

NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

Utah 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.

Homeless students are entitled to immediate enrollment and full participation even if they are unable to produce records which may include medical records, birth certificates, school records, or proof of residency normally required for enrollment. (UT Admin. Code R277-616-3). Utah’s State Office of Education (“USOE”) has implemented a written Complaint Resolution Procedure, which specifies the procedure for the resolution of any disputes regarding a homeless child’s educational rights. Homeless families and unaccompanied youths may be unaware of their right to challenge placement and enrollment decisions. Pursuant to McKinney-Vento, 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)).

Step One: School Enrollment

Under the applicable sections of Utah’s Administrative Code, a homeless student¹ shall be immediately enrolled even if the student does not have documentation (*Id.* at § 616-3(B)(1)). Further, a homeless student shall be allowed to continue to attend his school of origin to the extent feasible unless it is against the wishes of the parent or guardian (*Id.* at § 616-3(B)(2)) and to remain enrolled in the school of origin for the duration of homelessness and until the end of any academic year in which the student moved into permanent housing. (*Id.*) The homeless child may also transfer to the school district of residence (residence is defined at § 616-3(B) *et seq.*) or charter school if space is available, as defined under Subsection R277-616-1I.

Step Two: Enrollment Dispute

In Utah, if a dispute arises, the school district is responsible for informing the complainant, usually a parent or guardian, of USOE’s complaint resolution procedures. Each district is to have a Homeless Liaison (“Liaison”), who will review the substance of the complaint. The complaint doesn’t have to be written. The Liaison also must refer the family to sources of free or

¹ Please note that there is no mention in the Administrative Code regarding an “unaccompanied youth.”

low-cost legal and advocacy services, and the parent/guardian may bring an advocate to any meeting(s) with the Liaison.

If the Liaison believes the complaint is justified, the complainant must present it in writing and discuss it again with the Liaison. There are no state forms for this type of complaint; rather, the state specifies only that the complaint must include (1) a description of the complaint; (2) the name(s) and age(s) of the children involved, (3) the name(s) of the involved school district personnel and the district they represent, and (4) a description of attempts that were made to solve the issue at the local level.

Within five working days from the date of the written complaint, the Liaison will present a proposed resolution or plan of action to the complainant and the district superintendent.

Step Three: District Superintendent Review (if necessary)

If the complaint is not resolved at the Liaison level, the next level of review is the district superintendent. The district superintendent will meet with the complainant and provide a written resolution within five working days.

Step Four: Utah State Office of Education Review (if necessary)

If the complaint is not resolved in a satisfactory manner at the local level following the review of the Liaison and the district superintendent, the complaint may then be brought to USOE. Complaints presented to USOE must be written and signed by the complainant. The Liaison will assist the complainant with compiling necessary documentation. The complaint and any supplemental documents must be sent to a specific address:

State Homeless Coordinator
Utah State Office of Education
250 East 500 South
PO Box 144200
Salt Lake City, UT 84114-4200

The State Homeless Coordinator will inform the involved school district(s) of the complaint, and will gather needed information from statements of any of the parties involved. The State Homeless Coordinator may also conduct an independent investigation through an on-site visit if necessary. Within as short a time as possible but no longer than thirty days after receiving the complaint, the State Homeless Coordinator, with input from the Director of Education Equity and the Director of the Section for School Law, will resolve the complaint and inform the interested parties, in writing, of the decision.

Step Five: File a Complaint with the Office for Civil Rights (if necessary)

If the complainant disagrees with the decision, he or she shall be advised of the option to file a complaint with the Office for Civil Rights.

