

Supporting Students in Temporary Housing



McKinney-Vento Act: Navigating the Dispute Process

Presented By: NYS TEACHS

May 16, 2024

9:30am -11:00am



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The New York State Technical and Educational
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Webinar Format



- Today's session will be recorded.



- Your microphone will be automatically muted.



- Your camera will be automatically disabled.



- The in-webinar chat will allow you to communicate with the panelists and the host only.



For questions, please email Rita Danis at RDanis@measinc.com.

Housekeeping



- We will launch poll questions periodically throughout the session and ask you to put your answers in the chat.
- We won't be able to answer questions about specific situations in the chat, but we welcome you to call the Help Line to discuss these issues at 800-388-2014.
- The Help Line is open 24 hours a day. Specialists are available from 9:00am – 5:00pm. If you leave a message, you will be called back by the next business day.
- Following today's webinar, today's recorded session, attachments and Q&As will be posted/accessible.



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Who Is In The Room?

Are you a...

- New McKinney-Vento Liaison (1st Year)
- McKinney-Vento Liaison (2-4 years)
- McKinney-Vento Liaison (5–9 years)
- McKinney-Vento Liaison (10+ years)
- Other School/District Staff



Which region are you from?

- * Western
- * Finger Lakes
- * Central
- * Southern Tier
- * Mohawk Valley
- * Capital
- * Hudson Valley
- * New York City
- * Long Island
- * North Country

Welcome!

By the end of today's webinar, participants will be able to:

- Identify the responsibilities of SED, the LEA, and the McKinney-Vento Liaison in the dispute process.
- Describe the steps in a dispute process.
- Apply this knowledge to a sample dispute.
- Use strategies and resources during the dispute process.



Today's Agenda



Welcome! Who is in the Room?



Opening Activity and Review of McKinney-Vento Act



Role of SED, the LEA and the McKinney-Vento Liaison



The Dispute 310 Appeal Process: A Step-by-Step Guide



Strategies for Success



Summary, Survey, and Resources



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Opening: Handling Disputes



Think about any kind of dispute that you have been involved in-or witnessed-that was **successfully resolved**.

What factors facilitated an effective resolution to the dispute?

In a few words, please put your answers in the chat!



They had a tendency to talk past each other.



McKinney-Vento Homeless Assistance Act

The McKinney-Vento Act states that children and youth who lack a “fixed, regular, and adequate nighttime residence” will be considered homeless.



Homelessness: Living Conditions

- Sharing the housing of others due to loss of housing, economic hardship or a similar reason
- Living in emergency or transitional shelters
- Living in motels, hotels, trailer parks, camping grounds due to the lack of alternative adequate accommodations
- Abandoned in hospitals
- Living in a public or private place not designed for sleeping
- Living in cars, parks, abandoned buildings, substandard housing, bus or train stations, etc.
- Migratory children living in circumstances described above
- Unaccompanied youth living in circumstances described above



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Education Law §3209(1)(a); 8 NYCRR §100.2(x)(1); see also 42 USC §11434A(2)(B)(i)



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Introduction to the Dispute Process

“While few people enjoy conflict, a **dispute resolution process** is an important tool to protect the rights and best interests of homeless children and youths, as well as those of the local education agency (LEA).”

The dispute resolution process “**ensures that each party’s views are represented**” so that disagreements can be resolved expeditiously.

Source: National Center for Homeless Education, [NCHE Local-Liaison-Toolkit: Dispute Resolution](#)

“It is under the greatest adversity that there exists the greatest potential for doing good, both for oneself and others.”
-Dalai Lama



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Quick Poll #1

Have you personally been involved in helping a parent/guardian/youth with a McKinney-Vento dispute (Dispute 310 appeal)?

A. Yes

B. No

C. Not Sure



Role of SED, the LEA, and the McKinney-Vento Liaison



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Dispute Resolution: State Level

The McKinney-Vento **Act requires each State educational agency (in New York, NYSED) to include a written procedure for the prompt resolution of disputes** in its state plan for homeless education [42 U.S.C. § 11432(g)(1)(C)].

In addition, **SEAs are required to have a McKinney-Vento dispute resolution process in place** [42 U.S.C. § 11432(g)(1)(C)]. While each district is allowed to design its own process as long as basic requirements are included, it is important for LEA dispute policies to align with the State dispute resolution policy.



Source: National Center for Homeless Education, *Local Liaison Toolkit: Dispute Resolution*

[NCHE Local-Liaison-Toolkit](#)



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Sample Forms Available

Instructions and sample forms for McKinney-Vento appeals can be found on the New York State Education Department, Office of Counsel's website.

The appeal form, also called the Form Notice of Petition or 310 Appeal, is available in English, Spanish, Arabic, Bengali, Chinese, and Haitian Creole.

