

NO SUMMONS ISSUED

CV - 11 5935

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

**N.J., individually, and as parent and
natural guardian of N.J. and A.J., minor
children, individually,
Plaintiffs,**

§
§
§
§
§
§
§
§
§
§
§
§

★ DEC 06 2011 ★

LONG ISLAND OFFICE

**v.
STATE OF NEW YORK, NEW YORK
STATE EDUCATION DEPARTMENT,
and MALVERNE UNION FREE
SCHOOL DISTRICT,
Defendants.**

Civil Action No.

PLAINTIFFS' ORIGINAL VERIFIED PETITION

Plaintiffs N.J.(m)., N.J., and A.J. (collectively, "Plaintiffs") file this Petition against Defendants State of New York, New York State Education Department, and Malverne Union Free School District.

INTRODUCTION

1. This lawsuit seeks to remedy the failure of the education system in New York State and Malverne Union Free School District to provide N.J. and A.J., homeless children, with the substantive and procedural protections they are entitled to under the Stewart B. McKinney-Vento Homeless Assistance Act, 42 U.S.C. §§ 11431-11435 (the "McKinney-Vento Act") and New York State Education Law § 3209.

2. The Plaintiffs in this case are N.J.(m) and her homeless children, N.J. and A.J. (collectively "Plaintiff Children"), who live in Nassau County.¹ Defendants have denied Plaintiff Children enrollment in their schools of origin in violation of the requirements of the

¹ Plaintiffs are identifying themselves in this pleading and all other public documents filed in this case through initials only. Plaintiff Children are minor children. Accordingly, the named Plaintiffs have requested identification by initials only in order to protect their privacy rights pursuant to the Family Education Rights and Privacy Act, 20 U.S.C. § 1232g(b). See also *Webster Groves School Dist. V. Pulitzer Pub. Co.*, 898 F. 2d 1371, 1374-75 (8th Cir. 1990).

McKinney-Vento Act, Education Law § 3209, and the regulations promulgated thereunder. The consequence of the Defendants' conduct is that homeless children are being turned away at the schoolhouse door midyear, significantly impacting their educational development and their opportunity to participate in the decision-making process regarding the provision of a free and appropriate education. Without relief, Plaintiff Children will be denied the educational benefits Congress sought to provide children like them in enacting the McKinney-Vento Act. *See* 42 U.S.C. § 11431.

3. As set forth more fully herein, Plaintiffs allege that these policies and practices violate state and federal laws. Plaintiffs therefore seek injunctive relief compelling the Defendants to maintain Plaintiffs' enrollment in their schools of origin pending the outcome of administrative remedies that Plaintiffs are currently pursuing.

JURISDICTION AND VENUE

4. This Court has jurisdiction pursuant to 28 U.S.C. § 1343(a)(3), on the ground that this action arises under the laws of the United States.

5. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(1), on the ground that Defendant Malverne Union Free School District is located in Nassau County, New York.

6. Plaintiffs have been deprived of their federal statutory rights and thus bring this action pursuant to 42 U.S.C. § 1983.

7. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over Plaintiffs' claims of violations of New York State Education Law and the New York Constitution, Article XI, § 1.

8. There is an actual controversy between the Plaintiffs and the Defendants within the meaning of the Declaratory Judgment Act, 28 U.S.C. § 2201, and Federal Rule of Civil Procedure Rule 57.

PARTIES

N.J.(m), N.J., and A.J.

9. N.J.(m) is the mother of N.J. and A.J., who attend school in Malverne Union Free School District. Plaintiffs are all citizens of the United States and at all times mentioned herein were and are living in Nassau County.

The State Defendant

10. New York State Education Department (“NYSED”) is a governmental agency of Defendant State of New York with control over educational matters affecting Malverne Union Free School District and responsibility for the general supervision and management of the Nassau County Public Schools. NYSED is responsible for ensuring compliance with federal, state, and local laws governing this system.

11. NYSED is a recipient of federal funds under the McKinney-Vento Act. By accepting those funds, NYSED is required to comply with all provisions of the McKinney-Vento Act.

12. NYSED was at all relevant times acting or purporting to act under color of state law.

The School District Defendants

13. Upon information and belief, Defendants Malverne Union Free School District (the “District”) is a municipal corporation duly organized and existing under New York State Education Law and is a Local Educational Agency (“LEA”) under the McKinney-Vento Act.

