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# NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

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## **Texas 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 Texas Education Code § 25 deals with admission, transfer, and attendance. Section 25.001(b)(5) deals with the admission of homeless students.

The Texas Homeless Education Office is committed to ensuring that all Texas children in homeless situations have the opportunity to enroll in, attend, and succeed in school. They have adopted a policy to provide guidance to local school districts in implementing the dispute resolution process for homeless children and youth.

### **Step One: School Enrollment**

The student must be immediately admitted into the school in which the student is seeking enrollment. Enrollment must continue in the school selected until the appeal process has been fully executed, including through the state level appeal process. Transportation must also be provided throughout the appeal process as required by Title X, Part C, of the No Child Left Behind Act.

### **Step Two: Dispute**

The following are the basic requirements of what each school district must have in their dispute resolution process, but additional requirements may be necessary for each school district. Each district's dispute resolution process for homeless children and youth must include immediate enrollment of the student in the school for which the student seeks enrollment. The parent, guardian, or caregiver, or the unaccompanied youth must be referred to the district's homeless liaison, who will carry out the dispute resolution process as expeditiously as possible after receiving notice of the dispute.

The parent, guardian, caregiver, or youth must be provided with a written explanation of the school's decision regarding school selection or enrollment including a statement of the right to appeal and provided information on how to follow the district's appeal process. Normally this is a three step process which states with the local liaison, then goes to another party within the district, and ends with the school board or superintendent.

If the complaint cannot be resolved at the district level, the district must inform the complainant how to appeal the district's decision to the state Commissioner of Education.

An example of two of the largest school districts in the state, Houston and Dallas Independent School Districts, dispute resolution policies are described in more detail at the end of this template; each school district may have procedures that vary from these.

### **Step Three: Appeal Process**

If a dispute arises regarding the enrollment of or the school assignment for a homeless child or youth the district(s) and student(s) involved must first follow district-established policies and procedures resolving the dispute. If disputes cannot be settled through the local process, the complainant may appeal the school board's written decision to the state Commissioner of Education.

Hearings and appeals are provided under Section 7.057 of the Texas Education Code<sup>1</sup>. Procedures for filing the petition may be found in Section 157.1073 of the Texas Administrative Code.

Petitions of appeal to the Commissioner of Education must file a written petition for review within 30 calendar days after the final decision of the district. The petition must include a description of the challenged ruling, action, or failure to act; the date of the challenged ruling, action, or failure to act; a precise description of the action the petitioner wants the commissioner to take on the petition's behalf; a statement of jurisdiction and the legal basis for the claim; the name, mailing address, and business telephone number of the petitioner's party representative, and facsimile number, if any; and the name mailing address, and business telephone number of the respondent or respondent's representative, and facsimile number, if any. (T.A.C. §157.1073(c)). The commissioner will issue a decision based on a review of the record developed at the district level under a substantial evidence standard of review. If the dispute is still in place, the person may appeal to a district court in Travis County.

### **Additional Resources**

<http://www.utdanacenter.org/theo/>

<http://www.statutes.legis.state.tx.us/?link=ED>

### **Instructions to Locate Your Local District Liaison**

The following instructions provide access to the Homeless Liaison List for the State of Texas.

1. Go to the Texas Homeless Education Office page: <http://www.utdanacenter.org/theo/>

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<sup>1</sup> That section of the code can be found here: <http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.7.htm#7.057>

2. Click on “Directory”
3. From here there are two ways to search. “Alphabetical Listing by LEA Name” which allows you to find your liaison by the name of the school district. The second is by clicking on the map where the district is located which will list all of the liaisons in that district.
4. Find the appropriate district.

The district liaison will be listed with their contact information which will include their name, title, and email. You may also click “Contact Info” which will provide you with their mailing address and phone number.

Current State Coordinator of Homeless Education: Ms. Barabara E. Wand James.

| <b>Procedural Step:</b>                       | <b>Completed by:</b>                                 | <b>Given to:</b>  | <b>Due Date:</b>   |
|---|--|---|--|
| <b>Enrollment or Residency Dispute</b>        | Parent/Guardian/Caregiver/<br>or Unaccompanied Youth | Local Liaison<br><br>School Board or Superintendent<br>(depending on District; may be other layers) | No specific due date specifications given by state recommendations, but they may vary by district. <b>Follow the policies of the local district.</b><br><br>Most districts have a three step process that always starts with the local school liaison.   |
| <b>Written Request for Dispute Resolution</b> | Parent/Guardian/Caregiver/<br>or Unaccompanied Youth | Commissioner of Education   | Petition must be filed <b>within 30 days</b> from the date of receipt of notice of a final decision by the school board or county superintendent, or if not response, at the end of the response deadline.<br><br>A written decision will be provided to |

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|  |  |  | the parties of record. Any person aggrieved by the decision may appeal to a district court in Travis County. |
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**For Houston Independent School District<sup>2</sup>:**

In the event that a homeless student, or his or her parent or guardian, has a complaint about admission, placement, or services provided by the District, that person shall use the complaint resolution procedures set out in FNG(LOCAL), beginning at Level Two.

