

# REGULATION GUIDE

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Education of Homeless Children **and Youths**

Sep 23

[See **POLICY ALERT** Nos. 210, 211, and 231]

## R 5116 EDUCATION OF HOMELESS CHILDREN AND YOUTHS

### A. Definitions – (N.J.A.C. 6A:17-1.2)

1. **“Best interest determination” means the school placement decision made by Division of Child Protection and Permanency (DCP&P) based on the factors considered, as set forth at N.J.S.A. 30:4C-26b.**
2. **“Career or technical education” or “CTE” means as defined in N.J.A.C. 6A:19-1.2.**
3. **“DCP&P” means the Division of Child Protection and Permanency, which is a division in the New Jersey Department of Children and Families (DCF) that is responsible for the placement of children in resource family care, pursuant to N.J.S.A. 30:4C-26b.**
4. **“Educational stability school district notification” means the notification provided by DCP&P to the school district, pursuant to N.J.S.A. 30:4C-26b.h.**
5. **“Enroll” or “enrollment” means attending classes and participating fully in school activities.**
6. **“Homeless child” means a child or youth who lacks a fixed, regular, and adequate residence, pursuant to N.J.S.A. 18A:7B-12, N.J.A.C. 6A:17-2.2, and B. below.**
7. **“Immediate” or “immediately” means at the instant the need for placement is made known.**
8. **“Parent” means the natural or adoptive parent, legal guardian, resource family care parent, surrogate parent, or person acting in the place of a parent, such as the person with whom the child legally resides or a person legally responsible for the child’s welfare.**



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9. **“Point of contact” means the employee identified in each school district who facilitates all activities needed to ensure enrollment and attendance of children in resource family care.**
  
10. **“Resource family care” means twenty-four-hour substitute care for children placed away from their parent(s) and for whom DCP&P has placement and care responsibility. The term is synonymous with “foster care” as defined in the Federal Elementary and Secondary Education Act (ESEA), as reauthorized by the Every Student Succeeds Act (ESSA), and includes “resource family home” found elsewhere in the New Jersey Administrative Code and in the New Jersey Statutes Annotated.**
  
11. **“School district liaison for the education of homeless children and youths” means the person identified in each school district who facilitates all activities needed to ensure the enrollment and attendance of homeless children and youths.**
  
12. **“School district of residence” for a homeless child or youth means the school district in which the parent of a homeless child or youth resided prior to becoming homeless. It may not be the school district in which the student currently resides. This term is synonymous with “school district or origin” referenced in the McKinney-Vento Homeless Education Assistance Act. “School district of residence” for a student in a State facility means the school district in which the parent with whom the student lived prior to placement in a State facility currently resides, pursuant to N.J.S.A. 18A:7B-12.b. In the case of a child placed in resource family care prior to September 9, 2010, in accordance with N.J.S.A. 18A:7B-12, the “school district of residence” means the school district in which the resource family care parent(s) resides. In the case of a child placed in resource family care on or after September 9, 2010, in accordance with N.J.S.A. 18A:7B-12, the “school district of resident” means the present school district of residence of the parent(s) with whom the child lived prior to the most recent placement in resource family care.**



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13. **“School of origin” for a child in resource family care means the school district in which a child was enrolled prior to a change in the child’s care, custody, or guardianship. If a child’s resource family care placement changes, the school or origin would then be considered the school district in which the child is enrolled at the time of the placement change.**
14. **“State agency” means the New Jersey Department of Human Services, the New Jersey Department of Correction, the New Jersey Department of Children and Families, or the New Jersey Juvenile Justice Commission.**
15. **“State facility” means residential and day programs operated by, contracted with, or specified by the New Jersey Department of Human Services, the New Jersey Department of Correction, the New Jersey Department of Children and Families, or the New Jersey Juvenile Justice Commission.**
16. **“Transitional living facility” means a temporary facility that provides housing to a child due to domestic violence, pursuant to N.J.S.A. 18A:7B-12.1.**
17. **“Unaccompanied youth” means a youth not in the physical custody of a parent at the time of enrollment.**
- ~~1. “School district liaison for the education of homeless children” means the person identified in the school district that facilitates all activities needed to ensure the enrollment and attendance of homeless children.~~
- ~~2. “School district of residence” for a homeless child means the school district in which the parent of a homeless child resided prior to becoming homeless. It may not be the school district in which the student currently resides. This is synonymous with the term “school district of origin” referenced in the McKinney-Vento Homeless Education Assistance Act. “School district of residence” for a student in a State facility means the school district in which the parent with whom the student lived prior to placement in a State facility currently resides pursuant to N.J.S.A. 18A:7B-12.b.~~



