

Homelessness: McKinney-Vento Act

A student or youth is “homeless” when s/he “lacks a fixed, adequate, and regular nighttime residence.”

■ Homelessness is broadly defined. It includes those living in shelters, hotels/motels, cars, parks, or other public space, or awaiting foster care placement.

■ Homeless children and youth are entitled to:

- choose between the school nearest to their current residence, the school they attended before they became homeless (including preschool), or the school where they were last enrolled;
- obtain, without delay, all the school services to which they would be entitled if they were not homeless;
- enroll in school without proof of residency, immunizations, school records, or other documents;
- transportation to and from school;
- freedom from harassment and isolation; and,
- quick settlement of any disagreements with the school.

For more information on education for homeless children and youth, see the Connecticut Department of Education website at www.state.ct.us/sde/deps/homeless or call the CT SDE Homeless Coordinator at 860-807-2058.

Attendance and Truancy

■ The school district is required to meet with the parents or guardian of the student and make referrals to appropriate community resources prior to filing a Family with Service Needs (FWSN) referral with the court.

■ If a student has 4 unexcused absences in any one month, or 10 nonconsecutive unexcused absences in any school year, the school must:

- meet with the parents or guardian within 10 days after the fourth absence
- coordinate services for the student
- refer the student to community agencies for help

If a parent or legal guardian fails to cooperate or fails to appear for the meeting, the district is required to file a FWSN referral.

Discipline for All Students

No pupil shall be suspended for more than 10 consecutive days at a time or for more than 50 days in one school year, whichever results in fewer days of exclusion, unless such pupil is granted a formal hearing (i.e. expulsion hearing).

■ Each suspension can be no longer than 10 consecutive school days.

■ If a student seems to be receiving a lot of suspensions, the student should be referred to the district’s education intervention team (or a planning and placement team if the student is receiving special education) to examine the student’s education program.

■ The school may not prohibit a student from returning to school after serving a suspension by saying he or she cannot return until a parent or guardian comes to school to speak with an administrator.

■ The school may not exclude a student after he or she has served the period of suspension, even if the hearing concerning a proposed expulsion has not occurred.

■ Behavior issues in school, including truancy, are frequently indicators of unaddressed learning difficulties.

■ Schools should assist children who are not experiencing educational success by initially referring the student to the district’s educational intervention team.

■ If regular education interventions are unsuccessful, then a student is referred for evaluation under either IDEA or Section 504 of the Rehabilitation Act.

Discipline and Special Education

Manifestation Determination

A Planning and Placement Team (PPT) meeting must occur if:

■ a student has been suspended for more than 10 consecutive school days, or

■ the suspensions total more than 10 days in a school year and the length of each suspension, total time suspended, and proximity of the suspensions to one another are considered to be a “pattern.”

■ the PPT meeting must occur no later than 10 school days after the date of the decision to suspend the student that would result in either:

- an 11th consecutive day of suspension, or
- an 11th day of suspension in a school year that would constitute a pattern.

■ The purpose of the PPT meeting is to determine if the behavior that resulted in the suspension was a manifestation of the student’s disability. If so, the student cannot be suspended.

■ The PPT asks the following questions in its determination:

- Did the student’s disability cause the conduct or have a direct and substantial relationship to it?
- Was the conduct the direct result of the school’s failure to implement the IEP?

If the PPT determines that the answer to either of the above questions is “yes,” then the student’s behavior is a manifestation of the child’s disability.

■ If the IEP is inappropriate, the PPT must find the behavior not to be a manifestation of the student’s disability. The IEP is presumed inappropriate if:

- no Functional Behavior Assessment (FBA) is completed, or
- no Behavior Intervention Plan (BIP) was created prior to the incident. If a Behavior Intervention Plan was created without a Functional Behavior Assessment being completed *first*, then it is invalid and the IEP is inappropriate.

Quick Tips

Educational Rights of Students in Connecticut

Topics

Records

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Special Education

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Records

The parent or legal guardian controls access to everything in a student's education record until the student turns 18:

■ "Records" means everything, written or recorded in other media, directly related to a student and maintained by the public school system or an agent/consultant of the school system.

■ The parent or legal guardian is entitled to a copy of the entire record (including health records, disciplinary records, bilingual records, standardized test scores, any psychological, psychiatric or other evaluations or assessments completed by the school system, etc.) upon written request.

■ If a student receives special education and is a ward of the state, a surrogate parent, appointed by the Commissioner of Education, acts in place of the parent or legal guardian for purposes of the student's education (i.e. signs all releases for the board of education on behalf of the student, signs consents for testing by the board of education, etc).

