

# Dispute Resolution Process

Pursuant to the McKinney-Vento Act, every state must develop procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youths. 42 U.S.C §11432(g)(1)(C). The state must ensure that LEAs comply with requirements set forth in the McKinney-Vento Act including ensuring immediate enrollment, providing written notice to families concerning school selection, enrollment decisions and providing enrollment and pendency in the school of choice while a dispute is being resolved. 42 U.S.C §11432(g)(2)(A).

PDE has developed the following procedures to govern the resolution of disputes regarding enrollment, school selection, homeless status and complaints of non-compliance with legal requirements pertaining to the education for homeless children and youths:

## **Level 1 – A dispute may be raised with a LEA.**

If a dispute arises over school selection or enrollment, the child or youth involved must immediately be admitted to the school in which they are seeking enrollment, pending resolution of the dispute 42 U.S.C.§11432(g)(3)(E)(i). PDE recommends that the parent, guardian or unaccompanied youth who initiates the dispute contact the LEA liaison for individuals experiencing homelessness as soon as possible after receiving notice of the dispute. If the person initiating the dispute does not contact the LEA liaison directly, the LEA shall be responsible for contacting the LEA liaison regarding the dispute as soon as possible and referring the family or youth involved to the liaison.

The LEA liaison shall ensure that the child or youth is immediately enrolled, explain the dispute resolution process to families and help them to use it 42 U.S.C. §11432(g)(3)(E)(iii). The LEA shall issue a written disposition of the dispute within 20 business days after the LEA liaison is notified of the dispute. The disposition shall be provided to the parent, guardian or unaccompanied youth and shall explain the basis for the decision and advise the parent, guardian or youth of the right to appeal. 42 U.S.C.§11432(g)(3)(E)(i).

*NOTE:* The LEA should use and maintain copies of PDE's "Notice of Procedural Safeguards" form (see attached) which ensures that all LEAs (a) inform families of the basis of their decision regarding enrollment or school selection; (b) notifies families of their right to remain in their school of choice pending resolution of the dispute and (c) explains the procedures for challenging the decision of the LEA.

## **Level 2 – A complaint may be filed with a McKinney-Vento coordinator.**

If the parent, guardian or unaccompanied youth is dissatisfied with the LEA's disposition of a dispute or would like to raise any issue of McKinney-Vento Act noncompliance, they may file a complaint or appeal with a McKinney-Vento site or regional coordinator or with the state coordinator. (See attached list which contains contact information for all of the McKinney-Vento coordinators in Pennsylvania). In lieu of filing an appeal with a McKinney-Vento coordinator, a parent, guardian or unaccompanied youth may elect to appeal the LEA decision directly to a court of competent jurisdiction. Participation in the appeal procedure is not required prior to taking legal action.

A regional or site coordinator with whom a complaint or appeal is filed must notify the state coordinator immediately. Upon being notified, the state coordinator will review the complaint or appeal and assign it to a site or regional coordinator for disposition. The coordinator to whom the appeal is assigned may contact, interview and accept documentation from any individual or LEA involved, and shall issue a written disposition within 20 business days after the complaint or appeal has been assigned. The disposition shall be provided to the LEA and the parent, guardian or unaccompanied youth involved. The child or youth shall continue to be enrolled in the school in which he or she is seeking enrollment until the complaint or appeal is resolved or until a disposition from a McKinney-Vento coordinator is received.

The state coordinator may assist in the mediation of disputes directly and may also invite those involved to have the dispute mediated at any time in the process through the Dispute Resolution Program operated by the Commonwealth Office of General Counsel (OGC). The [OGC Dispute Resolution Program](http://www.ogc.pa.gov/Services%20to%20Agencies/Mediation%20Procedures/Pages/default.aspx) (<http://www.ogc.pa.gov/Services%20to%20Agencies/Mediation%20Procedures/Pages/default.aspx>) is a voluntary informal process through which a trained mediator assists in reaching a mutually acceptable resolution.

Participating in mediation is not a waiver of the right to file a lawsuit nor is participation in mediation required prior to taking legal action.

*NOTE:* The parent, guardian or unaccompanied youth may file a complaint with the McKinney-Vento site, regional or state coordinator on the attached complaint form. However, the use of the attached form is not mandatory. Any dispute raised by a homeless family or

youth concerning school enrollment or any other right under the McKinney-Vento Act whether received via telephone, letter or any mode of communication shall be treated as a complaint.

