



CW-IL-001-001

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

ANGELA MILLER, her daughter)
ANTWAHNAE MILLER, and son)
ETHAN MILLER; CONTELAS MORRIS,)
her daughter, IEISHA MORRIS,)
and son JOHNATHAN MORRIS;)
AUDREY PEARSON, her son THOMAS)
PEARSON III; M.V., her children)
A.V., F.V., K.V., R.V., and)
E.V.; LENA TAYLOR her daughter)
CHINESA TAYLOR; LUZ ROMAN, her)
her daughters YVONNE ROMAN, and)
MICHELLE ROMAN; SHEILA JACKSON,)
her twin daughter and son)
STEPHANIE and STEPHEN JACKSON,)
all on their own behalf and on)
behalf of all others similarly)
situated,)

Plaintiffs,)

v.)

NO. 92 CH 5703)

THE CHICAGO SCHOOL REFORM)
BOARD OF TRUSTEES; PAUL)
VALLAS, Chief Executive Officer)
for the Chicago School Reform)
Board of Trustees; JOSEPH A.)
SPAGNOLLO, State Superintendent)
of Education; JACKIE)
BRECKENRIDGE, MARCENE)
BROADWATER, HUGH BROWN, RICK L.)
CATT, DOREEN CREWE, MARK W.)
GALLAGHER, HARRY E. LITCHFIELD,)
MARY ANN MACLEAN, LEONARD B.)
MARSHALL JR., GRETCHEN L.)
MCDOWELL, DEBORAH MILLER,)
LYLE NEUMANN, DOROTHY O'NEILL,)
JIM PALOS, HERB ROACH, MICHAEL)
SKARR and PATRICIA YUZAWA-RUBIN,)
Members of the Illinois State)
Board of Education; DANIEL)
MILLER, Coordinator of)
Homeless Children and Youth,)
Illinois State Board of)
Education,)

Defendants.)

FILED
45 NOV 1991

FIRST AMENDED CLASS ACTION COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF FOR VIOLATIONS OF:
THE ILLINOIS EDUCATION FOR HOMELESS CHILDREN ACT.

THE ILLINOIS SCHOOL CODE, THE FEDERAL STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT, THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND ARTICLES I AND X OF THE ILLINOIS CONSTITUTION.

I. INTRODUCTORY STATEMENT

1. This is a class action lawsuit brought by thousands of homeless children and their parents to secure the children's right to a free appropriate public education in the City of Chicago; the right to enroll in school; the right to continue education in the "school of origin" and to have transportation to do so; the right to be free of discrimination based on their status as homeless and the right to access all public school services and programs, all as secured by the Illinois Education for Homeless Children Act, 105 ILCS 45/1-1 et seq. ("Education Act"); the Illinois School Code, 105 ILCS 5/1-1 et seq.; (the "School Code"); Subchapter VI-B of the McKinney Homeless Assistance Act ("McKinney Act"), 42 U.S.C. §§11431 et seq.; Article X, Section 1 and Article I, Section 2 of the Illinois Constitution; and the due process clause of the Fourteenth Amendment to the United States Constitution.

2. Thousands of children in Chicago do not attend school, or do not attend the school they wish to attend and are entitled to attend, because they are homeless and because defendants, local and state school officials, who have the responsibility of ensuring that homeless children do attend school (and the appropriate school for them, under the law) have failed to meet that responsibility.

3. Plaintiffs allege in particular that defendants, acting individually or in concert, have policies, put into effect practices and encouraged customs that, among other things, have resulted in a systemic failure to:

- a. locate and ensure enrollment and educational success of homeless children in Chicago in school;
- b. provide adequate transportation assistance to enable such children to attend school;
- c. implement any meaningful plan to prevent isolation and stigmatization of homeless children and to remove systemic barriers to such children obtaining a free appropriate education;
- d. provide any notice to parents or children in Chicago of a child's legal right to remain in the school that the child attended when permanently housed or the school in which the child was last enrolled (the "school of origin") after becoming homeless;
- e. designate and provide persons to serve as statutory ombudsperson for the purpose of prompt dispute resolution;
- f. establish a prompt and timely dispute resolution process regarding school placement and transportation assistance decisions;
- g. afford homeless children and parents in Chicago a notice of the availability of an ombudsperson and of their right to dispute school placement and transportation decisions; and
- h. remove onerous records requirements that act as barriers to enrollment.

4. Plaintiffs allege that these policies, practices and customs violate state and federal laws as more fully detailed below. Plaintiffs seek declaratory and injunctive relief on behalf of the plaintiff classes and, without such relief, are likely to be subjected to these illegal practices again and again.

5. This case presents issues of great public importance. All class members reserve the right to seek monetary damages for defendants' violations of their constitutional and statutory rights.

II. PARTIES

6. Plaintiff Angela Miller is a citizen of the United States of America and a resident of Chicago, Illinois. She is impoverished, homeless, resides in a shelter and has three minor children, two of whom seek admission to the Chicago Public Schools: Ethan, age 7, a first grader suffering from a disability (autism) and Antwahnae, age 5. She brings this action in her own name and on behalf of Class B (the "parent class") and, pursuant to 735 ILCS 5/2-1008, as next friend for her children, Antwahnae and Ethan.

7. Plaintiffs Antwahnae and Ethan Miller are citizens of the United States of America and residents of Chicago, Illinois. Both are homeless. Antwahnae seeks admission to a Chicago Public School kindergarten and Ethan seeks admission to first grade. By their mother, as next friend, pursuant to 735 ILCS 5/2-1008, they bring this action on their own behalf and on behalf of Class A (the "children class").

8. Plaintiff Contelas Morris is a citizen of the United States of America and a resident of Chicago, Illinois. She is impoverished, homeless, and resides in a shelter with her three minor children. Two of her children, Ieisha Morris, age 11 and Johnathan Morris, age 7 are pupils in the Chicago Public Schools and are plaintiffs in this lawsuit. She brings this action in her

own name and on behalf of the parent class and, pursuant to 735 ILCS 5/2-1008 A, as next friend for her children, Ieisha and Johnathan.

9. Plaintiffs Ieisha Morris and Johnathan Morris are citizens of the United States of America and residents of Chicago, Illinois. They are pupils in the Chicago Public Schools and are homeless. By their mother as next friend, pursuant to 735 ILCS 5/2-1008 A, they bring this action on their own behalf and on behalf of the children class.

10. Plaintiff Lena Taylor is a citizen of the United States of America and a resident of Chicago, Illinois. She is impoverished, homeless and resides in a shelter with her daughter, Chinesa, age 11. Chinesa is a pupil in the Chicago Public Schools and a plaintiff in this lawsuit. Lena Taylor brings this action on her own behalf, on behalf of the parent class and, pursuant to 735 ILCS 5/2-1008 A, as next friend for her child, Chinesa.

11. Plaintiff Chinesa Taylor is a citizen of the United States of America and a resident of Chicago, Illinois. She is a pupil in a Chicago Public School and is homeless. By her mother as next friend, pursuant to 735 ILCS 5/2-1008 A, she brings this action on her own behalf and on behalf of the children class.

12. Plaintiff M.V. is a citizen of the United States of America and a resident of Chicago, Illinois. She is impoverished, homeless, resides in a shelter and has five minor children, four of whom are attending a Chicago Public School, A.V., age 7, F.V., age 8, K.V., age 9 and R.V., age 12. E.V., age 4, seeks admission to a

preschool program. Plaintiff brings this action on her own behalf, on behalf of the parent class and, pursuant to 735 ILCS 5/2-1008, as next friend for her children, A.V., F.V., K.V., R.V., and E.V.

13. Plaintiffs A.V., F.V., K.V., R.V. and E.V. are citizens of the United States of America and residents of Chicago, Illinois. Four are pupils in the Chicago Public Schools and one wishes to be in a preschool program. They are all homeless. By their mother as next friend, pursuant to 735 ILCS 5/2-1008, they bring this action on their own behalf and on behalf of the children class.

