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QTA – A brief analysis of a critical issue in special education

Homelessness and Students with Disabilities: Educational Rights and Challenges

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by Terry L. Jackson

Background and Purpose

The McKinney-Vento Homeless Assistance Act was signed into law in January 2002 as part of the No Child Left Behind Act of 2001 (NCLB), which amended the Elementary and Secondary Education Act (ESEA).¹ The McKinney-Vento Act ensures educational rights and protections for children and youth experiencing homelessness, including those with disabilities. Students who are both homeless and eligible for special education services present unique challenges for schools in terms of identification and continuity of service.

This QTA is intended to provide state- and local-level special education policy makers with information regarding the educational rights of children and youth who are homeless and have disabilities.

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Educational Rights of Children and Youth Who Are Homeless

Congress first passed the McKinney Act in 1987 to address the growing problem of homelessness. This comprehensive Act covered housing, health, mental health and substance abuse, as well as educational rights of children and youth who are homeless. The law has continued to evolve over the past 15 years and the 2002 reauthorization of this

¹ The McKinney-Vento Homeless Assistance Act is Title X, Part C of NCLB.

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law is known as the McKinney-Vento Act. The law requires that each state appoint a coordinator for the education of homeless children and youth [42 U.S.C. 11432(f)]. Furthermore, the law mandates that local education agencies (LEAs) provide the following:

- continuation of the student's education in the school of origin for the duration of homelessness, to the extent feasible, except when this is contrary to the wishes of the student's parent or guardian or transfer of the student into the school serving the attendance area³ in which the student is currently residing [42 U.S.C. 11432(g)(3)(A)];
- immediate school access and enrollment for students who are homeless, even if they do not have required documents such as school records, medical and immunization records or proof of residency [42 U.S.C. 11432(g)(3)(C)(i)];
- transportation for students who are homeless to and from the school of origin at the request of the parent or guardian, or in the case of unaccompanied youth, at the request of the LEA's homeless liaison [42 U.S.C. 11432(g)(1)(J)(iii)]; and
- special education services, preschool services, free or reduced school meals, Title I services, services for English Language Learners (ELLs), vocational/technical education, gifted and talented services, and before- and after-

school care as needed to students who are homeless [42 U.S.C. 11432(g)(4)].

Additionally, the McKinney-Vento Act requires that LEAs do the following:

- develop, review and revise their policies to remove barriers to the enrollment and retention of children and youth in homeless situations [42 U.S.C. 11432(g)(1)(I)]; and
- designate an appropriate staff person as the liaison for students who are homeless [42 U.S.C. 11432(g)(1)(J)(ii)], who is responsible for ensuring that students who are homeless are identified, given full and equal opportunity to succeed, and receive all educational services for which they are eligible [42 U.S.C. 11432 (g)(6)(A)].⁴

Definition of "Homelessness"

Homelessness is a lack of permanent housing resulting from extreme poverty. Although homelessness has traditionally been associated with adult males living in "skid row" environments, 39 percent of the overall homeless population now consists of children under the age of 18 years (The Urban Institute, 2000).

The term "homeless" is broadly defined by the McKinney-Vento Act to mean individuals who lack a fixed, regular and adequate nighttime residence. Included are children and youth living in a wide variety of inadequate living situations such as motels, campgrounds, cars, parks, public spaces, abandoned buildings, emergency or transi-

³ The precise definition of an attendance area varies from place to place. In some locations, the attendance area includes the entire LEA, which traditionally encompasses a specific geographic area as designated by the state education agency (SEA). In other locations, however, attendance area is specific to a school, based on place of residence.

⁴ For more information on the McKinney-Vento Act, contact the National Center for Homeless Education (NCHE) at 800-308-2145, homeless@serve.org or www.serve.org/nche/.

tional shelters, and shared housing due to loss of housing, economic hardship or other similar reasons [42 U.S.C. 11434(a)(2)].

The McKinney-Vento Act also ensures educational rights and protections for “unaccompanied youth,” who are defined as youth not in the physical custody of a parent or guardian [42 U.S.C. 11435(a)(6)]. Unaccompanied youth may have run away from home or been told to leave home.

Because children and youth in homeless situations do not always fit cultural stereotypes of homelessness, educators may be unaware of the range of students who are considered homeless under the McKinney-Vento Act. It is essential that educators understand how homelessness is defined in order to identify and serve these students in compliance with federal law.

