

Education Rights of Homeless Children

Hurricane Katrina has rendered more than 1 millions persons homeless, including well over 200,000 school age children (over 135,000 in Louisiana alone). As families leave the most devastated areas, they will disperse to friends' and relatives' homes across the country. Others may be truly homeless, or be placed in temporary housing at hotels, motels or military bases by FEMA. For children who have been traumatized by the loss of home, friends, and perhaps death or injury of family members, returning to school is not only important for educational purposes; attendance at a school becomes an oasis of normalcy for them.

Although media reports have suggested that schools across the country are welcoming such children, some parents may encounter problems. The lack of identity papers, immunization documents, school records, and lack of proof of prior residency in the Gulf Coast area may cause some school districts to resist admitting children. The lack of an IEP or 504 Plan for children may also cause some delays in admission or provision of appropriate services. This memo briefly summarizes basic education rights of all "homeless" children, and also reviews rights of children with disabilities. Websites at the bottom of the memo offer more detailed information.

The McKinney-Vento Homeless Assistance Act requires that all school districts make special accommodations to ensure access to school for children whose families are "homeless." The definition of homeless includes not only the classical notions of living in a tent or car, but also families that lack a regular abode (e.g. in a refugee type settlement, or placed in a motel/hotel by FEMA or other agency) or who are temporarily doubled up with another family. A homeless child must be promptly enrolled, provided full access to classes, be afforded transportation if needed and cannot be discriminated against, or placed in a segregated school, based on their status.

Some displaced families from areas other than New Orleans may end up in locations not very far from their original residence, but outside the boundary of their home school. The McKinney Act expressly provides such children the option to attend their home school (assuming it is still operating). State education agencies (SEA's) have responsibility to ensure compliance by local school districts, and each state has designated a coordinator of homeless education of children and youth. The coordinator's office should be helpful in correcting any barriers or other problems that arise in local school districts.

Generally, the process of problem solving or advocacy should start with the principal and case manager in a school, then the school district administration, then the SEA coordinator, then U.S. Department of Education (see list of regional offices below). Advocates should also inquire about state and local policies and procedures, many of which are posted on agency web sites. For example, the Chicago Public Schools website has a 92 page manual setting out procedures for serving homeless children (see url below). Recourse to more formal advocacy may also be necessary. Federal courts have ruled McKinney provisions to be enforceable under 42 U.S.C. §1983, and advocates have successfully enforced McKinney Act provisions in State courts. Also, it may be helpful to monitor the web sites of the Louisiana Dept. of Education, which reports efforts to provide electronic data bases to schools to help with the enrollment of displaced

children.

Children with disabilities who are homeless were expressly recognized in the reauthorization of IDEA in P.L. 108-446. IDEA now incorporates the McKinney definition of homeless children. Also, the Child Find obligations imposed on school districts to identify, evaluate and provide services to all children with disabilities, no matter how severe, has been expressly extended to homeless children. IDEA 2004 also requires that “unaccompanied youth,” (that is a homeless adolescent not accompanied by a parent or guardian) should have a surrogate parent appointed.

There will most likely be unique challenges arising for children with disabilities who seek to enroll in a school, but lack an Individualized Education Plan (IEP) or any documentation of the nature of their disability. Moreover, many children, including those not previously eligible for special education services, will have such emotional scars from their experience that they will be in need of social work and/or psychological services, which the school should promptly identify and provide as needed. The burdens and costs of conducting adequate evaluations of children will be a strain for many school districts, and many children will be at risk of not receiving prompt evaluations and specialized services. School districts and state agencies may propose waivers of various requirements, which may be necessary in the short term. However, because many displaced children will likely remain in that status for an extended period of time, such waivers should not become the status quo and unreasonably deny children educational services in the long term.

Some urban areas, especially those within 400 miles of New Orleans, will experience a large influx of displaced children, and will likely present unique challenges. If systemic problems are encountered, COPAA members should link up with legal aid programs, Protection and Advocacy agencies, and private law firms providing pro bono representation. COPAA will provide more information about these emerging networks of resources as they become available.

For more information:

National Coalition for the Homeless

<http://www.nationalhomeless.org/> - for a lot of info on McKinney Act, and U.S. Department of Education guidance, see: <http://www.nationalhomeless.org/reauthorization.html>

National Center on Homeless and Poverty – web page on education issues:

<http://www.nlchp.org/FA%5FEducation/>

Chicago Coalition for the Homeless

<http://www.chicagohomeless.org/projects/lawproject.htm>

Education for Homeless Children and Youth Program - Title VII-B of the McKinney-Vento Homeless Assistance Act, as amended by the No Child Left Behind Act of 2001 Non-Regulatory Guidance, July 2004

<http://www.ed.gov/programs/homeless/guidance.pdf>

U. S. Department of Education Regional offices
<http://www.ed.gov/about/contacts/gen/regions.html>

National Association for Education of Homeless Children & Youth
<http://www.naehcy.org/>

National Center for Homeless Education (U.S. Department of Education funded)
<http://www.serve.org/nche/>

The Federally Funded Parent Training and Information Centers (PTIs) and Community Parent Resource Centers (CPRCs) are located in each state to provide training and information to parents of infants, toddlers, children, and youth with disabilities and to professionals who work with children.

<http://www.taalliance.org/Centers/index.htm#nat>

State Protection and Advocacy Agencies for Persons with Developmental Disabilities, Mental Illness and the Client Assistance Program. The Protection and Advocacy (P&A) System and Client Assistance Program (CAP) comprise the nationwide network of congressionally mandated, legally based disability rights agencies.

http://napas.org/aboutus/0507PA_CAP.htm

National Association of State Directors of Special Education, “Homelessness and Students with Disabilities: Educational Rights and Challenges” (Jan. 2004)

http://www.nasds.org/publications/homelessness_and_SWD.pdf

State Coordinators for Homeless Education
http://www.serve.org/nche/states/state_resources.php

Louisiana Dept. of Education
<http://www.doe.state.la.us/lde/index.html>

Texas Homeless Education Office
<http://www.utdanacenter.org/theo/>

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