<http://www.counsel.nysed.gov/appeals/homelessForms>



Dispute Process: Local Level

If there is a dispute regarding a student's homeless status, school selection, enrollment, and/or request for transportation in New York State, the **student must be immediately enrolled in the school where enrollment is sought and provided with transportation services (if requested).**

Each Local Education Agency (LEA) must also have a dispute policy that aligns with the state dispute resolution policy. A sample policy is available under Guides and Fact Sheets in the Resource Library topic, Dispute Resolution/Appeals process of our website.

<https://www.nysteachs.org/dispute-resolution-appeals-process>

SAMPLE DISTRICT DISPUTE RESOLUTION POLICY

District Level Dispute Resolution Responsibilities

If there is a dispute regarding a student's homeless status, school selection/enrollment and/or request for transportation, the student must be immediately enrolled in the school where enrollment is sought and provided with transportation services (if requested). The district then must follow the procedures it has established to resolve disputes. However, the district's procedures must provide the student's parent or guardian, or the student, if the student is an unaccompanied youth, with an opportunity to submit information before it makes a final determination regarding the student's homeless status.

If the district makes a final determination that a student is not homeless, and/or not entitled to attend school within the district, it must provide the student's parent or guardian, or the student, if the student is an unaccompanied youth, with written notice that the student is not entitled to attend its schools. This written notice must:

- 1) state all of the reasons for the district's determination;
- 2) advise that the district's final determination may be appealed to the Commissioner of Education (Commissioner) within 30 days;
- 3) state the date as of which the student will be excluded from the district's schools (i.e. 30 days from the determination letter, unless there is an appeal);
- 4) provide the name and contact information for the district's homeless liaison;
- 5) inform the student's parent or guardian or the student, if the student is an unaccompanied youth, that the district's homeless liaison is required to assist him/her in filing such an appeal; and
- 6) contain all of the needed forms, including the form petition needed to file an appeal to the Commissioner.

The Superintendent must ensure that the district's final decision is delivered to the parent, guardian, or unaccompanied youth in a timely manner.

The student must remain enrolled and provided with transportation (if requested) until the district makes a final determination and for a minimum of 30 days after the determination to give the student's parent or guardian or unaccompanied youth the opportunity to appeal to the Commissioner.

Appeal to the Commissioner of Education: 310 Appeals Process

The student's parent or guardian or the unaccompanied youth is entitled to challenge the district's final determination to deny enrollment and/or transportation by filing a 310 appeal with the Commissioner.

1

LEAs are Required to Do the Following:

If a dispute arises regarding whether a student should be considered homeless under Education Law 3209, about a homeless student's eligibility, school selection, enrollment in a school or transportation, the **LEA must issue a written decision** to the parent, guardian or youth that includes:

- A statement regarding the **right to appeal the LEA's decision** to the Commissioner with the State Education Department;
- The name, post office address and telephone number of the **McKinney-Vento Liaison**; and,
- The **petition form** used to file an appeal with the Commissioner, and an explanation of the district's decision.



Source: [NYS Field Memo LEA Requirements for Implementing McKinney-Vento Homeless Student Dispute Resolution Process](#)

Sample Scenario

- **Julie** and her **son, John**, were evicted from their permanent housing in Lockport in November and moved in with Julie's boyfriend, Steve, in Buffalo.
- **John was designated McKinney-Vento in Lockport** and remained enrolled there, **receiving transportation back and forth from his temporary residence** in Buffalo.
- At the end of May, Julie asked the bus driver to pick up John at a **new temporary residence** in Buffalo.



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Sample Scenario (continued)

- The Lockport School District **McKinney-Vento Liaison, Marion**, asked Julie if she and John had moved into permanent housing in Buffalo. **Julie replied** that she and John are still temporarily housed in Buffalo--**just the pick-up and drop off point had changed.**
- **Lockport SD administration has reason to believe that Julie and John have moved into a new permanent home** in Buffalo and are no longer *temporarily* housed there. They send a **written decision** to Julie disputing John's continued McKinney-Vento status and enrollment in Lockport for September.



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Quick Poll #2

If Julie files a petition (a 310 Appeal) in Lockport School District in August, should her son, John, be allowed to continue to attend school in Lockport if that is where he and his mother want him to go to school?

- A. Yes
- B. No
- C. Not Sure

Role of the McKinney-Vento Liaison in Disputes

McKinney-Vento Liaisons must assist the parent, guardian or youth in commencing a 310 Appeal.

