



Photo by Chuck Cherny, Chicago Tribune

THE EDUCATIONAL RIGHTS OF HOMELESS CHILDREN:

Creating a Model Program in Illinois

By Rene Heybach and Patricia Nix-Hodes



The lack of affordable, permanent housing forces many families to move frequently and results in many children changing schools repeatedly. Such mobility has a devastating impact on the educational opportunities of children experiencing a housing crisis. On average, it takes a child four to six months to recover academically from a change in schools.¹ Students who change schools frequently tend to perform more poorly and have lower test scores. In the long term, students with poor grades in the early years are more likely to drop out of school. Homeless children, like other highly mobile children, often miss school days while attempting to transfer to a new school due to barriers the school imposes such as residency,

immunization, or records requirements. Missed school days also hurt long-term academic achievement and result in higher drop-out rates. Children suffer non-academic costs from mobility as well. While a stable school setting offers familiarity and consistency, a new school requires adjusting to new students, new teachers, and new tasks. In 1987, in response to the mobility and barriers faced by homeless children, the federal government created the McKinney Act's Education for Homeless Children and Youth (EHCY) program.²

The homeless education provisions of the McKinney Act have shaped state efforts to address the educational needs of homeless children and youth since the act's passage in 1987. In exchange for providing federal funding, the act required states to remove barriers to the enrollment, attendance, and success of homeless children in school. The success of the law has been dramatic, increasing the percentage of homeless children and youth enrolled in school to 88 percent nationally from a low of only 50 percent at the time of the act's original passage.³

The EHCY provisions of the McKinney Act are being reauthorized this year as part of H.R. 1, the omnibus education bill. At the time this article is being written, the House and Senate conferees have met and will likely adopt a remarkably strong and helpful piece of

legislation regarding the educational rights of homeless children and youth.⁴ Significantly, the most recent EHCY reauthorizing legislation drew much of its inspiration and language from the Illinois Education for Homeless Children Act⁵ and Illinois's experience in implementing the McKinney Act. U.S. Representative Judy Biggert (R-IL) played a major role in shaping the legislation and has been a staunch ally on the educational rights of children and youth experiencing homelessness. H.R. 623, the reauthorization legislation introduced by Representative Biggert, specifically noted that the purpose of the legislation was "to include innovative practices, such as those enacted in Illinois, proven to be effective in helping homeless children and youth enroll in, attend, and succeed in school."⁶

Advocacy Efforts in Illinois: Litigation, Legislation, Collaboration

Ensuring that homeless children actually benefit from the McKinney Act has proven to be challenging. Despite the law and despite the fact that Illinois and the Chicago Public Schools (CPS) received McKinney funding, the rights of homeless children and youth were being systematically ignored.

In 1992, a group of homeless parents and children filed a class-action

lawsuit, *Salazar v. Edwards*,⁷ against CPS and the Illinois State Board of Education (ISBE) to enforce their educational rights under the McKinney Act. Although the case was originally settled in 1996, the Chicago Public Schools did not begin to devote significant attention to the issue until after a court order in summer 1999.

Achievements of *Salazar Settlement*

Following the court order, the parties entered into a new, comprehensive settlement agreement in which CPS committed to developing the premier homeless education program in the country. Among other things, the settlement requires CPS to:

- *Immediately* enroll homeless children, even without records or immunizations;
- Assist families in obtaining records and immunizations;
- Apply a broad definition of who is homeless;⁸
- Post a notice of the rights of homeless children and youth and identify a homeless liaison in each school;
- Give homeless children the choice of attending the school of origin (the school attended when permanently housed or the school last attended) for as long as they remain homeless or, if they become permanently housed, until the end of the academic year;
- Provide transportation services; and
- Prohibit segregation of homeless students.

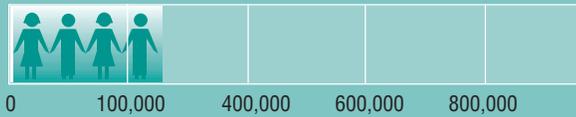
Protections in Illinois Education for Homeless Children Act

In 1994, following a suburban school district's attempt to exclude homeless students and subsequent advocacy efforts at the state level, the Illinois General Assembly passed the Illinois Education for Homeless Children Act.⁹ The Illinois law addressed many problems not addressed in the McKinney Act, including many of the provisions listed above.

