


Educational Surrogate Parents and McKinney-Vento Homeless Assistance Act


 Sarah Ferguson
 Office of Special Services
 State Agency Education Specialist

Amelia Lyons Rukema
 Office of School and Student Supports
 McKinney Vento Specialist



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Educational Surrogate Parents

❖ Maine Unified Special Education Regulations

34 CFR §300.519

❖ Educational surrogate parents are appointed when a student either is receiving special education services or is in referral to special education and:

- ❖ Parent cannot be identified or located
- ❖ Student is state ward
- ❖ Student is unaccompanied homeless youth as defined in McKinney-Vento - UY Eligibility Guide

<https://www.maine.gov/doe/sites/maine.gov.doe/files/inline-files/Unaccompanied%20Youth%20Flow%20Chart.pdf>



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McKinney-Vento Homeless Assistance Act

What is this?

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I'm a pro



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McKinney-Vento Homeless Assistance Act

- The McKinney-Vento Homeless Assistance Act was the first -- and remains the only -- major federal legislative response to homelessness
- First passed in 1987, multiple amendments and reauthorizations





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BASICS


Are you in a temporary living situation?

Your family could get extra support from your child's school with the McKinney-Vento program.

Every school has a specific staff person whose job it is to support students in these situations. Talk to your child's school about it.

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Definition

Homelessness is defined as lacking a **fixed, regular, and adequate** nighttime residence

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**sharing housing
due to loss of
housing,
economic
hardship, or a
similar reason;**




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**living in
hotels,
motels, due
to lack of
adequate
housing;**



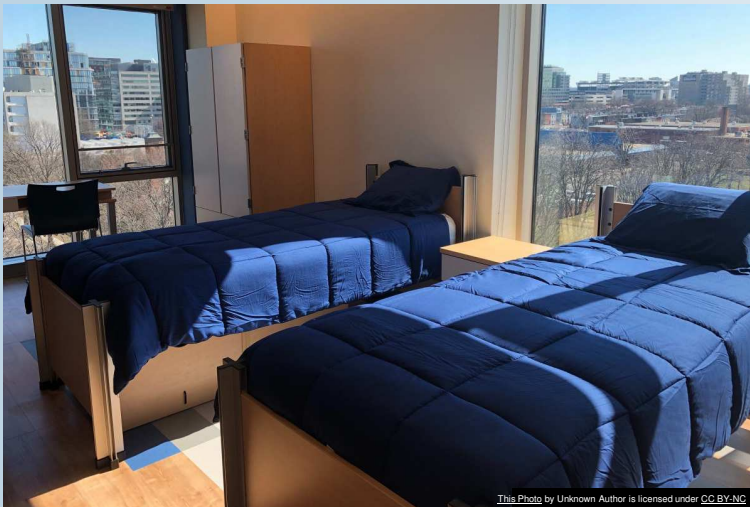
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**trailers, or
camping
grounds
due to lack
of
adequate
housing;**



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**living in
emergency
or
transitional
shelters;**



10



or children
abandoned
at hospitals




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This slide features a photograph of a hospital hallway with a blue gurney in the foreground and medical staff in the background. The text 'or children abandoned at hospitals' is positioned to the right of the photo. A large white star graphic is in the upper right corner. The Maine Department of Education logo is in the bottom left corner. A small copyright notice is at the bottom of the photo.

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living in
cars,



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This Photo by Unknown Author is licensed under CC BY-NC-ND

This slide features a photograph of the interior of a car with sleeping bags and blankets. The text 'living in cars,' is positioned to the right of the photo. A large white star graphic is in the upper right corner. The Maine Department of Education logo is in the bottom left corner. A small copyright notice is at the bottom of the photo.

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**parks,
public
spaces,
abandoned
buildings**



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**Substandard
Housing**



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Migratory students living in one of the previously mentioned situations



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Can the student go to the...



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Rights of McKinney-Vento Students

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What can schools offer?

