

This annotated Petition includes notes to help guide parents and McKinney-Vento liaisons in filling out the form Petition. The text in bright blue and the text in the red boxes were added by NYS-TEACHS and are not part of the form. To download a blank copy of the Petition see <http://www.counsel.nysed.gov/common/counsel/files/homelessform-revised2016.pdf> (pdf version) or <http://nysteachs.org/info-topic/dispute-appeal.html#forms> (Word version).

Revised October 2016

NOTE: As of October 1, 2016, pursuant to the McKinney-Vento Homeless Assistance Act as amended by the Every Student Succeeds Act of 2015 (ESSA), parents, guardians and youth are no longer required to request a temporary stay in McKinney-Vento related appeals to the Commissioner and **school districts must immediately enroll and transport such homeless student, or continue enrollment and transportation in the school and district where the parent, guardian, or youth is seeking enrollment until all available appeals are final** (42 U.S.C. §11432(g)(3)(E)(i); 42 U.S.C. §11432(g)(4)(A)).

FORM NOTICE OF PETITION FOR AN APPEAL INVOLVING A HOMELESS CHILD AND YOUTH

STATE OF NEW YORK

STATE EDUCATION DEPARTMENT

_____ x

In the Matter of Parent, guardian, or unaccompanied youth's name

on behalf of Student's name,

a homeless child or youth, from action of the Board of

Education of the School district's name School

District ("respondent") regarding the provision of education

and related services.

_____ x

NOTICE:

The respondent is hereby required to appear in this appeal and to answer the allegations contained in the petition. Your answer must conform with the provisions of the regulations of the Commissioner of Education relating to appeals before the Commissioner of Education, copies of which are available at www.counsel.nysed.gov or from the Office of Counsel New York State Education

Department, State Education New York Building, Albany, 12234.

If an answer is not served and filed in accordance with the provisions of such rules, the statements contained in the petition will be deemed to be true statements, and a decision will be rendered thereon by the Commissioner.

Please take notice that such rules require that an answer to the petition must be served upon the petitioner, or if he be represented by counsel, upon his counsel, or if the petitioner so elects, the respondent shall serve the answer upon the local educational agency liaison for homeless children and youth, within 20 days after the service of the appeal, and that a copy of such answer must, within five days after such service be filed with the Office of Counsel, New York State Education Department, State Education Building, Albany, New York 12234.

PETITION FOR AN APPEAL INVOLVING A HOMELESS CHILD AND YOUTH

STATE OF NEW YORK

STATE EDUCATION DEPARTMENT

_____ x

In the Matter of Parent, guardian, or unaccompanied youth's name

(otherwise known as "petitioner") on behalf of

PETITION

Student's name, a homeless child or

youth, from action of the Board of Education of the

School district's name School District

("respondent") regarding the provision of education and related services.

_____ x

TO THE COMMISSIONER OF EDUCATION:

1. My name is The parent, guardian, or unaccompanied youth's name.

2. Please check and complete one of the following statements.

Check this box if an unaccompanied youth is filing the appeal.

I am a homeless child or youth.

OR

OR check this box and fill in the blanks if the parent or another adult is filing the appeal on behalf of the student.

My relationship to Student's name
is Write the adult's relationship to the student (for example mother, father, grandparent, etc.).

3. Student's name (child's/youth's name) is a "homeless child" as defined by §100.2(x) of the Regulations of the Commissioner of Education.

4. Student's name (child's/youth's name) is over 3 and under 21 years of age and has not received a high school diploma.

Date enrollment or transportation was requested

5. On _____ (date), _____ **Student's name** (child's/youth's name) made a request for

(Check applicable boxes)

- enrollment in a school or a school program,
- transportation,
- other (please specify) _____

Check all the boxes that apply.

to the _____ **School district's name** School District.

6. The above request was denied by respondent on _____ **Date enrollment or transportation was denied by the district** (date).

(Attach copy of denial if available)

Attach a copy of any letter the district gave the parent or youth about the dispute (for example, a copy of the written explanation about why the district believes that the student is not homeless).

