
NATIONAL LAW CENTER

ON HOMELESSNESS & POVERTY

Student Athletes Experiencing Homelessness Must Have Immediate Access to School Athletic Activities

Thank you for your inquiry regarding the participation of homeless students in school sports. As you know, athletics can be instrumental in students' emotional, physical and mental development, as well as providing access to higher education. Recognizing these facts, the McKinney-Vento Act requires schools to ensure that students experiencing homelessness are able to access school athletic activities immediately.

Subtitle VII-B of the McKinney-Vento Act requires local educational agencies (LEAs) to enroll children and youth experiencing homelessness in school immediately. 42 U.S.C. §11432(g)(3)(C). The Act defines "enroll" as "attending classes and participating fully in school activities." 42 U.S.C. §11434A. School athletics are a school activity. Therefore, homeless students must be allowed to participate fully in school athletics immediately. Schools cannot allow typical participation rules that students experiencing homelessness cannot meet, such as those demanding a continuous period of attendance or residence or guardianship documents, to present barriers to this immediate participation.¹

To ensure that homeless students are allowed to participate fully in school activities immediately, the McKinney-Vento Act further requires states and LEAs to eliminate barriers to the enrollment and retention in school of students experiencing homelessness. 42 U.S.C. §§11432(g)(1)(I), 11432(g)(7). If policies of the [State] High School Association (HSA) act to prevent or delay homeless students' participation in school sports, the HSA must revise those policies.² For example, the state school athletics association of Delaware recently revised its participation policies to exempt

¹ The McKinney-Vento Act does not prevent schools from requiring students experiencing homelessness to meet skill level requirements for a particular team.

² By accepting McKinney-Vento funds, the state has agreed to ensure that homeless children and youth can participate fully in school activities, immediately. The state and the state educational agency are required to eliminate barriers to such participation. In addition, the [state high school association] itself is a state actor in this context. In 1987 the 7th Circuit Court of Appeals accepted that the [State] High School Association is a state actor. Griffen High School v. [State] High School Assn., 822 F.2d 671, 674 (7th Cir. 1987). A recent Supreme Court decision strengthens this ruling. Brentwood Acad. v. Tennessee Secondary Sch. Athletic Ass'n., 531 U.S. 288, 297 (2001) (holding that the Tennessee Secondary School Athletic Association is a state actor).

students experiencing homelessness from policies that create barriers to their participation. The HSA may want to seek your expertise in developing a policy that is responsive both to the needs of homeless students and the HSA's membership and mission. As every LEA must designate a liaison for homeless students, it may be advisable to ensure a role for liaisons in the policy. As you know, liaisons have the obligation to identify children and youth in homeless situations and to ensure they enroll, and receive the opportunity to succeed, in school. 42 U.S.C. §11432(6)(A). For many students, participation in school athletics is an essential element of school success.

Please do not hesitate to contact me if you would like to discuss this matter further. It is always a pleasure working with you.

Sincerely,

Patricia F. Julianelle
Staff Attorney

[Excerpted from a letter sent in February, 2004. This information is not offered as legal advice and should not be used as a substitute for seeking professional legal advice.]