

CHAPTER 17

EDUCATION FOR HOMELESS CHILDREN AND STUDENTS IN STATE FACILITIES

Authority

N.J.S.A. 18A:7B-1 et seq., 18A:7B-12, 18A:7F-1 et seq. and 18A:38-1.

Source and Effective Date

R.2007 d.146, effective April 11, 2007.
See: 38 N.J.R. 5217(a), 39 N.J.R. 1698(a).

Chapter Expiration Date

Chapter 17, Education for Homeless Children and Students in State Facilities, expires on April 11, 2012.

Chapter Historical Note

Chapter 17, Students at Risk of Not Receiving a Public Education, was adopted as new rules by R.2002 d.56, effective February 19, 2002. See: 33 N.J.R. 3603(a), 34 N.J.R. 915(a).

Chapter 17, Students at Risk of Not Receiving a Public Education, was readopted as R.2007 d.146, effective April 11, 2007. As a part of R.2007 d.146, Chapter 17, Students at Risk of Not Receiving a Public Education, was renamed Education for Homeless Children and Students in State Facilities, effective May 7, 2007. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

6A:17-1.1 Purpose

SUBCHAPTER 2. EDUCATION OF HOMELESS CHILDREN

- 6A:17-2.1 Scope
- 6A:17-2.2 Definitions
- 6A:17-2.3 Determination of homeless status
- 6A:17-2.4 Responsibilities of the school district of origin
- 6A:17-2.5 Designation of school district liaisons and their responsibilities
- 6A:17-2.6 School district enrollment
- 6A:17-2.7 Parental rights
- 6A:17-2.8 Disputes and appeals
- 6A:17-2.9 Tuition

SUBCHAPTER 3. EDUCATIONAL PROGRAMS FOR STUDENTS IN STATE FACILITIES

- 6A:17-3.1 Scope
- 6A:17-3.2 Definitions
- 6A:17-3.3 Educational program objectives and requirements
- 6A:17-3.4 Students with disabilities
- 6A:17-3.5 Staffing and class size
- 6A:17-3.6 Facilities
- 6A:17-3.7 Student records and reports
- 6A:17-3.8 Approval process for funding

SUBCHAPTER 1. GENERAL PROVISIONS

6A:17-1.1 Purpose

These rules are adopted in order to ensure that homeless children and students placed in State facilities are provided a

thorough and efficient education. These rules establish uniform Statewide policies and procedures to ensure the enrollment of homeless children and to respond to appeals made by parents or other parties related to their enrollment. The rules also identify general program requirements related to the operation, administration and approval of educational programs in State facilities.

SUBCHAPTER 2. EDUCATION OF HOMELESS CHILDREN

6A:17-2.1 Scope

These rules apply to district boards of education providing general education services to students in grades preschool through 12 and special education services to students ages three through 21. Nothing in this chapter shall limit the educational rights of homeless children and youth or school district responsibilities under Subtitle VII-B of the Stewart B. McKinney-Vento Homeless Assistance Act (42 U.S.C. §§ 11431 et seq).

Amended by R.2004 d.185, effective May 3, 2004.
See: 35 N.J.R. 5469(a), 36 N.J.R. 2195(b).
Added the second sentence.

6A:17-2.2 Definitions

The following words and terms, when used in this subchapter, will have the following meanings unless the context clearly indicates otherwise:

“Enroll” or “enrollment” means attending classes and participating fully in school activities.

“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:17-2.3.

“Immediate” or “immediately” means at the instant that the need for placement is made known.

“Parent” means the natural or adoptive parent, legal guardian, foster parent, surrogate parent, and 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.

“School district liaison for the education of homeless children” means the person identified in each school district who facilitates all of the activities needed to ensure the enrollment of homeless children.

“School district of origin” means the school district in which the parent last resided prior to becoming homeless.

“Unaccompanied youth” means a youth not in the physical custody of a parent or guardian at the time of enrollment.

Amended by R.2004 d.185, effective May 3, 2004.
See: 35 N.J.R. 5469(a), 36 N.J.R. 2195(b).

In "District of origin", substituted "origin" for "residence"; added "Enroll" and "Immediate".

Amended by R.2005 d.257, effective August 1, 2005.

See: 37 N.J.R. 848(a), 37 N.J.R. 2864(a).

Added "Unaccompanied youth".

Amended by R.2007 d.146, effective May 7, 2007.

See: 38 N.J.R. 5217(a), 39 N.J.R. 1698(a).

