



CW-IL-001-003

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

VERONICA SALAZAR, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	92 CH 5703
	)	
JOHN EDWARDS, et al,	)	
	)	
Defendants.	)	

MEMORANDUM OF OPINION

This matter comes before the Court on the motion of the plaintiffs as a class of homeless children and their parents, to Enforce the Settlement Agreement Against the Local Defendants, the Chicago Board of Education, and to Further Extend the Production of Information Provisions of the Agreement. The Settlement Agreement, which is the subject of this action, was entered on November 21, 1996 against the local defendants, Paul Vallas and the Chicago Reform Board of Trustees ("Chicago Board"). Plaintiffs allege that the local defendants are repeatedly violating the terms of the Settlement Agreement in numerous respects.

The Court acknowledges that the Chicago Board of Education is faced with an overwhelming task in the administration of the Chicago Public School system and is aware that, because of the multifaceted nature of a job of this size, problems will inevitably arise. The Court firmly believes that most personnel at the Chicago Board of Education are people of goodwill, albeit constrained by the enormity of the bureaucracy that runs the system. The dedication of Paul Vallas, the CEO, to the improvement of the education system in Chicago is renowned. The Court is also aware that the Chicago Board is often faced with problems involving dishonesty (at least as reported in the media), but points out that these isolated instances cannot be used as an excuse to deny rights and

entitlements granted by the law. It is, however, the Court's responsibility to enforce the Settlement Agreement and the law.

The following discussion is based upon the testimony and evidence presented by the parties at the hearing of this matter. Because the testimonial evidence was so compelling, little weight need be given to the documentary evidence.

## I. DISCUSSION

### A. The Policy and the Attitudes.

The testimony and other evidence presented at the hearing convinces the Court that there has been widespread non-compliance with the McKinney Act, the Illinois Homeless Education Act and the Settlement Agreement (collectively referred to as "Homeless Program" or "Program") by the Chicago Board of Education ("Chicago Board"). The Chicago Board simply has ignored the law and its Settlement Agreement in an effort to minimize costs and problems associated with compliance as applied to the routine administration of the Homeless Program. The *de facto* policy of the Chicago Board appears to be: enroll the homeless child in the school closest to the shelter or current temporary residence, and if the family moves again, simply enroll them in the school closest to the new shelter, because doing so saves transportation costs and avoids other problems. However, this policy defeats a purpose of the Act, which is to provide continuity, in at least one aspect of their lives, to homeless children.

The testimony of plaintiffs' witnesses, such as Kathy Conrad<sup>1</sup> and Susan Petti<sup>2</sup>, clearly

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<sup>1</sup>Conrad works as a consultant for Opening Doors, a group which works with the ISBE on the implementation of the McKinney Act throughout the State of Illinois.

<sup>2</sup>Petti, a staff member at Resurrection Project, a transitional shelter in Chicago, testified that she has interceded on behalf of several residents to obtain the necessary services from the Chicago Homeless Education

suggest that the Director of the Homeless Education Program held homeless people in disdain and felt that they did not deserve the special privileges mandated by the law. This may or may not be true. The Director, Dr. Louisea Storey herself, was unhappy with the results of the Program when over one hundred schools failed to send any representative (principal, clerk or liaison) to Storey's mandatory training session. On this occasion, Storey complained to Ms. Lula Ford, Storey's supervisor, and Ford, who reports directly to the CEO, allegedly complained. But ultimately nothing was done to discipline the over one hundred school Principals who failed to attend or even send a representative. Ford merely sent the absentee schools copies of the materials.

Ford's direct testimony on behalf of the Chicago Board revealed that Ford did not properly supervise Storey. For example, Ford testified that she had instructed Storey to produce all the information which the plaintiffs' had requested, but Ford did not know if this had been done. Ford appears to have adopted a kind of "don't ask - don't tell" policy between herself and Storey. Ford testified that her idea of quality was that things needed simplicity - and that satisfied her. The ineffectiveness of Ford's philosophy is reflected in the quality of the activity logs of which Ford was so proud; logs which were so woefully incomplete that few, if any, of the logs properly documented the outcome of a case. *Cf.* Plaintiffs' Exhibit J.

