



# Education for Homeless Children and Youth: Program Overview and Legislation

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## Summary

The Education for Homeless Children and Youth program (EHCY) provides formula grants to state educational agencies (SEAs) to help ensure that all homeless children and youth have equal access to the same free and appropriate public education, including public preschool education that is provided to other children and youth. It is the only federal education program exclusively focused on homeless children and youth. SEAs competitively subgrant funds to local educational agencies (LEAs). Not all LEAs receive EHCY grants. In school year (SY) 2010-2011, 3,651 LEAs, out of a total of 16,290, received awards. Although only 22% percent of LEAs received EHCY grants in SY2010-2011, they enrolled 71% of all homeless students in that year. Education and related services for homeless children and youth are also funded through required set-asides from Title I-A of the Elementary and Secondary Education Act. National data on the amount of funding set aside are not available.

The EHCY program was most recently reauthorized as part of the Elementary and Secondary Education Act (ESEA, P.L. 107-110). Reauthorization of EHCY may be considered by the 113<sup>th</sup> Congress as part of the reauthorization of ESEA. EHCY received \$65.2 million in funding for FY2012. EHCY is currently funded through March 27, 2013, by a government-wide Continuing Resolution (P.L. 112-175) at the FY2012 level plus 0.612%.

All LEAs are required to report data to the Department of Education on the number of homeless students enrolled in school each year, regardless of whether or not they receive an EHCY grant. In SY2008-2009, 956,914 homeless students were reported enrolled in school; in SY2009-2010, 939,903 homeless students were reported enrolled; and in SY2010-2011, the number of enrolled homeless students reported was 1,065,794. The total number of homeless students enrolled decreased by 2% between SY2008-2009 and SY2009-2010; it increased 13% between SY2009-2010 and SY2010-2011. During the three-year period between SY2008-2009 and SY2010-2011, it increased by 11%. Four states accounted for 42% of the total number of students enrolled in both LEAs with EHCY subgrants and those without in SY2010-2011. Those states, and their percentages of total homeless student enrollment were, California (21%), New York (9%), Texas (8%), and Florida (5%).

Legislation to reauthorize EHCY as part of the reauthorization of ESEA was reported by both House and Senate committees in the 112<sup>th</sup> Congress, and may be considered in the 113<sup>th</sup> Congress. Some of the issues that are under consideration include EHCY program funding; costs of transporting homeless students to their school of origin; implementation of the ESEA Title I-A set-aside for EHCY; whether to permit separate schools for homeless students; clarification of the “best interest” school selection process; how to enhance the ability of LEA homeless liaisons and state coordinators to meet the needs of homeless students; how to improve the identification of, and services provided to, preschool students and unaccompanied youth; how to increase access to education and related services for homeless students; and the impact of potential changes to the definition of homeless in EHCY and other legislation.

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## Introduction

The Education for Homeless Children and Youth Program (EHCY)<sup>1</sup> is intended to ensure that all homeless children and youth have equal access to the same free and appropriate public education, including public preschool education that is provided to other children and youth. It is the only federal education program exclusively focused on homeless children and youth.<sup>2</sup> Federal education funding for homeless children and youth is provided by EHCY and through required set-asides for homeless children and youth from Elementary and Secondary Education Act (ESEA) Title I-A funds received by local educational agencies (LEAs). Reauthorization of EHCY may be considered by the 113<sup>th</sup> Congress as part of the reauthorization of ESEA.

This report provides an overview of the purposes and program structure of EHCY; the history of the program's funding; issues that have arisen regarding the implementation of ESEA Title I-A set-asides for homeless students; data on the number of LEAs receiving EHCY grants and on the characteristics of homeless students; and a discussion of proposed changes to EHCY included in bills introduced in the 112<sup>th</sup> Congress to reauthorize the ESEA. The report also includes two appendices: the first provides information on the number and percentage of homeless students by state; the second discusses legislation adopted in the 110<sup>th</sup>-111<sup>th</sup> Congresses that impacts EHCY.

# Education for Homeless Children and Youth Program: McKinney-Vento Homeless Assistance Act, Title VII, Part B

## Program Overview

### **EHCY: Definition of Homeless**

EHCY defines homeless children and youth as those who lack a "fixed, regular, and adequate nighttime residence."<sup>3</sup> EHCY states that this 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...; (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 ESEA) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii). (McKinney-Vento Homeless Assistance Act, Title VII-B, Section 725(B))

<sup>1</sup> Initially authorized by the McKinney-Vento Homeless Assistance Act, Title VII-B (P.L. 100-77) in 1987.

<sup>2</sup> EHCY has been amended and extended multiple times, most recently as part of the 2001 reauthorization of the Elementary and Secondary Education Act, also known as the No Child Left Behind Act (ESEA, P.L. 107-110). The automatic one-year extension provided by the General Education Provisions Act extended the authorization through FY2008. Although the authorization of appropriations has expired, EHCY has continued to receive funding through annual appropriations legislation.

<sup>3</sup> McKinney-Vento Homeless Assistance Act, Title VII-B, Section 725(A).

EHCY provides grants to state educational agencies (SEAs) to help ensure that all homeless children and youth have equal access to the same free and appropriate public education, including public preschool education that is provided to other children and youth.<sup>4</sup> The text box above provides the definition of “homeless” that is used in the program. SEAs competitively subgrant funds to local educational agencies. Not all LEAs receive EHCY grants. In school year (SY) 2010-2011, 3,651 LEAs, out of a total of 16,290, received awards.

In order to receive EHCY funds, each state must submit a plan indicating how homeless children and youth will be identified; how the state will ensure that homeless children will participate in federal, state, and local food programs, if eligible; and how issues such as transportation, immunization, residency requirements, and the lack of birth certificates or school records will be addressed.

EHCY grants are allocated to SEAs in proportion to grants made under Title I-A of the ESEA, except that no state can receive less than the greater of \$150,000, 0.25% of the total annual appropriation, or the amount it received in FY2001. The Department of Education (ED) reserves 0.1% of the total appropriation to provide grants to outlying areas (Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands), and 1.0% for the Department of the Interior for services to homeless children and youth provided by the Bureau of Indian Education. The law also authorizes the reservation of funds for national activities but does not specify a percentage. Authorized national activities include program evaluation, technical assistance, and information dissemination.

States may reserve up to 25% of their EHCY funding for state activities. “Minimally funded” states are permitted to reserve up to 50% of their funding for state activities.<sup>5</sup> After state reservations, remaining state funds are subgranted to LEAs competitively, based on the LEA’s need and the quality of its application. LEAs may receive subgrant funds for a period of up to three years, and they may reapply for a new subgrant when their current subgrant expires. LEAs are authorized to use the funds for the following activities:

- The excess costs of transportation so that a student can attend his/her school of origin;
- Supplemental educational services, including tutoring;
- Provision of expedited evaluations on the strengths and needs of homeless students;
- Professional development to assist school personnel in understanding the needs and rights of homeless students;
- Referral services for medical, dental, mental, and other health services;

**School of Origin Defined**

“... the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled.” (McKinney-Vento Homeless Assistance Act, Title VII-B, Section 722(g)(3)(G))

<sup>4</sup> For more information on programs for the homeless see CRS Report RL30442, *Homelessness: Targeted Federal Programs and Recent Legislation*, coordinated by Libby Perl.

<sup>5</sup> Minimally funded states are defined as those that receive the guaranteed minimum state award specified under McKinney-Vento Section 722(c)(1) (the greater of \$150,000, 0.25% of the total annual appropriation, or the amount they received in FY2001).

- Provision of early childhood education not otherwise available;
- Services and assistance to retain homeless students, including unaccompanied youth, in school;
- Mentoring and out-of-school time programs;
- Payment of costs for tracing, obtaining, and transferring needed records;
- Education and training of parents of homeless students regarding their student's rights;
- Coordination between schools and service agencies;
- Provision of, or referral for, services such as violence prevention counseling;
- Activities to address domestic violence;
- Adapting school space and purchasing supplies needed to provide services;
- Provision of school supplies; and
- Other emergency assistance needed to enable homeless students to attend school.<sup>6</sup>

## **Functions of the State EHCY Coordinator and Local EHCY Liaisons**

Each state is required to designate an EHCY coordinator, and each LEA is required to appoint a local EHCY liaison (whether they have an EHCY grant or not). The law is silent on the issue of whether a state coordinator must work full time on EHCY duties—most coordinators are responsible for additional programs. The law explicitly states that the local liaison may be a coordinator of other federal programs in addition to EHCY.

