

Homeless Students in Tennessee Public Schools

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August 2012

Key Points

The federal McKinney-Vento Homeless Assistance Act (McKinney-Vento), originally signed into law in 1987 by President Reagan, places certain requirements on states and school districts to ensure that each homeless child and youth has access to the same public educational services as other children and youth.

The law defines “homeless children and youth” as individuals who lack a fixed, regular, and adequate nighttime residence.

McKinney-Vento addresses some of the problems that homeless children and youth have confronted in enrolling, attending, and succeeding in school. In states that have accepted McKinney-Vento funding, the law requires that all school districts:

- appoint a local homeless education coordinator, part of whose responsibility is to ensure that school personnel identify homeless children and youth;
- admit homeless students to school immediately, even if they are unable to provide documents typically required for enrollment;
- keep homeless students in the schools they originally attended when they were housed, to the extent possible; and
- provide transportation to help homeless students remain in their original schools.

The number of homeless students identified in K–12 public schools increased significantly between the 2006–07 and 2009–10 school years, both nationally (by 38 percent) and in Tennessee (by 74 percent). The increases may in part be a consequence of job losses and other difficulties related to the economy that have affected families, but may also result from some school districts’ improved efforts to identify homeless students.

The U.S. Department of Education awards McKinney-Vento funds annually to states by formula. In 2011, Tennessee received \$1,227,251 out of a total national allocation of \$65,296,146 for the McKinney-Vento Education for Homeless Children and Youths program.

The Tennessee Department of Education awarded \$920,438 in McKinney-Vento subgrants to 13 school districts and retained \$306,813 for state activities, which include staff compensation, training, monitoring, and administrative costs. All school districts in Tennessee are required to comply with the law’s requirements.

Some school districts in Tennessee have identified no homeless students and may not be in compliance with McKinney-Vento requirements.

Introduction

Homelessness was acknowledged as a crisis in the U.S. in the 1980s, when “substantial numbers of unaccompanied women, women with children, and two parent families sought homeless services” for the first time.¹ The McKinney-Vento Homeless Assistance Act, originally signed into law in 1987 by President Reagan, was the first federal bill to address the rights of homeless people in the U.S.² The Act provides a range of services to homeless individuals and families.³ One section of the law, included in 1994 in the federal Elementary and Secondary Education Act (ESEA), places certain requirements on states and school districts to ensure that each homeless child and youth has access to the same public educational services as other children and youth. The Act explicitly prohibits the separation of homeless students from the mainstream environment. The law defines “homeless children and youth” as individuals who lack a fixed, regular, and adequate nighttime residence. The term includes:⁴

- children and youth who are
 - sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason (sometimes referred to as “doubled up”);
 - living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations;
 - living in emergency or transitional shelters;
 - abandoned in hospitals; or
 - awaiting foster care placement;
- children and youth who have 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;
- children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- migratory children who qualify as homeless because they are living in circumstances described above.

This legislative brief describes:

- the federal requirements under the McKinney-Vento Act for states, school districts, and schools concerning the education of homeless children and youth;
- the effects of homelessness on children and youths’ education, as well as effects for districts and schools; and
- some characteristics of children and youth in Tennessee who are homeless and enrolled in Tennessee schools, including their academic achievement.

Background

Since the start of the nation’s economic downturn in late 2007, the number of homeless students in public schools has significantly increased both nationally and in Tennessee. Between the 2006–07 and 2009–10 school years, the number of homeless students identified in public schools increased by about 38 percent nationally (from 679,724 students to 939,903 students).⁵ In Tennessee, the number of homeless students in public schools increased by about 74 percent during the same period, from 6,565 students in the 2006–07 school year to 11,458 in 2009–10.⁶ The increases may in part be a consequence of job losses and other difficulties related to the economy that have affected families, but may also result from some school districts’ improved efforts to identify homeless students. Reported numbers are significant, but may not be complete. Some factors indicate an undercount of homeless students in Tennessee schools. Several surrounding states (including Alabama, Florida, Georgia, Kentucky, and Louisiana) have identified significantly higher numbers of homeless students.⁷ And some school districts in areas of Tennessee with high unemployment and/or high foreclosure rates have identified no homeless students. (See Exhibit 1. See also Appendix A for a list of the numbers of homeless students identified by each Tennessee school district in school year 2010–11, along with economic indicators by county.)

The number of homeless families with children increased in some major U.S. cities, including Nashville, in both 2010 and 2011. Nashville city officials reported a 10 percent increase for both years in the total number of homeless families with children, and

estimated that 30 percent of the demand for emergency shelter could not be met in 2011, particularly for families with children.⁸ Other cities that experienced increases in the number of homeless families for both years include Charleston, South Carolina, Charlotte, North Carolina, and Portland, Oregon. (See more information in the sidebar: “Number of homeless families increased in some major U.S. cities, 2010 and 2011.”)

Research: Effects of homelessness on students’ educational achievement

The effects of homelessness on children’s educational progress are significant. According to research cited by the National Center on Family Homelessness, compared to their housed counterparts, children who are homeless:⁹

- are four times more likely to show delayed development;
- are twice as likely to have learning disabilities; and
- have three times the rate of emotional and behavioral problems.

See also “Effects on Children, Effects on Schools” for more about the impact on school districts and schools.

Because their families move frequently, homeless children tend to change schools and miss school more often.¹⁰ Homeless students are more likely to repeat a grade, be placed in special education, and fail academically, all of which can lead to dropping out.¹¹

School can be an oasis of stability and support for children and youth experiencing homelessness. School can provide opportunities for homeless children and youth to obtain the skills they need to escape poverty and avoid homelessness as adults.

Barbara Duffield and Phillip Lovell, *The Economic Crisis Hits Home: The Unfolding Increase in Child and Youth Homelessness*, National Association for the Education of Homeless Children and Youth and First Focus, Dec. 2008.

Nationally, fewer than 25 percent of homeless students graduate from high school.¹²

Researchers suggest that it is difficult to separate the effects of homelessness from the effects of poverty:

Children from low-income families, whether homeless or housed, face an array of chronic strains and acute negative life events from the broader conditions of poverty. . . .When viewed in the context of a much broader range of adversities, it is apparent that *homelessness is but one of many stressors that children living in poverty all too frequently encounter.*¹³

In Tennessee most homeless students and their families live with other people in “doubled-up” conditions. (See Exhibit 2.) Because many shelters cannot accommodate families, parents sometimes place children with other family members or friends, or parents may split up. For children, most of whom are in

Exhibit 1: Number of homeless students and homeless students as a percent of total state enrollment, by select states for school year 2009–10

State	Total student enrollment 2009–10 (NCES)	Total homeless students identified 2009–10 (CSPR)	Homeless students identified as a percent of total enrollment
Alabama	745,773	16,287	2.18%
Florida	2,544,915	48,695	1.91%
Georgia	1,667,685	26,428	1.58%
Kentucky	663,653	23,104	3.48%
Louisiana	690,915	25,223	3.65%
Tennessee	972,549	11,458	1.18%

Sources: Chen-Su Chen, National Center for Education Statistics, *Public Elementary and Secondary School Student Enrollment and Staff Counts From the Common Core of Data: School Year 2009–10*, U.S. Department of Education, NCES 2011-347, May 2011, Table 2: Public School Student Membership, School Year 2009–10, <http://nces.ed.gov/> (accessed April 13, 2012); National Center for Homeless Education, *Education for Homeless Children and Youth Program, Data Collection Summary, From the School Year 2009–10 Federally Required State Data Collection for the McKinney-Vento Education Assistance Improvements Act of 2001 and Comparison of the SY 2007–08, SY 2008–09, and SY 2009–10 Data Collections*, June 2011, pp. 9–10, Table 3, <http://center.serve.org/nche/> (accessed March 9, 2012).

elementary grades, the stresses of homelessness “are cumulative and increase the risk of developing health, behavioral, and social problems as adults.”¹⁴ Many families stay in tentative living conditions, in motels, cars, campgrounds, and emergency shelters, or in overcrowded homes of relatives or friends. Exhibit 3 shows the number of homeless students enrolled in schools by grade—most are in elementary and middle grades, with 4,382 in grades K–3 and another 4,388 in grades 4–8.

