



Washington Office of Superintendent of
PUBLIC INSTRUCTION

MCKINNEY-VENTO DISPUTE RESOLUTION PROCESS

*SCHOOL DISTRICT ELIGIBILITY, ENROLLMENT, &
PLACEMENT OF CHILDREN AND YOUTHS IN HOMELESS
SITUATIONS*

2021

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BACKGROUND INFORMATION

The federal McKinney-Vento Homeless Assistance Act (also referred to as the Act or the McKinney-Vento Act) acknowledges that disputes may arise between a local educational agency (LEA)/school district and students experiencing homelessness and their parents/guardians, or unaccompanied youth, when parents, guardians, or unaccompanied youth and schools disagree on the eligibility or school selection of children and youth experiencing homelessness. As part of eligibility, issues related to whether the student meets the definition of homeless should be resolved. The Act includes dispute resolution among the required duties of the school district homeless liaison. The Washington State Office of Superintendent of Public Instruction (OSPI) has developed a dispute resolution process as required by the McKinney-Vento Act.

Disputes related to eligibility, school selection, or enrollment should be initiated at the request of the parent/guardian or unaccompanied youth and not at the request or convenience of the school district. Additionally, issues related to the definition of homelessness, the responsibilities of the school district to serve children and youth experiencing homelessness, and/or the explicit rights of children and youth experiencing homelessness are addressed in the McKinney-Vento Act. Disputes related to eligibility, school selection, or enrollment of homeless children and youths shall be resolved within the parameters of the federal McKinney-Vento Act. The dispute resolution process shall not be used to circumvent or supersede any part of the federal McKinney-Vento Act.

The following procedures are specified in the Act:

Eligibility & Enrollment

If a dispute arises over school selection, enrollment in a school, or whether the student meets the definition of homeless, the child or youth shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute. In the case of an unaccompanied youth, the homeless liaison shall ensure that the youth is immediately enrolled in the school in which enrollment is sought, pending resolution of the dispute.

Written Explanation

The district must provide a written explanation of its decision to the parent/guardian or, in the case of an unaccompanied youth, to the unaccompanied youth (the written explanation must include a description of the parent/guardian's or unaccompanied youth's right to appeal the decision).

Liaison

The designated school district homeless liaison is assigned to carry out the dispute resolution process in an expeditious manner.

Responsibility

The school district, usually the district's homeless liaison, is responsible to inform the parent/guardian or the unaccompanied youth of the dispute resolution process.

OVERVIEW OF THE DISPUTE RESOLUTION PROCESS

In a case where a dispute occurs regarding the eligibility, school selection, or enrollment of a child or youth experiencing homelessness, the following process must be used: A Level I Appeal of the dispute is made to the district's homeless liaison. If unresolved at this level, a Level II Appeal of the dispute is made to the local school district superintendent or designee, and if the dispute continues to be unresolved, a Level III Appeal of the dispute is made to OSPI. A Level III Appeal to OSPI is the final administrative appeal. **Every effort must be made to resolve the complaint or dispute at the local level before it is brought to OSPI.**

INITIATION OF THE DISPUTE RESOLUTION PROCESS

If a school district seeks to place a child or youth experiencing homelessness in a school other than the school of origin or the school requested by the parent/guardian or unaccompanied youth, or the school district determines that the student does not meet the definition of a homeless child or youth, the school district's homeless liaison shall inform the child's/youth's parent/guardian or the unaccompanied youth in a language and format understandable to the parent/guardian or unaccompanied youth of their right to appeal the decision made by the school district. The district must also provide the following:

1. Written contact information for the school district homeless liaison and state coordinator, with a brief description of their roles.
2. A simple, written detachable form that parents, guardians, or unaccompanied youth can complete and turn in to the school to initiate the dispute process (the school should copy the form and return the copy to the parent, guardian, or youth for their records when it is submitted).
3. A written step-by-step description of how to dispute the school district's decision.
4. Written notice of the right to enroll immediately in the school where enrollment is sought pending resolution of the dispute.
5. Written notice of the right to appeal to the state if the district-level resolution is not satisfactory.
6. Written timelines for resolving district- and state-level appeals.