The state EHCY coordinator is responsible for implementing the state's plan for the education of homeless children and youth; gathering reliable, comprehensive data on the difficulties homeless students have enrolling in public school, including public preschools; identifying any progress made by the state in ensuring homeless students are enrolled in, attending, and succeeding in school; submitting reports that the Secretary of Education (Secretary) determines are necessary; providing technical assistance to LEAs in the state; and facilitating coordination between the SEA and other entities and providers including state social service agencies, educators, preschool providers, and other community organizations and agencies that provide services to homeless children and youth and their families.<sup>7</sup>

Local EHCY liaisons are responsible for identifying and enrolling homeless students and ensuring that these students have a full and equal opportunity to succeed in school; ensuring that these students are receiving all the education services for which they are eligible; providing referrals to health care, dental, mental health, and other appropriate services; informing parents of the educational and other opportunities available to their children and providing meaningful opportunities for them to participate in their children's education; providing families and youth with information on their right to transportation, including transportation to the school of origin;

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<sup>6</sup> McKinney-Vento Homeless Assistance Act, Title VII-B, Section 723(d).

<sup>7</sup> McKinney-Vento Homeless Assistance Act, Title VII-B, Section 722(f).

widely disseminating public notice of the rights of homeless students and youth; and ensuring that enrollment disputes are mediated.<sup>8</sup>

## **Program Funding**

### **Regular Appropriations**

Appropriations for EHCY increased following the program’s most recent reauthorization by ESEA (P.L. 107-110)—from \$35.0 million in FY2001 to \$50.0 million in FY2002. This increase was, however, substantially lower than the amount authorized for EHCY in FY2002 by P.L. 107-110. It authorized “\$70,000,000 for EHCY for FY2002 and such sums as may be necessary for each of fiscal years 2003 through 2007.”<sup>9</sup> Funding continued to increase in FY2003-FY2005, then decreased to \$61.9 million in FY2006 and FY2007.<sup>10</sup> Regular appropriations have remained at approximately \$65 million since FY2009.<sup>11</sup> (See **Table 1.**)

**Table 1. Education for Homeless Children and Youth:  
Appropriations, FY2000-FY2012**

<b>Year</b>	<b>Funding</b>
FY2000	\$28,000,000
FY2001	\$35,000,000
FY2002	\$50,000,000
FY2003	\$54,642,000
FY2004	\$59,646,000
FY2005	\$62,496,000
FY2006	\$61,871,000
FY2007	\$61,871,000
FY2008	\$64,067,000
FY2009	\$65,427,000
ARRA	\$70,000,000
FY2010	\$65,427,000
FY2011	\$65,296,000
FY2012	\$65,173,000

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<sup>8</sup> McKinney-Vento Homeless Assistance Act, Title VII-B, Section 722(g)(6).

<sup>9</sup> P.L. 107-110, Section 726.

<sup>10</sup> P.L. 109-148 provided supplemental FY2006 appropriations of \$5 million for assistance to LEAs serving homeless children and youth who were displaced by Hurricane Katrina or Hurricane Rita; these amounts are not shown in the table.

<sup>11</sup> In the 110<sup>th</sup> Congress, the Consolidated Security Disaster Assistance and Continuing Appropriations Act of 2009 (P.L. 110-329) provided \$15 million to LEAs or a consortium of LEAs whose enrollment of homeless students increased by at least 50 students due to natural disasters in calendar year 2008. Awards under this one year program were allocated to LEAs by a formula based on each LEA’s need as demonstrated by their relative share of additional homeless students enrolled in 2008. These amounts are not shown in the table.



<b>Year</b>	<b>Funding</b>
FY2013 Request	\$65,173,000 <sup>a</sup>

**Source:** U.S. Department of Education, *Justifications of Appropriations Estimates to the Congress*.

- a. EHCY is currently funded through March 27, 2013, by a government-wide Continuing Resolution (P.L. 112-175) at the FY2012 level plus 0.612%.

### **American Recovery and Reinvestment Act (P.L. 111-5) Funding**

In addition to regular appropriations, the EHCY program received \$70 million in American Recovery and Reinvestment Act (ARRA, P.L. 111-5) funds in FY2009. Funds were awarded to SEAs on April 10, 2009; SEAs were required to award ARRA funds to LEAs within 120 days (by August 8, 2009). LEAs were required to obligate funds by September 30, 2011. States and LEAs were required to keep a separate record of how ARRA funds were used and states were required to report this information to ED quarterly.

ARRA funds were to be used for the same local activities as those authorized by the regular EHCY program.<sup>12</sup> After reservations (0.1% for the outlying areas and 1% for the Bureau of Indian Education), ARRA funding was distributed by formula to states. The formula used to distribute ARRA funds to states was different from the formula used to distribute regular appropriations. ARRA funds were distributed to states in proportion to their reported share of total enrolled homeless students in SY2007-2008. Unlike regular EHCY funding that is awarded by SEAs to LEAs competitively, states could choose to award subgrants to LEAs competitively or by formula (based on numbers of homeless students), or they could use a combination of both methods. States were permitted to calculate their FY2009 reservation for state activities based on the total of their ARRA allocation and their regular FY2009 program allocation. However, any funding reserved for state activities had to be drawn from regular EHCY program allocations, not from ARRA funding.

First Focus and the National Association for the Education of Homeless Children and Youth (NAEHCY) jointly issued a report in 2010 that examined the increasing number of homeless students reported as enrolled by LEAs, and how ARRA funds were being used by LEAs. The report was based on a survey of 2,200 LEAs from 47 states and 45 Homeless Education state coordinators.<sup>13</sup> Survey respondents indicated that ARRA funds were being used for a variety of purposes, including academic support, transportation, outreach and identification, increasing support for specific subpopulations of homeless students, and enhancing collaboration with other community organizations. According to the report:

Prior to the receipt of ARRA funds, many school districts had never received funding to support homeless children and youth. For the first time, these districts have been able to dedicate resources to procedures and programming to ensure that homeless children and youth are identified, enrolled, and attending school. Respondents frequently commented that loss of funding would result in loss of educational access, stability, and success.<sup>14</sup>

<sup>12</sup> McKinney-Vento Homeless Assistance Act, Title VII-B, Section 723(d).

<sup>13</sup> First Focus and the National Association for the Education of Homeless Children and Youth, *A Critical Moment: Child and Youth Homelessness in our Nation's Schools*, July 2010.

<sup>14</sup> First Focus and the National Association for the Education of Homeless Children and Youth, *A Critical Moment: Child and Youth Homelessness in our Nation's Schools*, July 2010, p. 3.

Due in large part to ARRA funding, there was a 76% percent increase in the number of LEAs receiving EHCY grants between SY2008-2009 and SY2009-2010 (from 1,729 to 3,046).

## **Elementary and Secondary Education Act (ESEA), Title I-A Provisions on Homeless Education**

Children and youth who are homeless are automatically considered eligible for ESEA Title I-A services, whether or not they meet the performance requirements normally required for Title I-A eligibility.<sup>15</sup> In addition, LEAs are required to set aside a portion of their Title I-A funds for homeless students who do not attend schools receiving Title I-A funds:<sup>16</sup>

A local educational agency shall reserve such funds as are necessary under this part to provide services comparable to those provided to children in schools funded under this part to serve—(A) homeless children who do not attend participating schools including providing educationally related support services to children in shelters and other locations where children may live.<sup>17</sup>

However, ED non-regulatory guidance has indicated that the Title I-A funding set aside for homeless students not attending Title I-A schools may also be used to provide services for homeless students attending Title I-A schools. ED non-regulatory guidance also states that comparable services provided to homeless students may include services that are specifically tailored to the needs of homeless students:

An LEA has the discretion to use reserved funds to provide a homeless student with services that are not ordinarily provided to other Title I students and that are not available from other sources. For example, where appropriate, a LEA at its discretion may provide a student with an item of clothing to meet a school's dress or uniform requirement so that students may effectively take advantage of educational opportunities.<sup>18</sup>

The guidance also indicates that Title I-A funds may not be used to provide transportation to the school of origin for homeless students, since this would violate the supplement-not-supplant provisions applicable to Title I-A funds (because EHCY requires that transportation to the school of origin be provided for homeless students, if requested). However, non-regulatory guidance states that “it may be appropriate in certain circumstances for an LEA to use title I, Part A funds to transport *formerly* homeless students to or from their school of origin for the remainder of the school year in which they become permanently housed.”<sup>19</sup>

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<sup>15</sup> ESEA Title I-A is the primary federal program providing funding for education and related services for disadvantaged students in grades K-12. Title I-A funds are generally used to serve lower performing students. For more on ESEA Title I-A, see CRS Report RL33960, *The Elementary and Secondary Education Act, as Amended by the No Child Left Behind Act: A Primer*, by Rebecca R. Skinner.