Effects on Children, Effects on Schools

Mobility. Homeless families tend to move often.

Research demonstrates that frequent changing of schools can have detrimental effects on children’s academic achievement. A study from the U.S. Government Accountability Office found that 3rd graders who have changed schools frequently are two-and-one-half times as likely to repeat a grade as 3rd graders who have never changed schools, and students who change schools frequently are more likely to repeat a grade than those who have never changed schools. The report cited additional research that children who had changed schools four or more times by 8th grade were at least four times more likely to drop out than those who remained in the same school, regardless of the socioeconomic status of a child’s family.¹⁵ The National Center on Family Homelessness estimates that 40 percent of homeless children attend two different schools in a year and 28 percent attend three or more different schools.¹⁶

The most significant effect of student mobility on schools and school districts involves integrating the student into a new classroom while maintaining a focus on progress through the curriculum. Research indicates

that student mobility can also have negative consequences for non-mobile students whose education can be disrupted when teachers spend extra time helping newer students catch up.¹⁷

Number of homeless families increased in some major U.S. cities, 2010 and 2011

The U.S. Conference of Mayors conducts an annual survey to determine the extent of hunger and homelessness in major cities. The city of Nashville experienced increases in 2010 and 2011 in the total number of homeless families (10 percent in both years). Reported causes for the homelessness of families with children included lack of affordable housing, substance abuse and lack of needed services, and unemployment.

Nashville city officials also estimated that 30 percent of the demand for emergency shelter could not be met in 2011, particularly for families with children:

[S]helters have had to increase the number of persons or families that can sleep in a single room; consistently have clients sleep on overflow cots, in chairs, in hallways, or use other subpar sleeping arrangements; and distribute vouchers for hotel or motel stays because shelter beds were not available.

City officials expect the number of homeless families and individuals to increase moderately in 2012 and expect emergency shelter resources to remain at about the same level.

Other cities reporting increases in the number of homeless families in 2011 include: Charleston (150 percent increase); Charlotte (21 percent); Detroit (20 percent); Los Angeles (39 percent); and Portland (29 percent).

Sources: *The United States Conference of Mayors Hunger and Homelessness Survey*, Dec. 2010, p. 48, <http://www.usmayors.org/> (accessed Feb. 20, 2012). *The United States Conference of Mayors Hunger and Homelessness Survey*, Dec. 2011, pp. 21, 24, and 53, <http://usmayors.org/> (accessed Feb. 22, 2012).

Exhibit 2: Number of homeless students by primary nighttime residence, Tennessee, school years 2008–09 and 2009–10

Homeless Students’ Primary Nighttime Residence	2008–09	2009–10
Doubled-up (e.g., living with another family)	7,074	9,203
Shelters, transitional housing, awaiting foster care	1,825	1,281
Hotels/motels	709	803
Unsheltered (e.g., cars, parks, campgrounds, temporary trailer, or abandoned buildings)	228	171
Total	9,836	11,458

Source: Tennessee Department of Education, *Consolidated State Performance Report, School Year 2009–10*, Item 1.9.1.2, <http://www2.ed.gov/> (accessed March 20, 2012); Tennessee Department of Education, *Consolidated State Performance Report, School Year 2008–09*, Item 1.9.1.2, <http://www2.ed.gov/> (accessed March 30, 2012).

Violence and Illness. Researchers estimate that 83 percent of homeless children have been exposed to at least one serious violent event by the age of 12, and approximately 25 percent have witnessed acts of violence within their families. “Children who witness violence are more likely than those who have not to exhibit frequent aggressive and antisocial behavior, increased fearfulness, higher levels of depression and anxiety, and have a greater acceptance of violence as a means of resolving conflict.”¹⁸

Homeless children are sick four times more often than other children with four times as many respiratory infections, twice as many ear infections, and five times more gastrointestinal problems. They experience hunger at twice the rate of other children and are at high risk of nutritional deficiencies. They have three times the rate of emotional and behavioral problems compared to other children. “Among school-age homeless children, 47% have problems such as anxiety, depression, and withdrawal, compared to 18% of other school-age children; 36% manifest delinquent or aggressive behavior, compared to 17% of other children.”¹⁹

The most significant effects of these conditions on schools and school districts involve classroom management, dealing with student discipline, and identifying when intervention is appropriate for health and/or mental health issues.

The best available estimates of homeless students’ academic achievement are from data reported by states to the U.S. Department of Education annually for school districts that receive federal grants for homeless students. (The federal program and the grants are described in the next section of this report.) According to data for school year 2009–10, nationally 52 percent of homeless children and youth met or exceeded proficiency on state assessments in reading and 50 percent did so in mathematics. As shown in Exhibits 4 and 5, in Tennessee the percentages were much lower with 28 percent of homeless children and youth meeting or exceeding proficiency in reading and 16 percent in mathematics for 2009–10.

Educating homeless children and youth: federal requirements

Most recently reauthorized in 2001 as part of the No Child Left Behind Act, the McKinney-Vento Education

Exhibit 3: Number of homeless children and youth by grade level in Tennessee schools, 2009–10 school year

Age/Grade	Number of homeless children enrolled in public schools
Age 3–5 (not in Kindergarten)	330
Kindergarten	1,123
1	1,102
2	1,081
3	1,076
4	989
5	905
6	886
7	843
8	765
9	720
10	537
11	482
12	525
Ungraded	94*
Total	11,458

Note: * indicates that some number of students (less than 10) is not counted in the ungraded total.

Source: Tennessee Department of Education, *Consolidated State Performance Report, School Year 2009–10*, Item 1.9.1.1, <http://www2.ed.gov/> (accessed March 20, 2012).

Given these circumstances, it is not surprising that children experiencing homelessness have difficulty in school. The level of fear and unpredictability in their lives is damaging to their growth and development, and ability to learn.

Ellen L. Bassuk, Christina Murphy, Natalie Thompson Coupe, Rachael R. Kenney, and Corey Anne Beach, *State Report Card on Child Homelessness: American’s Youngest Outcasts 2010*, The National Center on Family Homelessness, Dec. 2011, p. 10, <http://www.homelesschildrenamerica.org/> (accessed March 20, 2012).

for Homeless Children and Youth program addresses some of the problems that homeless children and youth have confronted in enrolling, attending, and succeeding in school.

Nationally, school districts report that the most significant barriers to homeless students’ success are:²⁰

- transportation to and from school,
- determining eligibility for services,
- availability of school records,
- immunization requirements, and
- school selection issues.

Tennessee reports that transportation is the most significant obstacle for the state's homeless students.²¹ (See Exhibit 6 for a summary of changes made to the McKinney-Vento Act since its passage.)

McKinney-Vento requires that states and school districts identify homeless children and youth. Specifically, the Act requires that states create plans for carrying out the McKinney-Vento provisions, which are to include a description of the procedures the state will use to identify homeless children and to assess their special needs.²² The Act requires that all school districts appoint a local homeless education coordinator, part of whose responsibility is to ensure that school personnel identify homeless children and

youth.²³ (See Appendix B for a list of the common signs of homelessness.)

