

State Coordinators' Handbook

Section J: Dispute Resolution

- J.1 Introduction
 - J.2 Inform, explain and support: Resolving conflicts before they rise to the level of a dispute
 - J.3 Dispute resolution: Law and practice basics
 - J.4 Dispute resolution: Designing and implementing clear, strong procedures
 - J.4.1 The McKinney-Vento dispute procedure: Its own process versus part of a broader state appeals process
 - J.4.2 A state-created process that all LEAs must follow versus LEA-created processes
 - J.4.3 Timelines for local and state-level appeals
 - J.4.4 Procedures to ensure that parents, guardians and youth know their rights
 - J.4.5 Procedures to ensure that parents, guardians and youth are able to appeal decisions on the local and state levels
 - J.4.6 Recommended elements of strong written notices
 - J.4.7 Strategies to ensure that decision-makers have all the information they need to make impartial decisions consistent with the McKinney-Vento Act
 - J.4.8 Best practices for state-level appeals
 - J.4.9 Effectively addressing inter-district issues
 - J.5 Special considerations
 - J.5.1 Compliance issues versus disputes
 - J.5.2 Complaints/appeals involving issues outside of the McKinney-Vento Act
 - J.5.3 Charter schools
 - J.5.4 Disputes regarding children and youth “awaiting foster care placement”
 - J.6 Navigating conflict resolution
 - J.7 Getting the facts: What is legal and what is reasonable
 - J.8 Conclusion
- Appendix J.1 Sample Transportation Contract (Washington State)

- Appendix J.2 Sample State Policy, Washington Dispute Resolution Process
- Appendix J.3 Links to State Dispute Resolution Processes
- Appendix J.4 Basic Intake Information
- Appendix J.5 Common Disagreements
- Appendix J.6 Non-Compliance Template
- Appendix J.7 Sample Template for Parents When Student is Not Considered McKinney-Vento Eligible
- Appendix J.8 Sample Determination Template for Parent When Not a McKinney-Vento Issue

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Section J. Dispute resolution

J.1 Introduction

The education requirements of the McKinney-Vento Homeless Assistance Act require states to develop and implement a dispute resolution process. The purpose of this document is to offer State Coordinators a menu of options for such development and implementation based on the experiences of colleagues over the past decade. Furthermore, taking a broad perspective on conflict, the document explores additional best practices that State Coordinators can employ to ensure effective compliance and implementation of the McKinney-Vento Act.

While resolving disputes is required, not all disagreements are covered by the dispute resolution process. Therefore, we will offer a continuum for resolving conflicts including proactive strategies to avoid or reduce conflicts, complaints not covered by the dispute resolution process, and issues that require consideration of disputes processes in other legislation as well as those clearly covered by formal McKinney-Vento resolution requirements. Care will be taken to clearly distinguish the legal requirements, current U. S. Department of Education guidance, and best practices supported by the field.

Communication is not a perfect science. Words may have multiple meanings, and multiple perspectives on an issue can result in multiple interpretations. It is not surprising that our laws, being composed of words, are subject to the disagreements and conflict that result from such imperfection. Revisions to legislation, issuance of guidance and regulation, and case law are some of the ways we attempt to add clarity to the words of our laws. Conflict is normal in life and law; how we respond is key. This is no less true when working on behalf of students experiencing homelessness under the education provisions of the McKinney-Vento Act.

Laws often include processes to navigate disagreements. The dispute resolution process guides actions when disagreements arise over the educational placement of homeless children and youth. Under the McKinney-Vento Act, the Education of Homeless Children and Youth (EHCY) Program requires that state educational agencies (SEAs) develop a dispute resolution process as part of the state plan and that local educational agencies (LEAs) carry out the dispute resolution process described in the state plan as expeditiously as possible after receiving notice of the dispute.

State Coordinators for homeless education have seen an increase in the number of disputes. During the 2012 EHCY State Coordinators Meeting, possible explanations for the increase were explored. State Coordinators identified the following:

- Greater parental awareness of their children’s educational rights under McKinney-Vento due to appropriate outreach by schools and the growing conversation regarding similar rights now afforded to children in foster care;
- Economic factors that have led to:
 - Increasing numbers of children identified as experiencing homelessness
 - Increasing durations of homelessness for children
 - Decreasing funding for schools

State Coordinators have observed increasing needs in a climate of decreasing resources. For example, schools are more likely to question a school of origin placement when a family has been doubled up for multiple years while parents have come to expect transportation to allow their child to stay in the same school. Increasing accountability for student achievement creates further potential for conflict. Some schools may be more reluctant to enroll students they perceive to be academically at-risk, and in some cases parents may claim homelessness to access schools perceived as better for their children. Furthermore, funding and accountability can lead to inter-district disagreements regarding McKinney-Vento.

This increase in disagreements has led to State Coordinators spending more time dealing with such time-consuming issues. The relative newness of this phenomenon has resulted in a variety of different responses to conflicts and interpretations of what McKinney-Vento requires. This document attempts to capture promising practices that can be used across the nation and to provide a template from which further discussion and refinement can occur.

J.2 Inform, explain and support: Resolving conflicts before they rise to the level of a dispute

The old adage that an ounce of prevention is worth a pound of cure certainly has its value when thinking about the dispute resolution process. While having proactive policies and activities in

place does not eliminate the possibility of disputes, it certainly can limit disputes and lessen the confrontational/adversarial tone that often accompanies such disagreements. State Coordinators have found the following practices especially useful.

- A. Train local McKinney-Vento liaisons. The more knowledgeable about the law and skilled in working with families and students experiencing homelessness liaisons are, the more likely appropriate procedures will occur at the school door and the less likely that errors and/or misunderstandings will arise that become contentious enough to require formal dispute processes at the local and state levels. Well trained liaisons conduct proactive identification of students, including awareness building within their schools and communities. Liaisons, trained to be sensitive to the stressors and trauma that families experience, are less likely to exacerbate those stressors, reducing the potential for added conflict. Such training should include how to carry out an effective dispute resolution process and how to help families understand their educational rights. NCHE has a variety of training materials developed for liaison training. While some State Coordinators are able to meet the training demands in their states, others have limited opportunities to provide direct training and ensure the field receives the needed information in a number of ways:
 - a. Contracting with a university or educational technical assistance provider
 - b. Using veteran liaisons to provide peer-to-peer support in their regions
 - c. Advertising and supporting attendance at NCHE webinars and NAEHCY conferences
 - d. Collaborating to have sessions for liaison training as part of larger training and conference events hosted by the SEA or state education groups
- B. Conduct LEA McKinney-Vento monitoring. Ensuring that all LEAs in the state are accountable and fulfilling their responsibilities to serve students experiencing homelessness is one purpose for monitoring. Monitoring can increase compliance at the local level and increase knowledge of best practices, making it less likely that an LEA will violate McKinney-Vento and more likely that liaisons will be able to adequately explain decisions to parents, guardians, or

unaccompanied youth¹. Also, the SEA can review how the LEA resolves disputes during monitoring to ensure compliance with that specific procedure.

Monitoring provides opportunities for one-to-one discussions. Liaisons have commented that while monitoring is stressful, it forced them to stop and review their program. The time spent reviewing the questions and collecting documentation generated ideas for program improvement. If a finding occurs, it may provide the leverage for change that a liaison could not accomplish without state support. In addition to the reactive elements of monitoring, the process can be used proactively to avoid future conflicts. Monitoring can identify systemic difficulties that require state level intervention in terms of policy change, training needs, and development of resources. Additionally, State Coordinators can discover a variety of activities that are being used around their states and share these ideas with others.

- C. Track technical assistance requests that come to the state level. Analyze the questions that frequently arise and identify issues that require clarification. Problem areas can be addressed through training or through the creation of sample forms or other resources, preventing emerging issues from becoming more pervasive and leading to an increase in disputes.
- D. Track complaints that come to the state level. Analyzing issues that arise more frequently may lead to targeted technical assistance and/or shape monitoring questions and LEA selection.
- E. Inform advocacy groups. Making sure that advocacy groups have accurate information about the educational rights of children and youth experiencing homelessness is critical to avoiding misinformation being shared with parents and the community. Making sure such groups know what processes can be used when a difference of opinion occurs, including opportunities for informal resolution of problems can lessen the need for more formal

¹ In this publication the term “unaccompanied youth” is used according to its definition in the McKinney-Vento Act: a youth who is experiencing homelessness and “not in the physical custody of a parent or guardian.” 42 U.S.C. §11434a.

disputes.

- F. Ensure LEAs use feasibility worksheets and other checklists, such as the one found in the *NCHE Local Homeless Education Liaison Toolkit*, Appendix D². State Coordinators may request LEAs provide copies of such documents when written notice is given to families or as required documentation to review during a monitoring visit. McKinney-Vento is explicit about the need for written notification when there is a disagreement about school selection. However, without documentation that shows how a decision was reached (and that a process was used to reach a decision), it is difficult to know whether the intent of the law is being fulfilled. Using best interest for school of origin worksheets and checklists to determine eligibility, increases the transparency of decision making and provides the paper trail should a decision be challenged.³ A formal dispute resolution process is adversarial in its structure. By ensuring these early, more informal processes occur, there will be less need to use the formal dispute resolution process. This is important in building and maintaining trusting relationships between school staff and families in homeless situations.
- G. Assist LEAs in establishing clear expectations. Clear roles, responsibilities, and procedures remove the ambiguity that increases the likelihood of a conflict. For example, transportation decisions are revisited when students do not attend school regularly or a safety concern arises. A contract between the school and parents that describes district, parent, and student responsibilities as well as the consequences when those responsibilities are not met can diffuse many transportation conflicts. (A sample contract is included in Appendix J.1 Transportation Contract).
- H. Support trauma-informed responses. Families experiencing homelessness are often facing high stress and trauma. Training staff to recognize the signs of trauma and how to diffuse interactions when a parent or student is upset reduces adversarial relationships.