<sup>16</sup> LEAs are responsible for developing their own procedures for determining the amount of ESEA Title I-A that they set aside for homeless students.

<sup>17</sup> ESEA, Title I-A, Section 1113(c)(3)(A).

<sup>18</sup> United States Department of Education, *Education for Homeless Children and Youth Program: Title VII-B of the McKinney-Vento Homeless Assistance Act, as amended by the No Child Left Behind Act of 2001*, Non-Regulatory Guidance, Washington, DC, July 2004, p. 28.

<sup>19</sup> United States Department of Education, *Education for Homeless Children and Youth Program: Title VII-B of the McKinney-Vento Homeless Assistance Act, as amended by the No Child Left Behind Act of 2001*, Non-Regulatory (continued...)

National data on the amount of ESEA Title I-A funding being set aside by LEAs for homeless students are not available. Some states require LEAs to report this information. ED does not require that the amount set aside be reported.

## Program and Related Data

### LEA and Participant Data

All states are required to report data to ED on the number of homeless students enrolled<sup>20</sup> in school each year, regardless of whether or not they receive an EHCY grant. In SY2009-2010, there were 16,290 LEAs; 3,651 (22%) of these LEAs received EHCY subgrants in that year.<sup>21</sup> Although only 22% percent of LEAs received EHCY grants in SY2009-2010, they accounted for 71% of all enrolled homeless students in that year.

It is important to note, however, that the number of homeless children and youth discussed here only includes those who are enrolled in school. As a consequence, because these data do not include the number of homeless students not enrolled in school, they do not represent the total number of homeless children and youth.<sup>22</sup> In SY2008-2009, 956,914 homeless students were reported enrolled; in SY2009-2010, the number of enrolled homeless students reported was 939,903; and in SY2010-2011, 1,056,794 homeless students were reported enrolled (see **Figure 1**).<sup>23</sup> The total number of homeless students enrolled declined by 2% between SY2008-SY2009 and SY2009-2010, but it increased by 13% between SY2009-2010 and SY2010-2011. The SY2008-2010 decline was due in part to changes in data collection procedures in California. If California were excluded from the total, there would have been an increase of 11% in enrolled homeless students between SY2008-2009 and SY2009-2010.<sup>24</sup>

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(...continued)

Guidance, Washington, DC, July 2004, p. 27.

<sup>20</sup> Homeless students are defined as enrolled if they are attending classes and participating fully in school activities. Total enrolled includes students enrolled in LEAs with and without EHCY subgrants.

<sup>21</sup> All data are reported based on a school year (SY). All data discussed in this section are from the *Education for Homeless Children and Youth Program: Data Collection Summary*, National Center for Homeless Education, June 2012.

<sup>22</sup> According to ED, “The rationale behind the decision to require states and school districts to collect data only on children and youth enrolled in school is to ensure that data are collected consistently and accurately across the nation, i.e., one record for every homeless student who enrolls during a school year. Local school districts are accountable for data related to the students they serve. However, other agencies may use multiple sources for estimates on homeless children and youth that may include those not enrolled in school.” U.S. Department of Education, *Report to the President and Congress on the Implementation of the Education for Homeless Children and Youth Program Under the McKinney-Vento Homeless Assistance Act*, Washington, DC, 2006, p.2.

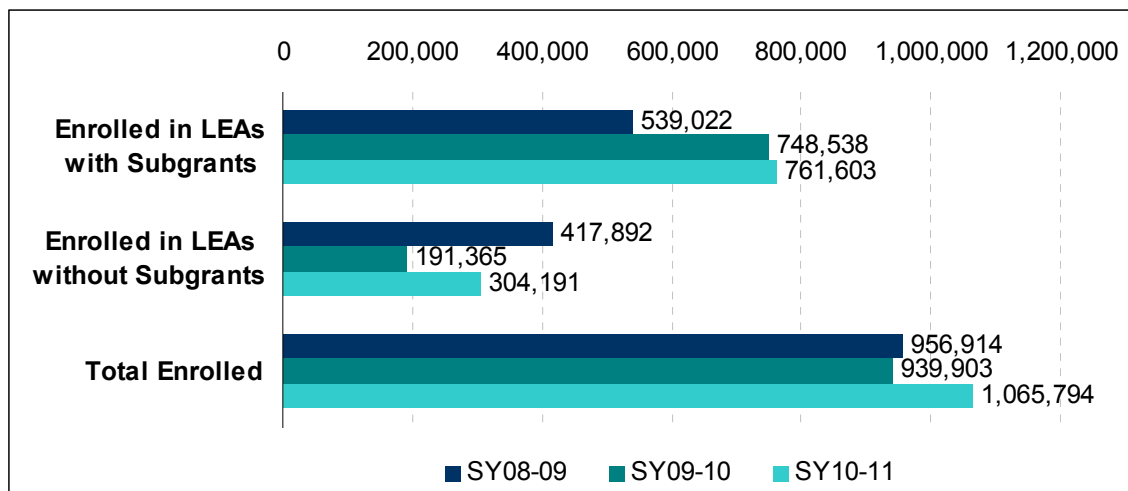
<sup>23</sup> In FY2009-2010, new guidelines were issued requiring that all LEAs be reported individually, irrespective of whether they participated in a consortia served by a regional grantee. As a consequence, according to the FY2012 EHCY report: “The increases in the number of homeless children and youths enrolled in or served by LEAs with subgrants reported in SY2009-10 and SY2010-11 can be attributed to the increase in the number of LEAs with subgrants reporting data, in addition to actual increases in the numbers of homeless children and youths enrolled by these LEAs in many States.” *For Homeless Children and Youth Program: Data Collection Summary*, National Center for Homeless Education, June 2012, p.4.

<sup>24</sup> Part of the reason for the decline in the number of homeless students enrolled between SY2008-2009 compared to SY2009-2010 is the decrease in enrollment of homeless students in California by 94,437. California experienced a (continued...)

According to the First Focus and NAEHCY report discussed above, between SY2006-2007 and SY2008-2009, the number of homeless students increased from 679,724 to 956,914.<sup>25</sup> Sixty-two percent of respondents attributed the increase in homeless students to the economic downturn; some of the additional factors cited included greater awareness of homelessness (40%), the foreclosure crisis (38%), improved outreach and identification (33%), and an increase in factors affecting mental or physical health, such as incidents of domestic violence or substance abuse (29%).

Four states accounted for 42% of the total number of students enrolled in both LEAs with EHCY subgrants and those without in SY2010-2011. Those states, and their percentages of total homeless student enrollment, were California (21%), New York (9%), Texas (8%), and Florida (5%). Forty-four states reported an increase in the number of homeless students enrolled between SY2009-2010 and SY2010-2011; nine states reported a decrease in the number of homeless students enrolled during this period. (See **Appendix A** for SY2008-2011 data on homeless student enrollment by state.)

**Figure 1. Total Number of Homeless Students Enrolled in LEAs With and Without Subgrants, SY2008-2009 through SY2010-2011**



**Source:** Prepared by CRS based on data from the National Center on Homeless Education, *Education for Homeless Children and Youths Program: Data Collection Summary*, June 2012.

(...continued)

large decrease in its number of LEAs without EHCY grants reporting during this period. California has experienced some difficulty in obtaining complete counts of homeless students as a result of its change to a new data reporting system. According to California’s State Department of Education “the main cause for this decrease is the data reporting procedures and sources to collect homeless data has fully transitioned to a new data system. CDE is currently working to improve the data quality in the homeless data collected in this system.” National Center for Homeless Education, *Education for Homeless Children and Youth Program: Data Collection Summary*, NCHE, for the U.S. Department of Education, June 2011.