To ensure that students' schooling remains as uninterrupted as possible, McKinney-Vento requires that homeless students be admitted to school immediately, even if they are unable to provide documents typically required for enrollment.²⁴ The law also gives a degree of preference to parents of homeless students during any disputes that may arise concerning where students will attend school. In such cases, school districts are required to immediately admit a homeless student to a school in which the parent or guardian seeks enrollment, pending resolution of the dispute.²⁵

Exhibit 4: 2009–10 Academic progress results for homeless students in Tennessee school districts receiving federal grants—Reading

Grade Level	# TN homeless students tested	# TN homeless students scoring at or above proficient	% TN homeless students scoring at or above proficient	% National homeless students scoring at or above proficient
3	536	119	22.2%	52%
4	473	101	21.35%	56%
5	461	132	28.63%	55%
6	410	130	31.7%	53%
7	388	96	24.7%	51%
8	340	77	22.6%	51%
Grades 3–8	2608	655	25.11%	53%
High School	452	191	42.25%	48%
Total Grades 3–12	3060	846	27.63%	52%

Exhibit 5: 2009–10 Academic progress results for homeless students in Tennessee school districts receiving federal grants—Mathematics

Grade Level	# TN homeless students tested	# TN homeless students scoring at or above proficient	% TN homeless students scoring at or above proficient	% National homeless students scoring at or above proficient
3	541	159	29.39%	60%
4	468	94	20.09%	58%
5	466	99	21.24%	55%
6	412	80	19.42%	47%
7	387	47	12.14%	45%
8	339	41	12.09%	43%
Grades 3–8	2613	520	18.72%	52%
High School	620	42	6.77%	38%
Total Grades 3–12	3233	562	16.33%	50%

Source: Tennessee Department of Education, *Consolidated State Performance Report, School Year 2009–10*, Items 1.9.2.5.1 and 1.9.2.5.2, <http://www2.ed.gov/> (accessed March 20, 2012); National Center for Homeless Education, *Education for Homeless Children and Youth Program, Data Collection Summary, From the School Year 2009–10 Federally Required State Data Collection for the McKinney-Vento Education Assistance Improvements Act of 2001 and Comparison of the SY 2007–08, SY 2008–09, and SY 2009–10 Data Collections*, June 2011, p. 25, <http://center.serve.org/nche/> (accessed March 9, 2012).

McKinney-Vento requires that school districts base decisions about where homeless children attend school on the best interest of the student, and, to the extent possible, keep them in the schools they originally attended when they were housed.²⁶ (See sidebar: “Determining where a homeless child or youth attends school.”)

McKinney-Vento also requires that school districts provide transportation to help homeless students remain in their original schools.²⁷ School officials reportedly use an array of methods to transport students, including school buses, public transit, vans, taxis, private vehicles, fuel vouchers, and mileage reimbursement. A pilot project conducted in the state of Washington from 2004 through 2006 found that homeless students remaining in their schools of origin had higher scores on state standardized tests and better high school grades than those who left their original schools.²⁸ All districts in Tennessee are required to provide transportation for homeless students; TDOE officials believe the difficulties in carrying out this requirement may make some district officials hesitant to identify homeless students.²⁹

The law provides that homeless youth without parents or guardians to exercise parental rights, referred to as “unaccompanied youth,” have the same rights to attend their schools of origin and gain immediate admittance

pending the resolution of any placement dispute.³⁰ Tennessee reported that 390 unaccompanied youth were enrolled in public schools during the 2009–10 school year.³¹

Funding educational services for homeless children and youth

Funding through the McKinney-Vento Act

The U.S. Department of Education awards McKinney-Vento funds annually to states by formula, based on the proportion of funds each state receives under Title I, Part A of the Elementary and Secondary Education Act of 1965. The award is conditional—if states choose to accept McKinney-Vento funding, and currently all do, then they must carry out the Act’s provisions. In 2011, Tennessee received \$1,227,251 out of a total national allocation of \$65,296,146 for the McKinney-Vento Education for Homeless Children and Youths program.³²

States are required to award at least 75 percent of the total state allocation to school districts through competitive grants. If a state chooses to accept McKinney-Vento funding, all school districts in the state must provide services to homeless children and youth whether or not the district receives a subgrant, and the state is responsible for providing technical assistance to all school districts. The remaining 25 percent of funds may be used for state activities related to the education of homeless children and youth.

Determining where a homeless child or youth will attend school

The McKinney-Vento Act requires that, to the extent feasible, school districts educate homeless students in the schools they originally attended when they were permanently housed unless doing so is contrary to the wishes of the parent or guardian. “This limitation refers to the parents’ choice and the students’ best interests, not to the school’s or district’s ability to pay or its administrative convenience.”

According to guidance from the U.S. Department of Education, factors that a school district may consider in making the determination include: the age of the child or youth; the distance of a commute and the impact it may have on the student’s education; personal safety issues; a student’s need for special instruction (such as special education and related services); the length of anticipated stay in a temporary shelter or other temporary location; and the time remaining in the school year.

A district may decide to assign a student to a school other than the original school, “but must provide an opportunity for the decision to be appealed and must enroll the student in the school of origin while the appeal is pending.”

Source: U.S. Department of Education, *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, p. 14, <http://www2.ed.gov/> (accessed Feb. 28, 2012). Joseph D. Ableidinger, “Educational Rights of Homeless Children and Youth: The McKinney-Vento Act and Its Impact on North Carolina’s Schools,” *School Law Bulletin*, Fall 2004, pp. 7 and 10, <http://sogpubs.unc.edu/> (accessed June 13, 2012).

In 2011, the Tennessee Department of Education awarded \$920,438 (75 percent of the total received) in McKinney-Vento subgrants to 13 school districts; most school districts do not receive McKinney-Vento subgrants. (See Exhibit 7.) The Department retained \$306,813 for state activities, which include staff compensation, training, monitoring, and administrative costs.³³

In 2009–10, the Tennessee Department of Education reported that 10,429 homeless students were served by school districts with subgrants and 1,029 were served by school districts without subgrants.³⁴ Nationally in school year 2009–10 approximately 80 percent of homeless students (748,538) were enrolled in districts with subgrants and 20 percent (191,365) in districts without subgrants.³⁵

Exhibit 6: The McKinney-Vento Education for Homeless Children and Youths Act: major provisions and revisions

Year	Highlights
1987	Stewart B. McKinney Homeless Act passed, requiring states to ensure that all homeless children have the same rights to a free, appropriate education as housed children. The Act included funds for each state to start an office of coordination, which has the authority to gather data on homeless children and develop a state plan.
1990	Changes were made specifically to increase school attendance levels of homeless children. Requires states to review and revise all policies, practices, laws, and regulations that might act as barriers to the enrollment, attendance, or academic success of homeless children and youth. Requires states to take a leadership role in ensuring that school districts review and revise policies and procedures that could impede the access of homeless children and youth to educational services. Authorizes states to use funds under the Act for direct educational services, such as before- and after-school programs, parent education, counseling, social work services, transportation services, and other services that may not have been provided by the public school program. Appropriations increased significantly from previous levels: 1988, \$4.7 million; 1992, \$24 million.
1994	Incorporated the education component of the Act into the Improving America's Schools Act, which contained several other education programs, such as Title I, Part A, and Migrant Education. Authorizes states to extend services funded by McKinney-Vento to preschool children. Removes categorical spending limits in the law, giving school districts with subgrants greater flexibility in developing programs to meet the educational, social, and health needs of homeless children and youth. Charges states with ensuring that school districts abide by a parent's or guardian's preference, to the extent possible, when making enrollment decisions.
2001	Reauthorized by the No Child Left Behind Act. Requires state supports to all districts (not only those with subgrants, as in the previous version), and requires every school district to designate a local liaison for homeless children and youth. Explicitly prohibits the segregation of homeless children and youth into separate schools or programs. Clarifies who is considered homeless by describing specific situations that qualify students as homeless. Requires transportation to and from school of origin, at the request of the parent or guardian. Requires that school districts enroll homeless students immediately, even if regularly required documentation is missing. If a dispute arises over school selection or placement, school districts must immediately admit a homeless child or youth to the school requested by the parent, pending resolution of the dispute. Appropriations increased again significantly from \$35 million in 2001 to \$50 million in 2002.

Sources: The McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431, et seq.), Title VII-B, Education for Homeless Children and Youth, <http://www.law.cornell.edu/> (accessed Feb. 28, 2012). The National Center for Homeless Education, *Local Homeless Education Liaison Toolkit*, revised Sept. 2007, <http://center.serve.org/nche/> (accessed Feb. 28, 2012). U.S. Department of Education, Budget History Tables, *State Funding History Tables by Program, FY1980—FY2009*, <http://www2.ed.gov/> (accessed Feb. 29, 2012).

