

Indiana Education for Homeless Children & Youth (INEHCY)

McKinney-Vento Homeless Education Program

Dispute Resolution Procedure

Pursuant to programs administered under the McKinney-Vento Education for Homeless Children and Youth Act

This document addresses the requirements of 42 USC § 11432 (See section 722(g) (1)(C)) for resolving disputes applicable to enrollment or school placement for homeless children as covered by McKinney-Vento.

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 Indiana Department of Education – McKinney-Vento Homeless Education Program 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--

PART 1: As required by 42 USC § 11432(See section 722(g)(1)(C)), school corporations will adopt written procedures for the receipt and resolution of complaints alleging violations of law with regards to enrollment and school placement as covered by the McKinney-Vento Act. Therefore, for disputes originating at the local level, a request for appeal or resolution of an enrollment or placement dispute should not be filed with the Indiana State Board of Education until every effort has been made to resolve the issue through local written enrollment and school placement dispute resolution procedures. If a dispute arises over enrollment or school placement:

- A. The child or youth must be immediately enrolled in the school requested by the individual or organization submitting the complaint;
- B. The parent or guardian of the affected student(s) must be provided 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;
- C. the child, youth, parent, or guardian must be referred to the McKinney-Vento Liaison for the corporation, who shall carry out the dispute resolution process as expeditiously as possible after receiving notice of the dispute; and
- D. 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.

PART 2: As required by Indiana Code 20-26-11-15, the Indiana State Board of Education will hear all appeals on an order expelling a child under IC 20-8.1-5.1-11 (legal settlement), in addition to all disputes on (A) legal settlement; (B) right to transfer; (C) right to attend school in any school corporation; (D) amount of transfer tuition; and (E) any under matter arising under IC 20-26-11-15 (Transfers and Transfer Tuition).

- A. The party requesting an appeal or resolution of a dispute by the State Board of Education will submit a request in writing to the State Board Liaison at the Indiana Department of Education. ..\MEMO\State Board Appeal Memo.pdf
- B. The Board shall hold a hearing on the timely written application of the interested party.
- C. The Board shall make its determination under the following procedure:
 - A hearing shall be held on each matter presented.
 - Each interested party, including (where appropriate) the parents, student, transferor corporation, transferee corporation, or the state, shall be given at least ten (10) days' notice of the hearing by certified mail or personal delivery. The date of giving the notice is the date of mailing or delivery.
 - Any interested party may appear at the hearing in person or by counsel, present evidence, cross-examine witnesses, and present in writing or orally summary statements of position, and a written or recorded transcript of the hearing shall be made.
 - The hearing may be held by the Indiana State Board of Education or by a hearing examiner appointed by it who must be a state employee. The hearing, at the option of the State Board of Education or hearing examiner, may be held at any place in Indiana.

PART 3: The State Coordinator for the Education for Homeless Children and Youth Program will provide technical assistance to interested parties and the State Board as requested and as necessary.

PART 4: The Indiana State Board of Education or hearing examiner (as identified in Part 2, section (C) (d), above) shall make written findings of fact and recommendations. The determination of the Indiana State Board of Education shall be made on the basis of record, summaries, and findings, but it is required to examine only those parts of the entire record as it deems necessary.

PART 5: A notice of the Board's determination shall be mailed to each party by certified mail. No action to contest the validity of the decision may be instituted at any time later than thirty (30) days after the mailing of the notice.

PART 6: The determination of the Indiana State Board of Education as a result of the proceedings described above is final and binding on the parties to the proceeding.

SEC. 721. STATEMENT OF POLICY. (42 U.S.C. 11432)**(G) STATE PLAN-**

(1) IN GENERAL- For any State desiring to receive a grant under this subtitle, the State educational agency 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:

- A. A description of how such children and youths are (or will be) given the opportunity to meet the same challenging State academic standards as all students are expected to meet.
- B. A description of the procedures the State educational agency will use to identify such children and youths in the State and to assess their needs.
- C. A description of procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youths.
- D. A description of programs for school personnel (including liaisons designated under subparagraph (J)(ii), principals and other school leaders, attendance officers, teachers, enrollment personnel, and specialized instructional support personnel) to heighten the awareness of such school personnel of the specific needs of homeless children and youths, including such children and youths who are runaway and homeless youths.
- E. A description of procedures that ensure that homeless children and youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local nutrition programs.
- F. A description of procedures that ensure that--
 - i. homeless children have access to public preschool programs, administered by the State educational agency or local educational agency, as provided to other children in the State;
 - ii. youths described in section 725(2) and youths separated from public schools are identified and accorded equal access to appropriate secondary education and support services, including by identifying and removing barriers that prevent youths described in this clause from receiving appropriate credit for full or partial coursework satisfactorily completed while attending a prior school, in accordance with State, local,