14. Plaintiff Audrey Pearson is a citizen of the United States of America and a resident of Chicago, Illinois. She is impoverished, homeless and resides in a shelter with three of her children. One of her children, Thomas Pearson III, age 11 is a pupil in the Chicago Public Schools and a plaintiff in this lawsuit. She brings this action on her own behalf, on behalf of the parent class and, pursuant to 735 ILCS 5/2-1008 A, as next friend for her child, Thomas.

15. Plaintiff Thomas Pearson III is a citizen of the United States of America and a resident of Chicago, Illinois. He is a pupil in the Chicago Public School and is homeless. By his mother as next friend, pursuant to 735 ILCS 5/2-1008 A, he brings this action on his own behalf and on behalf of the children class.

16. Plaintiff Luz Roman is a citizen of the United States of America and a resident of Chicago, Illinois. At the time that the complaint was filed in June 1992, Ms. Roman was impoverished, homeless and resided in a shelter with her two minor children. At

that time Yvonne was age 10, and Michelle was age 9 and they were pupils in Chicago Public Schools. Although Ms. Roman is no longer homeless, she is currently impoverished and her daughters are Chicago Public School pupils. She brings this action on her own behalf, on behalf of the parent class and, pursuant to 735 ILCS 5/2-1008 A, as next friend for her children, Yvonne and Michelle.

17. Plaintiffs Yvonne and Michelle Roman are citizens of the United States of America, residents of Chicago, Illinois, and are pupils in the Chicago Public Schools. At the time that the complaint was filed, they were homeless. By their mother as next friend, pursuant to 735 ILCS 5/2-1008 A, they bring this action on their own behalf and on behalf of the children class.

18. Plaintiff Sheila Jackson is a citizen of the United States of America. At the time that the complaint was filed in June 1992, Ms. Jackson was impoverished, homeless and residing in a shelter in Chicago with her six minor children. In June 1992, her twins, Stephanie and Stephen, were 6 years old and eligible to attend Chicago Public Schools kindergarten. As of September 1995, Ms. Jackson is no longer homeless as she has secured housing in Harvey, Illinois but she remains impoverished. She brings this action in her own name and on behalf of the parent class and, pursuant to 735 ILCS 5/2-1008 A, as next friend for her children, Stephanie and Stephen.

19. Plaintiffs Stephanie and Stephen Jackson are citizens of the United States of America. At the time that the complaint was filed in June 1992, they were homeless, six years old and while

eligible for kindergarten, they were denied admittance by the Chicago Public Schools. By their mother as next friend, pursuant to 735 ILCS 5/2-1008 A, they bring this action on their own behalf and on behalf of the children class.

20. Each plaintiff has been or is being subjected to the illegal policies and practices described in this complaint and each plaintiff is likely to continue to be subjected to such practices in the future.

21. The named plaintiffs bring this action on behalf of two plaintiff classes ("Class A," the "children class;" and "Class B," the "parent class"), pursuant to 735 ILCS 5/2-1008 A. The classes are defined as follows:

a. Class A: All children between the ages of three and twenty, inclusive, who on or after January 1, 1991: (1) have lived, live or will live in the City of Chicago; and (2) during such period have been, are, or will be "homeless" as defined in Section 103 of the McKinney Homeless Assistance Act, 42 U.S.C. § 11302, but have not been, are not, or will not be attending private or parochial schools while "homeless."

b. Class B: All parents or guardians with legal custody of children in Class A (and other persons with legal custody of children in Class A) who, on or after January 1, 1991: (1) have lived, are living, or will live in the City of Chicago; and (2) during such period have been, are or will be "homeless" as defined in Section 103 of the McKinney Homeless Assistance Act, 42 U.S.C. -§11302.

22. The McKinney Act defines the term "homeless" or "homeless individual" to include:

a. "an individual who lacks a fixed, regular and adequate nighttime residence; and

b. an individual who has a primary nighttime residence that is--

(1) a supervised publicly or privately operated shelter designed to provide temporary living accommodations...;

(2) an institution providing temporary residence for individuals intended to be institutionalized; or

(3) a public or private place not designated for or regularly used as sleeping accommodations for human beings." 42 U.S.C. §11302. The Education Act utilizes the same definition. 105 ILCS 45/1-5.

23. Class members number in the thousands. Because many class members lack any fixed and regular residence and are forced to move from place to place and because the class is so numerous, joinder is impracticable. There are questions of law and fact common to the class, which common questions predominate over any questions affecting only individual class members. The representative parties will fairly and adequately protect the interest of the class. Moreover, certifying a class here is an appropriate method for the fair and efficient adjudication of the controversy.

24. Defendant Chicago School Reform Board of Trustees (the "CSB" or the "Chicago School Board") is, pursuant to 105 ILCS 5/34-3.3, a body politic and corporate empowered to exercise general

supervision and management of the public school system (the "CPS") for the City of Chicago. As such, it is responsible for ensuring compliance with state and federal laws governing this system.

25. Defendant Paul Vallas is the chief executive officer of the Chicago School Reform Board of Trustees. As such, and as an agent of the Chicago School Board, he is immediately responsible for ensuring compliance with state and federal laws governing the Chicago system.

26. Defendants Chicago School Board and Paul Vallas are hereinafter referred to as the "Local Defendants".

27. Jackie Breckenridge, Marcene Broadwater, Hugh Brown, Rick L. Catt, Doreen Crewe, Mark W. Gallagher, Harry E. Litchfield, Mary Ann MacLean, Leonard B. Marshall Jr., Gretchen L. McDowell, Deborah Miller, Lyle Neumann, Dorothy O'Neill, Jim Palos, Herb Roach, Michael Skarr and Patricia Yuzawa-Rubin are members of the Illinois State Board of Education ("ISBE"). As such, and pursuant to 105 ILCS 5/1A-1 et seq., they are responsible for ensuring that local school boards, including the CSB, comply with various federal and state laws governing the education of homeless children.

28. Joseph A. Spagnollo is the state superintendent of the ISBE. As such, and as an agent of the ISBE Board, is he immediately responsible for ensuring that local school boards, including the CSB, comply with various federal and state laws governing the education of homeless children.

29. Daniel Miller is the "Coordinator of Education for Homeless Children and Youth" and is the ISBE employee charged with

coordination of Illinois' efforts to comply with the McKinney Act.

30. Defendants Breckenridge, Broadwater, Brown, Catt, Crewe, Gallagher, Litchfield, MacLean, Marshall, McDowell, Miller, Neumann, O'Neill, Palos, Roach, Skarr, Yuzawa-Rubin, Spagnollo and Miller are hereinafter referred to as the "State Defendants".

III. THE PUBLIC SCHOOL SYSTEM IN ILLINOIS

31. The Illinois elementary and secondary education system is divided by geographic school "districts" throughout the state of Illinois.

32. The City of Chicago comprises one such Illinois school district, District 299. Within the City of Chicago, District 299 is divided into geographic "attendance areas." With some exceptions, children are required to attend the school in the "attendance area" in which they reside.

33. Under the McKinney Act, the Illinois State Board of Education is the "state educational agency" ("SEA") and each local school district is a "local educational agency" ("LEA"). 42 U.S.C. §11432.

IV. THE STATUTORY FRAMEWORK

The Illinois Education for Homeless Children Act

34. The Illinois Education For Homeless Children Act, 105 ILCS 45/1-1 et seq., (the "Education Act") effective January 1, 1995, guarantees that a homeless child or youth has the right to remain in the school of origin for as long as the child remains homeless, or, through the academic year during which housing is acquired. 105 ILCS 45/1-10. The Education Act defines school of

origin to include both the school that the child attended when permanently housed or the school in which the child was last enrolled. 105 ILCS 45/1-5. A homeless child or youth also has a right to attend the school that non-homeless children attend in the area where the child is actually residing. 105 ILCS 45/1-10. A parent has the right to choose which of these schools the child will attend. Id.

