

**NOTE:** Pursuant to the McKinney-Vento Homeless Assistance Act as amended by the Every Student Succeeds Act of 2015 (ESSA) *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 HOMELESS CHILDREN AND YOUTHS

#### NEW YORK STATE EDUCATION DEPARTMENT

In the Matter of: \_\_\_\_\_  
(parent's/guardian's/unaccompanied youth's name, otherwise known as "petitioner")

on behalf of: \_\_\_\_\_  
(child's/youth's name, a homeless child or youth)

from action of the Board of Education of the: \_\_\_\_\_  
(School District, "respondent")

regarding the provision of education and related services.

#### 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](http://www.counsel.nysed.gov) or from the Office of Counsel New York State Education Department, State Education New York Building, 89 Washington Avenue, Albany, NY 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 represented by counsel, upon their 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, 89 Washington Avenue, Albany, NY 12234.

**PETITION**

**FOR AN APPEAL INVOLVING HOMELESS CHILDREN AND YOUTHS**

**NEW YORK STATE EDUCATION DEPARTMENT**

In the Matter of: \_\_\_\_\_  
(parent's/guardian's/unaccompanied youth's name, otherwise known as "petitioner")

**PETITION**

On behalf of: \_\_\_\_\_  
(child's/youth's name, a homeless child or youth)

From action of the Board of Education of the: \_\_\_\_\_  
(School District, "respondent")

**TO THE COMMISSIONER OF EDUCATION:**

1. My name is: \_\_\_\_\_

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

My relationship to (child's/youth's name) is: \_\_\_\_\_  
(examples: parent, guardian)

OR

I am a homeless child or youth

3. \_\_\_\_\_  
(child's/youth's name)

is a "homeless child" as defined by §100.2(x)(iii)<sup>1</sup> of the Regulations of the Commissioner of Education. From this point on, this child/youth will be referred to as "the student" in the petition.

4. The student is more than 3 years old and less than 21 years of age and has not received a high school diploma.

5. On: \_\_\_\_\_  
(date)

the student:

Made a request to the School District for:  
(Check all that apply)

Enrollment in a school or a school program

Transportation

Other (please specify): \_\_\_\_\_

6. The above request was denied by respondent:

(Attach copy of denial if available, as well as any other emails or communication regarding the decision—see Documents List on page 10 for guidance)

On: \_\_\_\_\_  
(date)

7. The student is a homeless child because they lack a fixed, regular, and adequate nighttime residence and:  
(Check all that apply)

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

If checked, please list name, address, and relationship of all persons with whom the student is sharing housing.  
(Attach additional sheets if necessary). **Note: merely living with other persons does not constitute homelessness; you must explain, in question 8 below, how this shared living arrangement has created inadequate living conditions.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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;

Were abandoned in a hospital

Are a migratory child, who qualifies as homeless

Are an unaccompanied youth, defined as a homeless child or youth not in the physical custody of a parent or guardian

Other (please specify): \_\_\_\_\_

The student 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.

If checked, 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.)*

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[ ] 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 the student's current living arrangements indicated above:

1. (It is essential to provide specific details as to why petitioner believes the living arrangement is not a fixed, regular, and adequate nighttime residence. Attach relevant evidence, including photographs of living arrangements, signed statements, and documents—see *Documents List on page 10 for guidance*)

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- Number of people living in the residence: \_\_\_\_\_
- Number of bedrooms and beds at the residence: \_\_\_\_\_
- Is there a kitchen with working stove, refrigerator? \_\_\_\_\_
- Does the student have their own room? \_\_\_\_\_
- Does the student have their own bed? \_\_\_\_\_
- How many nights per week does the student sleep there? \_\_\_\_\_
- Did the owner/landlord/etc. specify how long the student can stay? \_\_\_\_\_
- By what date must the student leave the residence? \_\_\_\_\_
- Is any rent or living expense being paid? \_\_\_\_\_

9. List the address of the student's last permanent residence:

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10. Prior to becoming homeless, the student was attending, or entitled to attend, the

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(School District)

School District, on a tuition-free basis.

11. Describe the circumstances causing the student to become homeless:

*(Attach any relevant documents and add additional pages as necessary—see Documents List on page 10 for guidance)*

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12. Since the student became homeless, they have attended the following school districts. If known, list the approximate dates of attendance at each school district listed. *(Attach any relevant documents and add additional pages as necessary—see Documents List on page 10 for guidance)*

District name:

Attendance dates:

District name:	Attendance dates:

13. List names and address(es) of the student's parent(s) or legal guardian(s):

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14. Are the student's parent(s) or legal guardian(s) homeless? (*Check one*)

Yes

No

IF THE STUDENT LIVES WITH SOMEONE OTHER THAN THEIR PARENT(S) OR LEGAL GUARDIAN(S), COMPLETE PARAGRAPHS 15–19. IF NOT, GO TO PARAGRAPH 20.

15. \_\_\_\_\_  
(name of appropriate individual(s))

is/are providing support for the student

16. \_\_\_\_\_  
(name of appropriate individual)

exercises control over the student's activities and behavior. (*See Documents List on page 10 for guidance*)

17. The student's parent(s) surrendered parental control (in other words, the parent is transferring to the named individual full authority and responsibility with respect to the student's support and custody) over the student

to \_\_\_\_\_  
(appropriate individual, if applicable)

18. Describe the nature of the student's relationship with parent(s)/legal guardian(s), such as the last contact, frequency and nature of contacts, reason(s) the student no longer resides with their parent(s)/legal guardian(s) if known.

