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to EHCYSTATECOORDINATORS

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Dear Colleagues:

I am writing to inform you of the educational rights of students who are Afghan evacuees who may be living in temporary housing. I encourage you to share this information widely with your local liaisons and local educational agencies.

With many Afghan evacuees being resettled in the United States in recent months, the U.S. Department of Education understands there has been some confusion about the services these students are eligible to receive under title VI, subtitle B of the McKinney-Vento Homeless Assistance Act (McKinney-Vento Act). These services are available to all students who meet the statute's definition of "homeless children and youths," regardless of their citizenship, immigration, refugee, or evacuee status. As defined in section 725(2) of the McKinney-Vento Act,

"The term 'homeless children and youths'—

- A. means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1)); 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; or are abandoned in hospitals;
  - 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 103(a)(2)(C));
  - 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 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of title 7, subtitle B, because the children are living in circumstances described in clauses (i) through (iii)."

As noted above, children and youths who lack a fixed, regular, and adequate nighttime residence are eligible to receive services under title VI, subtitle B of the McKinney-Vento Act. Because the Act identifies students living in hotels as eligible for services, and we understand that many Afghan evacuees have been temporarily resettled in hotels, they would therefore qualify for services under the statute.

State educational agencies (SEAs) and local educational agencies (LEAs) should work with their State Refugee Coordinators and local refugee resettlement affiliates to identify incoming Afghan evacuees who are eligible for services under title VI, subtitle B of the McKinney-Vento Act as soon as possible to better meet the students' needs and

provide appropriate support. As evacuees may be highly mobile as they move to different areas to resettle, State Refugee Coordinators and local refugee resettlement affiliates, as well as additional partners in various communities, may provide helpful information to identify which Afghan students are eligible for services under the McKinney-Vento Act. Identifying these students as eligible for services under title VI, subtitle B of the McKinney-Vento Act will provide them with more stability and continuity in their education by facilitating immediate enrollment without documentation, establishing a school of origin, assisting them in maintaining that enrollment while they seek permanent housing, and providing transportation to and from school as families move through different placements. Under the McKinney-Vento Act, schools must enroll homeless children and youths regardless of whether they have the required documents for enrollment (including immunization records and proof of age) or have missed application or enrollment deadlines (see, e.g., section 722(g)(3)(C)). Enrollment includes attending classes and participating fully in any services, programs, and extracurricular activities that the school offers to students. (See section 725(1)).

Eligibility for services under the McKinney-Vento Act should be considered on a case-by-case basis in order to account for each student's specific circumstances. Not all evacuee children will meet the definition of "homeless children and youths" under the McKinney-Vento Act. SEAs and LEAs should coordinate with their State Refugee Coordinator and with local refugee resettlement affiliates to better understand the specific circumstances of each Afghan family. It is important, however, to determine their status based on the McKinney-Vento Act's definition, rather than on outside factors such as whether the family or youth's housing is being paid for or provided by a non-profit or government agency.

Children and youths who are not in the physical custody of their parents or legal guardians and who do not have a fixed, regular, and adequate night-time residence are considered unaccompanied homeless youths (UHYs) under the McKinney-Vento Act (see section 725(6)). UHYs have additional rights under the McKinney-Vento Act, including the right to immediate enrollment in school without a guardian's signature. Section P of the [Education for Homeless Children and Youths Program Non-Regulatory Guidance](#) (NRG) provides additional information on addressing the needs of UHYs.

The Department recommends that SEAs and LEAs review the National Center for Homeless Education's (NCHE's) best practice brief on [Supporting the Education of Immigrant Students Experiencing Homelessness](#). Additional resources and information to help support students and their families who are Afghan evacuees may be found at [Welcome.us](#) and on the U.S. Department of Education's [Keeping the Promise](#) webpage.

For information related to school districts' obligation to avoid discrimination in school enrollment based on the immigration status or national origin of students or other family members, please see the [May 8, 2014 Dear Colleague Letter](#) and the accompanying [Information on the Rights of All Children to Enroll in School: Questions](#)

[and Answers for States, School Districts and Parents](#) and [Fact Sheet: Confronting Discrimination Based on National Origin and Immigration Status](#), all issued jointly by the U.S. Department of Education and the U.S. Department of Justice.

The Department of Health and Human Services' Administration for Children and Families plans to award significant Refugee School Impact funding to states in FY 2022 as a set-aside within the Refugee Support Services formula allocations (<https://www.acf.hhs.gov/sites/default/files/documents/orr/orr-dcl-22-06-refugee-school-impact-fy2022-funding.pdf>).

Best,

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