

**TITLE 42 - THE PUBLIC HEALTH AND WELFARE**  
**CHAPTER 119 - HOMELESS ASSISTANCE**  
**SUBCHAPTER VI - EDUCATION AND TRAINING**  
**Part B - Education for Homeless Children and Youths**

**§ 11431. Statement of policy**

The following is the policy of the Congress:

- (1) Each State educational agency shall ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youths.
- (2) In any State that has a compulsory residency requirement as a component of the State's compulsory school attendance laws or other laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and youths, the State will review and undertake steps to revise such laws, regulations, practices, or policies to ensure that homeless children and youths are afforded the same free, appropriate public education as provided to other children and youths.
- (3) Homelessness alone is not sufficient reason to separate students from the mainstream school environment.
- (4) Homeless children and youths should have access to the education and other services that such children and youths need to ensure that such children and youths have an opportunity to meet the same challenging State student academic achievement standards to which all students are held.

(Pub. L. 100–77, title VII, § 721, as added Pub. L. 107–110, title X, § 1032, Jan. 8, 2002, 115 Stat. 1989.)

**Prior Provisions**

A prior section 11431, Pub. L. 100–77, title VII, § 721, as added Pub. L. 103–382, title III, § 323, Oct. 20, 1994, 108 Stat. 3957, stated policy of Congress, prior to the general amendment of this part by Pub. L. 107–110.

Another prior section 11431, Pub. L. 100–77, title VII, § 721, July 22, 1987, 101 Stat. 525; Pub. L. 101–645, title VI, § 612(a), Nov. 29, 1990, 104 Stat. 4735, stated policy of Congress, prior to the general amendment of this part by Pub. L. 103–382.

**Effective Date**

Part effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as a note under section 6301 of Title 20, Education.

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**§ 11433. Local educational agency subgrants for the education of homeless children and youths**

**(a) General authority**

**(1) In general**

The State educational agency shall, in accordance with section 11432 (e) of this title, and from amounts made available to such agency under section 11435 of this title, make subgrants to local educational agencies for the purpose of facilitating the enrollment, attendance, and success in school of homeless children and youths.

**(2) Services**

**(A) In general**

Services under paragraph (1)—

- (i)** may be provided through programs on school grounds or at other facilities;
- (ii)** shall, to the maximum extent practicable, be provided through existing programs and mechanisms that integrate homeless children and youths with nonhomeless children and youths; and
- (iii)** shall be designed to expand or improve services provided as part of a school's regular academic program, but not to replace such services provided under such program.

**(B) Services on school grounds**

If services under paragraph (1) are provided on school grounds, schools—

- (i)** may use funds under this part to provide the same services to other children and youths who are determined by the local educational agency to be at risk of failing in, or dropping out of, school, subject to the requirements of clause (ii); and
- (ii)** except as otherwise provided in section 11432 (e)(3)(B) of this title, shall not provide services in settings within a school that segregate homeless children and youths from other children and youths, except as necessary for short periods of time—
  - (I)** for health and safety emergencies; or
  - (II)** to provide temporary, special, and supplementary services to meet the unique needs of homeless children and youths.

**(3) Requirement**

Services provided under this section shall not replace the regular academic program and shall be designed to expand upon or improve services provided as part of the school's regular academic program.

**(b) Application**

A local educational agency that desires to receive a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and containing or accompanied by such information as the State educational agency may reasonably require. Such application shall include the following:

- (1)** An assessment of the educational and related needs of homeless children and youths in the area served by such agency (which may be undertaken as part of needs assessments for other disadvantaged groups).

- (2) A description of the services and programs for which assistance is sought to address the needs identified in paragraph (1).
- (3) An assurance that the local educational agency's combined fiscal effort per student, or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such agency for the fiscal year preceding the fiscal year for which the determination is made, was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.
- (4) An assurance that the applicant complies with, or will use requested funds to comply with, paragraphs (3) through (7) of section 11432 (g) of this title.
- (5) A description of policies and procedures, consistent with section 11432 (e)(3) of this title, that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and youths.