35. To effectuate the parent's choice to retain the child in the school of origin, the Education Act requires the CSB to phase in a program to provide or arrange the child's transportation to and from the school of origin if the parent can not otherwise do so. 105 ILCS 45/1-15. Such a comprehensive program is to be fully in place by January 1, 1997. In the interim transportation programs currently in effect must be retained. 105 ILCS 45/1-35.

36. If the parent or guardian decides to enroll a child in a school other than the school of origin, that child or youth has the right to immediate admission without producing records normally required for enrollment. 105 ILCS 45/1-20.

37. The Education Act requires the CSB to designate a person to serve as an ombudsperson. The ombudsperson shall provide resource information and resolve disputes relating to the rights of homeless children and youth. The CSB must inform parents of the availability of the ombudsperson and provide a process for dispute resolution. 105 ILCS 45/1-25(a) and (c).

The Illinois School Code

38. ~~The Illinois School Code, 105 ILCS 5/1-1 et seq., (the~~

"School Code") governs the operation of all public schools throughout the state of Illinois and is binding upon all defendants. Among other things, it requires that every Illinois child has the right to attend school tuition-free from the age of 5 through 20, inclusive; 105 ILCS 5/10-20.12; allows a student to remain in the same school for the remainder of the academic year; 105 ILCS 5/1-20.12(a); and prohibits the exclusion of a student because of a student's failure to produce school records. 105 ILCS 10/8.1.

The Stewart B. McKinney Homeless Assistance Act

39. The Stewart B. McKinney Homeless Assistance Act, 42 U.S.C. §§11421 et seq., (the "McKinney Act") was enacted in 1987 to provide a broad range of assistance to homeless individuals and families. All states, including Illinois, receive federal funds to carry out the purposes of the McKinney Act. The McKinney Act has twice been amended to strengthen and expand the educational rights of homeless children and parents. The most recent amendment was effective July 1995.

40. To carry out the purposes of the McKinney Act as it relates to the educational opportunities for homeless children, the federal Secretary of Education makes grants directly to a State which submits an application to the Secretary of Education. 42 U.S.C. §§11432(a) and (b). Under the McKinney Act, the state may in turn make McKinney Act subgrants to "local educational agencies." 42 U.S.C. §11432(g). In Chicago, the local educational agency is the Chicago School Board. The ISBE receives the McKinney

Act monies in Illinois and distributes it to the CSB.

41. Subchapter VI-B of the McKinney Act is the provision addressing the education of homeless children. It requires that each state shall "submit to the Secretary a plan to provide for the education of homeless children and youth within the State" and that the plan adopted "shall also show how the State will ensure that local educational agencies in the State will comply with the requirements of [the plan]." 42 U.S.C. §§11432(g)(1) and (2).

42. There are many particularized and detailed sections of the McKinney Act in addition to the provision for creation of a state plan requiring state and local educational agencies to allow families inter alia a choice in enrollment; 42 U.S.C. § 11432(g)(3); equal access to educational services for homeless children; 42 U.S.C. § 11432(g)(1)(i) and (g)(4); enrollment without onerous records production requirements; 42 U.S.C. § 11432(1)(F)(ii) and (5); provision of a process for disputing school decisions; 42 U.S.C. § 11432(g)(1)(A). The McKinney Act is structured, however, to require that services be provided and all barriers be eliminated to enable enrollment, attendance and success of homeless children in school and preschool; 42 U.S.C. § 11431 and 11432(d)(1), (g)(1)(G) and (g)(8).

43. Since 1992 Illinois received over \$4,500,000 in McKinney Act grants. On information and belief, CSB has received a substantial portion of these funds.

V. DUTIES OF DEFENDANTS

44. ~~The local defendants have the duty to comply with all~~

applicable provisions (bearing upon the education of members of Class A and the rights of members of Class B) of the Education Act, the School Code, the McKinney Act, the Illinois Constitution and/or the United States Constitution. The duties the local defendants must thereby carry out include, but are not limited to, the following:

a. afford each homeless child in Chicago the opportunity to either remain in the school of origin or to enroll in the school nearest where he or she is actually living, whichever is in the best interest of the child; 105 ILCS 45/1-10; 105 ILCS 5/10-20.12a; ILL. CONST. Art. X, §1; 42 U.S.C. §11432(g)(3);

b. provide services, including but not limited to, transportation services, school meals and vocational education, comparable to the services provided non-homeless school children; 105 ILCS 45/1-15; 42 U.S.C. §§11432(g)(2) and (4);

c. ensure enrollment, attendance and success in school of each homeless school-age child within the City of Chicago; 42 U.S.C. §11431 and §11432(g)(7); if such child is not remaining at the school of origin, then ensure that the attendance area school enroll the child immediately, even if the child or youth is unable to produce the records normally required for enrollment; 105 ILCS 45\1-20; 105 ILCS 10/8.1;

d. revise all policies and practices that may act as barriers to the enrollment in school of homeless children including onerous records requirements and record transfer practices and enrollment, residency and guardianship policies and practices; 42

U.S.C. §§11432(g)(5) and (8);

e. provide a process for consideration of parent choice in school placement decisions; 42 U.S.C. §§11432(g)(3)(b) and (D); 105 ILCS 45/1-15;

f. provide written notice to homeless school-age children and the parents or legal guardians of such children of adverse action affecting their placement in schools, a fair opportunity to challenge such decisions, ILL. CONST. Art. I, §2; U.S. CONST. amend XIV (due process clause); including notice of the availability of an ombudsperson and a process for resolving disputes; 105 ILCS 45/1-25(a); 42 U.S.C. §11432(g)(1)(A);

g. coordinate with local social service agencies and housing agencies and programs providing services to homeless children and youth including shelters, the Chicago Department of Human Services, the Illinois Department of Public Aid and the Illinois Department of Children and Family Services; 42 U.S.C. §§11432(g)(6) and (9);

h. ensure that the statutory ombudsperson provides resource information relating to the rights of homeless children under the Education Act; 105 ILCS 45/1-25(a);

i. provide programs for CSB personnel which heighten their awareness of the specific needs of homeless youth; 42 U.S.C. §11432(g)(1)(B);

j. adopt policies and practices to ensure that homeless children and youth are not isolated, separated or stigmatized; 42 U.S.C. §§11431(1), (3) and (4); § 11432(g)(1)(H);

k. ensure that homeless children have equal access to the same public school and preschool programs that are provided to other non-homeless children; 42 U.S.C. §11431 and §§11432(g)(1)(D)(i) and (g)(7); and

l. comply with the state plan implementing the McKinney Act requirements, 42 U.S.C. §11432(g)(2).

45. The state defendants have the duty to comply with all applicable provisions (bearing upon the education of members of Class A and the rights of members of Class B) of the Education Act, the School Code, the McKinney Act, the Illinois Constitution and/or the United States Constitution. The duties the state defendants must thereby carry out include, but are not limited to, the following:

a. prepare and carry out an adequate state plan for implementing the McKinney Act; and ensure the CSB's compliance with the plan; 42 U.S.C. §§11432(d)(4), (f)(3) and (g)(2);

b. require the CSB to ensure that all homeless school age children in Chicago have access to a free appropriate public education; 42 U.S.C. §11432(g)(2), ILL. CONST. Art. X, §1;

c. coordinate with local social service and housing agencies and programs providing services to homeless children and youth including shelters, the Chicago Department of Human Services, the Illinois Department of Public Aid and the Illinois Department of Children and Family Services; 42 U.S.C. §§11432(f)(4), (5) and (9);

d. review and revise policies that may act as barriers

to, and provide services that enable the enrollment, attendance and success in school of each homeless child in Chicago, including policies related to transportation, records-requirements and residency requirements; 42 U.S.C. §§11432(d)(2) and (3) and (g)(1)(F) and (G) and (g)(8);

e. provide procedures for the prompt resolution of placement and transportation assistance disputes affecting homeless children in Chicago; 42 U.S.C. §11432(g)(1)(A);

f. identify and address problems affecting the education of homeless children in Chicago; 42 U.S.C. §§11432(f)(2) and (4) and (g)(1)(E) and (F);

g. assure that policies and practices are adopted by the state and local educational agencies to ensure that homeless children in Chicago are not stigmatized or isolated; 42 U.S.C. §11432(g)(1)(H);

h. ensure that the CSB provides written notice to homeless school-age children and the parents or legal guardians of such children of any adverse action affecting their placement in schools, a fair opportunity to challenge such decisions, including notice of the availability of an ombudsperson and a process of resolving the dispute; ILL. CONST. Art. I, §2; U.S. CONST. amend XIV (due process clause); 105 ILCS 5/1-1A;

i. ensure the CSB's compliance with state law requirements enumerated in the Education Act, the School Code and the Illinois Student School Records Act; 105 ILCS 5/1-1A;

j. ensure that CSB locate and provide educational

services to all eligible homeless children in Chicago. 42 U.S.C. §11432(g)(7).

