

STATE OF SOUTH CAROLINA	)	
	)	BEFORE THE LOCAL LEVEL HEARING
COUNTY OF LEXINGTON	)	OFFICER BRUCE SMITH
	)	
S.C. on behalf of minor child, R.S.,	)	ORDER ON SUFFICIENCY CHALLENGE
	)	AND MOTION TO DISMISS
	)	
Petitioners,	)	
vs.	)	
	)	
Lexington County School District One,	)	
	)	
Respondent.	)	
	)	

SUMMARY

On December 18, 2025, the Respondent Lexington County School District One (“District”/”Lexington One”), in its response to the Due Process Complaint (“DPR”/”Complaint”) submitted on December 16, 2025, the District filed a Notice of Insufficiency and Motion to Dismiss regarding the Due Process Complaint filed on behalf of R.S. (“Student”) under the Individuals with Disabilities Education Act (“IDEA”) 34 C.F.R. § 300.508(d). The District asserts the written request for a due process hearing filed by S.C. (“Parent”/”Petitioner”) does not meet the requirements of the IDEA.

SUFFICIENCY CHALLENGE

The District challenges the sufficiency of the complaint on the grounds that it fails to state a claim upon which relief can be granted against District. Specifically, the complaint lacks the necessary factual basis to establish that the District is the Local Educational Agency (LEA) responsible for the Student.

Under the IDEA, the DPR must include the following information to be “sufficient”:

- the name of the child;
- the address of the child's residence;
- the name of the school the child attends;
- in the case of a homeless child or youth, available contact information for the child and the name of the school the child attends;
- a description of the nature of the problem of the child relating to such proposed initiation or change (concerning the identification, evaluation, educational placement of the child, or the provision of a free appropriate public education), including facts relating to such problem; and`
- a proposed resolution of the problem to the extent known and available to the party at the time.

34 C.F.R. § 300.508(b).

If the hearing officer finds the DPR is insufficient, the hearing officer must identify in what manner it is insufficient so that the Parent can amend the DPR, if appropriate. The hearing officer may dismiss the DPR if it fails to allege sufficient details even after it is amended.

In the District's Notice of Insufficiency and Motion to Dismiss the District argues the Complaint that the complaint fails to meet the minimum pleading requirements established by the IDEA. Specifically, the complaint lacks the necessary factual basis to establish that the District is the LEA responsible for the Student for the following reasons:

Factual Basis for Insufficiency

- Lack of Residency and Jurisdiction: A final decision by the South Carolina Department of Education (SCDE) on November 10, 2025, determined the Student resides at an address which is located within the boundaries of Lexington County School District Four ("Lexington Four").

- No Legal Obligation for Child Find: Because the Student is not a resident of Lexington One and is not enrolled in the District, Lexington One has no legal jurisdiction or obligation to conduct Child Find evaluations.
- Prior Administrative Determinations: The SCDE, Office of Special Education Services previously reviewed these exact allegations and found them insufficient to initiate an investigation, noting that Lexington One is not the resident district.
- Identification of Proper LEA: The SCDE confirmed that Lexington Four is the LEA and responsible for providing the Student any special education and related services that he is eligible to receive under the IDEA.

DUE PROCESS COMPLAINT

As alleged by the Parent, and not disputed by the District, the Student is a preschool student with a disability who had an inactive individualized education program (IEP) developed and implemented by Lexington County School District One on August 26, 2024. The Student received special education and related services in the District at Pelion Elementary during the fall of 2024. On or about December 20, 2024, the District informed the Parent by phone that the Student was no longer allowed to attend elementary school in Lexington One. The Parent alleges the District unilaterally removed the Student from his preschool special education placement and terminated all services included in his IEP.

The District did not convene an IEP meeting, issue Prior Written Notice (PWN), provide her with the IDEA-related procedural safeguards, or honor the IDEA stay-put provisions. The District failed to provide written notice of any determinations made under the McKinney-Vento Homeless Assistance Act (“McKinney-Vento”) 42 U.S.C. 11434(a)(2). The Parent states despite Lexington One evaluating the Student, determining him eligible as a student with a disability under the IDEA, developing an IEP for him and implementing services, the District later asserted it lacked jurisdiction to provide the Student special education and related services due to residency concerns. The Parent also alleges the District later attempted to characterize the Parent’s advocacy as a delayed dispute, even though no written

determination of how to dispute the Student's rights were ever provided to the Parent.

The District argues the Complaint is insufficient for the following reasons:

1. Failure to allege a violation within the Statute of Limitations: The Parent seeks to challenge an unenrollment decision from December 2024. The SCDE has already determined that no IDEA violations were alleged to have occurred during the time frame the Student was eligible for services from the District.
2. Improper Party/Lack of LEA Status: As determined in the SCDE's November 10, 2025, state-level decision related to the Parent's appeal of the District's unenrollment decision, the Student meets the definition of a homeless child or youth (with the meaning of section 725(2) of the McKinney-Vento Act, however, Lexington Four is the McKinney-Vento resident school district responsible for providing the Student any educational services that he qualifies to receive, not Lexington One.
3. McKinney-Vento vs. IDEA Jurisdictions: The Petitioner is attempting to use an IDEA Due Process hearing to override a final McKinney-Vento Act residency determination. The SCDE has already ruled that the IDEA process cannot be used to demand enrollment where no residency exists.

