

McKinney-Vento Act: Education of Homeless Children & Youth

Dispute Resolution Protocols *District Procedures and Compliance*

The federal McKinney-Vento (MV) Education of Homeless Children and Youth program requires states to ensure equal access to public schools by homeless students and other educational support. Among the provisions is the right of homeless parents and unaccompanied homeless youths to dispute district determinations of school placement and McKinney-Vento eligibility.

This brief provides guidance for Oregon school districts 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).

2015 Reauthorization Changes to McKinney-Vento Provisions

The 2015 MV reauthorization resulted in the codification of several items previously found in non-regulatory guidance. One such change occurred in the determination of a student's best interest:

Previous McKinney-Vento provision:

In determining the best interest of an eligible child or youth, the district shall, *to the extent feasible*, keep the student in their school of origin.

New under McKinney-Vento:

In determining the best interest of an eligible child or youth, the district shall *presume that keeping the student in the school of origin is in their best interest*, except when doing so is contrary to the request of the parent or unaccompanied student.

In addition to the presumption clause, MV directs districts to **consider student-centered factors** related to the child or youth's best interest, including factors related to "the impact of mobility on achievement, education, health and safety" of homeless students, giving priority to the request of the parent or unaccompanied youth.

Also new in the Act is the provision that the **receiving or feeder schools** are included in the definition of "school of origin." The same criteria for best educational interest determinations apply to feeder schools. A review of a student's best educational interest is appropriate whenever a school change is about to occur.

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.

Elements of a Written *School Placement* Dispute Resolution Notification

- Citation of the MV Act regarding right to enrollment, dispute resolution and appeal process.
- Explanation of the determination – what it means.
- Reason for the determination – why you made this determination.
- Instructions to appeal the dispute, including specific phone numbers, emails, etc., that are not too cumbersome; must be manageable by a homeless parent or student.
- Appeals Process should allow for determination to be made at the lowest administrative level possible, rising in hierarchy as appeals progress.
Example: A Liaison makes determination; first appeal goes to the Liaison's supervisor; second appeal goes to upper level administrator (e.g., Supt or Asst Supt). The final appeal always to ODE State Coordinator.
- **Important:** Notify and copy State Coordinator, particularly if appeal may go to state.
- Provide a reasonable timeline for appeal process and decision.
- Use language that is direct and comprehensible, but not intimidating.
- Brief is best, especially for the initial notification. Save specifics for appeal process, to justify determination.

McKinney-Vento *Eligibility* Disputes

The reauthorization clarified that eligibility for McKinney-Vento may be disputed by a parent, guardian or youth. If a family or student claims to live in a homeless living situation and requests the rights of an eligible student, and the Liaison disagrees the living situation qualifies, dispute resolution protocols are required. Procedures for resolution of eligibility disputes mimic that of school placement disputes, with similar rights to enrollment during the dispute process. Notification and resolution should be handled quickly, to minimize need for school enrollment changes. Text for a sample notification for a dispute of eligibility is posted at the end of this document.

The Oregon Department of Education (ODE) Homeless Education Program further recommends that:

A. The person having the complaint (parent/guardian/student) should first contact the school or district (e.g., the local school district Liaison for homeless students, the principal, or superintendent) to present their concerns to the people closest to the situation and most likely to be able to resolve it quickly.

B. If Step A is not successful or is not possible under the circumstances, the parent, guardian or student should contact ODE directly through the Education for Homeless Children and Youth Program, McKinney-Vento State Coordinator, Lexi Neemann, at lexi.neemann@ode.oregon.gov.

C. Districts that make determinations on eligibility, enrollment or school placement for homeless students that conflict with the wishes of the parent or student involved are required to provide notice of the determination in writing to the parties involved, along with instructions on how to appeal the decision. Students are entitled to remain in their school of choice, with transportation, until the appeal process has reached conclusion. Districts are advised to include review by ODE as the final step in the appeals process, and to contact the State Coordinator at the time written notification is processed to ensure rapid response.

DISTRICT COMPLIANCE MONITORING – Local Dispute Resolution Policies

Federal Title programs in all districts, including McKinney-Vento, are monitored by the Oregon Department of Education on a regular basis. Reviews include verification that each school district has policies and procedures addressing the rights of homeless students, including the right to appeal eligibility and placement determinations. Districts should maintain copies of written notifications related to MV student eligibility and placement for monitoring evidence.

The Oregon School Boards Association (OSBA) has a sample district homeless student policy, with administrative rules, which may be adopted by districts. This policy includes a statement on the right of homeless students to dispute resolution.

For general information on compliance with Dispute Resolution provisions of the McKinney-Vento Act, Education of Homeless Children and Youth Program, contact the ODE McKinney-Vento Coordinator's Office at OR-MV@ode.oregon.gov.

Resources:

- Oregon Department of Education: [McKinney-Vento Program Website](#)
- [National Center on Homeless Education \(NCHE\) Dispute Resolution](#)
 - [Dispute Resolution Brief](#)

ODE SAMPLE LETTER: Notification of Non-Eligibility for McKinney-Vento Services

Date

Parent/Guardian/Youth
Address

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 Homeless Education program.

Under Section 725 of the McKinney-Vento Act, "homeless" means individuals who lack a fixed, regular, and adequate nighttime residence, including 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; 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, such as living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings.

None of the categories above describe student's name living situation. (Explain why, including any guidance received from NCHE or the State Coordinator).

If you feel this determination was made in error, you have the right to appeal the decision with a district administrator and/or the State Coordinator. Please contact my office for information on how to make an appeal, or if you have further questions.

Sincerely,

Local Liaison
School District
Phone/email

cc:
District Administrator
State Coordinator