



## Superintendent's Memo #215-17

COMMONWEALTH of VIRGINIA  
Department of Education

### Memo Information

**DATE:** July 21, 2017  
**TO:** Division Superintendents  
**FROM:** Steven R. Staples, Superintendent of Public Instruction  
**SUBJECT:** **Revisions to Virginia's Best Interest Determination and Dispute Resolution Processes for Students Experiencing Homelessness**

This memorandum provides revisions to Virginia's best interest determination and dispute resolution processes developed to comply with the *McKinney-Vento Homeless Assistance Act*, Title IX, Part A of the *Every Student Succeeds Act* (ESSA). This memo supersedes Superintendent's Memo No. 51, March 28, 2003, and Superintendent's Memo No. 56, October 14, 2005.

School divisions are responsible for conducting best interest determinations when deciding if the school of origin is in a homeless student's best interest. The parent, guardian, or unaccompanied youth must be provided a written explanation when there is a disagreement about placement, including the right to appeal the decision [§722(g)(3)(B)]. If a dispute arises over eligibility, school selection, or enrollment in a school, the local homeless education liaison must carry out the dispute resolution process [§722(g)(3)(E)]. This includes the state level dispute resolution process contained in the attachments to this memo.

Changes from the 2005 process include:

- Creation of a "McKinney-Vento Best Interest Determination for School Placement" form that replaces the "Worksheet for Determining Feasibility for School Placement." Under ESSA, "feasibility" has been replaced with "best interest" as the focus for decision making.
- Inclusion of eligibility as a student experiencing homelessness as a disputable action with a separate state-level appeal process.
- Modified timelines for state level appeals to ensure they are resolved in a timely manner.
- Updated directions and forms that may be used by school divisions to inform parents, guardians, and unaccompanied homeless youth of decision-making and the dispute resolution processes. PDF versions of the forms are included with this memo. Templates with drop-down boxes for ease of completion will be posted to the Project HOPE-Virginia website at <http://www.wm.edu/hope>.

If you have questions, please contact Patricia A. Popp, State Coordinator, at [pxpopp@wm.edu](mailto:pxpopp@wm.edu) or (757) 221-7776.

Best Interest Determination

Project HOPE-Virginia

2017

SRS/PRP/rt

Attachments:

- A. [McKinney-Vento Best Interest Determination for School Placement-This is a PDF document.](#) (PDF)
- B. [Written Explanation of McKinney-Vento Determination-This is a PDF document.](#) (PDF)
- C. [Dispute Resolution Process for Virginia Public Schools – Eligibility for McKinney-Vento Services-This is a PDF document.](#) (PDF)
- D. [Dispute Resolution Process for Virginia Public Schools – School Selection or Enrollment-This is a PDF document.](#) (PDF)

Virginia Department of Education Commonwealth of Virginia, 2018

## McKinney-Vento Best Interest Determination (BID) for School Placement (A.)

The McKinney-Vento Act requires schools to consider the school of origin as the first option in school enrollment. Parents may choose the school of origin or the school in the residency area where the child is currently living. Individuals who may be consulted when determining what placement is in the child's or youth's best interest include:

- the child or youth experiencing homelessness,
- the parents or caretakers of the child or youth,
- school division homeless liaisons,
- school principals/administrators,
- the student's teacher(s),
- homeless shelter personnel,
- school social workers, and
- school counselors.

It is the school division's responsibility to determine the school of origin and residency, and to resolve any conflict concerning the school placement focusing on the best interest of the student. Whenever possible, the school division should comply with the parents'/guardians'/unaccompanied homeless youth's wishes. If the school division and parent/guardian/unaccompanied youth do not agree on the appropriate placement, Virginia's School Selection and Enrollment Dispute Resolution Process must be followed. The student should be enrolled in the school that the parent or unaccompanied homeless youth have chosen during the resolution process. If the school of origin is determined to be the best placement, the local homeless education liaisons from both divisions must work together to arrange transportation.

The McKinney-Vento Act requires that a child or youth experiencing homelessness attend:

- The *school of origin*: the school that the child or youth last attended when permanently housed or the school in which the student was last enrolled, including preschool (administered by the school division) and feeder schools; or
- The *school of residency*: The school identified by the attendance zone in which the student is currently physically staying. (If students in the attendance area have additional options, the student may enroll in such an option IF there is room in the program and student meets any eligibility criteria.)

If the student will attend the school of residency, enrollment should take place immediately.

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The following form documents the determination for school placement that is in a student's best interest. It is recommended that the liaison use these questions to discuss the school enrollment options with the parent/youth. If the new residence is in another school division, the liaison from the new division should be included in the conversation, as a best practice, to ensure smooth transitions or the provision of transportation that may be shared. The information collected documents agreement about school enrollment OR provides the input needed to craft the justification for a written explanation should the parent/youth and school division disagree. Liaisons should maintain this form with their case notes.

