

Breaking the Cycle of Homelessness:
Ensuring Housing & Educational Stability for
Survivors of Domestic Violence and their Children

NATIONAL LAW CENTER
ON HOMELESSNESS & POVERTY

Background Info

VAWA Protections


McKinney-Vento Education Rights

Challenges


Q&A

BREXITSSSION



A glass jar filled with coins, with more coins scattered on the surface around it. The coins are of various denominations, including pennies, nickels, and dimes. The jar is made of clear glass and is filled to the brim with coins. The coins are scattered on a light-colored surface around the base of the jar. The lighting is bright, creating a strong reflection on the coins and the surface.

Homelessness can be precipitated by any number of events: a lost job, a health crisis or a natural disaster.

- 
- Recession is not over
 - Living standards have not improved
 - Wages remain stagnant
 - Individuals experiencing homelessness lack agency
 - **DOMESTIC VIOLENCE**

DOMESTIC VIOLENCE

A pattern of coercive and assaultive behaviors that include physical, sexual, verbal, and psychological attacks or tactics and economic coercion that adults or adolescents use against their intimate partner

- Physical tactics: punching, physically abusing, using a weapon
- Sexual tactics: rape, objectification, forced abortion, sexual assault
- Verbal, Emotional, and Psychological tactics: blaming the victim, engaging in manipulative behaviors, stalking, making false allegations
- Economic coercion: withholding money (power dynamic), obtaining debt under victim's name

DV cuts across every segment of the society and occurs in all age, racial, ethnic, socio-economic, sexual orientation, and religious groups.

HOW DV JEOPARDIZES HOUSING

- Criminal activity
- Noise
- Property damage
- Inability to pay rent
- Increased police activity/presence
- Unauthorized resident
- Risk of harm to other residents

Fair Housing Act

- Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) prohibits discrimination in the sale, rental and financing of dwellings based on race, color, religion, sex or national origin.

EVICTION!!!

DOMESTIC VIOLENCE & HOMELESSNESS

Barriers to stable housing

- Prior evictions
- Lack of steady income
- Negative credit history
- Control of lease by abuser
- Lack of knowledge of housing protections

FAMILY HOMELESSNESS

- Homeless households with at least 1 adult and 1 child (HUD)
 - Homeless families are 37% of the total homeless population
 - Mainly women and children
 - 2.5 million children
 - More than 90% of homeless mothers reported experiencing physical and/or sexual abuse
 - Different from recognizable “street” homelessness
 - Invisible
 - Doubled-up
 - Motels
 - Cars, vans, trucks
 - Shelters
 - Campgrounds
- 
- A graphic illustration of a family consisting of a woman, a man, and two children, all holding hands in a circle. The figures are rendered in a light blue, paper-cut style. They are positioned in the center of the slide, behind the main text. The background is a dark, textured image of green grass.