14. The District establishes local rules and practices concerning enrollment, transportation, and education of children within its district, including homeless children.

FACTUAL BACKGROUND

15. On May 8, 2009, the family suffered a fire in its residence and was forced to move out.

16. Plaintiffs have been homeless since the 2009 fire, but they managed to continue to stay in the District, in Lynbrook, New York, until September 2011.

17. After the residential fire forced Plaintiffs from their home, the family moved in with a friend, E.V., who also resided in Nassau County within the District. E.V.'s children also attend school in the District.

18. While living with E.V., the children did not have a bedroom but slept in the living room.

19. E.V.'s and Plaintiffs' relationship eventually deteriorated, negatively impacting the children's performance in school. N.J.(m) and her family could not remain with E.V. because the living conditions created undue stress on Plaintiff Children. Therefore, although grateful for the assistance E.V. had provided, Plaintiffs were forced to leave E.V.'s residence to ameliorate the emotional strain caused by the broken relationship.

20. After leaving E.V.'s residence, Plaintiffs moved in with another family friend, V.C., in September 2011. V.C. resides in a single bedroom suite in the basement of a home that he owns and leases to another family. This home is located outside the District. N.J. and A.J. do not have a bedroom, but instead sleep on the sofa in the living room of the basement.

21. The living situation with V.C. is not a permanent housing solution, but a temporary situation necessitated by economic hardship. Plaintiffs' alternative is to attempt to

move into a homeless shelter, which they do not wish to do.

22. Immediately upon Plaintiffs' leaving E.V.'s residence, E.V., for unknown reasons, notified the District of Plaintiffs' departure. Upon information and belief, the District communicated with E.V. regarding Plaintiffs' living situation, without Plaintiffs' authorization.

23. N.J.(m) intends to move the family back into the District as soon as she is able to secure affordable housing.

24. On September 20, 2011, the District notified Plaintiffs that Plaintiff Children may not attend school in the District because the family lives outside the District.

25. The family attempted to appeal the decision, but due to a technical defect in service, the petition was not heard. On November 8, 2011, the District again informed N.J.(m) that her children may not attend school in the District and that they would be excluded from school effective November 18, 2011.

26. On November 17, 2011, Plaintiffs personally served the District Liaison with a petition appealing the District's decision to exclude the children and seeking a stay of exclusion pending the outcome of the petition.

27. In response to Plaintiffs' petition, the District filed an Affidavit in Opposition to Stay, claiming that the November 16 appeal was untimely, that the appeal was not properly served (even though the appeal was properly submitted to the District's homeless liaison), and claiming that Plaintiffs voluntarily left E.V.'s residence and chose to move in with V.C.

28. On November 30, 2011, Plaintiffs were informed by telephone that the stay request was denied. However, Plaintiffs were not informed of the date on which the children would be excluded from school.

Rights of Plaintiffs as Homeless Children Under Federal and State Law

The McKinney-Vento Act

29. Congress acted decisively to remove the obstacles faced by homeless children in enacting the McKinney-Vento Act, Pub. L. No. 100-77, § 102(b)(2), 100 Stat. 482, 485 (codified as amended at 42 U.S.C. § 11301, *et seq.*), in 1987 to provide a broad range of assistance to homeless individuals and families. Subtitle VII-B of the McKinney-Vento Act relates to the education of homeless children and youth. 42 U.S.C. §§ 11431-11435.

30. The McKinney-Vento Act states that children and youths who “lack a fixed, regular, and adequate nighttime residence” will be considered homeless. *Id.* § 11434a(2)(A). Congress specifically studied the housing arrangements of homeless families and concluded that it was essential to the functioning of the McKinney-Vento Act that families “doubling up” with others in temporary housing arrangements must be included within the definition of homeless. Thus, in defining what it means to “lack a fixed, regular, and adequate nighttime residence,” the McKinney-Vento Act expressly includes “children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason.” *Id.* § 11434a(2)(B)(i).

31. In enacting the McKinney-Vento Act, Congress made available funds for States to assist in the education of homeless children on the condition that “[e]ach State educational agency shall ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education . . . as provided to other children and youths.” *Id.* § 11431(1). The McKinney-Vento Act also mandates that if the State enacts “regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and youths,” it must “review and undertake steps to revise

such laws, regulations, practices, or policies to ensure that homeless children and youths are afforded the same free, appropriate public education as provided to other children and youths.” *Id.* § 11431(2). The McKinney-Vento Act imposes the same obligations on LEAs. *Id.* § 11432(g)(7).

