

Frequently Asked Questions on 702 KAR 3:220 (Waiver of School Fees) and McKinney-Vento Subgrant Funds

1. What are the major provisions of 702 KAR 3:220?

Requirements for the waiver of fees are established by the General Assembly through [KRS \(Kentucky Revised Statute\) 160.330](#). [702 KAR \(Kentucky Administrative Regulation\) 3:220](#) clarifies the requirements by providing guidelines for the waiver of school fees by local districts. Under this regulation, local school districts must establish a process to waive any applicable fees charged by the district for pupils who qualify for free or reduced price lunches. Districts that do not charge fees to any students are not subject to these requirements. The mandatory waiver of fees applies to all charges which are required for participation in several school-sponsored courses, activities, programs, events or services. It does not apply to fees for activities taking place outside the normal school day and having no impact upon graduation or course credit, or costs for materials, equipment or supplies beyond those necessary for full credit for instructional courses and essential for meeting student performance objectives.

2. What does 702 KAR 3:220 have to do with McKinney-Vento grants?

The regulation states that school districts must waive certain types of fees for students who qualify for free and reduced lunch. Students experiencing homelessness are automatically eligible for free school meals and therefore qualify to have these fees waived.

3. Our district does not receive McKinney-Vento grant funds. Would this fee waiver still apply to districts that are not McKinney-Vento grantees?

Yes, the waiver requirement applies to any student who qualifies for free and reduced price meals.

4. Can our district use general funds to pay the fees for most students who receive free and reduced lunch and use McKinney-Vento funds to pay the fees for students experiencing homelessness?

No. The McKinney-Vento Act states that services provided with McKinney-Vento funds “shall not replace the regular academic program and shall be designed to expand upon or improve services provided as part of the school's regular academic program.”

(McKinney-Vento Homeless Assistance Act, 42 United States Code § 11433 (3)). If a fee is required for a student to participate in academic courses or certain types of activities, the fee must be waived for students eligible for free and reduced lunch (including homeless students) under state law. Using McKinney-Vento funds to pay these fees for

students experiencing homelessness would replace what is already required by the state statute and regulation and would not expand upon or improve the services.

5. Can our district use McKinney-Vento funds to purchase caps and gowns for students who are experiencing homelessness and who are graduating?

In the absence of 702 KAR 3:220, it might be allowable to use McKinney-Vento funds to purchase caps and gowns for students experiencing homelessness who are graduating. However, graduation fees required for participation are specifically listed in 702 KAR 3:220 as a fee that must be waived for students who qualify for free and reduced-price meals. As discussed in the example in the previous FAQ (#4), using McKinney-Vento funds to pay those fees for students experiencing homelessness would be replacing a service for which they are already eligible. They would not be getting anything “additional” from the McKinney-Vento funds. Therefore, using McKinney-Vento funds to pay for caps and gowns would not be allowable.

6. We have an identified student experiencing homelessness who is on the varsity basketball team. He needs a uniform to play. Could we use some of our McKinney-Vento funds to purchase a uniform for him?

702 KAR 3:220 does not apply to fees for activities outside the school day except for an activity like graduation commencement, so the fee waiver requirement would not be a deciding factor in this case. If the district could demonstrate the need and that the cost is reasonable, this could be an allowable use of funds.

7. My district participates in the National School Lunch Program and provides lunch at no cost to all its students. Does this mean that fees should be waived for every student in the district?

No. The Kentucky Department of Education recommends the district establish a process for determining which pupils would otherwise qualify for free or reduced-price lunches to determine which students would qualify for waived fees. For example, districts that do not collect the School Meal applications as CEP (Community Eligibility Provision) districts must still collect the HIF (Household Income Form). Districts may use income information on the HIF to determine which students would be eligible for free/reduced lunch and should have fees waived. Keep in mind, any student experiencing homelessness, as defined in McKinney-Vento, is eligible for the fee waiver.

See the [Data Standard for Free/Reduced Application Management \(FRAM\)](#) for further information.

8. If a McKinney-Vento student loses or damages a computer or instructional resource such as a textbook, would it be allowable to use McKinney-Vento funds to pay for the lost item?

[704 KAR 3:455](#) establishes that pupils or parents are responsible for compensating schools for instructional resources lost, damaged or destroyed while in their possession. If a district's policy is to collect remuneration from parents or students for lost, damaged or stolen instructional resources and computers, it may be allowable to use McKinney-Vento funds to replace or repair the item. McKinney-Vento students would have to be eligible for any applicable exceptions or exemptions as other students (e.g., if the district has a policy that it will not seek remuneration in certain cases, or if district funds are available to pay for a portion of the fees).

If a McKinney-Vento student needs the lost, missing or damaged item for a class or activity required for graduation, the district cannot withhold grades, diplomas or records as leverage to force a student to pay fees ([KRS 160.330](#) and [KRS 157.100](#), [OAG \(Office of the Attorney General\) 82-386](#)). The reasoning is based on the thinking that a student's education should not be impeded by a failure to pay fees: "Failure to pay a debt is not a crime but a civil matter. The proper way to collect a debt is through a civil action in court, and because of the small amounts involved, small claims court may be available." A school, public or private, which withholds a student's educational records or refuses to enroll the child due to a failure to pay fees and refuses to transfer the educational records to a public school where the student has enrolled, may be prompting the violation of the compulsory education laws, KRS Chapter 159, and may lead to the violation of other federal laws concerning enrollment and attendance.

To illustrate, if a district imposes a fine on a student of \$200 for failure to return a Chromebook and takes no action that would impede the student's ability to fully participate in instruction going forward, then it does not fall into the fee category and is not waivable. For example, the district could not do any of the following in order to collect the fine: (1) withhold issuance of a future Chromebook necessary for full participation in instruction; (2) withhold grades or issuance of a diploma until the money is paid; (3) prevent the student from enrolling and fully participating in courses going forward. Since in this case the student would be liable for paying the fine for losing the Chromebook, and since a family experiencing homelessness may not be able to pay the fine, it could be allowable to use McKinney-Vento funds to pay for repairs or replace the item so the student could continue to have access to it. Remuneration to repair or replace lost, damaged or stolen instructional resources and computers is different from a course fee, so the provisions of 704 KAR 3:220 would not apply in this case.