VI. DEFENDANTS' POLICIES, PRACTICES AND CUSTOMS

46. The local defendants have undertaken the following course of action, implemented the following practices and encouraged the following customs respecting the rights of the plaintiff class members in Class A and Class B.

a. They have adopted few or no written policies or rules regarding implementation of the educational rights of homeless children and have taken little or no action to ensure that individual schools under the jurisdiction of the CSB comply with state and federal laws protecting the educational rights of homeless children.

b. They routinely deny homeless children the opportunity to remain in the school of origin when such children change shelters or lose housing and then impose burdensome transfer and enrollment requirements which result in thousands of homeless school-age children spending weeks and months without the opportunity to go to school or attend the appropriate school.

c. They impose burdensome transfer requirements including requiring homeless parents and children to produce health records and produce proof of immunizations when such information is already in the possession of the Chicago Public Schools and insisting that homeless families travel miles to their previous school at their own expense to manually locate and transfer records. Homeless children are denied admission to school while

waiting days and weeks for records to be produced. They fail to assist children in acquiring school records.

d. They routinely deny homeless children adequate and timely transportation service to enable them to remain in a stable school placement and have no plan in place for addressing the transportation needs of thousands of Chicago's homeless school-age children. Though the CSB has a limited fund for providing CTA tokens to indigent children, it fails to make such fund known to CPS staff, homeless parents and children, or other agencies and programs working with the homeless.

e. They do not determine, consider or defer to the wishes of parents with regard to the school placement of their homeless school-age children.

f. They do not afford any notice to plaintiff class members of homeless children's right to remain in the school of origin, obtain transportation services, utilize an ombudsperson or dispute adverse school decisions.

g. They do not afford plaintiff class members any fair opportunity to challenge school placement or transportation decisions or to invoke a dispute resolution process.

h. They do not locate and enroll each homeless child and so many children sit in shelters for days and weeks without schooling.

i. They have not adopted policies and practices that ensure that homeless children are not isolated, separated or stigmatized.

j. They routinely deny homeless children equal access

to the public school and preschool programs which non-homeless children attend.

k. They have failed to ensure that all homeless children are located and provided educational services for which they are eligible.

47. When the local defendants have been made aware that local schools are in violation of the law bearing upon the education of homeless children in the City, they often ignore these violations, failing to take appropriate corrective action.

48. The state defendants have undertaken the following course of action, implemented the following practices and encouraged the following customs respecting the rights of plaintiff class members in Class A and Class B:

a. They have failed to revise their policies and practices regarding transportation which act as a barrier to the enrollment attendance and success of homeless youth and have failed to ensure that the CSB revise its policies and practices regarding transportation.

b. They have failed to coordinate or to ensure that the CSB coordinate with other relevant programs and services for homeless children in Chicago.

c. They have failed to ensure that the CSB provides an effective procedure for the prompt resolution of disputes for homeless children in Chicago.

d. They have failed to identify and address or to ensure that the CSB identify and address enrollment delays

occasioned by cumbersome, unnecessary and time-consuming records requirements, enrollment and transfer requirements.

e. They have not adopted, and have failed to ensure that the CSB adopt, policies and practices that ensure that homeless children are not isolated or stigmatized.

f. In these and other respects, they have failed to ensure that the CSB complies, so far as practicable, with all the applicable provisions of the Education Act, the School Code and the McKinney Act.

49. When the state defendants have been made aware of violations of law bearing upon the education of homeless children in the City of Chicago, they have ignored these violations, failing to take corrective action.

VII. PLAINTIFFS AND THE PLAINTIFF CLASS

Plaintiffs Angela Miller and Antwahne Miller

50. Plaintiff Angela Miller is 37 years old, married and the mother of three minor children; two of whom, Antwahnae, age 5 and Ethan, age 7, have been deprived of the right to attend the school in their district solely because they are homeless. Ms. Miller and her husband have no income at this time and are seeking employment.

51. In October 1995, Ms. Miller and her family moved from out of state to Chicago where they took up residence in an emergency shelter. The elementary school nearest the emergency shelter and which the non-homeless neighborhood children attend is McCutcheon Elementary. On information and belief, the emergency shelter has a Chicago Public School classroom operating on site which has only

one teacher and serves approximately 20 students grades 1 through 8. This classroom is a room segregated from the school classrooms which non-homeless children attend in the district. It has no kindergarten program or special education facilities.

52. On or about October 26, 1995, plaintiff Angela Miller took her children to McCutcheon to enroll them. She advised the school staff that her family was homeless. McCutcheon staff would not enroll the Miller children without Ms. Miller first producing medical forms completed by a medical professional.

53. On or about November 2, 1995, Ms. Miller returned to McCutcheon with the forms seeking enrollment of Ethan and Antwahnae. Ethan and Antwahnae were allowed to enter classrooms but were forced to leave the same day. A McCutcheon staff member stated that McCutcheon did not accept children from the shelter, in spite of the fact that the shelter is in the school's attendance area.

54. McCutcheon then referred Ms. Miller to Stewart Elementary where staff discouraged her from enrolling her children due solely to the family's homelessness. Staff told her that they had no kindergarten program; that they take no kids from the shelter and that she should enroll her children at the on-site shelter school. On information and belief, the Stewart school does operate a kindergarten.

55. When the staff at Stewart learned that Ethan was learning disabled, they offered to let him fill out some forms to obtain his previous school information but they would not admit him. Instead, staff advised Ms. Miller to go home and stated she would be called.

Ms. Miller has never received a return call from Stewart. Ethan has now missed more than two weeks of school.

56. Ms. Miller continued to attempt to contact Stewart staff and on approximately November 7, she went back to Stewart with her children. Stewart once again told her that there was nothing they could do for Ethan until they "got the paperwork." Shortly thereafter, Ms. Miller was contacted by an employee of another Chicago Public School, Lemoyne Elementary, and told to come in. She had to produce a birth certificate for her son and medical forms. She was then advised that she would have to wait for the papers "to be processed" and for transportation to be arranged. Her son, Ethan, has not yet been admitted to school. Ms. Miller does not know when that will occur.

57. Antwahnae Miller has missed more than two weeks of school as well. On November 6, 1995, staff at McCutcheon refused again to enroll Ms. Miller's daughter in kindergarten. When her counsel called staff at McCutcheon that day and requested that the dispute resolution process then be invoked, counsel was told that there was no dispute; that children from the shelter cannot go to McCutcheon even though other neighborhood non-homeless children can attend McCutcheon. The staff did agree to have a regional CPS staff member call counsel but advised that the staff person was unavailable this week but would call perhaps at the end of the week. No CPS employee has yet returned that call.

