

# McKinney-Vento Act: Education of Homeless Children & Youth

## Oregon Department of Education Dispute Resolution Protocols

### MCKINNEY-VENTO ACT: SECTION 722(G)(3)(E)

"If a dispute arises over eligibility, or school selection or enrollment in a school –

(i) the child or youth shall be immediately enrolled in the school in which enrollment is sought, pending final resolution of the dispute, including all available appeals;

(ii) the parent, guardian or unaccompanied youth provided with a written explanation of any decisions related to school selection or enrollment made by the school or district, including the right to appeal such decisions;

(iii) the parent, guardian or unaccompanied youth shall be referred to the local district liaison who shall carry out the dispute resolution process as expeditiously as possible after receiving notice of the dispute;

(iv) 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.

The [federal McKinney-Vento Act \(MV\)](#) requires states to ensure equal access to public schools and other educational support for students navigating housing instability. Among the provisions is the right of parents, guardians, and unaccompanied youths who are navigating housing instability to dispute district determinations of school placement and MV eligibility.

This document provides guidance for Oregon school districts, students/youth, and their families or representatives regarding procedures and protocols for dispute resolution and appeals, in compliance with the McKinney-Vento Act's Education of Homeless Children and Youth program, as reauthorized in 2015 under the [Every Student Succeeds Act \(ESSA\)](#).

### Oregon's Complaint & Dispute Resolution Process – Generally

Oregon's public schools are governed by locally elected school boards. The Oregon Department of Education (ODE) **only steps in to address complaints or appeals when authorized by federal or state law**. The McKinney-Vento Act is one such law. As a result, Oregon's McKinney-Vento dispute resolution process begins at the local level, with the possibility to appeal, first locally, and then to ODE for review and a final determination as necessary. This document describes each step in the process.

If a dispute arises over eligibility, school selection or enrollment, the Local Education Agency will immediately enroll the student/unaccompanied youth in the school that the student/youth is seeking enrollment<sup>1</sup> in. The student must remain enrolled while the dispute is being resolved, including through all appeals.<sup>2</sup>

### Local Dispute Resolution Process

The McKinney-Vento Act **requires** each Local Education Agency<sup>3</sup> (LEA) to have its own written process for handling MV disputes regarding eligibility, enrollment, and school selection determinations. If an LEA makes an eligibility, enrollment, or school selection determination related to a student that conflicts with the wishes of the youth/parent/guardian involved, the LEA is required to provide to the parent or guardian of the student or (in the case of an unaccompanied youth) their right to

<sup>1</sup> The MV Act defines enrollment as "attending classes and participating fully in school activities." 42 U.S.C. § 11434a(1).

<sup>2</sup> 42 U.S.C. § 11432(g)(3)(E)(i), (iv).

<sup>3</sup> The MV Act borrows the definitions for "local educational agency" and "State educational agency" that are found under 20 U.S.C. § 7801. 42 U.S.C. § 11434a(3).

dispute the LEA's determination.<sup>4</sup> This determination must be in writing with a description of the LEA's dispute resolution process, including instructions on how to appeal the determination.<sup>5</sup> The LEA's McKinney-Vento District Liaison must initiate and carry out the dispute resolution process as expeditiously as possible after receiving notice of the dispute.

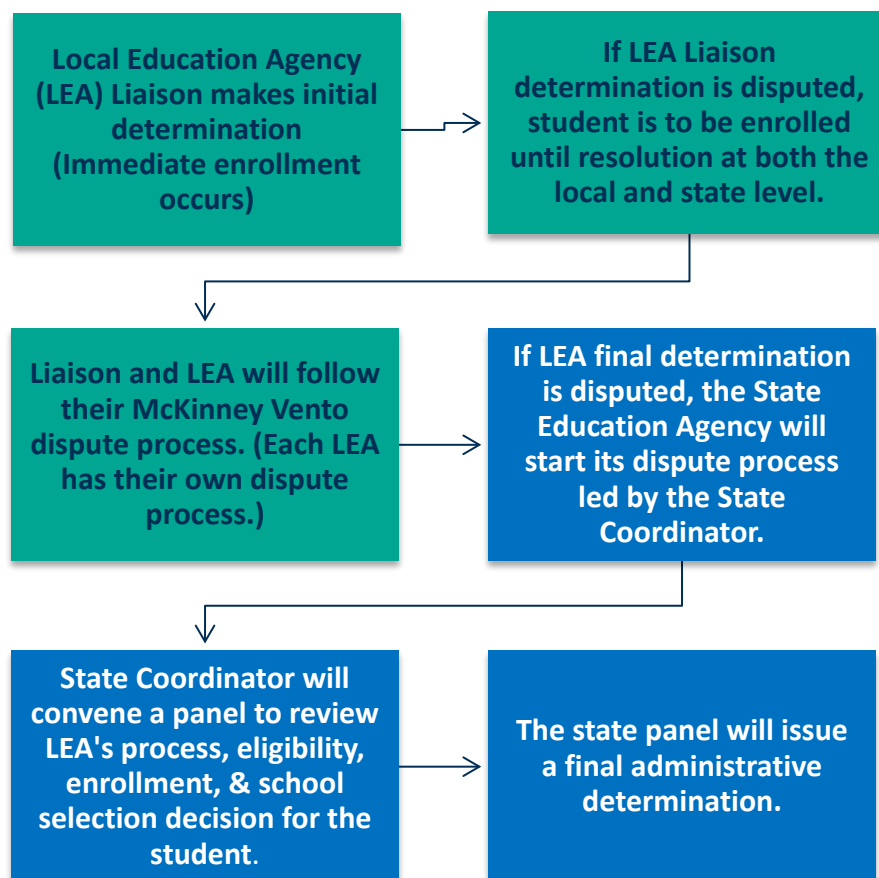
### State Dispute Resolution Process – Final Determination