Free meals	Transportation to school of origin	Immediate enrollment, without required documents	School supplies
Clothing, hygiene items	Access to showers, laundry	Referrals for health, mental health, housing, other needs	Mentoring and connections to community



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Rights of McKinney-Vento Students

Public schools are required to identify, enroll, and serve homeless children and youth. Specific rights include:

- Staying in the same school even if they move, and receiving transportation to that school
- Enrolling in school immediately without required documents
- free school meals
- help with school supplies and other needs
- early childhood services
- Families have a right to dispute resolution if they disagree with the determination
- Right to confidentiality

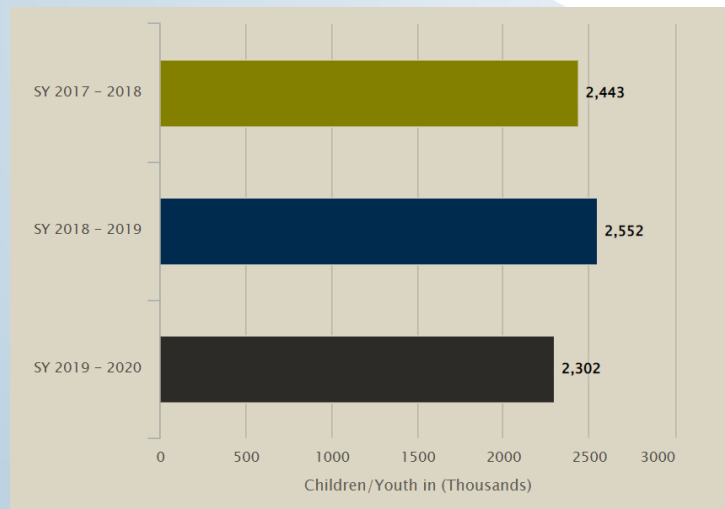


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Number of Homeless Children/Youth Enrolled in Public School by Year

Percentage of enrolled students who are homeless: 1.3 %

Percentage of people under 18 years old in the state who are below the poverty level¹: 13.9%

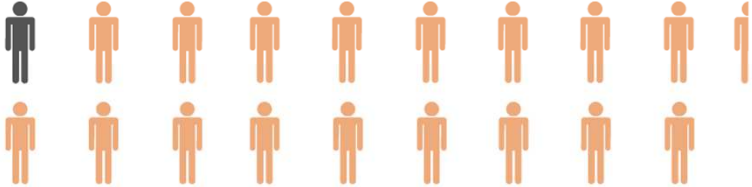


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 SchoolHouse Connection

Survey results show:
5.4% OF HIGH SCHOOL STUDENTS INDICATED THEY HAD EXPERIENCED HOMELESSNESS IN THE 2018-2019 SCHOOL YEAR

For every 18.5 high school students, 1 has experienced homelessness.

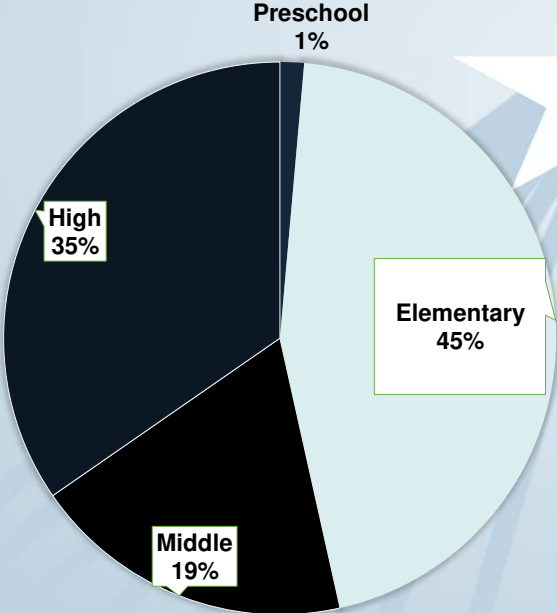


Data: SchoolHouse Connection's analysis of 2019 YRBS data from 27 states (AK, AR, CA, CO, CT, DE, HI, ID, IL, KS, KY, LA, ME, MD, MI, MT, NH, NM, NC, ND, PA, RI, SC, SD, VT, VA, WI)


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Student Homelessness in Maine by grade




Grade	Percentage
Elementary	45%
High	35%
Middle	19%
Preschool	1%

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Is youth homelessness more common in urban or rural areas?





