
NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

Wisconsin State Procedures – Dispute Resolution Under the 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.

Wisconsin’s Education for Homeless Children and Youth (EHCY) Program's major responsibility is to implement the McKinney-Vento Homeless Education Assistance Act. Homeless children and unaccompanied youth must have access to public school educational programs and services that allow them to meet the same challenging state academic standards to which all students are held.

Each school district must designate a homeless liaison. The liaison's responsibilities are to identify and immediately enroll homeless children and youth, then help them succeed in school. The liaison assists with enrollment and dispute-resolution procedures; informs the parent/guardian, unaccompanied youth, district staff, and community agencies of the educational rights of homeless children and youth; arranges transportation; obtains necessary school supplies; ensures students receive free school meals; ensures comparable educational services; works in partnership with community agencies; and has special responsibilities to assist unaccompanied children and youth.

Step One: School Enrollment

Each child and youth in transition has the right to remain at his or her school of origin or to attend any school that other students who live in the attendance area in which the child or youth is actually living are eligible to attend. Maintaining a student in his or her school of origin is important for both the student and our school district. Students who change schools have been found to have lower test scores and overall academic performance than peers who do not change schools. High mobility rates have also been shown to lower test scores for stable students. Keeping students in their schools of origin enhances their academic and social growth, while permitting our schools to benefit from the increased test scores and achievement shown to result from student continuity.

Therefore, in selecting a school, children and youth in transition shall remain at their schools of origin to the extent feasible, unless that is against the parent or youth’s wishes. Students may remain at their schools of origin the entire time they are in transition and until the end of any academic year in which they become permanently housed. The same applies if a child or youth loses his or her housing between academic years.

Feasibility shall be a child-centered determination, based on the needs and interests of the particular student and the parent or youth's wishes. Potential feasibility considerations include:

- Safety of the student
- Continuity of instruction
- Likely area of family or youth's future housing
- Time remaining in the academic year
- Anticipated length of stay in temporary living situation
- School placement of siblings
- Whether the student has special needs that would render the commute harmful

Step Two: Enrollment Dispute

Families and unaccompanied children and youth who are homeless may dispute decisions made by the district regarding school selection or enrollment in a school. The homeless liaison is required to assist parents and unaccompanied children and youth through the district's dispute resolution process.

If a dispute arises over school selection or enrollment, the child or youth in transition shall be immediately admitted to the school in which enrollment is sought, pending final resolution of the dispute. The student shall also have the rights of a student in transition to all appropriate educational services, transportation, free meals, and Title I services while the dispute is pending.

The school where the dispute arises shall provide the parent or unaccompanied youth with a written explanation of its decision and the right to appeal and shall immediately refer the parent or youth to the liaison. The liaison shall ensure the student is enrolled in the school of his/her choice, receiving other services to which he/she is entitled during the dispute resolution process, and shall resolve the dispute as expeditiously as possible.

The parent or unaccompanied youth shall be given every opportunity to participate meaningfully in the resolution of the dispute. The liaison shall keep records of all disputes in order to determine whether particular issues or schools are repeatedly delaying or denying the enrollment of children and youth in transition.

The parent or unaccompanied youth may appeal the liaison's decision, following complaint procedure, to the state Superintendent of Public Instruction in accordance with the state's dispute resolution process.

Step Three: Appeal Process

Families and unaccompanied children and youth who are homeless may dispute decisions made by the district regarding school selection or enrollment in a school. The homeless liaison is required to assist parents and unaccompanied children and youth through the district's dispute resolution process. If a dispute is not resolved after going through the district resolution process, the parent or unaccompanied youth may send a request for resolution to the Superintendent's Office of the Wisconsin Department of Public Instruction. Disputes involving homeless issues follow the Chapter PI 1 complaint resolution process. Unresolved complaints should be sent to:

State Superintendent of Public Instruction
P.O. Box 7841
Madison, WI 53707-7841

Although the appeal process is not specific to just disputes regarding homeless student enrollment, below is an overview of the general appeals process:

Under the Wisconsin Department of Public Instruction Complaint Resolutions and Appeals process, all complaints and appeals shall be filed in writing specifying the grounds upon which the action is brought, the facts, and any relief sought. Complaints and appeals shall be signed by the complainant or appellant or the representative of the complainant or appellant. If the complainant or appellant is a minor, the complaint or appeal shall also be signed by his or her parent or guardian, unless the statute or rule under which the complaint or appeal is filed prohibits this requirement. If the complaint or appeal is filed by a representative, the representative shall file a notice of representation which shall include written consent of the complainant or appellant and the parent or guardian. Failure of the complainant or appellant to file a complaint or appeal within the time period specified in the statute or rule under which the complaint or appeal is filed deprives the state superintendent of jurisdiction in the matter.