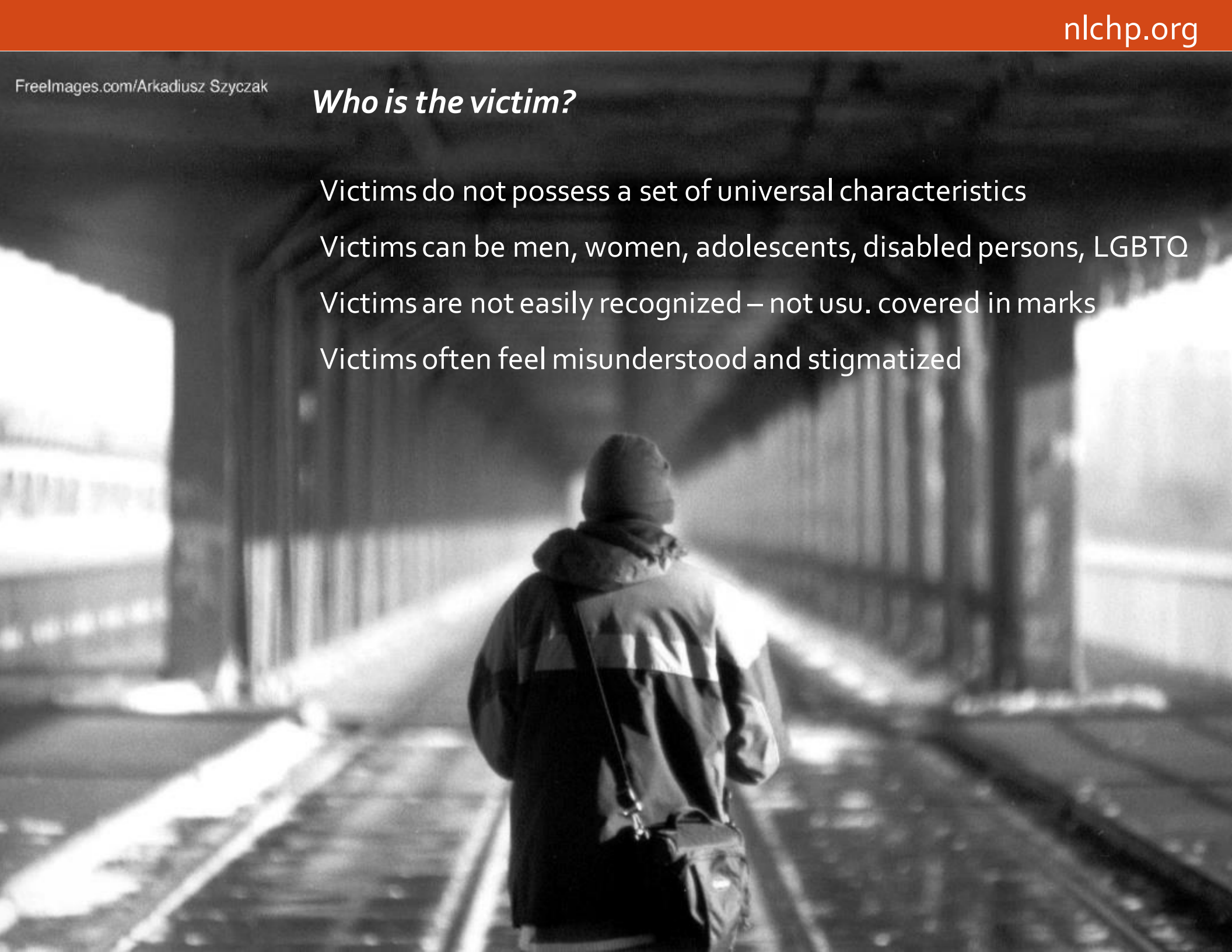
Who is the victim?

Victims do not possess a set of universal characteristics

Victims can be men, women, adolescents, disabled persons, LGBTQ

Victims are not easily recognized – not usu. covered in marks

Victims often feel misunderstood and stigmatized



Barriers to Leaving an Abusive Relationship

Leaving a violent relationship = process, not an event.

Consider factors such as:

- Fear
- Isolation
- Financial dependence and poverty
- Guilt and shame
- Emotional and physical impairment
- Mental health and substance abuse
- Individual belief systems
- Hope
- Community services and societal values
- Cultural hurdles
- School considerations and children

OUTCOMES AND IMPACT

- ***Physical and Mental Health Issues***

- Survivors have higher rates of PTSD, alcohol dependence, chronic physical health conditions
- Negative effects on parenting
- Children more likely to exhibit aggressive or antisocial behavior
- Children are sick 4 times as often as permanently housed children
- Increased rate of obesity

- ***Significant Educational Disruption***

- Underrepresented in pre-school programs
- Lagging proficiency in math and reading
- Increased likelihood of dropping-out, being expelled/suspended, repeating a grade

- ***Family Separation***

- Shelter system
- Foster care placement
- Barrier to reunification

STRATEGIES USED TO PROTECT VICTIMS AND THEIR CHILDREN

- Complying or colluding with abuser
- Minimizing, denying, or refusing to talk about the abuse
- Leaving or staying in the relationship
- Fighting back or defying abuser
- Using or abusing substances as an escape or to numb pain
- Lying about abuser's criminal activity
- Sending the children to a neighbor or family's home

