

**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'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.

\_\_\_\_\_ 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](http://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's/guardian's/unaccompanied youth's name

otherwise known as "petitioner") on behalf of **PETITION**

\_\_\_\_\_ (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.

\_\_\_\_\_x

TO THE COMMISSIONER OF EDUCATION:

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

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

I am a homeless child or youth.

**OR**

My relationship to \_\_\_\_\_ (child's/youth's name) is \_\_\_\_\_.

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

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

5. On \_\_\_\_\_ (date), \_\_\_\_\_ (child's/youth's name) made a request for

**(Check applicable boxes)**

enrollment in a school or a school program,

transportation,

other (please specify) \_\_\_\_\_

\_\_\_\_\_

to the \_\_\_\_\_ School District.

6. The above request was denied by respondent on \_\_\_\_\_ (date).

**(Attach copy of denial if available)**

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.)**

\_\_\_\_\_

\_\_\_\_\_

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**) \_\_\_\_\_

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):**

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

[ ] 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.)**

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

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

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10. Prior to becoming homeless, \_\_\_\_\_ (child's/youth's name) was attending, or entitled to attend, the \_\_\_\_\_ 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.**)

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12. Since \_\_\_\_\_ (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.**)

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

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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 16 - 19. OTHERWISE, GO TO PARAGRAPH 20.**

15. \_\_\_\_\_ (name of appropriate individual(s)) is/are providing support for \_\_\_\_\_ (child's/youth's name).

16. \_\_\_\_\_ (name of appropriate individual) exercises control over \_\_\_\_\_'s (child's/youth's name) activities and behavior.

17. \_\_\_\_\_'s (child's/youth's name) parent(s) has surrendered parental control over \_\_\_\_\_ (child's name) to \_\_\_\_\_ (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.

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

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

[ ] \_\_\_\_\_ (child's/youth's name) is currently attending the \_\_\_\_\_ School District.  
**OR**

[ ] \_\_\_\_\_ (child's/youth's name) has not been attending school or receiving any educational services since \_\_\_\_\_ (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.

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

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

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

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

2. A determination that \_\_\_\_\_ (child's/youth's name) 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: \_\_\_\_\_

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

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

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

\_\_\_\_\_

\_\_\_\_\_

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

**ATTACH ANY SUPPORTING AFFIDAVITS AND EXHIBITS.**

**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**

\_\_\_\_\_ (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.

\_\_\_\_\_  
**Petitioner's Signature**

\_\_\_\_\_  
**Date**