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# NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

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## **Alabama State Procedures – Dispute Resolution Under the McKinney-Vento Act**

According to the McKinney-Vento Homeless Assistance Act, a Local Education Agency (“LEA”) must continue educating the child or unaccompanied youth in the school of origin for the duration of homelessness when the homelessness occurs between or during an academic year; or for the remainder of the academic year if the child or unaccompanied youth becomes permanently housed during that academic year; or enroll the child or youth in any public school that non-homeless students who live in the attendance area in which the child or youth is living are eligible to attend (McKinney-Vento Act § 722(3)(A)(i)(ii)). If a dispute arises over school selection or enrollment, the LEA must immediately enroll the student in the school in which enrollment is sought pending resolution of the dispute (§ 722(3)(E)(i)). Similar provisions apply to the placement of unaccompanied youths.

Alabama’s state education law implementing the requirements of the McKinney-Vento Act can be found at Ala. Admin. Code r. 290-3-1-.02(e). The section specifically on-point with regard to waiver of the residency requirement for children experiencing homelessness appears at Ala. Admin. Code r. 290-3-1-.02(e)(1). The administrative regulations pertaining to dispute resolution are divided into two subparts. The first subpart deals with disputes between school districts to resolve the proper placement for the homeless student (Ala. Admin. Code r. 290-3-1-.02(7)(i)). The second subpart contemplates disputes brought by parents or guardians of the homeless student (Ala. Admin. Code r. 290-3-1-.02(7)(j)).

### **Step One: School Enrollment**

A student who may be homeless or has an uncertain place of residence may present themselves for enrollment at a public school or a school system’s office. School administrative personnel should make a determination of the student’s residential status based upon the definition in Section 103(a) of the McKinney Act. If the student is identified as homeless via the definition, the school and parent/guardian should carefully consider enrollment options provided by the law and shall enroll the student and determine free meal and transportation needs. Enrollment of a student shall not be denied or delayed due to any reason related to their homelessness including, but not limited to, lack of transcripts/school records; lack of immunization/health records; residency requirements; guardianship/custody requirements; lack of transportation; or lack of a birth certificate.

There are two options for the placement of homeless students — continued enrollment in the school attended prior to homelessness; or enrollment in any schools that non-homeless students who live in the attendance area where the homeless students is presently living are eligible to attend. The placement decision shall be made according to the best interest of the child. Factors to be considered include family plans, educational services available, special programs, transportation, and length of stay in shelter facility. To the extent feasible, school administrators shall comply with any placement request made by a parent or guardian. A child enrolled pursuant to these provisions shall not be denied services offered to other students in the school system. Ala. Admin. Code r. 290-3-1-.02(e)(1)-(4).

## **Step Two: Enrollment Disputes**

If there is a dispute about the proper placement of a homeless child between the school district of the child's school of origin and the school district where the child is presently living, administrative personnel from both districts have the responsibility to bring the matter to the attention of an Assistant State Superintendent (or other designee of the State Superintendent) immediately for an interim resolution to avoid any delay in the enrollment of a homeless child. The school districts involved shall enroll the child without delay in accordance with the decision of the Assistant State Superintendent or other designee; however, a school system may seek review of the decision by the State Superintendent. (Ala. Admin. Code r. 290-3-1-.02(7)(i)).

## **Step Three: Appeal Process**

If a parent or guardian disputes a decision on the eligibility or placement of a homeless student, the student must be enrolled in the requested school or district until the dispute can be resolved. (Ala. Admin. Code r. 290-3-1-.02(7)(j)(i).) The school must give the parent or guardian notice of their right to review and then will try to resolve it locally. Failing that, the parent or guardian is able to request a review by an Assistant State Superintendent or other designated reviewer of the State Superintendent which must be “addressed” within 10 days of receipt of the request (Ala. Admin. Code r. 290-3-1-.02(7)(j)(ii)). The code does not indicate a particular form that needs to be used but does reference a “written request for resolution.” If a resolution cannot be derived at the district level, the county homeless liaison should assist the complainant in contacting service organizations to provide technical assistance to the complainant.

