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The McKinney-Vento Homeless Dispute Resolution

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Today's Agenda

- Overview of the McKinney-Vento Law on Dispute Resolution
- Review key provisions of the law in more depth
- Walk through the Guidance on MV Dispute Resolution Procedures
- Best Practices in Dispute Resolution
- Best Interest and School Stability Factors
- Q and A

MCKINNEY-VENTO DEFINITION OF *HOMELESS*



42 U.S.C. § 11434a(2)

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 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...;
- 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).



McKinney-Vento Law

- SEAs (State Educational Agencies-DESE) and LEAs (Local Educational Agencies) must have a description of procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youths. (722(g)(1)(C))
- DESE Homeless Dispute Resolution is available on-line at:
<https://dese.mo.gov/sites/default/files/qs-fc-hmls-2019-Homeless-Dispute-Resolution.pdf>



McKinney-Vento Law

- If a dispute arises over **eligibility, school selection, or enrollment**, the LEA must immediately enroll the homeless student in the school in which enrollment is sought, pending final resolution of the dispute, including all available appeals. (Section 722(g)(3)(E)(i)).
- The dispute resolution policy should also consider that the statutory definition of “enroll” and “enrollment” includes attending classes and participating fully in school activities. (*See* section 725(1)).



McKinney-Vento Law

- Homeless families and youths may be unaware of their right to challenge placement and enrollment decisions. Therefore, the LEA **must** provide the parent, guardian, or unaccompanied youth with a written explanation of any decisions related to school selection or enrollment made by the school, the LEA, **along with a written explanation of the appeal rights.** (Section 722(g)(3)(E)(ii)).
- The LEA must refer the unaccompanied youth, parent, or guardian to the **local Liaison, who must carry out the dispute resolution process...as expeditiously as possible.** (Section 722(g)(3)(B)(iii)).



McKinney-Vento Law

- The local Liaison **should assist** the child and family in preparing the appeal and should make the resources of the school (e.g., copying, mailing, or obtaining records) available to the parent, guardian, or unaccompanied youth.
- Notice and written explanation from the LEA about the reason for its decision, at a minimum, should include the following:
 - ❑ An explanation of how the school reached its decision;
 - ❑ A description of the action proposed or refused by the school; and an explanation of why the action is proposed or refused;
 - ❑ A description of any other options the school considered; and the reasons why any other options were rejected;
 - ❑ A description of any other factors relevant to the school's decision and information related to the eligibility or best interest determination including the facts, witnesses, and evidence relied upon and their sources;
 - ❑ Appropriate timelines to ensure any relevant deadlines are not missed; and
 - ❑ Contact information for the local Liaison and State Coordinator, and a brief description of their roles.



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 residence).



Key Provisions

- **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 (school of residence)** is defined as any public school that non-homeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.



Key Provisions

- 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 **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.**



Dispute Resolution

- **Every** effort must be made to resolve the dispute at the **local level** before it is brought to the Department of Elementary and Secondary Education.
- The complainant may make contact in person or by phone, email, or in writing with the LEA Liaison.
- **Each** LEA in Missouri is required to have a **designated Homeless Liaison** and staff in **every school and district central office must be able to quickly identify and refer to their district's Homeless Liaison.**



Dispute Resolution

Step 1: District McKinney-Vento Liaison

Must...

- **Discuss** the complaint with the complainant and provide them with a copy of the **district policy for the education of homeless children and youth**. This should include a copy of the Dispute Resolution for that particular LEA.
- **Make** a determination as to whether the requested placement/services for the homeless student are consistent with MV law and local school board policy.



Dispute Resolution

District McKinney-Vento Liaison

Must...

- **Advise** (and **may** assist) the complainant to present their concern in writing to the MV Homeless Liaison within the allotted timeframe.
- Provide a **written proposal of resolution** of the complaint or a plan of action to the complainant with the allotted timeframe of the date of receipt of the written complaint.



Dispute Resolution

District Personnel and LEA Board of Education

- **Advise** (and may assist) the complainant to present their concern in writing to the next level of appeal and on to the BOE if not resolved at the second level.
 - 1st—District Homeless Liaison
 - 2nd—To the Superintendent of the LEA or Acting Administrator
 - 3rd—To the LEAs Board of Education



Dispute Resolution

State Level

- Only after **all levels** of appeal have taken place at the LEA is the dispute to be forwarded on to the Department of Elementary and Secondary Education.
- Appeals made under this process must be made in writing and signed by the complainant. The LEAs Homeless Liaison **may assist** the complainant in preparing the written documents.