There are eight important responsibilities:

1. provide the parent, guardian, or youth with the form petition;
2. help the parent, guardian, or youth fill out the form petition;
3. make copies of the form petition and any supporting documents at no cost to the parent, guardian, or youth;
4. accept service of the form petition, supporting documents, and any other pleadings;



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Role of the Liaison (continued)

5. give or send the parent, guardian, or youth verifications that the liaison has served the appeal and will file it with the SED;
6. make sure the petition and any other subsequent pleadings are properly filed with SED within five days of service;
7. maintain a record of all appeals; and
8. inform school personnel, service providers, and advocates working with families who are homeless of the duties of the McKinney-Vento Liaison.

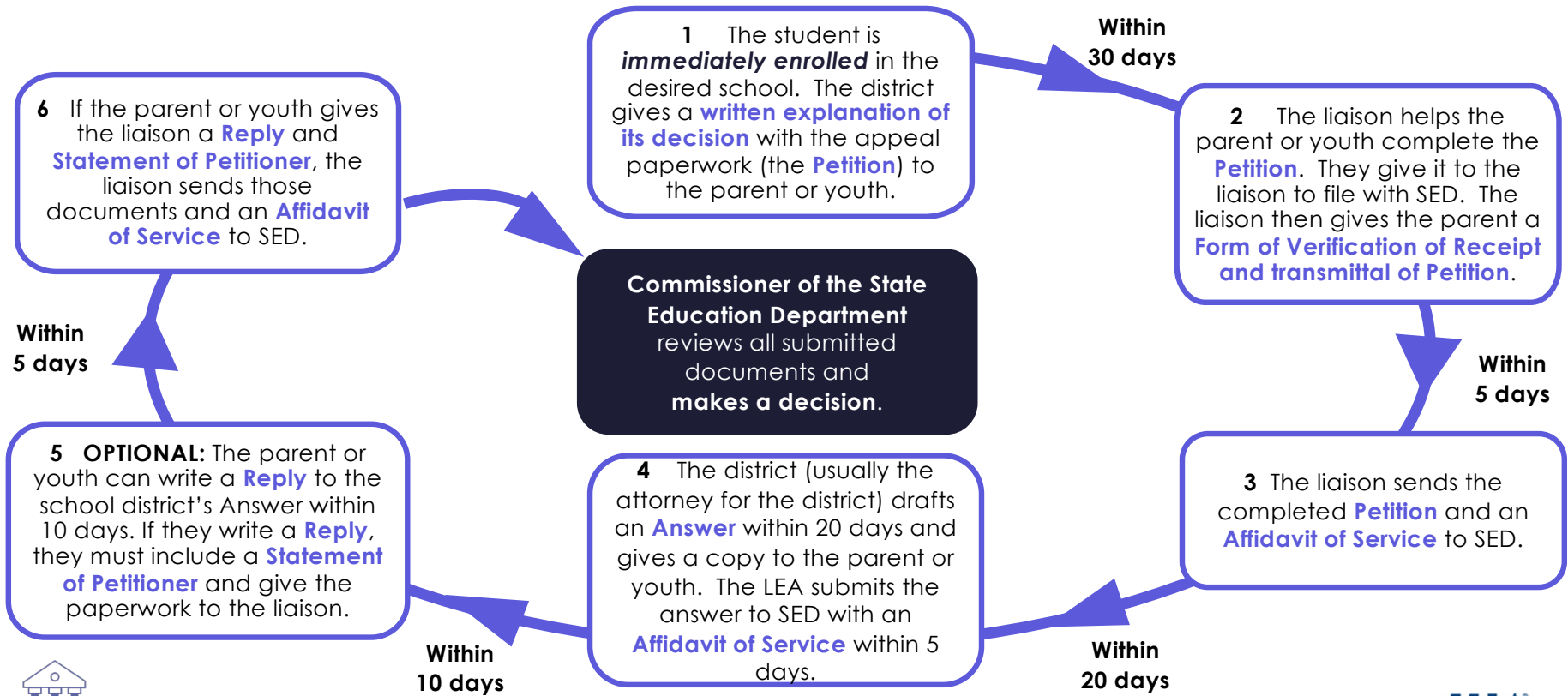


Source: NYS Field Memo LEA Requirements for Implementing McKinney-Vento Homeless Student Dispute Resolution Process

Dispute 310 Appeal Process

Step-by-Step Guide

McKinney-Vento Dispute Resolution Overview



Dispute Resolution: Step 1

1

The student is ***immediately enrolled*** in the desired school. The district gives a **written explanation of its decision** with the appeal paperwork (the **Petition**) to the parent or youth.



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LEA's Written Decision

A **written decision** to the parent, guardian, or youth must include:

- An explanation of the district's decision
- A statement explaining the right to appeal the LEA's decision to the State Commissioner within 30 calendar days of the LEA's decision
- Name, post office address, and telephone number of the LEA McKinney-Vento Liaison
- Petition form used to file an appeal with the Commissioner



Practice Tip: When issuing a written decision, make sure to include a copy of the Appeal Sample Evidence.