Illinois State Board of Education Policy

Beginning in 1996, the Illinois State Board of Education made significant progress in ensuring that Illinois school districts comply with federal and state law on the educational rights of homeless children. As part of the *Salazar* settlement in 1996, ISBE adopted a policy stating that Illinois "[s]chool districts have a responsibility to help foster consistent attendance by reaching out to homeless families and working with them to provide that homeless children and youth continue to attend their school of origin without interruption, wherever possible." ISBE also formally adopted the federal Department of Education's definition of homeless persons (see footnote 8).

Number of homeless children and youth who received direct services through EHCY program during the 1999-2000 school year. **257,035**



Number of children and youth identified as homeless by states in the FY 2000 U.S. Department of Education Report to Congress (43 states responding). **915,923**



Only 28% of identified homeless children and youth served.

Highlights of the New McKinney Act

The following are among the highlights of expected important changes in the federal McKinney Act based on Illinois's successes:

- Requires schools to enroll homeless children and youth immediately, without first producing records or procuring immunizations and assist families in obtaining necessary records.¹⁰
- Incorporates the specific definitions recommended by the federal Department of Education, including, families sharing housing because of economic hardship or similar reasons.¹¹
- Increases parents' awareness by requiring school districts to designate a homeless liaison¹² and to post notice of the educa-

tional rights conferred by the act.¹³

- Provides stability and continuity by stating that a child should remain in the school of origin "to the extent feasible" unless the parent or guardian disagrees and for as long as the child remains homeless or, if the child becomes permanently housed, for the remainder of the academic year.¹⁴
- Requires school districts to develop policies and practices to ensure that transportation is provided when requested and to work together to apportion costs between districts.¹⁵
- Strengthens the prohibition on placing homeless children and youth into separate schools or classrooms. The legislation "grandfathers" in six already existing segregated schools

but imposes strict requirements designed to ensure that no child is forced into such a setting nor given educational instruction that does not comport with state standards.¹⁶ More importantly, these districts must systemically address the barriers faced by homeless children and youth that led to the creation of the segregated school.

- Gives special attention to older children who are homeless and who, though minors, are not with a parent or guardian. The authorized activities for local school districts receiving EHCY funding now include services to attract, engage, and retain unaccompanied youth.¹⁷
- Recognizes the need for increased funding by authorizing \$70 million for the EHCY program. In the past, \$50 million was authorized for the program, but only \$35 million was appropriated in fiscal year 2001. This amount was inadequate to serve the growing number of children who are experiencing homelessness.¹⁸ During the 1999-2000 school year, only 28 percent of identified homeless children received direct services through the McKinney program, due to lack of funding¹⁹ (see table above).

¹ See Expert Panel Report (1991) submitted in *B.H. v. McDonald* by Dr. Joy Rogers, Ph.D., Loyola University Department of Education.

² 42 U.S.C. § 11431 et seq. (now the McKinney-Vento Act).

³ See fiscal year 1997 U.S. Department of Education Report to Congress.

⁴ Other provisions of H.R. 1 will likely have been reconciled by the Conference Committee and the bill signed into law at the time this article is published.

⁵ 105 ILCS 45/1-1 et seq.

⁶ H.R. 623, though not adopted, provided the framework for the EHCY provisions of H.R. 1.

⁷ 92 CH 5703, Cir. Ct. Cook County

⁸ CPS adopted the U.S. Department of Education's *Preliminary Guidance* defining the specific categories of homeless children which, in addition to children living in shelters, considers children and youth to be homeless

if they are sharing housing with others because of loss of housing (doubled up), or are living in the streets, cars, abandoned buildings or other inadequate or temporary situations.

⁹ 105 ILCS 45/1-1 et seq.

¹⁰ Sec. 722(g)(3)(C).

¹¹ Sec. 725(1).

¹² Sec. 722(g)(1)(J)(ii).

¹³ Sec. 722(g)(6)(A)(v).

¹⁴ Sec. 722(g)(3)(A) & (B).

¹⁵ Sec. 722(g)(1)(J)(iii).

¹⁶ Sec. 722(e)(3).

¹⁷ Sec. 723(d)(7).

¹⁸ For example, the U.S.

Conference of Mayors estimates that requests for emergency shelter by families with children increased by an average of 17 percent in 2000.

¹⁹ Based on preliminary data from the fiscal year 2000 U.S. Department of Education Report to Congress (unpublished; 43 states responding).