<sup>25</sup> The increase is not attributable to the availability of ARRA funds; states did not receive these funds until after this reporting period.

## **Homeless Preschool Students**

States are required to report on the number of homeless children (ages 3-5, not in kindergarten) enrolled in public preschool programs. For SY2008-2009, 33,433 preschoolers were reported enrolled in public preschool programs; this compares to 30,955 enrolled in SY2009-2010, and 36,308 in SY2010-2011. It is important to note, however, that obtaining accurate counts of homeless preschoolers is even more difficult than it is for homeless students in grades K-12. (See the discussion below on reauthorization issues.)

## **Primary Nighttime Residence**

States must also report data on the primary nighttime residence of each homeless student who is counted as enrolled in school. The list of reporting options for primary nighttime residence includes shelters (this category includes both transitional housing and awaiting foster care); doubled-up (e.g., living with another family); unsheltered (e.g., cars, parks, campgrounds, temporary trailers, or abandoned buildings); and hotels/motels.<sup>26</sup> In SY2010-2011, all LEAs reporting indicated that doubled-up accounted for the largest share of homeless students (72%). Doubled-up has accounted for the largest share of reported primary nighttime residences during the entire three-year period from SY2008-2009 through SY2010-2011. Additional primary residences reported for SY2010-2011, by share of total homeless students, were shelters (18%); hotels/motels (5%); and unsheltered (5%).

## **Subpopulations of Homeless Students**

Each LEA that receives an EHCY grant is required to provide additional data on homeless students not required of LEAs without an EHCY grant. The additional information required includes data on subpopulations of homeless students served,<sup>27</sup> and information on academic achievement.

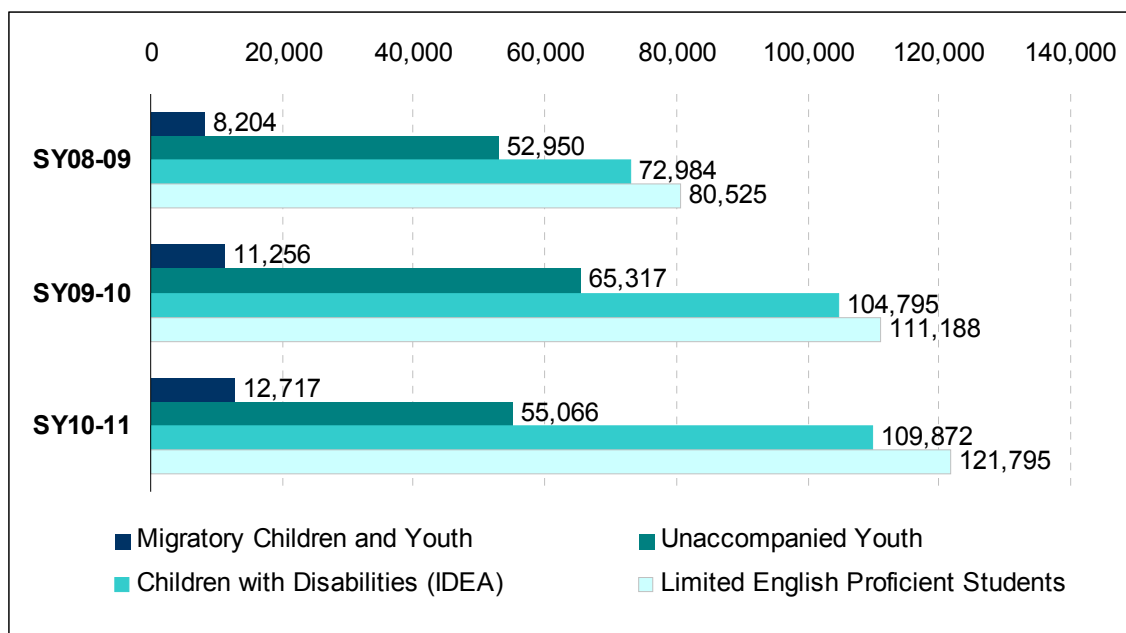
Data are reported on the following subpopulations of homeless students served: English language learners, children with disabilities, unaccompanied youth, and migratory children and youth. During the three-year period between SY2008-2009 and SY2010-2011, the percentage increase in homeless students served was 55% for migratory children and youth, 51% for English language learners, 51% for children with disabilities, and 4% for unaccompanied youth.

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<sup>26</sup> Until SY2005-2006, the primary nighttime residence could be reported as “unknown.” This response is no longer permitted.

<sup>27</sup> The term “served” is defined by the National Center for Homeless Education, *Education for Homeless Children and Youth Program: Data Collection Summary*, NCHE, for the U.S. Department of Education, June 2011, p. 16. It includes homeless children who have been served in any way through McKinney-Vento funds.

**Figure 2. Subpopulations of Homeless Served in LEAs With Subgrants, SY2008-2009 through SY2010-2011**



**Source:** Prepared by CRS based on data from the National Center on Homeless Education, *Education for Homeless Children and Youths Program: Data Collection Summary*, June 2012.

## Academic Progress

LEAs with EHCY subgrants report on both the number of homeless students tested each year and on the proficiency of these students in reading and mathematics. Homeless students must be tested annually in grades 3-8 and once in high school. Data on homeless students' proficiency based on state tests are reported in each state's annual Consolidated State Performance Report (CSPR) submitted to the Department of Education. However, there are no data on the academic performance of homeless students that rely on the same measure of proficiency across states. As a consequence, these reported proficiency rates are not comparable across states.<sup>28</sup>

As of SY2010-2011, academic performance data was required to be reported for homeless children enrolled in all LEAs. Previously, data were reported only for students served by LEAs with EHCY grants. As a consequence, data from earlier years are not comparable with data for SY2010-2011. Data for SY2010-2011 are reported in **Table 2**. For FY2010-2011, out of all enrolled homeless students, 71% of students in grades 3-8 and 15% of high school students took

<sup>28</sup> These data are based on aggregated state data on the percentage of homeless students proficient in reading and math. Because each state has the discretion to develop its own assessment and choose its own cut scores denoting proficiency, there is no common measure of proficiency. For example, if two states were using the same assessment, and State A chose a low cut score to denote proficiency and State B chose a high cut score to denote proficiency, State A may have a higher percentage of students reaching proficiency than State B. It would not be appropriate to conclude, however, that State A had higher student achievement levels overall. In addition, homeless students frequently move from one school district to another—as a consequence, the subgroup of homeless students tested in one year may be different from the subgroup of homeless students tested in a subsequent year. For more information on assessment issues, see CRS Report R40514, *Assessment in Elementary and Secondary Education: A Primer*, by Rebecca R. Skinner.

the reading and mathematics assessment tests. In reading, 52% of students in grades 3-8 and 49% of high school students met or exceeded state proficiency standards. In mathematics, 51% of students in grades 3-8 and 44% of high school students met or exceeded state proficiency standards.<sup>29</sup>

**Table 2. Academic Assessment of Homeless Children and Youth Enrolled in LEAs with and without Subgrants, SY2010-2011**

	SY2010-SY2011			
	% Taking Reading Assessment Test	% Taking Mathematics Assessment Test	% Meeting or Exceeding State Proficiency in Reading	% Meeting or Exceeding State Proficiency in Mathematics
Grade 3	72%	71%	51%	58%
Grade 4	73%	73%	55%	58%
Grade 5	73%	73%	54%	54%
Grade 6	71%	71%	51%	46%
Grade 7	70%	70%	50%	45%
Grade 8	68%	68%	51%	43%
Total, Grades 3-8	71%	71%	52%	51%
High School	15%	15%	49%	44%
Total, Grades 3-12	50%	50%	52%	51%

**Source:** National Center for Homeless Education, *Education for Homeless Children and Youth Program: Data Collection Summary*, June 2012.

## Reauthorization Issues

The final section of this report discusses changes to EHCY proposed by legislation introduced in the 112<sup>th</sup> Congress. Reauthorization of EHCY may be considered by the 113<sup>th</sup> Congress as part of ESEA reauthorization. Where relevant, background information on the context for proposed changes is also included. On October 20, 2011, the Senate Committee on Health, Education, Labor, and Pensions (HELP) ordered reported a bill to reauthorize the ESEA, titled the Elementary and Secondary Education Reauthorization Act of 2011 (S. 3578, hereinafter referred to as the Senate HELP Committee bill).<sup>30</sup> Reauthorization of EHCY was included as part of this legislation. On February 28<sup>th</sup>, 2012, the House Committee on Education and the Workforce (Education and Workforce) ordered reported two bills to reauthorize portions of the ESEA.<sup>31</sup> One of these bills H.R. 3990, the Encouraging Innovation and Effective Teachers Act (hereinafter

<sup>29</sup> The high mobility of homeless students and absences can cause the numbers of students tested to be different from the number of students reported as enrolled.