**(c) Awards**

**(1) In general**

The State educational agency shall, in accordance with the requirements of this part and from amounts made available to it under section 11435 of this title, make competitive subgrants to local educational agencies that submit applications under subsection (b) of this section. Such subgrants shall be awarded on the basis of the need of such agencies for assistance under this part and the quality of the applications submitted.

**(2) Need**

In determining need under paragraph (1), the State educational agency may consider the number of homeless children and youths enrolled in preschool, elementary, and secondary schools within the area served by the local educational agency, and shall consider the needs of such children and youths and the ability of the local educational agency to meet such needs. The State educational agency may also consider the following:

- (A) The extent to which the proposed use of funds will facilitate the enrollment, retention, and educational success of homeless children and youths.
- (B) The extent to which the application—
  - (i) reflects coordination with other local and State agencies that serve homeless children and youths; and
  - (ii) describes how the applicant will meet the requirements of section 11432 (g)(3) of this title.
- (C) The extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youths.
- (D) Such other criteria as the State agency determines appropriate.

**(3) Quality**

In determining the quality of applications under paragraph (1), the State educational agency shall consider the following:

- (A) The applicant's needs assessment under subsection (b)(1) of this section and the likelihood that the program presented in the application will meet such needs.
- (B) The types, intensity, and coordination of the services to be provided under the program.
- (C) The involvement of parents or guardians of homeless children or youths in the education of their children.
- (D) The extent to which homeless children and youths will be integrated within the regular education program.
- (E) The quality of the applicant's evaluation plan for the program.

(F) The extent to which services provided under this part will be coordinated with other services available to homeless children and youths and their families.

(G) Such other measures as the State educational agency considers indicative of a high-quality program, such as the extent to which the local educational agency will provide case management or related services to unaccompanied youths.

**(4) Duration of grants**

Grants awarded under this section shall be for terms not to exceed 3 years.

**(d) Authorized activities**

A local educational agency may use funds awarded under this section for activities that carry out the purpose of this part, including the following:

(1) The provision of tutoring, supplemental instruction, and enriched educational services that are linked to the achievement of the same challenging State academic content standards and challenging State student academic achievement standards the State establishes for other children and youths.

(2) The provision of expedited evaluations of the strengths and needs of homeless children and youths, including needs and eligibility for programs and services (such as educational programs for gifted and talented students, children with disabilities, and students with limited English proficiency, services provided under title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.] or similar State or local programs, programs in vocational and technical education, and school nutrition programs).

(3) Professional development and other activities for educators and pupil services personnel that are designed to heighten the understanding and sensitivity of such personnel to the needs of homeless children and youths, the rights of such children and youths under this part, and the specific educational needs of runaway and homeless youths.

(4) The provision of referral services to homeless children and youths for medical, dental, mental, and other health services.

(5) The provision of assistance to defray the excess cost of transportation for students under section 11432 (g)(4)(A) of this title, not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected under section 11432 (g)(3) of this title.

(6) The provision of developmentally appropriate early childhood education programs, not otherwise provided through Federal, State, or local funding, for preschool-aged homeless children.

(7) The provision of services and assistance to attract, engage, and retain homeless children and youths, and unaccompanied youths, in public school programs and services provided to nonhomeless children and youths.

(8) The provision for homeless children and youths of before- and after-school, mentoring, and summer programs in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities.

(9) If necessary, the payment of fees and other costs associated with tracking, obtaining, and transferring records necessary to enroll homeless children and youths in school, including birth certificates, immunization or medical records, academic records, guardianship records, and evaluations for special programs or services.

(10) The provision of education and training to the parents of homeless children and youths about the rights of, and resources available to, such children and youths.

(11) The development of coordination between schools and agencies providing services to homeless children and youths, as described in section 11432 (g)(5) of this title.

