

NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

Iowa State Procedures – Dispute Resolution Under McKinney-Vento Act

Pursuant to the McKinney Vento Homeless Assistance Act, a Local Education Agency (“LEA”) must continue to educate 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 the 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).

Iowa’s Office of State Coordinator for Homeless Education is responsible for ensuring that homeless children and youth are enrolled and attending school and are given a full and equal opportunity to reach the same high academic standards expected of all children. A comprehensive breakdown of Iowa’s dispute resolution policy regarding the education of homeless children and youth can be found in the Iowa Administrative Code, specifically 281 I.A.C. 33(256). Said policy is purposed “to facilitate the enrollment of homeless children of school age and, where appropriate, of preschool age in public school districts of Iowa to enable the children to have access to a free, appropriate public education, and to be free of being stigmatized on the basis of their status as homeless.” 281—33.1(256). Iowa’s definition of “homeless children and unaccompanied youth” mirrors that of McKinney-Vento. 281—33.2(256).

Step One: School Enrollment

A child or youth who meets the definition of “homeless children and unaccompanied youth” is entitled to receive a free, appropriate public education and necessary support services in either of the following: the district in which the homeless child or youth is actually residing; or, the district of origin. 281—33.9(256). “District of origin” is defined as the public school district in which the child was last enrolled or which the child last attended when permanently housed. 281—33.2(256).

The board of directors of a public school district shall locate and identify homeless children and youth within that district, whether or not the homeless children and youth are enrolled in school. 281—33.3(1)(256). Additionally, each board shall enact a policy prohibiting the segregation of a homeless child or youth from other students enrolled in the public school district. 281—33.3(4)(256).

Furthermore, the each board shall determine school placement based on the best interests of a homeless child or youth. 281—33.3(6)(256). To the extent feasible, each board shall keep a homeless child or youth in the school of origin, unless doing so is contrary to the wishes of the homeless child’s or youth’s parent or guardian. *Id.* In the event a homeless child or youth becomes permanently housed during an academic year, enrollment shall continue in the school of origin for the remainder of the academic year unless the child’s or youth’s parent or guardian otherwise agrees. *Id.*

Step Two: Enrollment Dispute

McKinney-Vento requires each SEA establish procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youth.

The board of a directors of a public school shall designate an appropriate staff person as the district's LEA liaison for homeless children and unaccompanied youth to ensure that enrollment disputes operate in accordance with Iowa's dispute resolution policy. 281—33.7(256). In the event of an enrollment dispute, the child, youth, parent, or guardian shall be referred to the district's designated LEA liaison, who shall carry out the dispute resolution process.

281—33.3(7)“f”(3)(256).

If the homeless child or youth is placed or enrolled in a school other than within the district of origin or other than a school requested by the parent or guardian or unaccompanied youth, the district shall provide a written explanation of its decision. 281—33.3(7)“f”(2)(256).

Such written explanation must include notice of the right to appeal the decision to the parent or guardian or unaccompanied youth. *Id.* The board of directors of a public school district shall immediately enroll a homeless child or youth in the school in which enrollment is sought pending resolution of the dispute. 281—33.3(7)“f”(4)(256). In the case of an unaccompanied youth, the LEA liaison shall assist the youth in the dispute process 281—33.3(7)“g”(256).

Step Three: Appeal Process

If a homeless child or unaccompanied youth is denied access to a free, appropriate public education in either the district of origin or the district in which the child or youth actually resides, an appeal may be made to the Iowa Department of Education. 281—33.9(256). Likewise, an appeal may be made if the child or youth's parent or guardian believes that the child or youth's best interests were not served by the district's decision. *Id.*

Any time a school district denies access to a homeless child or youth, the district shall notify in writing the child, youth, or parent or guardian of the child or youth of the right to appeal and manner of appeal to the Department of education for resolution of the dispute. 281—33.9(3)(256). This notice shall be documented, and shall contain the name, address, and telephone number of the legal services office in the area. *Id.*

If the child or youth is identified as a special education student, the manner of appeal shall be by letter from the homeless child or youth, or the homeless child or youth's parent or guardian, to the Department of Education. 281—33.9(1)(256). Representatives of the public school district where the child or youth wishes to attend and of the corresponding area education agency, as well as the child, youth, or parent or guardian of the child or youth, shall present themselves for a hearing on the dispute. *Id.* The hearing shall occur at the time and place designated by the Department of Education. *Id.*

If the child or youth is not eligible for special education services, the manner of appeal shall be by letter from the homeless child or youth, or the homeless child or youth's parent or guardian, to the director of the Department of Education. 281—33.9(2)(256). Representatives of the public school districts denying access to the homeless child or youth, as well as the child, youth, or parent or guardian of the child or youth, shall present themselves for a hearing on the dispute. *Id.* The hearing shall occur in the district where the homeless child or youth is located, or at a location convenient to the appealing party. *Id.*

Iowa's dispute resolution policy does not prohibit mediation and settlement of the dispute short of a hearing. 281—33.9(5)(256).

Additional Resources

http://educateiowa.gov/index.php?option=com_content&view=article&id=422&Itemid=1393

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