## McKinney-Vento Best Interest Determination for School Placement Worksheet

Student Name:

Date:

Parent Name:

Address:

Phone#:

Person completing the worksheet:

Individuals consulted while making this best interest determination for school placement:

### Housing

1. History of housing status. When was housing originally lost? What were the circumstances? What are the barriers to maintaining housing? (e.g., history of evictions, multiple doubled-up arrangements)
  
2. Based on the knowledge of the family situation, how long is it likely that the family will remain at the current residence?
  
3. What is the likelihood that the family experiencing homelessness will once again establish residency in the attendance area of the school of origin?

### Education

4. Please provide the following information for the previous schools the child attended, listing the most recent school first.

Student Name	Dates of Attendance	Grade Level	School/Division/State	Living Arrangement at the Time

5. Where does the student want to attend school?
  
6. Where does the parent or caregiver want the student to attend school?
  
7. What time of year is it (near the end of the school year, the summer)?
  
8. How is the student performing academically?
  
9. Are the school of origin and the school of residency in the same or different school divisions?
  
10. How long did the child attend the school of origin? Were meaningful social and educational relationships established?
  
11. Are there specific people in the school of origin who have been providing support or assistance to the family or student experiencing homelessness?
  
12. What is the history of absences and tardies for this student?
  
13. Are there special programs such as gifted, English language services, remedial education or extracurricular activities in which the child has been participating at the school of origin?

If yes, please name:

Are these programs available at the school of residency?

14. If the student is in high school, how would a school move affect credit accrual?

15. What is the distance and time spent on travel from the current residence to the school of origin?

16. If transportation is not currently available back to the school of origin, how can it be arranged?

17. Are there any safety concerns related to staying in the school of origin or attending the local school of residency?

The *optional* Likert scale on the following page may be used to summarize the decision-making process.

	Recommendation/Preference	Date/Method of Communication
Liaison for school of origin		
Parent/youth		
Liaison for school of residence		

Justification: \_\_\_\_\_

If the school of origin is recommended, when will this decision be reviewed?

\_\_\_\_\_

If the parents or unaccompanied homeless youth disagree, the disagreement triggers the need for Written Explanation of the McKinney-Vento Determination.

Optional form on next page: Based on the information gathered, rank the relative importance of the listed considerations.

<b>School of Origin (SOO) Considerations</b>			<b>Local School Considerations</b>	
<b>Continuity of instruction</b>				
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
The student would be served best at the SOO due to circumstances that look to his or her past.			The student would be served best due to circumstances that look to his or her future.	
<b>Age and grade placement of the student</b>				
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
Maintaining friends and contacts with peers is critical to the student's meaningful school experience and participation. The student has been in this environment for an extended period of time.			Maintaining friends and contacts with peers in the school of origin is not particularly critical to the student's meaningful school experience and participation. The student has attended the SOO a brief time.	
<b>Length of anticipated stay in a temporary shelter or other temporary location</b>				
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
The student's current living situation is outside the SOO's attendance zone, but the living situation continues to be uncertain. The student will benefit from the continuity offered by continuing to attend the SOO.			The student's current living situation appears stable and unlikely to change suddenly; the student will benefit from developing relationships with school peers who live in his or her local community.	
<b>Academic progress</b>				
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
The student is likely to fall further behind if he/she transferred to another school.			The school transfer is not likely to affect the student academically.	
<b>Student's need for special instruction</b>				
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
The SOO is better equipped to meet the student's need for special instruction, such as Section 504 or special education and related services.			The local attendance area school is better equipped to meet the student's need for special instruction, such as Section 504 or special education and related services.	
<b>Social and emotional needs</b>				
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
The student is suffering from the effects of mobility, has developed strong ties to the current school, and does not want to leave.			The student seems to be coping adequately with mobility, does not feel strong ties to the current school, and does not mind transferring.	
<b>Personal safety of the student</b>				
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
The SOO has advantages for the safety of the student.			The local school has advantages for the safety of the student.	
<b>Distance of the commute and its impact on the student's education</b>				
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
The advantages of continuing to attend the SOO outweigh any potential disadvantages presented by the length of the commute.			A shorter commute may help the student's concentration, attitude, or readiness for school. The local school can meet all of the necessary educational and special needs of the student.	