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3. ~~“Homeless child” means a child or youth who lacks a fixed, regular, and adequate residence, pursuant to N.J.S.A. 18A:7B-12 and N.J.A.C. 6A:17-2.2.~~
4. ~~“Immediate” or “immediately” means at the instant the need for placement is made known.~~
5. ~~“Parent” means the natural or adoptive parent, legal guardian, foster parent, surrogate parent, or person acting in the place of a parent such as the person with whom the child legally resides or a person legally responsible for the child’s welfare.~~
6. ~~“Superintendent” means Superintendent and/or Chief School Administrator.~~

B. Determination of Homelessness – (N.J.A.C. 6A:17-2.2)

1. The Board of Education **for the school district of residence** shall determine that a child **or youth** is homeless for the purposes of N.J.A.C. 6A:17-2, **Policy 5116, and this Regulation** when **the child or youth** ~~he or she~~ resides in any of the following:
  - a. A publicly or privately operated shelter designed to provide temporary living accommodations, including: hotels or motels; congregate shelters, including domestic violence and runaway shelters; transitional housing; and homes for adolescent mothers;
  - b. A public or private place not designated for or ordinarily used as a regular sleeping accommodation, including: cars or other vehicles including mobile homes; tents or other temporary shelters; parks; abandoned buildings; bus or train stations; or temporary shelters provided to migrant workers and their children on farm sites;
  - c. The residence of relatives or friends where the homeless child **or youth** resides out of necessity because **their** ~~his or her~~ family lacks a regular or permanent residence of its own; or
  - d. Substandard housing.



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C. Responsibilities of the School District of Residence – ~~(N.J.A.C. 6A:17-2.3)~~

1. The school district of residence for a homeless child **or youth shall be** is responsible for the education of the child and shall:
  - a. Determine the school district in which the child shall be enrolled after consulting with the parent pursuant to N.J.A.C. 6A:17-2.5 **and E. below**;
  - b. Pay the cost of tuition pursuant to N.J.S.A. 18A:38-19, when the child attends school in another school district; and
  - c. Provide for transportation for the child pursuant to N.J.A.C. 6A:27-6.2.
2. The determination of the homeless child's **or youth's** school district of residence shall be made by the Superintendent of the school district of residence or designee, pursuant to N.J.A.C. 6A:17-2.4 **and D. below** based upon information received from the parent, ~~the Department of Human Services or the Department of Children and Families~~; a shelter provider, another school district, **or** an involved agency, ~~or a case manager~~.
3. The **school** district ~~Board of Education~~ identified in accordance with N.J.S.A. 18A:7B-12 as the school district of residence for a homeless child **or youth** shall be the school district of residence until the parent establishes a permanent residence. Financial responsibility will remain with the homeless child's school district of residence until the family is deemed domiciled in another jurisdiction, pursuant to N.J.S.A. 18A:38-1.d.

D. Designation of School District Liaisons and Their Responsibilities – (N.J.A.C. 6A:17-2.4)

1. The Superintendent identifies \_\_\_\_\_ as the **school** district liaison for the education of homeless children **or youths**. The school district liaison shall:



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- a. Facilitate communication and cooperation between the school district of residence and the school district where the homeless child **or youth** resides;
- b. Develop procedures to ensure a homeless child **or youth** residing in the school district is enrolled and attending school pursuant to N.J.A.C. 6A:17-2.5 **and E. below**;
- c. Ensure homeless families, children, and youths receive educational services for which they are eligible, including Head Start ~~and Even Start~~ programs, preschool programs administered by the **Board** ~~local education agency~~, and referrals to health care, dental, mental health, and other appropriate services;
- d. Inform parents of homeless children and youths of the educational and related opportunities available to their children and ensure that **parents** ~~they~~ are provided with meaningful opportunities to participate in the education of their children;
- e. Ensure that public notice of the educational rights of homeless children and youths is disseminated where such children receive services, such as schools, family shelters, and soup kitchens;
- f. Ensure enrollment disputes are resolved pursuant to N.J.A.C. 6A:17-2.7 **and G. below**;
- g. Ensure the parent of a homeless child or youth, or any unaccompanied youth, is fully informed of all transportation services, including transportation to the school district of residence, and is assisted in accessing transportation to the school selected under N.J.A.C. 6A:17-2.5 **and E. below**;
- h. Assist the parent to obtain the homeless child's or youth's medical records or required immunizations; and