58. The defendants' policies and practices related to admission, records requirements, the provision of services to

homeless children, notice and dispute resolution resulted in the Miller children losing valuable school time, suffering stigmatization, isolation and discrimination due to their homelessness and increased the emotional stress on the family at this difficult time.

59. In the two months since the 1995-96 academic school year began, the local and state defendants have continually failed to meet their statutory and constitutional duties to Ms. Miller and her children in that they have failed:

a. to timely enroll the children in the appropriate school and instead refusing admission to them and imposing burdensome and unnecessary records and other requirements;

b. to give adequate notice of the programs and benefits to which the children were entitled or to inform her of the availability of an ombudsperson;

c. to provide a dispute resolution process;

d. to permit participation of the children in all school programs for which they were eligible including special educational programs for Ethan and to otherwise refrain from discriminating and isolating the children on the basis of their homelessness; and

e. to respect the parent's choice of schools for her children.

Plaintiffs Contelas Morris, Ieisha Morris, Johnathan Morris

60. Plaintiff Contelas Morris is 27 years of age and the mother of three minor children; two of whom, Ieisha, age 11,

Johnathan, age 7, are plaintiffs in this lawsuit. Ms. Morris' sole means of support for herself and her children is Aid to Family with Dependent Children ("AFDC") public assistance benefits of \$414 per month.

61. In August, 1995, Ms. Morris who was impermanently housed with relatives in the Harold Washington Elementary School's attendance area, moved into a shelter in Chicago.

62. Prior to moving to a shelter, her two oldest children, Ieisha and Johnathan had attended Harold Washington Elementary School, a Chicago Public School, for the previous two academic years; in fact it was the only school that Johnathan had ever attended. During the 94-95 academic year, Ieisha was in the third grade and had been on the A and B honor rolls, had received a trophy for scholastic achievement, a uniform certificate and a certificate for choir. During the 94-95 academic year, Johnathan was in the first grade and had been on the B Honor roll and had received a trophy for scholastic achievement.

63. Plaintiff Morris was very concerned about the disruption in Ieisha's and Johnathan's schooling when the family became homeless because the children had done so well at Harold Washington.

64. Neither the local nor the state defendants advised Ms. Morris that she had a right to retain her children at Harold Washington while she and her children were homeless or that she could obtain assistance with transporting Ieisha and Johnathan from the shelter to Harold Washington several miles away.

65. Believing that she had no other option than to enroll her children in the school nearest to the shelter, on the first day of school, September 7, 1995, Ms. Morris enrolled her children in Bradwell School.

66. On September 13, 1995, after learning that Ieisha and Johnathan had a right to remain at Harold Washington and a right to transportation assistance from the CSB, Ms. Morris called Harold Washington and advised the school that her family was homeless, that she wished to retain her children at the school and that she needed transportation assistance. Staff at Harold Washington advised Ms. Morris that no transportation assistance was available from the CSB, but that she could pay \$55 a week to a private bus company which would pick her children up at the shelter and take them to school. Since the bus fee of \$220 a month was more than half of Ms. Morris' monthly AFDC check, she was financially unable to pay for such a bus service. No one referred Ms. Morris to an ombudsperson in order to resolve this denial of transportation assistance.

67. Through counsel, Ms. Morris pursued transportation assistance from the CSB. Ms. Morris requested that she be given enough tokens in order for her to accompany her young children to and from Harold Washington each day.

68. After a week of negotiating, during which time Ieisha and Johnathan had to attend Bradwell instead of Harold Washington and the CSB discouraged Ms. Morris from using the tokens program, on September 21, the CSB informed Ms. Morris that the CSB would

provide tokens only for her children but not for herself and that the tokens would be available on September 22. In spite of the fact that no one referred Ms. Morris to an ombudsperson for dispute resolution, through counsel Ms. Morris attempted to invoke the statutory dispute resolution process with the CSB. The CSB suggested that Ms. Morris call the district office and ask to speak to an ombudsperson, suspecting, however, that she might only be referred back to the homeless program.

69. On or about September 21, Morris through counsel contacted the district office and was informed that the district office could not resolve the dispute and suggested that she contact the Chicago School Board. When Ms. Morris contacted the CSB once again she was told that she should call the CSB's law department.

70. On September 25, Ms. Morris attempted to enroll her children in Harold Washington, but was told that they could not be enrolled without Ms. Morris providing them with records from Bradwell, despite the fact that the children had spent the previous two academic years at Harold Washington and only two weeks at Bradwell.

71. On September 28, Ms. Morris brought the school records from Bradwell to Harold Washington and the children were enrolled; sixteen days after she first attempted to assert her right to have her children enrolled in their school of origin.

72. The defendants' policies and practices related to admission, records requirements, the provision of services to homeless children, notice and dispute resolution resulted in the

Morris children losing valuable time at their school of origin, suffering stigmatization, isolation and discrimination due to their homelessness and increased the emotional (and financial) stress on the family at this difficult time.

73. In the two months since the 95-96 academic year has began, the local and state defendants have continually failed to meet their statutory and constitutional duties to the Morris plaintiffs in that they have failed:

- a. to provide them with notice of the children's right to remain in the school of origin;
- b. to inform them of any transportation assistance program;
- c. to timely enroll the children in their school of origin and instead imposed burdensome and unnecessary records requirements on them;
- d. to offer them adequate and timely transportation assistance;
- e. to inform them of the availability of an ombudsperson and their right to a dispute resolution process; and
- f. to provide them with a dispute resolution process.

Plaintiffs Audrey Pearson and Timothy Pearson III

74. Plaintiff Audrey Pearson is 39 years old and the mother of minor children; one of whom, Timothy Pearson III, age 11 is a plaintiff in this lawsuit. In May 1995, Ms. Pearson and her family were evicted from their apartment after she lost her job and was unable to pay the rent. She and her family are now homeless;

plaintiff Pearson, her husband and three youngest children are living in a shelter in Chicago and her eldest child is living with her mother. She receives AFDC of \$485 per month to support her family.

75. For the entire academic 94-95 school year including the time when the family became homeless, Timothy Pearson III attended May Elementary School, one of the Chicago Public Schools. After they became homeless, neither the state nor local defendants nor their agents ever advised Audrey Pearson that she had a right to receive transportation assistance for her son to remain at May.

76. In spite of the fact that neither the state nor the local defendants ever informed plaintiff Pearson of her educational rights, in August, 1995 Ms. Pearson learned about her right to retain her son in his school of origin while they were homeless and her right to receive transportation assistance.

77. On September 7, 1995, Timothy was re-enrolled in May School and on that same day Ms. Pearson requested tokens for Timothy from the student advocate at May School. The student advocate informed her that she would have to call Pershing Road to ask about tokens for Timothy as she did not know anything about a transportation program for homeless students.

78. On or about September 15, Ms. Pearson requested in writing transportation assistance for Timothy. She reiterated her request verbally on numerous other occasions.

79. On or about October 2, the student advocate reported to Ms. Pearson's counsel that she had contacted the CSB many times,

but that no one had yet assisted her.

80. On or about October 2, Timothy received tokens from the student advocate, who informed Ms. Pearson that Timothy would receive two months worth of tokens as two months is a typical stay at a shelter.

81. Throughout May, June and September of 1995, while Ms. Pearson was awaiting transportation assistance from the CSB, Ms. Pearson and Timothy walked the two miles to and from school each day.

82. The defendants' policies and practices related to the provision of services to homeless children, and notice of homeless children's educational rights, including specifically their right to transportation assistance has resulted in the Pearson child suffering unnecessary hardship due to having to walk two miles to and from school each day, discrimination due to his homelessness and increased emotional stress on his family at this difficult time.

83. Since the Pearson family became homeless in May of 1995, the local and state defendants have continually failed to meet their statutory and constitutional duties to the Pearson plaintiffs in that they have failed:

- a. to provide them with notice of the children's right to remain in the school of origin;
- b. to inform them of any transportation assistance program;
- c. to offer them adequate and timely transportation

assistance;

d. to inform them of the availability of an ombudsperson and their right to a dispute resolution process; and

e. to provide them with a dispute resolution process.

