
NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

Rhode Island State Procedures – Dispute Resolution under McKinney-Vento Act

According to the McKinney-Vento Homeless Assistance Act, a Local Education Agency (LEA) must continue educating the child or unaccompanied youth in the school of origin for the duration of homelessness when the homelessness occurs between or during an academic year; or for the remainder of the academic year if the child or unaccompanied youth becomes permanently housed during that academic year; or enroll the child or youth in any public school that non-homeless students who live in the attendance area in which the child or youth is living are eligible to attend (McKinney-Vento Act § 722(3)(A)(i)(ii)). If a dispute arises over school selection or enrollment, the LEA must immediately enroll the student in the school in which enrollment is sought pending resolution of the dispute (§ 722(3)(E)(i)). Similar provisions apply to the placement of unaccompanied youths.

Rhode Island's homeless education regulations are codified under Code R.I. Reg. 08 010 017. The Rhode Island Department of Elementary & Secondary Education oversees the Homeless Education program, which ensures that homeless children and youth are enrolled in school. It has adopted a dispute resolution procedure regarding the placement and enrollment of homeless students. Rhode Island General Laws Sections 16-60-1 and 16-60-4 give the Rhode Island Board of Regents for Elementary and Secondary Education authority to develop the appeals process for complaints. This process is set out under the Board of Regents Title A Regulations Chapters 2 and 3.

Step One: School Enrollment

To the extent feasible, the student will be enrolled in the school of origin unless it is not in the student's best interests, or he or she finds permanent housing somewhere. The school of origin is defined as the school last attended by the child or youth when permanently housed, or the last school in which the child or youth was enrolled. Parents of a homeless student can decide whether it is in the child's best interests to attend their school of origin or the school in the town where the student is currently living. This determination is subject to school district challenge though. Code R.I. Reg. 08 010 017 L-7-6, 7.

A school cannot deny or delay a homeless student's enrollment due to lack of documents required for enrollment, such as medical, immunization, and academic records, and proof of residency. The school also must provide transportation to homeless students to their school of origin or the school where they are to be admitted. Code R.I. Reg. 08 010 017 L-7-20, 21.

Step Two: Enrollment Dispute

If an enrollment dispute develops between a school district and parent, guardian, or unaccompanied youth, the student must be immediately admitted to the school in which enrollment is sought. The student shall also have the rights to services, such as transportation, pending resolution of the dispute by the commissioner. The school district must provide the parent, guardian, or unaccompanied youth with a written explanation of the school district's

decision regarding school enrollment, and their appeal rights. Code R.I. Reg. 08 010 017 L-7-24.

Step Three: Appeal to Commissioner of Elementary and Secondary Education

If a dispute arises between a school district and a parent, guardian, or unaccompanied youth regarding enrollment, the district must refer the student or parent to the district's liaison, who must quickly facilitate the dispute resolution process. Code R.I. Reg. 08 010 017 L-7-24. The school district has the burden of proof to show that the parent's decision is not in the best interest of the student. Code R.I. Reg. 08 010 017 L-7-10.

To start the dispute resolution process, the LEA liaison must file an appeal with the Commissioner of Education ("Commissioner"). The liaison can fax or mail the appeal to the Commissioner. The appeal must include the following information: (1) name, telephone number, and address of the person filing the appeal; (2) brief statement of facts describing nature of the appeal; and, (3) statement of relief being requested. (Board of Regents Reg. Title A, Ch. 2, § A-4-1).

The Commissioner shall schedule the hearing as promptly as possible. Expedited hearings may be requested if the complainant shows good cause. (§ A-4-2).

The Commissioner shall promptly render a decision of the appeal. All hearing officers shall complete and submit their written recommended decisions to the Commissioner within forty five (45) working days after the appeal record has finished. An appeal record is complete when the hearing officer has the hearing's official transcript and written legal briefs (when applicable) from the parties to the dispute. (§ A-4-3).

Step Four: Appeal to Board of Regents

If the parent or unaccompanied youth is aggrieved by the Commissioner's decision, they may appeal to the Board of Regents ("Board").

The aggrieved party must file a Notice of Appeal with the Board within thirty (30) days after the Commissioner mails notice of the decision. The Notice of Appeal must include the names of the party appealing and identify the decision from which they are appealing. The aggrieved party must mail copies of the Notice of Appeal to the Commissioner and all other parties of record (or their attorneys) at their last known address. (Board of Regents Reg. Title A, Ch. 3, § A-5-2).