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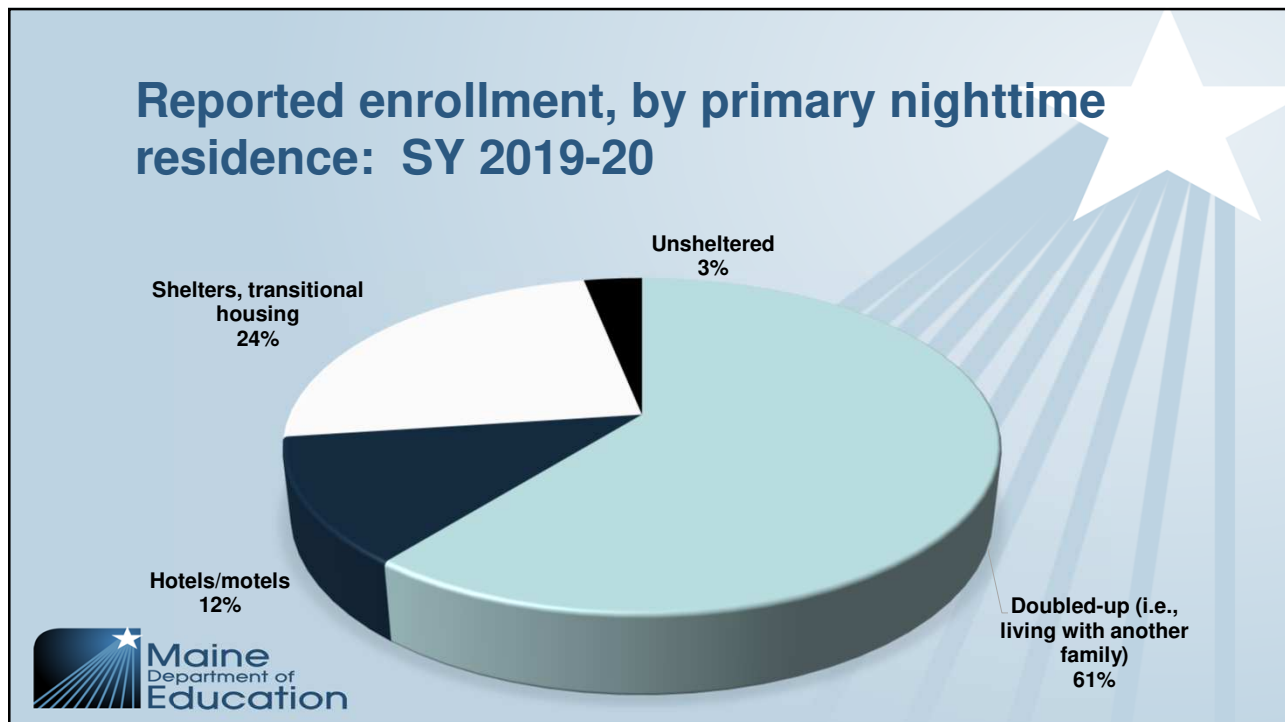
Youth Homelessness Affects Rural and Urban Areas Alike

Rates of youth experiencing homelessness were similar in rural and nonrural areas.

Young Adults 18-25		Youth 13-17	
Population prevalence in rural counties	9.2%	Household prevalence in rural counties	4.4%
Population prevalence in urban counties	9.6%	Household prevalence in urban counties	4.2%

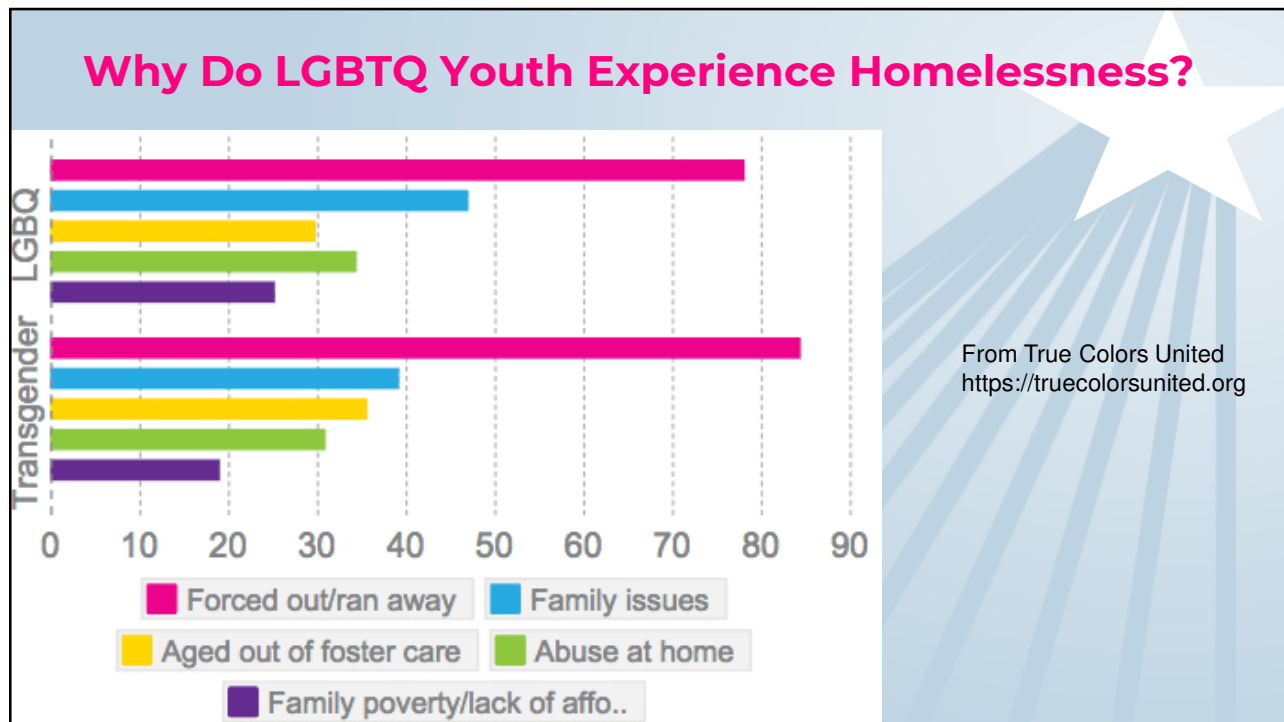
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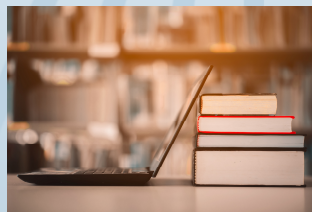