Level I Appeal: School District Homeless Liaison Communication

If a parent/guardian or unaccompanied youth wishes to appeal a school district's decision related to a student's eligibility, school selection, or enrollment the following process and timeline must be followed:

1. The parent/guardian or unaccompanied youth must file a request for dispute resolution with the district's homeless liaison by submitting a form that initiates the dispute resolution process (given to the parent/guardian or unaccompanied youth by the liaison). The request

for dispute resolution must be submitted by the parent/guardian or the unaccompanied youth to the district liaison within fifteen (15) business days of receiving the written notification that the district did not identify the student as experiencing homelessness or intends to enroll the student in a school other than that requested by the family or the unaccompanied youth. The parent/guardian or unaccompanied youth may submit the request directly to the homeless liaison or they may submit the request to the school where the dispute is taking place. If the request is submitted to the school where the dispute is taking place, the school shall immediately forward the request to the district's homeless liaison. In the event that the district's homeless liaison is unavailable, the school district must appoint a designee that may receive the parent/guardian's or unaccompanied youth's request to initiate the dispute resolution process.

2. The homeless liaison must log their receipt of the complaint, including the date and time, with a written description of the situation and the reason for the dispute, and a copy of the complaint must be forwarded to the liaison's immediate supervisor and the district superintendent.
3. Within five (5) business days of the receipt of the complaint, the liaison must make a decision on the complaint and inform the parent/guardian or unaccompanied youth in writing of the result. The district's homeless liaison shall provide the parent/guardian or unaccompanied youth with an appeals package containing:
 - a. A copy of the parent/guardian's or unaccompanied youth's complaint which was filed with the district's homeless liaison upon initiating a Level I Appeal.
 - b. The decision rendered at the Level I Appeal by the school district homeless liaison.
 - c. Any additional information from the parent/guardian, unaccompanied youth, and/or homeless liaison.

It is the responsibility of the district to verify the parent/guardian's or unaccompanied youth's receipt of the written notification regarding the homeless liaison's Level I Appeal decision.

4. If the parent/guardian or unaccompanied youth disagrees with the decision made at the Level I Appeal and wishes to move the dispute resolution process forward to a Level II Appeal, the parent/guardian or unaccompanied youth shall notify the district's homeless liaison of their intent to proceed to a Level II Appeal within ten (10) business days of receipt of notification of the Level I Appeal decision.

Level II Appeal: School District Superintendent Communication

If the dispute remains unresolved after a Level I Appeal:

1. If a parent/guardian disagrees with the decision rendered by the district's homeless liaison at a Level I Appeal, the parent/guardian or unaccompanied youth may appeal the decision to the local school district's superintendent or the superintendent's designee, (the designee shall be someone other than the district's homeless liaison) using the appeals package provided to the parent/guardian after the Level I Appeal.

2. The superintendent or their designee, will arrange for a personal conference with the parent/guardian or unaccompanied youth. The personal conference will be arranged within five (5) business days of the parent/guardian or unaccompanied youth's notification to the district of their intent to proceed to a Level II Appeal of the dispute resolution process. Once arranged, the meeting between the superintendent or designee and the parent/guardian or unaccompanied youth is to take place as expeditiously as possible. This meeting may be held over video or phone conference if required due to a school building closure or if the parent/guardian or unaccompanied youth is unable to attend in-person, provided the same opportunity for appeal is given and the same rights are provided to the family or youth.
3. The local superintendent or designee will provide a decision in writing to the parent/guardian or unaccompanied youth with supporting evidence and reasons within five (5) business days of the superintendent or designee's personal conference with the parent/guardian or unaccompanied youth. It is the responsibility of the district to verify the parent/guardian's or unaccompanied youth's receipt of the written notification regarding the superintendent's Level II Appeal decision.
4. A copy of the appeals package, along with the written decision made at a Level II Appeal, is to be shared with the district's homeless liaison.
5. If the parent/guardian or unaccompanied youth disagrees with the decision made at a Level II Appeal and wishes to move the dispute resolution process forward to a Level III Appeal, the parent/guardian or unaccompanied youth shall notify the district's homeless liaison of their intent to proceed to a Level III Appeal within ten (10) business days of receipt of notification of the Level II Appeal decision.
6. If the dispute remains unresolved, the process then moves to a Level III Appeal.