and school policies; and

- iii. homeless children and youths who meet the relevant eligibility criteria do not face barriers to accessing academic and extracurricular activities, including magnet school, summer school, career and technical education, advanced placement, on-line learning, and charter school programs, if such programs are available at the State and local levels.
- G. Strategies to address problems identified in the report provided to the Secretary under subsection (f)(3).
- H. Strategies to address other problems with respect to the education of homeless children and youths, including problems resulting from enrollment delays that are caused by—
- i. requirements of immunization and other required health records;
 - ii. residency requirements;
 - iii. lack of birth certificates, school records, or other documentation;
 - iv. guardianship issues; or
 - v. uniform or dress code requirements.
- I. A demonstration that the State educational agency and local educational agencies in the State have developed, and shall review and revise, policies to remove barriers to the identification of homeless children and youths, and the enrollment and retention of homeless children and youths in schools in the State, including barriers to enrollment and retention due to outstanding fees or fines, or absences.
- J. Assurances that the following will be carried out—
- i. The State educational agency and local educational agencies in the State will adopt policies and practices to ensure that homeless children and youths are not stigmatized or segregated on the basis of their status as homeless.
 - ii. The local educational agencies will designate an appropriate staff person, able to carry out the duties described in paragraph (6)(A), who may also be a coordinator for other Federal programs, as a local educational agency liaison for homeless children and youths.
 - iii. The State and the local educational agencies in the State will adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, the liaison), to and from the school of origin (as determined under paragraph (3)), in accordance with the following, as applicable:

- i. If the child or youth continues to live in the area served by the local educational agency in which the school of origin is located, the child's or youth's transportation to and from the school of origin shall be provided or arranged by the local educational agency in which the school of origin is located.
 - ii. If the child or youth continues to live in the area served by the local educational agency in which the school of origin is located, the child's or youth's transportation to and from the school of origin shall be provided or arranged by the local educational agency in which the school of origin is located.

- iv. The State and the local educational agencies in the State will adopt policies and practices to ensure participation by liaisons described in clause (ii) in professional development and other technical assistance activities provided pursuant to paragraphs (5) and (6) of subsection (f), as determined appropriate by the Office of the Coordinator.

Indiana Code 20-26-11-15:**Determination by the Indiana state board of education -Sec. 10.**

- a. The Indiana state board of education shall hear the following:
 1. All appeals from an order expelling a child under IC 20-33-8-17.
 2. All appeals provided in this chapter.
 3. All disputes on the following:
 - A. Legal settlement.
 - B. Right to transfer.
 - C. Right to attend school in any school corporation.
 - D. Amount of transfer tuition.
 - E. Any other matter arising under this chapter.

The board shall hold a hearing on the timely written application of any interested party.

- b. The Indiana state board of education shall make its determination under the following procedure:
 1. A hearing shall be held on each matter presented.
 2. Each interested party, including where appropriate, the parents, the student, the transferor corporation, the transferee corporation, or the state, shall be given at least ten (10) days' notice of the hearing by certified mail or by personal delivery.
 3. The date of giving the notice is the date of mailing or delivery.
 4. Any interested party may appear at the hearing in person or by counsel, present evidence, cross-examine witnesses, and present in writing or orally summary statements of position.
 5. A written or recorded transcript of the hearing shall be made.
 6. The hearing may be held by the Indiana state board of education or by a hearing examiner appointed by it who must be a state employee.
 7. The hearing, at the option of the Indiana state board of education or hearing examiner, may be held at any place in Indiana.
 8. The hearing examiner shall make written findings of fact and recommendations.
 9. The determination of the Indiana state board of education shall be made on the basis of the record, summaries, and findings, but it is required to examine only those parts of the entire record as it deems necessary.
- c. The hearing and proceedings are not governed by IC 4-21.5.
- d. The determination of the Indiana state board of education is final and binding on the parties to the proceeding.
- e. A notice of the board's determination shall be mailed to each party by certified mail. No action to contest the validity of the decision may be instituted at any time later than thirty (30) days after the mailing of the notice.

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 6399 of title 20) 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.