## References

### Purdon's Statutes

24 P.S. § 13-1301 (<http://www.legis.state.pa.us/cfdocs/legis/LI/uconsCheck.cfm?txtType=HTM&yr=1949&sessInd=0&smthLwInd=0&act=14&chpt=13&sctn=1&subsctn=0>).

24 P.S. § 13-1302 (<http://www.legis.state.pa.us/cfdocs/legis/LI/uconsCheck.cfm?txtType=HTM&yr=1949&sessInd=0&smthLwInd=0&act=14&chpt=13&sctn=2&subsctn=0>).

24 P.S. § 13-1306 (<http://www.legis.state.pa.us/cfdocs/legis/LI/uconsCheck.cfm?txtType=HTM&yr=1949&sessInd=0&smthLwInd=0&act=14&chpt=13&sctn=6&subsctn=0>).

### State Board of Education Regulations

22 Pa. Code § 11.18 [↗](http://www.pacode.com/secure/data/022/chapter11/s11.18.html) (<http://www.pacode.com/secure/data/022/chapter11/s11.18.html>).

### Federal Regulations

Elementary and Secondary Education Act, as reauthorized by the [Every Student Succeeds Act](#) McKinney-Vento Homeless Assistance Act [↗](#)  
(<https://www.congress.gov/bill/114th-congress/senate-bill/1177/text>).

### US Code

42 U.S.C. §§11431-11435 (including section 722) [↗](#)  
(<http://www2.ed.gov/programs/homeless/legislation.html>).  
20 U.S.C 1087w [↗](#) (<http://codes.lp.findlaw.com/uscode/20/28/IV/E/1087w>).

### Other

[Pennsylvania Education for Homeless Children and Youth State Plan \(/Documents/K-12/Homeless%20Education/ECYEH%20State%20Plan%202013.pdf\)](/Documents/K-12/Homeless%20Education/ECYEH%20State%20Plan%202013.pdf). (PDF)

[U.S. Dept. of Education Guidelines – Homeless Children and Youth Programs ↗](http://www2.ed.gov/programs/homeless/legislation.html)  
(<http://www2.ed.gov/programs/homeless/legislation.html>).

[OGC Dispute Resolution Program](http://www.ogc.pa.gov/Services%20to%20Agencies/Mediation%20Procedures/Pages/default.aspx)

(<http://www.ogc.pa.gov/Services%20to%20Agencies/Mediation%20Procedures/Pages/default.aspx>).

[Determination of District of Residence for Students in Facilities or Institutions \(PDE-4605\)](/Documents/Teachers-Administrators/Child%20Accounting/Forms%20and%20Instructions/ChildAcctg%20Determination%20of%20SD%20of%20Residence%20PDE-4605.pdf). (/Documents/Teachers-

[Administrators/Child%20Accounting/Forms%20and%20Instructions/ChildAcctg%20Determination%20of%20SD%20of%20Residence%20PDE-4605.pdf](/Documents/Teachers-Administrators/Child%20Accounting/Forms%20and%20Instructions/ChildAcctg%20Determination%20of%20SD%20of%20Residence%20PDE-4605.pdf)). (PDF)

## Attachments

[Procedural Safeguards Notice of Denial of Enrollment](/Documents/Codes%20and%20Regulations/Basic%20Education%20Circulars/US%20Code/Procedural%20Safeguards%20Notice%20of%20Denial%20of%20Enrollment.pdf)

(</Documents/Codes%20and%20Regulations/Basic%20Education%20Circulars/US%20Code/Procedural%20Safeguards%20Notice%20of%20Denial%20of%20Enrollment.pdf>).

(PDF)

[Enrollment Complaint to PA Department of Education](/Documents/Codes%20and%20Regulations/Basic%20Education%20Circulars/US%20Code/Enrollment%20Complaint%20to%20Pennsylvania%20Department%20of%20Education.docx)

(</Documents/Codes%20and%20Regulations/Basic%20Education%20Circulars/US%20Code/Enrollment%20Complaint%20to%20Pennsylvania%20Department%20of%20Education.docx>).

(Word)

[Pennsylvania McKinney-Vento Coordinators \(State, Regional & Site\) ↗](https://directory.center-school.org/homeless/contacts/display)

(<https://directory.center-school.org/homeless/contacts/display>).

## Bureau/Office Contacts

### Education for Homeless Children and Youth Program

Bureau of Curriculum, Assessment, and Instruction

Pennsylvania Department of Education

333 Market Street, 3rd Floor

Harrisburg, PA 17126-0333

Phone: 717-783-6466

### Child Accounting questions should be referred to:

Bureau of Budget and Fiscal Management