*Adapted from the Texas Homeless Education Office (THEO) and NCHE*

Best Interest Determination

Project HOPE-Virginia

2017

## **Directions for Completing the Written Explanation of McKinney-Vento Determination (B.)**

Under the McKinney-Vento Act, Title IX, Part A, of the Every Student Succeeds Act, the following issues may be disputed and must be documented with a written explanation whenever there is a disagreement between the school and parent/guardian/youth who is seeking McKinney-Vento rights and services:

- Eligibility –a parent/guardian/youth claims homelessness and the school disputes that the living situation meets the McKinney-Vento definition; and
- School Selection/Enrollment – the parent/guardian/youth and school disagree about which school the student should attend:
  - a school of origin,
  - the school of residency, or
  - another school that students in the attendance area are eligible to attend

The Written Explanation template provides the basic information that should be included in such a written explanation. To complete the form:

- Check the box for confirming the dispute of school selection and identify the school the student seeks enrollment.
- Add the name of the person to whom you are providing the explanation and the students included in the decision.
- Explain the reasoning for the determination. For the dispute of school selection/enrollment, include a summary of information collected during the Best Interest Determination. The BID may be attached to the written explanation.
- Include a date by which the parent/guardian/youth must notify the liaison that an appeal is desired. This should be based on your local dispute resolution process.
- Provide the name and contact information for the liaison and the person completing the form, if different.
- If the parent/guardian/youth has access to email, the notice should be provided electronically and followed by a written explanation provided in person or sent by mail.

This form can be modified to ensure that all decisions and notices are drafted using language and formatting appropriate for low-literacy, limited vision readers, individuals with disabilities, and English learners.

When a liaison receives an appeal, the local dispute process and the appropriate state dispute resolution process must be provided to the parent/guardian/youth. If the appeal is done verbally, the liaison should complete the second page of the written explanation for the person appealing. The liaison should provide the state coordinator with copies of the written explanation and appeal, subsequent correspondence, and BID (if appropriate) to ensure the state coordinator has the information needed to assist should the decision be appealed to the state level.

Date: Select date

In compliance with Sections 722(g)(3)(B)(iii) and 722(g)(3)(E) of the McKinney-Vento Act as amended by the *Every Student Succeeds Act* (Title IX, Part A, of P.L. 114-95), the following written notification addresses denial of a request for:

- School Selection/Enrollment –
  - School of origin, Enter school name is not in the student’s best interest
  - School of residency, Enter school name is not in the student’s best interest
  - Another school that students in the attendance area are eligible to attend, Enter school name is not in the student’s best interest

**This notice is provided to:**

Parent/Guardian/Unaccompanied Youth: Enter name

Names of Student(s) for this determination: Enter name

**This determination was based upon:** Enter information

**If you disagree**, you have the right to appeal this decision **by** Select date. You may submit the second page of this notice to the school division's local homeless education liaison or contact the liaison by phone. The liaison must provide you with the details of the dispute resolution process once an appeal is made.

Liaison's Name: Enter name

Title: Enter title

Phone number: Enter number

Email: Enter email

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Person Completing Form: Enter name

Title: Enter title

School: Enter school

School Division: Enter school division

**If you disagree with this decision:**

- You must contact the liaison to start the appeal.
  - The student listed has the right to enroll immediately in the school of choice (based on options mandated by McKinney-Vento) once an appeal is made, pending resolution of the dispute.
  - You may explain your disagreement verbally and/or provide written documentation to support your position. You may use this form.
  - If you are an English learner, use a native language other than English, or need additional supports because of a disability, translators, interpreters, or other support services will be made available without charge in the appropriate language.
  - You may seek the assistance of advocates or attorneys.
  - You may contact Project HOPE-Virginia to discuss this decision with the Virginia State Coordinator for Homeless Education at 877-455-3412 (toll free) or 757-221-4002.
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**The information below should be completed by the parent, guardian, caretaker, or unaccompanied youth to begin an appeal if there is disagreement with the determination.**

**This information may be shared by completing this form or speaking with the liaison.**

Date Submitted:

Student(s):

Person Completing Form:

Relation to student(s):

I may be contacted at (phone or email):

I wish to appeal the decision made by .

I have been provided with:

- a written explanation of the school's decision
- contact information for the local homeless education liaison
- information about how to submit this appeal

**Optional:** You may include a written explanation to support your appeal in this space, in an attachment or provide your explanation verbally.

A copy of this form was provided to me if I requested one:

Best Interest Determination

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## **Dispute Resolution Process for Virginia Public Schools Eligibility for McKinney-Vento Services (C.)**

Disagreements are to be settled as close to the point of conflict as possible. Each local homeless education liaison (liaison) shall assist the family and school to ensure compliance with federal and state legislation and policy governing the education of children and youth experiencing homelessness. The Office of the State Coordinator for Homeless Education (Project HOPE-Virginia) may be consulted at any time for technical assistance.

To comply with §722(g)(3)(E) of the McKinney-Vento Act as amended by the *Every Student Succeeds Act* (Title IX, Part A, of P.L. 114-95), if a school, in consultation with the liaison denies a student eligibility under McKinney-Vento, the liaison or designee shall provide the parent or guardian of the child or youth or the unaccompanied homeless youth with a written explanation of the school's decision regarding eligibility for McKinney-Vento rights. The right to appeal the decision and the process to be followed must be included in this written notice.

