
NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

South Carolina 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.

South Carolina State Board of Education Regulations Article 20, Section 43-272.2 (R 43-272.2) addresses the Review Process for Homeless Children and Unaccompanied Youth. It proscribes that an unaccompanied youth or the parent or guardian of a homeless child may request that the state conduct a review of the school district's final decision regarding an enrollment issue.

Step One: School Enrollment

The McKinney-Vento Act gives homeless children and youth the right to enroll in school immediately, even if they do not have the documents that are usually required for enrollment. The law also gives homeless children and youth the right to stay in one school even if they are moving around and to get transportation to that school. A homeless education liaison is available in every district to make sure the homeless children and youth can go to school and receive the services they require.

Step Two: Enrollment Dispute

Homeless families and unaccompanied youths may be unaware of their right to challenge placement and enrollment decisions. Therefore, the school district must provide a written explanation, including a statement regarding the right to appeal, to the unaccompanied youth or the homeless child's parent or guardian if the school district declines to either enroll and/or transport such child or unaccompanied youth to the school of origin or a school requested by the parent or guardian (§ 722(3)(B)(ii)). The School District must inform the unaccompanied youth, parent or guardian of his or her right to request that the State Department of Education review the decision of the school district (R 43-272.2(I)(A)(1)), inform the unaccompanied youth, parent or guardian that the request must be made either on the district supplied request-for-review form or by a telephone interview with the coordinator in the State Department of Education's Office of Coordinator for Education of Homeless Children and Youth (R 43-272.2(I)(A)(2)), give the unaccompanied youth, parent or guardian a copy of the State Department of Education's request-for-review form and the contact information for the Office of Coordinator for Education of Homeless Children and Youth (R 43-272.2(I)(A)(3)), and inform the unaccompanied youth or the parent or guardian of the homeless child that he or she may seek the assistance of advocates or attorneys for the review (R 43-272.2(I)(A)(4)).

Step Three: The Appeal Process

The unaccompanied youth, parent or guardian has the responsibility to complete and return the request-for-review form to the address designated on the form or telephone the coordinator in the Office of Coordinator for Education of Homeless Children and Youth (R 43-272.2(II)(A)). The unaccompanied youth, parent or guardian may also attach any additional information that he or she thinks is relevant to the form or call the coordinator and provide this information orally (R 43-272.2(II)(B)). Pursuant to the Stewart B. McKinney Homeless Assistance Act, the student must be continuously enrolled in school, provided all relevant services, and be allowed to fully participate in all school activities during the pendency of any administrative or judicial proceeding regarding a dispute over the enrolment of the unaccompanied youth or homeless child (R 43-272.2).

After the Office of Coordinator for Education of Homeless Children and Youth has received the completed request-for-review form or has conducted a full telephone interview with the unaccompanied youth, parent or guardian, the coordinator will send a copy of the completed form and any other relevant material to the school district. The school district must send a written response to the state and the person filing the state review request within five business days of the date it receives the request-for-review form (R 43-272.2(I)(B)).

The Coordinator for the Education of Homeless Children and Youths shall conduct all state reviews requested by unaccompanied youths, parents or guardians (R 43-272.2 (III)(A)) , and review all written documents concerning each dispute. The Coordinator may request additional information from the parties in making his or her determination (R 43-272.2 (III)(B)). The Coordinator shall make a final decision within ten business days of receiving the written response from the school district and the decision of the Coordinator is binding and will be effective immediately (R 43-272.2(III)(C)).

Additional Resources

<http://ed.sc.gov/agency/programs-services/87/SouthCarolinaDepartmentofEducationDisputeResolutionProcedures.cfm>

Names and contact information for the local LEA liaisons are listed at this web address

<http://ed.sc.gov/agency/programs-services/87/documents/McKinney-VentoDistrictLiaisons2012.pdf>

Appeal Documents and Timeline for Filing an Appeal

| Name of Form: | Completed by: | Given to: | Due Date: |
|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|----------------------------------------------------------|
| Request-for-Review | Unaccompanied Youth, Parent or Guardian or Coordinator for Education of Homeless Children and Youth (if contacted by the unaccompanied youth, parent or guardian by phone) | Coordinator for Education of Homeless Children and Youth (who provides a copy the school district) | None |
| Written Response | School District | Coordinator for Education of Homeless Children and Youth | Five business days from receiving the Request-for-Review |
| Final Decision | Coordinator of Education of Homeless Children and Youth | Unaccompanied Youth, Parent or Guardian and School District | Ten days from receiving the Written Response. |