

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 §3209, 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 and, 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.counsel.nysed.gov/appeals/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. Wherever possible, a petitioner should also provide detailed statements that explain and/or describe any evidence included in an appeal. When assisting a petitioner in commencing 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.

- 6) Foreclosure notice/warning
- 7) Letter from caseworker stating that the student is living in a shelter or in transitional housing
- 8) Statement from a caseworker, real estate agent, management company or any other person who is helping the petitioner find permanent housing
- 9) Copies of applications for permanent housing and an explanation of the status of the applications (for example: Is the student or student's family on any waitlist for permanent housing? Was an application for permanent housing denied?)
- 10) 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
- 11) Statements or other documentation establishing that the home does not have adequate heat, hot water, plumbing, or electricity
- 12) Statement from an inspector explaining that the home is not safe or sanitary
- 13) Statements describing overcrowded sleeping arrangements (for example: student sleeps on floor, sofa, etc.)

Contact Information

Parents, legal guardians, or unaccompanied youth may also call the following individuals or agencies for help with the appeal process:

- Melanie Faby, Program Associate for Homeless Education at the State Education Department (SED), (518) 473-0295. Please note that SED cannot offer legal advice.
- NYS-TEACHS, (800) 388-2014. Please note that NYS-TEACHS cannot offer legal advice.