

Homeless Youth Complaint Policy, Procedures, and Notice of Rights

Purpose: *In Compliance with the federal McKinney-Vinto Homeless Assistance Act and NMAC 6.10.3.8-10, this policy is intended to address the rights of homeless students by providing a policy and procedures for: 1) how the student or some individual or organization on behalf of the homeless student may file a complaint, and 2) how the Raíces administrative staff will respond to the complaint.*

Policy: Homeless or unaccompanied youth or individuals or organizations representing their interests have the right under the federal McKinney-Vinto Homeless Assistance Act and NMAC 6.10.3.8 to file a complaint about unmet needs/services for the student. Raíces del Saber Xinachtli Community School administration must under federal and state law respond to the filed complaint. This policy provides guidelines and procedures for both the process of filing a complaint and the schools process for responding. The school Principal shall be the initial point of contact. However, the Director of Operations and Community Engagement will serve as the school's designated Charter School Homeless Liaison assigned to carry out specific duties under the act, including the dispute resolution process, in an expeditious manner.

Relevant Definitions

"Student who has experienced disruptions in the student's education" means a student who experiences one or more changes in school or school district during a single school year as a result of homelessness as defined in the federal McKinney-Vinto Homeless Assistance Act and as determined by the school [Section 22-12-10(A)(1) NMSA 1978.]

"Homeless Children and Youth" - the McKinney-Vinto Act defines homeless children and youth as individuals who lack a fixed, regular, and adequate nighttime residence, the term includes:

- Children and youth who are:
 - ✓ sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason (sometimes referred to as "doubled-up");
 - ✓ are living in motels, hotels, trailer parks; or camping grounds due to the lack of alternative adequate accommodations;
 - ✓ are living in emergency or transitional shelters; or
 - ✓ are abandoned in hospitals.
- Children and youth who have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.;
- Children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- Migratory Children who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described above.

The McKinney-Vinto Homeless Assistance Act (also referred to as the McKinney-Vinto Act) as amended by the Every Student Succeeds Act (ESSA), mandates basic protections and

procedures be in place when a dispute arises “over eligibility, school selection or enrollment in a school. Under the law as specified both in ESSA and the New State Statutes the following procedures must be observed by Raíces.

Raíces Minimum Procedures for Resolving Disputes:

When a dispute arises over eligibility, school selection, enrollment in the school or transportation, Raíces must:

- Immediately enroll the child or youth in the school if enrollment is being sought, pending final resolution of the dispute, including all available appeals. [42 U.S.C. § 11432(g)(3)(E)(i)].
- Immediately enroll the unaccompanied youth, in the school if the youth seeks enrollment pending the resolution of the dispute. [42 U.S.C. § 11432(g)(3)(E)(iv)].
In the case of an unaccompanied youth, Raíces must ensure that the homeless liaison (Director of Operations) assists in placement or enrollment decisions and gives priority to the views of such unaccompanied youth.
- Allow students to participate fully in school and receive all services to which they are entitled, including transportation (Raíces will not have transportation in the first year of operation for any students), while disputes are pending. [42 U.S.C. § 11434a(1)].
- Provide the parent or guardian of the child or youth or the unaccompanied youth a written explanation of any decisions related to school selection or enrollment made by Raíces.
- The notice and written explanation from Raíces about the reason for its decision, at a minimum, should include the following:
 - An explanation of how the school reached its decision regarding eligibility, school selection or enrollment, which should include:
 - A description of the action proposed or refused by the school;
 - An explanation of why the action is proposed or refused;
 - A description of any other options the school considered;
 - The reasons why other options were rejected;
 - A description of any other factors relevant to the school’s decision and information related to the eligibility or best interest determination including the facts, witnesses, and evidence relied upon and their sources;
 - Appropriate timelines to ensure any relevant deadlines are not missed; and
 - Contact information for the local liaison and the State Coordinator of Education for Homeless Children and Youth (ECHY) and a brief description of their roles.
- Ensure all decisions and notices are drafted using language and formatting appropriate for low literacy, limited vision readers and individuals with disabilities.

- Provide translation and interpretation services in connection with all stages of the dispute resolution process for children and youth and/or their parents or guardians who are English Learners or whose dominant language is other than English.
- Provide electronic written notice to parents/guardians and unaccompanied youth who have email and follow up with the notice in person or by mail.
- Provide the rights of the parent, guardian, or unaccompanied youth to appeal such decisions. [42 U.S.C. § 11432(g)(3)(E)(ii)]. If a dispute arises over eligibility, or school selection or enrollment in a school, the parent, guardian or unaccompanied youth shall be referred to the Director of Operations who serves as the homeless liaison and shall carry out the dispute resolution process as expeditiously as possible after receiving notice of such dispute. [42 U.S.C. § 11432(g)(3)(E)(iii)].

Procedures to Ensure that Parents, Guardians and Unaccompanied Youth Know their Rights in Filing a Complaint:

The Raíces school liaison must make sure that Parents, Guardians and Unaccompanied Youth are aware of the educational and related opportunities available, including transportation [42 U.S.C. § 11432(g)(6)(A)(v)] and must post public notice of the educational rights of homeless children and youths. [42 U.S.C. § 11432(g)(6)(A)(vi)]. Posters and other information about rights and services, translated into languages represented by the community, must be placed where homeless families and youths receive services. The following information shall be included in the Raíces School's public notice regarding the dispute resolution process:

- Right to file a complaint, raise a complaint issue or file an appeal.
- Right to provide written or oral documentation to support the parent/guardian or unaccompanied youth's position.
- Step-by-step description of how to appeal the school's decision that includes a simple form parents, guardians or unaccompanied youths can complete and submit to the school to initiate the dispute process (see pages 83-86).
- If the parent, guardian or unaccompanied youths are English learners, use a native language other than English, or need additional supports because of a disability, translators, interpreters, or other support services will be made available without charge.
- Right to be enrolled immediately in the school in which enrollment is sought pending the final resolution of the dispute.
- Right to immediate enrollment includes receiving adequate and appropriate transportation to and from the school and the ability to fully participate in all school activities (Raíces will not have transportation for any students the first year of operation).
- List of legal and advocacy service providers in the area that can provide additional assistance during any part of the process.
- Contact information for the local liaison and State Coordinator, with a brief description of their roles.

- Timelines for resolving district and state-level appeals.

Raíces is in the process of constructing this poster for display in public places where homeless families and youths receive services. It will be translated into Spanish as that is the dominant second language in the Las Cruces area with 75% of public school students being identified as members of Hispanic, Latino/a, Mexican-American cultural backgrounds.

Overview of Dispute Resolution Process:

Every effort must be made to resolve the complaint or dispute at the local level before it is submitted to the PED.

In a case where a dispute occurs regarding the eligibility, school selection/enrollment, participation or transportation of a homeless child or youth, the following process must be followed:

Level 1: School of Choice - Raíces Informal Resolution

Level 2: NM PED School Homelessness Liaison Resolution

Level 3: PED's State Coordinator of Education for Homeless Children and Youth (ECHY) Resolution

Level 1: Raíces - School of Choice Informal Resolution

If a parent, guardian or unaccompanied youth wishes to appeal a Raíces's decision related to eligibility, school selection/enrollment, participation or transportation:

1. Raíces will use this written policy for concerned parties to resolve disputes and every effort will be made to resolve the dispute here at the local school level. Raíces procedure must adhere to the following parameters:
 - a. The dispute resolution process shall be as informal and accessible as possible and the process can be initiated directly at Raíces with the Director of Operations, the school homelessness liaison. Raíces is required to have a homelessness liaison.
 - b. When a dispute arises over school selection or enrollment, pending resolution of the dispute, the homeless child or youth must be immediately enrolled in Raíces if it is the school in which the child or youth is seeking enrollment, and provide all services to which the student is entitled.
2. Raíces will create and provide a simply stated notice of rights and provide that notice of rights to the student, parent or guardian, in a language the student, parent or guardian can understand. The notice of rights shall contain:
 - a. contact information for the Director of Operations, the school homelessness liaison and the state coordinator, with a brief description of their roles;

- b. a step-by-step description of how to make use of the dispute resolution process (see page 86);
- c. notice of the right to immediately enroll in Raíces pending resolution of the dispute and notice that immediate enrollment includes full participation in all Raíces activities;
- d. notice of the right to obtain the assistance of advocates or attorneys;
- e. notice of the right to appeal to the NM PED if the school-level resolution is not satisfactory;
- f. the timelines for resolving school and NMPED-level appeals;
- g. notice of the right to provide written or oral documentation to support their position; and
- h. a simple form that parents, guardians or the student can complete and return to the school to initiate the process (See form on page 86).

Note: Nothing shall preclude the availability of any administrative hearing opportunities provided for by Federal or state statutes or regulation.

Level 2: NM PED School Homelessness Liaison Resolution

1. Raíces must provide notice of the dispute to the NM Department of Education homelessness liaison using the department's dispute resolution process form which requires the following information (See copy of this document on pages
 - a. school name, address, phone and fax number;
 - b. student's name, identification number, grade, and address;
 - c. parent, guardian or complaining party's name, relationship to student, address, and phone number;
 - d. whether student lives in a shelter;
 - e. name of school child or youth chooses to be enrolled in pending resolution of dispute;
 - f. whether school enrolled in is school of origin;
 - g. reason for complaint;
 - h. signature of parent guardian or complaining party; and
 - i. the principal's actions on the complaint.
2. Raíces will have ten (10) calendar days to review the PED School Homeless Liaison initial determination and make a final decision as to the position taken.
3. Raíces's final decision must be in writing and must state all factual information upon which it is based and the legal basis in support thereof.

Level 3: PED's State Coordinator of Education for Homeless Children and Youth (ECHY) Resolution

If the dispute remains unresolved after a Level 2 resolution, parties may proceed to a Level 3 resolution:

1. If the final decision of Raíces is adverse to the parent, guardian or student, the decision, along with the PED's dispute resolution process form, must be forwarded by Raíces homelessness liaison to the PED's State Coordinator for Homeless Children and Youth (ECHY) within five (5) calendar days of issuing its final decision. This will initiate the appeal to Level 3.
2. The parent, guardian or student may also initiate the appeal. To initiate the appeal themselves, the parent or unaccompanied youth shall notify Raíces's Homelessness Liaison of their intent to proceed to Level 3 within ten (10) business days of notification of the Level 2 decision, and shall provide copies of the dispute resolution process form to the ECHY at the address listed on the form.
3. Upon receipt of a dispute resolution form, the PED will:
 - a. acknowledge receipt in writing;
 - b. provide written notice to the agency or consortium of agencies against which the violation has been alleged;
 - c. conduct an impartial investigation which shall include a review of all relevant documentation presented and may include an independent on-site investigation, if determined necessary by the department;
 - d. give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint; and
 - e. review all relevant information and make an independent determination as to whether the agency or consortium of agencies is violating a requirement of an applicable federal statute or regulation.
4. Decision. A written decision, which includes findings of fact, conclusions, and the reasons for the decision and which addresses each allegation in the complaint, shall be issued by the secretary of education or designee and mailed to the parties within thirty (30) calendar days. Such decision will further include: procedures for effective implementation of the final decision, if needed, including technical assistance, negotiations, and, if corrective action is required, such action shall be designated and the decision shall include the time line for correction and the possible consequences for continued noncompliance.

Failure or refusal to comply on the part of the Raíces:

If the agency or consortium of agencies fails or refuses to comply with the applicable law or regulations, and if the noncompliance or refusal to comply cannot be corrected or avoided by informal means, compliance may be effected by the Public Education Department by any means authorized by state or federal statute or regulation. The PED will retain jurisdiction over the issue of noncompliance with the law or regulations and will retain jurisdiction over the implementation of any corrective action required.

RAÍCES DEL SABER XINACHTLI COMMUNITY SCHOOL FORM

For Informal Resolution of Disputes to Serve Homeless Children or Unaccompanied Youth

Steps in the Dispute Process at the School Level

1. This form is to be filled out by the parent, guardian or unaccompanied youth who wishes to appeal the Raíces del Saber Xinachtli Community School decisions regarding school selection, enrollment, participation or transportation. For unaccompanied youth, the Raíces Director of Operations will assist the child in filling out the form during an oral interview with the child.
2. By filling out this form you are automatically requesting an interview with the Raíces's Director of Operations to resolve this dispute within ten (10) calendar days of the filing of this form with the school.
3. Read the reverse side of this form for a statement of the rights of homeless children or an unaccompanied youth.
4. You may ask the Raíces Office Manager for a photocopy of this form with the rights on the reverse side as you submit this form to the office manager. Form is available in Spanish and English.
5. Please fill out the information below.

<p>Student Information:</p> <p>Name: _____</p> <p>Age: _____ Birthdate: _____</p> <p>School student was most recently enrolled in: _____</p> <p>_____</p>	<p>Student Parent, Guardian, or Representative Contact Information:</p> <p>Check the Appropriate Box</p> <p><input type="checkbox"/> Parent <input type="checkbox"/> Guardian <input type="checkbox"/> Representative</p> <p>If representative, please state organizational affiliation:</p> <p>_____</p> <p>Name: _____</p> <p>Phone: _____</p> <p>Email or Address: _____</p>
<p>Who have you spoken to at Raíces about enrollment?</p> <p>_____</p>	
<p>Describe briefly the reason you were given that the student named above was not accepted for enrollment at Raíces or provided full educational services:</p> <p>_____</p> <p>You will be contacted by the Director of Operation and a decision will be provided within 10 calendar days.</p>	

Statement of Student Rights for Students Experiencing Homelessness:

These rights below are guaranteed in public schools at the local level by the New Mexico Department of Education (NM PED) in compliance with the federal McKinney-Vinto Homeless Assistance Act.