32. The McKinney-Vento Act specifically requires that States ensure that the LEAs provide an expeditious process of resolving disputes affecting the educational rights of homeless children. *Id.* §11432(g)(3)(E)(iii).

33. Moreover, the McKinney-Vento Act states that if a dispute arises over school enrollment, the homeless student “*shall* be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute.” *Id.* § 11432(g)(3)(E)(i) (emphasis added).

34. The McKinney-Vento Act requires that “[e]ach State educational agency shall ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education . . . as provided to other children and youths.” 42 U.S.C. § 11431(1). The McKinney-Vento Act also mandates that if the State enacts “regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and youths,” it must “review and undertake steps to revise such laws, regulations, practices, or policies to ensure that homeless children and youths are afforded the same free, appropriate public education as provided to other children and youths.” *Id.* § 11431(2).

New York State Education Law § 3209

35. New York State Education Law § 3209 requires the Defendants to provide for the education of homeless children in New York State. Pursuant to statutory authority, Defendant

New York State enacted regulations which provide for the education of homeless children in New York State. *See* 8 N.Y.C.R.R. § 100.2(x).

36. New York Education Law § 3209 mandates that a homeless child's family or an unaccompanied youth may choose whether the child will attend school where the family or child lived before becoming homeless (the "school district of origin") or where he or she currently lives (the "school district of current location"), and that the school district must immediately admit and enroll the homeless child. N.Y. Educ. Law § 3209(1)-(2).

37. In implementing Education Law §3209, however, New York State has enacted 8 N.Y.C.R.R. § 100.2(x)(7)(ii)(c). Under this regulation, each school district shall:

delay for 30 days the implementation of a final determination to decline to either enroll in and/or transport the homeless child or youth or unaccompanied youth to the school of origin or a school requested by the parent or guardian or unaccompanied youth; provided that if the parent or guardian of a homeless child or youth or unaccompanied youth commences an appeal to the commissioner pursuant to Education Law, section 310 with a stay application within 30 days of such final determination, the homeless child or youth or unaccompanied youth shall be permitted to continue attending the school he or she is enrolled in at the time of the appeal until the commissioner renders a decision on the stay application.

The Defendants' Duties Under Federal and State Law

38. Under the aforementioned laws, the State Defendants are obligated, in relevant part, to:

- (a) prepare and carry out an adequate state plan for implementing the McKinney-Vento Act and ensure the LEAs' compliance with the plan;
- (b) ensure that the local social service agency complies with the provisions of New York State Education law and its regulations in providing education and transportation services to homeless children and youth;

- (c) 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 New York State, including policies related to transportation, records requirements, and residency requirements;
- (d) provide procedures for the prompt resolution of placement and transportation assistance disputes affecting homeless children in New York State;
- (e) identify and address problems affecting the education of homeless children in New York State;
- (f) ensure that policies and practices are adopted by the State and LEAs to ensure that homeless children in New York State are not stigmatized or isolated;
- (g) ensure that the LEAs provide 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 the notice of the availability of an ombudsperson, and a process of resolving the dispute;
- (h) ensure the LEAs' compliance with state law and regulations (New York Education Law § 3209 and 8 N.Y.C.R.C. § 100.2(x));
- (i) ensure that the LEAs locate and provide educational services to all eligible children in New York State;
- (j) ensure that homeless youths and youths separated from the public schools are identified and accorded equal access to appropriate secondary education and support services;
- (k) identify homeless children and youth and assess their special needs.

39. Under the same laws discussed above, the School District Defendants are obligated to:

- (a) make available to each homeless child and family the designation form provided by the commissioner who seeks to enroll (or continue the child) in school;
- (b) review the designation form to assure that it has been completed;
- (c) where the school district of origin is designated, the child shall be entitled to return to the school building where previously enrolled;
- (d) where the school district is the school district of current location, (1) the child shall be admitted to the school, (2) the homeless child shall be treated as a resident for all purposes, and (3) the LEA must make a written request to the school district where the child's records are located for a copy of such records and forward the designation form to the commissioner and the school district of origin if applicable;
- (e) where a homeless child is not entitled to receive transportation pursuant to Education Law § 3209(4) from the Department of Social Services or from the Division for Youth, the child shall be transported by the designated school district;
- (f) establish policies and procedures to ensure compliance with the provisions of New York State Education Law § 3209 and its regulations, and review and revise any local regulations, policies, or practices that may act as barriers to the enrollment or attendance of homeless children in school or their receipt of comparable services as defined in Part B of Title VII of the McKinney-Vento

Act;

(g) periodically report such information to the commissioner as he or she may require to carry out the purposes of Education Law § 3209.