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- i. Assist an unaccompanied youth to ensure **the youth** ~~he or she~~ is enrolled **in**, and is receiving, all services pursuant to N.J.A.C. 6A:17, **Policy 5116, and this Regulation.**
  2. When a homeless child **or youth** resides in a school district, the **school** district liaison shall notify the liaison of the school district of residence within twenty-four hours of receiving notification from the parent, ~~the Department of Human Services or the Department of Children and Families,~~ a shelter director, **or** an involved agency, ~~or a case manager.~~
  3. Upon notification of the need for enrollment of a homeless child **or youth**, the liaison in the school district of residence shall coordinate enrollment procedures immediately based upon the best interest of the child, pursuant to N.J.A.C. 6A:17-2.5(b) **and E.2. below.**
- E. School District Enrollment – ~~(N.J.A.C. 6A:17-2.5)~~
1. The Superintendent of the school district of residence or designee shall decide in which **school** district the homeless child **or youth** shall be enrolled as follows:
    - a. Enroll the homeless child **or youth** in the school district of residence to the extent feasible, except when doing so is contrary to the wishes of the homeless child's **or youth's** parent;
    - b. Continue the homeless child's **or youth's** education in the school district of last attendance if it is not the school district of residence; or
    - c. Enroll the homeless child in the school district where the child resides.
  2. The Superintendent of the school district of residence or designee shall decide the school district of enrollment of a homeless child **or youth** based on what is determined to be in the best interest of the child **or youth** after considering:



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- a. The enrollment of the homeless child **or youth** in the school district of residence to the extent feasible, except when doing so is contrary to the wishes of the child's **or youth's** parent.
  - b. The continuity of the child's educational program;
  - c. The eligibility of the child for special instructional programs, including, but not limited to, bilingual, gifted and talented, special education, early childhood, and career and technical education programs; and
  - d. The distance, travel time, and safety factors in coordinating transportation services from the residence to the school.
3. The Superintendent of the school district of residence or designee shall determine the child's **or youth's** school district of enrollment immediately after consultation with the parent. The school district of residence shall adhere to the following procedures:
- a. Enrollment decisions shall be made immediately upon notification of the need for enrollment. When the decision is made, the child **or youth shall** ~~will~~ be enrolled immediately. If a dispute arises regarding enrollment of a homeless child **or youth**, the homeless child **or youth** shall be immediately enrolled in the school district in which enrollment is sought by the parent, pending resolution of the dispute pursuant to N.J.A.C. 6A:17-2.7 **and G. below**.
  - b. Consultation with the parent regarding the enrollment decision and the right to appeal the decision shall be documented in writing.
  - c. A decision to enroll a homeless child **or youth** in a school district other than the school district of residence or the school district requested by the parent shall be explained in writing and provided to the parent.





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4. When a decision is made to enroll the child **or youth** in a school district other than the school district of residence, the Superintendent or designee of the school district of residence shall forward to the new school district all relevant school and health records consistent with the provisions of N.J.A.C. 6A:32-7, ~~School District Operations~~.
5. When a homeless child **or youth** with a disability is enrolled in a school district other than the school district of residence, the school district of enrollment shall treat the student as a transfer student pursuant to N.J.A.C. 6A:14, Special Education.
6. When the school district of residence for a homeless child **or youth** cannot be determined, the Superintendent or designee of the school district in which the child **or youth** currently resides shall enroll the child **or youth** immediately in the school district of the current residence or the school district of last attendance.
7. The school district selected pursuant to N.J.A.C. 6A:17-2, **Policy 5116, and this Regulation** shall immediately enroll the homeless child or youth, even if the child or youth is unable to produce records normally required for enrollment such as previous academic records, medical records, proof of residency, or other documentation.
8. Enrollment in the school district of residence; **enrollment in** the school district of last attendance, if not the school district of residence; **or enrollment in** the school district where the child **or youth** resides shall continue for the duration of homelessness, including when a family becomes homeless between academic years, and also for the remainder of the academic year if the homeless child **or youth** becomes permanently housed during the academic year.

F. Parental Rights – (N.J.A.C. 6A:17-2.6)

1. Unless parental rights have been terminated by a court of competent jurisdiction, the parent retains all rights under N.J.A.C. 6A:17-2.1 ~~et seq~~, **Policy 5116, and this Regulation**.