If agreement at the local level cannot be reached between the parties regarding the student's MV eligibility, school selection, or enrollment. The student, parent, or guardian has a right to appeal the LEA's determination to the State Education Agency<sup>6</sup>.

The State Coordinator will convene a panel of at least three (3) ODE employees.

The ODE state panel will review the dispute and issue a determination in writing within **twenty working days** of receiving notification from the district or parent/guardian/student of a dispute. **This determination is final.** There are no available administrative appeals after the state panel issues its final determination.

### Dispute Resolution Process – Overview Flow Chart



<sup>4</sup> 42 U.S.C. § 11432(g)(3)(E)(ii).

<sup>5</sup> 42 U.S.C. § 11432(g)(3)(E)(iii).

<sup>6</sup> 42 U.S.C. § 11432(g)(3)(E)(i).

## State Dispute Resolution Process – Required Forms & Documents

The parents, guardian, or youth/student, with assistance from the LEA's McKinney-Vento District Liaison, **must** provide each of the following to the McKinney-Vento State Coordinator:

1. *Copy of the LEA's written determination*
2. *Copy of the LEA's written dispute resolution process*
3. *State Dispute Resolution Form (linked below)*
4. *Additional supporting documentation, as necessary (e.g., notification letter, email correspondence, etc.)*

### State Dispute Resolution Form

This form should be filled out once the LEA has made its final determination and all available appeals with the LEA have been completed.

A copy of this form is available on the ODE's website to be printed, completed by hand, and may be returned to the LEA for submission to the Oregon Department of Education.

If assistance is needed when completing this form contact the district's MV liaison or MV State Coordinator by email at [OR-MV@ode.oregon.gov](mailto:OR-MV@ode.oregon.gov).

## Complaints<sup>7</sup>

Before bringing a complaint to the State Coordinator, the Oregon Department of Education recommends that the complainant (parent/guardian/student) should first contact the LEA (e.g., the local school district, McKinney Vento Liaison, principal, or superintendent) to present their concerns to the individuals closest to the situation who are most likely to be able to quickly resolve the matter.

### Arrangement of a Transportation Plan

In the cases where it is determined to be in a student's best interest to attend the school of origin<sup>8</sup>, but the student is living in a different LEA, the LEA of origin and the LEA in which the student is living must agree on a method to share the responsibility and costs of providing transportation to and from the school of origin. If the LEAs are unable to reach an agreement, the LEA of origin and the LEA in which the student is living **must equally share the responsibility and costs for transportation**.<sup>9</sup>

When LEAs disagree about transportation for a student eligible for such service under the MV Act, it is recommended that the LEAs first fill out the [Transportation Agreement Plan](#) before contacting the MV State Coordinator to handle transportation matters. If an agreement is completed, LEAs involved should ensure that both LEAs have a copy of this plan after completion. If an agreement cannot be reached, please contact the MV State Coordinator.

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<sup>7</sup> Oregon Department of Education will intervene on complaints only when authorized by state or federal law.

<sup>8</sup> The MV Act defines school of origin as "the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled." 42 U.S.C. § 11432(g)(3)(I)

<sup>9</sup> 42 U.S.C. § 11432(g)(1)(J)(iii) (II).

## **District Compliance Monitoring – Local Dispute Resolution Policies**

Federal Title programs, including McKinney-Vento, are monitored by ODE on a regular basis. ODE's review includes verifying that each school district has policies and procedures addressing the rights of homeless students, including the right to appeal eligibility, enrollment, and placement determinations, and that such information is publicly placed, such as on school or district websites. This information must also be presented in language appropriate to the communities in which the school/district serves. School districts should also maintain copies of all written notifications related to a student's MV eligibility, enrollment, and placement.

### **Resources for LEAs**

The Oregon School Boards Association (OSBA) has a sample district homeless student policy, with administrative rules, which districts may adopt. OSBA's sample policy includes a statement on the right of homeless students to dispute eligibility, enrollment, and school selection.

For more information on compliance with the dispute resolution provisions of the McKinney-Vento Act, Education of Homeless Children and Youth Program, contact the State Coordinator's Office at the Oregon Department of Education.