Defendants' Violations of Their Statutory and Other Duties

40. Defendants have failed to revise their policies and practices, which create a barrier to the enrollment, attendance, and success of homeless youths, and have failed to ensure that LEAs revise their policies and practices regarding education of homeless children.

41. Defendants have implemented a stay procedure whereby homeless children such as Plaintiffs may be excluded from their schools of origin pending the outcome of dispute resolution.

42. NYSED's appeals process is lengthy which is difficult for *pro se* parents of homeless children to comply with.

43. Denial of stay disrupts a child's education because if an appeal is successful after a stay is denied, a child will be asked to return to the district of origin months later when NYSED finally comes to a decision. This essentially moots the appeal process.

44. Homeless liaisons at school districts such as the Malverne Union Free School District lack the resources and information to provide assistance to homeless families such as Plaintiffs as part of the appeal process.

45. Delays in the appeals process present an obstacle to homeless families, whose situations and means do not permit them to wait for months to receive a final decision from NYSED. The practical effect of NYSED's appeals process is to deny homeless youths such as the Plaintiffs an effective right of appeal.

46. Defendants have failed to establish an effective and timely procedure for the

resolution of disputes.

47. The failure to comply with the dispute resolution requirements has been twice noted by monitors from the federal Department of Education charged with assessing implementation of the McKinney-Vento Act. In 2009, the monitoring report stated “NYSESED must issue—and submit a copy to ED—a written memorandum clarifying that during a dispute resolution process at the LEA and SEA levels, the LEAs of origin and residence must offer immediate enrollment in the requested district and provide transportation to the school in which the child is placed until the dispute is resolved.” U.S. Dept. of Education, Student Achievement and School Accountability Program, *New York State Education Department, March 23-27, 2009*, 19 (2009). A recurring finding is noted in the 2010 monitoring report, stating that “[t]he NYSED has not ensured that its LEAs have procedures for the prompt resolution of disputes and a process to direct LEAs on how to resolve enrollment disputes consistent with LEA requirements stated in section 722(g)(3)(E).” U.S. Dept. of Education, Student Achievement and School Accountability Program, *New York State Department of Education, May 24-28, 2010*, 23 (2010). However, outside of withholding funds from the entire state (which would harm the tens of thousands of homeless students appropriately identified each year), the federal Department has little power to enforce its findings on the State, and the State’s non-compliance has persisted unabated.

48. The State is complicit in permitting districts like Malverne Union Free School District to implement such a process and take such positions, which is a further violation of the McKinney-Vento Act.

49. Defendants have refused to recognize that Plaintiffs are homeless; that is, lacking “a fixed, regular, and adequate nighttime residence.”

50. Upon information and belief, Defendant School District violated the Family Education Rights and Privacy Act, 20 U.S.C. § 1232g, by communicating with E.V. about Plaintiffs living conditions, without Plaintiffs' authorization.

51. Defendants have refused to allow Plaintiffs to remain enrolled in their schools of origin.

52. Defendants have refused Plaintiffs' stay request pending the outcome of Plaintiffs' appeal.

53. Defendants have refused or failed to provide Plaintiffs their full rights and entitlements under the law.

Injury to Plaintiffs

54. As set forth above, as a result of Defendants' policies and practice, Plaintiffs have suffered and continue to suffer irreparable harm.

55. Plaintiffs N.J. and A.J. are denied protection under the McKinney-Vento Act entitling them to continued enrollment in the schools of their origin and are being forced to temporarily enroll in an adjacent school district mid-way through the school year.

56. Plaintiffs' injuries result from Defendants' failure to comply with the McKinney-Vento Act.

57. Plaintiffs have no adequate remedy at law.

CAUSES OF ACTION

COUNT 1

VIOLATIONS OF THE MCKINNEY-VENTO ACT

58. Plaintiffs hereby repeat and incorporate by reference each of the allegations in the foregoing paragraphs set forth above.