For the 2010–11 school year significantly more homeless students were enrolled in districts that do not receive subgrants. Data supplied by the Tennessee Department of Education for 2010–11 indicates that of 14,234 homeless students identified, 8,481 were enrolled in school districts that receive subgrants and 5,753 were enrolled in districts that do not receive subgrants.³⁶

School districts receiving McKinney-Vento funds must use them for activities that will assist homeless children and youth in enrolling, attending, and succeeding in school. Districts may choose to expend grant funds on activities such as tutoring, awareness programs for educators, excess costs of transportation not otherwise provided through other funds, fees for obtaining needed records, and parent programs, among others.

School districts that do not receive McKinney-Vento grant funds are still required to designate local homeless liaisons and implement the Act’s requirements. (See section titled “State and local administration of the McKinney-Vento Act.”)

Funding through Title I, Part A

In addition to McKinney-Vento funding, districts may also provide assistance for homeless students with Title I funds. Title I, Part A of the Elementary and Secondary Education Act, as amended by No Child Left Behind, provides financial assistance to school districts and schools with high numbers or high percentages of children from low-income families. The part is intended to ensure that all children meet state academic standards. Homeless children and youth are automatically eligible for services under Title I, Part A, whether or not they live in a Title I school attendance area or meet the academic standards required of other children for eligibility.³⁷ School districts are required to set aside a portion of Title I, Part A, funds for homeless students who do not attend Title I schools, and may provide support services to children in shelters or other locations where homeless children live.³⁸

Title I and McKinney-Vento provide only broad directives about how Title I set-aside funds can be used: to support the academic achievement of homeless students. Title I set-aside dollars cannot be used to provide services that are required under the McKinney-

Exhibit 7: McKinney-Vento Subgrantees, Tennessee, 2011

School District	Award total
Davidson County	\$160,000
Elizabethton City	12,000
Hamblen County	62,000
Hamilton County	102,438
Johnson City	62,000
Kingsport City	37,000
Knox County	62,000
Memphis City	160,000
Rutherford County	90,000
Shelby County	62,000
Sumner County	37,000
Warren County	37,000
Wilson County	37,000
<i>Total</i>	\$920,438

Source: Tennessee Department of Education, *McKinney-Vento Grantees, 2011*, <http://www.state.tn.us/education/> (accessed June 14, 2012) [select “McKinney-Vento Grantees 2011–12” to open Microsoft Word file].

Vento Act, such as transporting a homeless student to and from the school of origin.³⁹ School districts may use Title I funds to provide services that are authorized but not required under McKinney-Vento and are not available through other sources.

Some permissible uses of Title I, Part A, funds for homeless students are tutoring (including in shelters, motels, and other places where students live); school uniforms (if not available from other sources); transportation to participate in activities after school; health, nutrition, and other social services (including basic medical equipment, such as eyeglasses and/or hearing aids), if not available from any other source.

Federal guidelines do not specify the amount of Title I funds that school districts must set aside under McKinney-Vento, and according to Tennessee Department of Education officials, the amounts vary widely among districts. For the 2011–12 school year, some districts set aside as little as \$86 to comply with the requirement.⁴⁰ Metro Nashville Public Schools set aside \$150,000 in Title I funds in the 2011–12 school year, nearly matching the amount of \$160,000 federal funding it received through a McKinney-Vento subgrant.⁴¹

State and local administration of the McKinney-Vento Act

The McKinney-Vento Act requires each state that accepts funding (currently all states) to establish a State Coordinator of Education of Homeless Children and Youth. The coordinator is responsible for assisting school districts in complying with the law, including raising school personnel's awareness of, and ability to address, problems relating to the education of homeless children. The McKinney-Vento Act also charges the State Coordinator with reviewing and offering revisions to laws, policies, rules, and regulations that may act as enrollment barriers to homeless students, and collaborating with and facilitating coordination among state and local agencies to provide services to homeless children and youth and their families.⁴²

In the Tennessee Department of Education, the State Coordinator is also assigned to other duties related to federal programs. The Coordinator monitors all districts' compliance with the provisions of the McKinney-Vento law and provides technical assistance to school districts upon request. The Department also offers annual training regarding McKinney-Vento requirements in all three regions of the state and at the annual attendance conference.⁴³

The Act requires that, in states that have accepted McKinney-Vento funds, every school district, whether or not it receives McKinney-Vento funding, designate a local liaison, whose responsibilities are to ensure that homeless children and youth are identified and enrolled in schools, and that students receive all educational services for which they are eligible. Liaisons are also responsible for making sure that homeless parents and guardians are informed of enrollment options and educational opportunities available to their children.

Larger districts may employ full-time local liaisons for their homeless education programs. In smaller districts, local liaisons may also have other duties or may be part-time employees. The Tennessee Department of Education lists these responsibilities for local liaisons:⁴⁴

- Ensure identification of students through coordination with school personnel and other agencies.

- Ensure enrollment with full and equal opportunity to succeed in school (including access to other programs and services for which homeless students may be eligible, such as Head Start, Even Start, preschool, health care, dental care, and mental health services).
- Ensure that parents or guardians are informed of homeless students' educational rights.
- Assist unaccompanied youth (i.e., a youth not in the physical custody of a parent or guardian) with placement, enrollment, and knowing their rights.
- Post public notices of the educational rights of children and youth experiencing homelessness.
- Inform parents, guardians, and unaccompanied youth about their rights to transportation and assist with accessing transportation.
- Mediate enrollment disputes.

The McKinney-Vento Act also requires school districts to review and revise regulations, practices, or policies that may act as barriers to the enrollment, attendance, or success in school of homeless children and youth. This includes any barriers to participation in extra-curricular activities as well; for example, if a child experiencing homelessness cannot pay fees associated with playing a sport, the fees should be waived or paid from other funds. Another barrier for homeless students might be a school district policy of issuing suspensions for multiple absences; in this case, a school district should excuse absences caused by homelessness.⁴⁵

State legislation related to the McKinney-Vento Act

In 1995, Illinois passed the Illinois Education for Homeless Children Act, many provisions of which were subsequently incorporated into the federal McKinney-Vento Act.⁴⁶ Since McKinney-Vento was reauthorized as part of No Child Left Behind in 2001, some states, including Delaware, Indiana, Iowa, Maine, New Hampshire, New Jersey, Utah, and Virginia, have enacted portions of the federal provisions into state law and/or adopted rules based on the federal requirements.⁴⁷

Tennessee enacted a law in 2006 (Public Chapter 756) that prevents schools from denying admission to homeless students if they have not been immunized or are unable to produce immunization records, as

required under McKinney-Vento. The state law also requires schools to comply with all provisions of the McKinney-Vento Act and any other federal laws concerning the educational rights of homeless children and youth.

In 2009, Illinois funded a state grant program, subject to appropriations, that “parallels and supplements, but operates independently of the federal McKinney-Vento Homeless Assistance Act to facilitate the enrollment, attendance, and success of homeless children and youth.” Approximately \$3 million in state funds were made available for the program in 2009. The state grant program was codified into Illinois statute in 2010.⁴⁸

Evaluation of states’ implementation of the McKinney-Vento Act

A 1995 national evaluation of the McKinney-Vento Act found that in the eight years following the law’s passage most states had revised their laws, regulations, and policies to improve access to education for homeless students.⁴⁹ Accordingly, school enrollment for homeless students has increased significantly since McKinney-Vento was initiated. In 1987, an estimated 33 percent to 43 percent of homeless school-age children and youth were not enrolled in school; by 2004, an estimated 87 percent of homeless students were enrolled. School attendance for homeless students also reportedly increased from 55 percent in 1997 to 77 percent in 2000.⁵⁰

Although the enrollment of homeless students has increased, obstacles persist. Researchers note “considerable evidence that in many schools and districts, compliance is less than complete and that educational provisions and services for homeless students fall short.”⁵¹ Nationally, school districts report nearly the same barriers for homeless students annually, including transportation, meeting eligibility for homeless services, providing required school records, obtaining proof of immunization, and school selection. Tennessee school districts report similar barriers and add others, including difficulty in identifying homeless students, uniform expenses, lack of affordable housing, inadequate shelters, and lack of study time and space.⁵²

Challenges in implementing the McKinney-Vento Act

There is widespread acknowledgement that the federal funding provided to states under the McKinney-Vento Act is not adequate to meet all of its provisions, particularly costs incurred to meet the transportation requirements:⁵³

Part of this mandate [under the McKinney-Vento Act] includes requiring that local education agencies (LEAs) *affirmatively* ensure that “homeless children and youths are identified by school personnel and through coordination activities with other entities and

Excerpt from Neva Ann Medcalf, *Kidwatching in Josie’s World: A Study in Child Homelessness*, (Lanham, MD: University Press of America, 2008), pp. 24–25 and 32. (Reproduced with permission from the author.)

