
NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

Illinois State Procedures – Dispute Resolution under 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.

Illinois’ statutory law for educating homeless children and youths is codified at 105 I.L.C.S. 45/1 *et seq.* Further, the Illinois State Board of Education has published an undated policy overview regarding the education of homeless children, accessible as of September 10, 2012 at <http://www.isbe.state.il.us/homeless/pdf/policy.pdf> (“Policy Overview”).

In Illinois, each regional superintendent of schools must appoint a liaison for homeless children and youth who is properly trained and reasonably available to families throughout the school day. Superintendents also must appoint a fair and impartial ombudsperson who is familiar with the educational rights and needs of homeless children to resolve disputes and provide resource information (105 I.L.C.S. 45/1-25(a)). If a dispute arises, the school district is required to inform parents and guardians of the availability of the ombudsperson, sources of low cost or free legal assistance, and other advocacy services in the community (105 I.L.C.S. 45/1-25(c)).

Step One: School Enrollment

A homeless child or youth is entitled to attend any of the following:

- (1) the school in which he or she was enrolled when permanently housed;
- (2) the school in which he or she was last enrolled; or
- (3) any public school that non homeless students who live in the attendance area in which the homeless child or youth is actually living are eligible to attend. The first two choices are referred to as the “school of origin.” (105 I.L.C.S. 45/1-1.) Children and youth who have experienced homelessness are permitted to attend their school of origin for as long as they remain homeless, or if the child becomes permanently housed, for the remainder of the academic year in which housing is acquired (“Policy Overview”).

Illinois state law provides for the transportation of homeless students under 105 I.L.C.S. 45/1-15: if the child continues in the school of origin, the district is to provide or arrange for transportation if the good faith efforts of the child’s parent(s) or guardian(s) cannot provide transportation. Should the child begin living (within the definition of homeless person, child or

youth as set forth in 105 I.L.C.S. 45/1-5(1) *et seq.*) and continue his or her education in the school district of origin, the school district of origin and the school district in which the child is living shall meet to apportion the responsibility and costs for providing transportation. If the two districts are not able to agree, the cost for transportation shall be shared equally. The state statute is silent regarding transportation for a homeless child or youth if he or she attends school in a school district other than that of origin, though it seems reasonable to conclude that the child or youth would be eligible for the same transportation benefits as nonhomeless children.

Step Two: Enrollment Dispute

If a school district denies a homeless child enrollment or transportation, the district shall immediately refer the child or his parent or guardian to the Ombudsperson, and provide the parent or guardian with a written statement of the basis of denial. A copy of the letter must also be sent to the applicable regional superintendent of schools as well as the Illinois Coordinator for the Education of Homeless Children and Youth (“State Coordinator”). Under state law, the child **must be admitted** during the pendency of the dispute, and transported to the school chosen by the parent or guardian, until final resolution of the dispute (105 I.L.C.S. 45/1-25(a)).

Step Three: Ombudsperson’s Meeting

The Ombudsperson must convene a meeting of all parties and attempt to resolve the dispute within 5 school days of receiving notice of the dispute from the school district, if possible (*Id.*). The Ombudsperson must work with all parties to schedule a date, time and location to meet and allow for a complete presentation of relevant facts by all parties. The child and the parent or guardian should be allowed to have assistance from a legal representative knowledgeable of federal and state laws pertaining to homeless students’ educational rights. The Ombudsperson will communicate his or her decision to all parties in writing at the conclusion of the hearing or promptly thereafter, and will inform the parties of the ability to have the State Coordinator review compliance with applicable law (“Policy Overview”).

Step Four: State Coordinator’s Review

The parent/guardian or school district may, within 5 school days of the Ombudsperson’s decision, send a written request to the State Coordinator asking the State Coordinator to review the decision for compliance with applicable law. The request must include any documentation related to the dispute resolution proceeding. Upon receiving a request for review, the State Coordinator may request from either party any additional information that he or she deems relevant to determining compliance with applicable law. No later than 10 school days after receiving the request for review, the State Coordinator shall make a recommendation to the State Superintendent of Education regarding the Ombudsperson’s decision and the appropriate placement of the student (deferring, in this review, to any and all findings of fact by the Ombudsperson). Within 10 days of receiving the State Coordinator’s recommendation, the State Superintendent of Education or designee will inform all parties of the final determination (“Policy Overview”).

Step Five: State Superintendent's Review

If the State Superintendent of Education or designee determines that the district's action giving rise to the dispute is inconsistent with applicable law, he or she may order the district to take any action necessary for such district to be in compliance with applicable law. Should the district not comply with such order, the State Superintendent shall place the district's recognition status on probation in accordance with 23 Ill. Admin. Code 1.20(b). Regardless of the decision of the State Superintendent of Education or designee, the State Coordinator will follow-up with the school district within 5 school days after such determination to review the status of the dispute ("Policy Overview").

Step Six: File a Civil Action

A party to a dispute under the Illinois law may file a civil action in a court of competent jurisdiction to seek appropriate relief (105 I.L.C.S. 45/1-25(b)), and under this same section, a party whose rights are found to have been violated is entitled to recover reasonable attorney's fees and costs. It is not clear from this statute whether administrative remedies must be exhausted first.

Additional Resources

http://isbe.net/homeless/pdf/83-04F_dispute_resolution.pdf

Name of Form or Procedure:	Completed by:	Given to:	Due Date:
Dispute Resolution Form (ISBE 83-04F)	District Liaison	Parent or guardian of a homeless child or unaccompanied youth, to include a written statement of the basis of denial. The parent or guardian is referred to the impartial ombudsman.	N/A. District Liaison provides to parent or guardian following the district's refusal to enroll or provide transportation to a homeless child or unaccompanied youth. A copy of the completed form must be sent to the regional superintendent as well as the State Coordinator. Dispute continues to next level of review.
Dispute Resolution		All parties	At conclusion of

<p>Proceeding (hearing to take place within 5 school days after notification of dispute)</p>	<p>Ombudsperson</p>		<p>hearing or promptly thereafter. Ombudsperson's written statement must inform parties of the ability to have the State Coordinator review the decision for compliance with applicable law.</p>
<p>Review of Compliance with Applicable Law</p>	<p>State Coordinator and State Superintendent of Education</p>	<p>All parties</p>	<p>Within 10 school days of receipt of the request for review, the State Coordinator shall make a recommendation to the State Superintendent of Education (deferring to Ombudsperson's findings of fact). Within the 10 days following, the State Superintendent of Education will inform all parties of the final determination.</p>
<p>Civil Action</p>	<p>Parent or Guardian</p>	<p>Court of competent jurisdiction</p>	<p>Under 105 I.L.C.S. 45/1-25(b), the parent or guardian may file a civil action in a court of competent jurisdiction, and a party whose rights are found to have been violated is entitled to recover reasonable attorney's fees and costs.</p>

Additional Information

Instructions to Locate Your Local LEA Liaison

Illinois provides an alphabetical list of Liaisons by district online at: <http://webapps.isbe.net/homelesschildliaison/default.aspx>

State Officials

Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-0001

Christopher Koch, Chief Education Officer
(217) 782-2223
(217) 785-3972 (fax)
ckoch@isbe.net

Gary Dickirson, State HEP Coordinator
(217) 782-0083
(217) 524-1090 (fax)
gdickirs@isbe.net

Respicio F. Vazquez, State Superintendent of Education
(217) 782-2223

Frequently Asked Questions

<http://www.isbe.state.il.us/homeless/pdf/faq.pdf>