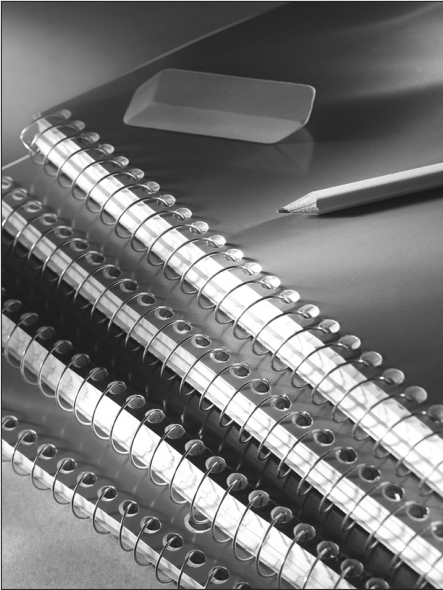


Dispute Resolution



Who is homeless? (Sec. 725)

The term “homeless children and youth”—

- (A) means individuals who lack a fixed, regular, and adequate nighttime residence ...; 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 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 who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii).

Subtitle VII-B of the McKinney-Vento Homeless Assistance Act, reauthorized by Title X, Part C, of the No Child Left Behind Act, ensures educational rights and protections for children and youth experiencing homelessness. This brief explains the key provisions of the Act dealing with disputes over the enrollment and provision of services to a child or youth experiencing homelessness; it also offers strategies for implementing the law in a school district. Additional briefs on various topics in the law may be found at <http://www.serve.org/nche/briefs.php>.

Key Provisions

- Every state must establish procedures to promptly resolve disputes regarding the educational placement of homeless students.
- If a student is sent to a school other than the school of origin or the school requested by the parent or guardian, the LEA must provide the parent or guardian with a written explanation of its decision and the right to appeal. Under the McKinney-Vento Act, a homeless student has the right to attend either the school of origin, if this is in the student’s best interest, or the local attendance area school.
 - *School of origin* is defined as the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled.
 - *Local attendance area school* is defined as any public school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.
- Whenever a dispute arises, the student must be admitted immediately to the requested school while the dispute is being resolved.
- The school must refer the student, parent, or guardian to the local homeless education liaison to carry out the dispute resolution process as expeditiously as possible.
- Local liaisons must ensure that the same access to the dispute resolution process is provided to unaccompanied youth.

(See the panel on the last page for the text of the law.)

Families and youth in homeless situations may be unaware of their right to dispute placement and enrollment decisions. When disputes are raised, too often, students are denied school enrollment until the dispute is resolved. This interruption in education can harm

students' academic progress and disrupt their classmates and teachers.

To avoid such disruptions, families and youth experiencing homelessness, as well as schools, need an established process for resolving disputes. The McKinney-Vento Act requires school districts to enroll homeless students immediately in the requested school while the dispute is being resolved; this provides students with the educational stability they need during an otherwise tumultuous period in their lives. Without such a provision, parents, guardians, and youth may be discouraged from pursuing their rights for fear of protracted denials of education while disputes are resolved.

Local liaisons are instrumental in ensuring that disputes are resolved objectively and expeditiously. The required written notice protects both students and schools by outlining the specific reasons for the school's decision. It facilitates the resolution of disputes by providing decision makers with the information needed to make lawful, informed decisions that will serve the best interest of the student involved.