² *NCHE Local Homeless Education Liaison Toolkit* can be found [here](#).

³ More examples can be found in the NCHE brief [Guiding the Discussion on School Selection](#)

- I. Withhold judgment while collecting information from all parties. State Coordinators receive calls from parents, youth and schools when a conflict arises. The information heard is often one-sided. Offering an opinion based on such information could lead to rescinding comments once additional information is obtained. This affects credibility and may actually increase the level of conflict. To help convey a need to explore all information necessary to make a determination, include disclaimers in verbal or written communication such as, “Based upon the information you have shared with me.....” or, “Let me look into this a little further before responding...”
- J. Use an intake/technical assistance form⁴ to collect the basic information that will be needed while exploring a case.
- K. If your state does not have a uniform dispute resolution process for use at the district level, require dispute resolution policies as a part of the McKinney-Vento subgrant request for proposals and require a copy during monitoring.
- L. Include providers and liaisons in a statewide advisory body. Consider including homeless or formerly homeless parents, when possible. A responsibility of the advisory board could include offering input on disputes that require more input due to the multiple factors being considered. The board may develop a process for making determinations, including what information to obtain and how that information is organized and weighted. Such a process could be replicated with future cases. A consistent process should lead to less confusion when families navigate the system and reduce the likelihood of conflicts caused by such confusion or miscommunication.
- M. Review the state level dispute resolution process on a regular basis. Consider conducting a focus group with local liaisons who have worked through a dispute to explain the questions and challenges that arose and to offer suggestions for improving the process. Consider sharing the state process with other State Coordinators.

⁴ Sample technical assistance forms can be found in the *State Coordinators Handbook*, Appendix E-3.

J.3 Dispute resolution: Law and practice basics

The McKinney-Vento Act provides minimum standards for the resolution of disputes that arise under the Act. However, the statute leaves most of the specific procedures to the discretion of each state. Every state must establish procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youth. These procedures must be described in the state's McKinney-Vento State Plan that is submitted to the U.S. Department of Education.⁵ Dispute procedures also may be formalized in the state education code, school board policy, or policies, procedures or guidance from the state education agency. Every state's dispute procedures must uphold all the rights the McKinney-Vento Act provides to children, youth, parents and guardians.

The Act mandates basic protections and procedures that must be in place when a dispute arises "over school selection or enrollment in a school."⁶ Therefore, the protections and procedures must be available to address any dispute about whether a student has the right to enroll in a particular school, whether based on eligibility, best interest, school selection or immediate enrollment. The law also defines "enrollment" as "attending classes and participating fully in school activities."⁷ Therefore, McKinney-Vento dispute procedures apply to any dispute arising under the Act, including disputes over issues such as:

- Eligibility: When a parent seeks to enroll a child, or an unaccompanied youth seeks enrollment in a particular school under the McKinney-Vento Act, does the child or youth meet the definition of "homeless" such that immediate enrollment in school is required, regardless of missing school records, proof of residency, immunization and other health records, lack of a parent or guardian, or other documentation?⁸

⁵ 42 U.S.C. §11432(g)(1)(C).

⁶ 42 U.S.C. §11432(g)(3)(E).

⁷ 42 U.S.C. 11434A(1).

⁸ However, in instances where the eligibility dispute is far afield to the issue of homelessness, the State Coordinator may tell the parent that the dispute does not fall under McKinney-Vento. State Coordinators should consult with NCHE or the U.S. Department of Education for guidance on questions of eligibility.

- School selection: Is it in the child’s or youth’s best interest to continue attending the school of origin or to enroll in the local attendance area school?⁹
- Participation: Is the child or youth attending classes immediately, even if the school has not yet received school records, special education records, immunization or other health documents? Is she being provided full participation in school activities? Has enrollment been immediate in any public school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend?
- Transportation: Is the school district required to provide transportation to a student in a particular situation? Does the transportation provided permit the child to attend classes and participate fully in school activities?

When a dispute arises under the McKinney-Vento Act, the law requires the following minimum procedures:

1. The child or youth “shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute.”¹⁰ In the case of an unaccompanied youth, the local liaison shall ensure that the youth is immediately enrolled in school pending resolution of the dispute¹¹. The U.S. Department of Education strongly emphasized the importance of this requirement in its Guidance:

“When enrollment disputes arise, it is critical that students not be kept out of school. Interruption in education can severely disrupt the student’s academic progress. To avoid

⁹ The McKinney-Vento Act provides parents, guardians and youth the right to attend the school of origin (defined as “the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled”) or “any public school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.” 42 U.S.C. §§11432(g)(3)(A), (G). *Guiding the Discussion on School Selection*, a tool to assist liaisons in discussing these options with parents and youth, is available at http://center.serve.org/nche/downloads/briefs/sch_sel_checklist.pdf.

¹⁰ 42 U.S.C. §11432(g)(3)(E)(i).

¹¹ 42 U.S.C. §11432(g)(3)(E)(iv).

such disruptions, LEAs need an established process for resolving school placement disputes. Permitting students to enroll immediately in the school of choice pending resolution of disputes helps provide needed stability.”¹²

Since enrollment includes attending classes and participating fully in school activities while disputes are pending, students must be able to participate fully in school and receive all services to which they are entitled. This includes transportation services, as guidance from the U.S. Department of Education has clarified: “The McKinney-Vento Act’s transportation requirements apply while disputes are being resolved.”¹³

2. The parent or guardian shall be provided with a written explanation of the school's decision regarding school selection or enrollment, including the rights of the parent, guardian, or youth to appeal the decision.¹⁴ In addition, any time a student is sent “to a school other than the school of origin or the school requested by a parent or guardian,” the LEA must provide a written explanation of its decision and the right to appeal, whether or not the parent/guardian disputes the placement.¹⁵ In the case of an unaccompanied youth, the local liaison must provide notice to the youth of the right to appeal.¹⁶
3. The child, youth, parent, or guardian shall be referred to the liaison, who shall carry out the dispute resolution process as expeditiously as possible.¹⁷

These procedures are fairly minimal when compared to dispute processes outlined in other education laws, such as the Individuals with Disabilities Education Act (IDEA) and the Family Education Rights and Privacy Act (FERPA). Congress has allowed LEAs and SEAs considerable leeway in their McKinney-Vento procedures. However, of all the procedures and rights Congress could have mandated, they focused only on these three. That focus indicates the importance Congress placed

¹² U.S. Department of Education (2004). Education of Homeless Children and Youth Program, Non-Regulatory Guidance, G-5.

¹³ U.S. Department of Education (2004), H-5.

¹⁴ 42 U.S.C. §11432(g)(3)(E)(ii).

¹⁵ 42 U.S.C. §11432(g)(3)(B)(ii).

¹⁶ 42 U.S.C. §11432(g)(3)(B)(iii).

¹⁷ 42 U.S.C. §11432(g)(3)(E)(iii).

on these three specific requirements. States and school districts should carefully design and review their procedures to ensure a student never misses a day of school due to a dispute; parents, guardians and youth know their rights and are able to appeal decisions; and the liaison is the key player in carrying out the dispute process quickly. We will suggest strategies to ensure these three key requirements in the following section.

Every LEA in every state must follow McKinney-Vento's dispute resolution procedures. The McKinney-Vento Act applies to every LEA in every state, regardless of whether the LEA receives McKinney-Vento funds. If dispute processes are not followed, or if a parent, guardian or youth is not satisfied with the final resolution of a dispute at the state level, the parent, guardian or youth can sue in federal court (and in some states, in state court as well). Any issue under the McKinney-Vento Act can be enforced through a private right of action in court against both the SEA and LEA. Since the ESEA was amended in 2002, parents have sued SEAs and/or LEAs under the McKinney-Vento Act in Hawaii, Illinois, Maryland, New York and Pennsylvania. In every case, the parents either have won their case in court or settled out of court, and states and school districts have paid significant legal fees and implemented new policies and procedures. Therefore, it is important for SEAs and LEAs to understand they can be sued, and if they are not in compliance with the McKinney-Vento Act, they will likely lose the lawsuit.

J.4 Dispute resolution: Designing and implementing clear, strong procedures

There are many overarching aspects of the process to consider when designing and implementing both state and local McKinney-Vento dispute procedures.