Remember: The LEA must immediately enroll the student in the school in which enrollment is sought and/or provide transportation pending resolution of the dispute.

Quick Poll #3

Marion, the McKinney-Vento Liaison, is unsure if she thinks that Julie's son, John, is still in temporary housing or is now permanently housed. Which of the following should Marion do?

- A. Ask the Lockport registrar to help Julie file her petition instead of helping Julie herself.
- B. Assist Julie through the process regardless of her own uncertainty.
- C. Ask John if he and his mother have found a new home.
- D. Tell Julie to enroll John in the Buffalo Schools.



Dispute Resolution: Step 2

2

The liaison helps the parent or youth complete the **Petition**. They give it to the liaison to file with SED. The liaison then gives the parent a **Form of Verification of Receipt and transmittal of Petition**.



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What is the Petition?

If the parent/guardian/youth wants to appeal the LEA's decision, the parent/youth must complete the appeal form, known as the **Petition (or 310 Appeal)**.

- In the petition, the **parent/guardian/youth must provide whatever proof** there may be that the student is homeless under McKinney-Vento.
- Wherever possible, a **student or parent should provide detailed statements** that explain and/or describe the evidence included in the appeal.
- It is the **liaison's responsibility** to help the parent/guardian/youth complete the Petition.
- When helping families with an appeal to the Commissioner, the liaison should **discuss the types of sample evidence** that a student or caregiver might need to produce in order to prove their claim.

Form Notice of Petition

Use the Appeal Sample Evidence memo as a starting point.



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NOTE: As of October 1, 2016, pursuant to the McKinney-Vento Homeless Assistance Act as amended by the Every Student Succeeds Act of 2015 (ESSA), parents, guardians and youth are no longer required to request a temporary stay in McKinney-Vento related appeals to the Commissioner and school districts **must immediately enroll and transport such homeless student, or continue enrollment and transportation in the school and district where the parent, guardian, or youth is seeking enrollment until all available appeals are final** (42 U.S.C. §11432(g)(3)(E)(i); 42 U.S.C. §11432(g)(4)(A)).

FORM NOTICE OF PETITION FOR AN APPEAL INVOLVING A HOMELESS CHILD AND YOUTH

STATE OF NEW YORK

STATE EDUCATION DEPARTMENT

_____ X
In the Matter of _____

(parent's/guardian's/ unaccompanied youth's name

otherwise known as "petitioner") on behalf of _____

_____ (child's/youth's name),

a homeless child or youth, from action of the Board of Education of the

_____ School District

("respondent") regarding the provision of education and related services.

_____ X

NOTICE:

The respondent is hereby required to appear in this appeal and to answer the allegations contained in the petition. Your answer must conform with the provisions of the regulations of the Commissioner of Education relating to appeals before the Commissioner of Education, copies of which are available at www.counsel.nysed.gov or from the Office of Counsel New York State Education Department, State Education New York Building, Albany, 12224.

If an answer is not served and filed in accordance with the provisions of such rules, the statements contained in the petition will be deemed to be true statements, and a decision will be rendered thereon by the Commissioner.

Please take notice that such rules require that an answer to the petition must be served upon the petitioner, or if he be represented by counsel, upon his counsel, or

Sample Evidence

- Pictures of a car or trailer where the student is living (petitioner should include detailed statements describing the contents of each photo)
- Receipt(s) from campground or mobile-camper park where the student is living
- Receipt(s) from hotel/motel where the student is living
- Statement from a person who lets the student sleep temporarily or on a short-term basis on their property or in their home
- Eviction notice/warning
- Foreclosure notice/warning
- Letter from caseworker stating that the student is living in a shelter or in transitional housing



To: LEA Liaisons
From: NYS-TEACHS
Date: May 2010
Re: McKinney-Vento Dispute Resolution¹

According to the federal McKinney-Vento Homeless Education Assistance Improvements Act (42 USC §11431 et seq., "McKinney-Vento") and New York State Education Law §2020, students who lack a fixed, regular and adequate nighttime residence, including those who are "sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason," are homeless and therefore entitled to immediate enrollment in school in some cases, transportation to school. Sometimes, disputes arise about whether a student meets the definition of a homeless child under McKinney-Vento. In these cases, the parent, legal guardian, or unaccompanied youth ("petitioner") can appeal the school district's final determination regarding enrollment, school selection, and/or transportation to the Commissioner of Education. The LEA liaison must assist the petitioner in commencing such appeal. For additional information on the appeal process and the liaison's responsibilities, please see: <http://www.comsed.nysed.gov/approch/homeless.htm>

Sample Evidence

In an appeal to the Commissioner, the petitioner must prove that the student is homeless under McKinney-Vento and must produce relevant evidence to support the particular facts and circumstances of his or her appeal. Below is a list of examples of evidence that a petitioner may include in an appeal in order to establish that the student is homeless under McKinney-Vento. Whenever possible, a petitioner should also provide detailed statements that explain and/or describe any evidence included in an appeal. When assisting a petitioner in constructing an appeal to the Commissioner, the liaison is encouraged to review this document with the petitioner. Please note that this list is intended only to provide examples of evidence that may be produced in appropriate cases - it is not intended to be exhaustive, nor is it a list of required documentation.