Plaintiffs M.V., A.V., F.V., K.V., R.V. and E.V.

84. M.V. is 30 years old and the mother of five minor children who either attend or wish to attend a Chicago Public School: A.V., age 7, F.V., age 8, K.V., age 9, and R.V., age 12, who all attend Curtis Elementary school and E.V., age 4 who wishes to attend the Curtis pre-school program, but has been denied the right to attend. M.V. currently has no income.

85. In September 1995, M.V. and her children became homeless due to domestic violence and they took up residence in an emergency shelter in Chicago awaiting placement in a more long-term shelter. She attempted to enroll her four oldest children in the school closest to the shelter, Curtis Elementary. Curtis discouraged her from enrolling her children when school began claiming that she would likely leave the area soon. Curtis also insisted on medical records and transfer forms and M.V.'s children missed school while M.V. attempted to comply with the school's request and set up a medical appointment. Curtis eventually waived the medical examination requirement for the four older children.

86. Curtis did not immediately accept E.Z. into preschool. Curtis then required that M.V. attend an interview. On October 20th --six weeks after the start of school, Curtis staff informed M.V. that her child was accepted in preschool there but then refused to

c. to offer them adequate and timely transportation assistance;

d. to inform them of the availability of an ombudsperson and their right to a dispute resolution process; and

e. to provide them with a dispute resolution process.

Plaintiffs M.V., A.V., F.V., K.V., R.V. and E.V.

84. M.V. is 30 years old and the mother of five minor children who either attend or wish to attend a Chicago Public School: A.V., age 7, F.V., age 8, K.V., age 9, and R.V., age 12, who all attend Curtis Elementary school and E.V., age 4 who wishes to attend the Curtis pre-school program, but has been denied the right to attend. M.V. currently has no income.

85. In September 1995, M.V. and her children became homeless due to domestic violence and they took up residence in an emergency shelter in Chicago awaiting placement in a more long-term shelter. She attempted to enroll her four oldest children in the school closest to the shelter, Curtis Elementary. Curtis discouraged her from enrolling her children when school began claiming that she would likely leave the area soon. Curtis also insisted on medical records and transfer forms and M.V.'s children missed school while M.V. attempted to comply with the school's request and set up a medical appointment. Curtis eventually waived the medical examination requirement for the four older children.

86. Curtis did not immediately accept E.Z. into preschool. Curtis then required that M.V. attend an interview. On October 20th --six weeks after the start of school, Curtis staff informed M.V.

that her child was accepted in preschool there but then refused to allow E.V. to attend preschool without a medical examination. M.V. had no income to pay for a medical examination.

87. In mid-September, the family moved into the shelter where they currently reside. At that time, M.V. attempted to move her children to the school nearest the new shelter but the school, West Pullman Elementary, denied her request for lack of school records. M.V. has no source of income at this time and is completely dependent on the shelter to meet her family's basic needs for food, clothing and shelter.

88. Though staff at Curtis and West Pullman knew that M.V. and her children were homeless, no staff at either school advised M.V. of her right to obtain transportation assistance to enable her children to remain at Curtis. Nevertheless, M.V. made such a request. The acting principal explained to M.V. that she would have to provide her own transportation, told her that she was "out of district" and cautioned her that if her children were late or missed any school, they would have to transfer out.

89. On October 11, M.V. made a second request through counsel for transportation assistance from Curtis in the form of CTA tokens. This request was again denied with the vice principal stating that it is "not possible for us to give a child transportation." The vice principal did not advise of the availability of an ombudsperson or of a dispute resolution process. When informed of his duties under law to furnish transportation, he acknowledged his unfamiliarity with the law and requested that

M.V.'s counsel contact the CSB to obtain information for him. Counsel contacted the CSB that day and was assured that Curtis staff would be contacted.

90. For the ensuing week, no assistance was provided to M.V. and her children despite a second request from M.V.. She and her children borrowed tokens from the shelter to enable them to continue attending Curtis.

91. On October 19, M.V.'s counsel again contacted the CSB. The following day, the principal of Curtis supplied a roll of tokens to M.V.. Since that time, the school has not consistently supplied M.V.'s children with needed tokens. In addition, the school has denied participation in the free lunch program to three of M.V.'s children A.V., F.V., and K.V.. They were forced to skip lunch at school for days. All M.V.'s children have missed days or weeks of school due to the barriers imposed upon them by school personnel.

92. The defendants' policies and practices related to admission, records requirements, parental choice, provision of services to homeless children, transportation, notice and dispute resolution resulted in M.V.'s children losing valuable school time, suffering hunger and stress, being stigmatized, isolated and discriminated against and caused the family to have to incur debt by borrowing tokens from the shelter.

93. In the two months since the 1995-96 academic school year began, the local and state defendants have continually failed to meet their statutory and constitutional duties to M.V. and her

children in that they have failed:

a. to timely enroll M.V.'s children in the appropriate school and instead imposed burdensome and unnecessary records and other requirements;

b. to provide regular transportation assistance;

c. to give adequate notice of the programs and benefits to which the children were entitled or to inform her of the availability of an ombudsperson;

d. to provide a dispute resolution process for contesting adverse decisions;

e. to permit full participation of the children in the free lunch and preschool programs and to otherwise refrain from discriminating and isolating the children on the basis of their homelessness; and

f. to respect the parent's choice of schools for her children.

Plaintiffs Lena and Chinesa Taylor

94. Plaintiff Lena Taylor is 39 years old and the mother of a minor child, Chinesa Taylor, age 11 who is a plaintiff in this lawsuit. Ms. Taylor receives AFDC of \$278.00 per month to support her family.

95. In September of 1995, Lena Taylor and her daughter were homeless and living in a temporary shelter in the Curtis Elementary school attendance area. She enrolled Chinesa in the 7th grade at Curtis. That same day, the family was placed in a longer-term shelter. Chinesa required transportation to continue to attend at

Curtis.

96. In spite of the fact that neither the state nor the local defendants ever informed plaintiff Taylor of her educational rights, in September, 1995 Ms. Taylor learned about her right to retain her daughter in the school of origin when they were moved to a new shelter and her right to receive transportation assistance.

97. When Ms. Taylor requested bus tokens from the school for her daughter and presented a letter indicating that she lived at the shelter, she was advised by a Curtis staff member that she could not receive tokens; that she was "out of district" and that Lena would have to move Chinesa to a new school. Ms. Taylor was not advised of her right to dispute that decision nor was she referred to any ombudsperson for help.

98. Ms. Taylor insisted that Chinesa remain at Curtis. After Ms. Taylor's counsel contacted the school on October 23, 1995, the school gave Ms. Taylor \$5.00 towards tokens. Thereafter, the school has failed to provide any further assistance and continues to tell Ms. Taylor that they will contact her or Chinesa.

99. Though Ms. Taylor is desperately poor, she has been forced to use her own funds to pay for Chinesa's bus service to Curtis.

100. The defendants' policies and practices related to the provision of transportation to homeless children, has resulted in the Taylor family suffering unnecessary financial hardship, discrimination due to homelessness and increased emotional stress on the family at this difficult time.

101. Since the Taylor family moved Chinesea to Curtis in September of 1995, the local and state defendants have continually failed to meet their statutory and constitutional duties to the Taylors in that they have failed:

- a. to provide them with notice of the children's right to remain in the school of origin;
- b. to inform them of any transportation assistance program;
- c. to offer them adequate and timely transportation assistance;
- d. to inform them of the availability of an ombudsperson and their right to a dispute resolution process; and
- e. to provide them with a dispute resolution process.