In summary, because the Student is a resident of Lexington Four and the SCDE has already upheld the District's residency determination, Lexington One is not a proper party to this action.

LEGAL ANALYSIS

The McKinney-Vento Homeless Assistance Act is the primary federal law addressing the educational needs of homeless children and youth. 42 U.S.C. 11431 et seq. It provides that each state educational agency "shall ensure that each child of a homeless individual and each

homeless youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youths." 42 U.S.C. 11431(1).

The McKinney-Vento Act covers all children and youth who meet its definition of homelessness. Under the act, homeless children are those children who lack a fixed, regular, and adequate nighttime residence. 42 U.S.C. 11434(a)(2). This includes children and youth who are:

- Sharing the housing of other people due to loss of housing, economic hardship, or a similar reason.
- Living in motels, hotels, trailer parks, or campgrounds due to the lack of alternative adequate accommodations.
- Living in emergency or transitional shelters.
- Abandoned in hospitals.
- Living in 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.
- Living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings.
- Living in a migratory situation and who qualify as homeless because of living circumstances as described above.

Under the McKinney-Vento Act, children with disabilities who are experiencing homelessness must have equal access to a free appropriate public education (FAPE) under Part B of the IDEA as would be provided to other children with disabilities. Their ability to participate in special education programs cannot be hindered by homelessness or such related factors as frequent school transfers. 42 U.S.C. 11433(d). Evaluations for students experiencing homelessness must be

conducted in a timely manner, within 60 days (or the applicable state time frame), just as they would be for students who are not homeless, consistent with 34 C.F.R. § 300.111.

If a homeless child with a disability, or one who is suspected of having a disability, moves into a new school district in the same state but elects to attend the school of origin, the state educational agency, consistent with its general supervisory responsibility, must determine what public agency in the state is responsible for ensuring that the child receives FAPE. 34 C.F.R. § 300.149. The McKinney-Vento Act defines "school of origin" as the school the child or youth attended when permanently housed or the school in which the child or youth was last enrolled. 42 U.S.C. 11432(g)(3).

It is very clear that once an LEA is determined to either be the LEA where the school of origin is located or the LEA where the homeless child currently resides, regardless of whether the residency is unstable or temporary, the child is entitled to the protections and provisions under both the McKinney-Vento Act and the IDEA. Lexington One's Insufficiency Challenge and Motion to Dismiss do not dispute that these two federal laws are intertwined. The District's argument is that the issue of which LEAs are responsible for the child's education under the McKinney-Vento Act has already been adjudicated and decisions issued that Lexington One is neither the LEA where the school of origin rests and is not the LEA where the family currently resides. Therefore, the provisions of the IDEA, included Child Find, are not currently attached to Lexington One.

Lexington One's arguments are supported by sufficient evidence from the District's exhibits.

Exhibit A - SCDE McKinney-Vento Dispute Decision (Nov. 10, 2025) - Final State ruling that the Student resides in Lexington Four, not Lexington One.

Exhibit B – SCDE IDEA Insufficiency Notice (Nov. 18, 2025) – Confirms no stay-put obligation and no alleged IDEA violations while in Lexington One.

Exhibit C – SCDE Response to Subsequent Complaint (Dec. 17, 2025) – Confirms exhaustion of administrative remedies and lack of legal basis for Lexington One to provide services.

Prior Written Notice (PWN) (Dec. 15, 2025) – The District’s formal refusal to re-enroll or provide IEP services based on non-residency.

CONCLUSION

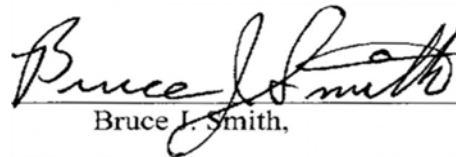
The Parent makes no argument that the District is the LEA that qualifies as the child’s school of origin. The Parent asserts because her family qualified as homeless under the McKinney-Vento Act when they temporarily lived in the District, the District still has an obligation continue providing the Student with appropriate special education and related services, despite no longer living within the jurisdiction of the District and despite the previously-issued rulings issued in relation to her challenges under the McKinney-Vento Act. The Parent’s argument is not in line with either the McKinney-Vento Act or the IDEA.

Therefore, I find a substantial basis to grant the District’s insufficiency challenge. Additionally, because the LEA was not legally responsible for the child under the McKinney-Vento from December 2024 to the current date, there is no basis to find adequate jurisdiction for this matter under the IDEA.

THEREFORE, because the lack of sufficiency cannot be cured for the period of time included in the due process complaint, District’ Motion to Dismiss related to the time period is also granted. The Motion to Dismiss is granted with prejudice.

IT IS SO ORDERED.

Florence, South Carolina
December 23, 2025



Bruce J. Smith,

Local Due Process Hearing Officer

Note: I will not accept, read, or consider any further argument about the merits on this matter unless it is remanded to me by a state-level review officer (SRO) or the District Court. No email, letter or other written communication will be construed or considered as either a Motion or Reconsider or as a Motion to Alter or amend this