

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

SUMMARY

On December 18, 2025, the Respondent Lexington County School District One (“District”/”Lexington On”), in its response to the Due Process Complaint (“DPR”/”Complaint”) submitted on December 16, 2025, filed a Notice of Insufficiency and Motions to Dismiss regarding the Due Process Complaint filed on behalf of S.S. 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”) do not meet the requirements of the IDEA.

SUFFICIENCY CHALLENGE

The District challenges the sufficiency of the complaint on the grounds that they fail 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 education of this 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 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 education of 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 that S.S. resides at an address 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 has 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 has confirmed that Lexington Four is the resident district and is the entity available to conduct special education evaluations for the Student.

DUE PROCESS COMPLAINT

The Parent's DPR alleges her daughter was denied an evaluation, refused to proceed with Child Find activities, and failed to provide Prior Written Notice (PWN) that includes an explanation of the reason why the District refused to evaluate the Student and determined whether she is eligible as a student with a disability under the IDEA, and transition her into school if she qualifies as having a disability under the IDEA. The Parent does not dispute that her family no longer lives within the jurisdictional boundaries of the District.

The Parent states, and it was not disputed, that her daughter previously received early intervention services. The early intervention program referred her daughter to the District for an evaluation and determination of possible eligibility as a preschool-aged child with a disability under Part B of the IDEA. A transition meeting was scheduled for January 2025 but was cancelled due to the end of the family's temporary residency in the District and the family's relocation to a home located in Lexington Four. The Parent argues the District improperly conditioned Child Find, evaluation, and transition services on residency, thereby violating the IDEA.

The District argues that the Due Process Complaint is insufficient for the following reasons:

1. Failure to allege a violation within the Statute of Limitations: The complaint seeks to challenge an unenrollment decision from December 2024. The SCDE has already determined that no IDEA violations were alleged 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 child meets the definition of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act ("McKinney-Vento"))(42 U.S.C. 11434(a)(2)), however, Lexington Four is the McKinney-Vento resident school district responsible for providing the Student educational services, 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 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 the 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 has 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 determination that S.S. resides in Lexington 4 and they are responsible for evaluations.

Exhibit B – IDEA State Complaint Insufficiency Letter (Nov. 10, 2025) – SCDE McKinney-Vento finding that Lexington One had no obligation under IDEA to evaluate the Student as of Dec. 2024

Exhibit C – SS Insufficiency Notice Email (Dec 17, 2025 – OSES determination that no legal basis exists to require Lexington One to implement Child Find or PWN provision for the Student

Exhibit D – 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 conduct an expedited Child Find evaluation due to lack of residency.

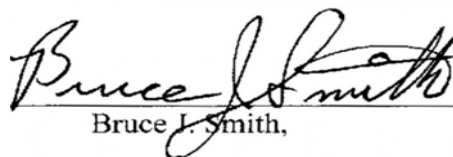
CONCLUSION

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 a continuing obligation to evaluate her daughter despite no longer living within the jurisdiction of the District. 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 the 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 Order.