Upon receipt of a written complaint or appeal, the state superintendent shall acknowledge receipt of the complaint or appeal in writing and shall use any or all of the following procedures which he or she determines to be appropriate:

- Provide technical assistance and information and attempt to resolve the matter informally.
- Refer the complainant to another state agency for action or resolution.
- Conduct an investigation
- Conduct a hearing
- Issue a decision based on a review of the record of a hearing held before the local education agency.
- Issue protective orders or grant temporary relief as deemed necessary by the state superintendent to preserve the rights of any party prior to the issuance of a final decision or order.
- Arrange for mediation

- Direct the complainant to exhaust any administrative remedies available before the local education agency.
- Determine that the state superintendent does not have jurisdiction in the matter.

If the state superintendent decides to conduct an investigation, the investigation may include an on-site review or any other activity which the state superintendent deems appropriate. The state superintendent may determine whether reasonable grounds exist for believing that the matter asserted by the complainant or appellant is probably true, and may issue a finding to that effect.

Prior to holding a hearing regarding a complaint or an appeal, the state superintendent may attempt to resolve the matter through mediation if the parties agree. The state superintendent shall appoint the mediator. If the parties agree to a negotiated settlement, the mediator shall notify the state superintendent of the terms of the settlement and the state superintendent shall find that the matter is resolved. If the parties are unable to agree to a negotiated settlement, the state superintendent shall determine which other procedures to follow. The mediation sessions shall be conducted at the discretion of the mediator, except that if a negotiated settlement has not been reached within 90 days after the mediator received the complaint or appeal, the mediator shall either request an extension of time or inform the state superintendent that the mediation effort is unsuccessful.

The state superintendent shall conduct a hearing when required by the statute or rule under which the complaint or appeal is filed or when required under the state statutes. The state superintendent may conduct a hearing in other matters if he or she deems it is appropriate. At least 10 days prior to the hearing the state superintendent shall mail to the parties, by certified mail, written notice of hearing stating the time, date and place of the hearing, the nature of the case, a general statement of the issues to be heard and the procedures to be followed. The parties may by mutual consent waive the right to notice. The state superintendent may postpone the hearing in the case of exceptional circumstances. The state superintendent shall preside over the hearing or appoint a hearing examiner. The state superintendent may not appoint any person as hearing examiner who has been involved, either directly or indirectly, with the action or decision which is the subject of the complaint or appeal.

Following the hearing of a contested case and when otherwise required by statute or rule, the decision of the state superintendent or hearing examiner shall be in writing stating separate findings of fact and conclusions of law. The decision may order remedies which the state superintendent or hearing examiner determines appropriate, and may or may not include the relief sought by the complainant or appellant. Decisions shall be served on all parties by mailing a copy to each party's last known address by certified mail along with a notice of any right to further review as may be provided by the statute or rule under which the complaint is filed.

Upon the request of either party, the state superintendent may reopen a complaint or appeal which was resolved informally or through mediation. If the state superintendent reopens the complaint or appeal, he or she shall determine which procedures to follow. Final decisions issued by the state superintendent shall specify any rights the parties may have to judicial review under other statutes or rules.

http://docs.legis.wisconsin.gov/code/admin_code/pi/1.pdf

Dispute process and Timeline for Filing a Dispute/Appeal

Procedural Step:	Completed by:	Given to:	Due Date:
Initial Enrollment Dispute	Parent or guardian or unaccompanied youth	Local School	None specified. Initially complainant must follow local district dispute resolution procedures. District Homeless Liaison required to assist the parent or guardian or unaccompanied youth
Request for resolution	Parent or guardian or unaccompanied youth	State Superintendent of Public Instruction	Due dates will vary depending on the resolution process chosen by the Superintendent

Additional Information:

Wisconsin Department of Public Instruction main page: <http://dpi.wi.gov/home.html>
Education for Homeless Children and Youth (EHCY) main page: <http://www.dpi.state.wi.us/homeless/index.html>
Complaint Resolution and Appeals information: http://docs.legis.wisconsin.gov/code/admin_code/pi/1.pdf

How to find your District's Homeless Liaison:

A link to the contact list for Homeless Liaisons can be found on the EHCY program's main page: <http://www.dpi.state.wi.us/homeless/index.html> From there click on the [Contact List](#) link. This page also provides names, email addresses and phone numbers for the State EHCY Coordinators.