
NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

Pennsylvania 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.

The Pennsylvania Department of Education (PDE) is responsible for the implementation of McKinney-Vento in Pennsylvania and to further this purpose has created the Pennsylvania's Education for Children and Youth Experiencing Homelessness Program. The main purpose of the Pennsylvania's Education for Children and Youth Experiencing Homelessness Program is to make sure homeless youth have access to appropriate education while removing barriers that homeless children face. Its goal is to have the educational process continue as uninterrupted as possible while the children are in homeless situations.

Some of the other main objectives of the Pennsylvania's Education for Children and Youth Experiencing Homelessness Program are to inform local school districts of their responsibilities to homeless children and youth, to increase awareness about the needs of homeless children, explain current legislation and policies, and provide practical tips for working with homeless children.

Instead of providing McKinney-Vento funds directly to LEAs, the Commonwealth of Pennsylvania employs a regional model. The Commonwealth is divided into eight regions with each region having one Regional Coordinator whose primary responsibility is to implement the goals and objectives of the program. The Regional Coordinator position is by competitive bid on a three year cycle. In some cases, the Regional Coordinators subcontract for additional support (Site Coordinators) within their region.

Additionally, PDE contracts with the Center for Schools and Communities to provide technical assistance to the Coordinators and LEAs. The PDE Homeless State Coordinator is responsible for program coordination and collaboration at the state level, as well as dispute resolutions among LEAs. This three-pronged approach supports all LEAs in Pennsylvania in complying with the McKinney-Vento Act.

Step One: School Enrollment

One of the goals of the program and the role of the coordinator is to eliminate and/or reduce educational barriers, thus ensuring that all homeless children and youth enroll, participate, and have the opportunity to succeed in school.

Section 1306 of the Pennsylvania Public School Code (24 P.S. §13-1306) deals with the public school admission of nonresident students living in shelters, facilities or institutions. Implementing regulations for Section 1306 are found in Section 11.18 of the State Board of Education regulations. 22 Pa. Code § 11.18 Subsection (a) of Section 11.18 addresses the public school admission of nonresident children who live in an institution, shelter or custodial care facility:

The board of school directors of a school district in which there is located an agency, supervised or licensed shelter, group home, maternity home, residence, facility, orphanage or other institution for care or training of children or adolescents, shall admit to the district's public schools school-aged children who are living at or assigned to the facility or institution and who are residents of the district or another district in this Commonwealth.

22 Pa. Code § 11.18

Section 11.18, as it applies to homeless children and youth, includes within the definition of "supervised or licensed shelters" those facilities which provide temporary shelter for a specified, limited period of time. Therefore, children in temporary shelters and children who "lack a fixed, regular, adequate night time residence" – homeless children – are entitled to free school privileges from either the school district in which their person or the shelter is located or the school district of origin.

School enrollment of a homeless child or youth shall be determined by the parent, guardian, student of lawful age, or unaccompanied youth. School stability and continuity of instruction are linked to school success including achievement, promotion and graduation. Therefore, placing the student in the 'school-of-origin' is high priority.

Homeless students may reside in hotels, motels, cars, tents or temporarily doubled-up with a resident family because of lack of housing. In determining residence and in the case of homeless children, equating "residence" and "domicile" (home) does not apply. They are presently unable to establish "homes" on a permanent basis. Homeless families are not required to prove residency regarding school enrollment. These students should be enrolled without delay, in the district where they are presently residing or continue their education in the district of prior attendance.

Children experiencing homelessness are often highly mobile and may not stay in the same school district each night or each week. This is particularly true regarding children who stay overnight in vehicles, those who stay with different family members or friends, or those who receive services from agencies, organizations or networks which facilitate overnight accommodations in multiple school districts. These children should not be forced to change school districts every time their overnight accommodations change. Rather, these children are entitled to attend school in any school district where a parent, guardian, an adult caring for them or where an

unaccompanied child spends the greatest percentage of his or her time; or has a substantial connection such as where he or she is:

- (1) regularly receiving day shelter or other services involving any of the 16 McKinney-Vento Activities (42 U.S.C.A. § 11433(d)) for individuals who are homeless;
- (2) conducting daily living activities; or
- (3) staying overnight on a recurring basis.

This policy helps maintain continuity and school stability for homeless children in compliance with the McKinney-Vento Act.

The child or youth shall continue to be enrolled in the school in which he or she is seeking enrollment until the complaint or appeal is fully resolved by a McKinney-Vento Coordinator, state coordinator, through mediation or in court.