If the Assistant Superintendent or other designated reviewer is unable to reach a decision, they may send other members of the Alabama Department of Education to conduct an on-site visit to further clarify and resolve the issue. The reviewers must resolve the dispute within 60 days unless a given written explanation is provided. (Ala. Admin. Code r. 290-3-1-.02(7)(j)(iii)) Finally, if the dispute is still not resolved, the State Superintendent of Education constitutes the final level of review. He or she “will rule on grievances from students or the local board of education which have not been resolved by the Assistant Superintendent or other designee. This decision is final. Ala. Admin. Code r. 290-3-1-.02(7)(j)

**Appeal Documents and Timeline for Filing an Appeal**

<b>Procedural Step:</b>	<b>Completed by:</b>	<b>Given to:</b>	<b>Due Date:</b>
School Enrollment Dispute Form or District Enrollment Dispute Form or other Written request for Resolution	Parent, guardian, or unaccompanied youth. Outside agencies servicing homeless may also be contacted for assistance	Principal or District McKinney-Vento Contact. Will eventually be provided to an Assistant State Superintendent or other designee of the State Superintendent, Alabama Department of Education	None specified
Initial Decision	Assistant State Superintendent or other designee of the State Superintendent, Alabama Department of Education	Parent, guardian, or unaccompanied youth.	Within 10 days of receipt of "Written request for Resolution"
Investigated decision	Assistant State Superintendent or other designee of the State Superintendent, Alabama Department of Education	Parent, guardian, or unaccompanied youth.	Within 60 days
Final Decision	State Superintendent of Education	Parent, guardian, or unaccompanied youth.	None specified

Text of entire Admin. Code section pertaining to homeless students: (begins at Ala. Admin. Code r. 290-3-1-.02(e):

(e) Enrollment Eligibility Determination.

1. A student who may be homeless or has an uncertain place of residence may present themselves for enrollment at a public school or a school system's office. School administrative personnel should make a determination of the student's residential status based upon the definition in Section 103(a) of the McKinney Act. If the student is identified as homeless via the definition, carefully consider enrollment options provided by the law presented in the next item (2) enroll the student and determine free meal and transportation needs.

2. Enrollment of a student shall not be denied or delayed due to any reason related to their homelessness including but not limited to the following reasons:

- (i) Lack of transcripts/school records
- (ii) Lack of immunization/health records
- (iii) Residency requirements
- (iv) Guardianship/custody requirements
- (v) Lack of transportation
- (vi) Lack of birth certificate

3. There are two options for the placement of homeless students:

- (i) Continued enrollment in the school attended prior to homelessness; or
- (ii) Enrollment in any schools that nonhomeless students who live in the attendance area where the homeless students is presently living are eligible to attend.
- (iii) The placement decision shall be made according to the best interest of the child. Factors to be considered include family plans, educational services available, special programs, transportation, and length of stay in shelter facility. To the extent feasible, school administrators shall comply with any placement request made by a parent or guardian.

4. A child enrolled pursuant to these provisions shall not be denied services offered to other students in the school system.

(f) School and Health Records.

(i) A homeless parent/guardian and student may want to enroll without transcript/grade records. If so, enroll the student while school administrative personnel contact the former school about immunization information and tentative placement. They should then request a 30-day in state or a 90-day out-of-state extension certificate for immunization from the Superintendent or a designee. If it is determined that no records are available or exist, the local school should create a cumulative record folder in accordance with established guidelines. School administrative personnel should obtain a simple release from the parent/guardian to facilitate release of the information by former school/school district.

(ii) The school administrative personnel should contact the local health department to obtain information about the immunization status of a homeless student. If there are no records of the homeless student's immunization status, an appointment for the student needs to be made within the local health department and follow-up provided to ensure that the student has been immunized.

