



Dispute Resolution Under the McKinney-Vento Act

This California Homeless Education Technical Assistance Center (HETAC) tip sheet:

- summarizes federal McKinney-Vento Act provisions related to the resolution of disputes;
- highlights key elements of the California Department of Education homeless education dispute resolution process;
- recommends strategies for preventing McKinney-Vento disputes, when possible;
- recommends best practices for the fair and prompt resolution of McKinney-Vento disputes; and
- links to additional resources for more information.

Context

The McKinney-Vento Homeless Assistance Act was originally passed into law in 1987 and represented the first significant U.S. federal legislative response to homelessness. The education subtitle of the act ([Subtitle VII-B of the Act](#), (hereafter *McKinney-Vento Act*) establishes the definition of *homeless* used by U.S. public schools and authorizes rights and services to address the unique educational barriers and challenges faced by children and youth experiencing homelessness. In most cases, the local educational agency (LEA) and the parent, guardian, or unaccompanied youth agree on



what rights the student experiencing homelessness holds and what is in the best interest of the student. In some instances, however, the LEA and parent, guardian, or unaccompanied youth may disagree about the student's rights and best interest and need an avenue for resolving the disagreement fairly and promptly. This avenue is provided via the McKinney-Vento Act's dispute resolution process.

This HETAC tip sheet summarizes federal McKinney-Vento Act provisions related to the resolution of disputes, highlights key elements of the California Department of Education (CDE) homeless education dispute resolution process, recommends strategies for preventing McKinney-Vento disputes, recommends best practices for the fair and prompt resolution of McKinney-Vento disputes; and links to additional resources for more information.

Dispute Resolution Under the McKinney-Vento Act

The McKinney-Vento Act provides for a process to resolve disputes over eligibility, or school selection or enrollment.

- **Disputes over eligibility** relate to whether a child or youth meets the [McKinney-Vento definition of homeless](#) and, as such, would qualify for McKinney-Vento rights and services. [According to CDE](#), resolving eligibility-related disputes “requires a review of facts, witnesses, and evidence related to the definition of homelessness.”
- **Disputes over school selection** relate to whether it is in a homeless student's best interest to enroll in the local school or the school of origin. *Local school* is defined as “any public school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend” [42 U.S.C. § 11432(g)(3)(A)(ii)]. *School of origin* is defined as “the school that a child or youth attended when permanently housed or the school in which the child or youth was last enrolled, including a preschool” [42 U.S.C. § 11432(g)(3)(I)(i)].

- **Disputes over enrollment** relate to whether a student is “attending classes and participating fully in school activities” [42 U.S.C. § 11434a(1)].

If a dispute arises over eligibility, or school selection or enrollment, the McKinney-Vento Act states that the following must occur:

- i. Immediate enrollment in the selected school;
- ii. The provision of a written explanation to the parent, guardian, or unaccompanied youth of dispute-related decisions;
- iii. Referral of the parent, guardian, or unaccompanied youth to the homeless liaison for assistance with resolving the dispute promptly; and
- iv. The provision of dispute-related support to unaccompanied youth by the homeless liaison [42 U.S.C. § 11432(g)(3)(E)].

See the *Understanding the CDE Homeless Education Dispute Resolution Process* section below for more information on federal dispute resolution requirements as included in the CDE dispute resolution process.

Some McKinney-Vento disputes may involve multiple LEAs, particularly when a student is residing in one LEA and attending school in another LEA. According to the U.S. Department of Education’s [Education for Homeless Children and Youths \(EHCY\) Program Non-Regulatory Guidance](#), inter-district disputes should be resolved at the SEA level (see pages 32 and 34).

Understanding the CDE Homeless Education Dispute Resolution Process

California Education Code stipulates that disputes related to the implementation of the McKinney-Vento Act will be governed by the federal McKinney-Vento Homeless Assistance Act [Cal. Educ. Code § 48852.7 (e)(1)]. The CDE [homeless education dispute resolution process](#) embodies the dispute resolution requirements outlined in the federal McKinney-Vento Act and includes steps aimed at ensuring that disputes are resolved promptly while safeguarding the rights of all parties. While the CDE dispute resolution process provides parameters within which California LEAs must operate when resolving McKinney-Vento disputes, LEAs should have their own dispute resolution process that describes specific procedures for resolving disputes at the local level.