School Policies, Practices and Procedures

Although the McKinney-Vento Act guarantees homeless children the right to immediate enrollment in school, even if lacking paperwork normally required for enrollment, getting a child enrolled in school is very difficult for many. To make sure students enrolling in the school belong in that school, proof of residence is required. This proof may come in the form of a utility bill, rent receipt, driver’s license or other documentation. These forms of proof are not possible for the homeless. Requiring emergency contact telephone numbers may not be possible for the homeless parent. Homeless children have trouble with enrollment and admission requirements related to health and inoculation records, proof of residency, guardianship, birth certificates or citizenship. . . .

These policies and procedures are deeply imbedded by years of established practice. Revising laws and policies to remove these barriers may not be an automatic remedy. Training and education of school staff are required to ensure that changes in the law are reflected in daily practices and procedures so homeless students may benefit.

agencies.” This affirmative responsibility to seek out and identify homeless students is often given short shrift by school districts. Part of the reason for this is that the Act’s mandates to provide transportation and affirmative identification are largely unfunded. As a result, school districts that operate under tight fiscal restraints are often financially unable to meet the affirmative demands of the Act.⁵⁴

All states have accepted McKinney-Vento funds and have agreed to ensure that all school districts comply with the Act. Noncompliance lawsuits have been filed on behalf of families in Alabama, Hawaii, Illinois, Maryland, New York, Pennsylvania, and the District of Columbia, compelling school districts to modify their policies and practices and pay attorney fees.⁵⁵ OREA analysts are unaware of any homeless student lawsuits filed in Tennessee. See Appendix C for brief summaries of several relevant court cases between 1992 and 2010.

National Center on Family Homelessness Report Ranks States on Child Homelessness

A 2010 report by the National Center on Family Homelessness (NCFH) ranks the 50 states in four areas: the numbers of homeless children, their well-being, the risk for child homelessness, and state level planning and policy activities. The report, *America’s Youngest Outcasts: State Report Card on Child Homelessness*, updates previous rankings from the original NCFH report produced in 2006 and an update in 2007. The 2010 report ranks Tennessee at 39 (where 1 = best and 50 = worst) overall, a composite of the four areas. Within the four separate areas, Tennessee ranks:

- 15 for the extent of child homelessness
- 45 for child well-being
- 40 for the risk of child homelessness and
- 45 for state policy and planning efforts

Tennessee was ranked at 24 overall in 2006 and at 34 in 2007. The state has declined since 2006 in the areas of child well-being in which it ranked at 8 and in state policy and planning efforts in which it ranked at 17.

Rankings were developed from data reported under McKinney-Vento, the U.S. Census Bureau, the Children’s Defense Fund, the National Center of Health Statistics, the National Assessment of Educational Progress, and the Centers for Disease Control, among others.

Source: The National Center on Family Homelessness, <http://www.familyhomelessness.org>; Ellen L. Bassuk, Christina Murphy, Natalie Thompson Coupe, Rachael R. Kenney, and Corey Anne Beach, *State Report Card on Child Homelessness: American’s Youngest Outcasts 2010*, The National Center on Family Homelessness, Dec. 2011, pp. 13-23 and Appendix A, <http://www.homelesschildrenamerica.org/> (accessed March 20, 2012).

Selected resources for further information

Federal Law and Guidance Documents

National Association for the Education of Homeless Children and Youth and the National Law Center on Homelessness and Poverty, "The 100 Most Frequently Asked Questions on the Education Rights of Children and Youth in Homeless Situations," 2004, <http://www.nlchp.org/>

The McKinney-Vento Homeless Assistance Act, Education for Homeless Children and Youths, Title 42 USC, Chapter 119, Subchapter VI, Part B, Section 11431, et seq., <http://www.law.cornell.edu/>

The National Center for Homeless Education, *Local Homeless Education Liaison Toolkit*, revised Sept. 2007, <http://center.serve.org/nche/>

U.S. Department of Education, *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://www2.ed.gov/>

National Research Organizations and Advocacy Groups

The National Association for the Education of Homeless Children and Youth, <http://www.naehcy.org>

The National Center for Homeless Education at the SERVE Center, University of North Carolina at Greensboro. NCHE is the U.S. Department of Education's technical assistance and information center in the area of homeless education. <http://center.serve.org/nche/index.php>

The National Center on Family Homelessness, <http://www.familyhomelessness.org>

The National Law Center on Homelessness and Poverty, <http://www.nlchp.org>

Other States

Florida Department of Education, *Homeless Education*, <http://www.fldoe.org/>

Illinois State Board of Education, *Homeless Education*, <http://www.isbe.state.il.us/>

Mississippi Plan to end child homelessness, <http://www.homelesschildrenamerica.org/>

The New York State Technical and Education Assistance Center for Homeless Students, *video simulation*, <http://nysteachs.org/> (The simulation places the viewer in the role of someone working at the front desk of a school district office where students come to enroll.)

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

Tennessee Department of Education

Tennessee Department of Education, *Federal Programs: Title X, Part C Homeless Education*, <http://www.state.tn.us/>

Select Tennessee School Districts

Memphis City Schools Homeless Education Program, <http://www.mcsk12.net/>

Metro Nashville Public Schools Homeless Education Program, <http://www.mnps.org/>

Rutherford County Schools Homeless Assistance Program, <http://rutherfordcounty.tn.schoolwebpages.com/>

Warren County Schools Homeless Education Program, <http://www.warrenschools.com/>

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⁵ National Center for Homeless Education, *Education for Homeless Children and Youth Program, Data Collection Summary, From the School Year*

2009–10 Federally Required State Data Collection for the McKinney-Vento Education Assistance Improvements Act of 2001 and Comparison of the SY 2007–08, SY 2008–09, and SY 2009–10 Data Collections, June 2011, p. 12, Table 4 (2009–10 total for nation: 939,903), <http://center.serve.org/nche/> (accessed March 9, 2012).

National Association for the Education of Homeless Children and Youth and First Focus, *A Critical Moment: Child and Youth Homelessness in Our Nation's Schools*, July 2010, p. 1, (2006–07 total for nation: 679,724), <http://www.firstfocus.net/> (accessed May 1, 2012).

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⁶ Tennessee Department of Education, *Consolidated State Performance Report: Parts I and II, School Year 2009–10*, Item

1.9.1.1, p. 64, <http://www2.ed.gov/> (accessed March 20, 2012). Tennessee Department of Education, *Consolidated State Performance Report: Parts I and II, School Year 2006–07*, Item 1.9.1.1, p. 63, <http://www.tn.gov/> (accessed June 15, 2012).