VIOLENCE AGAINST WOMEN ACT

- First passed in 1994; reauthorized in 2013
- Congressional findings of strong link between homelessness and DV
- Purposes:
 - to protect survivor safety in federal housing and shelters
 - reduce domestic violence and prevent homelessness
 - enable housing providers to respond to the unique needs of domestic violence survivors

VAWA 2013

5

- Protects the housing rights of applicants and tenants who are survivors of domestic violence, sexual assault, dating violence, or stalking in certain federally subsidized housing programs
- Prohibits survivors from being evicted or denied housing assistance because of acts of violence committed against them

VAWA 2013

6

- Expands covered federally assisted housing to include 9 additional programs:
 - § 202 supportive housing for the elderly (12 USC §1701q)
 - § 811 supportive housing for people with disabilities (42 USC §8013)
 - HUD's McKinney-Vento homeless programs (42 USC 11375; 11386; 11408)
 - HOME Investment Partnerships program (42 USC 12755)
 - Section 221(d)(3) Below Market Interest Rate (BMIR) Program (12 USC §1715z-1b)
 - HOPWA housing program
 - Section 236 Rental Program (12 USC §1715z-1b)
 - USDA Rural Housing properties (42 USC 1471)
 - Low-Income Housing Tax Credit properties (26 USC 42 (h) & (i))
- Mandates that housing authorities create and implement an emergency transfer policy
- Requires housing authorities to provide notice to tenants on VAWA rights

7 WHO IS COVERED UNDER VAWA?

- Any person who is or has been a victim of actual or threatened **domestic violence, dating violence, stalking or sexual assault** as defined by VAWA
- Any person who is protected by state family violence laws
- Immediate family members of survivor

WHAT RIGHTS ARE AFFORDED?

- Rights to confidentiality
- Protections in applying for housing
- Rights to move or transfer
- Protections against evictions and subsidy terminations
- Lease/Subsidy bifurcation
- Notice

Rights to Confidentiality

9

- Housing providers must keep info survivor provides for certification confidential
- Housing providers may not enter info into a shared database or provide to another entity

WHAT RIGHTS ARE AFFORDED?

- Rights to confidentiality
- Protections in applying for housing
- Rights to move or transfer
- Protections against evictions and subsidy terminations
- Lease/Subsidy bifurcation
- Notice

Protection in Applying for Housing

10

- Housing providers may not deny an applicant admission to housing or rental assistance “on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking.”
- In practice denial is not typically explicit
- VAWA does not explicitly address denials in housing based on negative tenancy or credit history

Definitions

- The definition of “homeless” includes an individual or family that:
 - ✓ Lacks fixed, regular, and adequate nighttime residence;
 - ✓ Occupies a primary nighttime residence in public or private place not designed for regular sleeping accommodation for human beings
 - ✓ Lives in a supervised publicly or privately operated temporary shelter
 - ✓ Resides in a shelter or place not meant for human habitation who is existing in an institution where she temporarily resided
- Includes any individual or family that is fleeing, or attempting to flee domestic violence, sexual assault, stalking or other dangerous/life-threatening condition

Definitions

- At-Risk of Homelessness
 - ✓ Individual or family with income below 30% AMI
 - ✓ Insufficient resources immediately available
 - ✓ Includes all families with children and youth defined as homeless under federal law
- Chronically Homeless
 - ✓ Individual or family who is homeless or resides in a place not meant for human habitation, a safe haven, or in an emergency shelter
 - ✓ Has been homeless continuously for at least 1 year (or at least 4 times within the last 3 years)
 - ✓ Individual currently living in an institutional setting and has lived there for less than 90 days

WHAT RIGHTS ARE AFFORDED?

- Rights to confidentiality
- Protections in applying for housing
- Rights to move or transfer
- Protections against evictions and subsidy terminations
- Lease/Subsidy bifurcation
- Notice

Why a right to move or transfer?

- Survivor lives with perpetrator and needs to flee abuse
 - Early lease termination
 - Transfer to safe location
- Survivor needs to protect safety of self and family
 - Change locks
 - Enforce protective order
- Survivor unable to rent unit/reapply for tenancy
 - Negative credit history
 - Poor rental history

Rights to Move or Transfer

- Tenant may continue to receive voucher assistance if a survivor of violence moved to protect health or safety, and reasonably believed she was threatened with imminent harm
- VAWA mandates that PHA's create and implement an emergency transfer policy

WHAT RIGHTS ARE AFFORDED?

