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Remy Krumpak  
Claremont Graduate University, [rkrumpak@swlaw.edu](mailto:rkrumpak@swlaw.edu)

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# Off Sunset Boulevard: Students, Homelessness and Disability in Los Angeles- IDEA, McKinney Vento and the Void in Between

Remy Krumpak  
Southwestern Law School, Claremont Graduate University  
JD/MBA Program

## Abstract

*Homeless youth with a disability must overcome many barriers to receive the meaningful, individualized education they are legally entitled to. Over the last two decades, the Individuals with Disabilities Education Act and the McKinney-Vento Act have begun to acknowledge the challenges that exist for this population. These laws require school districts to identify homeless youth with a disability, allow them immediate enrollment and access to special education services, and free transportation to school. This article examines the Los Angeles Unified School District as a case study for policy implementation. In analyzing the success of the policies as implemented, this article makes affordable, specific and systemic recommendations for meeting the obligations of the IDEA and the McKinney-Vento Act. These recommendations rely on the opinions of professionals who work with this population everyday, to improve access to special education so that homeless students get the meaningful, individualized education the law requires.*

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A.J. had just made the long bus trip north to East Hollywood from Compton, the last place he called home.<sup>1</sup> He was seeking food, but more than that he was seeking others like himself.

However, when he finally arrived at My Friend's Place, a nonprofit agency wedged between a Walgreens and the 101 Freeway, all he felt was anger. He got in fight after fight with other homeless youth, yelled at staff and was physically expelled on several occasions. He was fifteen years old, had dropped out of high school and was living on the streets.

Instability marred his life long before he finally decided to leave his family. Cycling in and out of shelters, his parents regularly abused alcohol and eventually separated. Yet more than instability, there was absence: no one to help him grow up and no one to talk to about his education. But this latter concern never mattered to him, he hated school, it was too challenging.

At twenty-three, he tired of the daily struggle to eat and live on the pavements of Hollywood and finally sought the assistance of social worker, Erin Casey, to earn a GED (General Educational Development Test). Armed with a positive attitude and a renewed desire to work his way up in the world, he studied for months to prepare for the test. After a year, he still could not finish the required number of problems in the allotted time. His social worker called in a few favors at Los Angeles Children's Hospital and made an appointment for A.J. to be evaluated for learning and other disabilities. After years of failing grades in the Los Angeles

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<sup>1</sup> Interview with Erin Casey, Clinical Director, My Friend's Place, in L.A., Cal. (Feb. 24, 2012).

Unified School District system, he had never been screened for a disability or had an Individualized Education Plan (IEP).<sup>2</sup>

Within an hour of arriving, doctors had diagnosed A.J. with multiple learning disorders and an auditory processing disorder. According to Casey, when the disabilities were explained to A.J., he said it was like a light bulb turning on: for the first time in his life his negative experience with school, his difficulty communicating and the constant altercations made sense. Sadly, his chances of receiving comprehensive special education services administered by the school district ended at age twenty-one.<sup>3</sup>

## Thesis

Like A.J., homeless youth with a disability must overcome many barriers to receive the meaningful, individualized education they are legally entitled to. Over the last two decades, the Individuals with Disabilities Education Act (IDEA) and the McKinney-Vento Act have begun to acknowledge the challenges that exist for this population. These laws require school districts to identify homeless youth with a disability, allow them immediate enrollment and access to special education services, and free transportation to school. This article will examine the legal obligations and goals contained in this legislation and use the Los Angeles Unified School District as a case study for their implementation. In analyzing the success of the policies as implemented, this article will make specific and systemic recommendations to meet the obligations of the IDEA and the McKinney-Vento Act. These recommendations rely on the opinions of professionals who work with this population everyday, to improve access to special education so that homeless students such as A.J. get the meaningful, individualized education the law requires.

## Defining Homelessness

Because this article is focused on the laws as implemented and not on defining homelessness, the article will use and accept the McKinney-Vento Act definition of homelessness. The definition can be found at 42 U.S.C. 11434(a) and is incorporated into the Individuals with Disabilities Education Act.<sup>4</sup>

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<sup>2</sup> An Individualized Education Plan is a contract-like legal document that lists the services the school district must provide to a particular disabled youth.

<sup>3</sup> 20 U.S.C. § 1412 (a)(1)(A) (2004).

<sup>4</sup> (A) individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1)); and (B) includes--

(i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

(ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 103(a)(2)(C));

(iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and (iv) migratory children (as such term is defined in section 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii). 42 U.S.C. § 11434a (a)(2)(A) (2002)

### **The Professionals and their Credentials**

The absence of academic writing focused on the application of the IDEA and the McKinney-Vento Act to homeless youth with a disability necessitated the use of human rather than literary sources in the creation of this article. The experts who were interviewed bring lengthy experience in this field and present a spectrum of views on homeless youth with disabilities. Melissa Shoonmaker is the McKinney-Vento Homeless Liaison and Homelessness Program Coordinator for the Los Angeles Unified School District (LAUSD), a position she has held for six years. Michael Kessler has over 10 years of experience as the Special Education Program Manager and as a District Special Education Site Coordinator for LAUSD. Kelly Barnes is an Assistant General Counsel for LAUSD where for more than ten years she has overseen special education issues. Prior to that position she worked at Public Counsel Law Center, the largest public interest law firm in the United States, in their Homelessness Prevention Project. For the last eight years, Erin Casey has been the Clinical Director of My Friend's Place, the largest homeless youth drop-in center in Los Angeles. Nance Lemberger is a Special Day Class teacher at University High School in LAUSD, a position she has held at several LAUSD schools since 2003. Cheryl Rosenbleet works at the Department of Public Social Services (DPSS) where she rose from the rank of eligibility worker to hearing advocate over her thirty-three year career with Los Angeles County. Katie Brown is an attorney in the Children's Rights Project at Public Counsel Law Center. Jim Varga is a Santa Monica pediatrician with a multiple doctorate from New York Medical College. In private practice since 1977, he has been an active member in Los Angeles homelessness organizations for more than ten years.