During the course of the hearing, plaintiffs' raised the issue that Ford believed that homeless children were a low priority on the Chicago Board's list - and when confronted with this allegation, Ford denied its truth. However, the Court notes that Ford's demeanor, manner and testimony all support this allegation. For example, Ford did not know the number of homeless children in the

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Program.

Chicago Public School system (“CPS”) during 1996-97 and was uninformed as to other relevant information in the 1996-97 Report. In another instance, several witnesses, including Susan Petti, Allison Nanni<sup>3</sup> and Reverend John Hobbs<sup>4</sup>, testified that they had brought to CPS’ administrators’ attention the plight of homeless parents who were required to accompany their children of tender age to and from school but were not receiving enough bus tokens. In fact, Petti and Reverend Hobbs both wrote letters of complaint concerning the lack of service they had received from the Chicago Board. Petti, who had spoken to Storey several times, wrote to Gary Dickerson. *Cf.* Plaintiffs’ Exhibit DD. Similarly, Reverend Hobbs, who had spoken to Ford, Storey, Marilyn Johnson<sup>5</sup> and Chester Tinsdale<sup>6</sup>, wrote a letter of complaint to Paul Vallas. *Cf.* Plaintiffs’ Exhibit W. Although these were serious complaints that should have come to Ford’s attention, Ford testified that she did not recall discussing this issue with ISBE representatives Gary Dickerson and Daniel Miller or the Reverend John Hobbs.

Other disparities surfaced during the course of the hearing with regard to the number of homeless children in the CPS system. At one point during the hearing, attorneys for the Chicago Board vehemently denied that the number of homeless children in the CPS system in 1998-99 was 15,000 to 20,000, claiming these figures were plaintiffs’ counsel’s figures. However, the Chicago Board stated in its 1998-99 Grant Proposal to the Illinois State Board of Education (“ISBE”) that “the homeless student population is conservatively estimated to be 15,000 to 20,000.” *Cf.* Plaintiffs’

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<sup>3</sup>Nanni is a staff member at Resurrection Project in Chicago.

<sup>4</sup>Reverend Hobbs is the Executive Director of the Interfaith Council for the Homeless.

<sup>5</sup>Johnson is the attorney for the Chicago Board of Education.

<sup>6</sup>Tinsdale is the Director of Transportation Services at CPS.

Exhibit S, at 2.

B. The Lack of Information.

As previously noted, the policy of the Chicago Board has been *de facto* that homeless children should get a transfer to the school closest to their current shelter. This policy exists through misinformation, lack of information and delay; resulting in the Chicago Board's failure to comply with either the letter or the spirit of the McKinney Act, Illinois Homeless Education Act, or Settlement Agreement. The evidence indicates that the Chicago Board repeatedly used the "Buckney Letter"<sup>7</sup> to provide information to the general public as well as to professionals in the field. *Cf.* Plaintiffs' Exhibit X. However, this letter was an inaccurate and misleading statement of the CPS policy (pursuant to the Settlement Agreement) when applied to homeless children. It also appears that the defendants failed to inform principals and administrators of the availability of hardship transportation. Because of the Chicago Board's past and current actions or inaction, homeless children and their parents have not been adequately notified of their rights, particularly the right to a dispute resolution process<sup>8</sup> should they encounter problems in securing these rights. The failure to notify homeless parents of the dispute resolution process is significant because by doing so the defendant effectively denied plaintiffs' class their rights.

Based on the testimony of the witnesses presented by the plaintiff, including Paula Garrido, Tinamarie Vasquez, Vanessa Mitchell and Shanelia Pollard, it is clear that in at least those and the other witnesses' cases the schools and the Program's Director, Storey, simply tried to wear the parents down until they were ready to switch schools. The plaintiffs also presented several

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<sup>7</sup>The author of this letter is Dr. Cozette Buckney, Chief Education Officer for CPS.