<sup>30</sup> All discussion of the Senate bill is based on the Manager's Amendment available online at <http://www.help.senate.gov/imo/media/doc/ROM118313.pdf>

<sup>31</sup> Links to both bills are provided here: <http://www.congress.gov/cgi-lis/lis> and <http://www.congress.gov/cgi-lis/lis>

referred to as the House Education and Workforce Committee bill (H.R. 3990)), would have reauthorized the EHCY program. The other bill H.R. 3989, the Student Success Act (hereinafter referred to as the House Education and Workforce Committee bill (H.R. 3989)), included amendments to ESEA Title I-A that would have impacted EHCY.

In addition, H.R. 32, The Homeless Children and Youth Act of 2011, was ordered reported by the Subcommittee on Insurance, Housing, and Community Opportunity of the House Committee on Financial Services on February 6, 2012. This bill is discussed under the Definition heading in this section of the report.

The EHCY issues discussed in this section include:

- funding;
- transportation of homeless students to their school of origin;
- ESEA Title I-A set asides;
- separate schools for homeless students;
- clarifying the “best interest” school selection process;
- enhancing the ability of LEA homeless liaisons and state coordinators to meet the needs of homeless students;
- improving identification and services for preschool students and unaccompanied youth;
- increasing access to education and related services for homeless students;
- the definition of homeless children and youth in EHCY and other federal programs; and
- additional issues.

## **Funding**

There has been some concern that funding for the EHCY program may not be sufficient to meet the educational needs of the increasing number of homeless children and youth. Although the number of homeless students reported enrolled by LEAs increased 11% between SY2008-2009 through SY2010-2011, EHCY regular appropriations have been stagnant in recent years (see **Table 1**). Nevertheless, in the current context of limited federal resources, funding increases in the near future for many federal programs, including EHCY, may be unlikely.

The Senate HELP Committee bill would have authorized “such sums as may be necessary for fiscal year 2012 and each of the 6 succeeding fiscal years.” The House Education and Workforce Committee bill (H.R. 3990) would have authorized “\$65,173,000 for fiscal year 2013 ... ” and stated that this amount “shall be increased for each of fiscal years 2014 through 2018 by a percentage equal to the percentage of inflation according to the Consumer Price Index, for the calendar year ending prior to the beginning of that fiscal year.”



## **Transportation of Homeless Students to Their School of Origin**

As discussed earlier in this report, transportation is cited as the most serious barrier to the enrollment of homeless students. Many school districts have limited funds, and transportation is an expensive service to provide. Current law prohibits the use of ESEA Title I-A funds to provide EHCY transportation, except under limited circumstances (see earlier discussion).

National level estimates of the costs of transporting homeless students are not available. Therefore, data from a survey of eight districts in Washington state are included to provide an illustration of the potential costs of transporting homeless students. These data indicate that:

The majority of homeless student trips (79 percent) cost the school districts from just under \$3 per one-way trip to over \$40 per one-way trip, as opposed to an average of just \$.67 for the general student population. Transportation of homeless students by school bus accounted for the largest percentage of student rides provided overall (38 percent), with costs ranging from \$4.24 to \$53.79 per one-way trip.<sup>32</sup>

In addition to the costs involved in transportation, there are often disputes among LEAs regarding how costs of transportation are to be allocated if a student is temporarily housed in one district, but is transported to the school of origin in another district. These disputes can potentially delay the enrollment of homeless students in their school of origin. Some have suggested that this situation could be improved if the following issues were addressed as part of ESEA reauthorization: more specific requirements were included on the rules for cost sharing by LEAs; a separate funding stream was provided for transportation; and LEAs were permitted to use their ESEA Title I-A set aside for transportation costs.

The Senate HELP Committee bill included new language that would have required states and LEAs to ensure that transportation to the school of origin was provided for as long as the student had the right to attend that school. Both the Senate HELP Committee bill and the House Education and Workforce Committee bill (H.R. 3989) included new language that would have permitted ESEA Title I-A funds to be used to provide transportation for homeless students to their school of origin.

## **ESEA Title I-A Set-Aside for Homeless Students**

LEAs are responsible for developing their own procedures for determining the amount of ESEA Title I-A funds that are set aside for homeless students; as a consequence, the amount of Title I-A funding set aside for this purpose varies considerably across LEAs. Homeless advocates argue that the lack of clarity regarding Title I-A set-asides has led to inadequate set-asides. Although no national data on set-asides are available, a survey of local homeless liaisons by the National Association for the Education of Homeless Children and Youth (NAEHCY) in January of 2010 included a question asking liaisons whether their district (LEA) set aside Title I-A funds for homeless students, and if so, how much was set aside.<sup>33</sup> Out of the 2,234 liaisons who answered

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<sup>32</sup> National Law Center on Homelessness and Poverty in Collaboration With Columbia Legal Services, *Beds Not Buses: Housing vs. Transportation for Homeless Students*, Washington, DC, September 2011, p. 6. Based on data from: Daniel Carson, et al., *Homeless Student Transportation Project Evaluation*, Washington State Transportation Center (TRAC), University of Washington (December 2006).

<sup>33</sup> While some states ask LEAs to report this information, there is no federal requirement that they do so, and ED does not collect or report this information on a national level.

the question, 67% indicated that their district did set aside Title I-A funds; 23% indicated that their district did not set aside funds; and 11% did not know.

The Senate HELP Committee bill included new provisions under ESEA Title I-A that would have *required* Title I-A set-asides to be based on a needs assessment that reflected the number of homeless children and youth identified in the previous year and included the collaboration and input from other agencies. It also would have expanded the allowable uses of these funds to include, among other things, funding for local liaisons and the provision of transportation to the school of origin. The House Education and Workforce Committee bill (H.R. 3989) included new provisions under ESEA Title I-A stating that Title I-A EHCY set-asides *may* be based on: a needs assessment that reflected the number of homeless children and youth identified in the previous year; and included collaboration and input from other agencies. It also would have expanded the allowable uses of these funds to include, among other things, the provision of transportation to the school of origin.

## **Separate Schools for Homeless Students**

The most recent reauthorization of the ESEA (P.L. 107-110) amended EHCY to explicitly prohibit states that receive program funding from segregating homeless students from non-homeless students, except for short periods of time for health and safety emergencies or to provide temporary, special, supplementary services. An exception was made for four counties that operated separate schools for homeless students in FY2000 (San Joaquin, Orange, and San Diego counties in California, and Maricopa County in Arizona), as long as (1) those separate schools offer services that are comparable to local schools; and (2) homeless children are not required to attend them. Four schools operate under this exception.<sup>34</sup> Some argue that segregation is harmful to homeless students and no exceptions should be permitted. They believe that homeless students are better served, and perform better academically, if they attend the same schools as other students. Others argue that homeless students benefit from the wider array of services that are provided in separate schools, and that the greater sense of community and belonging provided by these schools is critical for homeless students.

Both the Senate HELP Committee bill and the House Education and Workforce Committee bill (H.R. 3990) would have continued the overall prohibition on the segregation on homeless students; they would have also retained the limited exception for those schools in exempt counties that were in operation in FY2000, as under present law. The House Education and Workforce Committee bill (H.R. 3990) also included language that would have increased the reporting frequency (to once a year) for the Secretary's required report on separate schools.<sup>35</sup>

## **Clarifying the "Best Interest" Determination**

Both the Senate HELP Committee bill and the House Education and Workforce Committee bill (H.R. 3990) would have required that the LEA presume that keeping a homeless student in the school of origin would be in the student's best interest unless the parent or guardian disagrees. In

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<sup>34</sup> Three of these schools serve only homeless students, they are: The Transitional Learning Center (San Joaquin County), Project HOPE (Orange County), and The Monarch School (San Diego County). The Children First Academy (Maricopa County, Arizona) serves non-homeless students as well as homeless students.

