



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234  
P-12 Education – Office of Accountability

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Office of ESSA-Funded Programs  
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July 11, 2024

TO: District Superintendents  
Superintendents of Public Schools  
Charter School LEA Administrators  
McKinney-Vento Liaisons

FROM: Erica Meaker, Director of ESSA Funded Programs

SUBJECT: LEA Requirements for Implementing McKinney-Vento Homeless Student  
Dispute Resolution Process

All LEAs are required to maintain processes to promptly address disputes related to a child's eligibility under the McKinney-Vento Act, including, but not limited to, disputes regarding a student's status as a homeless child or unaccompanied youth, school selection, and transportation. At the initiation of any dispute under this process, the LEA must immediately enroll the child in the school for which enrollment is sought, pending resolution of the dispute, including all available appeals.<sup>1</sup>

If a dispute arises about whether a student should be considered homeless under Education Law 3209, about a homeless student's choice of school, or about a homeless student's access to 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.

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<sup>1</sup> **Please note:** As of October 1, 2016, parents, guardians and youths are no longer required to request a temporary stay in McKinney-Vento related appeals. If the parent or guardian of a student in temporary housing or unaccompanied youth commences an appeal to the Commissioner within 30 days of the LEA's final determination to decline to either enroll in and/or transport the student in temporary housing to the school of origin or a school requested by the parent or guardian or unaccompanied youth, the student will be permitted to continue to attend the school he or she is enrolled in at the time of the appeal and/or receive transportation to that school pending the resolution of all available appeals. In other words, the student is entitled to continue the school they are attending and receive transportation to that school until the appeal is resolved.

McKinney-Vento liaisons are required to follow proper procedures for filing McKinney-Vento Homeless Student dispute resolutions (also referred to as 310 appeals). This includes assisting the parent, guardian or youth with the dispute resolution process<sup>2</sup> by:

- Providing the parent or guardian or unaccompanied youth (also referred to as “the petitioner”) with a copy of the form petition, which is available at: <http://www.counsel.nysed.gov/appeals/homelessForms>.
- Assisting the petitioner in completing the form petition.
- Arranging for the copying of the form petition and supporting documents for the petitioner, without cost to the petitioner.
- Accepting service of the form petition and supporting papers on behalf of any school district employee or officer named as a party or the school district if it is named as a party or arrange for service by mail by mailing the form petition and supporting documents to any school district employee or officer named as a party and, if the school district is named as a party, to 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.
- Providing the petitioner with a signed and dated acknowledgment verifying that the McKinney-Vento liaison has received the form petition and supporting documents and will either accept service of these documents on behalf of the school district employee or officer or school district or effect service by mail by mailing the form petition and supporting documents to any school district employee or officer named as a party and, if the school district is named as a party, to 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.
- Transmitting on behalf of the petitioner, within five days after the service of, the form petition or any pleading or paper to the Office of Counsel, New York State Education Department, State Education Building, Albany, New York 12234.
- Providing the petitioner with a signed and dated acknowledgement verifying that the McKinney-Vento liaison has received the form petition and supporting documents and will transmit these documents on behalf of the petitioner to the Office of Counsel, New York State Education Department, State Education Building, Albany, New York 12234.
- Accepting service of any subsequent pleadings or papers, including any correspondence related to the appeal, if the petitioner so elects. The liaison must also make such correspondence available to the petitioner.
- Maintaining a record of all appeals of enrollment, school selection, and transportation determinations.

