



Students Experiencing Homelessness Who Have Disabilities

What families, caregivers, youth on their own, and Educational Support Coaches need to know about how the McKinney-Vento Act, IDEA, and Illinois law fit together.

When a student with a disability loses stable housing, McKinney-Vento protects school access and stability, while IDEA protects the student's right to be identified, evaluated, and served through an IEP. Both laws can apply at the same time.

1 Who the law covers

Under federal law, a child or youth is homeless when they do not have a fixed, regular, and adequate place to sleep at night. The focus is where the student sleeps, not why the family lost housing. This includes students who are:

- Staying with other people because the family lost housing or cannot afford housing (often called doubled up)
- Staying in a motel, hotel, trailer park, or campground because there is nowhere else to go
- Staying in an emergency, transitional, or domestic violence shelter
- Sleeping in a car, park, bus or train station, abandoned building, or another place not meant for sleeping
- Living in unsafe or inadequate housing, or living as a migratory child in one of these situations

42 USC 11434a(2). Illinois uses a similar definition at 105 ILCS 45/1-5.

Two terms worth knowing

Unaccompanied youth means a young person who is not in the physical custody of a parent or guardian and who meets the homelessness definition above.

At risk of becoming homeless is an Illinois term for a family with documentation showing that housing will stop being fixed, regular, and adequate within eight weeks. Districts may, but do not have to, offer prevention help.

42 USC 11434a(6); 105 ILCS 45/1-17

The link families most often miss

IDEA uses the same homelessness definition as McKinney-Vento. A student who qualifies as homeless for enrollment also counts as homeless in the special education process. States receiving IDEA funds must ensure McKinney-Vento is followed for students with disabilities who are homeless.

34 CFR 300.19; 20 USC 1412(a)(11)(A)(iii); 34 CFR 300.149(a)(3)

How the two laws divide the work

If the question is...	The answer comes from...
Which school does my child attend, and how does my child get there?	McKinney-Vento and the Illinois Education for Homeless Children Act
Does my child qualify for special education, and what goes in the IEP?	IDEA and Article 14 of the Illinois School Code
Who can sign when a young person is living apart from a parent?	Both: IDEA sets the surrogate parent rule, and McKinney-Vento defines unaccompanied youth
What happens to services when my child changes schools midyear?	Both: McKinney-Vento protects school choice, and IDEA requires comparable services

2 Staying in school, enrolling, and getting there

SCHOOL OF ORIGIN

The choice starts with the family

The school of origin is the school the student attended when last housed, or the last school enrolled in. It includes preschool and the next school in a feeder pattern after the student completes the top grade.

The student may stay there while homeless and through the end of the school year in which permanent housing is found. The family may instead choose a school available to students living in the current neighborhood.

42 USC 11432(g)(3)(A), (g)(3)(I); 105 ILCS 45/1-5, 45/1-10

IMMEDIATE ENROLLMENT

Paperwork does not come first

The school must enroll the student right away, even without records normally required for enrollment, such as school, medical, or address records. Enrollment means attending class and participating fully in school activities.

The new school must then contact the prior school for records and address any required immunizations. Missing paperwork is not a reason to keep a student out.

42 USC 11432(g)(3)(C), 11434a(1); 105 ILCS 45/1-20

If the school disagrees with the family's choice

The district must determine the student's best interest, beginning with the presumption that staying in the school of origin is best. It must consider factors specific to the student and give weight to what the parent, guardian, or unaccompanied youth wants. If the district still says no, it must provide a written explanation and information about how to appeal.

42 USC 11432(g)(3)(B)

Getting to the school of origin

If the family asks, the district must arrange transportation to the school of origin. For an unaccompanied youth, the homeless liaison makes the request. Transportation continues through the end of the school year in which permanent housing is found. If the student lives in another district, Illinois law addresses how the districts divide transportation costs. If the ride is longer than one hour each way, a meeting must be held to consider whether the trip is in the student's best interest.

42 USC 11432(g)(1)(J)(iii); 105 ILCS 45/1-15

Two more protections that come up often

Privacy. Information about where a student is living is part of the education record and is not directory information.

Doubled up families. After 18 months, and annually after that, an Illinois district may review whether the housing hardship continues. If it decides the hardship has ended, the family must receive written notice and the dispute process. Any change takes effect only at the end of the school year.

42 USC 11432(g)(3)(G); 105 ILCS 45/1-25(a-5)

3 What happens to the IEP when a student moves

Housing instability can mean changing schools more than once in a year. IDEA includes protections intended to keep special education services from stopping when a student enrolls in a new school during the same school year.