<sup>35</sup> Current law does not include a timeline for the report.

addition, both bills would have required that the “best interest” determination by an LEA consider student-centered factors “including factors related to the impact of mobility on achievement, education, health, and safety of homeless children and youth ...” Both bills included new language stating that if an LEA determined it to be in the best interest of the homeless student to attend a different school, it must provide the parent, guardian, or unaccompanied youth with its decision in writing and must include information on appeal rights in a form that is understandable to parents and guardians of homeless children and youth.

The House Education and Workforce Committee bill (H.R. 3990) also included new language stating that “the term ‘school of origin’ should include the designated receiving school at the next grade level for all feeder schools.” This would have permitted, for example, homeless students graduating from elementary school to be eligible to attend the same middle school serving their elementary school as non-homeless students.

The Senate HELP Committee bill stated that if parents and guardians have exhausted all available dispute procedures, they could appeal to the SEA. It also would have required that until there is a final resolution of the dispute, the LEA must enroll the student and provide transportation to the school of origin. In addition, it would have expanded the issues subject to dispute by explicitly adding: eligibility, services in a public school or public preschool, or any other issues relating to services.

## **Homeless Liaisons and State Coordinators**

The EHCY program requires that each LEA, whether it receives an EHCY subgrant or not, designate a homeless liaison for the LEA. Many state coordinators and homeless liaisons are responsible for the coordination of several programs, and some argue that they have insufficient time to perform their duties under the EHCY.

Both the Senate HELP Committee bill and the House Education and Workforce Committee bill (H.R. 3990) would have included new language requiring that training be provided for local liaisons and other school personnel providing services under EHCY.

In addition, the Senate HELP Committee bill stated that the Office of Coordinator for EHCY must have “sufficient knowledge, authority, and time to carry out the duties described in this title,” and that local liaisons must have “sufficient training and time” to carry out their duties. The House Education and Workforce Committee bill (H.R. 3990) stated that the Office of Coordinator for EHCY must be able to “sufficiently carry out the duties described in this subtitle.” It would have also required each state coordinator to annually post data on the number of homeless children and youth identified in the state.

## **Improving Identification and Services for Preschool Students and Unaccompanied Youth**

### **Homeless Preschoolers**

Homeless preschoolers are particularly difficult to identify, in part because they are not yet old enough to be covered by state compulsory attendance laws. For this reason, although preschool students are guaranteed equal access to public preschool and Pre-K programs under EHCY, they

do not have the same guarantee of being able to attend public school as K-12 homeless students do. Although homeless preschoolers are eligible to attend public preschool programs, placement of homeless preschoolers in public programs is limited by the fact that there is not a sufficient supply of these programs, and programs that do exist often do not have sufficient vacancies to fill the need. In addition, preschoolers, unlike K-12 children and youth, are only guaranteed transportation if it is provided to non-homeless preschoolers at the school. This creates a significant barrier to school attendance for homeless preschoolers, because many homeless families are often unable to provide the needed transportation for their preschoolers.<sup>36</sup>

The Senate HELP Committee bill included an increased emphasis on school readiness for homeless preschoolers. New provisions would have required each state plan to ensure that preschools that are funded, administered, or overseen by an SEA or LEA prioritize the enrollment of homeless preschoolers, and coordinate the review of educational and related needs of homeless children and their families with the local liaison in the relevant service area.<sup>37</sup> However, these preschools would not be required to immediately enroll homeless preschoolers if they are at full capacity.

## **Unaccompanied Youth**

The term ‘unaccompanied youth’ includes a youth not in the physical custody of a parent or guardian.<sup>38</sup> These youth are covered by the same protections that are provided to other homeless youth under EHCY. However, outreach to these youth is difficult because they usually do not stay in shelters, and in some cases they are fearful of being identified, even though they may wish to complete their education.<sup>39</sup> Unaccompanied homeless youth have often run away from a difficult home situation, or been forced to leave by a parent or guardian. These students often struggle to find a place to sleep and meet their basic needs. In addition, many of these youth worry that attending school would be unsafe because the school might involve child welfare agencies or law enforcement. According to advocates, providing programs that make schools safe and welcoming to subgroups of unaccompanied youth who are overrepresented can help.<sup>40</sup> Because of their situation, these youth benefit from receiving more flexibility in their school schedule than other

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<sup>36</sup> In addition, the EHCY program covers only SEA and LEA administered programs—it does not cover state Pre-K programs that are administered by an agency other than the SEA (unless the agency provides Pre-K funding to an LEA). Education Law Center, *Access to Pre-K Education Under the McKinney-Vento Homeless Assistance Act*, Pre-K Policy Brief Series, Newark, NJ, February 2010.

<sup>37</sup> This includes “through policies such as (i) reserving spaces in preschool programs for homeless children; (ii) conducting targeted outreach to homeless children and their families; waiving application deadlines; (iv) providing ongoing professional development for staff regarding the needs of homeless children and their families and strategies to serve the children and families; and (v) developing the capacity to serve all identified homeless children...”

<sup>38</sup> McKinney-Vento Homeless Assistance Act, Title VII-B, Section 725(6).

<sup>39</sup> The precise number of homeless and runaway youth is unknown due to their residential mobility. These youth often avoid the shelter system, instead choosing locations or areas that are not easily accessible to shelter workers and others who count the homeless and runaways. Youth who come into contact with census takers may also be reluctant to report that they have left home or are homeless. Determining the number of homeless and runaway youth is further complicated by the lack of a standardized methodology for counting the population and inconsistent definitions of what it means to be homeless or a runaway. See CRS Report RL33785, *Runaway and Homeless Youth: Demographics and Programs*, by Adrienne L. Fernandes-Alcantara.

<sup>40</sup> These overrepresented groups include youth who are lesbian, gay, bisexual and/or transgender, pregnant or parenting, older than traditional high school age, recovering from trauma, or recently returned to school after an extended period of nonattendance. Patricia Julianelle, *Using What We Know: Supporting the Education of Unaccompanied Homeless Youth*, The National Association for the Education of Unaccompanied Homeless Youth, February 2008, p. 6.

students, and from diversified learning opportunities such as vocational education. Promising approaches to serving these students include providing a mentor; coordinating with other agencies to help meet the basic needs of these youth; as well as policies that facilitate the awarding of partial credit or recovery of previous credits.<sup>41</sup>

Both the Senate HELP Committee bill and the House Education and Workforce Committee bill (H.R. 3990) included new language that would have required that homeless liaisons ensure that unaccompanied youth are enrolled and have the same opportunities to meet state academic standards as other students.<sup>42</sup> In addition, both bills would have required that unaccompanied youth be told about their rights to apply for financial aid as an independent student. Both bills also included language that would have protected LEAs from liability for enrolling an unaccompanied youth without the consent of a parent or guardian.

## **Increased Access to Education and Related Services**

Both the Senate HELP Committee bill and the House Education and Workforce Committee bill (H.R. 3990) would have required that homeless students be able to participate in all the educational programs for which they meet the eligibility requirements.<sup>43</sup>

Both bills included language that stated that homeless children are to be immediately enrolled even if they have missed application or enrollment deadlines. In addition, the Senate HELP Committee bill would have required states to ensure that homeless students receive credits for previous coursework and that they not be hindered from enrolling due to overdue fines or fees. It also would have required that previous school records be released, even if a student owed fines or fees, or had not met the previous school's withdrawal requirements.

Both bills would have required LEAs to coordinate services for homeless children and youth with disabilities with the Individuals with Disabilities Act and Section 504 of the Rehabilitation Act.

## **Definition of Homeless Children and Youth under EHCY and other Federal Programs**

On February 7, 2012, H.R. 32, *The Homeless Children and Youth Act of 2011*, was reported out by the Subcommittee on Insurance, Housing, and Community Opportunity of the House Committee on Financial Services. This bill would have amended HUD's definition of homelessness to include children and families that have been verified as homeless through the following federal programs: the EHCY program, the IDEA Part C program, Early Head Start program, and the Runaway and Homeless Youth program. This change would have made these newly identified individuals and their families eligible for HUD housing assistance services, without requiring that they meet the detailed criteria or be subject to the funding cap included in the HEARTH Act (P.L.

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<sup>41</sup> Patricia Julianelle, *Using What We Know: Supporting the Education of Unaccompanied Homeless Youth*, The National Association for the Education of Unaccompanied Homeless Youth, February 2008.