When the principal becomes aware of a complaint, he or she shall notify the liaison for homeless students within one school day. At all times the liaison for homeless students or designee shall accompany and assist the student, parent, or guardian in the dispute resolution process. Throughout the dispute resolution process, the homeless student shall be permitted to attend classes, receive the requested services, and participate fully in school activities.

Level Two - The student or parent may request a conference with the Superintendent or designee.

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the district’s decision.

The Superintendent or designee shall hold a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues identified in the Level Two appeal notice. At the conference, the student or parent may provide information concerning any documents or information relied on by the district for their admission, placement, or services decision. The Superintendent or designee may set reasonable time limits for the conference.

The Superintendent or designee shall provide the student or parent a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the Superintendent or designee may consider the record from the district, information provided at the Level Two conference, and any other relevant documents or information the Superintendent or designee believes will help resolve the complaint.

Recordings of the Level Two conferences, if any, shall be maintained with the Level Two records.

Level Three - If the student or parent did not receive the relief requested at Level Two or if the time for a response has expired, the student or parent may appeal the decision to the Board.

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the written Level Two response or, if no response was received, within ten days of the Level Two response deadline.

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<sup>2</sup> Information obtained from the Houston Independent School District site:  
<http://www.houstonisd.org/HISDConnectDS/v/index.jsp?vgnextchannel=3e5608ae6b8fc010VgnVCM10000052147fa6RCRD>. Specific policies can be obtained at: <http://pol.tasb.org/Home/Index/592>

The Superintendent or designee shall inform the student or parent of the date, time, and place of the Board meeting at which the complaint will be on the agenda for presentation to the Board.

The Superintendent or designee shall provide the Board the record of the Level Two complaint. The student or parent may request a copy of the Level Two record.

The Level Two record shall include:

1. The Level One record.
2. The written response issued at Level Two and any attachments.
3. All other documents relied upon by the administration in reaching the Level Two decision.

If, at the Level Three hearing, the administration intends to rely on evidence not included in the records, the administration shall provide the student or parent notice of the nature of the evidence at least three days before the hearing.

The District shall determine whether the complaint will be presented in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law.

The presiding officer may set reasonable time limits and guidelines for the presentation including an opportunity for the student or parent and administration to each make a presentation and provide rebuttal and an opportunity for questioning by the Board. The Board shall hear the complaint and may request that the administration provide an explanation for the decisions at the preceding levels.

In addition to any other record of the Board meeting required by law, the Board shall prepare a separate record of the Level Three presentation. The Level Three presentation, including the presentation by the student or parent or the student’s representative, any presentation from the administration, and questions from the Board with responses, shall be recorded by audio recording, video/audio recording, or court reporter.

The Board shall then consider the complaint. It may give notice of its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting. If the Board does not make a decision regarding the complaint by the end of the next regularly scheduled meeting, the lack of a response by the Board upholds the administrative decision at Level Two.

**The following table is only for the Houston Independent School District:**

| <b>Procedural Step:</b>            | <b>Completed by:</b>         | <b>Given to:</b> | <b>Due Date:</b>  |
|------------------------------------|------------------------------|------------------|---|
| <b>Level Two Appeal Conference</b> | Student, Parent, or Guardian | Superintendent   | <b>Within 10 days</b> of notice of denial of admission.<br><br>Superintendent or designee will hold the conference within 10 days of notice of appeal. Student, Parent, or Guardian may provide |

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|   |                              |                   | <p>information concerning any documents or information relied on by the administration for the denial of admission decision.</p> <p>The Superintendent will provide a written response within ten days following the conference.</p>  |
| <b>Level Three Written Request to the Board</b> | Student, Parent, or Guardian | Board of the HISD | <p>Form will be provided by the district. The written form must be filed with the Board <b>within 10 days</b> of the Level Two response or if no response was received, within 10 days of the response deadline of Level Two. Superintendent or designee will inform of the date, time, and place of the Board meeting.</p> <p>Board may give written notice or oral notice of its decision or if no response by the end of their next regularly scheduled meeting, it means they have upheld the administrative decision at Level Two.</p> |

### **For Dallas Independent School District<sup>3</sup>:**

In the event that a homeless student, or his or her parent or guardian, has a complaint about admission, placement, or services provided by the District, that person shall use the complaint resolution procedures set out in FNG(LOCAL), beginning at Level Two.