The CDE process includes the following five key components:

1. **Immediate enrollment:** If a dispute arises over eligibility, school selection, or enrollment, the child, youth, or unaccompanied youth must be enrolled immediately in the school in which he/she is seeking enrollment [whether the local school or the school of origin], pending the final decision of the dispute resolution.
2. **Referral to the liaison:** 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 also is followed for unaccompanied youth. The homeless liaison should assist the student, parent, or guardian in preparing the dispute and make school resources available for copying, mailing, or obtaining records.
3. **A written explanation:** 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.
4. **Appeals to the COE:** 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 has 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.

5. **Appeals to CDE:** 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 the 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.

The CDE homeless education dispute resolution process states that 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.

Strategies for Preventing McKinney-Vento Disputes

While the formal resolution of disputes related to the implementation of the McKinney-Vento Act may be necessary at times, LEAs can use the following strategies to help prevent disputes:



- **Providing training:** County Office of Education (COE) and LEA homeless liaisons can help avoid disputes by providing training and technical assistance (TTA) to LEA and school staff on McKinney-Vento Act provisions and school responsibilities for enrolling and serving students experiencing homelessness. Ensuring that LEA and school staff are well-informed about the McKinney-Vento Act and its implementation provides schools with the information needed to understand and support the educational rights of students experiencing homelessness and act in compliance with federal and state requirements. TTA can be provided in staff meetings, by meeting with individual administrators, via e-blasts or other informational communications, and by leveraging [resources](#) and [trainings offered by the HETAC](#) and [CDE](#).
- **Communicating proactively, clearly, and respectfully:** COE and LEA homeless liaisons and other staff can help prevent disputes by communicating sensitively and respectfully with parents, guardians, and unaccompanied youth to diffuse disagreements and seek solutions before disagreements reach the level of a formal dispute. It may be especially helpful for school staff who are familiar and have a good rapport with the family or youth to be part of these conversations. It also is beneficial for COEs and LEAs to establish clearly outlined procedures in their board policies or administrative regulations for how particular situations that may be likely to lead to a dispute will be handled; examples may include how many times the LEA will replace a bus pass that is lost in the same month or continue to send a bus to a student's pick-up location when the student does not show up. Finally, it is recommended that COEs and LEAs follow up on verbal communications in writing via e-mail or hard copy, according to the parent's, guardian's, or youth's preference.
- **Seeking guidance:** California homeless liaisons have a variety of supports available to them for thinking through challenging homeless education scenarios that could develop into a dispute. LEA homeless liaisons can [consult with their COE liaison](#). COE and LEA liaisons can [contact the HETAC](#) that serves their region.

Best Practices for the Fair and Prompt Resolution of Disputes

In its [homeless education dispute resolution process](#), CDE recommends that LEAs working with parents, guardians, and unaccompanied youth

- 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. If the parent, guardian, or unaccompanied youth are English learners, LEAs should communicate in their native language, using interpreters, if necessary. In addition, if parents, guardians, or unaccompanied youth need additional supports because of a disability, support services should be provided at no 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 of the dispute form submitted to the school and of the final outcome of the dispute, even when the dispute is resolved immediately.
- maintain student information and record privacy in keeping with the McKinney-Vento Act and the Family Educational Rights and Privacy Act (FERPA). Information about a homeless child's or youth's living situation shall be treated as a student education record, and shall not be deemed to be directory information [42 U.S.C. § 11432(g)(3)(G)].

In its [EHCY Program Non-Regulatory Guidance](#), the U.S. Department of Education includes additional information about resolving McKinney-Vento disputes. In Section K (pages 31-34), the guidance addresses these and other dispute-related questions:

- What elements should be included in the written explanation of the enrollment decision and the right to appeal this decision?
- How can an LEA ensure that the written explanation of its decision or determination and the notice to appeal is in a manner and form understandable to a parent, guardian, or unaccompanied youth?
- What types of situations fall outside of the parameters of the McKinney-Vento Act dispute resolution process?
- What are effective strategies for LEAs and SEAs to use to resolve enrollment disputes?

Additional Resources

Consult the following resources for additional information on dispute resolution:

- CDE: [Homeless Education Dispute Resolution Process](#)
- HETAC: [Dispute Resolution webpage](#) (including sample dispute written notification templates)



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