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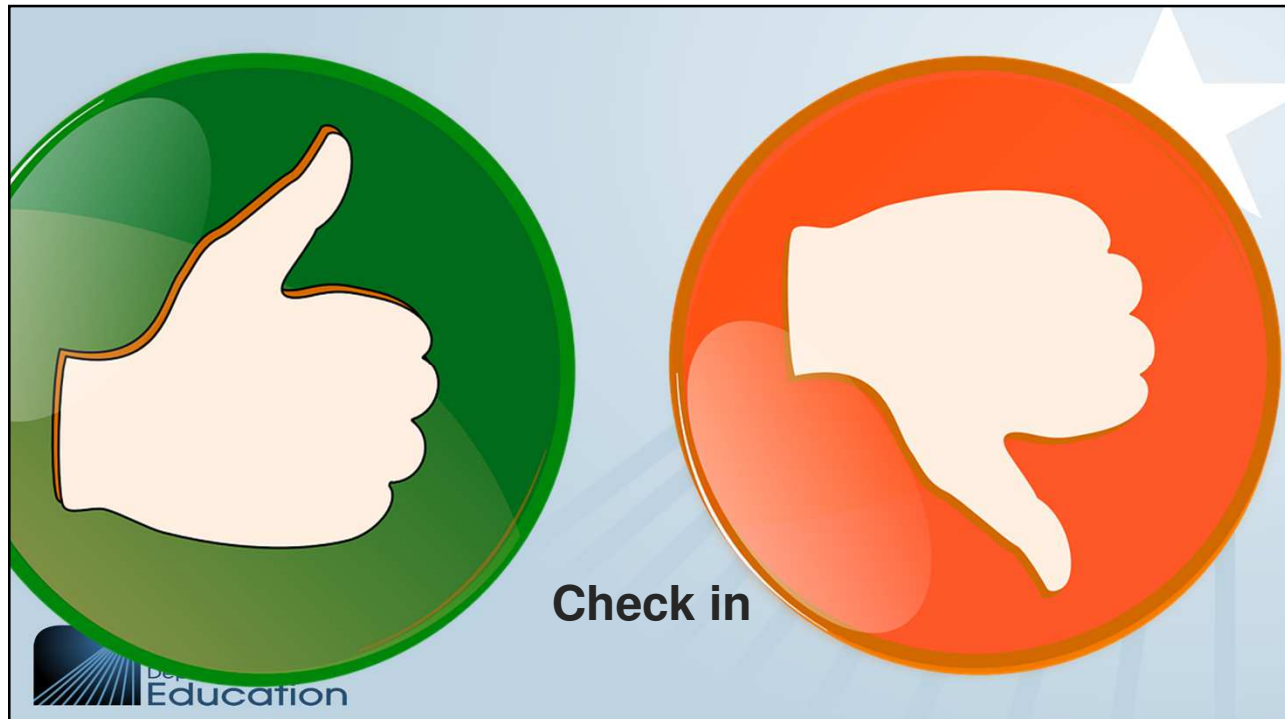
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Timeframe

- Homelessness must be documented each school year, but **a child is eligible for MV services through the academic year**, even if they become stably housed part way through the year.