- 1) Pictures of car or trailer where the student is living (petitioner should include detailed statements describing the contents of each photo)
- 2) Receipt(s) from campground or mobile-camper park where the student is living
- 3) Receipt(s) from hotel/motel where the student is living
- 4) Statement from a person who lets the student sleep temporarily or on a short-term basis on their property or in their home
- 5) Eviction notice/warning

¹ The information provided in this document is not legal advice and should not be used as a substitute for obtaining professional legal advice.

1

Sample Evidence Memo

Sample Evidence (continued)

- Statement from a caseworker, real estate agent, management company or any other person who is helping the petitioner find permanent housing
- Copies of applications for permanent housing and an explanation of the status of the applications
- Copies of bills or other documents showing that utilities such as electricity, water, oil, or gas services have been turned off or are not working
- Statements or other documentation establishing that the home does not have adequate heat, hot water, plumbing, or electricity
- Statement from an inspector explaining that the home is not safe or sanitary
- Statements describing overcrowded sleeping arrangements



Sample Evidence Memo

Quick Poll #4

All but one of the following are possible sources of sample evidence for the petition. Which one is **NOT** possible evidence for Julie to include in her petition?

- A. Julie's photos of overcrowded sleeping arrangements at Steve's house.
- B. Letter from a realtor stating that she is helping Julie find housing in Lockport.
- C. Julie's Driver's License
- D. A statement from Julie's boyfriend, Steve, that he continues to let Julie and John stay at his house temporarily.



Important Notes

- Wherever possible, a **petitioner should also provide detailed statements** that explain and/or describe any evidence included in an appeal.
- This is **the only chance to include evidence**. There is no investigation, and the petitioner cannot submit more evidence later.
- The **petitioner can decide if they want the M-V liaison to receive mail about the appeal on their behalf** or if they want the mail to go directly to them instead.
- The **M-V Liaison should attach a copy of any letter the district gave the parent or youth**.
- A **statement of the petitioner** is part of the petition.
- The required sections of the petition **can be written by hand** if the handwriting is legible.
- **The petition should be sent to the Commissioner via the Office of Counsel.**

Office of Counsel
New York State Education Department
89 Washington Ave.
Albany, New York 12234
Attn: McKinney-Vento 310



Annotated PDF

On the NYS-TEACHS website, under Dispute Resolution, there is a link to the **M-V Appeal Form**. When you click on the link there are **three versions** of the form.

- **Annotated PDF**
- **Blank PDF**
- **Word document**

The **Annotated Form Notice of Petition for an Appeal Involving a Homeless Child or Youth** (created by NYS-TEACHS) contains helpful notes explaining how to fill out each blank on the form.

When assisting a petitioner in commencing an appeal to the Commissioner, the liaison is encouraged to review the **Annotated Form** document with the petitioner.

www.nysteachs.org/mckinney-vento-appeal-form

**FORM NOTICE OF PETITION
FOR AN APPEAL INVOLVING A HOMELESS CHILD AND YOUTH**

STATE OF NEW YORK

STATE EDUCATION DEPARTMENT

_____ x

In the Matter of Parent, guardian, or unaccompanied youth's name

on behalf of Student's name,

a homeless child or youth, from action of the Board of
Education of the School district's name School
District ("respondent") regarding the provision of education
and related services.

_____ x

Legal Advice

Schools and LEAs may inform parents, guardians and unaccompanied youth that they can **seek the assistance of advocates, attorneys, and other service providers**. For a link to a list of providers with a thorough understanding of the McKinney-Vento Act who are willing to work with parents and guardians, see the link below.

[list of New York State Legal Services Providers](#)

Note that NYS-TEACHS and NYSED can advise about the dispute process but **cannot** offer legal advice.



Quick Poll #5

If Julie doesn't have a chance to gather all the evidence to prove her housing status in time for the petition, she can send in additional evidence later.

- A. True
- B. False
- C. Not Sure



Working With the Family

Most parents and unaccompanied youth experiencing homelessness have limited resources, little to no ability to secure an attorney or advocate, and are dealing with the extreme stressors of homelessness. Parents, guardians, and unaccompanied youth must receive clear and simple information about

- their right to dispute decisions,
- how to initiate the dispute,
- how the process will unfold,
- who in the LEA they can contact with questions, and
- the timeline for the process.