J.4.1 The McKinney-Vento dispute procedure: Its own process versus part of a broader state appeals process

This will depend largely on the appeals processes available in your state. If your state has an existing appeals process that can render decisions quickly; is fully accessible to parents, guardians and youth struggling with the challenges of homelessness; can provide an adequate opportunity for schools, parents and youth to present information; and includes liaisons and decision-makers who

are well-versed on the McKinney-Vento Act, then that appeals process may be appropriate for McKinney-Vento disputes. It may have the added benefit of involving stakeholders in the SEA and adding greater weight and importance to the McKinney-Vento Act. If school district administrators are familiar with the process, they may take McKinney-Vento disputes more seriously. However, State Coordinators must ensure the process meets the McKinney-Vento Act's basic requirements and should pay particular attention to ensuring immediate enrollment of students while disputes are pending.

Many states have found it helpful to have McKinney-Vento dispute procedures encoded in their state education laws or issued as regulations. The McKinney-Vento Act does not require that its dispute process appear in code or regulations, but experience indicates that raising the procedures to the level of statutory or regulatory requirements enhances compliance by LEAs and uniformity across the state.

J.4.2 A state-created process that all LEAs must follow versus LEA-created processes

While the McKinney-Vento Act does not specifically require LEAs to have written dispute policies, LEAs are required to provide written explanations of their decisions and the right to appeal and refer youth, parents and guardians to the liaison to carry out the dispute resolution process expeditiously. It is a good practice for LEAs to have written policies and procedures in place to ensure McKinney-Vento's mandates are carried out. Written policies can protect students, parents and the school district by providing a clear, objective procedure for disputes.

In general, a single, uniform process for McKinney-Vento disputes for all LEAs is preferable for several reasons. First, homeless families and youth by definition are highly mobile, which makes it likely they will come into contact with several different school districts over a single school year. Having to learn how to access and navigate a different dispute procedure in each district places an added and unnecessary burden on them. Second, disputes often involve more than one district. It can be challenging for parents, students, districts, and the state to navigate an inter-district dispute that implicates two different dispute processes. Finally, it will be more difficult for the State

Coordinator to ensure that all LEAs have dispute procedures that comply with the McKinney-Vento Act if each LEA has its own, unique process.

For these reasons, the State Coordinator may want to develop a local dispute resolution policy and procedure to be implemented by all LEAs in the state. If the SEA is not willing or able to develop a uniform policy, the State Coordinator at least should have a recommended process available and strongly encourage school districts to use it. In developing the policies, the State Coordinator should consult with other stakeholders at the SEA, such as his or her supervisor; Title I, Part A administrators; special education administrators; SEA legal counsel; the state school boards association; and a focus group of local liaisons and school district administrators. Involving stakeholders in the process to develop the policies should help increase buy-in and compliance and ensure strong, efficient dispute procedures.

For example, the state of Washington developed a dispute resolution procedure for use in all LEAs. The Washington State School Directors' Association (WSDDA) adopted the policy as a model and disseminated it to its members across the state. To ensure all LEAs have adopted and are implementing the policy, Washington's consolidated program review specifically monitors that all LEAs have incorporated it. Washington's dispute policy can be found in Appendix J.2 Sample State Policy. Similarly, State Coordinators in Oregon, Virginia and other states have collaborated with their school board associations, with the result that they produce McKinney-Vento policies which LEAs generally adopt as a matter of course. State Coordinators should contact their state school board association to find out if they have current McKinney-Vento Act policies and, if not, work with these groups to develop strong policies and support their implementation.

J.4.3 Timelines for local and state-level appeals

While the McKinney-Vento Act does not mandate specific timelines, it does require "prompt" resolution of disputes. SEAs should establish timelines to resolve disputes at the local and state level.¹⁸ Timelines should balance several competing factors:

¹⁸ U.S. Department of Education (2004), G-9.

- The requirement to resolve disputes promptly
- The recognition that parents and youth struggling with homelessness are likely to need extra time to file a dispute and prepare information for decision-makers
- The desire to provide stability and predictability to students and schools
- Time left in the school year

In general, fairly short timelines are appropriate for McKinney-Vento disputes. For example, North Carolina provides five business days for submission of materials; Florida provides ten days. Situations will arise in which parents, youth or schools may need additional time to present information, and procedures should allow for parties to request additional time on a case-by-case basis. In particular, parents and youth may not be able to meet tight deadlines due to the upheaval of homelessness and crises that arise in their lives. Allowing parties to request a few extra days if they can justify that request with a description of exigent circumstances increases fairness and helps ensure that decision-makers receive complete information. Timelines and the grounds for requesting extensions of time should be made clear in the procedures, in language understandable to homeless parents and youth.

J.4.4 Procedures to ensure that parents, guardians and youth know their rights

Local liaisons must make sure that families are aware of the educational and related opportunities available to their children (including transportation) and must post public notice of the education rights of children and youth in homeless situations.¹⁹ Posters, such as the ones provided by the U.S. Department of Education through NCHIE ([youth and parent posters](#)) and other information translated into languages represented in the community must be placed where homeless families and youth receive services. Many states have developed posters and other public notices in a variety of languages, including [Washington](#) and [New York](#). It is also a good practice to provide all parents with a written statement of McKinney-Vento rights at the time of enrollment, post such a statement on the LEA website, and include it as part of parent/student handbooks.

¹⁹ 42 U.S.C. §§11432(g)(6)(A)(iv), (v), (vii).

NCHE offers many summaries of rights for parents and youth on its [website](#).

J.4.5 Procedures to ensure that parents, guardians and youth are able to appeal decisions on the local and state levels

Most parents and youth experiencing homelessness have limited resources, little to no ability to secure attorneys or advocates, and are dealing with the extreme stressors of homelessness. To ensure that McKinney-Vento dispute procedures are accessible to them, procedures should be as informal and streamlined as possible, consistent with impartial and complete review. Parents, guardians and youth must receive clear and simple information about their right to dispute decisions, how to initiate the dispute, how the procedure will unfold, who in the school district and SEA they can contact with questions, and the timeline for the process. Schools should provide this information in writing, but the local liaison (or a designee trained in the McKinney-Vento Act and skilled at effective communication with parents and youth) should also explain the process orally to ensure parents, guardians, and youth understand.

In addition, the U.S. Department of Education suggests that parents, guardians, and unaccompanied youth should be able to initiate the dispute resolution process directly at the school they choose, as well as at the district or local liaison's office.²⁰ Most homeless families and youth struggle with transportation. They may not have a way to travel to a particular office to initiate the dispute process. The need to travel may delay them initiating the dispute. If timelines are short, the family or youth may be unable to initiate the dispute within the time frame. To eliminate transportation barriers, parents, guardians and youth should be provided the maximum flexibility to initiate the dispute and submit appeals documents at the most convenient school or district office.

The paperwork necessary to initiate a dispute also should be minimal, to eliminate barriers to parents and students accessing the process. For example, when a school or school district provides written notice of a decision to a parent or youth, the written notice could include a space where the parent or youth indicates whether he or she agrees with the decision. If the parent or youth indicates disagreement, that should trigger a conversation about the dispute process. A

²⁰ U.S. Department of Education (2004), G-9.

particularly effective process is for the liaison or trained designee to explain the grounds for the dispute and the dispute process, ask the parent, guardian or youth if he or she wishes to dispute the decision, and initiate the dispute immediately. The liaison or designee can check the appropriate box on the form that indicates a dispute has been initiated. This can be accomplished via telephone, if it is difficult for the parent, guardian, or youth to get to a school site.

J.4.6 Recommended elements of strong written notices

The *2004 Guidance* states, “Written notice protects both students and schools by outlining the specific reasons for the school’s decision. It facilitates dispute resolution by providing decision-makers with documents to guide their determinations.... Written notice should be complete, as brief as possible, simply stated, and provided in a language the parent, guardian, or unaccompanied youth can understand.”²¹ The [NCHC Local Homeless Education Liaison Toolkit](#) includes a sample of such written notice in Appendix D.²²

These basic suggestions from the U.S. Department of Education are excellent guidelines for written notice. Specifically, the U.S. Department of Education suggests that written notices contain the following elements:²³

- Contact information for the local liaison and State Coordinator, with a brief description of their roles;
- A simple, detachable form that parents, guardians, or unaccompanied youth can complete and submit to the school to initiate the dispute process (the school should copy the form and return the copy to the custodial parent, guardian, or youth for their records when it is submitted);
- A step-by-step description of how to formally dispute the school’s decision;

²¹ U.S. Department of Education (2004), G-5, G-9.

²² *NCHC Local Homeless Education Liaison Toolkit* can be found at:
http://center.serve.org/nche/pr/liaison_toolkit.php

²³ U.S. Department of Education (2004), G-9.

- Notice of the right to “be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute,”²⁴ including the right to participate fully in all school activities;
- Notice of the right to appeal to the state if the district-level resolution is not satisfactory; and
- Timelines for resolving district-and state-level appeals.