59. The processes established by NYSED for pursuing such an appeal and for seeking to keep children such as N.J. and A.J. in school pending the appeal are unnecessarily cumbersome and cannot reasonably be complied with by homeless families such as Plaintiffs.

60. In addition, on information and belief, NYSED has distributed to districts throughout the State, such as Malverne Union Free School District, incorrect information about the federal definition of homelessness under the McKinney-Vento Act and their duties to immediately enroll homeless students and maintain their enrollment throughout the duration of any dispute process. As a result, homeless liaisons that the school districts are required to employ to assist homeless families such as the Plaintiffs' family have been unable to provide those families the assistance and direction the law requires.

61. By allowing districts to contest the stay of the disenrollment order, the NYSED appeals process imposes special burdens on such families. Most families proceed through the appeals process *pro se*, but their petitions are contested by lawyers suggesting evidentiary burdens, akin to those in seeking temporary injunctions, which the NYSED Board of Commissioners accepts, promulgates, and uses to deny enrollment to homeless students pending the final resolution of their appeals. In fact, the issue of a stay should never be raised, as the students are entitled to enrollment throughout the dispute resolution process. Because they will be denied the opportunity to keep their children in the school of their choice pending an appeal, those families are essentially forced to acquiesce in the decision of the school districts to terminate enrollment. The alternative—to permit successive disruptions of a homeless child's education—is unacceptable to the overwhelming majority of homeless families.

62. This 30-day delay and appeal requirement is in direct contravention of the McKinney-Vento Act, which mandates that the homeless child must be *immediately* enrolled in

the school district of their choice, pending resolution of the dispute. *See* 42 U.S.C. § 11432(g)(3)(E)(i).

63. Moreover, NYSED’s appeal process is needlessly and excessively lengthy. Months typically pass before a decision on the merits is reached. Plaintiffs can thus expect a semester or more to pass between the time their stay request is denied and the time that they can expect a final decision from NYSED. These excessive delays, which are entirely the fault of NYSED, impose undue burdens on homeless families seeking to exercise their rights under the McKinney-Vento Act.

64. After denying Plaintiffs a proper opportunity to be heard and offer evidence to show that they are, in fact, homeless, NYSED essentially mooted their appeals of the District’s decision to terminate their enrollment. Plaintiffs should not be forced to re-enroll in a new school district only to have their schooling disrupted once more many months from now when NYSED finally reaches a decision on the merits. Without relief with respect to the stay decision—which is effectively dispositive here—Plaintiffs will effectively be denied an appeal.

65. Defendants have failed to address the impediments to enrollment caused by residency and record requirements in violation of 42 U.S.C. § 11432(g)(1)(F), have failed to develop, “review, [and] revise policies to remove the barriers to the enrollment and retention of homeless children and youth” in violation of 42 U.S.C. § 11432(g)(1)(I), and have failed to ensure homeless students’ right to be “immediately admitted to the school in which enrollment is sought, pending resolution of the dispute” in violation of 42 U.S.C. § 11432(g)(3)(E)(i).

66. Defendants have failed to “review and revise any policies that may act as barriers to the enrollment of homeless children and youth in schools,” as required under 42 U.S.C. § 11432(g)(6) and (9).

67. Defendants have violated the rights of the Plaintiffs under the McKinney-Vento Act, 42 U.S.C. §§ 11431-11435.

COUNT II

VIOLATIONS OF NEW YORK STATE EDUCATION LAW § 3209

68. Plaintiffs hereby repeat and incorporate by reference each of the allegations in the foregoing paragraphs set forth above.

69. Plaintiffs constitute homeless children as defined in New York Education Law § 3209(1)(a)(1) as they lack a “fixed, regular, and adequate nighttime residence.”

70. Plaintiffs have been denied the right to attend a public school in the “school district of origin” as that term is defined in New York Education Law § 3209(1)(c).

COUNT III

VIOLATIONS OF 42 U.S.C. § 1983

71. Plaintiffs hereby repeat and incorporate by reference each of the allegations in the foregoing paragraphs set forth above.

72. By implementing and authorizing the policies and practices pursuant to which Plaintiffs are denied access to public education in the District, Defendants have deprived, and will continue to deprive, Plaintiffs of rights, remedies, privileges, and immunities guaranteed to every citizen of the United States in violation of 42 U.S.C. § 1983 and of rights guaranteed by the Fourteenth Amendment of the United States Constitution, Article XI § 1 of the New York Constitution, the McKinney-Vento Act, 42 U.S.C. §§ 11431-11435, and New York Education Law § 3209 and the regulations promulgated thereunder.

73. All Defendants have acted under pretense and color of state law and in their individual and official capacities and within the scope of their employment. Defendants’ acts

described herein were beyond the scope of their jurisdiction, without authority of law, and in abuse of their powers, and said Defendants acted willfully, knowingly, and with the specific intent to deprive Plaintiffs of their constitutional rights secured by 42 U.S.C. § 1983 and by the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution. Defendants have conspired among themselves to do so (taking numerous overt steps in furtherance thereof), and failed to prevent one another from doing so.

APPLICATION FOR TEMPORARY RESTRAINING ORDER

74. Plaintiffs hereby repeat and incorporate by reference each of the allegations in the foregoing paragraphs set forth above.

75. N.J.(m), N.J., and A.J. seek a temporary restraining order to prohibit Defendants from dis-enrolling Plaintiffs in their schools of origin, permitting them to attend school in the District pending full resolution of this dispute in accordance with the pendency provision of the McKinney-Vento Act as set forth in 42 U.S.C. § 11432(g)(3)(E)(i), and to provide Plaintiffs with timely school bus or other safe and adequate transportation to their schools of origin for so long as they continue to be homeless as defined in the McKinney-Vento Act.

REQUEST FOR PRELIMINARY INJUNCTION

76. Plaintiffs hereby repeat and incorporate by reference each of the allegations in the foregoing paragraphs set forth above.

77. N.J.(m), N.J., and A.J. seek a preliminary injunction to prohibit Defendants from dis-enrolling Plaintiffs in their schools of origin, permitting them to attend school in the District pending full resolution of this dispute in accordance with the pendency provision of the McKinney-Vento Act as set forth in 42 U.S.C. § 11432(g)(3)(E)(i), and to provide Plaintiffs with

timely school bus or other safe and adequate transportation to their schools of origin for so long as they continue to be homeless as defined in the McKinney-Vento Act.

REQUEST FOR PERMANENT INJUNCTION

78. Plaintiffs hereby repeat and incorporate by reference each of the allegations in the foregoing paragraphs set forth above.

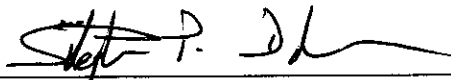
79. N.J.(m), N.J., and A.J. seek a permanent injunction mandating Defendants' compliance with the McKinney Vento Act and NY Education Law § 3209.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of all persons similarly situated, pray that this Court:

- A. Immediately grant a temporary restraining order and preliminary injunction compelling the Defendants to maintain Plaintiffs' enrollment in their schools of origin and provide Plaintiffs with transportation to and from their schools of origin;
- B. Grant a permanent injunction against Defendants;
- C. Award Plaintiffs their costs and reasonable attorneys' fees; and
- D. Award such other and further relief as the Court may deem appropriate.

Dated: December 5, 2011

By: 

Stephen P. Davidson
DLA Piper LLP (US)
1251 Avenue of the Americas
27th Floor
New York, NY 10020-1104
Telephone: (212) 335-4500
Facsimile: (212) 335-4501
stephen.davidson@dlapiper.com

Of Counsel:
Eric Tars
National Law Center on Homelessness &
Poverty
1411 K St., N.W.
Suite 1400
Washington, D.C. 20005
Telephone: (202) 638-2535
Facsimile: (202) 628-2737
etars@nlchp.org

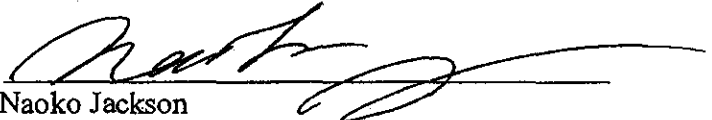
Attorneys for Plaintiffs
N.J.(m), N.J., and A.J.

WEST\225501421

VERIFICATION OF COMPLAINT
New York

I certify under penalty of law that I have read and know the contents of this Complaint, and that the statements therein are true and correct to the best of my knowledge.

Executed at Garden City, New York, December 5, 2011.

By: 
Naoko Jackson