■ The parent, legal guardian, or surrogate parent can review, among other records, the student's

- enrollment history, which provides a summary of
 - every school the student attended
 - how long each school was attended
 - absences and grades for every year listed

- history of attendance, which reveals whether an attendance issue is the result of chronic parental neglect (i.e. parent never regularly brought the student to school when student was young).

- report cards, which reveal whether chronic school failure exists. If chronic school failure exists, the school should have attempted to help the student by trying different intervention strategies, up to and including referring the student for evaluation.

- disciplinary records, which reveal whether the bad behavior is the result of the school's failure to address the student's learning needs, especially if the student has a history of chronic school failure *and* the disciplinary referrals began after the student started to fall behind his or her peers in school.

Admission and Re-Admission

The school district is required to "enable each student of school age, residing in the district, to attend some public day school for the period required by law."

■ This applies to students between the ages of 5 and 21 who have not graduated from high school

It is specifically required for children "placed out" of the district by DCF or another agency.

■ The student (who is not in the care of any state agency) may reside with a relative or non-relative and be entitled to attend school in the district if:

- the intent of the student or parent or guardian is for the placement to be permanent

- it is not for the sole purpose of attending school in that district

- residence is provided without pay

■ The district is entitled to ask for assurance from the parent or guardian that these criteria are met only after the district provides a written explanation of why the district believes the student is not a resident under this criteria.

■ If the student is 16 or older and withdraws from school (i.e. drops out), the district may deny the student re-admission for up to 90 days from date of withdrawal.

■ If the student is 19 or older and cannot obtain sufficient credits to graduate by age 21, the Board of Education may place that student in an alternative education program rather than in the regular high school setting within the district.

Special Education

Special Education Law

Two federal laws protect children who may need modifications within the educational setting. The State Department of Education (SDE) requires local school districts to implement both laws:

Section 504 of the Rehabilitation Act

This addresses access to education (i.e. the student's ability to be in a school/classroom) without modifications to the curriculum. Modifications to the environment in which instruction is presented to the student can and does occur under Section 504.

Individuals with Disabilities Education Act (IDEA)

IDEA addresses the student's ability to learn material presented in the curriculum through modifications to the way the information is presented to the student, as well as modifications to the environment in which the student receives the instruction.

Special Education Terms

Least Restrictive Environment (LRE)

Educating children with disabilities, whether they reside at home or in any type of congregate facility, with their non-disabled peers to the maximum extent appropriate.

Free Appropriate Public Education (FAPE)

An appropriate education provided to a student at no cost to the parent, including aids and services necessary for the student to have access to the educational program designed for the student.

Aids and Services

Transportation and such developmental, corrective and other supportive services required to assist a student with a disability to benefit from special education.

Special Education

Special Education Terms (continued)

Planning and Placement Team (PPT) or IEP Team (see IEP below)

The group composed of the parents or guardians; one regular education teacher; one special education teacher; either a school social worker, guidance counselor or school psychologist; a person from the school district who is qualified to supervise provision of special education, knows the district's general curriculum, and knows the resources available within the district; someone qualified to interpret evaluations; and others with particular knowledge or expertise concerning the student. This group makes decisions regarding the student's special education.

Individualized Education Program (IEP)

A written document that describes how a student receiving special education is currently functioning in school, measurable educational and functional goals that the student should achieve within one year and how the student should be educated given that student's unique needs.

■ The district is required to immediately implement a prior Connecticut public school district's IEP until the district has a PPT meeting, which is usually within 30 days of entry into the district.

■ The district cannot keep a student out of school by saying that it cannot program for the student.

■ The IEP is supposed to address all areas in which the student is experiencing difficulty, not just the area in which the student is identified.

■ Continued failure is an indication that the program for the student is not appropriate.

■ Excessive absences are an indication that the program is not appropriate.

For more Information on Educational Rights

State Department of Education www.state.ct.us/sde
Special Education: 860-713-6910
Title IX, Gender Equity and Bullying: 860-713-6542
Civil Rights Compliance: 860-713-6549
Homeless Coordinator: 860-807-2058
State Education Resource Center: 860-632-1485
www.ctserc.org

US Department of Education, Region I
Office of Civil Rights: 617-289-0111

Department of Children and Families
Superintendent of Schools, Unified School District II
Meriden: 203-427-2828

Office of Protection and Advocacy
860-297-4300, 860-297-4380 (TTY),
800-842-7303 (V/TTY), www.ct.gov/opapd

Center for Children's Advocacy
860-570-5327, www.kidscounsel.org/legalresources.htm