J.4.7 Strategies to ensure that decision-makers have all the information they need to make impartial decisions consistent with the McKinney-Vento Act

To help ensure that local and state decision-makers have all the information they need to make good decisions, schools, parents, guardians, and unaccompanied youth should be informed that they can provide written or oral documentation to support their position. If the parent or youth provides information to the school, the LEA should include that information with the materials it submits to the state should the local decision be appealed, along with a list of what the parent or youth has provided. Examples of helpful written documentation include:

- A clear, concise description of the issue (e.g., why the student does / does not meet the definition of “homeless”; why the student does / does not have the right to immediate enrollment in an attendance area school; why attendance in the school of origin is / is not in the student’s best interest)
- A timeline of contacts between the school and the parent/guardian or youth
- Copies of emails between the school and parent/guardian or youth
- A log of phone contacts and meetings between the school and parent/guardian or youth
- For disputes involving eligibility, information documenting the following key points is helpful:²⁵
 - Has a local liaison from another school district found the student eligible?
 - Can the parents or youth describe their living situation? Where are they living? How

²⁴ 42 U.S.C. §11432(g)(3)(E)(i).

²⁵ NCHE’s issue brief on Determining Eligibility is always a good guideline for how to apply the definition of homeless to a particular situation. The brief is available at http://center.serve.org/nche/downloads/briefs/det_elig.pdf.

long have they been there? Do they know how long they will stay? Do they have a legal right to be there? Why did they leave their last residence? Where would they go if they had to leave where they are staying?²⁶

- Can parents or youth provide any documentation of their living situation, such as a motel receipt, letter from a case manager, or an eviction notice? Such documentation *cannot* be required and often is impossible for families or youth to obtain. Families or youth may be unwilling to provide such information. However, if available, it can be helpful in resolving the dispute, and schools should tell parents and youth that this documentation can support their claim of eligibility.
- Can the school or LEA articulate its reasons for believing the student does not “lack a fixed, regular and adequate nighttime residence?”
- For disputes involving school of origin attendance, the following information can be useful:
 - Has each side completed the [“Guiding the Discussion on School Selection”](#) checklist?
 - Can each side explain why attending the school of origin is, or is not, in the child’s best interest?
- For disputes involving immediate enrollment and full participation in school, decision-makers may need to know the following information:
 - What is the school’s reason for denying enrollment and full participation?
 - Can the parents or youth provide information about where they are staying and why the school in which they are seeking enrollment is a “school that nonhomeless students who live in the same attendance area are eligible to attend?”

Schools also may inform parents, guardians, and unaccompanied youth that they can seek the assistance of advocates or attorneys and may wish to provide a list of local attorneys and

²⁶ When working with unaccompanied youth, accessing such information can be especially challenging. Unaccompanied youth often are apprehensive about sharing such details, in particular in cases of abuse or neglect where the youth does not want to get his or her parent in trouble or to invite the involvement of child protective services. Local liaisons should keep in mind that unaccompanied youth are eligible for the McKinney-Vento Act’s services, even when the precise reason for their homelessness cannot be established.

advocates who have thorough knowledge of the McKinney-Vento Act and are willing to work with parents and students, if available. The support of a trained advocate can be critical to a parent, guardian or youth, to ensure they submit the necessary dispute documents, provide appropriate information about their situation, and receive their McKinney-Vento rights. Parents and youth often need help to know what information to provide, how to obtain it, and how to present it. Without an advocate, it is uncommon for a parent or youth to have the training and skill in dispute resolution or access to documentation comparable to that of a school district attorney or administrator.

While the McKinney-Vento Act does not require the liaison to be the actual decision-maker, the liaison must “carry out the dispute resolution process.” Therefore, the liaison must be closely involved every step of the way. In fact, in most cases it would make sense for the liaison to be the decision-maker at the first level of appeal, since the liaison is likely to have the most in-depth knowledge of both the law and the particular factual situation. Ensuring the involvement of the local liaison in local dispute procedures and the State Coordinator in both local and state-level disputes is another way to promote informed, consistent decision-making. As the U.S. Department of Education has noted, “LEA homeless liaisons help ensure that disputes are resolved objectively and expeditiously.”²⁷

Similarly, State Coordinators can be critical partners in resolving disagreements informally and ensuring disputes are mediated fairly and successfully. They are the state-level expert on the McKinney-Vento Act with access to the U.S. Department of Education and national colleagues. Involving them in local level disputes can help avoid unnecessary appeals, promote uniformity in implementation across the state, and increase compliance with the law.

J.4.8 Best practices for state-level appeals

The McKinney-Vento Act does not specify how appeals beyond the school district level should operate or who should make final decisions at the state level. However, the law strongly implies that State Coordinators should be involved in state-level appeals. The McKinney-Vento Act

²⁷ U.S. Department of Education. (2004), G-5.

requires states to ensure that school districts comply with the Act.²⁸ Without a role in dispute resolution, the state will not be able to ensure compliance.

In practice, it is critical that State Coordinators play a role in the process and resolution of disputes. They are the McKinney-Vento experts at their SEAs and bear the responsibility of ensuring compliance with the Act statewide. However, in some states it can be a conflict of interest for a State Coordinator who is the sole, final decision-maker to get involved with the dispute at the local level. Contacts with the school, parent or youth at that stage in the process can color the State Coordinator's judgment over the final appeal. Since the State Coordinator can play a critical role in mediating local disputes, it would be impractical to create an appeals system that restricted the Coordinator's ability to become involved early in the process. In addition, the State Coordinator's legal duty to ensure statewide compliance and provide technical assistance to LEAs can be complicated if the Coordinator is the sole decision-maker on appeals. Such decisions can strain relationships with local liaisons or school district administrators.

Some methods to ensure the State Coordinator has appropriate involvement in both local and state-level disputes are:

1. Strongly encourage local liaisons to notify the State Coordinator any time they provide written notice of a disputable decision. For example, in Oregon, local liaisons automatically copy the State Coordinator on written notices. Often, the Coordinator identifies the issue as a compliance issue, rather than a dispute, and is able to contact the district to induce compliance. In other cases, he/she can provide valuable legal and policy information to the liaison to help facilitate a fair, informal resolution to the situation.
2. Create a McKinney-Vento Advisory Board. This body can review appeals, as well as support the program in other ways. The Advisory Board could include veteran liaisons, colleagues at the SEA, and State Coordinators from other states.
3. Create a special McKinney-Vento Dispute Panel of three to five people to make decisions on state-level appeals. Panel members can be SEA employees who are chosen by the State Coordinator and thoroughly trained on the McKinney-Vento Act. The State Coordinator may

²⁸ 42 U.S.C. §§11432(f)(6), (g)(2).

or may not be a member of the panel. In addition, State Coordinators from other states may serve on the panel, to bring their expertise and perspective to the dispute, without the conflicts that can arise when a State Coordinator is making decisions in his or her own state.

4. Designate administrative law judges, ombudspersons, or other decision-makers who are independent but receive comprehensive training on the McKinney-Vento Act from the State Coordinator and can consult with the Coordinator, as needed.

J.4.9 Effectively addressing inter-district issues

Due to the high mobility intrinsic to homelessness, it is not uncommon for a McKinney-Vento dispute to involve more than one LEA. In particular, disputes over attendance at the school of origin and transportation are likely to involve two LEAs. Inter-district disputes should be resolved at the SEA level, and parents and youth should be shielded from these disputes unless they possess information essential to a resolution.²⁹ Regardless of the subject matter of the dispute, State Coordinators must be vigilant to ensure students are not out of school while inter-district disputes are pending.

State Coordinators may resolve inter-district disputes using the same state-level procedures as they use for other disputes. There should be a forum for both LEAs, as well as the parent, guardian or youth, if applicable, to provide documentation to support their position. If the dispute involves other education laws, such as IDEA, the State Coordinator should consult with colleagues at the SEA responsible for implementing those laws. If the dispute involves LEAs in two different states, the Coordinators of both states should be involved as early as possible in the process.

J.5 Special considerations

J.5.1 Compliance issues versus disputes

States are required to ensure that all LEAs in the state comply with the McKinney-Vento Act.³⁰ Often, McKinney-Vento disputes indicate more systemic compliance issues. In particular,

²⁹ U.S. Department of Education. (2004), H-5.

³⁰ 42 U.S.C. §§11432(f)(6), (g)(2). U.S. Department of Education. (2004), D-4, D-5.

disputes over enrollment are likely to indicate systemic non-compliance issues. When a school district refuses to enroll a student due to lack of records, time in the school year, lack of a guardian, or similar issue, the matter is not a dispute as much as a systemic compliance issue. In such cases, the State Coordinator should use the tools at his or her disposal to induce immediate compliance, rather than burden the parent, guardian, youth or school system with the need to follow the dispute process. If a parent or youth seeks to file a dispute, the State Coordinator should explain that the problem is a compliance issue, not a dispute, and tell the parent what specific steps they are taking to resolve the problem quickly. The Coordinator may wish to develop a form distinguishing between compliance issues and disputes, which can be used with LEAs, parents or youth to help ensure a quick and effective resolution. The flowchart in Section J.6 may provide a template for such a form.

The state has several different means to ensure compliance, including:

- Provide regular, on-going technical assistance and professional development to LEAs.
- Seek the support of other SEA professionals to ensure they emphasize McKinney-Vento Act compliance in their contacts with schools. For example, the following SEA staff should ensure their local counterparts are aware of and complying with the McKinney-Vento Act's requirements: Title I, Part A; migrant; special education; charter schools; Title I, Part D; school health and nurses; school counselors; etc.
- Monitor all school districts regularly. McKinney-Vento monitoring should be incorporated in the SEA's consolidated program monitoring.
- The SEA can sanction noncompliant school districts by withholding federal funds, including Title I, Part A funds.