Plaintiffs Luz Roman, Yvonne Roman and Michelle Roman

102. At the time the complaint was filed in June 1992 plaintiff Luz Roman was 35 years old and the mother of two minor children, both of whom resided with her: Yvonne Roman, then age 10, and Michelle Roman, then age 9. Ms. Roman had fled a physically abusive situation for the safety of a shelter in Chicago. She and her children were homeless and she received AFDC of \$331 per month, to support her family.

103. For the entire academic 91-92 school year up until the time at which they became homeless, the Roman children attended Francis M. McKay Elementary, one of the Chicago Public Schools located at 6901 S. Fairfield, a distance of several miles from the shelter in which the Roman family resided.

104. Neither the state nor local defendants nor their agents ever advised Luz Roman or her children that she could choose either to retain her children in McKay or enroll them in the school nearest the shelter. Similarly, they never advised them that the CSB would provide transportation assistance to the children, so that they could travel to McKay from the shelter.

105. While at McKay, the Roman children achieved average or above-average grades. When Ms. Roman first went to the shelter, she continued to transport her children to McKay by accompanying them on public transportation. After one week, shelter staff advised Ms. McKay that she could no longer take the time to transport her children as this caused her to miss necessary programs at the shelter and would result in her expulsion from the shelter.

106. On May 17, 1992, Ms. Roman enrolled her children in the elementary school nearest the shelter. Her children did not like the school. They found it rowdy and violent and felt the students there did not respect or listen to their teachers. Her children, she believes, became depressed and developed behavior problems after they came to the shelter. The children longed for the old school and friends and wished to return there.

107. On June 9, 1992, Ms. Roman placed a call and advised the staff at McKay that she was living in a shelter and asked for transportation assistance to return her children to McKay. A staff member at McKay told her that there was no transportation services for homeless children; that a child must live in the attendance area to attend McKay; that homeless children only had a right to

attend the school nearest their shelter and that, if Ms. Roman continued to reside in the shelter she would have to enroll her children in the school nearest the shelter. No one advised Ms. Roman that she could contest a placement decision or file a complaint with the CSB or the ISBE.

108. Transfer of the Roman children to a new school at the time they became homeless added to the trauma they experienced in their family and housing crisis.

109. In June of 1992, an agreed temporary restraining order was entered in this case providing that the Roman children could re-enter McKay and providing them with tokens for transportation. The shelter staff, however, would not permit Ms. Roman to travel and transport her children and thus they were unable to finish the year at McKay school. Later that summer, the Roman family moved back into the district of McKay school (and became permanently housed) but were denied re-enrollment to McKay. Michelle presently attends Grimes Elementary and Yvonne is now in Kennedy High School. Both are Chicago Public Schools.

Plaintiffs Sheila Jackson and Stephanie and Stephen

110. At the time the complaint was filed in June, 1992, plaintiff Sheila Jackson was 32 years old and the mother of six minor children, all of whom resided with her. Ms. Jackson and her children became homeless in November, 1991 when she was forced to leave her apartment in Harvey, Illinois because the building was in serious violation of the Building Code. Between November 1991 and June 1992, she and her children resided with two different

relatives, one in Phoenix, Illinois and the other in Calumet City, Illinois and at a homeless shelter in Chicago. Her means of support for herself and six children was an AFDC grant of \$560 a month and Social Security Survivor's Benefits of \$303 a month.

111. In September, 1991, before Ms. Jackson lost her housing, all four of her school age children, including her then 6 year old twins, Stephanie and Stephen, were enrolled in Whittier School in Harvey, Illinois. When she became homeless in November 1991 and was forced to double up with relatives in Phoenix and then Calumet City, she was informed that she had to transfer her children as she was out of the district for Whittier.

112. Since she was waiting for another apartment in Harvey, Ms. Jackson enrolled the two older children in Lowell School. When that apartment could not be secured, Ms. Jackson moved in February, 1992 to a shelter in Chicago.

113. When Ms. Jackson moved to that shelter, she attempted to enroll the four school aged children in the school nearest the shelter, Oglesby. She informed a staff member at Oglesby school that she was currently residing at the shelter and would like her children to be enrolled. Her oldest two children were enrolled in the sixth grade and the second grade, respectively thus entering their third school since September 1991. The staff member refused, however, to enroll Stephanie and Stephen saying that the kindergarten classes were overcrowded. She claimed to have put the twins on a waiting list, stating that as soon as there was an opening, she would contact Ms. Jackson at the shelter. Ms. Jackson

was never contacted by any staff of Oglesby or by any agent of the state or local defendants advising her that there was a kindergarten opening, that Stephanie and Stephen had a right to go to another kindergarten, or that they had any right to transportation to get to another kindergarten.

114. In the early part of June, Ms. Jackson and a staff member from the shelter went back to the school to inquire about the possibility of enrolling the twins. Again the school informed them that there was still a waiting list. No one ever advised Ms. Jackson that she could contest the placement decision or file a complaint with the CSB or the ISBE.

115. Stephanie and Stephen missed kindergarten. Instead they have spent their "first year of school" at a shelter for homeless women and children.

116. As a result of the agreed temporary restraining order entered in this case in June of 1992, Stephanie and Stephen attended summer school at Oglesby.

117. The policies, practices, and customs described in ¶¶ 46-49 supra have been applied to the named plaintiffs and the members of Class A and Class B. Absent relief from this court, they will continue to be applied to them or are likely to continue to be applied to them, as class members will either remain homeless or if they secure housing for a period of time, they are likely again to become homeless.

118. As a result of the policies, practices, and customs of the local and state defendants, as described in ¶¶ 46-49 supra, the

children named plaintiffs:

a. have been deprived and are being deprived a free appropriate education;

b. have been deprived of the opportunity to attend the same school for a full academic year;

c. have been and are being harmed academically and socially by the needless disruption of their schooling;

d. have been and are being discriminated against and have suffered and are suffering emotional anguish that has impaired their ability to learn; and

e. all have suffered and are suffering irreparable injury;

f. face the likelihood that they will repeatedly be subjected to these policies and practices as long as they are homeless.

119. As a result of the policies, practices and customs of the local and state defendants, as described in ¶¶ 46-49 supra, all members of the children class (Class A) have suffered, are suffering, and absent relief from this Court, will suffer irreparable injury similar to that suffered by the named children plaintiffs.

120. There is no adequate remedy at law.

COUNT I

(Class Claims for Declaratory and Injunctive Relief Against The Local Defendants)

121. This class count is brought under Rules 2-701 and 11-101

of the Illinois Code of Civil Procedure to vindicate the rights secured by the Illinois Education for Homeless Children Act, the Illinois School Code and the Illinois Constitution. It is also brought pursuant to 42 U.S.C. §1983 to vindicate rights secured by the McKinney Act and the United States Constitution. Plaintiffs are the class members in Class A and the class members in Class B. Defendants are the local defendants.

122. Plaintiffs reallege paragraphs 1-44, 46-47, 50-120 supra.

123. The local defendants, by the policies, practices, and customs described in §§ 46-47 supra, have violated, and continue to violate, the duties imposed upon them by law described in § 44 supra. In particular, they have violated, and continue to violate the rights of the Class A and the Class B plaintiffs under:

a. 105 ILCS 45/1-10 which permits parents and children the option to choose to remain in the school of origin as long as the child remains homeless or if the child becomes permanently housed, until the end of the academic year during which the housing is acquired; 105 ILCS 5/10-20.12a which permits parents and children the option to finish the academic year in the same school; 42 U.S.C. §§11432(g)(1)(A) and (3) which requires that the local educational agency afford each homeless child the opportunity to remain in his or her school of origin for the remainder of the academic year or to enroll in the school nearest where he or she is actually living, whichever is in the child's best interest; 105 ILCS 45/1-10 and 42 U.S.C. §§11432(g)(3)(B) and (D) which afford a process for giving consideration to the wishes of the child's

parent regarding which school is in the child's best interest;

b. 42 U.S.C. §11432(g)(1)(G) and (7) which requires the CSB to locate and ensure the enrollment, retention and educational success of homeless children in Chicago;

