Dispute Resolution Process
Office of Superintendent of Public Instruction

DISPUTE RESOLUTION PROCESS
SCHOOL DISTRICT PLACEMENT OF CHILDREN AND YOUTHS IN HOMELESS SITUATIONS

BACKGROUND INFORMATION

The McKinney-Vento Homeless Assistance Act (also referred to as the Act or the McKinney-Vento Act) acknowledges that disputes may arise between the school district and homeless students and their parents, or unaccompanied youth, when the district seeks to place a student in a school other than the school of origin or the school requested by the parent or unaccompanied youth. The Act includes dispute resolution among the required duties of the local education agency (LEA) liaison. The Washington State Office of Superintendent of Public Instruction (OSPI) has developed a dispute resolution process as required by the McKinney-Vento Act.

Districts should bear in mind that disputes related to school selection or enrollment should be initiated at the request of the parent 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 homeless children and youth, and/or the explicit rights of homeless children and youth are addressed in the McKinney-Vento Act. Disputes related to the school placement and enrollment of homeless children and youths shall be resolved within the parameters of the federal McKinney-Vento Act. The dispute resolution process for the school placement of homeless children and youths shall not be used in an effort to circumvent or supersede any part of the federal McKinney-Vento Act.

The following procedures are specified in the Act:

Enrollment: If a dispute arises over 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. 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 the school placement decision to the parent or, in the case of an unaccompanied youth, to the unaccompanied youth. (The written explanation must include a description of the parent's or unaccompanied youth's right to appeal the decision.)

Liaison: The designated LEA 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 of the homeless student(s) or the unaccompanied youth of the dispute resolution process.

OVERVIEW

In a case where a dispute occurs regarding the enrollment of a homeless child or youth, the following process must be used: Level I of the appeal is to the district's homeless liaison. If unresolved at this level, the case is appealed to the local school district superintendent (Level II), and if the dispute continues to be unresolved, the final appeal (Level III) is to OSPI. **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 homeless child or youth in a school other than the school of origin, or the school requested by the parent or unaccompanied youth, the child's/youth's parent or the unaccompanied youth shall be informed in a language and format understandable to the parent or unaccompanied youth of their right to appeal the decision made by the school district and be provided the following:

1. Written contact information for the LEA 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 of choice 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: LEA Liaison Communication

If a parent or unaccompanied youth wishes to appeal a school district's decision related to a student's placement:

1. The parent 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. The request for dispute resolution must be submitted by the parent or the unaccompanied youth to the district liaison within fifteen (15) business days of receiving notification that the district intends to enroll the student in a school other than that requested by the family or the unaccompanied youth. The parent 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, a school district designee may receive the parent'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 their receipt of the complaint, the liaison must make a decision on the complaint and inform the parent or unaccompanied youth in writing of the result. It is the responsibility of the district to verify the parent's or unaccompanied youth's receipt of the written notification regarding the homeless liaison's Level I decision.
4. If the parent or unaccompanied youth disagrees with the decision made at Level I and wishes to move the dispute resolution process forward to Level II, the parent or unaccompanied youth shall notify the district's homeless liaison of their intent to proceed to Level II within ten (10) business days of receipt of notification of the Level I decision.
5. If the parent or unaccompanied youth wishes to appeal the liaison's Level I decision, the district's homeless liaison shall provide the parent or unaccompanied youth with an appeals package containing:
    a. A copy of the parent's or unaccompanied youth's complaint which was filed with the district's homeless liaison at Level I,
    b. The decision rendered at Level I by the LEA liaison, and
    c. Any additional information from the parent, unaccompanied youth, and/or homeless liaison.

Level II: LEA Superintendent Communication
(If the dispute remains unresolved after a Level I appeal)

1. If a parent disagrees with the decision rendered by the district's homeless liaison at Level I, the parent 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 at Level I.
2. The superintendent, or superintendent's designee, will arrange for a personal conference to be held with the parent or unaccompanied youth. The personal conference will be arranged within five (5) business days of the parent or unaccompanied youth's notification to the district of their intent to proceed to Level II of the dispute resolution process. Once arranged, the meeting between the superintendent, or superintendent's designee, and the parent or unaccompanied youth is to take place as expeditiously as possible.
3. The local superintendent, or superintendent's designee, will provide a decision in writing to the parent or unaccompanied youth with supporting evidence and

reasons, within five (5) business days of the superintendent's, or superintendent's designee, personal conference with the parent or unaccompanied youth. It is the responsibility of the district to verify the parent's or unaccompanied youth's receipt of the written notification regarding the superintendent's Level II decision.

4. A copy of the appeals package, along with the written decision made at Level II is to be shared with the district's homeless liaison.
5. If the parent or unaccompanied youth disagrees with the decision made at Level II and wishes to move the dispute resolution process forward to Level III, the parent or unaccompanied youth shall notify the district's homeless liaison of their intent to proceed to Level III within ten (10) business days of receipt of notification of the Level II decision.
6. If the dispute remains unresolved, the process then moves to Level III.

Level III: Office of Superintendent of Public Instruction (OSPI) Communication
(If the dispute remains unresolved after a Level II appeal)

1. The 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 notifying the parent or unaccompanied youth of the decision rendered at Level II.
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. Documents submitted separately from the dispute package, documents submitted after the fact, or documents submitted outside of the dispute package in an attempt to extend the dispute timeframe or impact a pending dispute outcome may not be reviewed by OSPI. 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 complaint.
4. The final decision will be forwarded to the local school district's homeless liaison for distribution to the parent and the local superintendent.
5. The decision made by OSPI shall be the final resolution for placement of a homeless child or youth in the district.
6. The office of the school district superintendent shall maintain a record of all disputes related to the placement of homeless children and youths. These records shall include disputes resolved at Level I, Level II, and/or Level III and shall be made available to OSPI upon request.

INTER-DISTRICT DISPUTES

If a dispute arises over 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. 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.

Disputes arising between school districts (LEAs) regarding the placement of a homeless child or youth in a district should be resolved between the districts at the local level in the best interest of the child and according to the law. Disputes between LEAs that remain unresolved shall be forwarded in writing by either of the disputing districts 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(s) of the homeless child, or the homeless youth.

The decision made by OSPI shall be the final resolution between the disputing LEAs for placement of a homeless child or youth in a district.

McKinney-Vento Homeless Education Act of 2001

42 U.S.C. §§ 11431, et. seq. (Chapter 119) , as amended by the

No Child Left Behind Act.

POLICY STATEMENT

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

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; 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 (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 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.

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