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Appendix A: Number of homeless students identified by Tennessee school district, 2010–11, with unemployment rates, foreclosure rates, and foreclosure rankings by county

School District	Number of homeless students identified, by school district, 2010–11	Unemployment rate by county, Feb. 2012*	Foreclosure rate by county, 2011 (1/every X housing unit)	Foreclosure ranking among counties, 2011 (1 = highest ratio of foreclosure to housing units)**
Anderson County	0	7.6	94	11
Clinton City	0			
Oak Ridge City	71			
Bedford County	60	9.6	92	10
Benton County	45	10.6	260	78
Bledsoe County	1	10.3	364	90
Blount County	0	7.6	146	44
Alcoa City	14			
Maryville City	23			
Bradley County	1	8.3	142	41
Cleveland City	36			
Campbell County	175	10.8	117	26
Cannon County	23	7.8	147	46
Carroll County	0	10.8	182	60
Hollow Rock-Bruceton SSD	0			
Huntingdon SSD	75			
McKenzie SSD	20			
South Carroll SSD	21			
West Carroll Special District	9			
Carter County	11	8.6	318	87
Elizabethton City	30			
Cheatham County	0	7.6	77	9
Chester County	14	8.8	163	52
Claiborne County	33	10.6	200	63
Clay County	0	11.0	468	93
Cocke County	73	13.4	178	58
Newport City	19			
Coffee County	48	8.0	172	57
Manchester City	25			
Tulahoma City	0			
Crockett County	3	11.8	169	56
Alamo City	0			
Bells City	0			
Cumberland County	696	10.4	159	51
Davidson County	2049	7.0	94	12
Decatur County	15	10.3	253	74
Dekalb County	10	8.5	146	45
Dickson County	35	9.2	94	13
Dyer County	0	11.8	133	38
Dyersburg City	2			
Fayette County	82	10.0	98	16

School District	Number of homeless students identified, by school district, 2010–11	Unemployment rate by county, Feb. 2012*	Foreclosure rate by county, 2011 (1/every X housing unit)	Foreclosure ranking among counties, 2011 (1 = highest ratio of foreclosure to housing units)**
Fentress County	4	9.5	211	67
Franklin County	4	8.8	188	61
Humboldt SSD	0			
Milan SSD	11			
Trenton SSD	21			
Bradford SSD	0			
Gibson County Special District	6	11.7	127	35
Giles County	21	9.6	121	31
Grainger County	14	11.2	207	64
Greene County	16	11.1	151	49
Greeneville City	29			
Grundy County	0	10.6	229	71
Hamblen County	649	9.0	147	47
Hamilton County	1603	7.6	107	23
Hancock County	0	12.0	1716	95
Hardeman County	20	11.3	131	36
Hardin County	11	10.2	262	80
Hawkins County	66	8.7	208	65
Rogersville City	1			
Haywood County	0	12.4	124	32
Henderson County	10	11.1	255	75
Lexington City	34			
Henry County	16	11.0	208	66
Paris SSD	14			
Hickman County	0	10.3	76	8
Houston County	1	9.9	258	77
Humphreys County	6	9.9	221	69
Jackson County	0	10.7	273	83
Jefferson County	145	12.0	120	30
Johnson County	0	11.1	318	88
Knox County	446	6.1	104	22
Lake County	0	10.7	164	53
Lauderdale County	1	13.1	179	59
Lawrence County	8	11.5	153	50
Lewis County	0	11.3	127	34
Lincoln County	0	6.5	117	27
Fayetteville City	0			
Loudon County	18	6.7	70	3
Lenoir City	7			
McMinn County	71	10.3	132	37
Athens City	87			
Etowah City	31			
McNairy County	1	9.6	120	29
Macon County	0	8.1	261	79

School District	Number of homeless students identified, by school district, 2010–11	Unemployment rate by county, Feb. 2012*	Foreclosure rate by county, 2011 (1/every X housing unit)	Foreclosure ranking among counties, 2011 (1 = highest ratio of foreclosure to housing units)**
Madison County	63	8.7	103	18
Marion County	5	9.3	273	82
Richard City	0			
Marshall County	18	12.6	64	2
Maury County	98	10.3	73	5
Meigs County	31	10.6	139	40
Monroe County	34	11.4	108	24
Sweetwater City	0			
Montgomery County	34	8.4	137	39
Moore County	0	8.0	213	68
Morgan County	9	10.4	221	70
Obion County	28	15.4	294	85
Union City	0			
Overton County	0	9.7	373	91
Perry County	0	12.9	437	92
Pickett County	0	15.9	1,565	94
Polk County	1	12.0	104	21
Putnam County	25	7.5	169	55
Rhea County	49	10.7	146	43
Dayton City	12			
Roane County	3	7.8	127	33
Robertson County	8	7.4	73	6
Rutherford County	767	7.1	75	7
Murfreesboro City	169			
Scott County	4	17.5	295	86
Oneida SSD	0			
Sequatchie County	16	8.8	95	14
Sevier County	56	12.4	53	1
Shelby County	532	9.2	71	4
Memphis City	3193			
Smith County	43	8.9	150	48
Stewart County	0	11.3	256	76
Sullivan County	116	7.8	167	54
Bristol City	19			
Kingsport City	241			
Sumner County	233	7.5	95	15
Tipton County	15	9.2	103	19
Trousdale County	2	9.9	119	28
Unicoi County	7	9.7	360	89
Union County	0	8.9	144	42
Van Buren County	1	11.9	236	72
Warren County	225	9.8	267	81
Washington County	96	6.9	196	62
Johnson City	469			

School District	Number of homeless students identified, by school district, 2010–11	Unemployment rate by county, Feb. 2012*	Foreclosure rate by county, 2011 (1/every X housing unit)	Foreclosure ranking among counties, 2011 (1 = highest ratio of foreclosure to housing units)**
Wayne County	0	11.4	285	84
Weakley County	0	12.1	244	73
White County	0	11.1	104	20
Williamson County	47	5.6	101	17
Franklin SSD	9			
Wilson County	377	7.1	108	25
Lebanon SSD	88			
TOTAL	14234			

* Note: Unemployment and foreclosure rates are provided by county only.

** Note: County foreclosure ranking is based on the rate of foreclosure filings; a rank of “1” means the county had the highest ratio of foreclosure to housing units.

Sources: James Francis, State Coordinator of Education of Homeless Children and Youth, e-mail attachment, April 30, 2012, “Homeless 2010–11, EIS Discoverer 9/6/2011”; Tennessee Department of Labor and Workforce Development, Employment Security Division, Research and Statistics, Labor Force Estimates—United States and Tennessee, released 4/26/2012, <http://www.tn.gov/labor-wfd/> (accessed May 9, 2012) ; Hulya Arik, Tennessee Housing Development Agency, Tennessee Foreclosure Trends: 2011, updated Feb. 2012, <http://www.thda.org/> (accessed May 9, 2012).

Appendix B: Common Signs of Homelessness

Note: While these are considered common signs, please recognize that they only offer general guidance. There is significant variability within the school-age homeless population. Individual students may differ significantly from the following general characteristics.

Lack of Continuity in Education

- Attendance at many different schools
- Lack of records needed to enroll
- Inability to pay fees
- Gaps in skill development
- Mistaken diagnosis of abilities
- Poor organizational skills
- Poor ability to conceptualize

Poor Health/Nutrition

- Lack of immunizations and/or immunization records
- Unmet medical and dental needs
- Respiratory problems
- Skin rashes
- Chronic hunger (may hoard food)
- Fatigue (may fall asleep in class)

Transportation and Attendance Problems

- Erratic attendance and tardiness
- Numerous absences
- Lack of participation in after-school activities
- Lack of participation in field trips
- Inability to contact parents

Poor Hygiene

- Lack of shower facilities/washers, etc.
- Wearing same clothes for several days
- Inconsistent grooming

Lack of Personal Space After School

- Consistent lack of preparation for school
- Incomplete or missing homework (no place to

- work or keep supplies)
- Unable to complete special projects (no access to supplies)
- Lack of basic school supplies
- Loss of books and other supplies on a regular basis
- Concern for safety of belongings

Social and Behavioral Concerns

- A marked change in behavior
- Poor/short attention span
- Poor self-esteem
- Extreme shyness
- Unwillingness to risk forming relationships with peers and teachers
- Difficulty socializing at recess
- Difficulty trusting people
- Aggression
- "Old" beyond years
- Protective of parents
- Clinging behavior
- Developmental delays
- Fear of abandonment
- School phobia (student wants to be with parent)
- Anxiety late in the school day

Reaction/Statements by Parent, Guardian, or Child

- Exhibiting anger or embarrassment when asked about current address
- Mention of staying with grandparents, other relatives, friends, or in a motel, or comments, such as
 - "I don't remember the name of the last school."
 - "We've been moving around a lot."
 - "Our address is new; I can't remember it"
 - "We're staying with relatives until we get settled."
 - "We're going through a bad time."