Provide this information in writing, but also go over it orally.

Source: NCHE Toolkit pp. 8-5 to 8-6 [NCHE Local-Liaison-Toolkit](#)



Working With the Family (continued)

When a dispute arises under the McKinney-Vento Act, an LEA may wish to look further into the situation of the family or youth 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.



Parents, guardians, and unaccompanied youth should be able to initiate the dispute resolution process ***directly at the school they choose or at the local liaison's office***. Offer both options. If needed, take statements orally.

Source: NCHE Toolkit [NCHE Local-Liaison-Toolkit](#)

Incorporating Trauma Sensitivity

Consider how you can incorporate *trauma sensitivity* into your approach to working with families:

1. Provide a safe and comforting environment
2. Be empathetic
3. Avoid blame and shame
4. Focus on partnership, not control or authority
5. Focus on student and family strengths, rather than weaknesses or challenges



Dispute Resolution: Step 3

3

The liaison sends the completed **Petition** and an **Affidavit of Service** to SED.



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Affidavits

One of these two versions must be completed by the liaison, and notarized, and must accompany the petition that is submitted to SED:

Form for Affidavit of Acceptance of Personal Service

The screenshot shows a web browser displaying the NYS ED website. The page title is "FORM FOR AFFIDAVIT OF ACCEPTANCE OF PERSONAL SERVICE BY LOCAL EDUCATIONAL LIAISON FOR HOMELESS CHILDREN AND YOUTH". The form includes fields for "STATE OF NEW YORK" and "COUNTY OF _____, ss:". Below this, there is a section for the local educational agency liaison to be sworn in, with a line for the date of service: "he/she accepted service of the annexed school district that on the ____ day of _____, 20____". There are also lines for the signature of the liaison and the signature of the notary public, along with a date field: "subscribed and sworn to before me this ____ day of _____, 20____".

Form of Affidavit of Service by Mail

The screenshot shows a web browser displaying the NYS ED website. The page title is "FORM FOR AFFIDAVIT OF SERVICE BY MAIL BY LOCAL EDUCATIONAL AGENCY LIAISON FOR HOMELESS CHILDREN AND YOUTH". The form includes fields for "STATE OF NEW YORK" and "COUNTY OF _____, ss:". Below this, there is a section for the local educational agency liaison to be sworn in, with a line for the date of service: "deponent served he within _____ upon _____, in this action, at _____, the address designated by _____ for that purpose, by depositing a true copy of the same by mail, enclosed in a post paid wrapper addressed to the named school district employee or officer or a person in the office of the superintendent who has been designated by the board of education to accept service on behalf of the school district, in (check one) _____ a post office _____ official depository (mailbox) under the exclusive care and custody of the United States Post Office Department." There are also lines for the signature of the liaison and the signature of the notary public, along with a date field: "subscribed and sworn to before me this ____ day of _____, 20____".

These forms are available on our website and on NYSED Office of Counsel's website.

Dispute Resolution: Step 4

4

The district (usually the attorney for the district) drafts an **Answer** within 20 days and gives a copy to the parent or youth. The LEA submits the answer to SED with an **Affidavit of Service** within 5 days.



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Dispute Resolution: Step 5

5

OPTIONAL: The parent or youth can write a **Reply** to the school district's Answer within 10 days. If they write a **Reply**, they must include a **Statement of Petitioner** and give the paperwork to the liaison.



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Sample Statement

STATEMENT OF PETITIONER FOR AN APPEAL INVOLVING A HOMELESS CHILD OR YOUTH

NOTE: THE FOLLOWING STATEMENT MUST BE COMPLETED AND SUBMITTED WITH PETITIONER'S REPLY OR ANY OTHER PAPERS, SUCH AS AFFIDAVITS OR EXHIBITS, PETITIONER SUBMITS IN SUPPORT OF THE APPEAL

_____ (name of petitioner) states that he/she is the petitioner in this proceeding and is the parent or guardian of a homeless child or youth or is an unaccompanied youth as defined by §100.2(x) of the regulations of the Commissioner of Education; that he/she has read the annexed petition and any supporting affidavits or exhibits and knows the contents thereof; that the same is true to his/her knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters he/she believes it to be true and further acknowledges that he/she is aware of the fact that, pursuant to Penal Law §175.30, a person who knowingly offers a false instrument for filing to a public official or public servant is guilty of Offering a False Instrument for Filing in the 2nd Degree, a Class A Misdemeanor.

Petitioner's Signature

Date

Statement of Petitioner

Dispute Resolution: Step 6

6

If the parent or youth gives the liaison a **Reply** and **Statement of Petitioner**, the liaison sends those documents and an **Affidavit of Service** to SED.



