

Trending Topics: Addressing McKinney-Vento and Foster Care Disputes

2018 Homeless Education Conference

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Content

- Common Disputes
- ESSA Requirements
 - McKinney-Vento
 - Foster Care
- Strategies and Tactics
- Dispute Resolution
- Discussion
- Resources

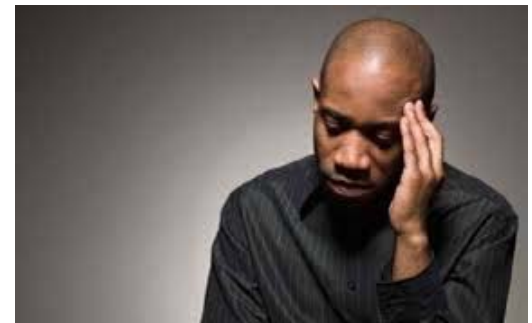
Question for Consideration

When considering the topic of McKinney-Vento and Foster Care disputes which individuals are commonly involved when a concern arises?



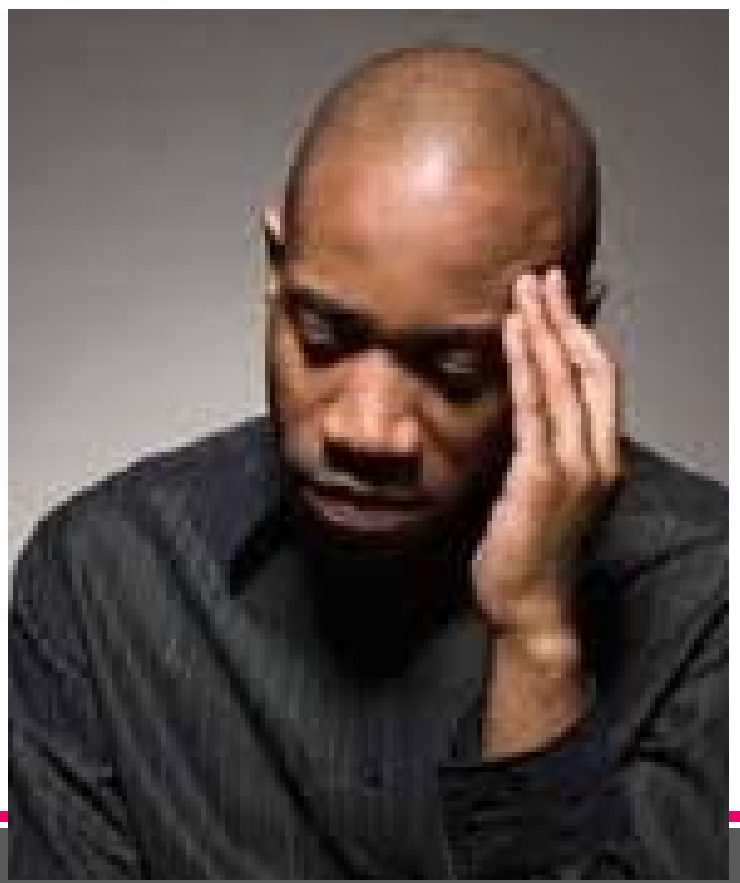
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Common Disputes

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Common Disputes



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Immediate Enrollment

Best Interest
Determination

Eligibility

Transportation

Unaccompanied Youth

Question for Consideration

What are the most common disputes that occur within your district for McKinney-Vento and Foster Care students?



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Common Disputes



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Student Eligibility

- Lack of verifiable address to assess school of origin
- Lack of history of economic hardship
- Refusal of student, parent, or guardian to provide required information

Immediate Enrollment

- Missing school records (academic or immunization)
- School capacity concerns
- Suspected fraud
- School attendance zone concerns

Common Disputes



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Transportation

- Cost
- Bus routing delays
- Mileage or fuel cost reimbursement methods
- Lack of inter-district collaboration
- Disagreement regarding type of assistance offered by LEA

Best Interest Determination

- Special Education needs
- Full participation in school
- Distance
- Transportation
- Desire of youth

Common Disputes



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Unaccompanied Youth

- Parental disputes
- Student privacy concerns
- Credit Recovery
- Attendance related to McKinney-Vento status
- Comparable services
- Non-Relative caregiver concerns

Common Disputes



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What additional support would be helpful to assist in resolving McKinney-Vento and Foster Care Disputes?

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ESSA Requirements

McKinney-Vento Act

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McKinney-Vento Act



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State Education Agency

The McKinney-Vento Act requires every state to include a dispute resolution policy as part of its state plan for implementing the law. The dispute resolution policy must describe procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youth. [42 U.S.C. § 11432(g)(1)(C)]

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McKinney-Vento Act



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State Education Agencies (SEAs) and Local Education Agencies (LEAs) must develop, review and revise their policies to remove barriers to the enrollment and retention of children and youth in homeless situations. [722(g)(1)(I)]

- Immediate enrollment of homeless students, regardless of missing documentation.
- Transportation to and from the "school of origin."
- Homeless children and youth are not stigmatized or segregated on the basis of their status as Homeless.