Prevalence of Disabilities

Over 1.35 million children and youth experience homelessness each year (Burt & Laudan, 2000) and, although accurate numbers are difficult to come by, evidence strongly suggests that homeless children and youth have a disproportionately high incidence of disabilities. For instance, prevalence estimates indicate that children who are homeless are twice as likely to have learning disabilities and three times as likely to have an emotional disturbance as children who are not homeless (Better Homes Fund, 1999).

Infants who are born to homeless mothers have low birth weight and require specialized care following birth at four times the rate of other children, often resulting in emotional and cognitive difficulties at an early age (Weinreb, Goldberg, Bassuk, & Perloff, 1998). Conditions associated with homelessness also exacerbate students’

physical, cognitive and emotional disabilities. For instance, children and youth experiencing homelessness are more likely to suffer from poor nutrition, inadequate health-care, exposure to health hazards (e.g., lead poisoning), health problems associated with overcrowding, unhygienic living situations, chronic illnesses (e.g., asthma and ear infections⁵), exposure to domestic and other types of violence, and severe emotional stress related to extreme poverty and unstable living conditions (Bassuk et al., 1996; Better Homes Fund, 1999; Parker et al., 1991; U.S. Department of Health and Human Services, 1998; Weinreb et al., 1998).

In spite of evidence that children who are homeless are more likely to have disabilities than other students, they often do not receive the special education services for which they are eligible. A recent study of children in Los Angeles homeless shelters found that 45 percent of the children were in need of special education evaluation, and only 23 percent of those with any disability had ever received special education testing or services (Zima, Bussing, Forness, & Benjamin, 1997). Furthermore, in their reports to the U.S. Department of Education, 50 percent of states reported that children and youth who are homeless experienced significant difficulties accessing special education programs (U.S. Department of Education, 2000).

Meeting the Needs of Children with Disabilities Who Are Homeless

Both the McKinney-Vento Act and the IDEA provide protections for children with disabilities who are homeless. Numerous barriers—some related to the educational

⁵ This is probably a factor contributing to the frequent diagnoses of speech or language impairment among children and youth who are homeless.

system itself and others related to unstable living conditions associated with homelessness—make it difficult for children and youth who are homeless to receive the special education services for which they are eligible in a timely and consistent manner. The following section outlines the major challenges to meeting the needs of students with disabilities experiencing homelessness.

Determination of Eligibility

Although evidence suggests that disabilities are more prevalent among children and youth who are homeless than the rest of the population (Better Homes Fund, 1999), determining eligibility for special education services poses significant challenges. According to a survey of homeless liaisons, early childhood service providers and homeless shelter workers, identification was the most serious obstacle to the provision of appropriate services (Popp, Reed-Victor, Power-deFur & Myers, 2003).

Frequent moves by families who are homeless from one temporary living situation to another often lengthen and/or disrupt the evaluation process. LEAs and schools can address this problem by completing the educational evaluation immediately if the student being evaluated is or becomes homeless. Schools can also adjust the evaluation timeline in recognition of short-term living situations, such as a student living in a 30-day shelter (Markowitz, 1999).

Distinguishing the effects of homelessness from those of a disabling condition may also pose challenges. Behaviors indicative of disabilities such as specific learning disabilities, emotional disturbance, mental retardation and speech or language impairments are often similar to those demonstrated by non-disabled children who are homeless

(Walther-Thomas, Korineck, McLaughlin, & Williams, 1996). Furthermore, federal definitions for many disability categories contain criteria that make it difficult for students in homeless situations to qualify for services under those categories—for example, stipulations that the child's condition is not due to environmental factors, economic factors or adaptive behavior deficits; and that the condition be exhibited over a long period of time (Walther-Thomas et al., 1996). Under any circumstances, it is difficult to parse out effects of external factors from actual disabilities, and this challenge is only exacerbated for students who are homeless and therefore experiencing transient and unstable living conditions.

Relocation Across Attendance Areas

When children or youth in homeless situations relocate across attendance areas, special education personnel employed by the child's school of origin may assume they are no longer responsible for providing special education services to these students. The McKinney-Vento Act stipulates, however, that the parents of a student who is homeless can choose to maintain the student in the school of origin. In that case, the school of origin remains responsible for providing special education services to the student, even when the student no longer resides within a particular attendance area. This ruling was based in part on the assumption that school mobility has a negative impact on student achievement. In the case of unaccompanied youth, an LEA-appointed liaison is responsible for assisting the student with school placement decisions.