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Quick Poll #6

If the McKinney-Vento Liaison, Marion, is busy and doesn't file the paperwork according to the timeline established by SED, is there a grace period?

- A. Yes
- B. No
- C. Not sure



Quick Poll #7

If Julie decides to write a Reply to the LEA's Answer to the Petition, which of these documents does the District Liaison, Marion, have to submit to SED?

- A. The Reply and an Affidavit of Service
- B. The Reply and the Statement of Petitioner
- C. The Reply, Affidavit of Service and Statement of Petitioner
- D. Not sure



Dispute Resolution: Step 7

7

**Commissioner of the State
Education Department
reviews all submitted
documents and
makes a decision.**



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Decisions

There is no designated time frame for the Commissioner's review. All documents must be received and reviewed before a decision can be made.

You can see Commissioners' past decisions here:

<http://www.counsel.nysed.gov/Decisions/dcommissioners/decisions>

Petitions can be denied on **merit** (family is not in temporary housing) and/or **procedural grounds** (e.g., petition was not filed within 30 days of the school district's written decision).

NCHE Toolkit has a table you can use (Appendix 8.B) to review the dispute resolution process internally.



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Quick Poll #8



Which of the following topics is **not** grounds for a possible 310 Appeal in New York State?

- A. Eligibility
- B. Transportation
- C. Gifted Program Participation
- D. School Selection

Strategies for Success

Types of Conflicts, Time Frame, Glossary and Helpful Tips



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Types of Conflicts

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 McKinney-Vento compliance issues	<ul style="list-style-type: none"> • School failed to inform of educational rights under McKinney-Vento • Student is not provided free meals • Systemic non-compliance by an LEA which requires state intervention (e.g., failure to identify homeless students; lack of outreach and coordination within schools and community)

From NCHE Local-Liaison-Toolkit : Dispute Resolution, p. 8-4 to 8-5

Types of Conflicts (continued)

Type of Conflict	Examples
<p>Issues which do not indicate McKinney-Vento compliance, but address services which are allowable or beneficial</p>	<ul style="list-style-type: none"> • Additional activities could enhance homeless identification (e.g., using a housing questionnaire) • Summer school could improve student's academic performance but is not required to pass a course or grade
<p>Conflicts not related to McKinney-Vento status</p>	<ul style="list-style-type: none"> • Parent disagrees with the services being offered in an Individualized Education Program • Parent wants child to enroll in a school which is neither the school of origin nor the local attendance area school

from NCHE Toolkit [NCHE Local-Liaison-Toolkit](#)

Steps and Time Frame

Steps in the Dispute Process		Time Frame
1.	District gives parent, guardian or unaccompanied youth (the “petitioner”) a written explanation of its decision and the 310 Appeal (Petition) paperwork.	When a dispute arises, if efforts to resolve a dispute within the district fail
2.	If petitioner chooses to appeal, the liaison helps them complete the Petition. Liaison receives the completed Petition and gives the petitioner the form of verification of receipt and transmittal of petition.	Within 30 calendar days
3.	The liaison sends the completed Petition and Affidavit of Service to SED Office of Counsel.	Within 5 calendar days
4.	The district drafts an Answer and gives a copy to the petitioner.	Within 20 calendar days
5.	The LEA submits the Answer to SED with an Affidavit of Service.	Within 5 calendar days
6.	OPTIONAL: The petitioner can write a Reply to the school district’s Answer. If they write a Reply, they must include a Statement of Petitioner and give the paperwork to the liaison.	Within 10 calendars days
7.	If the petitioner gives the liaison a Reply and Statement of Petitioner, the liaison sends these documents and an Affidavit of Service to SED.	Within 5 calendars days
8.	The Commissioner of NYSED reviews all of the documents and makes a decision.	On a rolling basis, after all documents have been received and reviewed



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Glossary

Term	Definition
Petition	(Also known as Form Notice of Petition for an Appeal involving a homeless child or youth <u>or</u> a 310 Appeal) The form must be completed by the parent, guardian, or unaccompanied youth to challenge a school districts denial of enrollment and/or transportation within <u>30 calendar days</u> of receiving a written decision.
Petitioner	The parent, guardian or unaccompanied youth who files an appeal with the Commissioner
Form for Affidavit of Service by Mail/Form of Affidavit of Acceptance of Personal Service	The McKinney-Vento Liaison must complete ONE of these Affidavits (either by Mail or by Personal Service) and send the original with the completed Petition to SED's Office of Counsel within <u>5 calendar days</u> .
Form of Verification of Receipt and Transmittal of Petition and Materials by LEA	The McKinney-Vento Liaison must complete this form and give it to the parent, guardian, or unaccompanied youth to verify that the liaison has received the petition and will mail it to the Office of Counsel.
LEA's Answer	The LEA must draft an Answer to the Petition to explain its side of the appeal. The LEA must serve its Answer on the petitioner or serve it on the liaison to give to the petitioner within <u>20 calendar days</u> of the LEA's acceptance of the Petition.
Reply	Not required - Petitioner can submit a Reply to the Liaison within 10 days of accepting the Answer. LEA then submits the Reply and Affidavit of Service within 5 days of acceptance of the Reply.
Statement of Petitioner	Must accompany the Reply and be given to the liaison, who sends the reply, statement of petitioner and an Affidavit of Service to SED.* *Note that there is a Statement of Petitioner in the Form Notice of Appeal.

