

## JFB-R – EDUCATION OF HOMELESS CHILDREN-DISPUTE RESOLUTION PROCESS

The **McKinney-Vento** Homeless Assistance Act guarantees rights and services to remove educational barriers for homeless children and youth. The District has developed a dispute resolution process for when parents, guardians, or unaccompanied youth and schools, disagree on the eligibility, enrollment, or educational placement of homeless children and youth. The designated District Homeless Liaison is responsible for carrying out the dispute resolution process in an expeditious manner.

The District will provide a written explanation of the decision to the parent or, in the case of an unaccompanied youth, to the unaccompanied youth. The written explanation must include a description of the parent's or unaccompanied youth's right to appeal the decision. When a dispute arises over eligibility, enrollment, or school selection, the child or youth shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute.

Should a dispute occur regarding eligibility, enrollment, or school selection of a homeless child or youth, the following process must be used:

- Level 1: If a parent or unaccompanied youth wishes to appeal a District Homeless Liaison's decision related to a student's eligibility, enrollment, or educational placement, the case is appealed to the District Superintendent or the Superintendent's designee (who may not be the District Homeless Liaison).
- Level 2: If the appeal is unresolved, the case is appealed to the School Board.
- Level 3: If the appeal continues to be unresolved, the case is appealed to the **McKinney-Vento** State Coordinator.

Every effort should be made to resolve the complaint or dispute at the local level before it is brought to the South Dakota Department of Education.

**Initiation of the Dispute Resolution Process:** If a parent or unaccompanied youth wishes to appeal the District Homeless Liaison's decision related to a student's eligibility, enrollment, or educational placement:

1. The parent or unaccompanied youth must file a request for dispute resolution with the District Homeless Liaison by:
  - a. submitting a form that initiates the dispute resolution process;

- b. the request for dispute resolution must be submitted by the parent or the unaccompanied youth to the District Homeless Liaison within fourteen (14) calendar days of receiving notification that the District intends to enroll the student in a school other than the one requested by the family or the unaccompanied youth;
2. The District's Homeless Liaison must log their receipt of the appeal, including the date and time, with a written description of the situation and the reason for the dispute, and a copy of the complaint must be forwarded to the District Superintendent within seven (7) calendar days of receipt of the notice of appeal.

**Level 1: Appeal to the Superintendent:** The following procedure shall be used to address an appeal of the District's Homeless Liaison's decision:

- A. The appeal shall be in writing using Exhibit JFB-E(1).
- B. Upon receipt of an appeal, the Superintendent will, within fourteen (14) calendar days, meet and discuss the matter with the appealing party and the District's Homeless Liaison.
- C. Within fourteen (14) calendar days from the date the appeal was filed with the Superintendent, the Superintendent shall render a decision in writing. The time frame for rendering a decision by the Superintendent may be extended by the Superintendent for good cause.
- D. The Superintendent may uphold, reverse or modify the Liaison's decision. The Superintendent may also refer the matter back to the Liaison for further investigation. The Liaison may uphold, modify or reverse his or her initial decision. After a matter has been referred back to the Liaison, and the Liaison rendered a second decision, that decision may also be appealed to the Superintendent.
- E. The Superintendent's decision may be appealed to the School Board within fourteen (14) calendar days of receipt of the Superintendent's written decision. If the Superintendent does not render a written decision within the required time frame the matter may be appealed to the School Board pursuant to Step 3.

**Level 2: Appeal to the School Board:** The following procedure shall be used to address an appeal of the Superintendent's decision made in Level 1, or if the Superintendent failed to render a decision in the required time frame:

- A. An appeal to the School Board shall be in writing using Exhibit JFB-E(2).

- B. The appeal must be filed with the President/Chairperson of the School Board or Business Manager within fourteen (14) calendar days of receipt of the Superintendent's written decision, or within fourteen (14) calendar days of the deadline for the Superintendent's written decision, whichever comes first.
- C. Upon receipt of an appeal to the School Board, the School Board shall schedule a date, time and location for the appeal hearing.
- D. The following procedure shall be applicable at the appeal hearing before the School Board:
  - 1. The School Board shall appoint a school board member or a person who is not an employee of the school district as the Hearing Officer.
  - 2. Within thirty (30) calendar days of an appeal being filed with the School Board, the School Board shall conduct a hearing in executive session.
  - 3. The appealing party and the Superintendent each have the right to be represented at the hearing.
  - 4. The School Board shall make a verbatim record of the hearing by means of an electronic device or a court reporter. This record and any exhibits must be sealed and must remain with the Hearing Officer until the appeal process has been completed.
  - 5. The issue on appeal is whether the Superintendent's decision should be upheld, reversed or modified by the School Board; in the absence of a decision by the Superintendent, the School Board will make a decision on the merits of the complaint.
  - 6. All parties shall be given the opportunity to make an opening statement.
  - 7. Both parties shall have the opportunity to present their case and ask questions of the other's witnesses. The Hearing Officer and school board members may ask questions of any witness.
  - 8. All witnesses must take an oath or affirmation administered by the School Board President/ Chairperson, Hearing Officer or other person authorized by law to take oaths and affirmations.
  - 9. The Hearing Officer shall admit all relevant evidence. The Hearing Officer may limit unproductive or repetitious evidence. The strict rules of evidence do not apply.

10. Both parties shall be given the opportunity to make a closing statement.
11. After the evidentiary hearing, the School Board shall continue to meet in executive session for deliberations. No one other than the Hearing Officer may meet with the Board during deliberations. During deliberations, the Board may seek advice from an attorney who did not represent any of the parties in the hearing. Consultation with any other person during deliberation may occur only if a representative of both parties are present. The Board may, in its sole discretion, continue the proceedings and make a final decision on the appeal at a later date.
12. Within twenty (20) calendar days of the hearing, the School Board shall render its decision and issue its written Findings of Fact, Conclusions of Law and Decision. The time frame for rendering a decision may be extended by the Board President for good cause and upon written notification to the parties.
13. The decision of the School Board must be based solely on the evidence presented at the hearing and must be formalized by a motion made in open meeting. The Board will reconvene in open session. The Board may uphold, reverse, or modify the Superintendent's decision, or render a decision on the merits of the complaint in the absence of a Superintendent's decision. Findings of Fact, Conclusions of Law and Decision, consistent with the Board motion, shall be in writing and approved by the Board. The Complainant, Employee, Principal and Superintendent will receive copies after the Findings of Fact, Conclusions of Law and Decision are approved by the School Board.
14. If the party appealing the Superintendent's decision to the School Board is dissatisfied with the School Board's decision, that party may appeal the decision by filing an appeal with the South Dakota Department of Education.

Adopted: November 8, 2021