J.5.2 Complaints/appeals involving issues outside of the McKinney-Vento Act

The McKinney-Vento Act's dispute provisions and procedures apply to any dispute related to school selection and enrollment under the McKinney-Vento Act. However, disputes involving children and youth experiencing homelessness may be based on other laws. For example, a student who is homeless may also have a disability and may allege violations of the Individuals with

Disabilities Education Act. Disputes could arise under other federal education laws, civil rights laws, state laws, and even the federal or state constitutions.

When disputes arise under other laws, homeless students must be provided access to the appropriate dispute procedures provided under those laws. The McKinney-Vento dispute process is not the appropriate forum for disputes involving other laws, as it may not include the procedural protections required or decision-makers who are trained in other laws. When complaints involve issues outside the McKinney-Vento Act, the State Coordinator should convene a meeting with colleagues in the SEA who implement the other laws, to determine the appropriate forum for the dispute. Some complaints can be disputed under both the McKinney-Vento dispute procedures and those under other statutes. A group of colleagues can tease out the different legal issues and determine the most expeditious and fair way to resolve the complaint, in accordance with the laws governing each issue area. In addition, when disputes are mediated through another state or federally-mandated process, State Coordinators should participate, as appropriate, to ensure McKinney-Vento rights and responsibilities do not get lost in the process.

J.5.3 Charter schools

Charter school laws vary by state. Depending on state law and/or the school's charter, charter schools are either part of an existing LEA or organized as their own LEA. In either case charter schools must follow the McKinney-Vento Act's mandates. A charter school determined to be a school must follow the McKinney-Vento Act's requirements for schools and must collaborate with the liaison for the LEA to which it belongs. A charter school determined to be its own LEA must follow the Act's requirements for LEAs, including designating a local liaison. Charter school students who are homeless have the right to immediate enrollment in school, school of origin attendance, transportation, and other services the McKinney-Vento Act provides.³¹ In the case of a dispute, students must be immediately admitted to the school in which enrollment is sought, pending resolution.

Depending upon how charter schools are organized under state law, there may be

³¹ If the charter school has particular, skills-related entrance requirements, the student must meet those criteria (for example, a fine arts charter school with requirements related to artistic ability).

differences in specific procedures for resolving disputes. When charter schools are part of another LEA, the charter school must follow the dispute procedures of that LEA. The local liaison will manage the dispute process and guide parents, guardians and youth through the process in the same way as for any student of any school in the district. Local-level and state-level appeals will apply as they would in any case.

When a charter school is organized as its own LEA, the charter school must designate its own local liaison. That liaison would have the responsibility to carry out dispute procedures. If the state has established dispute procedures for LEAs, the charter school must follow those procedures. If the state allows LEAs to develop their own procedures, the charter school may establish its own process or follow the process of a neighboring LEA. The charter school is legally required to meet all the same McKinney-Vento procedural requirements as other LEAs.

J.5.4 Disputes regarding children and youth “awaiting foster care placement”

The McKinney-Vento Act includes children and youth “awaiting foster care placement” in its definition of homeless. There is no federal definition of this term, and states and LEAs have adopted various interpretations.

The McKinney-Vento Act does not establish any different procedures for disputes involving students “awaiting foster care placement.” However, states and LEAs may want to consider the following circumstances that often arise in disputes regarding this group of students:

1. How long is a child or youth “awaiting” foster care placement? At what point is the child *in* foster care? The McKinney-Vento Act does not place a time limit on homelessness, and homeless situations can last months or even years. However, the term “awaiting foster care placement” contains a timeframe: students are eligible while they are awaiting placement, but once placed in care, they are no longer eligible. Many states have issued guidance to define the term “awaiting foster care”; in that case, local liaisons should follow the state guidance. The McKinney-Vento Act gives local liaisons the right and responsibility to identify homeless children and youths. Local liaisons, not child welfare caseworkers or advocates,

must apply the McKinney-Vento definition and any applicable state laws or guidance in determining whether a child is “awaiting foster care placement”.

2. Children and youth in the foster care system often have a legion of adults involved in their lives: parents, foster parents, social workers, judges, court-appointed special advocates, guardians ad litem, mental health professionals, group home case managers, etc. Once foster parents are involved, the child is not likely to be considered “awaiting foster care placement.” However, in most situations, more than one adult will be involved and may want to participate in the youth’s education. Who should be considered the parent or guardian? Who has the right to initiate a dispute on the child’s behalf? The student’s child welfare social worker should be able to identify who has the authority to make educational decisions for the student. In some cases there will be a court order or other document specifying the decision-maker.
3. How does the family or juvenile court case interact with the McKinney-Vento dispute? The court’s jurisdiction over the public school system varies based on state law. The court does have jurisdiction over the child welfare agency and can order that agency to take action related to the child’s education, such as providing documents to the school, providing transportation, and arranging additional services such as mental health counseling.

Building positive relationships with local child welfare agencies, case workers, and judges can help eliminate unnecessary disputes regarding students awaiting foster care placement. State Coordinators play an important role in supporting local liaisons, particularly in regard to this population. When State Coordinators can secure the understanding and cooperation of state child welfare leaders, those leaders can help ensure that local child welfare agencies and social workers have accurate information about the McKinney-Vento Act and respect the role and authority of the local liaisons.

J.6 Navigating conflict resolution

As the previous sections describe the many nuances in determining what can be disputed and how to handle other compliance issues, State Coordinators are left with a maze of decisions. This section proposes a template for a differentiated process to address conflicts brought to the attention of the State Coordinator. The process suggests that there are four basic types of conflicts/complaints:

- Conflicts clearly addressed by the McKinney-Vento Act that require use of the dispute resolution process;
- Conflicts clearly addressed by the McKinney-Vento Act that are compliance issues, which parents or youth should not have to dispute;
- Conflicts that involve the intent of the McKinney-Vento Act but are not explicitly compliance issues; and
- Conflicts that are outside the purview of the McKinney-Vento Act.

Table 1 offers several examples of each conflict for illustrative purposes. This section will elaborate further on these situations and the decision making process the State Coordinator may use to determine the proper course.

Table 1. Types of Conflict and Examples

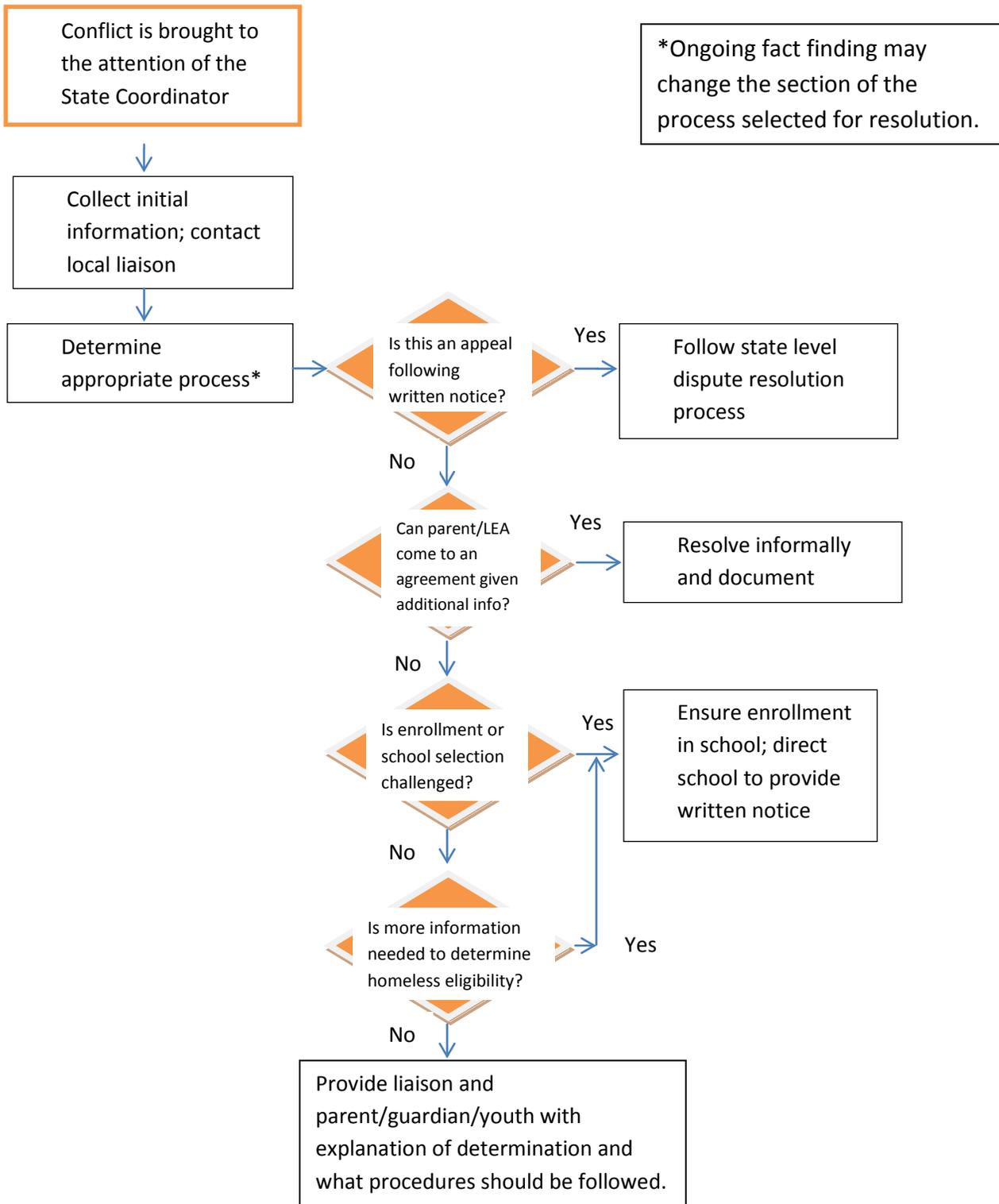
Type of Conflict	Examples
McKinney-Vento dispute resolution conflicts	<ul style="list-style-type: none">• Disagreement about remaining in school of origin• Disagreement about immediate enrollment in school of residency• Disagreement about homeless status when student was appropriately identified as homeless previously (e.g., doubled-up in same location for two years)
Conflicts not appropriate for dispute resolution, but which are MV compliance issues	<ul style="list-style-type: none">• School failed to inform of MV educational rights• Student is not provided free meals

