



Division of Performance and Accountability
Supplemental Education Programs
McKinney-Vento Education for Homeless Children & Youth Program
DISPUTE RESOLUTION PROCESS

BACKGROUND INFORMATION

The McKinney-Vento Homeless Assistance Act guarantees rights and services for homeless children and youth and requires the Bureau of Indian Education (BIE) to implement a process for the prompt resolution of disputes regarding the educational placement of homeless children and youths. BIE-funded schools must carry out the BIE's dispute resolution within the timeframes established by this Dispute Resolution Process when parents, guardians, or unaccompanied youth and schools disagree on a decision related to the eligibility, school selection, or enrollment of homeless children and youth.

PURPOSE

The dispute resolution process is intended to

- A. Provide an opportunity for the parent/guardian of a homeless child or youth, or an unaccompanied youth to dispute a school's decision on eligibility, school selection, or enrollment.
- B. Represent each party's views for objective consideration so that disagreements can be brought to closure expeditiously.

DISPUTE RESOLUTION REQUIREMENTS

Under McKinney-Vento, the following issues may be disputed and must be documented with a written explanation whenever there is a disagreement between the school and parent, guardian, or unaccompanied youth who is seeking McKinney-Vento rights and services:

1. Eligibility – Does the child or youth requesting enrollment meet the definition of homeless children and youths or unaccompanied youth under McKinney-Vento?

Pursuant to McKinney-Vento, the term “homeless children and youths”--

(A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 11302(a)(1) of this title); 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 11302(a)(2)(C) of this title)¹;
- (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 6399 of Title 20) who qualify as homeless for the purposes of this part because the children are living in circumstances described in clauses (i) through (iii).

The term unaccompanied youth is defined in the Act as “a homeless child or youth not in the physical custody of a parent or guardian” [42 U.S.C. § 11434a(6)]

2. School Selection – Is it in the child's or youth's best interest to continue attending the school of origin?

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3. Enrollment (including attending classes and participating fully in school activities pursuant to 42 U.S.C. 11434a(1)). -
 - Is the homeless child or youth enrolled in classes immediately regardless of (1) an inability to produce records normally required for enrollment, such as previous academic records, including special education records, proof of residency, immunization or other required health documents, or other documentation, including Certificate of Indian Blood; or (2) missed application or enrollment deadlines during any period of homelessness?
 - Is there a dispute relating to the student participating fully in school activities?

PROCESS

If a dispute arises between a parent, guardian, or unaccompanied youth over a decision on eligibility, school selection, or enrollment:

1. The LEA/school must immediately enroll the homeless student in the school in which enrollment is sought pending final resolution of the dispute, including all available appeals;
2. Within two (2) business days, the LEA/school shall provide the parent, guardian, or unaccompanied youth with a written notice of the school's decision regarding eligibility, school selection, or enrollment and their right to appeal. Elements of a written determination notice:
 - a. The determination;
 - b. Reason for the determination – why the school made its determination; and
 - c. Instructions to appeal the decision, including specific contact information (e.g., phone numbers, emails, etc.) that are not too cumbersome and must be manageable by a homeless child or youth's parent or guardian, or an unaccompanied youth.
3. The LEA/school must provide transportation to and from the school in which enrollment is sought for the duration of the dispute resolution process.
4. Within three (3) business days of receipt of the written notification of the decision made by the school, the parent, guardian, or unaccompanied youth, with assistance from the local homeless liaison, may complete a Notice of Appeal. The local homeless liaison will then immediately forward the Notice of Appeal, along with the school's written notice, to the Bureau of Indian Education, Division of Performance & Accountability.

Upon receipt of a Notice of Appeal, the BIE Division of Performance and Accountability Supplemental Education Program (DPA-SEP) Education Program Specialist shall convene a 3-person panel of at least two (2) BIE DPA-SEP employees and an Education Program Administrator. This panel shall review the entire record of the dispute, including any written statements submitted, and, within five (5) business days, a determination will be made based on the child or youth's best interest. The BIE DPA-SEP Education Program Specialist will issue the decision in writing and send the written determination to the parent, guardian, or unaccompanied youth. The determination of the panel shall be final.