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Foster Care Provisions

Students who are in:

- 24-hour out-of-home care, placed away from their parents or guardians, and for whom DHHS has placement and care responsibilities. Including students previously identified as “awaiting foster care” (in emergency, short term placements) under McKinney-Vento Foster homes include, but are not limited to: Group homes, foster homes, kinship foster homes, Transitional care units (TCUs)



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NEO Look up

Every Maine school system has a local McKinney-Vento Liaison and Foster Care Point of Contact to assist families and youth.

The Department's [NEO Contact Search](#) can be used to find contact info for these roles in any Maine school district.




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Unaccompanied Homeless Youth


- A McKinney-Vento student who is not in the physical custody of a parent or guardian
- Often report family dysfunction as a reason they no longer live at home (blended families, substance use, pregnancy, sexual orientation)
- **includes youth who ran away from home and youth who were kicked out**
- **eligibility based on their current nighttime living arrangement, not the circumstances that caused them to leave home**




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“If runaway youth would just follow their parents’ rules, they could live at home; why should we encourage their bad behavior?”




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Studies show...

- 50% of unaccompanied youth report sexual abuse in their homes, 60% physical abuse
- over 2/3 of unaccompanied youth surveyed reported that at least one parent abused drugs or alcohol
- Many young people are not welcome in their homes due to their sexual orientation or identity, pregnancy, or other family conflict.
- 20 to 40% of homeless youth identify as gay, lesbian, bisexual, questioning and/or transgender



Data from SchoolHouse Connection

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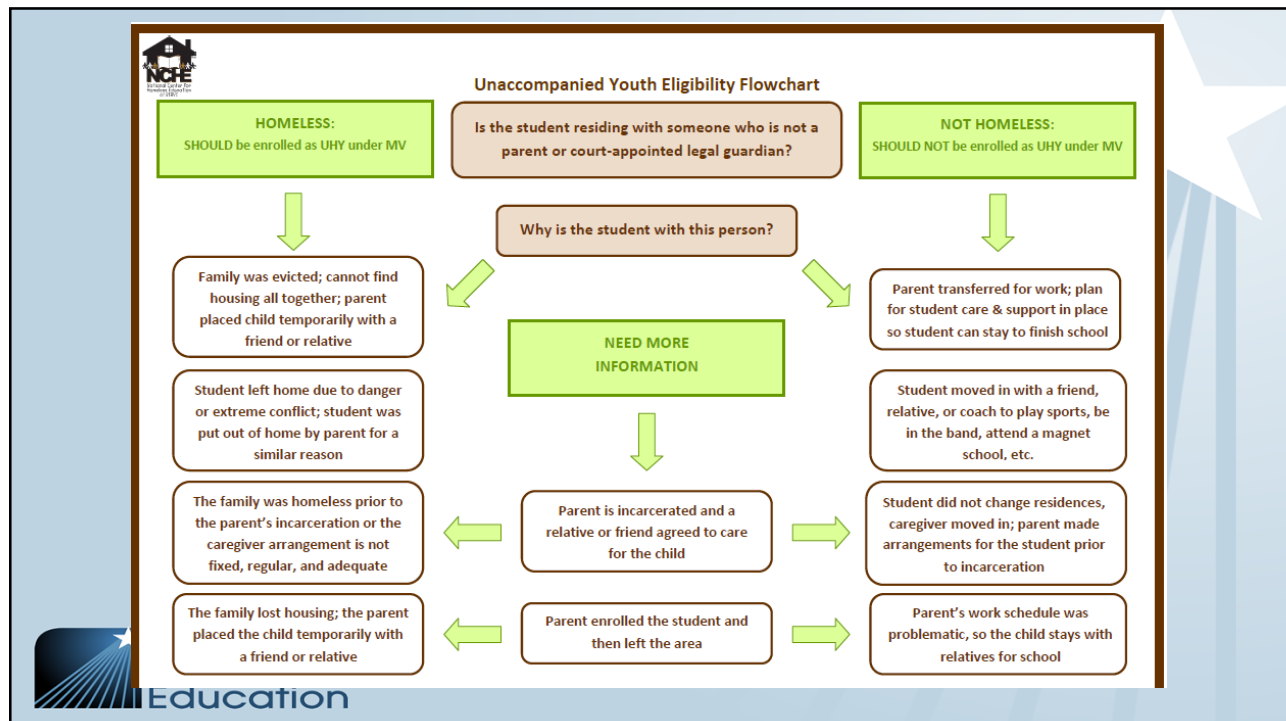
Studies show...