Additional Resources

<http://www.schools.utah.gov/fsp/Homeless-Education.aspx>

<http://www.rules.utah.gov/publicat/code/r277/r277-616.htm>

Attachment: Homeless Complaint Resolution Procedure (following the table below)

Procedural Step:	Completed by:	Given to:	Due Date:
Notification of complaint and Complaint	Complainant (parent or guardian of homeless child)	Homeless Liaison	Discussion between complainant and Homeless Liaison; if justified, complainant submits a written complaint to the Homeless Liaison, who will issue a proposed resolution or plan of action to complainant and district superintendent within 5 working days.
Complaint	Complainant	District Superintendent	Disputed decision is escalated to the superintendent, who will meet with the complainant to discuss the complaint. Written resolution to be provided to complainant within 5 days of the meeting.
Complaint	Complainant	State Homeless Coordinator	Complainant must mail written complaint, with assistance from

			Homeless Liaison for any required documentation, to the State Homeless Coordinator. Resolution in writing within no more than 30 days , and including input of Dir. Of Education Equity and Dir. Of Section for School Law.
Complaint	Complainant	Office for Civil Rights	If the complainant is unsatisfied, he or she may file a complaint with the Office for Civil Rights.

Additional Information

Instructions to Locate Your Local LEA Liaison

Utah publishes a list of LEA Liaisons, alphabetized by district name: <http://www.schools.utah.gov/fsp/Homeless-Education/Forms-Checklists-Data/LEA-Liaison-List.aspx>.

State Officials

Education for Homeless Children and Youth
 Kreig Kelley, Education Specialist
 State Office of Education
 250 East 500 South
 P.O. Box 144200
 Salt Lake City, UT 84114-4200

Phone: (801) 538-7975
 Fax: (801) 538-7991
 Email: kreig.kelley@schools.utah.gov
 Website: <http://www.schools.utah.gov/>

Complaint Resolution Procedure

While a dispute regarding a child or youth's homeless status or right to service is being resolved, the child(ren) in question must be enrolled in school and transportation provided, if necessary. Enrolled is defined as attending classes and participating fully in school activities. If the dispute is concerning the school of best interest, the child must be enrolled in the school of residence (where the child is sleeping at night) unless arrangements are already implemented to allow the child to attend the school of origin.

If a dispute regarding a homeless child's educational rights occurs, every effort will be made to resolve the complaint or dispute at the local level before it is brought to the Utah State Office of Education.

It is the responsibility of the personnel in the school or district of residence to inform the complainant of the Complaint Resolution Procedures.

1. If a question concerning the education of homeless child/youth arises, the first person to be contacted in the school district is the Homeless Liaison.
2. The Homeless Liaison must refer the family to sources of free or low-cost legal and advocacy services. The parent/guardian may bring an advocate to the meeting.
3. The complaint will be discussed with the Liaison. If the Liaison believes the complaint is justified, the complainant shall present it in writing and discuss it again with the Liaison.
4. Include in the complaint:
 - a. a description of the complaint
 - b. the name(s) and age(s) of the children involved
 - c. the name(s) of involved school district personnel and the district they represent
 - d. a description of attempts that were made to solve the issue at the local level
5. The Homeless Liaison will present a proposed resolution or plan of action to the complainant and the district superintendent within five working days from the date of the written complaint.
6. If the complaint is not resolved at this level within five working days, it may be taken to the district superintendent. In addition to presenting the written complaint, ask for an appointment to see the superintendent to discuss the complaint. Within five days of the meeting, the superintendent shall provide the complainant with a written resolution.
7. If the complaint is not resolved in a satisfactory manner at the local level, the complaint may be brought to the State Office of Education. Complaints made under this process must be made in writing and signed by the complainant. The local Homeless Liaison shall assist the

complainant in compiling necessary documentation. Include all written correspondence and address the complaint to:

State Homeless Coordinator
Utah State Office of Education
250 East 500 South
PO Box 144200
Salt Lake City, UT 84114-4200

8. The State Homeless Coordinator will inform the involved school district (s) of the complaint. The Coordinator will gather needed information from statements of the parties involved and may conduct an independent investigation through an on-site visit if necessary.

9. Within thirty days after receiving a complaint, the Coordinator with the Director of Education Equity and the Director of the Section for School Law will resolve the complaint and inform interested parties, in writing, of the decision. All efforts will be made to resolve the complaint in the shortest time possible.

10. If the complainant disagrees with the decision, the complainant shall be advised of his/her option to file a complaint with the Office for Civil Rights.