Strategies for Implementation

- A process for resolving disputes should be available at the district level.
- A state-level appeal process, involving State Coordinators for Homeless Education, should be available for appeals from district-level decisions.
- Local liaisons need to be familiar with the dispute resolution process outlined in the State Educational Agency's state plan for homeless education; a copy of the state dispute resolution process can be obtained by contacting the State Coordinator for Homeless Education.
- States should establish timelines for resolving disputes at the local and state level.
- The dispute resolution process should be as informal and accessible as possible, consistent with impartial and complete review.
- Parents, guardians, and unaccompanied youth should be able to initiate the dispute resolution process directly at the school in which they are requesting enrollment, as well as at the school district or local homeless education liaison's office.
- Parents, guardians, and unaccompanied youth should be informed that they can provide written or oral documentation to support their position.
- Parents, guardians, and unaccompanied youth should be informed that they can seek the assistance of advocates or attorneys.
- Students should be provided with all services for which they are eligible while disputes are resolved, consistent with the definition of "enrollment." Enrollment is defined in the McKinney-Vento Act as "attending classes and participating fully in school activities".
- Written notice should be complete; as brief as possible; simply stated; and provided in a language the parent, guardian, or unaccompanied youth can understand.
- When inter-district issues arise, representatives from all involved districts should be present to resolve the dispute.
- Written notice should include:
 - Contact information for the local homeless education liaison and the State Coordinator for Homeless Education, with a brief description of their roles
 - A simple, detachable form that parents, guardians, or unaccompanied youth can complete and turn in to the school to initiate the dispute resolution process; the school should copy the form and return the copy to the parent, guardian, or youth for their records when it is submitted.
 - A step-by-step description of how to dispute the school's decision
 - Notice of the right to enroll immediately in the requested school pending resolution of

Dispute Resolution (continued)

the dispute

- Notice that “immediate enrollment” includes full participation in all school activities
- Notice of the right to obtain the assistance of advocates or attorneys
- Notice of the right to appeal to the state if the district-level resolution is not

satisfactory

- Timelines for resolving district- and state-level appeals
- A sample *Written Notification of Enrollment Decision* form is available in Appendix D of NCHE’s *Local Homeless Education Liaison Toolkit* at http://www.serve.org/nche/downloads/toolkit/app_d.pdf.

Legislative Excerpts

“State Plan—(1) In General—Each State shall submit to the Secretary a plan to provide for the education of homeless children and youths within the State. Such plan shall include the following:

(C) A description of procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youths...

(3) Local Educational Agency Requirements—

(B) Best Interest—In determining the best interest of the child or youth...the local educational agency shall...(ii) provide a written explanation, including a statement regarding the right to appeal under subparagraph (E), to the homeless child’s or youth’s parent or guardian, if the local educational agency sends such child or youth to a school other than the school of origin or a school requested by the parent or guardian; and (iii) in the case of an unaccompanied youth, ensure that the homeless liaison designated under paragraph (1)(J)(ii)...provides notice to such youth of the right to appeal under subparagraph (E).

(E) Enrollment Disputes—If a dispute arises over school selection or enrollment in a school—(i) the child or youth shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute; (ii) the parent or guardian of the child or youth shall be provided with a written explanation of the school’s decision regarding school selection or enrollment, including the rights of the parent, guardian, or youth to appeal the decision; (iii) the child, youth, parent, or guardian shall be referred to the local educational agency liaison designated under paragraph (1)(J)(ii), who shall carry out the dispute resolution process as described in paragraph (1)(C) as expeditiously as possible after receiving notice of the dispute; and (iv) in the case of an unaccompanied youth, the homeless liaison shall ensure that the youth is immediately enrolled in school pending resolution of the dispute.”

McKinney-Vento Act Sec. 722(g); 42 U.S.C. 11432(g).

This brief was developed collaboratively by:

National Center for Homeless Education
800-308-2145 (Toll-free Helpline)
<http://www.serve.org/nche>

National Association for the Education of Children and Youth
<http://www.naehcy.org>

National Law Center on Homelessness and Poverty
<http://www.nlchp.org>

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NCHE is supported by the U.S. Department of Education Student Achievement and School Accountability Programs.

Every state is required to have a State Coordinator for Homeless Education, and every school district is required to have a local homeless education liaison. These individuals will assist you with the implementation of the McKinney-Vento Act. To find out who your State Coordinator is, visit the

NCHE website at http://www.serve.org/nche/states/state_resources.php.



For more information on the McKinney-Vento Act and resources for implementation, call the NCHE Helpline at 800-308-2145 or e-mail homeless@serve.org.



Local Contact Information: