

HOMELESS MDISPUTE RESOLUTION POLICY**District Level Dispute Resolution Responsibilities**

If there is a dispute regarding a student's homeless status, school selection/enrollment and/or request for transportation, the student must be immediately enrolled in the school where enrollment is sought and provided with transportation services (if requested). The district then must follow the procedures it has established to resolve disputes. However, the district's procedures must provide the student's parent or guardian, or the student, if the student is an unaccompanied youth with an opportunity to submit information before it makes a final determination regarding the student's homeless status.

If the district makes a final determination that a student is not homeless, it must provide the student's parent or guardian, or the student, if the student is an unaccompanied youth, with written notice that the student is not entitled to attend its schools. This written notice must also:

- 1) state the rationale/basis for the district's determination;
- 2) state the date as of which the student will be excluded from the district's schools;
- 3) advise that the district's final determination may be appealed to the Commissioner of Education (Commissioner);
- 4) provide the name and contact information for the district's homeless liaison;
- 5) inform the student's parent or guardian or the student, if the student is an unaccompanied youth, that the district's homeless liaison is required to assist him/her in filing such an appeal; and
- 6) contain the form petition needed to file an appeal to the Commissioner.

The Superintendent must ensure that the district's final decision is delivered to the parent, guardian, or unaccompanied youth in a timely manner.

The student must remain enrolled and provided with transportation (if requested) until the district makes a final determination and for a minimum of 30 days after the determination to give the student's parent or guardian or unaccompanied youth the opportunity to appeal to the Commissioner.

Appeal to the Commissioner of Education: 310 Appeals Process

The student's parent or guardian or the unaccompanied youth is entitled to challenge the district's final determination to deny enrollment and/or transportation by filing a 310 appeal with the Commissioner.

In order to file a 310 appeal with the Commissioner, the parent, guardian or unaccompanied youth must complete the following forms with the assistance of the district's homeless liaison (if he or she so chooses):

- 1) Form Notice of Petition for An Appeal Involving a Homeless Child or Youth;
- 2) Petition for An Appeal Involving a Homeless Child or Youth and Stay Request; and
- 3) Statement of Petitioner for An Appeal Involving a Homeless Child or Youth.

District homeless liaison must also complete the following appeal forms:

- 1) a) Form for Affidavit of Acceptance of Personal Service by Local Education Liaison for Homeless Children and Youth

OR

b) Form for Affidavit of Service by Mail by Local Educational Liaison for Homeless Children and Youth, and;

2) Form for Verification of Mailing of Petition to NYSED.

The district must maintain a sufficient supply of the form petition and all the other above-referenced forms and make them readily available to parents, guardians, and unaccompanied youths.

District Homeless Liaison Responsibilities

1. The homeless liaison must assist the homeless child's parent or guardian or unaccompanied youth in bringing an appeal to the Commissioner under Education Law §310 of a final school district decision regarding enrollment, school selection and/or transportation.
2. The homeless liaison must provide the parent or guardian or unaccompanied youth with a copy of the form petition.
3. The homeless liaison must assist the parent or guardian or unaccompanied youth in completing the form petition, including the section requesting interim relief (stay provision).
4. The homeless liaison must arrange for the copying of the form petition and supporting documents for the parent or guardian or unaccompanied youth, without cost to the parent or guardian or unaccompanied youth.
5. The homeless liaison must accept service of the form petition and supporting papers on behalf of any school district employee by mailing the form petition and supporting documents to a person in the office of the superintendent who has been designated by the board of education to accept service on behalf of the school district.
6. The homeless liaison must provide the parent or guardian or unaccompanied youth with a signed and dated acknowledgement verifying that the homeless liaison has received the form petition and supporting documents and will transmit these documents on behalf of the parent, guardian or unaccompanied youth to the Office of Counsel, New York State Education Department, State Education Building, Albany, New York 12234.
7. The homeless liaison must transmit on behalf of the parent or guardian or unaccompanied youth, within 5 days after the service of, the form petition or any pleading or paper to the Office of Counsel, New York State Education Department, State Education Building, Albany, New York 12234.
8. The homeless liaison must accept service of any subsequent pleadings or papers, including any correspondence related to the appeal, if the parent or guardian or unaccompanied youth so elects related to the appeal on behalf of the parent or guardian or unaccompanied youth and making such correspondence available to the parent or guardian or unaccompanied youth.
9. The homeless liaison must maintain a record of all appeals of enrollment, school selection, and transportation determinations.

Stay Application

If the student's parent or guardian or an unaccompanied youth commences an appeal with the Commissioner with a stay application within 30 days of the district's final determination, the student must be permitted to continue to attend the school.

he/she is enrolled in at the time of the appeal and receive transportation until the Commissioner makes a decision on the stay application.

If the Commissioner denies the stay request, the student is only entitled to continue attending the school at issue for 30 days after the date of the district’s final determination.

If the Commissioner grants the stay request and issues a stay order, the student can continue attending the school until the Commissioner issues an appeal decision.

Answer and Response

The district has 20 days from the date of service to file an answer with the Commissioner and serve a copy of the answer on the parent, guardian or unaccompanied youth.

The parent, legal guardian, or unaccompanied youth can submit a reply in response to the answer within 10 days after service of the answer. The reply should be served in the same manner as the petition.

If the Appeal is Granted

If the Commissioner sustains the appeal, the homeless child or youth or unaccompanied youth can continue attend the school at issue and/or receive transportation services.

If the Appeal is Dismissed or Denied

If the Commissioner dismisses the appeal, the homeless child or youth or unaccompanied youth can be asked to leave the school immediately, and/or his/her transportation can be discontinued.

Designation of the District’s Homeless Liaison to Receive Appeal Related Correspondence

In the form petition, the parent or guardian or unaccompanied youth can designate the district’s homeless liaison to receive and hold correspondence on his/her behalf regarding the appeal.