- 10% of currently homeless female teenagers are pregnant
- More than half of youth living on the streets became homeless for the first time because they were asked to leave home by a parent or caregiver
- In a recent survey of unaccompanied homeless youth in California, over half felt that being homeless was as safe as or safer than being at home.
- More than 60% of homeless youth report being raped, beaten, robbed or otherwise assaulted while living on the streets, and homelessness is the largest risk factor for commercial sexual exploitation and sex trafficking of minors.



Data from SchoolHouse Connection

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McKinney-Vento Homeless Education Program Caregiver Authorization Form

This form is intended to address the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11434a(2)) requirement that children experiencing homelessness have access to education and other services for which they are eligible. The McKinney-Vento Homeless Assistance Act states specifically that barriers to enrollment must be removed. In some cases, a student who is homeless may not choose to or be able to reside with his/her parent or legal guardian; however, this fact does not nullify the student's right to receive a free, appropriate public education.

Instructions: Complete this form for a minor student presenting himself/herself for enrollment and educational services while not in the physical custody of a parent or legal guardian.

By signing below I acknowledge the following:



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By signing below I acknowledge the following:

- I am 18 years of age or older and have agreed to fulfill the role of caregiver for the minor student named below, who is unaccompanied by a parent or legal guardian.
- I agree to make a good faith effort to encourage the minor student named below to attend school.
- I will attempt to contact the school office if I become aware that the minor student named below will not be attending school on a particular day(s), and share whether the absence is with or without my approval.
- I have provided the school district with proof of my residence and personal identification.
- I understand that signing this document does not make me the legal guardian of the minor student listed below or make me financially responsible for the minor student, even if I am providing some financial support to the student.
- Under the Family Education Rights Privacy Act ("FERPA") (20 U.S.C. § 1232g; 34 C.F.R. § 99), I am serving as the parent of the minor student named below in the absence of the student's parent(s) and/or legal guardian(s), and understand that I have authority to receive access to the minor student's education records.



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MUSER II. 25**Parent:**

- A. A biological or adoptive parent of a child;
- B. A foster parent;
- C. A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
- D. An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or
- E. A surrogate parent who has been appointed in accordance with Sec. 300.519 or section 639(a)(5) of the Act. Except as provided in *the paragraph below*, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraphs A-E of this section to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

If a judicial decree or order identifies a specific person or persons under paragraphs A through D of this section to act as the parent of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the parent for purposes of this section. [34 CFR 300.30]



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Educational Surrogate Parents (continued)

- ❖ Request for Appointment of Surrogate Parent form can be found on DOE Special Services website under Special Education Initiatives at:
<https://www.maine.gov/doe/learning/specialed/initiatives/surrogate>
- ❖ Contact Sarah Ferguson at sarah.ferguson@maine.gov or 207 592-6498




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FOR OFFICE USE ONLY	
Request Received:	Child's ID:
Surrogate Parent ID:	Appointed:
Notes:	



Request for Appointment of Educational Surrogate Parent

Child's Name:		DOB:	
Disability:			
Is the child an unaccompanied youth? <input type="checkbox"/> YES <input type="checkbox"/> NO		Is the child a State Ward? <input type="checkbox"/> YES <input type="checkbox"/> NO	
Child's Current Caregiver/Agency:		DHHS Caseworker:	
Contact:		Regional Office:	
Address:		Address:	
City, State Zip:		City, Zip:	
Phone:		Phone:	
Current School Name:		Special Ed. Director:	
Address:		Phone:	
City, Zip:		Notes:	
Education Contact:			
Phone:			
Current Programming/Placement:		<input type="checkbox"/> None <input type="checkbox"/> Referral <input type="checkbox"/> Public School (Regular Ed, Resource, Self-Contained, Day Treatment, Other) <input type="checkbox"/> Special Purpose Private School (Day Only) <input type="checkbox"/> Residential Treatment Center <input type="checkbox"/> Home/Hospital	
Are there any special considerations for appointing an educational surrogate parent?			



