



CHESTER J. CULVER, GOVERNOR
PATTY JUDGE, LT. GOVERNOR

DEPARTMENT OF EDUCATION
KEVIN FANGMAN, ACTING DIRECTOR

DATE: August 31, 2010
TO: Education and Child Welfare Partners
FROM: Kevin Fangman, Acting Director
SUBJECT: "Awaiting Foster Care"

Under the McKinney Vento Homeless Assistance Act,¹ the term "homeless children and youth" means individuals who lack a fixed, regular, and adequate nighttime residence and includes children and youth who are "awaiting foster care placement." This same definition has been adopted verbatim by the Iowa State Board of Education in rule.² The Iowa Legislature has incorporated the definition of homeless child or youth in its statutory definition of "resident" student, addressing in which Iowa school district a student may access a tuition-free elementary and secondary education.³

Some questions have arisen concerning the meaning of the phrase "awaiting foster care placement." Pursuant to its authority to interpret education law, this agency is issuing this Memorandum to provide its definition of "awaiting foster care placement."⁴

We are mindful at the outset that words matter. The phrase in the law is "awaiting foster care placement," *not* "foster care placement." The drafters of the law draw a distinction between children and youth who are in foster care and those who are awaiting such placement. Accordingly, we first emphasize that children and youth who have already been placed in foster care are not considered homeless; children and youth who are awaiting foster care placement are considered homeless. We are also mindful of the breadth and variety of potential placements and settings that are encompassed in the term "foster care." We turn now to interpreting the phrase "awaiting foster care placement."

For purposes of the McKinney Vento Homeless Assistance Act, this agency's guidance is that children and youth in a temporary placement reasonably anticipated to be less than two weeks to one month in duration are "awaiting foster care," and, therefore, are considered to be homeless.

This gives appropriate weight to each word in the governing statutory text.

¹ 42 USC § 11302.

² 281—IAC 33.2.

³ Iowa Code §§ 282.1, 282.6.

⁴ This memorandum addresses solely the issue of when is a child "awaiting foster care placement" so that the child may be considered a homeless child or youth. This memorandum does not address any other definition of "homeless children and youth."

Local school officials are encouraged to continue to consult with their district liaison for homeless children and youth as well as their local department of human services personnel. We are mindful that mid-year school changes can be especially disruptive to a child's education, but each situation must be examined on its own facts. For the reasons explained herein, we cannot accept a "one size fits all" rule for mid-year school changes. Likewise, when other situations arise with circumstances not clearly covered in statutory definitions, those are to be analyzed on a case-by-case basis.