Type of Conflict	Examples
	<ul style="list-style-type: none"> • Systemic non-compliance by an LEA which requires state intervention (failure to identify homelessness; lack of outreach and coordination within schools and community)
Issues which do not implicate MV compliance, but address services which are allowable/beneficial	<ul style="list-style-type: none"> • Preschool student could benefit from school of origin transportation • Additional activities could enhance homeless identification (e.g., using a residency questionnaire) • Summer school could improve student's academic performance but is not required to pass a course
Non MV	<ul style="list-style-type: none"> • Student wishes to enroll in a school that is not an option for students in the residency area and is not a school of origin • Parent disagrees with the services being offered in an IEP • Student never lost housing

Figure 1 provides a graphic representation of the basic steps to be followed when a complaint/question from the field is received by the State Coordinator. Note that whenever possible, the first steps are to collect basic information and attempt to resolve the issue informally. State Coordinators should maintain records for issues resolved informally as well as those that require more formal interventions. Such information is critical to designing the guidance, resources and training needed in the state.

Appendix J.4 Basic intake information, includes suggestions for State Coordinators regarding information to collect at intake and through the resolution process, samples of common disagreements and steps to consider for resolution, and follow up letter templates that can be used along the resolution continuum.

Figure 1. A Differentiated Process to Address Conflicts



J.7 Getting the facts: What is legal and what is reasonable

When a dispute arises under the McKinney-Vento Act, particularly in regard to eligibility, school districts may wish to look further into a family's or youth's situation to compile evidence in support of its position. *It is absolutely critical that all such efforts be grounded in sensitivity and respect, keeping the academic well-being and best interest of the child or youth in the forefront.* Invasive or threatening techniques to confirm eligibility or explore a family's or youth's situation violate the McKinney-Vento Act, may violate the Family Educational Rights and Privacy Act (FERPA), humiliate families and youth, and may put temporary housing arrangements in jeopardy.

Acceptable and unacceptable ways to gather facts about a family's or youth's situation can be found in the NCHC briefs on the do's and don'ts of confirming eligibility.³² Additionally, many school districts and states have developed enrollment forms with informative, yet sensitive, questions to help determine eligibility and gather information.³³ State Coordinators may find the same questions helpful when navigating an appeal in a dispute process.

J.8 Conclusion

The McKinney-Vento Act mandates that each homeless education state plan include a description of procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youth. Furthermore, the Act mandates that LEAs immediately enroll the child or youth while a dispute is resolved; provide the parent, guardian, or youth with a written explanation of the decision and the right to appeal the decision; and refer the child, youth, parent, or guardian to the liaison, to carry out the dispute resolution process expeditiously. There is great flexibility in how SEAs and LEAs implement these requirements and how conflicts not covered by the dispute resolution process are addressed. This document provides State Coordinators with suggestions to meet the basics of a dispute resolution process, additional considerations based on the experiences of fellow Coordinators, and a decision-making process for determining appropriate methods of resolving a variety of conflicts. The appendices that follow offer additional tools that

³² These documents can be found at http://center.serve.org/nche/ibt/sc_eligibility.php.

³³ Sample forms and questionnaires can be found at <http://center.serve.org/nche/forum/eligibility.php>.

may be adapted for use. State Coordinators are encouraged to share other tools they develop with NCHE as states continue to refine dispute and other conflict resolution processes.

Appendix J-1. Sample Transportation Agreement

This agreement remains in effect as long as the student:

- 1. Does not violate district transportation rules, and 2. Rides the bus regularly.

If the student is not present at the bus stop AND the student’s parent/guardian has not phoned the transportation office (###-###) in advance (before 6 am the day of pick-up) to notify them of changes in transportation plans on THREE (3) CONSECUTIVE SCHOOL DAYS, then the district will no longer provide transportation each morning for the student. Once the parent fails to comply with this Transportation Agreement, this contract is terminated and a bus will no longer pick-up the child. It then will be the parent’s responsibility to contact the school district transportation office to request reconsideration for district transportation. If transportation cannot accommodate the request, the parent will become responsible for the child’s transportation to school. This agreement applies to the student’s pick-up address and current school as noted below. NOTE: THE STUDENT MUST MEET THE DISTRICT’S REQUIREMENTS FOR TRANSPORTATION (2 MILES AWAY FROM SCHOOL, CROSSING BOARD-APPROVED HAZARDOUS ROUTES) BEFORE BEING ABLE TO ENTER INTO THIS CONTRACT.

Student’s Name: _____ Grade: _____
School District: _____ Current School: _____
Parent’s Name: _____ Phone #: _____
Emergency Contact: _____ Phone #: _____
Pick-up address: _____
Drop-off address: _____
Date when transportation will begin: _____
Regular transportation: _____ Special Needs transportation (as noted in student’s IEP): _____

As the parent/guardian of the above-named student, I agree to make sure my child is waiting for the bus prior to its arrival each school morning OR I will phone the transportation office (###-####) prior to 6 am if the bus is not needed. I understand that if I fail to follow-through with these requirements, then the bus will no longer come to pick-up my child and I become responsible for making the necessary transportation arrangements to get my child to school.

Parent/Guardian Signature _____ Date _____

Parent Liaison Signature (person who assisted parent with completing this form) _____ Date _____

A copy of this agreement must be given to the parent and faxed to the Transportation Office (###-####) immediately. The original must be kept on file in the Liaison’s office.

Appendix J-2. Sample State Policy, Washington Dispute Resolution Process
Office of Superintendent of Public Instruction
MEMORANDUM NO. 071-09M, Attachment 1
January 5, 2010

Dispute Resolution Process
Office of Superintendent of Public Instruction

DISPUTE RESOLUTION PROCESS
SCHOOL DISTRICT PLACEMENT OF CHILDREN AND YOUTHS
IN HOMELESS SITUATIONS

BACKGROUND INFORMATION

The McKinney-Vento Homeless Assistance Act (also referred to as the Act or the McKinney-Vento Act) acknowledges that disputes may arise between the school district and homeless students and their parents, or unaccompanied youth, when the district seeks to place a student in a school other than the school of origin or the school requested by the parent or unaccompanied youth. The Act includes dispute resolution among the required duties of the local education agency (LEA) liaison. The Washington State Office of Superintendent of Public Instruction (OSPI) has developed a dispute resolution process as required by the McKinney-Vento Act.

Districts should bear in mind that disputes related to school selection or enrollment should be initiated at the request of the parent or unaccompanied youth and not at the request or convenience of the school district. Additionally, issues related to the definition of homelessness, the responsibilities of the school district to serve homeless children and youth, and/or the explicit rights of homeless children and youth are addressed in the McKinney-Vento Act. Disputes related to the school placement and enrollment of homeless children and youths shall be resolved within the parameters of the federal McKinney-Vento Act. The dispute resolution process for the school placement of homeless children and youths shall not be used in an effort to circumvent or supersede any part of the federal McKinney-Vento Act.

The following procedures are specified in the Act:

Enrollment: If a dispute arises over school selection or enrollment in a school, the child or youth shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute. In the case of an unaccompanied youth, the homeless liaison shall ensure that the youth is immediately enrolled in the school in which enrollment is sought, pending resolution of the dispute.

Written Explanation: The district must provide a written explanation of the school placement decision to the parent or, in the case of an unaccompanied youth, to the unaccompanied youth. (The written explanation must include a description of the parent's or unaccompanied youth's right to appeal the decision.)

Liaison: The designated LEA homeless liaison is assigned to carry out the dispute resolution process in an expeditious manner.

Responsibility: The school district, usually the district's homeless liaison, is responsible to inform the parent of the homeless student(s) or the unaccompanied youth of the dispute resolution process.