Level III Appeal: OSPI Communication

If the dispute remains unresolved after a Level II Appeal:

1. The school district superintendent shall forward all written documentation and related paperwork to the OSPI homeless education coordinator or designee for review within five (5) business days of the parent/guardian or unaccompanied youth notifying the district of a request to appeal the decision rendered at a Level II Appeal.
2. The entire dispute package, including all documentation and related paperwork, is to be submitted to OSPI in one consolidated and complete package via hard copy mail delivery. In addition to the hard copy dispute package, the district may choose, and is encouraged, to submit a courtesy scanned copy in a single file via PDF format to the homeless education email inbox (homelessed@k12.wa.us) provided that the information included complies with the Family Educational Rights and Privacy Act (FERPA). The PDF file is not a substitute for the required hard copy dispute package. Documents submitted separately from the hard copy dispute package, documents submitted after the fact, or documents submitted outside of the dispute package may not be reviewed by OSPI and will not extend the dispute timeframe. It is the responsibility of the district to ensure that dispute packages are complete and ready for review at the time they are submitted to OSPI.
3. The OSPI homeless education coordinator or designee, along with the appropriate agency director and/or agency assistant superintendent, shall make a final decision within fifteen (15) business days of receipt of the hard copy complaint.

4. The final decision will be forwarded to the school district's homeless liaison for distribution to the parent/guardian and the district superintendent or designee.
5. The decision made by OSPI shall be the final resolution concerning eligibility or placement of a child or youth experiencing homelessness in the school district.
6. The office of the school district superintendent shall maintain a record of all disputes related to the placement of children and youth experiencing homelessness. These records shall include disputes resolved at Level I, Level II, and/or Level III Appeals and shall be made available to OSPI upon request.

INTER-DISTRICT DISPUTES

If a dispute arises over eligibility, school selection, or enrollment in a school, the child or youth shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute.

Disputes arising between school districts regarding eligibility or placement of a child or youth experiencing homelessness in a school district should be resolved between the school districts at the local level in the best interest of the child and according to the law. Disputes between school districts that remain unresolved shall be forwarded in writing by either of the disputing districts' homeless liaison to the OSPI homeless education coordinator or designee. A decision will be made by the OSPI homeless coordinator or designee, along with a committee of OSPI staff, within ten (10) business days of the receipt of the dispute and will be forwarded in writing to the districts' superintendents, the districts' homeless liaisons, and the parent/guardian(s) of the homeless child or youth.

The decision made by OSPI shall be the final resolution between the disputing local education agencies for eligibility and/or placement of a child or youth experiencing homelessness in a district.

MCKINNEY-VENTO HOMELESS ASSISTANCE ACT, SUBTITLE VII-B

Reauthorized December 10, 2015 by Title IX, Part A of the Every Student Succeeds Act (effective October 1, 2016)

Policy Statement

Section 721(l)(2) of the McKinney-Vento Homeless Education Act reads:

The following is the policy of the Congress:

- (1) Each State educational agency shall ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youths.
- (2) In any State that has a compulsory residency requirement as a component of the State's compulsory school attendance laws or other laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and youths, the State will review and undertake steps to revise such laws, regulations, practices, or

policies to ensure that homeless children and youths are afforded the same free, appropriate public education as provided to other children and youths.

- (3) Homelessness alone is not sufficient reason to separate students from the mainstream school environment.
- (4) Homeless children and youths should have access to the education and other services that such children and youths need to ensure that such children and youths have an opportunity to meet the same challenging State student academic achievement standards to which all students are held.

Definitions

Homeless Children and Youths

According to Section 725(2) of the McKinney-Vento Homeless Education Act, the term 'homeless children and youths':

- (A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1)) ['one who (1) lacks a fixed, regular, and adequate residence or (2) has a primary nighttime residence in a supervised publicly or privately operated shelter for temporary accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill), an institution providing temporary residence for individuals intended to be institutionalized, or a public or private place not designated for, or ordinarily used as, a regular sleeping accommodation for human beings.']; and
- (B) includes:
 - (i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;
 - (ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 103(a)(2)(C));
 - (iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
 - (iv) migratory children (as such term is defined in section 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii)."

Section 103(c) of the Act specifically excludes from the definition of homeless individuals any person who is imprisoned or otherwise detained by Act of Congress or State law.

Unaccompanied Youth

Section 725(6) of the McKinney-Vento Homeless Education Act indicates that the term "unaccompanied youth" includes a youth not in the physical custody of a parent or guardian. Youth living on their own in any of the homeless situations described in the law are covered by the law.

Fixed Residence

A residence that is stationary, permanent, and not subject to change.

Regular Residence

A residence which is used on a regular (i.e., nightly) basis.

Adequate Residence

A residence which is sufficient for meeting both the physical and psychological needs typically met in home environments.

Parent

For the purpose of this policy, a parent means a parent, legal guardian, or person having legal custody of a child.

School of Origin

The school of origin, as defined in the McKinney-Vento Homeless Education Act, Section 722 (g)(3)(G), is the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled, including a preschool.

Enrollment

The terms "enroll" and "enrollment" include attending classes and participating fully in school activities.

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