7. Please check and complete all that apply:

The named child/youth is a homeless child because he/she lacks a fixed, regular, and adequate nighttime residence and

- is sharing the housing of other persons due to loss of housing, economic hardship or a similar reason.

Please list name, address and relationship of all persons with whom the child/youth is sharing housing. (Attach additional sheets if necessary.)

If the parent or youth checks the shared housing box, they have to describe the housing loss in #11.
If the parent or youth checks the shared housing box, they must list the names, addresses, and relationships of all the people with whom the student is currently sharing housing here.
If the dispute is about enrollment or transportation for the remainder of the school year after a student has become permanently housed, they should include information about the people whom the student previously shared housing with.

Check the box on this page or the next that describes the student's housing situation.

- is living in motels, hotels, trailer parks or camping grounds due to the lack of alternative adequate accommodations.

- was abandoned in a hospital.

is awaiting foster care placement (prior to December 10, 2016).

is a migratory child.

other (*please specify*) _____

Check the box on this page or the previous page that describes the student's housing situation.

The named child/youth has a primary nighttime location that is:

a supervised, publicly or privately operated shelter designed to provide temporary living accommodations, such as a shelter operated or approved by the State or local department of social services or residential programs for runaway and homeless youth.

List name and address of shelter (The name and address of the shelter is not required if child's/youth's primary nighttime location is a domestic violence shelter):

If you check the shelter box, list the name and address of the shelter. You don't need to include the address if it is a domestic violence (DV) shelter.

a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation, such as a car, park, public space, abandoned building, substandard housing, bus or train stations or similar settings.

8. Describe child's/youth's current living arrangements indicated above:

(Attach any relevant documents and add additional pages as necessary.)

This is where the parent or youth describes the temporary housing situation and attaches any evidence that shows why it's a temporary housing situation (for example, pictures of the current housing, written statements describing the situation, etc.). It is not enough just to write that the housing is temporary, the parent or youth must prove why. For examples of evidence to include, see http://www.nysteachs.org/media/INF_Appeal_Sample_Evidence.pdf. **NOTE: This is the ONLY chance to include evidence about the student's housing situation. There isn't an investigation, and the parent or youth can't send in more evidence later.**

9. List address of child's/youth's last permanent residence:

Write the address where the student was last permanently housed.

10. Prior to becoming homeless, Student's name (child's/youth's name) was attending, or entitled to attend, the School district's name

School District on a tuition-free basis.

11. Describe the circumstances causing child/youth to become homeless:

(Attach any relevant documents and add additional pages if necessary.)

If the parent or youth checked "sharing the housing of others..." in #7 above, they include details and evidence about how they lost their housing (for example, attach an eviction letter, a statement describing why the youth left home, etc.) here. For examples of evidence, see http://www.nysteachs.org/media/INF_Appeal_Sample_Evidence.pdf.

NOTE: This is the ONLY chance to include evidence about the student's housing situation. There isn't an investigation, and the parent or youth can't send in more evidence later.

12. Since Student's name (child's/youth's name) became homeless, he/she has attended the following school districts. *(If known, list the approximate dates of attendance at each school district listed.)*

List the school district(s) the student attended after they became homeless.

13. List names and address(es) of child's/youth's parent(s) or legal guardian(s):

Write the address(es) where the student's parents live.

14. Are child's/youth/s parent(s) or legal guardians homeless? (**Check one.**)

[] yes [] no

IF THE CHILD/YOUTH LIVES WITH SOMEONE OTHER THAN HIS/HER PARENTS OR LEGAL GUARDIANS, COMPLETE PARAGRAPHS 15 - 19. OTHERWISE, GO TO PARAGRAPH 20.

15. **The name of the person supporting the student** _____ (name of appropriate individual(s)) is/are providing support for **Student's name** _____ (child's/youth's name).

16. **Name of person who is acting as a parent for the student** _____ (name of appropriate individual) exercises control over **Student's name** _____'s (child's/youth's name) activities and behavior.

17. **Student's name** _____'s (child's/youth's name) parent(s) has surrendered parental control over **Student's names** _____ (child's name) to **The name of the adult who is caring for the student** _____ (appropriate individual), if applicable.