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Local Education Agencies

Each district must have written dispute resolution procedures. If a dispute arises the district must:

- Immediately enroll the student in the school or district where enrollment is sought pending resolution of the dispute;

The student shall be enrolled in either: (1) the school of origin, or (2) any public school that non-homeless students who live in the same attendance area in which the student is actually living are eligible to attend. (Section 722(g)(3)(E)(i))

- Provide transportation, if requested;

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Local Education Agencies

- Give the parent, guardian, or unaccompanied youth a written explanation of the decision;
- Notify the parent, guardian, or unaccompanied youth of the right to appeal to both the local and state levels;
- Refer parent, guardian, or unaccompanied youth to the LEA liaison for help with enrollment or the filing of any appeal

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Local Level Disputes

What should be included in a written response from an LEA to a party who initiates a complaint?

- An explanation of how the school reached its decision regarding eligibility, school selection, or enrollment, which should include:
 - A description of the action proposed or refused by the school;
 - An explanation of why the action is proposed or refused;
 - A description of any other options the school considered;

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Local Level Disputes

What should be included in a written response from an LEA to a party who initiates a complaint?

- The reasons why any other options were rejected;
- A description of any other factors relevant to the school's decision and information related to the eligibility or best interest determination including the facts, witnesses, and evidence relied upon and their sources;
- Appropriate timelines to ensure any relevant deadlines are not missed



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Local Level Disputes and SEA Involvement

- A complaint must be made in one of two ways:
 - In writing and signed by the complainant
 - Submitted electronically through the Department's online complaint process at: <http://programcomplaint.doe.k12.ga.us/everestwebportal/webform.asp>
- All disputes must be resolved within 60 days of initial presentment to the Department, unless a written extension is granted.
- The student, parent, guardian, or local board must submit the request in writing within 30 days of the decision to the Office of Legal Services at the Department of Education at the following address:

Office of Legal Services
2052 Twin Towers East
Atlanta, Georgia 30334
Tel. (404) 656-4689
Fax (404) 657-8376



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State Dispute Procedures

Where is the complaint filed?

Georgia Department of Education
Legal Services Division
2052 Twin Towers East
205 Jesse Hill Jr. Drive
Atlanta, GA 30334

Submitted electronically through the Department's online complaint system:

<http://programcomplaint.doe.k12.ga.us/everestwebportal/webform.asp>

Next Steps:

- Internal Review
- Letter of Findings



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ESSA Requirements

Foster Care

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Collaboration

It is encouraged that the State Education Agency and LEAs collaborate with child welfare agencies to develop a dispute resolution process at the local level for parties to address disagreements over the best interest determination decision.

- ❑ To the extent feasible and appropriate, an LEA must ensure that a child remains in his or her school of origin while the disputes are being resolved to minimize disruptions and reduce the number of moves between schools. (See ESEA section 1111(g)(1)(E)(i)).



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Foster Care

Dispute Resolution Process (Best Practices)

Level I- LEA Foster Care Point of Contact

- Initiating the Dispute
- Foster Care POC Decision

Level II- LEA Superintendent or Designee

- Initiating the Dispute
- LEA Decision

Level III- SEA

- Initiating the Dispute
- SEA Decision

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Written
Notice of
Decision

- Provide a detailed written notice of decision to the educational decision-maker.
- Include Foster Care POC contact information and detailed steps for submission of dispute.

Level I

- Within a set time period (10-15 days), the educational decision-maker must submit a written dispute to Foster Care POC.
- While the decision is resolved, the student remains in school of origin and continues to receive services.

Level II

- The educational decision-maker may elevate the dispute upon receipt of the Level I decision within a set time period (typically 10 days of receipt of the decision).
- Within a set time period (typically 5-10 days), a personal conference should be arranged with educational decision maker and LEA representative.
- Within 5 days of the meeting, the LEA representative should provide a decision and required documentation.

Level III

- Within a set time period (typically 10 days), educational decision-maker must notify LEA of escalation.
- A designee of the LEA, should forward required documents to the SEA. The educational decision-maker may submit required documentation as well. (Within 5 days of escalation notification)
- A final decision from the SEA should be made within 15 days.

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Appendix A Sample Written Notice Template

DATE

To: EDUCATIONAL DECISION-MAKER NAME
Delivered via: *(preferably a reliable email address to ensure delivery)*

NAME school district has determined that the appropriate school placement for STUDENT NAME is SCHOOL NAME. We understand this is neither the school of origin nor the school requested by the student's educational decision-maker. Therefore, we are providing this explanation of our decision and information about how the educational decision-maker may appeal the decision.

We have determined that it is in the student's best interest to attend SCHOOL NAME because:

The educational decision-maker may appeal this decision by completing the attached Dispute Form, signing it, dating it, and submitting it by DATE (insert date ten school days from date of this letter).

