



March 2020

Dear Local Educational Agencies:

Homeless Education Dispute Resolution Process

This letter is an update to the January 30, 2007, letter entitled *McKinney-Vento Homeless Education Assistance Act of 2001 Dispute Resolution* and includes new provisions from the Every Student Succeeds Act (ESSA) effective October 1, 2016.

State educational agencies (SEAs) and local educational agencies (LEAs) must ensure that each child and youth experiencing homelessness has equal access to the same free, appropriate public education, including a public preschool program, as other children and youth. Part of this assurance is for the California Department of Education (CDE) to provide guidance to LEAs regarding prompt resolutions of eligibility, school selection, and enrollment disputes.

As part of the ESSA, one of the provisions of the law allows the LEA the option to question, confirm, and dispute the eligibility of a family's homelessness. It is suggested that LEA homeless liaisons implement local practices and strategies and take into consideration the student's best interest determination to assist with resolving complex situations. Lastly, the LEA's decision, in reference to eligibility for supports and services related to homeless education, requires a review of facts, witnesses, and evidence related to the definition of homelessness. [42 United States Code Section 11434A(2)(A); California *Education Code* Section 48850(d)]

The dispute resolution process involves steps aimed at ensuring that disputes are resolved promptly while safeguarding the rights of all parties. The LEAs should have their own dispute resolution process that describes procedures for resolving disputes at the local level. The benefit of a local common dispute policy and procedure is to create consistency as students experiencing homelessness often move across local district boundaries.

The Law

The U.S. Department of Education released guidance to states and LEAs on the provisions in ESSA for supporting children and youth experiencing homelessness. The new provisions further expand to responsibilities of SEAs and LEAs to ensure educational rights and protections for children and youth experiencing homelessness and to provide these students with much needed stability, safety, and support. All LEAs

must ensure coordination of their efforts on behalf of children, youth, and unaccompanied youth experiencing homelessness with the McKinney-Vento Homeless Education Assistance Improvement Act, Title X, Part C, and the CDE directives. Part of that coordination is to implement CDE's procedures for the prompt resolution of disputes regarding eligibility, school selection, and enrollment.

For the purpose of this letter, the McKinney-Vento Act defines:

- "Eligibility" as determining a student's homeless eligibility based on the student's living arrangement meeting the McKinney-Vento definition of homelessness
- "School of origin" as the school the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled, or a school that the homeless child or youth feels connected to and attended within the immediately preceding 15 months
- "School of selection" as the school of origin or the school of residence
- "Enrollment" as attending classes and participating fully in school activities
- "Local educational agency" as school districts, county offices of education (COEs), and charter schools providing instruction to pupils
- "Unaccompanied homeless youth" as a youth that is not in the physical custody of their parent or guardian and meets the McKinney-Vento definition of homelessness

Parents, guardians, and unaccompanied youth must be able to initiate the dispute resolution process either in writing or orally directly at the selected school site.

Dispute Resolution Process

Below are five components for resolving disputes regarding eligibility, school selection, and enrollment for children and youth experiencing homelessness.

- If a dispute arises over eligibility, school selection, or enrollment, then the child, youth, or unaccompanied youth must be immediately enrolled in the school in which he/she is seeking enrollment, pending the final decision of the dispute resolution.
- The school must refer the student, parent, or guardian to the LEA's homeless liaison to carry out the dispute resolution process as expeditiously as possible. The homeless liaison must ensure that the dispute resolution process is also followed for unaccompanied youth. The homeless liaison should assist the student, parent, or guardian in preparing the dispute and make available school resources including copying, mailing, or obtaining records.

- A written explanation of the LEA's decision regarding eligibility, school selection, or enrollment must be provided, including the right to appeal to the COE. The written explanation shall be complete, as brief as possible, simply stated, and provided in a language that the parent, guardian, or unaccompanied youth can understand.
- If the decision is appealed by either party (LEA, parent, guardian, or unaccompanied youth), then the homeless liaison shall forward all documentation to the COE's homeless liaison. The COE homeless liaison should have only five (5) working days to resolve the dispute decision. A written explanation of the COE's decision must be provided to all parties involved with the right to appeal to the CDE Homeless Education Program.
- If the decision is appealed by either party (LEA, parent, guardian, or unaccompanied youth), then the COE homeless liaison shall forward all documentation and related paperwork to the CDE Homeless Education Program. Upon the review of all parties information, the CDE will notify all parties of the final determination of eligibility, school selection, or enrollment decision within ten (10) working days of receipt of the appeal. The CDE Homeless Education Program can be reached by phone at 866-856-8214 or by email at HomelessEd@cde.ca.gov.

It is a requirement for all LEAs to enroll students experiencing homelessness immediately. If, after enrollment, it is determined that a student is not homeless as defined by the McKinney-Vento Act, then the LEA should follow policies that are in place to address other forms of fraud. Written notice should be given to parents, guardians, of unaccompanied youth, including the right to appeal.

California Department of Education's Recommendations

LEAs working with parents, guardians, and unaccompanied youth should:

- Inform parents, guardians, and unaccompanied youth that they can provide written or oral documentation to support their positions about eligibility, school selection, or enrollment. Documentation is critical.
- Inform parents, guardians, and unaccompanied youth that they can seek the assistance of social services, advocates, and/or service providers in the dispute process. Notice that, if the parent, guardian, or unaccompanied youth are English learners, use a native language other than English and/or interpreters. In addition, if they are needing additional supports because of a disability, support services will be made available without a charge.
- Provide a simple dispute form that parents, guardians, or unaccompanied youth can complete and submit to the school to initiate the dispute resolution process.
- Provide a copy to the parents, guardians, or unaccompanied youth for their records when the dispute form is submitted to the school.

- Provide a copy to the parents, guardians, or unaccompanied youth for their records of the outcome of the dispute, even when the dispute is immediately resolved.
- Maintain the protections of the Family Educational Rights and Privacy Act (FERPA) related to informing or providing information that is maintained by the LEA and is part of the student's record. Information regarding a student's living situation, under McKinney Vento Act, must be provided the protections as other non-directory personally identifiable information under FERPA. Maintaining confidentiality of student information related to residency and living situation is highly recommended.

If you have any questions regarding this subject, please contact the CDE Homeless Education Program within the Integrated Student Support and Programs Office by phone at 866-856-8214 or by email at HomelessEd@cde.ca.gov.

Sincerely,

/s/

~~Lindsay Weiss Tornatore, Ed.D., Interim Director~~
~~Improvement & Accountability Division~~
William McGee, Director
Student Achievement and Support Division
California Department of Education
1430 N Street, Suite 5206
Sacramento, CA 95814

[LWT:hb]