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G. Disputes and Appeals – (N.J.A.C. 6A:17-2.7)

1. When a dispute occurs regarding the determination of homelessness or the determination of the school district of enrollment made by the school district of residence, the Superintendent(s) or designee(s) of the involved school district(s) or the child's **or youth's** parent(s) shall immediately notify the Executive County Superintendent. ~~of Schools, who, in~~ consultation with the **New Jersey Department's of Education's (NJDOE) McKinney-Vento Homeless Education Coordinator or the Coordinator's designee, the Executive County Superintendent** shall immediately decide the child's **or youth's** status. If a dispute remains between the parent and the involved school district(s) following the Executive County Superintendent's determination, the parent or the involved district Board(s) of Education may appeal to the Commissioner of Education for a determination pursuant to N.J.A.C. 6A:3, Controversies and Disputes.
2. When a school district designated as the school district of residence disputes its designation as the school district of residence, or where no designation can be agreed upon by the involved school districts, the Superintendent(s) or designee(s) of the involved school districts shall immediately notify the Executive County Superintendent ~~of Schools,;~~ **The Executive County Superintendent** ~~who~~ shall make a determination immediately, if possible, but no later than within forty-eight hours **and, when necessary, in consultation with the NJDOE's Homeless Education Coordinator, or the Coordinator's designee.**
  - a. If the dispute regarding determination of **the school** district of residence does not involve the determination of homelessness and/or **school** district of enrollment, the school district disputing the Executive County Superintendent's determination may appeal to the **NJDOE Department of Education** pursuant to N.J.A.C. 6A:23A-19.2(d), (e), and (f), and request a determination from the Division of ~~Administration and Finance.~~



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- b. If an appeal of a determination of **the school** district of residence also includes an appeal of the determination of homelessness and/or school district of enrollment, the appeal shall be submitted to the Commissioner pursuant to N.J.A.C. 6A:3, Controversies and Disputes.
  3. Any dispute or appeal shall not delay the homeless child's **or youth's** immediate enrollment or continued enrollment in the school district. The homeless child **or youth** shall be enrolled in the school district in which enrollment or continued enrollment is sought by the parent, pending resolution of the dispute or appeal.
  4. Disputes and appeals involving the services provided to a homeless child **or youth** with a disability shall be made pursuant to N.J.A.C. 6A:14.
- H. Tuition – (N.J.A.C. 6A:17-2.8)
  1. When the homeless child **or youth** is enrolled in a school district other than the school district of residence, the school district of residence shall pay to the school district of enrollment the tuition costs pursuant to N.J.S.A. 18A:38-19 until the parent establishes a permanent residence or is deemed domiciled in another jurisdiction pursuant to N.J.S.A. 18A:38-1.d. At that time, the school district of residence **or the school district in which the parent has been deemed domiciled** shall ~~no longer~~ pay tuition to the school district of enrollment.
  2. The school district of residence shall list the child on its annual Application for State School Aid (ASSA) pursuant to N.J.S.A. 18A:7F-33 until the parent establishes a permanent residence or is deemed domiciled in another jurisdiction pursuant to N.J.S.A. 18A:38-1.d. At that time, the school district of residence **or the school district in which the parent has been deemed domiciled** shall ~~no longer~~ list the student on its ASSA.



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3. The State shall assume fiscal responsibility for the tuition of the child **or youth** pursuant to N.J.S.A. 18A:7B-12.1 and shall pay the tuition to the school district in which the child **or youth** is currently enrolled until the parent establishes a permanent residence or is deemed domiciled in another jurisdiction pursuant to N.J.S.A. 18A:38-1.d., under the following circumstances:
  - a. If the school district of residence cannot be determined for the homeless child **or youth**;
  - b. If the school district of residence is outside of the State; or
  - c. If a child **or youth** resides in a **domestic violence shelter, homeless shelter, Department of Community Affairs-licensed emergency shelter** or transitional living facility **located in a school district other than the school district of residence due to domestic violence** for more than a year **during** ~~combined for the duration of~~ the placement pursuant to N.J.S.A. 18A:7B-12.d. **and 12.1.**
  
- 4.(1) When the State assumes fiscal responsibility for the tuition of a homeless child **or youth under the circumstances at N.J.A.C. 6A:17-2.8(c) and H.3. above**, the State shall pay to the school district in which the child **or youth** is enrolled the weighted base per pupil amount calculated pursuant to N.J.S.A. 18A:7F-49, and the appropriate security and special education categorical aids per pupil pursuant to N.J.S.A. 18A:7F-55 and 56.

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