OVERVIEW

In a case where a dispute occurs regarding the enrollment of a homeless child or youth, the following process must be used: Level I of the appeal is to the district's homeless liaison. If unresolved at this level, the case is appealed to the local school district superintendent (Level II), and if the dispute continues to be unresolved, the final appeal (Level III) is to OSPI. **Every effort must be made to resolve the complaint or dispute at the local level before it is brought to OSPI.**

INITIATION OF THE DISPUTE RESOLUTION PROCESS

If a school district seeks to place a homeless child or youth in a school other than the school of origin, or the school requested by the parent or unaccompanied youth, the child's/youth's parent or the unaccompanied youth shall be informed in a language and format understandable to the parent or unaccompanied youth of their right to appeal the decision made by the school district and be provided the following:

1. Written contact information for the LEA homeless liaison and State Coordinator, with a brief description of their roles.
2. A simple, written detachable form that parents, guardians, or unaccompanied youth can complete and turn in to the school to initiate the dispute process (the school should copy the form and return the copy to the parent, guardian, or youth for their records when it is submitted.)
3. A written step-by-step description of how to dispute the school district's decision.
4. Written notice of the right to enroll immediately in the school of choice pending resolution of the dispute.

5. Written notice of the right to appeal to the state if the district-level resolution is not satisfactory.
6. Written timelines for resolving district- and state-level appeals.

Level I: LEA Liaison Communication

If a parent or unaccompanied youth wishes to appeal a school district's decision related to a student's placement:

1. The parent or unaccompanied youth must file a request for dispute resolution with the district's homeless liaison by submitting a form that initiates the dispute resolution process. The request for dispute resolution must be submitted by the parent or the unaccompanied youth to the district liaison within fifteen (15) business days of receiving notification that the district intends to enroll the student in a school other than that requested by the family or the unaccompanied youth. The parent or unaccompanied youth may submit the request directly to the homeless liaison or they may submit the request to the school where the dispute is taking place. If the request is submitted to the school where the dispute is taking place, the school shall immediately forward the request to the district's homeless liaison. In the event that the district's homeless liaison is unavailable, a school district designee may receive the parent's or unaccompanied youth's request to initiate the dispute resolution process.
2. The homeless liaison must log their receipt of the complaint, including the date and time, with a written description of the situation and the reason for the dispute, and a copy of the complaint must be forwarded to the liaison's immediate supervisor and the district superintendent.
3. Within five (5) business days of their receipt of the complaint, the liaison must make a decision on the complaint and inform the parent or unaccompanied youth in writing of the result. It is the responsibility of the district to verify the parent's or unaccompanied youth's receipt of the written notification regarding the homeless liaison's Level I decision.
4. If the parent or unaccompanied youth disagrees with the decision made at Level I and wishes to move the dispute resolution process forward to Level II, the parent or unaccompanied youth shall notify the district's homeless liaison of their intent to proceed to Level II within ten (10) business days of receipt of notification of the Level I decision.
5. If the parent or unaccompanied youth wishes to appeal the liaison's Level I decision, the district's homeless liaison shall provide the parent or unaccompanied youth with an appeals package containing:

- a. A copy of the parent's or unaccompanied youth's complaint which was filed with the district's homeless liaison at Level I,
- b. The decision rendered at Level I by the LEA liaison, and
- c. Any additional information from the parent, unaccompanied youth, and/or homeless liaison.

Level II: LEA Superintendent Communication

(If the dispute remains unresolved after a Level I appeal)

1. If a parent disagrees with the decision rendered by the district's homeless liaison at Level I, the parent or unaccompanied youth may appeal the decision to the local school district's superintendent, or the superintendent's designee, (the designee shall be someone other than the district's homeless liaison) using the appeals package provided at Level I.
2. The superintendent, or superintendent's designee, will arrange for a personal conference to be held with the parent or unaccompanied youth. The personal conference will be arranged within five (5) business days of the parent or unaccompanied youth's notification to the district of their intent to proceed to Level II of the dispute resolution process. Once arranged, the meeting between the superintendent, or superintendent's designee, and the parent or unaccompanied youth is to take place as expeditiously as possible.
3. The local superintendent, or superintendent's designee, will provide a decision in writing to the parent or unaccompanied youth with supporting evidence and reasons, within five (5) business days of the superintendent's, or superintendent's designee, personal conference with the parent or unaccompanied youth. It is the responsibility of the district to verify the parent's or unaccompanied youth's receipt of the written notification regarding the superintendent's Level II decision.
4. A copy of the appeals package, along with the written decision made at Level II is to be shared with the district's homeless liaison.
5. If the parent or unaccompanied youth disagrees with the decision made at Level II and wishes to move the dispute resolution process forward to Level III, the parent or unaccompanied youth shall notify the district's homeless liaison of their intent to proceed to Level III within ten (10) business days of receipt of notification of the Level II decision.
6. If the dispute remains unresolved, the process then moves to Level III.

Level III: Office of Superintendent of Public Instruction (OSPI) Communication

(If the dispute remains unresolved after a Level II appeal)

1. The district superintendent shall forward all written documentation and related paperwork to the OSPI homeless education coordinator, or designee, for review, within five (5) business days of notifying the parent or unaccompanied youth of the decision rendered at Level II.
2. The entire dispute package including all documentation and related paperwork is to be submitted to OSPI in one consolidated and complete package via hard copy mail delivery. Documents submitted separately from the dispute package, documents submitted after the fact, or documents submitted outside of the dispute package in an attempt to extend the dispute timeframe or impact a pending dispute outcome may not be reviewed by OSPI. It is the responsibility of the district to ensure that dispute packages are complete and ready for review at the time they are submitted to OSPI.
3. The OSPI homeless education coordinator, or designee, along with the appropriate agency director, and/or agency assistant superintendent, shall make a final decision within fifteen (15) business days of receipt of the complaint.
4. The final decision will be forwarded to the local school district's homeless liaison for distribution to the parent and the local superintendent.
5. The decision made by OSPI shall be the final resolution for placement of a homeless child or youth in the district.
6. The office of the school district superintendent shall maintain a record of all disputes related to the placement of homeless children and youths. These records shall include disputes resolved at Level I, Level II, and/or Level III and shall be made available to OSPI upon request.

INTER-DISTRICT DISPUTES

If a dispute arises over school selection or enrollment in a school, the child or youth shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute. In the case of an unaccompanied youth, the homeless liaison shall ensure that the youth is immediately enrolled in school pending resolution of the dispute.

Disputes arising between school districts (LEAs) regarding the placement of a homeless child or youth in a district should be resolved between the districts at the local level in the best interest of the child and according to the law. Disputes between LEAs that remain unresolved shall be forwarded in writing by either of the disputing districts to the OSPI homeless education coordinator, or designee. A decision will be made by the OSPI homeless coordinator, or designee, along with a committee of OSPI staff within ten (10) business days of the receipt of the dispute and will be forwarded in writing to the districts' superintendents, the districts' homeless liaisons and the parent(s) of the homeless child, or the homeless youth.

The decision made by OSPI shall be the final resolution between the disputing LEAs for placement of a homeless child or youth in a district.

McKinney-Vento Homeless Education Act of 2001
42 U.S.C. §§ 11431, et. seq. (Chapter 119) , as amended by the
No Child Left Behind Act.

POLICY STATEMENT

Section 721(l)(2) of the McKinney-Vento Homeless Education Act:

The following is the policy of the Congress:

- (1) Each State educational agency shall ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youths.
- (2) In any State that has a compulsory residency requirement as a component of the State's compulsory school attendance laws or other laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and youths, the State will review and undertake steps to revise such laws, regulations, practices, or policies to ensure that homeless children and youths are afforded the same free, appropriate public education as provided to other children and youths.
- (3) Homelessness alone is not sufficient reason to separate students from the mainstream school environment.
- (4) Homeless children and youths should have access to the education and other services that such children and youths need to ensure that such children and youths have an opportunity to meet the same challenging State student academic achievement standards to which all students are held.

DEFINITIONS

Homeless Children and Youths: According to Section 725(2) of the McKinney-Vento Homeless Education Act, "the term 'homeless children and youths'--

- (A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1)) [‘one who (1) lacks a fixed, regular, and

adequate residence or (2) has a primary nighttime residence in a supervised publicly or privately operated shelter for temporary accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill), an institution providing temporary residence for individuals intended to be institutionalized, or a public or private place not designated for, or ordinarily used as, a regular sleeping accommodation for human beings.']; and

- (B) includes--
- (i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;
 - (ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 103(a)(2)(C));
 - (iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
 - (iv) migratory children (as such term is defined in section 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii)."

Section 103(c) of the Act specifically excludes from the definition of homeless individuals any person who is imprisoned or otherwise detained by Act of Congress or State law.

Unaccompanied Youth: Section 725(6) of the Act indicates that the term "unaccompanied youth" includes a youth not in the physical custody of a parent or guardian." Youth living on their own in any of the homeless situations described in the law, are covered by the law.

Fixed Residence: A residence that is stationary, permanent, and not subject to change.

Regular Residence: A residence which is used on a regular (i.e., nightly) basis.

Adequate Residence: A residence which is sufficient for meeting both the physical and psychological needs typically met in home environments.

Parent: For the purpose of this policy, a parent means a parent, legal guardian, or person having legal custody of a child.

School of Origin: The school of origin, as defined in the McKinney-Vento Homeless Education Act, Section 722 (g)(3)(G), is the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled.

Enrollment: The terms “enroll” and “enrollment” include attending classes and participating fully in school activities.