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Recommendation for Educational Surrogate Parent: Grandparents, Extended Family/Friends, Former Foster Parents. In some cases, biological parents have served for state wards with the approval of DHHS

Name:	Relationship to child:
Address:	Email:
City, State, Zip:	Phone:
Name:	Relationship to child:
Address:	Email:
City, State, Zip:	Phone:

Name & title of individual making referral:	Date:
Email:	Phone:


Additional information/comments:

Please return to:

Email: sarah.ferguson@maine.gov
 Fax: (207) 624-6683

Mail:
 Maine Department of Education
 Surrogate Parent Program
 23 State House Station
 Augusta, ME 04333-0023


Contact – Sarah Ferguson
 207 592-6498



Updated 10/26/21
pg. 2 of 2

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Educational Surrogate Parent Name goes in Parent section on all Special Education Paperwork



Written Notice
Maine Unified Special Education Regulations (MUSER) Appendix I, 34 CFR 300.503

Date Sent to Parent:	<input type="text"/>	SAU:	<input type="text"/>
Child's Name:	<input type="text"/>	School:	<input type="text"/>
Date of Birth:	<input type="text"/>	Grade:	<input type="text"/>
Parent/Guardian Name:	<input type="text"/>	School Phone:	<input type="text"/>
Parent/Guardian Address:	<input type="text"/>	School Address:	<input type="text"/>
Parent/Guardian City, State Zip:	<input type="text"/>	City, State Zip:	<input type="text"/>
		School Contact:	<input type="text"/>

Date of Team Meeting:	<input type="text"/>	Date amended IEP/IFSP sent, if parent requested a copy:	<input type="text"/>
Date of agreement for amendment without Team meeting:	<input type="text"/>		



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MUSER VI. 2. B.. [20 USC 1414(d)(1)(B) and 34 CFR 300.321(a)] Each IEP Team shall include the following members:

- 1) The child's parents;
- 2) No less than one regular education teacher for the child *which should include career and technical or adult education teachers, if appropriate* (if the child is, or may be, participating in the regular education environment);
- 3) No less than one special education teacher or, where appropriate, not less than one special education provider (licensed or certified special education provider);
- 4) A representative of the school administrative unit who
 - (a) Is qualified to provide or supervise the provision specially designed instruction to meet the unique needs of students with disabilities;
 - (b) Is knowledgeable about the general education curriculum;



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IEP Team Membership

- (c) Is knowledgeable about the availability of resources of the local educational agency *and has written authorization to obligate the unit (or written delegation of that authorization by the responsible SAU to the SAU in which the child is placed)* ; and
- 5) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate;
 - 6) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in clauses (2) through (5);
 - 7) Whenever applicable, the child; *and*



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IEP Team Membership

- 8) *For a child who is a state ward or state agency client, the child's caseworker representing a youth serving state agency. The surrogate parent retains the sole authority to represent the child by exercising the procedural safeguards available under this rule.*

The determination of knowledge or special expertise of an individual described in (B)(5) above shall be made by the party (parent or public agency) who invited the individual to be a member of the IEP Team.



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Special rules for initial evaluation of wards of the State

Parental Consent - 34 CFR §300.300

(2) For initial evaluations only, if the child is a ward of the State and is not residing with the child's parent, the public agency is not required to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability if—

- (i) Despite reasonable efforts to do so, the public agency cannot discover the whereabouts of the parent of the child;
- (ii) The rights of the parents of the child have been terminated in accordance with State law; or
- (iii) The rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.



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Educational Surrogate Parent

Educational surrogate parents are appointed for students receiving special education services when:

- ❖ Parent cannot be identified or located
- ❖ Student is state ward
- ❖ Student is unaccompanied homeless youth as defined in McKinney-Vento

A surrogate parent may not be:

- ❖ Employee of the SAU or provider agency that serves the student
- ❖ Employee of DHHS if student is state ward
- ❖ Employee of DOE
- ❖ Person with conflict of interest

DHHS Guardian

The DHHS Child Protective Worker, as guardian, holds parental rights for regular education matters such as enrolling/registering in school and signing permission to participate in a field trip. MUSER allows for DHHS guardians as members of the IEP team, however, explicitly states that “the surrogate parent retains the sole authority to represent the child by exercising the procedural safeguards available under this rule.”

5.5.22 SF/MA

Educational Surrogate Parent

Most students in DHHS custody are in foster care. Foster parents are in MUSER under the definition of parent, and therefore most often hold parental rights for special education matters. For those students without someone to advocate for them as listed in the MUSER definition of parent, DOE appoints the Educational Surrogate Parent. Foster parents fulfill the role of the educational surrogate UNLESS a surrogate has already been appointed.

Educational Surrogate Parents have all the powers of a parent for special education matters for instance, waiving the right to prior notice, signing consent for special education evaluation, and signing consent for initial placement.