(g) Guardianship/Custody.

(i) A homeless student may arrive at the school without a parent or legal guardian and want to enroll. If so, enroll the student and make every effort to contact the parent/guardian to complete the enrollment process or in cases of suspected abuse, contact the local social services agency. Maintain documentation of all written/verbal communication and home visits to contact the parent/guardian.

(ii) In exceptional cases where no parent/guardian can be located, contact the local social services agency to report the homeless child as a child in need of assistance, and in the interim, appoint an adult (relative, friend or volunteer) who will act in place of a parent to make educational decisions. A "Release of Information" form may be used to assist in obtaining the necessary authorization as part of this process.

(h) Transfer/Withdrawal

(i) Homeless students often leave school without officially transferring or withdrawing from the school. In this event, follow policy established by the Board of Education.

Receiving school: If a homeless student is transferring without the proper transfer or withdrawal form from the previous school, enroll the student and call the former school for transfer and/or withdrawal information.

Sending school: Give requested information by telephone and forward records for the homeless student within 15 days. Complete necessary forms to place student on transfer or withdrawal status at your school.

(ii) Homeless students may return to their former school or transfer to a new school within the same academic year. In this event, make every effort to remove student from withdrawal status and place on re-entry or transfer status. School administrative personnel should contact the previous school by telephone to request the student's records and discuss educational placement. Student records should be forwarded within 15 days.

(i) Prompt Resolution of Interdistrict Disputes.

If there is a dispute about the proper placement of a homeless child between the school district of the child's school of origin and the school district where the child is presently living, administrative personnel from both districts have the responsibility to bring the matter to the attention of an Assistant State Superintendent (or other designee of the State Superintendent, Alabama Department of Education) immediately for an interim resolution to avoid any delay in the enrollment of a homeless child. The school districts involved shall enroll the child without delay in accordance with the decision of the Assistant State Superintendent or other designee; however, a school system may seek review of the decision by the State Superintendent in accordance with section (i) below.

(j) Resolution of Disputes

(i) Enrollment shall not be denied pending resolution of a dispute. Any dispute in regard to providing public education to a child who may be eligible or designated as homeless shall follow Board Administrative Regulations.

(ii) In the event of a dispute regarding eligibility or placement, the parent or guardian shall be given notice of their right to a review. In the event the dispute cannot be resolved locally, the parent or guardian may request a review of the dispute by an Assistant State Superintendent or other designee of the State Superintendent, Alabama Department of Education. The Assistant Superintendent, or other designee, will address the issues in the dispute within 10 days from the receipt of a written request for resolution.

(iii) The Assistant Superintendent, or other designee, may, if the issue is not resolved in the written review, assign members of the Alabama Department of Education to make an on-site visit to further clarify and resolve the issue. All complaints must be resolved within 60 days unless given written explanation.

(iv) The State Superintendent of Education will review, hear, and rule on grievances from students or the local board of education which have not been resolved by the Assistant Superintendent or other designee. The decision of the State Superintendent shall be final.

### **Additional Resources:**

Alabama Admin Code free site: <http://www.alabamaadministrativecode.state.al.us/docs/ed/290-3-1.pdf>

Alabama Department of Education Main page: <http://www.alsde.edu/home/Default.aspx>

Alabama Dept. of Education E-GAP Document Library main page: <https://egrant.alsde.edu/Accelegrants/DocumentLibrary/Default.aspx?t=634835515906511478>

AL Homeless Education Policy and Procedures Template (found within the above document library): <https://egrant.alsde.edu/Accelegrants/DocumentLibrary/Documents/7CD380DE-21DA-4117-94CE-7AAA25E071CE.pdf>

### **Finding Your District's Homeless Liaison**

[The Alabama Department of Education provides no additional information on locating the District Liaisons. There is a Department of Education Directory indicating the Education Specialists for the McKinney-Vento Program at the State level available here.](#)