Step Two: Enrollment Dispute and Appeals Process

PDE has developed the following procedures to govern the resolution of disputes regarding enrollment, school selection, homeless status and complaints of non-compliance with legal requirements pertaining to the education for homeless children and youths:

Level 1 – A dispute may be raised with a LEA

If a dispute arises over school selection or enrollment, the child or youth involved must immediately be admitted to the school in which they are seeking enrollment, pending resolution of the dispute 42 U.S. §11432(g)(3)(E)(i). PDE recommends that the parent, guardian or unaccompanied youth who initiates the dispute contact the LEA liaison for individuals experiencing homelessness as soon as possible after receiving notice of the dispute. If the person initiating the dispute does not contact the LEA liaison directly, the LEA shall be responsible for contacting the LEA liaison regarding the dispute as soon as possible and referring the family or youth involved to the liaison.

The LEA liaison shall ensure that the child or youth is immediately enrolled, explain the dispute resolution process to families and help them to use it 42 U.S.C.A. §11432(g)(3)(E)(iii). The LEA shall issue a written disposition of the dispute within 20 business days after the LEA liaison is notified of the dispute. The disposition shall be provided to the parent, guardian or unaccompanied youth and shall explain the basis for the decision and advise the parent, guardian or youth of the right to appeal. 42 U.S. §11432(g)(3)(E)(i).

NOTE: The LEA should use and maintain copies of PDE’s “Notice of Procedural Safeguards” form (see link in additional resources) which ensures that all LEAs (a) inform families of the basis of their decision regarding enrollment or school selection; (b) notifies families of their right to remain in their school of choice pending resolution of the dispute and (c) explains the procedures for challenging the decision of the LEA.

Level 2 – A complaint may be filed with a McKinney-Vento Coordinator

If the parent, guardian or unaccompanied youth is dissatisfied with the LEA's disposition of a dispute or would like to raise any issue of McKinney-Vento Act noncompliance, they may file a complaint or appeal with a McKinney-Vento site or regional coordinator or with the state coordinator. (See link in additional resources which contains contact information for all of the McKinney-Vento coordinators in Pennsylvania). In lieu of filing an appeal with a McKinney-Vento coordinator, a parent, guardian or unaccompanied youth may elect to appeal the LEA decision directly to a court of competent jurisdiction. Participation in the appeal procedure is not required prior to taking legal action.

A regional or site coordinator with whom a complaint or appeal is filed must notify the state coordinator immediately. Upon being notified, the state coordinator will review the complaint or appeal and assign it to a site or regional coordinator for disposition. The coordinator to whom the appeal is assigned may contact, interview and accept documentation from any individual or LEA involved, and shall issue a written disposition within 20 business days after the complaint or appeal has been assigned. The disposition shall be provided to the LEA and the parent, guardian or unaccompanied youth involved. The child or youth shall continue to be enrolled in the school in which he or she is seeking enrollment until the complaint or appeal is resolved or until a disposition from a McKinney-Vento coordinator is received.

The state coordinator may assist in the mediation of disputes directly and may also invite those involved to have the dispute mediated at any time in the process through the Dispute Resolution Program operated by the Commonwealth Office of General Counsel (OGC). The OGC Dispute Resolution Program is a voluntary informal process through which a trained mediator assists in reaching a mutually acceptable resolution. (For more information about OGC's Dispute Resolution Program go to:

http://www.ogc.state.pa.us/portal/server.pt/community/dispute_resolution/4415)

Participating in mediation is not a waiver of the right to file a lawsuit nor is participation in mediation required prior to taking legal action.

NOTE: The parent, guardian or unaccompanied youth may file a complaint with the McKinney-Vento site, regional or state coordinator on the attached complaint form (link found in additional resources section of this document). However, the use of the attached form is not mandatory. Any dispute raised by a homeless family or youth concerning school enrollment or any other right under the McKinney-Vento Act whether received via telephone, letter or any mode of communication shall be treated as a complaint.

Additional Resources

State Contact	Resources
<p>Mr. Sheldon Winnick State Coordinator Pennsylvania Homeless Children's Initiative Bureau of Teaching and Learning Division of Student Services Pennsylvania Department of Education 333 Market Street Harrisburg, PA 17126 Phone: 717-783-6468 Fax: 717-783-4392 Email: swinnick@state.pa.us</p>	<p>PDE Information Page Statewide Directory/Contacts Education for Homeless Youth Circular 22 Pa. Code § 11.18 Procedural Safeguards Notice of Denial of Enrollment Enrollment Complaint to PA Department of Education Pennsylvania McKinney-Vento Coordinators (State, Regional & Site)</p>

Procedural Step:	Completed by:	Given to:	Due Date:
Enrollment or Residency Dispute	Initiated by parent, guardian, or LEA	Processed by LEA Liason.	None Specified, but PDE recommends that the parent, guardian or unaccompanied youth who initiates the dispute contact the LEA liaison for individuals experiencing homelessness as soon as possible after receiving notice of the dispute
Appeal of LEA decision	Aggrieved party	McKinney-Vento site or regional coordinator or with the state coordinator.	None specified. The coordinator to whom the appeal is assigned may contact, interview and accept documentation from any individual or LEA involved, and shall issue a written disposition within 20 business days after the complaint or appeal has been assigne