Moving to a new district inside Illinois

The new district must provide services comparable to the old IEP, working with the parent, until it adopts the old IEP or develops and begins a new one. 34 CFR 300.323(e)

Moving to Illinois from another state

The new district must provide comparable services while working with the parent. If it decides an evaluation is needed, it completes the evaluation and develops a new IEP if appropriate. 34 CFR 300.323(f)

Records

The new district must take reasonable steps to obtain the student's records quickly, including the IEP, and the old district must respond promptly. 34 CFR 300.323(g)

Comparable is not the same as final

Comparable services are a bridge while the new team catches up. Families can ask in writing when the district plans to adopt the old IEP or hold a meeting to develop a new one.

4 Finding students, asking for an evaluation, and timelines

- **Child Find names homeless students directly.** States and districts must find, locate, and evaluate children with disabilities who need special education, including children who are homeless.
- **Anyone can start the process.** A parent, guardian, or surrogate parent can request an evaluation in writing at any time. School staff, including the homeless liaison, can also make a request.
- **Illinois gives the district 14 school days to respond.** That is the window to decide whether it will evaluate.
- **Then the 60 school day clock starts.** The eligibility decision and first IEP meeting must occur within 60 school days after the parent gives written consent. If consent is provided with fewer than 60 school days left in the year, the work must be completed before the first day of the next school year.
- **Moving does not automatically restart the clock.** The federal exception applies only when the new district is making sufficient progress and the parent and district agree to a specific completion date.
- **Being homeless is not a disability.** Housing instability can affect attendance, attention, behavior, and learning, but an evaluation asks whether there is a disability and whether the student needs specially designed instruction.

34 CFR 300.111(a)(1)(i); 34 CFR 300.301(b), (d)(2), (e); 23 IAC 226.110(c)(3); 105 ILCS 5/14-8.02(b)

Babies, toddlers, and preschoolers

Illinois Early Intervention serves eligible infants and toddlers under Part C of IDEA through Child and Family Connections offices. Part C Child Find includes infants and toddlers who are homeless, and shelters are specifically identified as referral sources. Anyone can make a referral.

For preschoolers, school of origin protections include public preschool, so a young child already receiving early childhood special education may remain in that program when housing changes.

34 CFR 303.302(b)(1)(ii), 303.303; 42 USC 11432(g)(3)(I)(i)

5 Who can give consent and sign the IEP

Special education decisions require someone with legal authority to act for the student. When a young person is living apart from a parent, resolving this question early can prevent delays.

Who counts as a parent under IDEA

IDEA defines parent broadly. It can include a birth or adoptive parent, foster parent, guardian who can act as the child's parent, a relative such as a grandparent or stepparent acting in place of a parent and living with the child, or another person legally responsible for the child's welfare. A relative caring for a student in a doubled up home may already meet this definition. 34 CFR 300.30

When a surrogate parent is needed

The district must ensure a surrogate parent is assigned when no parent can be identified, the district cannot locate a parent after reasonable efforts, the child is a ward of the state, or the child is an unaccompanied homeless youth. The surrogate may act on identification, evaluation, placement, and FAPE. 34 CFR 300.519(a), (g)

Temporary surrogate rule for youth on their own

Staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents for an unaccompanied homeless youth until a fully qualified surrogate is appointed.

The state must make reasonable efforts to assign a surrogate within 30 days after a public agency determines one is needed.

34 CFR 300.519(f), (h)

In Illinois, surrogate parent rules follow federal law and the School Code. ISBE appoints and trains Educational Surrogate Parents and makes reasonable efforts to consider racial, language, and cultural background. Family Matters provides the Educational Surrogate Parent training for ISBE. 23 IAC 226.550; 105 ILCS 5/14-8.02a

6 When something is not working: two separate paths

Housing status, enrollment, and transportation disputes follow one process. Evaluation, eligibility, IEP, and placement disputes follow another. A student can have concerns on both tracks at the same time.

PATH A

Homelessness disputes

Use this path for homeless status, registration, enrollment, transportation, access to classes and activities, and fee waivers.

1. The district homeless liaison tries to resolve the issue first.
2. If it is not resolved, the district sends a written explanation to the family, regional superintendent, and State Coordinator. The notice must include dispute information and available advocacy or legal resources.
3. The regional superintendent appoints an ombudsperson within 10 school days. The ombudsperson tries to resolve the matter within 5 school days of notice, if possible.
4. The ombudsperson issues a written decision within 10 school days after the meeting, if possible.
5. Either side may appeal to the State Coordinator within 5 school days. The State Coordinator decides within 15 school days and may add 5 more.