Deleted definitions "District liaison for the education of homeless children" and "District of origin"; and added definitions "School district liaison for the education of homeless children" and "School district of origin".

6A:17-2.3 Determination of homeless status

(a) A district board of education shall determine that a child is homeless for purposes of this subchapter when he or she resides in any of the following:

1. A publicly or privately operated shelter designed to provide temporary living accommodations, including:
 - i. Hotels or motels;
 - ii. Congregate shelters, including domestic violence and runaway shelters;
 - iii. Transitional housing; and
 - iv. Homes for adolescent mothers;
2. A public or private place not designated for or ordinarily used as a regular sleeping accommodation, including:
 - i. Cars or other vehicles including mobile homes;
 - ii. Tents or other temporary shelters;
 - iii. Temporary shelters provided to migrant workers and their children on farm sites;
3. The residence of relatives or friends with whom the homeless child is temporarily residing out of necessity because the family lacks a regular or permanent residence of its own; or
4. Any temporary location wherein children and youth are awaiting foster care placement.

Amended by R.2004 d.185, effective May 3, 2004.

See: 35 N.J.R. 5469(a), 36 N.J.R. 2195(b).

In (a), substituted "including" for "excluding" in 2i and added 4.

Case Notes

Where a student had been assigned to the KidsPeace program in Pennsylvania, and about the same time, the student's father was evicted and moved in with his parents, the Department of Education correctly assigned costs to the school district where the student lived when he was placed in KidsPeace, and from which the father was evicted, because the costs are to be assigned to the last district where the student resided before placement, and there was no clear evidence in the record of the date of eviction, nor did the record indicate any intent on the part of the student's father to remain with his parents; a school district challenging a residency determination bears the burden of proving the Department of Education's determination was arbitrary, capricious, or without merit. Bd. of Educ. of Twp. of Delaware v. N.J. Dep't of Educ., OAL Dkt. No.

EDU 08011-05S, 2006 N.J. AGEN LEXIS 644, Commissioner's Decision (May 10, 2006).

6A:17-2.4 Responsibilities of the school district of origin

(a) The school district of origin for a homeless child shall be responsible for the education of the child and shall:

1. Determine the school district in which the child shall be enrolled after consulting with the parent pursuant to N.J.A.C. 6A:17-2.6;
2. Pay the cost of tuition pursuant to N.J.A.C. 6A:23-3.1 when the child attends school in another school district; and
3. Provide for transportation for the child pursuant to N.J.A.C. 6A:27-6.2.

(b) The determination of a homeless child's school district of origin shall be made by the chief school administrator or designee of the school district(s) involved pursuant to N.J.A.C. 6A:17-2.5 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, an involved agency or a case manager.

(c) The district board of education identified as the school district of origin in accordance with N.J.S.A. 18A:7B-12 for a homeless child shall be the school district of origin for as long as the parent remains homeless.

Amended by R.2004 d.185, effective May 3, 2004.

See: 35 N.J.R. 5469(a), 36 N.J.R. 2195(b).

Substituted "origin" for "residence" and "resident" throughout.

Amended by R.2007 d.146, effective May 7, 2007.

See: 38 N.J.R. 5217(a), 39 N.J.R. 1698(a).

Section was "Responsibilities of the district of origin". Inserted "school" preceding "district" throughout; and in (b), inserted "or the Department of Children and Families".

6A:17-2.5 Designation of school district liaisons and their responsibilities

(a) The chief school administrator of each school district shall identify a school district liaison for the education of the homeless children. The school district liaison shall:

1. Facilitate communication and cooperation between the school district of origin and the school district where the homeless child is temporarily residing;
2. Develop procedures to ensure that a homeless child temporarily residing in the school district is enrolled and attending school pursuant to N.J.A.C. 6A:17-2.6;
3. Ensure that homeless families, children and youth receive educational services for which such families, children and youth are eligible, including Head Start and Even Start programs and preschool programs administered by the local education agency, and referrals to health care services, dental services, mental health services, and other appropriate services;

4. Inform parents and guardians of homeless children and youth of the educational and related opportunities available to their children and ensure that they are provided with meaningful opportunities to participate in the education of their children;

5. Ensure that public notice of the educational rights of homeless children and youth is disseminated where such

children receive services, such as schools, family shelters and soup kitchens;

6. Ensure that enrollment disputes are mediated pursuant to N.J.A.C. 6A:17-2.8;

7. Ensure that the parent or guardian of a homeless child or youth, or any unaccompanied youth, is fully in-