(12) The provision of pupil services (including violence prevention counseling) and referrals for such services.

*NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2012 (see <http://www.law.cornell.edu/uscode/uscpri.html>).*

- (13) Activities to address the particular needs of homeless children and youths that may arise from domestic violence.
- (14) The adaptation of space and purchase of supplies for any nonschool facilities made available under subsection (a)(2) of this section to provide services under this subsection.
- (15) The provision of school supplies, including those supplies to be distributed at shelters or temporary housing facilities, or other appropriate locations.
- (16) The provision of other extraordinary or emergency assistance needed to enable homeless children and youths to attend school.

(Pub. L. 100–77, title VII, § 723, as added Pub. L. 107–110, title X, § 1032, Jan. 8, 2002, 115 Stat. 2001.)

### References in Text

The Elementary and Secondary Education Act of 1965, referred to in subsec. (d)(2), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally. Title I of the Act is classified generally to subchapter I (§ 6301 et seq.) of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

### Prior Provisions

A prior section 11433, Pub. L. 100–77, title VII, § 723, as added Pub. L. 103–382, title III, § 323, Oct. 20, 1994, 108 Stat. 3962, related to local educational agency grants for education of homeless children and youth, prior to the general amendment of this part by Pub. L. 107–110.

Another prior section 11433, Pub. L. 100–77, title VII, § 723, July 22, 1987, 101 Stat. 527; Pub. L. 100–628, title VII, § 702(b), Nov. 7, 1988, 102 Stat. 3245; Pub. L. 101–645, title VI, § 612(c), Nov. 29, 1990, 104 Stat. 4739, related to local educational agency grants for education of homeless children and youth, prior to the general amendment of this part by Pub. L. 103–382.

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**§ 11434a. Definitions**

For purposes of this part:

- (1) The terms “enroll” and “enrollment” include attending classes and participating fully in school activities.
- (2) The term “homeless children and youths”—
  - (A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 11302 (a)(1) of this title); and
  - (B) includes—
    - (i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;
    - (ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 11302 (a)(2)(C) <sup>1</sup> of this title);
    - (iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
    - (iv) migratory children (as such term is defined in section 6399 of title 20) who qualify as homeless for the purposes of this part because the children are living in circumstances described in clauses (i) through (iii).
- (3) The terms “local educational agency” and “State educational agency” have the meanings given such terms in section 7801 of title 20.
- (4) The term “Secretary” means the Secretary of Education.
- (5) The term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.
- (6) The term “unaccompanied youth” includes a youth not in the physical custody of a parent or guardian.

**Footnotes**

<sup>1</sup> See References in Text note below.

(Pub. L. 100–77, title VII, § 725, as added Pub. L. 107–110, title X, § 1032, Jan. 8, 2002, 115 Stat. 2005.)

**References in Text**

Section 11302 of this title, referred to in par. (2)(B)(ii), was amended by Pub. L. 111–22, div. B, § 1003(a)(2), May 20, 2009, 123 Stat. 1664, and, as so amended, section 11302 (a)(2) of this title no longer contains a subpar. (C).

**Prior Provisions**

A prior section 11434a, Pub. L. 100–77, title VII, § 725, as added Pub. L. 103–382, title III, § 323, Oct. 20, 1994, 108 Stat. 3965, defined terms, prior to the general amendment of this part by Pub. L. 107–110.

Another prior section 11434a, Pub. L. 100–77, title VII, § 725, as added Pub. L. 101–645, title VI, § 613(2), Nov. 29, 1990, 104 Stat. 4743, related to reports by Comptroller General, prior to the general amendment of this part by Pub. L. 103–382.

**42 USC 11434a**

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*NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2012 (see <http://www.law.cornell.edu/uscode/uscpri.html>).*

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A prior section 725 of Pub. L. 100-77 was renumbered section 726 and was classified to section 11435 of this title, prior to the general amendment of this part by Pub. L. 103-382.