- Rights to confidentiality
- Protections in applying for housing
- Rights to move or transfer
- Protections against evictions and subsidy terminations
- Lease/Subsidy bifurcation
- Notice

Protections Against Evictions & Subsidy Terminations

- VAWA provides that criminal activity directly relating to DV must not be considered cause for eviction or subsidy termination for the survivor
- 1 act triggers VAWA protections
- Physical act or threat of physical act triggers VAWA protections

WHAT RIGHTS ARE AFFORDED?

- Rights to confidentiality
- Protections in applying for housing
- Rights to move or transfer
- Protections against evictions and subsidy terminations
- **Lease/Subsidy bifurcation**
- Notice

Removing Abuser from Household

- Housing provider can “bifurcate” a lease
 - Split the lease in order to evict the perpetrator
- PHA may also terminate section 8 assistance to the perpetrator while preserving assistance to the survivor

WHAT RIGHTS ARE AFFORDED?

- Rights to confidentiality
- Protections in applying for housing
- Rights to move or transfer
- Protections against evictions and subsidy terminations
- Lease/Subsidy bifurcation
- **Notice**

PHA Obligations

- Provide notice of VAWA rights to tenants
- Include VAWA housing protections in the leases, lease addendums, and housing assistance contracts
- Discuss domestic violence, stalking and sexual assault in 5-year and annual plans
- Create and implement an emergency transfer policy for survivors
- School based obligations

1 in 30

children in the U.S. is HOMELESS



In 2010, one in every 45 children and youth were found to be homeless. In 2013, this statistic **increased** to one in every 30 children and youth.



Freeimages.com/Robert Horvath

Staying in school = continuity + stability +
a path toward academic and lifetime achievement

Irreparable harm = more likely to have poor attendance than other homeless +
students who remain in stable school placements
more likely to repeat a grade

IMPACT & OUTCOMES

- Heightened experiences of violence
 - By 12 y.o., 83% have been exposed to extremely violent event
 - Aggression, depression, anxiety
- Compromised physical health
 - Sick 4x more than other children
 - Obesity
- Increased mental health difficulties
 - 47% have anxiety, depression, withdrawal (only 18% of other children)
- Delayed neurological development
 - 2x rate of learning disabilities
- Disrupted education
 - Increased risk of dropping out, being expelled, suspension

IMPACT & OUTCOMES

- Increased contact with the juvenile justice system
- Engagement in risky sexual activities and substance abuse
 - Increased rates of HIV
 - Unintended pregnancy
 - Victims of violent crime
- The cycle of homelessness/poverty continues



CHILD
SCHOOL
JOB
HOUSE



SOLUTIONS ARE AVAILABLE!

***Who is covered by McKinney-Vento?
Any child or youth experiencing homelessness***

Unaccompanied homeless youth

Children awaiting foster care placement

LGBTQ youth

Immigrant children, ELLs, LEPs

Children of domestic violence survivors

Children or youth who have temporarily lost housing as a result of a disaster



**Coordinated community response that is trauma-informed,
culturally appropriate, and developmentally and age-appropriate**

Homelessness disproportionately impacts people of color, particularly African Americans.

Educational Barriers for Homeless Youth

- Enrollment requirements (residency, school records, immunizations, legal guardianship)
- Lack of access to programs (transportation)
- Lack of school supplies, clothing, etc.
- Poor health, fatigue, hunger
- Prejudice and misunderstanding

What rights are available?

The Education for Homeless Children and Youth Program under Title VII-B of the McKinney-Vento Homeless Assistance Act

- Remain in the school of origin even if they move
- Enroll in any public school where other non-homeless students living in the same attendance area are eligible to attend;
- Immediately enroll in a new school without typically required records;
- Participate fully in school activities;
- Receive transportation to and from school-related activities;
- Receive related school services that they may need; and
- Dispute decisions made by schools and school districts.