In terms of transportation, the McKinney-Vento Act stipulates that the LEA of origin and the LEA in which a student who is homeless currently resides must come to an

agreement as to a method for apportioning the responsibility and costs for transporting the student to and from the school of origin. If the two LEAs are unable to come to an agreement, they must divide the costs equally [42 U.S.C. 11432(g)(1)(J)(iii)].

Transfer of School Records and Continuity of Special Education Services

Many schools require specific documentation prior to student enrollment (e.g., immunization records, academic records and/or special education records). As mentioned earlier, however, the McKinney-Vento Act stipulates that schools waive this requirement for children and youth who are homeless.

In order to guarantee continuity of special education services, it is imperative that a student's previous school is contacted immediately in order to acquire relevant school records, especially individualized education programs (IEPs) and individualized family service plans (IFSPs) (Rafferty, 2000).

Another way schools can ensure that children and youth who are homeless are able to enroll quickly in new schools is by providing their families with copies of evaluation reports immediately, rather than upon point of school transfer. Family members should be encouraged to keep school information in a safe place and provide it to their child's new school.

It is further recommended that LEAs implement existing IEPs at the time of student enrollment in order to ensure that there is no interruption of special education services. Once services are resumed, the new IEP team can determine if changes or re-evaluation is needed.

Parental Participation

Parents of children and youth who are homeless have the legal right to participate in their child's IEP meetings, even those parents who are homeless and coping with the effects of drugs or alcohol (Rafferty, 2000). Focused outreach to families living in homeless shelters can play a critical role in ensuring that parents understand their rights and responsibilities and also feel welcome within their children's schools.

Access to Procedural Safeguards

It is important that families who are homeless have the same access to procedural safeguards under the IDEA as do other families. For example, families experiencing homelessness may not have a residence address, yet the IDEA requires that parents provide their child's residence address in order to file a complaint [20 U.S.C. 1415(b)(7)(B)(i)]. When too narrowly construed, this requirement can prevent families who are homeless from accessing the IDEA's procedural safeguards. To avoid this, families experiencing homelessness should be allowed to provide alternate contact information.

Infants and Toddlers Who Are Homeless

Forty-two percent of children and youth who are homeless are under the age of five (Burt et al., 1999). Infants and toddlers who are homeless have the same right to evaluations and early intervention services as other children. One way of ensuring equal access is by offering screening for disabilities in places accessible to families who are homeless.

Policy Recommendations

The following are policy recommendations designed to enable both state- and local-level special education policy makers to better meet the needs of children and youth with disabilities who are also homeless. A number of these recommendations have been made repeatedly over the years, yet continue to be relevant (Markowitz, 1999; Rafferty, 2000).

- Establish and maintain ongoing communication with state coordinators for the education of homeless children and youth, as well as with local homeless liaisons, to ensure that students in homeless situations receive special education services for which they are eligible.⁶
- Develop procedures for alerting school personnel when a student in need of special education evaluation is living in a temporary homeless shelter so that the evaluation can be expedited.
- Ensure that Child Find requirements under the IDEA are applied to children who are homeless, and in particular, to infants and toddlers who are not yet enrolled in school.
- Develop state policy regarding timely transfer of school records, including special education records, for students who are homeless.

- Ensure that students who are homeless participate in statewide testing and accountability measures, and that transportation for these students is in place on testing days.
- Provide information in the form of workshops and other outreach activities to parents of children and youth who are both homeless and eligible for special education services.
- Improve data collection on students with disabilities who are homeless (e.g., disaggregate state-wide assessment data by disability and homeless status, and require local homeless liaisons to collect data on the number of students who have disabilities, the referral and placement process and services provided).
- Use federal personnel funds, such as those available through State Improvement Grants (SIGs), to increase school employees' awareness of students with disabilities who are homeless.

Concluding Remarks

Children and youth with disabilities who are also homeless face a number of serious barriers to receiving the special education services to which they are entitled. However, through greater awareness regarding the rights of students who are homeless under the McKinney-Vento Act, these barriers can be successfully addressed.

⁶ State coordinator information can be found on the NCHE website at www.serve.org/nche.

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