c. 42 U.S.C. § 11432 (d)(2) which requires the CSB to provide activities for and services to homeless children and youth that enable these children to enroll in, attend and succeed in school and preschool;

d. 105 ILCS 45/1-15, 42 U.S.C. § 11432(g)(1)(F) and (G) and (4) which require that the CSB provide to homeless children and youth transportation to the school of origin; and 42 U.S.C. §11432(g)(4) which requires that the CSB provide services to each homeless child that are comparable to the services provided non-homeless children including transportation assistance;

e. 105 ILCS 45/1-20 which prohibits denying a homeless child or youth immediate enrollment even if that child or youth can not produce the records normally required for enrollment; 105 ILCS 10/8.1 which prohibits denying enrollment to any child for failure to produce previous student records and 42 U.S.C. §11432(g)(5) which requires that school records be maintained in a manner that allows prompt access for re-enrollment or transfer and 42 U.S.C. §§11432(g)(1)(G) and (8) which requires revision of policies which act as a barrier to the enrollment and attendance of homeless children including policies regarding enrollment requirements, records and guardianship rules and which further requires that special attention be given to the enrollment of children not

attending school at all;

f. 42 U.S.C. §§11432(g)(6) and (9) which requires the CSB to coordinate with other agencies including housing agencies and social service programs serving homeless families;

g. 42 U.S.C. §11432(g)(1)(A) which requires a process for the prompt resolution of school placement disputes; 105 ILCS 45/1-25 which requires that each regional superintendent shall act as an ombudsperson to resolve disputes relating to the rights of homeless children;

h. 105 ILCS 45/1-25(a) which requires that the ombudsperson is to provide resource information relating to the rights of homeless children under the Education Act;

i. 105 ILCS 45/1-25(a) which requires that a parent or guardian shall immediately be referred to an ombudsperson if a school denies a homeless child enrollment or transportation;

j. 42 U.S.C. §§11432(d)(5) and (g)(1)(B) which requires the provision of programs for CSB's personnel to heighten awareness of the specific needs of homeless youth;

k. 42 U.S.C. §§11431(3), 11432(d)(1) and (g)(1)(H) which requires the adoption of policies and practices to ensure that homeless children and youth are not isolated or stigmatized and that homelessness alone should not be sufficient reason to separate students from the main stream school environment;

l. 42 U.S.C. §11432(g)(1)(D)(i) which requires that homeless children have equal access to the same public preschool programs that are provided to other non-homeless children;

m. 42 U.S.C. § 11432(g)(5) which requires the CSB to ensure maintenance of school records in a manner that allows timely access for purposes of enrolling homeless children;

n. 42 U.S.C. § 11432 (g)(4) which requires the CSB to ensure that each homeless child receive services comparable to those received by other public school students including inter alia transportation;

o. The Due Process Clause of the Fourteenth Amendment to the United States Constitution and Article I, Section 2 of the Constitution of the State of Illinois; and

p. Article X, Section 1 of the Constitution of the State of Illinois which guarantees every child in Illinois the right to a free appropriate public education to the age of 21.

COUNT II

(Class Claims For Declaratory and Injunctive Relief Against the State Defendants)

124. This class count is brought under Rules 2-701 and 11-101 of the Illinois Code of Civil Procedure to vindicate the rights secured by the Illinois School Code and the Illinois Constitution. It is also brought pursuant to 42 U.S.C. § 1983 to vindicate rights secured by the McKinney Act and the United States Constitution. Plaintiffs are the class members in Class A and the class members in Class B. Defendants are the state defendants.

125. Plaintiffs reallege paragraphs 1-120 supra.

126. The state defendants, by the policies, practices, and customs described in ¶¶ 48-49 supra, have violated, and continue to

violate, the duties imposed upon them by law described in ¶ 45 supra. In particular, they have violated, and continue to violate the rights of the Class A and the Class B plaintiffs under:

a. 42 U.S.C. §§11432(d)(4), (f)(3) and (g)(1) and (2) which require the ISBE to ensure that the CSB comply with the McKinney Act mandates and that the Coordinator of Education of Homeless Youth carry out the state plan;

b. 42 U.S.C. §11431(1) §§11432 (d)(1) and (g)(1)(D)(i) which requires that the ISBE will ensure that each homeless child and youth has equal access to the same free, appropriate public school and preschool as provided to other children and youth;

c. 42 U.S.C. §11431(2), §§11432(d)(1) and (g)(8) which requires that the ISBE revise policies that act as a barrier to the enrollment, attendance and success of homeless children and youth including policies related to transportation, records, residency and enrollment and transfer requirements and 42 U.S.C. §§11432(g)(1)(G) and (g)(8) which requires that the ISBE require the CSB similarly to revise such policies and 42 U.S.C. §11432(d)(2) and (g)(1)(F) which requires the state educational agency to ensure that Illinois schools address all barriers to the enrollment, attendance and success of homeless children and youth including transportation problems, cumbersome immunization and residency requirements, lack of records and problems posed by guardianship rules;

d. 42 U.S.C. §11432(d)(2) which requires the ISBE to provide services to homeless children and youth to enable these

children to enroll in, attend and succeed in school and preschool;

e. 42 U.S.C. §11432(g)(4) which requires the ISBE to ensure that each homeless child within Illinois receive services comparable to those received by other public school students including inter alia transportation;

f. 42 U.S.C. §11432(g)(5) which requires the ISBE to ensure maintenance by the CSB of school records in a manner that allows timely access for purposes of enrolling homeless children;

g. 42 U.S.C. §11432(g)(1)(A) which requires the ISBE to ensure that homeless parents and children be provided a prompt procedure for the resolution of school placement disputes;

h. 42 U.S.C. §§11431(3), 11432(d)(1) and (g)(1)(H) which requires the ISBE to adopt and to ensure that the CSB adopt practices that ensure homeless children and youth are not isolated and stigmatized and that homelessness alone should not be sufficient reason to separate students from the mainstream school environment;

i. 42 U.S.C. §§11432(f)(5) and (6) and (g)(9) which requires the Coordinator to facilitate coordination between other agencies including housing agencies and social service programs serving the homeless;

j. 42 U.S.C. §§11432(f)(1), (2) and (4) and (g)(1)(E) and (F) which requires the coordinator and ISBE to identify and address problems affecting the education of homeless children in Illinois;

k. 42 U.S.C. §§11432(d)(5) and (G)(1)(B) which requires

the ISBE to develop and implement professional development programs to heighten awareness of, and capacity to respond to specific problems in the education of homeless children and youth;

l. 42 U.S.C. §§11432(g)(1)(C) and (D) (ii) which requires that the ISBE ensure that homeless children and youth who meet the relevant eligibility criteria are able to participate in all food programs, and before and after school care programs;

m. 105 ILCS 5/1-1A which requires ISBE to ensure CSB's compliance with the federal and state statutory and constitutional requirements;

n. The Due Process Clause of the Fourteenth Amendment to the United States Constitution and Article I, Section 2 of the Constitution of the State of Illinois; and

o. Article X, Section 1 of the Constitution of the State of Illinois which guarantees every child in Illinois the right to a free appropriate public education to the age of 21.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray that this Court:

A. Declare that defendants' policies and practices and customs described in ¶¶ 46-49 supra violate the McKinney Act, the Illinois Education for Homeless Children Act; the Illinois School Code; Articles I and X of the Illinois Constitution and the due process clause of the Fourteenth Amendment to the United States Constitution;

B. Preliminarily and permanently enjoin defendants from keeping in-effect, maintaining, or encouraging any of the policies,

practices and customs declared to be violative of law;

C. Direct the state defendants on the one hand and the local defendants on the other to submit to the Court, for its approval, a comprehensive remedial plan designed to cure their violations of law, and to bring them into compliance with the law;

D. Award the plaintiffs their costs and a reasonable attorneys fee;

E. Award such other and further relief as the Court may deem appropriate.


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