Which school students experiencing homelessness attend?

- School placement decisions should be made according to the child or youth's best interests
- Determination is fact-specific and must be **an individualized assessment**
- The law assumes attending the school of origin is in the best interests of the child, unless this is contrary to the wishes of the child's or youth's parent or guardian
- However, other feasibility factors may lead to a decision that the child's best interests are served by attending a new school
- The school's decision must be put in writing and should include information about a right to appeal the decision.

What is the definition of homeless?

Those who lack a fixed, regular, and adequate nighttime residence

INDIVIDUALIZED ASSESSMENT!

Homelessness includes:

- living “doubled-up” because they lost their home or due to other financial problems;
- staying in a motel, hotel, trailer park, or campground because they have nowhere else to go;
- living in a shelter;
- staying in sub-standard housing;
- living in places not ordinarily used for sleeping, including cars, parks, public places, abandoned buildings, or bus or train stations;
- awaiting foster care placement; or
- abandoned in a hospital





How can students experiencing homelessness get to school?

Districts are also subject to an overarching obligation to remove barriers to enrollment for students experiencing homelessness, regardless of the district they attend.

What decisions can be appealed?

An adverse determination of a school or school district can be appealed.



How can decisions be appealed?

Each state is responsible for developing and promulgating its own set of dispute resolution procedures. A dispute resolution must be in place, and the pendency requirement must be met.

Other Education-related Laws

Family Educational Rights and Privacy Act - 20 U.S.C. §1232 et seq.

Head Start and Early Care and Education Services – 42 U.S.C. §9801 et seq.

Individuals with Disabilities in Education Act – 20 U.S.C. §1400 et seq.

Fostering Connections to Success and Increasing Adoptions Act – 42 U.S.C. §5701 et seq.

Child Nutrition and WIC Reauthorization Act of 2004 – 42 U.S.C. §1751 et seq.

Title I, Part A of ESEA – 20 U.S.C. §6301 et seq.

Violence Against Women Act

Non-Discrimination Laws

State Laws and Regulations

Who needs to implement and comply with the law?

Each SEA is required to have a state coordinator for homeless education.

The law requires each district to have a “homeless liaison” in charge of ensuring students who are experiencing homelessness can enroll and succeed in school.

WHY SHOULD THIS MATTER TO YOU?



**SAFETY OF CHILDREN OFTEN IS LINKED TO SAFETY
OF ADULT VICTIMS**

Breaking the Cycle

- Preventing low-income women from becoming homeless
 - Domestic violence
 - Affordable housing
 - Advocacy & legal supports
- Ensuring the right of homeless children to attend school
 - Educational stability
 - Transportation
 - Other supports

RECOMMENDED PRACTICES

- SAFETY IS KEY!!!
- Assessments
 - Interview alleged victim alone. If interviewing abuser, interview separately – can say it's standard protocol to interview parents separately.
 - Create climate of safety – respect confidentiality and self-determination, no judgments or victim-blaming questions or statements
 - Provide safe alternatives and access to DV resources
- Communications
 - Keep confidential (under VAWA, MV, FERPA)
 - Use a third party address for written communications to protect families
- Be aware of other opportunities to address; collaborate and coordinate

Putting It Together

- Protecting the housing rights of survivors of domestic violence not only helps to prevent housing instability for the individual and their families, but promotes the holistic stability and improved life outcomes for their children.
- Protecting the education rights of homeless children (often the witnesses or survivor of domestic violence) is a key component in ensuring that these children have the skills to move themselves out of poverty.
- Awareness = better equipped to help!

HOMELESSNESS \neq UNSHELTERED

HUD vs ED

CAPACITY STRAIN & LACK OF OVERSIGHT

FEDERAL



STATE

Implementation challenges

Enforcement limitations

LOCAL

Laws Criminalizing Homeless Youth

Laws that criminalize youth homelessness act as barriers that McKinney-Vento is designed to eliminate.

Contact Information

Michael Santos

Attorney

msantos@nlchp.org

202-638-2535 ext. 118

www.nlchp.org

**NATIONAL LAW CENTER
ON HOMELESSNESS & POVERTY**