

Resolution of Disputes

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).

This document was collaboratively developed by:

National Association for the Education of Homeless Children and Youth (NAEHCY)—512-475-8765—www.naehcy.org

National Center for Homeless Education (NCHE)—800-308-2145—www.serve.org/nche

National Coalition for the Homeless (NCH)—202-737-6444 ext. 18—www.nationalhomeless.org

National Law Center for Homelessness and Poverty (NLCHP)—202-638-2535—www.nlchp.org

National Network for Youth (NN4Y)—202-783-7949—www.NN4Youth.org

The McKinney-Vento Homeless Assistance Act (Subtitle B—Education for Homeless Children and Youth), reauthorized in January 2002, ensures educational rights and protections for children and youth experiencing homelessness. This brief explains the legislation and offers strategies for implementing it in a school district. Additional briefs on various topics in the law may be found on the websites of the organizations listed below.

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 a parent/guardian, the Local Educational Agency (LEA), otherwise known as school district, must provide a written explanation of its decision and the right to appeal, whether or not the parent/guardian disputes the placement.
- A written explanation of the school’s decision must also be provided if a parent, guardian, or unaccompanied youth disputes a school placement or enrollment decision.
- Whenever a dispute arises, the student must be immediately admitted to the school of choice while the dispute is being resolved.
- The school must refer the student, parent, or guardian to the local liaison to carry out the dispute resolution process as expeditiously as possible.
- LEA homeless liaisons must ensure that the dispute resolution process is followed for unaccompanied youth.

(See Endnotes 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 kept out of school during the dispute resolution process. This interruption in education can severely damage 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. Permitting students to enroll immediately in the school of choice during disputes ensures that students will be able to remain in school. 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.

LEA homeless liaisons are essential to ensure disputes are resolved objectively and expeditiously. Written notice protects both students and schools by outlining the specific reasons for the school’s decision. It facilitates resolution of disputes by providing decision-makers with documents to guide their determinations.

Strategies for Implementation

- A process for resolving disputes should be available at the district level.
- When inter-district issues arise, representatives from all involved districts should be present to resolve the dispute.
- A state-level appeal process, involving State Coordinators, should be available for appeals from district-level decisions.
- The dispute resolution process should be as informal and accessible as possible, consistent with impartial and complete review.

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Resolution of Disputes (continued)

- Parents, guardians, and unaccompanied youth should be able to initiate the dispute resolution process directly at the school they choose, as well as at the school district or LEA homeless liaison's office.
- States should establish timelines for resolving disputes at the local and state level.
- 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 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.
- Written notice should include:
 - Contact information for the LEA homeless liaison and State Coordinator, 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 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 school of choice pending resolution of 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

Every state is required to have a coordinator for the education of homeless children and youth, and every school district is required to have a liaison for homeless students. 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 www.serve.org/nche.



For further 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:

Endnotes

"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).