APPENDIX

Appendix 1. SCHOOL SAMPLE LETTER: Notification of Determination for McKinney-Vento Services

Date _____

Parent/Guardian/Youth
Address _____

Dear _____,

In compliance with 42 U.S.C. 11432(g)(3)(B)(iii) and 42 U.S.C. 11432 (g)(3)(E) of the McKinney-Vento Act as amended by the *Every Student Succeeds Act* (Title IX, Part A, of P.L. 114-95), the following written notification addresses (denial/approval) of a request for:

_____ Eligibility – the student’s living situation (does/does not) meet the definition of homeless children or youths in the McKinney-Vento Act for educational services.

_____ School Selection –

_____ school of origin (*Name of School*) (is/is not) in the student’s best interest

_____ another school that students in the attendance area are eligible to attend (*Name of School*) (is/is not) in the student’s best interest

_____ Immediate Enrollment - including attending classes and participating fully in school activities.

This determination was based upon: _____

If you disagree, you have the right to appeal this decision by (two days after the date of letter */insert date*). You may submit the second page of this notice to the school's local homeless education liaison or contact the liaison by phone. Please contact my office for assistance or if you have any questions.

Sincerely,

Local Homeless Liaison
School
Phone/email _____

cc:
Principal
Education Program Administrator
BIE State Coordinator

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For School Use Only

This notice is provided to:

Parent/Guardian/Unaccompanied Youth: _____

Names of Student(s) for this determination: _____

Appendix 2. NOTICE OF APPEAL for McKinney-Vento Services

Notice of Appeal

Student's name: _____ Grade level _____

Form completed by: _____ Relationship: _____

Address: _____

City, State, Zip Code: _____

Email: _____ Phone: _____

School Name: _____ Date: _____

Education Resource Center: _____

Education Program Administrator: _____

Homeless Liaison: _____

Did you receive a decision in writing from the school? Yes ____ No ____

If so, when did they give you the written decision? _____

Why are you appealing the decision? (You may attach additional pages as needed.) Please explain what rights you feel the school or district has not honored:

For School Use Only

Date Notice of Appeal received: _____

Please return this form to:
Division of Performance and Accountability, Supplemental Education Programs
Marie Silverhatband, Education Program Specialist
marie.silverhatband@bie.edu

Appendix 3. BIE State Coordinator SAMPLE LETTER: Notification of Final Determination for McKinney-Vento Services

DISPUTE RESOLUTION FINAL DETERMINATION

The McKinney-Vento Homeless Assistance Act acknowledges that disputes may arise between the school and parents/guardians/unaccompanied homeless youth regarding eligibility, school selection and enrollment. This letter serves as notification of the Dispute Resolution Final Determination for McKinney-Vento services.

LEVEL 1: LIAISON DETERMINATION

Date Complaint by parent/guardian/unaccompanied homeless youth received:

Name of School:

School Telephone Number:

Student's Name:

Area of concern (eligibility, school selection or enrollment):

Relevant Evidence:

Determination:

Date "Notification of Determination for McKinney-Vento Services" provided to parent/guardian/unaccompanied homeless youth:

APPEAL

Date "Notice of Appeal" by parent/guardian/unaccompanied homeless youth received:

Question at issue on appeal:

LEVEL 2: FINAL STATE DETERMINATION

Area of concern (eligibility, school selection or enrollment):

Relevant evidence:

Panel participants:

Final Resolution:

BIE McKinney-Vento State Coordinator Signature:

Date Final Resolution provided to parent/guardian/unaccompanied homeless youth:

**Entire resolution process, including appeal if applicable, must be completed within 10 business days from the date of the original complaint. The student must be allowed to enroll and attend their school of choice throughout the duration of the dispute process.*