Source: National Center for Homeless Education at The SERVE Center, University of North Carolina at Greensboro, [Local Homeless Education Liaison Toolkit](#), Appendix C: Awareness Materials, updated Sept. 2007, <http://center.serve.org/nche/> (accessed May 1, 2012).

Litigation

Summaries

Salazar v. Edwards / 92 CH 5703 (Cir. Ct. Cook County, IL, filed June 12, 1992)

Litigation was filed on behalf of homeless children after the Chicago Public Schools failed to meet the requirements of the McKinney-Vento Act and the Illinois Homeless Education Act. In November of 1996, negotiations resulted in settlement. While the defendants admitted no violation of law, they agreed to remove any perceived barriers to the enrollment, attendance, and success in school of homeless children and youth. The settlement covered a broad array of issues, including: discrimination and segregation; identification and immediate enrollment of homeless students; choice of schools and school stability; transportation; dispute resolution; training; coordination; and monitoring. Plaintiffs also received approximately \$260,000 in attorney fees.

In 1999, following persistent noncompliance in several areas, plaintiffs filed a motion to enforce this settlement agreement. The court granted the motion, ordering full compliance with the settlement, a “massive information campaign addressing the rights of the homeless throughout Chicago,” trainings, designation of school personnel to ensure implementation of the settlement, reporting, a court-appointed monitor, and sanctions of up to \$1,000 per day for continued noncompliance. Plaintiffs also received an additional \$189,000 in attorney fees.

Lampkin v. District of Columbia / 27 F. 3d 605 (Washington, DC, 1994)

Ten parents, on behalf of their children, and the National Law Center on Homelessness and Poverty filed a lawsuit in federal court, challenging the District of Columbia Public Schools’ failure to ensure a free, appropriate education for children experiencing homelessness, as required by the McKinney-Vento Act. The suit alleged that DCPS was failing to consider the best interests of children and youth in making school placements; ensure transportation to the schools that were in the students’ best interests; coordinate social services and public education; and ensure comparable services and school meals for students experiencing homelessness.

The court initially dismissed the suit, but was reversed by the federal appeals court, which agreed with the plaintiffs that the McKinney-Vento Act created enforceable rights, and returned the case to the lower court. The court then ordered DCPS to identify children experiencing homelessness and refer them for all services required by the law, including transportation, within 72 hours of a family’s application for emergency shelter. For the children of the more than 300 families on the waiting list for emergency shelter, the court allowed two weeks. The court also ordered the District to provide public transit tokens to all homeless children and youth who had to travel more than 1.5 miles to school, and also to parents who chose to escort their children to school. DCPS was ordered to pay \$185,000 in attorney fees and costs associated with the case.

Doe v. Richardson / Civ. A. 98-1165-N (U.S. District Court, Middle District of Alabama, filed Oct. 13, 1998)

In October 1998, the Southern Poverty Law Center brought a lawsuit against the state of Alabama and two school districts for violating the McKinney-Vento Act and discriminating against a student on the basis of race. The school districts had adopted a policy requiring children to enroll in school within the first ten days of the semester. Anyone enrolling later, including homeless children, would be admitted only at the discretion of a special enrollment committee. An African-American student residing at a shelter in the district was refused admission to the local high school, after she tried to enroll more than ten days after school had started. The County Board of Education initially referred her to another high school, which also denied her enrollment. The lawsuit alleged that the student had been denied admission from the first high school because of her homeless status and steered away from the second because of her race.

The state and school districts agreed to settle the case. The student was enrolled in the local high school, and the State Board of Education and both involved school districts adopted new policies affirming their duties under the McKinney-Vento Act and their commitment to nondiscrimination. The settlement required defendants to pay \$5,000 in attorney fees and associated court costs.

Burgin v. Community Consolidated School District 168 / Cook County Commission on Human Rights (filed Nov. 22, 2000)

The Burgin family, who are African American, had rented an apartment in District 168 and four of their children attended District 168 schools (two of whom were honor roll students). In March 2000, the Burgins were evicted from their apartment following a period of unemployment. They doubled up with family members in a nearby suburb, and were denied continued enrollment in District 168 because they were not residents. After the Burgin family threatened litigation, the district agreed to re-enroll, but the Burgin family filed a complaint with the Cook County Commission on Human Rights following the superintendent having publicly made a derogatory racial remark about the family.

Discovery was conducted in the case and showed that all of the District's registration and enrollment materials and policy were misleading and inaccurate with respect to children experiencing homelessness. The parties entered into a settlement agreement in which the District agreed to, among other things, a total monetary settlement of \$100,000; annual training on and implementation of the McKinney-Vento Act, the Illinois Education for Homeless Children Act; and to establish a diverse committee of parents, staff, and community organizations to analyze the racial impact of school policies and practices.

Litigation

Summaries

Sarah and Seth Doe v. Governor Wentworth Regional School District / SB #00-30 New Hampshire State Administrative Hearing, March 21, 2001

After losing their housing in the fall of 2000, a family moved into a homeless shelter in a different school district. The parent sought to keep her children in their school of origin. However, conflicts between state laws and the McKinney-Vento Act resulted in a long dispute between the family and the school district of origin. The school district argued that the McKinney-Vento Act was not applicable because the district did not receive a subgrant and that the state could choose to force homeless children to attend school where they are temporarily residing. Despite active pre-litigation involvement by the State Coordinator and local attorneys, the school district refused to follow the law. New Hampshire Legal Assistance filed an administrative complaint in March 2001. On March 21, 2001, the Administrative Law Judge found in favor of the family. The children were permitted to remain in their school of origin. The State Coordinator and New Hampshire Legal Assistance have worked to revise state education laws to comply with the McKinney-Vento Act.

Collier, et al., v. Board of Education of Prince George's County, et al. / DKC-2001-1179 (U.S. District Court, District of Maryland, filed April 16, 2001)

Prince George's County is a large suburban school district bordering on Washington, D.C. A class action lawsuit and a motion for a temporary restraining order and preliminary injunction were filed against the school district on behalf of homeless families in the county. Initially, the court ordered the school district to provide plaintiffs with transportation to the school of origin. The case was then expanded to include a broad range of McKinney issues, including transportation, identification, school selection, dispute resolution, and inter-agency issues. In September 2001, the case was settled. The school district agreed to take broad reform measures to address all of the issues.

Mitzi H. v. Murray and Board of Education of Homewood-Flossmoor High School District 233 and Mitzi H. v. Ramsey and Board of Education of Homewood School District 153 / filed in Cook County Circuit Court, Sept. 2002

These two cases involved one family with two children in an elementary district and one child in a high school. Under McKinney-Vento and the Illinois law, when the children lost their housing in Homewood, they should have been permitted to stay in the Homewood schools and obtain transportation assistance. However, the children were kept out of school for a total of five months until shelter personnel in Chicago referred them to the Law Project. After advocacy by the Law Project, the students were re-enrolled in March 2002. In September 2002, two separate complaints were filed in the Circuit Court of Cook County against both schools, seeking damages and relief.

The high school filed a motion to dismiss arguing that the children could not bring suit because their homelessness was caused by a step-parent's wrongdoing. The high school also argued that the family was not homeless. After briefing and oral argument, the court denied the motion to dismiss. The court found that the Illinois statute protected children experiencing homelessness regardless of the reason for their homelessness. The court further found that the family met the definition of "homeless" when they were living in a motel. Settlement negotiations continue.

Litigation

Summaries

Bullock, et al., v. Board of Education of Montgomery County, et al. / DKC-2002-798 (U.S. District Court, District of Maryland, filed March 14, 2002)

Montgomery County is a large suburban school district bordering on Washington, D.C. A lawsuit and motion for temporary restraining order and preliminary injunction was filed on behalf of several homeless families. The case raised many issues related to the McKinney-Vento Act, including the rights of children in transitional housing, “time limits” on homelessness for doubled-up families, and segregation.