Services keep running during the dispute. The district may not delay enrollment, transportation, or other services before or during the process, including appeals.

23 IAC 1.241; 105 ILCS 45/1-25. A party may also go to court under 105 ILCS 45/1-25(b).

PATH B

Special education disputes

Use this path for evaluation, eligibility, IEP goals and services, placement, discipline, and denial of FAPE.

1. **Start with the team.** Put the request in writing, date it, and keep a copy. A parent, guardian, or surrogate parent may request an IEP meeting at any time.
2. **State complaint.** Anyone may file a signed written complaint with ISBE alleging a special education violation from the past year. ISBE generally investigates within 60 days.
3. **Mediation.** Free and voluntary for both sides, with a neutral mediator arranged through ISBE.
4. **Due process hearing.** A formal hearing before an impartial hearing officer. A request generally must be filed within two years of when the parent knew or should have known about the problem.

The two paths can run at once. Each concern is handled on its own track.

23 IAC 226.570, 226.600 and following; 34 CFR 300.151 to 300.153, 300.506 to 300.516; 105 ILCS 5/14-8.02a.

7 Practical steps and questions to ask

For families and caregivers

- Ask the school office for the name and phone number of the district homeless liaison.
- Tell both the liaison and the special education case manager that the student has an IEP or was evaluated before.
- Keep one folder, on paper or digital, with the current IEP, latest evaluation, health records, and a list of schools attended with dates.
- Ask which comparable services are being provided and when the district plans to adopt or rewrite the IEP.
- Ask who is arranging transportation to the school of origin and by what date.
- If a request is denied, ask for the reason in writing and for dispute or ombudsperson contact information.

For Educational Support Coaches

- Ask about the living situation early and without judgment. The test is where the student sleeps, not why housing was lost.
- Clarify who can give special education consent before the next meeting.
- Connect the homeless liaison and special education team, then confirm the connection happened.
- Watch for evaluation timelines interrupted by a move and check how the 60 school day clock was handled.
- Keep homelessness and special education dispute paths separate in case notes.
- Family Matters provides education and information, not legal advice. Refer families to legal aid when legal advice is needed.

One more item for high school students

A district homeless liaison can confirm that a young person is an unaccompanied homeless youth for federal financial aid. This can allow the student to apply as an independent student without parent information. For a student with an IEP, include this on the transition checklist with transition goals, the summary of performance, and any vocational rehabilitation referral.

8 Core resources

Resource	What it offers	How to reach it
Family Matters Parent Training and Information Center	Free information, coaching, and training for Illinois families of children with disabilities, birth through age 26. Educational Surrogate Parent training for ISBE.	fmptc.org info@fmptc.org
Your district homeless liaison	Required in every Illinois district. Handles identification, immediate enrollment, transportation, fee waivers, and referrals.	Ask the school office or district central office
ISBE Homeless Education Program	State Coordinator's office, lead area liaisons, liaison locator, McKinney-Vento common form, and dispute appeals.	isbe.net/Pages/Homeless.aspx Homeless@isbe.net
ISBE Special Education Department	Takes state complaints about special education and arranges free mediation.	isbe.net statecomplaints@isbe.net
National Center for Homeless Education	Federal help center for the Education for Homeless Children and Youth program, with a helpline for families and school staff.	nche.ed.gov NCHE.helpline@safalpartners.com
SchoolHouse Connection	Plain language guidance on homelessness and school, including overlap with special education and early childhood.	schoolhouseconnection.org
Center for Parent Information and Resources	Parent center materials on IDEA, evaluation, IEPs, and procedural safeguards, in English and Spanish.	parentcenterhub.org
Illinois Early Intervention	Child and Family Connections offices serve eligible babies and toddlers under Part C of IDEA and accept referrals from anyone.	eitp.education.illinois.edu
Illinois Legal Aid Online	Free legal information and referrals covering education, housing, and public benefits.	illinoislegalaid.org

Questions about your child's IEP or your rights under Illinois special education law? Contact Family Matters at info@fmptc.org or visit fmptc.org

Legal Disclaimer

Family Matters is not a legal services agency and cannot provide legal advice or legal representation. Information received from Family Matters is not intended as legal advice and should not be used as a substitution for legal advice.

IDEAs that Work

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