Seven (7) days after the Notice of Appeal has been filed and upon written notice to the parties or their attorneys, the Commissioner shall submit the appeals record to the Board. The appeals record is the record compiled by the Commissioner during the appeals process. This record represents the record of appeal in all cases. The record shall include all items required by the Rhode Island Administrative Procedures Act (R. I. Gen. Laws § 45-32-1 et seq.). The Appeal shall be decided upon the appeals record submitted to the Board and the briefs filed. (§ A-5-3).

The aggrieved party shall file a brief with the Board within twenty (20) days that the record is submitted to the Board. This brief shall be printed or typewritten and signed by the party or counsel. It shall contain the following items: (1) a brief and concise statement of the case; (2) the specific questions raised, duly numbered; (3) the arguments supported by authorities; and, (4) if relying on evidence in the record, a reference to where said evidence may be found. The adverse party shall file a brief within ten (10) days after the aggrieved party has filed their brief. The brief shall contain all of the above items except a statement of the case unless the adverse party is correcting the aggrieved party's statement. The aggrieved party may file a reply brief within five (5) days after the adverse party has filed a brief. (§ A-5-4).

A copy of any brief shall be delivered to the opposing party or their attorney by personal delivery or mail. The briefs filed with the Board must contain a certificate of compliance with this rule signed by either the party or their attorney. (§ A-5-4, paragraph 3).

The Chair of the Appeals Committee may extend the time for the filing of any brief. This time period can be extended to up to thirty (30) days. The Committee shall grant a further extension of time based on good cause. The parties can appeal the Appeals Committee's decision to deny or grant an extension. (§ A-5-4).

The Appeals Committee shall consider the appeal, and it shall submit its recommendation for a decision to the Board. The Committee shall base its recommendation on the briefs and the record transmitted to the Board. The Committee shall assign each appeal for oral argument before the Committee at a certain time and place. This oral argument shall be used to highlight and clarify the written argument in the filed briefs. An aggrieved party's waiver of oral argument must be in writing and submitted to the Committee. The aggrieved party has the right to start the oral arguments, and each party is allotted twenty (20) minutes for their argument. (§ A-5-5).

The Board shall remand the appeal back to the Committee or decide the Appeal based on the briefs and record submitted to the Board and the Committee's recommendation. (§ A-5-6).

The Board may affirm, modify, reverse, or remand the decision of the Commissioner. (§ A-5-7).

Sources:

Information on the Rhode Island State dispute resolution process can be found at <http://sos.ri.gov/documents/archives/regdocs/released/pdf/DESE/4894.pdf> and <http://sos.ri.gov/documents/archives/regdocs/released/pdf/DESE/6775.pdf>.

Additional Information:

Instructions to Locate Your Local LEA Homeless Liaison:

1. Go to the website for the State of Rhode Island's Homeless Education Program at: http://www.ride.ri.gov/OSCAS/Title1/Title1_homeless.aspx.

2. On the left hand side of the webpage, under Title 1 Documents, left click on “Local Homeless Education Liaisons.”
3. The school districts are listed alphabetically.

Appeals Process Timeline

Procedural Step:	Completed by:	Given to:	Due Date:
Appeal	LEA Liaison	Commissioner of Education	No deadline specified.
Hearing	Commissioner of Education	LEA Liaison and parent or unaccompanied youth	As promptly as possible.
Decision	Commissioner of Education	LEA Liaison and parent or unaccompanied youth	Promptly.
Notice of Appeal	Aggrieved party	Board of Regents	Within 30 days after the Commissioner mails notice of decision.
Appeal Record	Commissioner of Education	Board of Regents	Within 7 days after the filing of the Notice of Appeal.
Brief	Aggrieved Party	Board of Regents & Adverse Party	Within 20 days after Appeal Record is submitted to the Board.
Brief	Adverse Party	Board of Regents & Aggrieved Party	Within 10 days after Aggrieved Party’s brief has been filed.
Reply Brief	Aggrieved Party	Board of Regents & Adverse Party	Within 5 days after Adverse Party’s brief has been filed.
Oral Argument	Aggrieved Party & Adverse Party	Board of Regents	No deadline specified.
Final Decision	Board of Regents	Aggrieved Party & Adverse Party	No deadline specified.