### **Appeal Documents and Timeline for Filing an Appeal**

<b>Name of Form:</b>	<b>Completed by:</b>	<b>Given to:</b>	<b>Due date:</b>	<b>Form available at:</b>
<b>Form Notice of Petition (see below)</b>	Parent, guardian, or unaccompani	<b>McKinney-Vento Liaison</b> , who then either accepts service	Parent, guardian, or unaccompanied youth must submit the	<a href="https://www.nystecac.hs.org/mckinney-vento-appeal-form">https://www.nystecac.hs.org/mckinney-vento-appeal-form</a>

<sup>2</sup> 42 USC §11432(g)(3)(E)(iii); 8 NYCRR §100.2(x)(7)(iii)(c)

<b>Name of Form:</b>	<b>Completed by:</b>	<b>Given to:</b>	<b>Due date:</b>	<b>Form available at:</b>
<b>for full explanation)</b>	ed youth (“the petitioner”)	or delivers the petition to the designated person who can accept service for the LEA. The LEA then sends the Petition to <b>SED</b> .	completed Petition to the McKinney-Vento liaison within <b>30 calendar days</b> of receiving the LEA’s written decision. The LEA must submit the completed Petition and Affidavit of Service (see below) to SED within <b>5 calendar days</b> of the LEA’s acceptance of the Petition.	This form includes the Petition, and Statement of Petition
<b>Affidavit of Service</b> (personal or by mail)	McKinney-Vento Liaison	<b>SED</b>	LEA must submit to SED the completed Affidavit of Service and Petition (see below) within <b>5 calendar days</b> of the LEA’s acceptance of the Petition.	<a href="http://www.counsel.nysed.gov/appeals/service">http://www.counsel.nysed.gov/appeals/service</a>
<b>Form for Verification of Receipt and Transmittal of Petition</b>	McKinney-Vento Liaison	<b>Petitioner</b>	Not specified.	<a href="https://www.nysteachs.org/files/ugd/10c789_5617e3c52d304278ad8dfc48a439aad9.doc?dn=INF_SE_D_FormforVerification_111908.doc">https://www.nysteachs.org/files/ugd/10c789_5617e3c52d304278ad8dfc48a439aad9.doc?dn=INF_SE_D_FormforVerification_111908.doc</a>

**Form Notice of Petition for an Appeal Involving a Homeless Child or Youth (also referred to as “the Petition”)**

This form must be completed by the parent, guardian, or unaccompanied youth to challenge a school district's denial of enrollment and/or transportation within 30 calendar days of receiving the written decision. The McKinney-Vento Liaison is responsible for helping the parent, guardian or youth complete this document. In an appeal to the Commissioner, the petitioner must prove that the student is homeless under McKinney-Vento and must produce evidence to support the particular facts and circumstances of his or her appeal. Liaisons can find further information on the proper evidence to include by reviewing the [NYS-TEACHS Sample Evidence Memo](#). This memo provides guidance about what a petitioner may include in an appeal in order to establish that a student is homeless under McKinney-Vento. Wherever possible, a petitioner should also provide detailed statements that explain any evidence included in an appeal.

## **Affidavit of Service**

The McKinney-Vento Liaison must complete one of the Affidavits of Service (either by Mail or by Personal Service) and send the original with the completed Petition to SED's Office of Counsel within 5 calendar days. The affidavit verifies that the school district properly received the completed Petition. The Affidavits of Service can be found at:

[Form for Affidavit of Service by Mail by Local Educational Agency Liaison for Homeless Children and Youth](#): This form should be completed by the McKinney-Vento Liaison to verify that the individual has been served with the petition and is mailing it to the school district employee who has been designated to accept service on behalf of the school district.

[Form for Affidavit of Acceptance of Personal Service by Local Educational Liaison for Homeless Children and Youth](#): This form should be completed by the McKinney-Vento Liaison or the person who has been designated by the board of education to accept service on behalf of the school district. This form affirms that the individual who completed the form has accepted the petition on behalf of the named respondents in the school district.

## **Form for Verification of Receipt and Transmittal of Petition**

This form must be completed by the McKinney-Vento liaison and given to the petitioner to verify that the liaison has received the petition and will mail it to the Office of Counsel, New York State Education Department.

## **Available Resources**

New York State Education Department Office of Counsel Homeless Appeal webpage: [Appeals to the Commissioner Involving Homeless Children and Youth | Office of Counsel \(nysed.gov\)](#)

NYS-TEACHS Dispute Resolution (310 Appeal) Process webpage: [Dispute Resolution/Appeals Process | NYSTEACHS](#)

cc: Theresa Billington  
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