The liaison must maintain a copy of such written notification. If an appeal is requested either in writing or verbally, the school division shall:

- immediately admit the student to the school<sup>1</sup> in which enrollment is sought and provide all services for which the student is eligible, pending resolution of the dispute;
- refer the parent, guardian, or unaccompanied youth to:
  - the designated school division representative to carry out the local dispute resolution process as expeditiously as possible once notified, or
  - Project HOPE-Virginia if there is no interim appeal in the local dispute resolution process;
- ensure an unaccompanied homeless youth is informed of his/her rights throughout the process as stated in the responsibilities of the local liaison (§722(g)(6)).

### **State Level Appeal**

If the parent, guardian, or unaccompanied youth disagrees with the school division's decision after all local appeals are exhausted, the liaison must refer the parent, guardian, or unaccompanied youth to Project HOPE-Virginia to allow the appeal to continue at the state level.

A parent, guardian or unaccompanied youth must contact Project HOPE-VA to appeal the school division's decision within **five business days** of receiving the school division's written notice.

When the state coordinator, or designee, receives an appeal, he/she shall:

- inform the liaison that an appeal has been made;
- review school division records and information provided by the appealing family or unaccompanied youth; and
- provide the family and liaison with a determination of eligibility within **five business days**.

<sup>1</sup>The school must be an option mandated under the McKinney-Vento Act.

## **Dispute Resolution Process for Virginia Public Schools School Selection or Enrollment (D.)**

Disagreements and disputes are to be settled as close to the point of conflict as possible. Each local homeless education liaison (liaison) shall assist the family and school to ensure compliance with federal and state legislation and policy governing the education of children and youth experiencing homelessness. The liaison shall work with appropriate school division representatives to address any policies or procedures that are identified as barriers in the access to and success within a free appropriate public education. The Office of the State Coordinator of Homeless Education (Project HOPE-Virginia) may be consulted at any time for technical assistance.

### **Written Explanation**

If, following a best interest determination and consultation with the liaison, a school chooses to send a student to a school other than:

- the school of origin, or
- the school<sup>i</sup> selected by the family or unaccompanied youth,

the liaison or designee shall provide the parent or guardian of the child or youth or the unaccompanied homeless youth with a written explanation of the school's decision regarding school selection or enrollment, including the rights of the parent, guardian, or unaccompanied youth to appeal the decision [§722(g)(3)(B)(iii) and [§722(g)(3)(E)].

The local homeless education liaison shall maintain a copy of such written notification.

### **Enrollment Dispute**

If an appeal is requested either in writing or verbally, the liaison shall:

- direct the school<sup>ii</sup> in which enrollment is sought to immediately admit the student and provide all services for which the student is eligible, pending resolution of the dispute;
- refer the parent, guardian, or unaccompanied youth to:
  - the designated school division representative to carry out the local dispute resolution process as expeditiously as possible once notified, or
  - Project HOPE-Virginia if there is no interim appeal in the local dispute resolution process;
- ensure an unaccompanied homeless youth is informed of his/her rights throughout the process as stated in the responsibilities of the local liaison (§722(g)(6)).

## State Level Appeal

If the parent, guardian, or unaccompanied youth disagrees with the school division's decision after all local appeals are exhausted, the liaison must refer the parent, guardian, or unaccompanied youth to Project HOPE-Virginia to allow the appeal to continue at the state level.

A parent, guardian or unaccompanied youth must contact Project HOPE-Virginia to appeal the school division's decision within **five business days** of receiving the school division's written notice.

When the state coordinator, or designee, receives an appeal, he/she shall:

- inform the liaison that an appeal has been made;
- review school division records and information provided by the appealing family or unaccompanied youth to ensure proper procedures were followed;
- consult with the Project HOPE-Virginia Advisory Board, when appropriate.
- forward a recommendation to the Superintendent of Public Instruction regarding the appropriate placement for the student within **five business days** of receiving the appeal based on the review of school division records, information from the family or unaccompanied youth, and any supplemental information obtained.

Within **ten business days** of receiving the case and recommendation from the State Coordinator or designee, the Superintendent of Public Instruction, or designee, will make the final determination and inform the following parties:

- the family or unaccompanied youth,
- the school division(s) Superintendent(s) and liaison(s),
- the Assistant Superintendent of Special Education and Student Services,
- the Director of Student Services, and
- Project HOPE-Virginia State Coordinator

Upon notification by the Superintendent of Public Instruction, or designee, Project Hope-Virginia staff will provide technical assistance to the school division, as needed, to comply with the final determination.

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<sup>i</sup> The school selected must be an option mandated under the McKinney-Vento Act.

<sup>ii</sup> The school must be an option mandated under the McKinney-Vento Act.