



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
Margaret M. O'Neill Bldg., Suite 1, Room 311
410 Federal Street
Dover, Delaware 19901
302-739-3621

The Honorable John Carney
Governor

John McNeal
SCPD Director

MEMORANDUM

DATE: September 27, 2023

TO: Department of Education, Office of the Secretary, Attn: Regulation
Review, 401 Federal Street, Suite 2, Dover, Delaware 19901

FROM: Benjamin Shrader – Chairperson 
State Council for Persons with Disabilities

RE: PROPOSED DDOE REGULATION ON 901 DISPUTE RESOLUTION
PROCESS FOR EDUCATIONAL PLACEMENT FOR CHILDREN AND
YOUTH EXPERIENCING HOMELESSNESS, 27 DEL. REGISTER OF
REGULATIONS 137 (SEPTEMBER 1, 2023)

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Education's proposed regulations on the dispute resolution process for children and youth experiencing homelessness and has the following observations:

- The McKinney-Vento Homeless Assistance Act ("McKinney-Vento" was enacted to guarantee educational rights and supports for children and youth experiencing homelessness. McKinney-Vento established a dispute resolution framework and process when parents, guardians, or unaccompanied youth disagree with schools regarding their eligibility for services, school selection, or school enrollment. The dispute resolution procedures are designed so as to provide each party with the opportunity to be heard and that the views are considered objectively. There are dispute processes at the local (school district) level and at the state level.

- Under McKinney-Vento, where a dispute arises over eligibility, school selection, or school enrollment, a school district must (1) immediately enroll the child in the school in which enrollment is sought, pending final resolution of the dispute; (2) provide the parent, guardian, or unaccompanied youth with a written explanation of the district’s decision as well as the rights to appeal the decision; and (3) refer the parent, guardian, or unaccompanied youth to the local liaison responsible for carrying out the dispute resolution process. 42 U.S.C. § 11432(g)(3).
- Under the current (and proposed) 14 Del. Admin. C. § 901, DDOE is only compliant with the second requirement above related to providing notice of the written decision and the right to appeal.
- Likewise, these regulations do not comply with the third requirement related to referring the parent, guardian, or unaccompanied youth to the local liaison. Instead, the current (and proposed) regulations merely state that the written explanation and notice include “[c]ontact information for the LEA homeless liaisons and state coordinator, with a brief description of their roles[.]” 14 Del. Admin. C. § 901.4.1.2.

The State Council for persons with Disabilities supports the proposed changes with two recommendations:

- **The current language should be amended to require that the school at which enrollment is sought immediately enroll the student, pending final resolution of the dispute.**
- **The current language should be amended to require the school affirmatively refer the parent, guardian, or unaccompanied youth to the school’s homeless liaison rather than putting it on the parent, guardian, or youth to make the affirmative contact. For example, the contact information for the enrolling student/family should be sent to the McKinney-Vento liaison who will then affirmatively contact the family.**

Thank you for your consideration and please contact SCPD if you have any questions regarding our observations or position on the proposed regulation.

cc: Ms. Marissa Band, Esquire CLASI, DLP
 Governor’s Advisory Council for Exceptional Citizens
 Developmental Disabilities Council