If the educational decision-maker chooses to initiate a dispute, the student shall remain in the school of origin, receiving all appropriate educational services including transportation, until the dispute reaches its final resolution. Once the Dispute Form is received, the superintendent or designee will arrange for a personal conference with the educational decision-maker, the student (if appropriate), and at least one representative from the local child welfare agency within ten (10) business days, and the conference will take place as expeditiously as possible. Within five (5) business days of the personal conference, the superintendent or designee will inform the educational decision-maker of the decision in writing. The educational decision-maker will be able to appeal to the State if the local resolution is not satisfactory.

If you have questions about this decision or how to appeal it, please contact:

LEA FOSTER CARE POC NAME
EMAIL
PHONE NUMBER

SEA FOSTER CARE POC NAME
EMAIL
PHONE NUMBER



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Appendix B Sample Dispute Form Template

To appeal the district's decision, please complete this form and submit it by the date indicated on the Written Notice you received from the school. You may submit this form by any of the following methods:

- Scan and email it to [EMAIL ADDRESS](#) with the subject "Foster Child Appeal";
- Return the paper form to any school in this school district; or
- Submit the paper form directly to the office of the superintendent at [ADDRESS](#).

Student Name: _____

School in which enrollment is sought: _____

I am the educational decision-maker for this student, and I believe the school in which we are seeking enrollment is in the student's best interest because:

I believe the student has a right to attend this school because:

If you would like to provide additional information, please attach it to this form.

The student shall remain in the school of origin, receiving all appropriate educational services including transportation, until the dispute reaches its final resolution. Once this Dispute Form is received, the superintendent or designee will arrange for a personal conference with the educational decision-maker, the student (if appropriate), and at least one representative from the local child welfare agency within ten (10) business days, and the conference will take place as expeditiously as possible. Within five (5) business days of the personal conference, the superintendent or designee will inform the educational decision-maker of the decision in writing. The educational decision-maker will be able to appeal to the State if the local resolution is not satisfactory.

Educational decision-maker name: _____

Email: _____

Phone: _____



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Mediation and Dispute Resolution

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Mediation Strategies



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- Engage school personnel, parents, and student in neutral discussions to ascertain facts
- Consult with other LEA "subject matter" experts (Transportation Director, Special Education Director, Lead Registrar)



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Mediation Strategies

- Facilitate discussion with GaDOE Homeless Education Consultants or Foster Care Coordinator to develop collaborative mediation suggestions
- Provide training for school-level administrators and personnel on McKinney-Vento policies and protocols
- Engage local DFCS administrators and Case Managers to develop a communication protocol prior to handling disputes

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Mediation Strategies

- Maintain a mediation handbook that references LEA action on past mediation and dispute scenarios
- Ensure that you allow sufficient time for mediation discussions with all parties (Parents; School Personnel; SEA Consultants; Youth)
- Work with Homeless Education Liaisons and Foster Care Points of Contact in neighboring districts to host a collaborative dispute resolution call, but be mindful of FERPA regulations

Balancing Mediation and Disputes



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Mediation



Disputes



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Promising Practices for Dispute Resolution

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Promising Practices for Dispute Resolution



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Strategies and Tactics

Suggested Practices for Homeless Education Liaisons when faced with disputes and working with parents

- ❑ Inform parents, guardians, and unaccompanied youth that they can provide written or oral documentation to support their positions about school selection or enrollment. Consider contact provided to Foster Parents and DFCS Case Managers.
- ❑ Inform parents, guardians, and unaccompanied youth that they can seek the assistance of social services, advocates, or service providers in the dispute process.

Strategies and Tactics



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Suggested Practices for Homeless Education Liaisons and Foster Care Points of Contact when faced with disputes

- Provide a simple dispute form that parents, guardians, or unaccompanied youth can complete and turn in to the initiate the dispute resolution process
- Share written documentation with parties, even when complaints are satisfactorily resolved without a dispute hearing

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Strategies and Tactics

Suggested Practices for Homeless Liaisons and Foster Care Points of Contact when faced with disputes

- Consider additional appropriate dispute processes that are already in place at the district (Fraud; Transportation Contracts; Residency Verification Policies; Credit Recovery Policies)
- Develop interagency dispute protocols to assist in easily resolving transportation issues between LEA and child welfare agencies.

Strategies and Tactics



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- ❑ Utilize mediation and the dispute process as an opportunity for professional growth and program development
- ❑ Enhance inter-district and community collaboration through referrals during case mediation and dispute procedures



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Strategies and Tactics



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[gadoe.org](http://ga.gov/gadoe.org)



- Convene mock dispute resolution and mediation sessions during LEA staff training sessions
- Refrain from excessive investigation or “detective” strategies when evaluating evidence for potential disputes

Resources



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- ❑ National Association for the Education of Homeless Children and Youth- <https://nche.ed.gov/>
- ❑ National Association for the Education of Homeless Children and Youth- <http://www.naehcy.org>
- ❑ USED Foster Care Non-Regulatory Guidance- <https://www2.ed.gov/policy/elsec/leg/essa/edhhsfostercaresnonregulatorguide.pdf>

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Discussion



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