<sup>42</sup> The Senate HELP Committee reported bill refers to this as "college and career ready State student academic achievement standards." The House Education and Workforce Committee bill refers to this as "state academic standards."

<sup>43</sup> The Senate HELP Committee bill adds magnet schools and charter schools to the list of educational services, and adds access to health and counseling services, as appropriate.

111-22).<sup>44</sup> However, it would not have guaranteed that they would receive services. Receipt of services would have been based on local providers' needs assessments.

An amendment (identified as Franken Title I-Amendment 3) introduced by Senator Franken and subsequently adopted as part of the final Senate HELP Committee bill, would have included the provision of services for foster children and youth. Among other things, the Franken amendment would have changed the definition of homeless in the EHCY by striking children who are "awaiting foster care placement" from the definition of homeless. This would have meant that children "awaiting foster care placement," as defined by each state, would no longer have been eligible for services under EHCY.

The amendment would also have created a new program under ESEA Title I-A to ensure that foster children and youth would have improved access to education and related services. Only the proposed changes to the EHCY definition of homeless are discussed in the text of this report. However, a brief summary of the entire amendment is available in the separate text box below.

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<sup>44</sup> See **Appendix B** for more discussion of these issues.

### **Franken Amendment**

The Franken amendment would have added a new Part F to ESEA Title I-A titled—Educational Stability of Children and Foster Care. Among other things, the amendment would have expanded the Title I-A set-aside provisions that currently apply to homeless children, neglected children in local institutions, and delinquent children whether in institutions or community day programs—to include foster children and youth. The amendment also would have required that SEAs receiving Title I-A funds collaborate with state child welfare agencies to develop and implement a plan to ensure that a child who is moving to a new school attendance area as the result of a foster care placement could: (1) remain in his or her “school of origin;” or (2) if it is determined to be in the child’s best interest, be immediately enrolled in a new school. Schools would also have been required to maintain school records for children in foster care in a manner that allowed those records to be accessed in a timely manner; and immediately transferred to a new school—even if there were outstanding fees or fines, or the local school withdrawal procedures were not followed. SEAs would have been required to ensure that LEAs comply with the educational stability planning requirements, and LEAs would have needed to provide assurance of compliance with these requirements in their Title I-A plan that they submit to the SEA.

In addition, the amendment would have required any state receiving Title I-A funds to have policies to permit children in foster care to: (1) transfer full or partial credits from one school to another for any course work satisfactorily completed; (2) permit recovery of school credits lost due to changes in foster care living arrangements; and (3) receive a high school diploma from one of the schools in which he/she was enrolled (or equivalent state-issued diploma consistent with state graduation requirements) even if the student was transferred to a new high school. Each SEA would have been required to develop a plan with the state child welfare agency to ensure that the transportation needs of children in foster care were met (i.e., transportation to a school of origin when the child is attending a school of origin outside the school attendance area where he/she is now living). The agreement would be required to describe how foster care maintenance payments would be used to help fund the transportation of children in foster care to their school of origin and how children who leave foster care would receive transportation to their school of origin if remaining in that school is found to be in their best interest. ED, in collaboration with the U.S. Department of Health and Human Services (HHS), would have been directed to provide guidance (within 90 days after enactment) on implementation of these provisions. Additionally, the Franken amendment would have required each state receiving Title I-A funds to have the SEA and LEAs in the state select a “point of contact” for child welfare agencies to ensure implementation of education stability provisions for foster children and youth. This “point of contact” could not be an LEA’s designated homeless liaison, or an SEA’s State Coordinator for Homeless Children and Youth, unless the individual had the capacity, time, and resources to perform both roles.

## **Additional Changes**

Both the HELP Committee bill and the House Education and Workforce Committee bill (H.R. 3990) would have incorporated changes to EHCY to increase cooperation across agencies and within ED to better serve homeless children. They both would have established privacy requirements to protect information on homeless children and youth’s living situation from being released to anyone not authorized to have such information. Both the Senate HELP Committee bill and the House Education and Workforce Committee bill (H.R. 3990) would have increased the amount of time that states have to submit required information for an EHCY grant to ED to 120 days.

The Senate HELP Committee bill would have reduced the state set-aside to the greater of 20% of the state allocation or \$85,000. It also would have expanded the time available for ED (from to 60 days to 90 days after enactment) to issue and publish school enrollment guidelines for states in the Federal Register. It also stated that the Secretary’s required report on homeless children and youth must be published at least every two years (no timeline is specified in current law.) In addition, the Senate HELP Committee bill included provisions that would have allowed the

Secretary to reserve EHCY funds for emergency assistance to homeless children, youth and their families, if appropriations for the program exceeded \$70 million.

The House Education and Workforce Committee bill (H.R. 3990) would have removed the clause in current law requiring that an LEA provide an assurance in its application that it would maintain its fiscal effort at a percentage specified in law.<sup>45</sup>

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<sup>45</sup> The clause in current law states that the LEA must provide 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% of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.” McKinney-Vento Homeless Assistance Act, Title VII-B, Section 723(b)(3).



## Appendix A. Number and Percentage of Enrolled Homeless Students by State for Selected Years

							Percent Change		
	Total Enrolled SY08-09	Percent of Total Enrolled SY08-09	Total Enrolled SY09-10	Percent of Total Enrolled SY09-10	Total Enrolled SY10-11	Percent of Total Enrolled SY10-11	Between SY08-09 and SY09-10	Between SY09-10 and SY10-11	Between SY08-09 and SY10-11 (3 Year)
<b>Total Enrolled All States in LEAs with and Without Subgrants</b>	<b>956,914</b>	<b>100%</b>	<b>939,903</b>	<b>100%</b>	<b>1,065,794</b>	<b>100%</b>	<b>-2%</b>	<b>13%</b>	<b>11%</b>
<b>Total Enrolled by State</b>									
ALABAMA	12,859	1.3	16,287	1.7	18,910	1.8	27	16	47
ALASKA	3,401	0.4	4,218	0.4	4,451	0.4	24	6	31
ARIZONA	25,336	2.6	30,815	3.3	31,312	2.9	22	2	24
ARKANSAS	6,344	0.7	8,107	0.9	9,625	0.9	28	19	52
BUREAU OF INDIAN EDUCATION	2,088	0.2	1,867	0.2	1,857	0.2	-11	-1	-11
CALIFORNIA	288,233	30.1	193,796	20.6	220,738	20.7	-33	14	-23
COLORADO	15,834	1.7	18,408	2.0	20,624	1.9	16	12	30
CONNECTICUT	2,387	0.2	2,716	0.3	2,942	0.3	14	8	23
DELAWARE	2,598	0.3	2,843	0.3	3,486	0.3	9	23	34
DISTRICT OF COLUMBIA	950	0.1	2,499	0.3	3,058	0.3	163	22	222
FLORIDA	40,967	4.3	48,695	5.2	55,953	5.2	19	15	37
GEORGIA	24,079	2.5	26,428	2.8	31,804	3.0	10	20	32
HAWAII	1,739	0.2	2,966	0.3	2,320	0.2	71	-22	33
IDAHO	2,710	0.3	4,342	0.5	4,774	0.4	60	10	76
ILLINOIS	26,688	2.8	33,367	3.6	38,900	3.6	25	17	46
INDIANA	10,364	1.1	12,248	1.3	13,419	1.3	18	10	29
IOWA	6,824	0.7	6,631	0.7	7,046	0.7	-3	6	3
KANSAS	6,700	0.7	8,452	0.9	8,995	0.8	26	6	34
KENTUCKY	22,626	2.4	23,104	2.5	33,966	3.2	2	47	50
LOUISIANA	25,362	2.7	25,223	2.7	23,211	2.2	-1	-8	-8
MAINE	1,300	0.1	1,158	0.1	991	0.1	-11	-14	-24
MARYLAND	10,676	1.1	13,158	1.4	14,136	1.3	23	7	32

