses of funds would violate the requirement that subgrants be used “for the purpose of facilitating the identification, enrollment, attendance, and success in school of homeless children and youths.” 42 U.S.C. §11433(a)(1).



The limitation on allowable uses of McKinney-Vento subgrant funds is reiterated in the subsection describing authorized activities for subgrants. That subsection states that “[a] local educational agency may use funds awarded under this section for activities that carry out the purpose of this subtitle.” 42 U.S.C. §11433(d). The subtitle is the education subtitle of the McKinney-Vento Homeless Assistance Act. Notably, the subtitle is not part of the Elementary and Secondary Education Act (ESEA). The McKinney-Vento Act is separate legislation designed exclusively to benefit individuals experiencing homelessness.

The state McKinney-Vento plan also must describe how the state will ensure that local educational agencies comply with the statute. 42 U.S.C. §11432(g)(2)(a). The state educational agency is responsible for ensuring that McKinney-Vento subgrant funds are used in accordance with the purpose established in the law. If a local educational agency is using McKinney-Vento funds for purposes that are beyond the allowable purpose of “facilitating the identification, enrollment, attendance, and success in school of homeless children and youths,” the SEA must instruct the LEA to cease those expenditures and replenish the inappropriately used funds. If necessary, the SEA may include a clear prohibition on consolidation and other inappropriate uses of funds in the McKinney-Vento subgrant application, to ensure LEAs are clear on allowable uses of funds.