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

The student is currently attending the \_\_\_\_\_  
(School District)  
School District.

**OR**

The student has not been attending school or receiving any educational services since \_\_\_\_\_  
(date)

20. Student's grade level: \_\_\_\_\_.

Grades served by student's current building (e.g. K-5, 9-12): \_\_\_\_\_

21. Address to which correspondence regarding this appeal should be sent (please check *one* box):

**I am** designating the liaison for homeless children and youth of the respondent school district to receive and hold correspondence regarding this appeal.

Address of homeless liaison: \_\_\_\_\_

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PHONE: \_\_\_\_\_

EMAIL: \_\_\_\_\_

**I am not** designating the liaison for homeless children and youth of the respondent school district to receive and hold correspondence regarding this appeal. Instead, please send correspondence to the following address:

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PHONE: \_\_\_\_\_

EMAIL: \_\_\_\_\_

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

1. A determination that the student is a homeless child entitled to attend the \_\_\_\_\_  
\_\_\_\_\_ School District without the payment of tuition.
2. A determination that the student is a homeless child entitled to transportation  
provided by the \_\_\_\_\_ School  
District.
3. Such other relief as the Commissioner deems just and proper.
4. Other (please specify): \_\_\_\_\_

DATE: \_\_\_\_\_



**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**

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(name of petitioner)

States:

1. That they are the petitioner in this proceeding and are the parent or guardian of a homeless child or youth or are an unaccompanied youth as defined by §100.2(x)(iii)<sup>i</sup> of the regulations of the Commissioner of Education;
2. That they have read the annexed petition and any supporting affidavits or exhibits and know the contents thereof;
3. That the same is true to their knowledge except as to the matters therein stated to be alleged upon information and belief; and
4. As to those matters they believe to be true and further acknowledge that they are 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 2<sup>nd</sup> Degree, a Class A Misdemeanor.

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Petitioner's Signature

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Date

## DOCUMENTS LIST

### ATTACH ANY SUPPORTING AFFIDAVITS AND EXHIBITS

*Can be submitted electronically or printed*

#### **Question 6: Evidence the request was denied**

- Copy of request denial
- Copy of application
- Any additional communication related to the application and decision
  - Text, email, pictures, notes, or written notifications to/from the district, liaison, or other school representative

#### **Question 8: Evidence of current living arrangements**

- **Pictures:**
  - Sleeping space
  - Bathroom
  - Kitchen/cooking space
  - Place where clothes/books/belongings are stored
  - Common living areas
- **Documents:**
  - Lease or written living agreement, if applicable
  - Communication (text, email, pictures, letters, notes) relating to the term of residency—how long can the child/youth reside at that location? Is there a date by which they must leave?
  - If looking for a more permanent residence, provide proof, including text, email, notes, etc.

#### **Question 11: Evidence of the circumstances leading to homelessness**

- Communication related to job loss or other loss of income
- Eviction notices or related communication
- Evidence of economic hardship (e.g., job applications, late payment notifications, etc.)

#### **Question 12: Evidence of school districts attended since homelessness, with dates**

- Report cards
- School notifications addressed to the child/youth
- School ID
- School communication (to/from: child/youth, parent(s)/guardian(s), teachers, administrators)
- School schedule for child/youth

#### **Questions 16: Evidence of non-parent/legal guardian exercising control over activities and behavior**

- Custody agreement or court order(s)
- If there is no formal agreement, include any communication related to the arrangement (text, email, notes)
- School forms naming the non-parent/legal guardian as primary or emergency contact
- School permission forms signed by the non-parent/legal guardian, including sports or club activities

## ENDNOTES

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<sup>i</sup> Regulations of the Commissioner of Education §100.2(x)

iii. *Homeless child* means:

- a. a child or youth who lacks a fixed, regular, and adequate nighttime residence, including a child who is:
  1. sharing the housing of other persons due to a loss of housing, economic hardship or a similar reason;
  2. living in motels, hotels, trailer parks or camping grounds due to the lack of alternative adequate accommodations;
  3. living in emergency or transitional shelters;
  4. abandoned in hospitals;
  5. a migratory child, as defined in section 1309(2) of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, 20 U.S.C. section 6399(2), (Public Law 114-95, title ix, section 9302, 129 STAT. 1802; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 2015; available at the Office of Counsel, State Education Building, Room 148, Albany, NY 12234), who qualifies as homeless under any of the provisions of subclauses (1) through (4) of this clause or clause (b) of this subparagraph;
  6. an *unaccompanied youth*, as defined in section 725 of subtitle B of Title VII of the McKinney-Vento Homeless Act, which includes a homeless child or youth not in the physical custody of a parent or guardian. The term "unaccompanied youth" shall not include a child or youth who is residing with someone other than a parent or legal guardian for the sole reason of taking advantage of the schools of the district; or
- b. a child or youth who has a primary nighttime location that is:
  1. a supervised, publicly or privately operated shelter designed to provide temporary living accommodations including, but not limited to, shelters operated or approved by the State or local department of social services, and residential programs for runaway and homeless youth established pursuant to Article 19-H of the Executive Law; or
  2. a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings, including a child or youth who is living in a car, park, public space, abandoned building, substandard housing, bus or train stations or similar setting;
- c. the term *homeless child* shall not include a child in foster care, including a child awaiting foster care on or after December 10, 2016, or receiving educational services pursuant to Education Law section 3202 (4), (5), (6), (6-a) or (7) or pursuant to Articles 81, 85, 87 or 88.