Appendix J-3. Links to State Dispute Resolution Processes

California Department of Education Dispute Resolution Process

This webpage details the McKinney-Vento dispute resolution process established by the [California Department of Education](#).

 View the [process](#).

Cobb County School District (Atlanta, GA) Dispute Resolution Forms

This policy and related forms detail the McKinney-Vento dispute resolution process established by the [Cobb County School District](#).

 View the [complete enrollment policy](#).

 Download the Appeal of Enrollment Form [in English](#). (see page 2)

 Download the Appeal of Enrollment Form [in Portuguese/em português](#).

 Download the Appeal of Enrollment Form [in Spanish/en español](#).

 Download the [Written Notification of Enrollment Decision Form](#).

Kentucky Department of Education Dispute Resolution Policy and Forms

The [Kentucky Department of Education](#) follows this policy, and uses related forms, to resolve disputes regarding the enrollment of children and youth experiencing homelessness.

 Download the [dispute resolution policy](#).

 Download the [dispute resolution form](#).

Massachusetts Department of Education Dispute Resolution Process

This advisory and related forms detail the McKinney-Vento dispute resolution process established by the [Massachusetts Department of Education](#).

 View [Advisory 2003 - 7: McKinney-Vento Homeless Education Dispute Resolution Process](#).

 Download [Advisory 2003 - 7A: School District Notification of Enrollment Decision](#).

 Download [Advisory 2003 - 7B: Appeal of School District's Enrollment Decision](#).

Oregon Department of Education Dispute Resolution Procedure for Homeless Students and Families

This form from the [Oregon Department of Education](#) details how Oregon school districts should handle disputes regarding the enrolling and serving of students experiencing homelessness.

 Download the [form](#).

San Antonio Independent School District (SAISD) Enrollment Dispute Form

This form (available in English and Spanish versions) serves as the written notice provided to the family/student by the [San Antonio Independent School District](#) in the case of an enrollment dispute. The student's appeal rights are detailed therein.

 Download the form [in English](#).

 Download the form [in Spanish \(en español\)](#).

Virginia Department of Education Dispute Resolution Process

This webpage details the McKinney-Vento dispute resolution process established by the [Virginia Department of Education](#). It also provides links to related forms mentioned in the process.

 View the [process](#).

Illinois Dispute Resolution Processes, available online at:

This webpage details the McKinney-Vento dispute legislation in [Illinois](#) and the dispute resolution forms and processes can be found [here](#).

Appendix J-4. Basic intake information

Information to include in an intake form when a call or email is received

Person completing form:	
Date:	
Person calling:	
Relationship to students:	
Location:	
Phone number(s):	
School district(s):	
School(s):	
Age(s)/grade(s) of student(s):	
Family situation:	
Current housing situation:	
Housing/homeless history:	
Concerns/complaints:	
Resolution desired:	
If eligibility as homeless is an issue, was an eligibility checklist used?	
Did the liaison help the family understand why the living situation should not be considered homeless?	
If school selection is an issue, was a best interest determination conducted? ¹	
Follow up with liaison: (date and narrative)	
Resolution:	

Consult flowchart to determine next steps [Link back to the flowchart or copy here.](#)

State Coordinator may collect information for this process.²

¹ LEA Liaison Toolkit includes a [best interest determination worksheet](#).

² Sample forms/checklists can be found at http://center.serve.org/nche/ibt/sc_dispute.php

Appendix J-5. Common Disagreements

(These examples are for illustrative purposes, only. Actual cases will have nuances not captured in the simplistic basic issues.)

Basic Issue	Steps to Resolving
The student is seeking enrollment in the school for the current residency area. (Homeless status is not contested.)	School must enroll immediately. (SC may use noncompliance letter if school refuses.)
The student is seeking enrollment in a school other children in the residency area may attend.	Immediate enrollment unless some other criteria are not met (for example, an arts charter school with admissions requirements related to artistic ability). If other criteria are not met, school should follow normal process for denying request. State Coordinator may use non MV letter template.
The student wishes to remain in a school of origin and the school disagrees.	Ensure a feasibility/best interest determination has been conducted and documented. School provides written notification and follows dispute resolution process.
The school questions the actual residency of the student at enrollment.	If more information is needed to make a determination, school should immediately enroll pending information collection. (Use care and sensitivity in the verification process.) If the student is not residing in the area to attend the school and the school is not a school of origin, follow normal process for denying request. State Coordinator may use nonMV letter template.
The school challenges the student’s status as homeless.	<ul style="list-style-type: none"> a. School provides written notification and follows dispute resolution process. (The school may use the sample determination template for parents when not MV eligible as part of the written notice.) b. <i>If more information is needed, or the living situation is not easily categorized:</i> Liaison should consult with State Coordinator. State Coordinator may consult with USED or NCHE for technical assistance.
The student is seeking enrollment in a school which is not a school of origin or school of residency (including schools in which students in the attendance area may enroll).	Issue is not McKinney-Vento; provide parent, guardian, or youth with explanation and possible avenues to appeal outside MV.
The student does not meet the eligibility	Issue is not McKinney-Vento; provide parent, guardian,

Basic Issue	Steps to Resolving
criteria to participate in a school activity and criteria are not associated with homeless status (e. g., GPA is too low to participate in a sport).	or youth with explanation and possible avenues to appeal outside MV.
The student has an IEP and the parent is not satisfied with the special education program provided.	Special education will need to participate in the resolution. If specifics of the case involve homeless status, include the liaison/State Coordinator in the resolution. If the issue is not McKinney-Vento related, the parent, guardian, or youth should follow IDEA processes.
Best interest determination was conducted and is not being appealed; transportation to school of origin was not provided.	This is a compliance issue; the State Coordinator should intercede with the LEA. (See sample non-compliance template)
School of origin transportation was offered but parent/guardian/youth does not accept the option offered.	<p>State Coordinator should consider these questions before advising the school:</p> <ul style="list-style-type: none"> Is the option offered safe? Does the option offered avoid stigmatizing due to homelessness? Does the option impose extraordinary inconvenience on the student (e.g., excessive transfers, unnecessary and excessively long commute time)? Does the parent/guardian/youth request exceed the requirements of the Act (e.g., door-to-door service)? <p>If the transportation offered is safe and does not stigmatize based on homeless status, the school has met its obligation under MV; inform the parent/guardian/youth.</p> <p>If the option offered is unsafe or stigmatizing, the state coordinator should work with the liaison to explore other options, including the possibility of revisiting the best interest determination.</p>

Appendix J-6. Non-Compliance Template

Local liaison
School District
Address

Date

Dear

I am writing to inform you that School District ____ is out of compliance with the Education of Homeless and Youth Program requirements of the McKinney-Vento Homeless Assistance Act. According to Section 722(g)(2), the state is responsible for LEA compliance with these requirements and for the provision of technical assistance to local educational education in fulfilling these requirements.

Provide code section(s) that are not being followed:

According to section ###, the LEA "insert citation."

Explain actions/lack of action by the LEA that has been brought to the attention of the State Coordinator:

Description of fact-finding that led to the compliance letter.

Offer steps to be taken by the LEA to resolve the issue.

The following steps should be considered to resolve the current compliance matter:

Identify technical assistance available from the state coordinator and/or designee(s).

To assist you in these efforts, the following resources are available:

Please provide my office with an action to address this concern by _____ date. I look forward to the resolution of this matter in a timely fashion and am available to assist you.

Sincerely,

Appendix J-7. Sample Template for Parents When Student is Not Considered McKinney-Vento Eligible

Parent/Guardian/Youth
Address

Date

Dear

This letter is in response to your contact with my office on *date*, requesting McKinney-Vento assistance for *student's name* in *school/school district*. Based on the information provided, *student's name* does not meet the definition of homeless under the McKinney-Vento Education for homeless children and youth (EHCY) program. General enrollment eligibility and procedures for the school in question would apply.

Section 725 of the Act defines homeless children and youth for EHCY:

(2) The term `homeless children and youths'-- (A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1)); and (B) includes-- (i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement; (ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 103(a)(2)(C)); (iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and (iv) migratory children (as such term is defined in section 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii).

None of the categories above describe *student's name* living situation. Explain why. (Include documentation of any vetting with national partners here or precedence the State Coordinator has on file.)

Furthermore, the checklist¹ used to make this determination is attached. Should you have further questions, please feel free to contact my office.

Sincerely,
cc: Local homeless education liaison

¹ You may consider creating a checklist that can be used.

Appendix J-8. Sample Determination Template for Parent When Not a McKinney-Vento Issue

Parent/Guardian/Youth

Address

Date

Dear

This letter is in response to your contact with my office on date, requesting McKinney-Vento assistance for *student's name* in *school/school district*. You requested (explain request)

This request is not addressed as a requirement of the McKinney-Vento Education for Homeless Children and Youth (EHCY) program. There may be other avenues that can be explored to meet your request.

- This appears to be a special education issue. You may wish to contact ***list the state contact for IDEA compliance, the state's parent ombudsman, or special education technical assistance****
- Your request may be appealed through the school district's normal appeal process. *Liaison's name*, should be able to connect you with the proper central office staff.

Should you have further questions, please feel free to contact my office.

Sincerely,

cc: Local homeless education liaison