As a parent or guardian of a child who qualifies as a homeless student, you have the following rights with regard to educational services and the resolution of a dispute if Raíces has refused to enroll your child (or the student in the case of an unaccompanied child) and provide educational services:

Rights of Students Who Meet the Definition of Homelessness:

- Right to file a complaint, raise a complaint issue, or file an appeal.
- Right to provide written or oral documentation to support your position.
- Step-by-step description of how to appeal the school's decision to not serve the child and a simple form that you can complete and submit to the school to begin the dispute process (see form on reverse side of this page).
- If you need translators, interpreters, or other support services to help with the dispute process, they will be made available without charge.
- Right of the child to be enrolled immediately in Raíces while final resolution of the dispute is being carried out.
- Right to immediate enrollment of the student includes receiving adequate and appropriate transportation and the ability to fully participate in all school activities (Raíces will not have transportation for any students the first year of operation, but after that transportation will be supplied).
- Raíces will give you a list of legal and advocacy service providers in the area that can provide additional assistance during any part of the dispute process.
- Raíces will give you contact information for the local liaison (Raíces Director of Operations) and the State Coordinator of Education for Homeless Children and Youth, with a brief description of their roles. (See Pages 88-89)
- Timelines for resolving local and state-level appeals:
 - Raíces will have ten (10) calendar days to review its initial decision about serving your child and make a final decision as to the first position taken.
 - If this does not resolve the dispute, Raíces must fill out the State form and send it within five (5) calendar days to the PED School Homelessness Liaison, to review your appeal.
 - The PED School Homelessness Liaison will start the review process and give written notice to you and Raíces within 60 days.
 - If the PED School Homeless Liaison does not resolve the dispute, you (the parent, guardian or student) may file your form with the Public Education Department's State Coordinator for Homeless Children and Youth. It must be filed within ten (10) days of notification of by the PED School Homeless Liaison.

- A written decision by the Secretary of education, or a person assigned by the secretary to prepare the written decision, will be mailed to you (the parent, guardian, or student) within 30 days of receiving the filing of your complaint.

Ask the office manager at Raíces to supply the handout with the contact information for the Raíces Director of Operations and Community Engagement and the Public Education Department's State Coordinator of Education for Homeless Children and Youth. This handout describes the role of these persons at the local and state level in assisting you in the complaint/dispute process.

Information on Key Person to Assist You in the Dispute Process:

At the local School Level of Appeal

Raíces Director of Operations and Community Engagement

Name: Lucia Carmona

Phone: 575-526-2984

Email: lcarmona@raicesdelsaber.org

Office: Raíces del Saber Xinachtli Community School,
2211 North Valley Drive, Las Cruces, NM

Role: This person will ask you to explain your complaint or dispute and assist you in filling out the form to ask for an informal hearing so that the school might change its position on serving the needs of your child or you (in the case of an unaccompanied student). The person will discuss your complaint with the school Principal, Ms. Angela Stock, and may also arrange an interview with the principal. When the principal makes a decision about your complaint or dispute, the Director of Operations will provide you with a written decision about your complaint that explains why that decision was made. If this decision does not satisfy you, the Director of Operations will assist you in filing a complaint for a next level of appeal to the Public Education Department School Homeless Liaison.

At the State Level of Appeal

Dana Malone, PED State Coordinator of Education for Homeless Children and Youth

Phone: 505-827-1810

Address:

New Mexico Public Education Department

Student Success and Wellness Bureau

McKinney-Vinto State Director

120 South Federal Place, Room 206

Santa Fe, NM 87501

Ms. Malone is the Coordinator at the State level dispute appeals process in the NM Public Education Department. She will ensure that your dispute filings at the state level are carefully and lawfully reviewed and that the response to the filing ensures that parents, guardians and students, who qualify under the McKinney-Vinto Act as homeless, receive all education services to which they are entitled. Ms. Malone will review all the data and information that her staff compiles about your filing and see that the final decisions in a dispute appeal at the state level are justified and correct. Her office will inform the school Principal about any corrective action that the school must take to fully serve the child whether the case is filed by a parent, guardian, advocate for the student, or an unaccompanied student. (See pages 77-79 for the state form to be filled out to send to Ms. Malone's Office.)