18. Describe the nature of child's/youth's relationship with parents/legal guardians, such as the last contact, frequency and nature of contacts, etc.

Questions 15-19 are filled out when the student is an unaccompanied youth. If the student is not an unaccompanied youth, skip to #20.

This is where the unaccompanied youth's relationship with their parents or legal guardians should be described in detail, including why the youth left or had to leave home. The youth can use additional pages to describe the situation. **NOTE: This is the ONLY chance to include evidence. There isn't an investigation, and the youth can't send in more evidence later.**

19. Please check and complete one of the following statements:

[] **Student's name** _____ (child's/youth's name) is currently attending the **School district's name** _____ School District.

OR

[] **Student's name** _____ (child's/youth's name) has not been attending school or receiving any educational services since **Write in the date the student was last enrolled in school** _____ (date).

20. (Check one box.)

I am I am not designating the liaison for homeless children and youth of the respondent school district to receive and hold correspondence regarding this appeal.

The parent or youth can decide if they want the district's McKinney-Vento liaison to get mail about the appeal on their behalf. If they want to get mail directly and don't want mail about the appeal to go to the liaison, they should check "I am not designating the liaison..." and should write the address where they **would like the paperwork to be sent in #21 below.**

21. Address to which correspondence regarding this appeal should be sent: **(If the liaison is designated, list the liaison's address.)**

Write the address where the parent or youth wants mail about the appeal to be sent to.

The following section is where the parent or youth describes what they want from the school district. If they want continued enrollment, they fill out number 1. If they want transportation services, they fill out number 2. If there are other requests, they may fill out 3 and 4. The parent or youth should fill out as many of the following paragraphs (#1-4) as they would like to.

WHEREFORE, I respectfully request: **(Complete all that apply)**

1. A determination that Student's name (child's/youth's name) is a homeless child entitled to attend the School district's name School District without the payment of tuition.

2. A determination that Student's name (child's/youth's name) is a homeless child entitled to transportation provided by the School district's name School District.

3. Such other relief as the Commissioner deems just and proper.

4. Other **(please specify)**

DATE: Date the parent or youth filed out the Petition was completed

List your name, address and phone number **OR** the name, address and phone number of the homeless liaison.

NAME: _____

ADDRESS: _____

PHONE: _____

If the parent or youth designated the liaison to get mail about the appeal in #20, write the name of the liaison and their contact information from #21.

If the parent or youth wants to get mail directly about the appeal, write the name of the parent or youth and their contact information.

ATTACH ANY SUPPORTING AFFIDAVITS AND EXHIBITS.

NOTE: This is the ONLY chance to include evidence. The parent or youth can't send in more evidence after they hand in the Petition. The parent or youth should include all their evidence with this form and should include statements describing the evidence. For examples of evidence, see [http://www.nysteachs.org/media/INF Appeal Sample Evidence.pdf](http://www.nysteachs.org/media/INF%20Appeal%20Sample%20Evidence.pdf). The State Education Department does not do an investigation. It decides the appeal based on the evidence the parent or youth includes with the Petition and the evidence the school district includes with its Answer.

STATEMENT OF PETITIONER

FOR AN APPEAL INVOLVING A HOMELESS CHILD OR YOUTH

NOTE: THE FOLLOWING STATEMENT MUST BE COMPLETED AND SUBMITTED WITH THE NOTICE OF PETITION AND PETITION INVOLVING A HOMELESS CHILD OR YOUTH

The parent, guardian, or unaccompanied youth's name _____ (name of petitioner) states that he/she is the petitioner in this proceeding and is the parent or guardian of a homeless child or youth or is an unaccompanied youth as defined by §100.2(x) of the regulations of the Commissioner of Education; that he/she has read the annexed petition and any supporting affidavits or exhibits and knows the contents thereof; that the same is true to his/her knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters he/she believes it to be true and further acknowledges that he/she is aware of the fact that, pursuant to Penal Law §175.30, a person who knowingly offers a false instrument for filing to a public official or public servant is guilty of Offering a False Instrument for Filing in the 2nd Degree, a Class A Misdemeanor.

The parent, guardian, or unaccompanied youth's signature

Petitioner's Signature

Date