Sources: NYS Field Memo: *LEA Requirements for Dispute Resolution* and NYSED Office of Counsel website, Statement of Petitioner

Helpful Tips

Avoid disputes when possible by:

- Training school staff members on the provisions of the M-V Act, and their responsibilities for enrolling and serving children and youth experiencing homelessness
- Communicating in person with parents, guardians, and unaccompanied youth to try to diffuse disagreements before they reach the level of a formal dispute; and
- Training school staff members on trauma-informed approaches to working with families and youth in homeless situations.

Source: NCHE Dispute Resolution Brief

Use NYS-TEACHS *Navigating Challenging Conversations* tip sheet when talking with families:



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Navigating Challenging Conversations

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Revisiting Our Opening Activity

At the beginning of this webinar, you listed some factors that facilitated effective resolution of disputes in the chat.

What have you learned about the McKinney-Vento dispute process today that you think would ensure effective resolution of disputes?



**Please put your
answers in the chat!**



Resources

More
Information



- [Form Notice of Petition](#)
- [Information on the appeals process and the liaison's responsibilities](#)
- [List of Legal Providers](#)
- [Navigating Challenging Conversations Tip Sheet](#)
- [NYS Field Memo: LEA Requirements for Implementing McKinney-Vento Homeless Student Dispute Resolution Process](#)
- [NYS-TEACHS Sample Evidence Memo](#)
- [NYSED Decision Page](#)

Resources continued

National Center for Homeless Education Resources:

- [NCHE Local-Liaison-Toolkit](#)
- [NCHE Dispute Resolution Brief](#)
- [NCHE Confirming Eligibility Brief](#)

More
Information



ARP-HCY Technical Assistance Center

The New York State American Rescue Plan Homeless Children and Youth (ARP-HCY) Technical Assistance Center at **SchoolHouse Connection**



Tools & Resources



Webinars



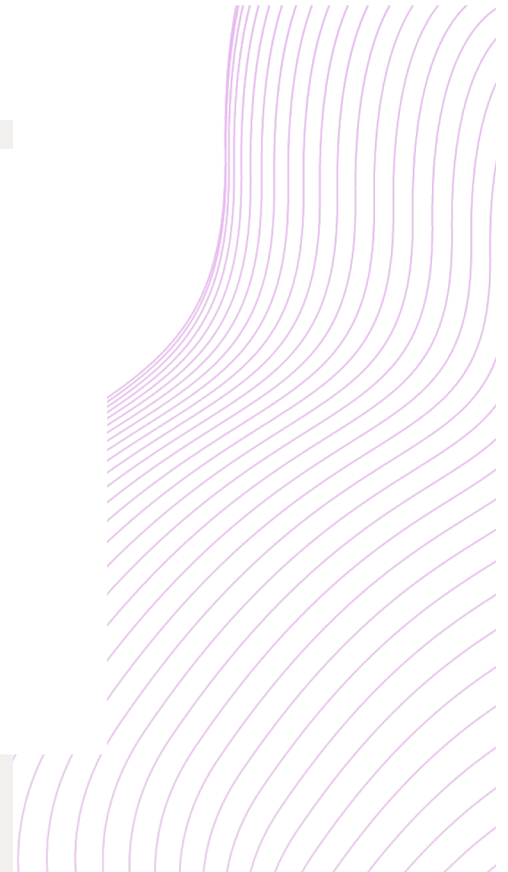
Practitioner
Community
Conversations



On-Demand ARP-HCY
Technical Assistance

American Rescue Plan Homeless Children and Youth (ARP-HCY) funds must be obligated by **September 30, 2024** and spent by **January 31, 2025**.

Email arphcyros@schoolhouseconnection.org or visit <https://schoolhouseconnection.org/nysed/> to learn more!



Technical and Educational Assistance Center

- **Help Line** (800-388-2014)
- **Website** (<https://nysteachs.org>)

- **Web-Based Trainings**

Next Webinar:

*End of Year Planning for
McKinney-Vento Liaisons
May 30, 9:30am-11am*

- **Outreach Materials** <https://www.nysteachs.org/order-brochures/brochures-posters>
- **Tales from the Field** <https://www.nysteachs.org/>



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