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	Total Enrolled SY08-09	Percent of Total Enrolled SY08-09	Total Enrolled SY09-10	Percent of Total Enrolled SY09-10	Total Enrolled SY10-11	Percent of Total Enrolled SY10-11	Percent Change		
							Between SY08-09 and SY09-10	Between SY09-10 and SY10-11	Between SY08-09 and SY10-11 (3 Year)
MASSACHUSETTS	12,269	1.3	13,090	1.4	14,247	1.3	7	9	16
MICHIGAN	18,706	2.0	22,189	2.4	30,671	2.9	19	38	64
MINNESOTA	7,590	0.8	9,221	1.0	11,076	1.0	21	20	46
MISSISSIPPI	8,525	0.9	7,499	0.8	10,150	1.0	-12	35	19
MISSOURI	14,350	1.5	16,654	1.8	19,940	1.9	16	20	39
MONTANA	1,308	0.1	1,445	0.2	1,507	0.1	10	4	15
NEBRASKA	1,752	0.2	2,188	0.2	2,674	0.3	25	22	53
NEVADA	8,670	0.9	8,841	0.9	9,319	0.9	2	5	7
NEW HAMPSHIRE	2,130	0.2	2,573	0.3	3,160	0.3	21	23	48
NEW JERSEY	7,890	0.8	6,250	0.7	5,665	0.5	-21	-9	-28
NEW MEXICO	8,380	0.9	9,432	1.0	11,449	1.1	13	21	37
NEW YORK	76,117	8.0	82,409	8.8	90,506	8.5	8	10	19
NORTH CAROLINA	18,693	2.0	21,019	2.2	18,022	1.7	12	-14	-4
NORTH DAKOTA	1,149	0.1	836	0.1	870	0.1	-27	4	-24
OHIO	16,059	1.7	19,113	2.0	21,849	2.1	19	14	36
OKLAHOMA	12,139	1.3	15,910	1.7	17,450	1.6	31	10	44
OREGON	18,051	1.9	19,954	2.1	21,632	2.0	11	8	20
PENNSYLVANIA	12,438	1.3	18,204	1.9	18,531	1.7	46	2	49
PUERTO RICO	4,064	0.4	4,464	0.5	4,727	0.4	10	6	16
RHODE ISLAND	1,099	0.1	996	0.1	977	0.1	-9	-2	-11
SOUTH CAROLINA	8,738	0.9	10,820	1.2	10,590	1.0	24	-2	21
SOUTH DAKOTA	1,794	0.2	1,512	0.2	1,883	0.2	-16	25	5
TENNESSEE	9,836	1.0	11,458	1.2	13,958	1.3	16	22	42
TEXAS	80,940	8.5	76,095	8.1	85,155	8.0	-6	12	5
UTAH	14,016	1.5	15,702	1.7	23,048	2.2	12	47	64
VERMONT	662	0.1	785	0.1	915	0.1	19	17	38
VIRGINIA	12,768	1.3	14,223	1.5	16,420	1.5	11	15	29
WASHINGTON	20,780	2.2	21,826	2.3	26,048	2.4	5	19	25
WEST VIRGINIA	4,257	0.4	4,817	0.5	6,630	0.6	13	38	56
WISCONSIN	10,955	1.1	12,029	1.3	13,370	1.3	10	11	22
WYOMING	724	0.1	1,021	0.1	837	0.1	41	-18	16

**Source:** National Center for Homeless Education, *Education for Homeless Children and Youth Program: Data Collection Summary*, NCHE, for the U.S. Department of Education, June 2012.

## **Appendix B. Legislation Adopted in the 110<sup>th</sup>-111<sup>th</sup> Congresses that affects the Education for Homeless Children and Youth Program**

Several bills were passed in the 110<sup>th</sup>-111<sup>th</sup> Congresses that will potentially increase the programs and/or services available to homeless students. This appendix summarizes the portions of these bills with relevance for homeless students.

The Homeless Emergency and Rapid Transition to Housing Act (HEARTH Act) was passed as part of the Helping Families Save Their Home Act (P.L. 111-22). This legislation amended and reauthorized the Housing and Urban Development (HUD) homeless programs under the McKinney-Vento Act, among other things.<sup>46</sup> The HEARTH Act expanded the definition of homeless used by HUD and several other agencies.<sup>47</sup> However, the definition of homeless used by ED in administering the EHCY program remains more expansive than the definition included in the HEARTH Act. The amended definition of homeless included in the HEARTH Act does allow children and youth that meet EHCY eligibility criteria (or eligibility under certain other federal programs) to be considered eligible under the HEARTH Act in limited circumstances.<sup>48</sup> It requires that youth and families who are defined as homeless under another federal program meet each of the following criteria:

- They have experienced a long-term period without living independently in permanent housing. In its final regulation, HUD defined “long-term period” to mean at least 60 days.
- They have experienced instability as evidenced by frequent moves during this long-term period, defined by HUD to mean at least two moves during the 60 days prior to applying for assistance.
- The youth or families with children can be expected to continue in unstable housing due to factors such as chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment. Under the final regulation, barriers to employment may include the lack of a high school degree, illiteracy, lack of English proficiency, a history of incarceration, or a history of unstable employment.<sup>49</sup>

The HEARTH Act includes additional provisions relevant for EHCY. The most important are the new requirements that in order to receive funds:

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<sup>46</sup> For more on the HEARTH Act see CRS Report RL33764, *The HUD Homeless Assistance Grants: Current Operation and HEARTH Act Changes*, by Libby Perl.

<sup>47</sup> For information on the new HUD definition see the final rule published in the Federal Register on December 5, 2011: [http://www.hudhre.info/documents/HEARTH\\_HomelessDefinition\\_FinalRule.pdf](http://www.hudhre.info/documents/HEARTH_HomelessDefinition_FinalRule.pdf).

<sup>48</sup> Grant recipients will not be able to use more than 10% of grant funds to serve those individuals and families defined as homeless under other federal statutes. U.S. Department of Housing and Urban Development, “Homeless Emergency Assistance and Rapid Transition to Housing: Defining “Homeless,”” 76 *Federal Register* 76017, December 5, 2011

<sup>49</sup> This information is from CRS Report RL33764, *The HUD Homeless Assistance Grants: Current Operation and HEARTH Act Changes*, by Libby Perl.

- Continuum of care (CoC) applicants must show that they have collaborated with LEAs in identifying homeless families, and in informing families and homeless youth of eligibility for EHCY services.<sup>50</sup> CoC applicants must also show that they have considered the educational needs of homeless students when determining shelter placements, including placing families with children in shelters as close to the school of origin as possible.
- CoCs must obtain certification from each project applicant that provides housing or services that they have designated a staff person to ensure that children are enrolled in school and are connected to appropriate community services, and that these services are consistent with the provisions of Title VII of McKinney-Vento, as well as other relevant laws.

The reauthorization of the HEAD Start Act through the Improving Head Start for School Readiness Act of 2007 (P.L. 110-134) strengthened requirements regarding homeless preschoolers.<sup>51</sup> Two of the most important changes are the requirement that homeless preschoolers be automatically deemed eligible for Head Start and Early Head Start; and a requirement that homeless children be identified and prioritized for enrollment in these programs.<sup>52</sup>

The Higher Education Opportunity Act, (P.L. 110-315) included amendments prioritizing the provision of services for homeless students in the TRIO programs (several programs that provide support so that at-risk junior high and high school students graduate from high school and attend and complete college); and in the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR-UP) program. It also permits these programs to offer programs specifically designed for at risk groups, including homeless youth.

The College Cost Reduction and Access Act (P.L. 110-84) included provisions that allow youth who are verified as homeless and unaccompanied to be considered independent, thereby allowing them to apply for financial aid without the requirement that they obtain a parent's signature or provide information on family income. These students often face considerable obstacles to attending college, including the cost of attendance. This law is intended to ensure that these students will be able to apply for financial aid. It specifies that verification of independent student status must be made by a LEA homeless liaison, the director (or designee) of the Runaway Homeless Youth Act program, the director (or designee) of a Housing and Urban Development homeless shelter program, or a college financial aid administrator.

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<sup>50</sup> Through the Continuum of Care process, representatives from local community organizations work collaboratively to develop a plan for addressing homelessness in their area. They then determine which homeless service providers in the community should receive funding and submit a unified application to HUD. For more information see CRS Report RL33764, *The HUD Homeless Assistance Grants: Current Operation and HEARTH Act Changes*, by Libby Perl.

<sup>51</sup> For more information on the Head Start program see CRS Report RL30952, *Head Start: Background and Issues*, by Karen E. Lynch.

<sup>52</sup> National Association for the Education of Homeless Children and Youth, *New Opportunities for Serving Homeless Students through Head Start*. National Association for the Education of Homeless Children & Youth: Pre-conference, October 31, 2008, Washington, DC.

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