When the principal becomes aware of a complaint, he or she shall notify the liaison for homeless students within one school day. At all times the liaison for homeless students or designee shall accompany and assist the student, parent, or guardian in the dispute resolution process. Throughout the dispute resolution process, the homeless student shall be permitted to attend classes, receive the requested services, and participate fully in school activities.

Level Two - If the student or parent did not receive the relief requested at Level One or the time for a response has expired, the student or parent may request a conference with the Executive Director or the next appropriate level of administrator. The request must be filed within seven days following receipt of a response, or if no response is received, within seven days of the response deadline. The Executive Director or administrator shall hold the conference within seven days after receiving the request.

Prior to or at the time of the conference, the student or parent shall submit a written complaint that includes the student's or parent's signed statement of the complaint, any evidence in its support, the solution sought, and the date of the conference with the principal.

The Executive Director or administrator shall have seven days following the conference within which to respond.

Level Three - If the student or parent did not receive the relief requested at Level Two, the student or parent may submit to the Superintendent of Schools or designee a Level Three request for review. The request shall be in writing and must be filed within seven days of the response or, if no response is received, within seven days of the response deadline.

The Superintendent of Schools or designee shall review the documents relevant to the complaint and may, at the Superintendents of Schools or designee's discretion, schedule a conference or prepare a written response based upon the review of the record within ten days of the request.

Appeal to the Board - If the parent or student did not receive the relief requested at Level Three or if the time for response has expired, the student or parent may appeal to the Board.

The appeal notice must be filed in writing, on a form provided by the District, within ten days after receipt of a response or, if no response was received, within ten days of the response deadline at Level Three.

The Officer of Board Services shall inform the student, parent, and the administration of the date, time, and place of the Board meeting at which the complaint will be on the agenda for

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<sup>3</sup> Information obtained from the Dallas Independent School District site: <http://www.dallasisd.org/dallasisd>. Specific policies can be obtained at the same website under Board of Trustees: <http://www.dallasisd.org/domain/454>

presentation to the Board and shall provide the Board with copies of the complaint form, all responses, all appeal notices, and all written documentation previously submitted by the student, parent, or administration. The Board shall consider only those issues and documents presented at the preceding levels, identified in the appeal notice.

The presiding officer may set reasonable time limits and guidelines for the presentation. The Board shall hear the complaint and may request that the administration provide an explanation for the decisions at the preceding levels.

In addition to any other record of the Board meeting required by law, the Board shall prepare a separate record of the complaint. The presentation by the student, parent or representative, any presentation from the administration, and questions from the Board with responses, shall be recorded by audio recording, video/audio recording, or court reporter.

The Board shall then consider the complaint. It may give written or oral notice of its decision orally at any time up to and including the next regularly scheduled Board meeting. If for any reason the Board fails to reach a decision regarding the complaint by the end of the next regularly scheduled meeting, the lack of a response by the Board upholds the administrative decision at Level Three.

**The following table is only for the Dallas Independent School District:**

| <b>Procedural Step:</b>               | <b>Completed by:</b>         | <b>Given to:</b>   | <b>Due Date:</b>   |
|---------------------------------------|------------------------------|--|--|
| <b>Level Two Appeal Conference</b>    | Student, Parent, or Guardian | Executive Director or next appropriate level of administrator. | Student, Parent, or Guardian must provide a written complaint <b>within 7 days</b> of notice of denial of admission.<br><br>Executive Director or next appropriate level of administrator will hold the conference <b>within 7 days</b> after receiving the request.<br><br>Executive Director will have <b>7 days</b> to respond. |
| <b>Level Three Request for Review</b> | Student, Parent, or Guardian | Superintendent   | Student, Parent, or Guardian must provide a written complaint <b>within 7 days</b> of response, or if no response is   |



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|                            |                              |                   | <p>received, within 7 days of the response deadline from Level Two.</p> <p>Superintendent or designee will review documents relevant to the complaint and may schedule a conference or prepare a <b>response within 10 days of the request.</b></p>  |
| <b>Appeal to the Board</b> | Student, Parent, or Guardian | Board of the DISD | <p>Form will be provided by the district. The written form must be filed with the Board <b>within 10 days</b> of the Level Two response, or if no response was received, within 10 days of the response deadline at Level Three.</p> <p>Officer of Board Services will inform of the date, time, and place of the Board meeting.</p> <p>Board may give written notice or oral notice of its decision or if no response by the end of their next regularly scheduled meeting, it means they have upheld the administrative decision at Level Three.</p> |