
NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

Nebraska 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.

In compliance with the federal McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B, as amended by the No Child Left Behind Act, the following procedures are established to promptly resolve disputes regarding the educational placement of students experiencing homelessness, and shall be implemented in all school district/LEAs in this state. A student is considered homeless under the McKinney-Vento Homeless Assistance Act if the student lacks a fixed, regular, and adequate nighttime residence.

Step One: Admittance

A homeless child’s admittance is governed by Nebraska Revised Statute 79-215 (3): “a school board shall admit any homeless student upon request without charge.”

The Nebraska Administrative Code, Title 92, Rule 19, Section 005 further addresses procedure for the admittance and dispute resolution for homeless students. Section 005.01 codifies compliance with the McKinney-Vento Act.

Step Two: Dispute Resolution

Section 005.02 states the framework for dispute resolution:

(a) the district’s written response and explanation of a decision regarding any complaint or dispute of a parent, guardian or other person having legal or actual charge or control of a homeless child or youth within thirty (30) calendar days of the time such complaint or dispute is brought; (b) the enrollment of the homeless child or youth in the school where enrollment is sought during the time such dispute is being considered; and (c) notice of the right appeal as provided in Section 005.03 below.

Step Three: Appeals

The appeals process is stated in Section 005.03:

Any parent, guardian or other person having legal or actual charge or control of a homeless child or youth that is dissatisfied with the decision of a school district after the dispute resolution process may file an appeal with the Commissioner within thirty (30) calendar days of receipt of the decision. Such appeals are informal and shall be submitted to the Commissioner in writing stating the basis of the disagreement, and shall also include a copy of the district's written response and explanation of its decision as required in Section 005.02. The district shall be supplied a copy of the written appeal by the Commissioner or designee and the district(s) may file a written response thereto within fifteen (15) calendar days of receipt of it. If either party requests a hearing, an informal hearing will be scheduled by the Commissioner or designee within thirty (30) calendar days after the expiration of the time by which the district is to respond. If no hearing is requested, the Commissioner shall decide the matter based on the submissions of the parties, and may also request further written information and clarification from the parties. The Commissioner or designee shall issue a written decision determining whether or not the provisions of the McKinney-Vento Act have been followed.

If either party wishes to appeal further, Section 005.03 allows an appeal by filing a petition with the State Board of Education within thirty (30) days of the Commissioner's decision.

Finding Your LEA

The best way to find the LEA for your school district is to contact Nebraska coordinator Roger Reikofski (information below) or to be referred by your local school district.

Nebraska Contact Person

Mr. Roger Reikofski
State Homeless Education Coordinator
Federal Programs
Nebraska Department of Education
301 Centennial Mall South, PO Box 94987
Lincoln, NE 68509-4987
Phone: (402) 471-2968
Fax: (402) 471-0117
Email: Roger.Reikofski@nebraska.gov

Steps Taken if a Dispute Arises

Steps	Completed by:	Given to:	Timeline
District's Written Response and Explanation of Decision	School District	Parent, guardian, or other person having legal or actual charge or control of the child	Within thirty (30) calendar days of time complaint or dispute is brought
Enrollment of Child in School Sought	School District	Child	During consideration of dispute
Notice of right to appeal	School District	Parent, guardian, or other person having legal or actual charge or control of the child	
Appeal *Informal, submitted in writing stating basis of disagreement; must include copy of School District's response	Parent, guardian, or other person having legal or actual charge or control of the child	Commissioner	Within thirty (30) days of receipt of decision
Copy to School District	Commissioner	School District	
School District's Response to Commissioner *Optional, written	School District	Commissioner	Within fifteen (15) days of receipt of Copy to School District
Hearing Request	Either party	Commissioner	
Hearing Scheduled *If no hearing is requested, the Commissioner shall decide based on written submissions of parties	Commissioner		Within thirty (30) days after the expiration of the time by which the School District is to respond
Commissioner's Decision	Commissioner	Both Parties	
Appeal of Commissioner's Decision by Petition	Either Party	State Board of Education	Within thirty (30) days of receipt of decision

Additional Information

1. http://www.education.ne.gov/Legal/webrulespdf/Clean19_2010.pdf