The case was settled. The school district agreed to implement broad reforms ranging from giving children awaiting foster placement full McKinney rights to widely publicizing the rights of homeless children throughout the district, to training school administrators and school personnel on McKinney rights, to implementing new forms and school-based guidelines to identify and serve homeless children, to providing transportation to the school of origin within four school days of the request. A two-year monitoring period followed the settlement. The school district agreed to pay \$195,000 in attorneys’ fees to counsel for the plaintiff class.

Muriel C. v. Gallagher, Hart and Evergreen Park Community High School District (filed in Cook County Circuit Court, Feb. 2003)

Muriel C. and her children were living in Evergreen Park (a south suburb of Chicago). The family lost their housing in Evergreen Park and doubled-up with Muriel C.’s mother in Chicago. In January 2003, the high school issued letters to the family stating that the children were to be excluded due to non-residency. A dispute resolution hearing was held in which the lawyer for the school district argued that the children were not homeless because they did not wear dirty clothes to school. The school district lawyer also argued—and the hearing officer agreed—that the family had the burden of proof in the hearing. Thus, it was up to the family to prove that they were homeless. The hearing officer found that the family was not homeless and the children were excluded from school for approximately two weeks. The school agreed to re-enroll the children after plaintiffs filed a complaint in the Circuit Court of Cook County. The parties are currently litigating the case and are also engaged in settlement discussions.

National Law Center on Homelessness and Poverty, et al. v. New York State, et al. Civil Action No. 04 0705 (U.S. District Court, Eastern District of New York, filed Feb. 20, 2004)

This case alleged systemic noncompliance by the state education agency, state social services agency, 15 local educational agencies, and county social services with state and federal laws relating to the education of homeless children and youth. The school districts settled their portion of the case early in the proceedings, while the state and county social services moved to dismiss the case, saying that the McKinney-Vento Act was not enforceable by parents. The U.S. District Court denied the motion to dismiss, holding the Act was enforceable. Ultimately, all parties settled and agreed to comply with all applicable state and federal laws relating to homeless students.

Litigation

Summaries

Philly Peterson, et al. v. Board of Education of Baltimore County, et al. / (U.S. District Court, Northern District of Maryland, filed April 28, 2006)

In April 2006, four homeless students and their parents filed a lawsuit on behalf of all homeless families in the county against Baltimore County Public Schools, seeking damages and injunctive and declaratory relief requiring the defendants to comply with the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, 42 U.S.C. §§ 11431-11435 (2002). The court approved this case as a class action. All parties agreed to a final settlement in June 2008. The Baltimore Public Schools were required to pay \$145,000 to the plaintiffs' counsel for attorneys' fees and expenses, and agreed to comply substantially with the requirements of the McKinney-Vento Act.

Boisseau v. Picard, Civil Action No. 2007-0565 (U.S. District Court, Eastern District of Louisiana, filed Feb. 1, 2007)

The NAACP Legal Defense Fund filed this action to ensure that students who had been displaced by Hurricane Katrina would be able to enroll in school immediately as their families return to New Orleans. Many returning students had been refused enrollment or placed on waiting lists. In response, state officials announced they would enroll every child on a waiting list. The Legal Defense Fund indicates it is proceeding with the litigation to ensure compliance.

Kaleuati v. Tonda / Civil Action No. 07-504 (U.S. District Court, District of Hawaii, filed Oct. 6, 2007)

Lawyers for Equal Justice, the ACLU of Hawaii, and Alston Hunt Floyd & Ing represented three homeless families, and on behalf of all homeless families statewide, filed a class action lawsuit against the State of Hawaii in U.S. District Court, seeking statewide injunctive relief to remove policies that violate federal law and ensure that homeless children have full, meaningful access to a public education. The court granted a motion for preliminary injunction and certified the class. On August 12, 2008, the court approved a final settlement. The Hawaii Department of Education was required to pay \$185,000 in attorneys' fees and costs, and also must "use reasonable, good-faith efforts to substantially implement the policies, procedures, and practices necessary to comply with the requirements of the McKinney-Vento Act by September 1, 2008, and recognize that training is and shall be an ongoing responsibility."

Litigation**Summaries**

A.E., B.E., S.E., and M.E. minors and their mother C.E. and father W.E. v. Carlynton School District and Gerald Zahorchak, Secretary of the Pennsylvania Department of Education in his official capacity only / Civil Action 09-1345 (W.D.P.A.) (2009)

The Education Law Center-PA and the National Law Center on Homelessness and Poverty (NLCHP) settled a lawsuit with the Pennsylvania Department of Education and Carlynton School District ensuring the continued enrollment of four homeless children in Allegheny County and significantly revising state policies to better protect the rights of homeless students. In October 2009, Carlynton School District officials sought to remove four homeless children from a District school, claiming the family did not actually live in the District because, although their day shelter was in the district, they spent the night in one of eight different locations, only some of which were in the district. When the Pennsylvania Department of Education concurred with the District's decision, the Education Law Center and NLCHP filed their complaint under the McKinney-Vento Act.

As part of the settlement agreement, issued by the court on March 23, 2010, the Pennsylvania Department of Education issued a new Basic Education Circular (a document that provides Pennsylvania school districts officials with guidance in interpreting laws, regulations, and policies), which clarifies that: (1) children, such as the plaintiffs, who may sleep overnight in different places, are legally entitled to attend school where they have a substantial connection, such as receiving day shelter services, conducting daily living activities, or staying overnight on a recurring basis; and (2) school districts must immediately enroll a child who claims to be homeless and must notify families of their rights. The state, in compliance with federal law, also now requires the school district to inform families in writing of the basis of a denial of school enrollment or school selection decision; apprise families of their right to remain in their school of choice pending resolution of a dispute; and explain the procedures for challenging a school district's decision.

L.R., a minor, by his guardian/grandmother, G.R. v. Steelton-Highspire School District (U.S. District Court, Middle District of Pennsylvania, filed March 2, 2010) Case 1:10-cv-00468-SHR

In March 2010, a homeless student and his grandmother, with the assistance of the Education Law Center in Pennsylvania and National Law Center on Homelessness and Poverty, filed suit against Steelton-Highspire School District, seeking damages and injunctive and declaratory relief requiring the defendants to comply with the McKinney-Vento Homeless Education Act. The court issued a preliminary injunction on March 29, 2010, and an opinion on the preliminary injunction on April 7, stating (1) that homelessness has no time limit, (2) that schools must follow dispute resolution procedures and immediately enroll students even if they do not believe they qualify as homeless, and (3) that Congress has expressed its opinion that immediate enrollment pending disputes is in the public interest. On April 7, 2010, the court issued an order granting the Plaintiff's emergency motion for preliminary injunction stating: "The District's decision not to enroll L.R. is in direct conflict with the express requirements of the McKinney-Vento Act which grants special rights and protections to children experiencing homelessness in order to ensure school stability and academic success. Congress has determined through its enactment of the McKinney-Vento Act that homeless children are particularly vulnerable to falling through the cracks of a fractured local educational system. As such, in the event of a dispute about whether enrollment is proper they are to be immediately enrolled in the school of choice pending a determination on the merits of their school selection. See 42 U.S.C. §11432(g)(3)(E)(i). The court can think of no more clear expression of the public interest than statutory language, and no better way to effectuate that interest than by directing the District to immediately re-enroll L.R."

Sources: Patricia Julianelle, Legal Director for the National Association for the Education of Homeless Children and Youth, "[Litigation Related to the McKinney-Vento Act](#)," for Project HOPE—Virginia, Office on the Education of Children and Youth Experiencing Homelessness, Spring 2008, <http://nlchp.org/> (accessed May 1, 2012); National Law Center on Homelessness and Poverty, [Education Litigation Documents](#), <http://wiki.nlchp.org/> (accessed May 1, 2012).



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