<sup>8</sup>The particulars of this problem will be discussed in the following section.

professionals, such as the Reverend John Hobbs, Esmarie Elliot, Kathy Conrad, Susan Petti and Allison Nanni, who each had sought to contact officials at the Chicago Board, by telephone and letter, regarding the Board's policy. These witnesses testified that they believed that the responses they received to their inquiries on the education of the homeless were, at best, ambiguous, sometimes there was no response, and other times misinformation. Considering that the homeless themselves are in a worse position than professionals in terms of power and resources, the homeless have virtually no hope of getting satisfaction.

Finally, the information which the Chicago Board submitted to the Illinois State Board of Education ("ISBE") for monitoring purposes and pursuant to the law and Settlement Agreement is patently deficient.

#### C. The Lack of Transportation Services.

Even when a homeless parent does get past the informational hurdles noted above, it is not guaranteed that the parent will receive the services that the law requires. The transportation policy requires that the homeless parent of a child below the age of sixth grade accompany the child to school and from school - but has not been providing the parent with any means of transportation between the beginning and the end of the school day so that the parent can travel to another site. Such a practice is ludicrous. The defendants only explanation is that parents could "volunteer" at school. Given that these parents are already homeless, one could logically conclude that the parent ought to have many other priorities such as: a job, seeking a job, job training, or schooling - all activities that can only better the child's chances of getting out of temporary housing or shelters and into a permanent and stable home; a goal that should be facilitated by the Chicago Board.

In closing arguments, counsel for the Chicago Board admitted that there were problems in

providing hardship transportation, but claimed that the problems with CPS' response to these requests stemmed from the failure of the individuals seeking hardship transportation to "properly notify" the schools and further claimed that CPS complied with the two week hardship bus service when it was "properly notified". However, no one at the Chicago Board ever revealed *how* to "properly notify" the schools of the need for hardship transportation. The result of this policy of only providing hardship service to those who "properly notified" the schools was that only three children and a group of children who all resided at one funded shelter<sup>9</sup>, out of over 8,000 homeless children, received hardship bus service during the 1997-98 school year.<sup>10</sup> Reason dictates that buses used to transport other categories of students can also be used on a more widespread basis to transport homeless children needing hardship transportation. Parents of homeless children should be advised of the availability of both CTA transportation and hardship transportation for their children and the application procedure.

It is unacceptable that homeless parents and their children are being treated so poorly and in direct violation of their rights, even if it is based on the fear, expressed by Dr. Storey, that someone will try to "work the system" to get away with an extra token. The Chicago Board cannot fail to take care of those who are in the most dire need of aid, those that the law has placed in its hands.

#### D. Attempts to Improve CPS Post Settlement

The evidence is clear: (1) the Chicago Board has repeatedly failed to provide dispute resolution forms; (2) Ford, the supervisor of the Program who reports directly to the Chief Executive

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<sup>9</sup>It should be noted that there are over fifty shelters in the Chicago area - six of which the Chicago Board funds.

<sup>10</sup>The figure of over 8,000 homeless children is based on the figure which CPS submitted in its end of the year report for the 1997-98 school year. Cf. Plaintiffs' Exhibit B.

Officer - but does not discuss the Program with him - does not remember many of the requirements of the Settlement; (3) the Chicago Board has either refused or failed to meet with or implement the positive suggestions of the ISBE; and, (4) the Chicago Board has steadfastly refused to implement positive suggestions provided by the Chicago Coalition for the Homeless. Perhaps because of all the obvious shortcomings of the Chicago Board's administration of the Program, the defendant, Chicago Board, has adopted what appears to be a policy of stonewalling on complaints concerning its administration of the Homeless Education Program.

Gary Dickerson, from the ISBE, testified that the Chicago Board refused his suggestion to establish an informal committee to assist the Chicago Board in its activities. When Ms. Ford was asked why the Chicago Board had refused to establish such a committee, she indicated that this was the policy which she received "from on high". In addition to the practical effect of turning down a positive suggestion, this move also conveyed the Chicago Board's attitude as one that said "we don't need your help, we know what we are doing." - but they did not . This same attitude was also reflected in many of Dr. Storey's actions, such as the time when she refused the ISBE's offer to provide materials and training.<sup>11</sup> It is clear that ongoing violations were repeatedly brought to Storey's and Ford's attention, as well as to the attention of other officials of the Chicago Board. But while Ford denied, on cross examination, that Dickerson or Miller had discussed certain items with her, this Court believes the testimony of Dickerson and Miller and disbelieves Ford's testimony where the testimony is inconsistent. It is also this "we don't need you" policy which caused the Chicago Homeless Education Program to be out of compliance with the McKinney Act, the Illinois

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<sup>11</sup>Despite the fact that ISBE provides these services to several other school districts.

Homeless Education Act and the Settlement Agreement, and ultimately caused the Chicago Board to be a party to this costly and time consuming litigation.

The Court notes that this litigation not only served to confirm most of the plaintiffs' allegations, but also demonstrated that the stonewalling policy extended to counsel for the Chicago Board, who refused to stipulate to the authenticity of the plaintiffs' exhibits - including those documents which the Chicago Board kept in the ordinary course of business and which the Chicago Board had supplied to the plaintiffs.<sup>12</sup>

Dr. Blondine Davis, Chief of Schools and Regions for the Chicago Public Schools, was an excellent witness. Placing the Program under Davis is the only positive action which the Chicago Board has brought to the Court's attention.<sup>13</sup> It is, however, too little too late to simply put Davis in charge of the Program. The suggested resolution of using the profile identified by Davis during the hearing might have worked had Davis been involved in the settlement negotiations, or been responsible for the implementation of the letter and the spirit of the Settlement Agreement - but she was not a participant in this dispute until she testified .

The people who were responsible for implementation of the Settlement Agreement ultimately failed to comply with it. It is interesting to note that, according to Davis' testimony, if someone had reported a homeless child as being truant to her Truancy Officer they would have received a prompt referral and have been the subject of Chicago Public Schools' services. If, however, a homeless family, on its own, or a shelter on behalf of a homeless family called a principal or Storey, they

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<sup>12</sup>These documents were produced either pursuant to court order, discovery, or the information production requirements under the Act.

<sup>13</sup>This transfer of authority took place contemporaneously with the current litigation.

would face problems in terms of ever receiving the necessary services. According to Davis' testimony, the process by which a homeless person obtains transportation assistance appears very easy - one would almost think that Storey and Ford worked for a different Board of Education than Davis.

Every witness called by the Chicago Board, with the exception of Davis<sup>14</sup>, was damaging to the Chicago Board's theory of the case and often proved up one or more issue for the plaintiffs. The following are just a few examples of the weakness of the Chicago Board's position and the harm that was done by the Chicago Board's own witnesses. Connie Gajic, Assistant Principal at the Pritzker School, virtually admitted to violating every Program rule with regard to her handling of the Beckwith family, and when asked the definition of "school of origin" under the Program, did not know the correct definition. Ortiz Rebollo, Principal of Cardenas Elementary School, admitted to taking no remedial action during the entire second semester of 1998-99, even though she had been notified that the bus on which the homeless Garrido children were transported was habitually late. It was also Rebollo who approved the Garrido children's transfer at the close of the same school year, despite the fact that she knew that Mrs. Garrido did not want her children transferred out of Cardenas.

Based on the testimony of the principals and assistant principals, it is clear that these individuals did not understand the requirements of the Settlement Agreement, the McKinney Act or the Illinois Homeless Education Act. Even Dr. Storey, the administrator of the Program, did not have a complete command of the Program. For example, she was unable to completely define

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<sup>14</sup>Dr. Davis made it clear that had she been in charge they would have had the resources to comply.

“school of origin.” Similarly, Dr. Storey was unable to recall all the requirements and the definition of “hardship.” She was also unaware of certain assets and resources, which according to Davis, were available to the homeless.<sup>15</sup>

## II. FINDINGS

The Court finds the defendant, Chicago Board of Education not in compliance with the Settlement Agreement with regard to:

1. Providing proper transportation assistance. In fact, it appears that the Chicago Board has embarked on a system of discouraging hardship transportation through its non-compliance with the terms of the Settlement Agreement.
2. The training of CPS personnel on the administration of the Homeless Children’s Education Program.
3. The administration of the dispute resolution process; rather, it appears that the Chicago Board simply does not tell parents that dispute resolution is an option.
4. Properly overseeing the distribution of the notices. The Court notes that it appears that the Chicago Board sent out the notices for the schools to distribute two times a year, however, many witnesses testified to never receiving these notices.
5. The provisions requiring the designation of liaisons at every school. With the exception of the schools that are in proximity to the six shelters that receive Program grants, the Board has failed to establish a meaningful liaison program.
6. The requirement that the Chicago Board produce information for monitoring purposes.

## III. ORDER

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<sup>15</sup> This point is demonstrated by the contrast between Storey’s explanation of how a child gets a bus token or pass and Davis’ explanation.

Based on the foregoing, the Chicago Board of Education is hereby ordered to:

1. Cease violating the Settlement Agreement by discouraging people from choosing their school of origin through the encouragement of transfers to closer schools.
2. Embark on an immediate and massive informational campaign addressing the rights of the homeless throughout Chicago; a campaign which will include distribution efforts and appropriate media notices.
3. Warn all CPS personnel that they are to comply with the McKinney Act, the Illinois Homeless Education Act and the Settlement Agreement, under penalty of severe disciplinary action.
4. Conduct a full-day training session addressing compliance with the Act and sensitivity to homeless children's needs. This training shall take place prior to the commencement of the 1999-2000 school year and shall be held on two dates to ensure that all principals, clerks, and liaisons attend. If any principal, clerk or liaison does not attend one of these two sessions, that individual shall be suspended until a make-up session is completed. The Court also orders that each new principal complete training before assuming their duties.
5. Designate a liaison for each Chicago Public School, and when a homeless person comes to a school seeking to register his or her child or receive transportation assistance, this person must be referred to a member of the school staff who has been trained in administering the Program.
6. Provide identifiable bus passes to all schools in advance of need and inventory the number of bus passes needed per school based upon generally accepted accounting practices. Once the number of passes needed per school is established, the Chicago Board shall provide that number of passes to each school prior to the beginning of each month.
7. Provide a notice, on the date of the initial request for assistance and at least monthly, to each parent of a homeless child, explaining the availability of a dispute resolution process. The signature of the parent or guardian, indicating such initial receipt, shall be obtained.
8. Fully and timely comply with all reporting requirements and information production requirements pursuant to the terms of the Settlement Agreement. The Chicago Board shall be subject to a sanction of up to \$1000.00 a day for each day that it is not in compliance with these requirements.

9. Immediately establish a committee composed of top administrators from the Chicago Board, representatives from the plaintiff class including class counsel, and representatives from the ISBE. The committee shall review all published materials and make positive suggestions for the improvement of the Program. Any such positive suggestions shall be provided to the Chief Executive Officer monthly.
10. Cease distribution of the "Buckney Letter" and issue a new letter which complies with the letter and spirit of the McKinney Act, the Illinois Homeless Education Act, and the Settlement Agreement.
11. Pay all costs and expenses of the independent monitor, which the Court shall appoint to ensure full compliance with this Order and the Settlement Agreement. The Court will consider only persons not historically associated with the Chicago Public Schools' Homeless Education Program.
12. Report to the Court on compliance within thirty (30) days of the entry of this Order, and thereafter every sixty (60) days. The Chicago Board will include in the report: (a) a certification that the Chief Executive Officer has received all the recommendations from the committee (as per Number 9 *supra*); and (b) stating the action the Chief Executive Officer has taken or plans to take with regard to improving the services for homeless students in compliance with the law.

<b>ENTERED</b>	
CLERK OF THE CIRCUIT COURT AURELIA PUCINSKI	
AUG 03 1999	
JUDGE	MICHAEL B. GETTY - 178
DEPUTY CLERK	

**ENTERED:**

**MICHAEL BRENNAN GETTY  
CIRCUIT JUDGE**

**DATED: AUGUST 3, 1999.**