Dispute Resolution

State Level

- The director of Federal Programs will inform the involved (LEAs) of the complaint. The director or the director's designee will gather needed information including documentation and statements of the parties and may conduct an independent investigation through an on-site visit if necessary.
- Within 30 business days of receipt of the complaint, the director will inform the parties, in writing, of the decision.



Best Practices in Dispute Resolution

- Prior to the Dispute
 - District Homeless Liaisons and staff members have training in ways to diffuse disagreements and to treat parents, guardians, and unaccompanied youth respectfully, while maintaining the confidentiality of the case.
 - The LEA Homeless Liaison is also trained to understand which topics are appropriate for MV disputes and which are not.



Best Practices in Dispute Resolution

During a Dispute—

The LEA Homeless Liaison...

- Ensures that the parent/guardian is able to meet deadlines
 - Knows how to provide assistance or flexibility.
 - Knows how to address other barriers for the parent to implement the dispute resolution process.
 - Enroll students and provide transportation (if necessary).



Best Practices in Dispute Resolution

During a Dispute—

The LEA Homeless Liaison **must**...

- ❑ State the rights of the parent or guardian to seek assistance in the dispute process from an advocate or attorney.
- ❑ Obtain information and documentation in appropriate ways and in compliance with FERPA.



Best Practices in Dispute Resolution

Following a Dispute—

The LEA Homeless Liaison...

- ❑ If the parent or guardian does not get the desired outcome, the local homeless Liaison must...
 - Discuss the outcome with him/her
 - Works with him/her on strategies to implement the solution and keep the best interest of the child at the forefront
- ❑ Reviews the case with all parties involved at the LEA and SEA level for lessons learned and barriers that must be addressed.



Best Practices in Dispute Resolution

Following a Dispute—

The State Coordinator...

- ❑ Provides necessary technical assistance to address lessons learned from past disputes.
- ❑ Keeps all disputes on file and reviews for common issues or LEA TA needs.
- ❑ Understands the process for revising the MV dispute policy.



To Dispute or Not to Dispute

Not all eligibility or enrollment disputes initiated by a parent, guardian, or unaccompanied youth are eligible to go through a dispute resolution process at the LEA or SEA level.

- For example, when the child or youth is not residing in a homeless situation in the boundaries of an LEA, but the parent, guardian, or unaccompanied homeless youth seeks to initiate an enrollment dispute in that particular LEA.
- For example, a parent, guardian, or unaccompanied youth may wish to use the dispute resolution process to resolve a disagreement that is unrelated to the McKinney-Vento Act, such as a special education issue.

In these cases, the LEA should refer the parent, guardian, or unaccompanied youth to the program or administrator that would more effectively address the complaint.



School Stability Factors

- In determining the best interest of the child or youth under the McKinney-Vento law...
 - ❑ the LEA shall presume that keeping the homeless child or youth in the school of origin is in the child's or youth's best interest, except when doing so is contrary to the request of the child's or youth's parent or guardian or (in the case of an unaccompanied youth) the youth
 - ❑ the placement determination should consider student-centered factors related to the child's or youth's best interest



School Stability Factors

Factors an LEA May Consider in Best Interest Decisions

- Age of the child or youth
- Distance of a commute and the impact it may have on the student's education
- Personal health and safety issues
- Student's need for special instruction (e.g., special education and related services)
- Length of anticipated stay in a temporary shelter or other temporary location
- Time remaining in the school year



Other School Stability Factors

- Social and emotional state of the student
- Academic achievement/strengths/weaknesses
- Extra-curricular activity participation
- Supportive school relationships and/or services
- Number of schools the child attended over the past few years
- Effect of changing schools on the child's/youth's ability to earn full academic credit, proceed to the next grade or graduate on time



Resources

- National Center for Homeless Education (NCHE) Dispute Resolution Brief
<https://nche.ed.gov/wp-content/uploads/2018/10/resolution.pdf>
- DESE Homeless Dispute Resolution
<https://dese.mo.gov/sites/default/files/qs-fc-hmls-2019-Homeless-Dispute-Resolution.pdf>



Questions?



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