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05-071 Chapter 101, Maine Unified Special Education Regulation page 255 34 CFR §300.519 Surrogate parents

General. (a)

- Each public agency must ensure that the rights of a child are protected when—
- (1) No parent (as defined in §300.30) can be identified;
- (2) The public agency, after reasonable efforts, cannot locate a parent;
- (3) The child is a ward of the State under the laws of that State; or
- (4) The child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(6)).

Duties of public agency (b)

- The duties of a public agency under paragraph (a) of this section include the assignment of an individual to act as a surrogate for the parents. This must include a method—
- (1) For determining whether a child needs a surrogate parent; and
- (2) For assigning a surrogate parent to the child.

Wards of the State. (c)

- In the case of a child who is a ward of the State, the surrogate parent alternatively may be appointed by the judge overseeing the child's case, provided that the surrogate meets the requirements in paragraphs (d)(2)(i) and (e) of this section.

Criteria for selection of surrogate parents (d)

- (1) The public agency may select a surrogate parent in any way permitted under State law.
- (2) Public agencies must ensure that a person selected as a surrogate parent—
- (i) Is not an employee of the SEA, the LEA, EIS provider or any other agency that provides early intervention services, education, care, or other services to the child or any family member of the child;
- (ii) Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents; and
- (iii) Has knowledge and skills that ensure adequate representation of the child

Non-employee requirement; compensation (e)

- A person otherwise qualified to be a surrogate parent under paragraph (d) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

Unaccompanied homeless youth (f)

- In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to paragraph (d)(2)(i) of this section, until a surrogate parent can be appointed that meets all of the requirements of paragraph (d) of this section.

Surrogate parent responsibilities (g)

- The surrogate parent may represent the child in all matters relating to—
- (1) The identification, evaluation, and educational placement of the child; and
- (2) The provision of FAPE to the child.

SEA responsibility (h)

- The SEA must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.

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RIGHTS AND RESPONSIBILITIES OF SURROGATE PARENTS

As a surrogate parent, your rights and responsibilities are limited to the child's/student's early intervention and/or special education needs.

The surrogate parent's rights include:

- Receiving copies of all records relating to the child's/student's program, within a reasonable time (within 45 school days) of the request and before the IFSP/IEP Team meeting (surrogate parents should automatically receive a copy of each evaluation to be discussed at the IEP meeting at least 3 days prior to the IFSP/IEP Team meeting).
- Providing written consent for every evaluation, as well as the initial placement of the child/student in a program providing early intervention and/or special education or related services,
- Receiving written notice prior to any evaluation or change in the child's/student's educational placement or program,
- Questioning the appropriateness of the child's/student's early intervention and/or educational program and educational placement,
- Being informed of early intervention and/or special education policies, programs, and services of CDS or the educational agency,
- Having access to all procedural safeguards, including independent evaluation, mediation, due process hearings, and initiating a complaint.

The surrogate parent's responsibilities include:

- Becoming acquainted with the child's/student's disability diagnosis and educational needs by visiting the school and reviewing educational records,
- Representing the child/student in all Individualized Family Service Plan (IFSP) meetings, Individualized Education Program (IEP) meetings and other meetings relating to the identification, evaluation and educational placement of the child/student and the provision of an equal educational opportunity in the least restrictive educational environment,
- Ensuring the confidentiality of information and records concerning the child/student,
- Making sufficient time available to carry out the duties of a surrogate parent properly and having sufficient knowledge and skills to perform these responsibilities,
- Maintaining a file of the child's/student's records and a record of your activity as a surrogate parent (to be sent to the Maine Department of Education upon the termination of appointment as surrogate parent),
- Notifying the Commissioner or designee whenever you believe that a conflict of interest exists with respect to your appointment as a surrogate parent.

Limits of the surrogate parent's responsibilities

- The surrogate parent has no authority or responsibility for the care, maintenance or financial support of the child/student.
- The surrogate parent may participate with the appropriate State agencies in the discussion of the selection of a foster home or group home placement. However, the surrogate parent has no authority or responsibility to approve a non-educational placement in a group home or foster home.



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Maine DOE Diploma

The Maine Department of Education Diploma is intended as an option for students who have experienced educational disruption. They may apply for this diploma if they cannot meet local graduation requirements but can provide evidence that they have fulfilled the core state requirements.



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Questions?



Sarah Ferguson, State Agency Education Specialist III

Sarah.Ferguson@maine.gov 207-592-6498

Amelia Lyons, McKinney Vento Specialist

Amelia.Lyons@maine.gov 207-557-1787



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