### **The Scope of Homelessness In Los Angeles: A Background**

Many believe that the homeless, like movie stars, were initially attracted to Los Angeles in significant numbers because of the weather and the lifestyle. While these factors may have and may continue to play a role, large-scale homelessness in Los Angeles is the product of other factors. The earliest homeless rode the rails, stowed away in boxcars.<sup>5</sup> Los Angeles was the end of the line, the final major stop for most trains coming west from New York or New England.<sup>6</sup> Besides being a rail hub, Los Angeles has always had some of the country's largest Veteran's treatment facilities.<sup>7</sup> Historically and currently, many veterans become homeless following their hospital stay.<sup>8</sup> Finally, the zoning laws in many parts of Los Angeles have been conducive to street sleeping, single room occupancy hotels and to homeless service providers.<sup>9</sup>

There are fifty-one thousand homeless on any given night in Los Angeles County.<sup>10</sup> It is estimated that well over one hundred and fifty thousand people in Los Angeles County will be homeless in any given year.<sup>11</sup> The traditional homeless population (those living in shelters, cars

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<sup>5</sup> *History of Downtown Los Angeles' "Skid Row"*, The Los Angeles Chamber of Commerce, (Feb. 27, 2012 8:02 PM), <http://www.lachamber.com>.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Department of Housing and Development, *Veteran Homelessness 27* (2009).

<sup>9</sup> *History of Downtown Los Angeles' "Skid Row"*, The Los Angeles Chamber of Commerce, (Feb. 27, 2012 8:02 PM), <http://www.lachamber.com>.

<sup>10</sup> Los Angeles Homeless Services Authority, *Homeless Count Highlights 1* (2011).

<sup>11</sup> Public Counsel Law Center, *General Relief Advocacy Training Guide 2* (2012).

or on the street) is highly consolidated to a few specific areas, the primary two being Skid Row (technically Central City East) and Hollywood with smaller enclaves in Venice Beach and Lancaster.<sup>12</sup> The expanded nontraditional homeless population (more than one family to a single apartment or living with relatives) is centered in South and East Los Angeles.<sup>13</sup>

Over the last twenty years, the number of homeless families in Los Angeles County has risen dramatically (the single greatest percentage increase of any statistical group).<sup>14</sup> This problem has also been felt nationally where children now make up thirty-nine percent of all homeless.<sup>15</sup> The reasons suggested for the rise in homeless families vary widely but generally include decreasing or stagnant welfare programs (the actual dollar amount of welfare in Los Angeles County is the same currently as it was in 1980), increased foreclosures, the loss of middle class jobs and the elimination of funding for affordable housing pilots and construction.<sup>16</sup>

Over sixteen thousand homeless students are enrolled in LAUSD and the district believes thousands more homeless students attend LAUSD schools but are too ashamed to notify the district of their economic status.<sup>17</sup> Of the more than sixteen thousand homeless youth enrolled, seventy four percent are Latino (more than a third of the homeless students enrolled have Limited English Proficiency) and nineteen percent are black.<sup>18</sup> More than two thousand homeless students in LAUSD have an IEP entitling them to special education services: twelve percent of the total homeless population enrolled.<sup>19</sup>

### **Community Constructed Legislation: A Brief History of the Acts**

The Individuals with Disabilities Education Act and the McKinney-Vento Act both state that their primary goal is ensuring access to “free, appropriate, public education”, regardless of disability or socioeconomic status.<sup>20</sup> Unlike a majority of legislation funded and promoted by business interests, these two pieces of federal legislation were the product of grassroots organization and cooperation of individuals and parents to address problems in their local communities.

Around 1970, parents became so angry that their disabled children were being denied enrollment at public schools that they took legal action.<sup>21</sup> Throughout the country, twenty-seven cases in twenty-one states were initiated with the hope of gaining a legal right to special education.<sup>22</sup> However, a negative ruling on another education rights issue discouraged the plaintiff’s of the twenty-seven cases from appealing to the Supreme Court for a definitive answer.<sup>23</sup> In the absence of a judicial remedy, parents formed work groups to turn their ideas into

<sup>12</sup> Los Angeles Homeless Services Authority, Homeless Count Detailed Geography Report 22 (2011).

<sup>13</sup> *Id.*

<sup>14</sup> Public Counsel Law Center, General Relief Advocacy Training Guide 4 (2012).

<sup>15</sup> *Who is homeless?*, The National Coalition for the Homeless, (Mar. 24, 2012 10:34 AM), <http://www.nationalhomeless.org/factsheets/who.html>.

<sup>16</sup> *Sharp Rise in the Number of Homeless Children*, Michael Martin, National Public Radio (April 24, 2012 8:36 PM), <http://www.npr.org/2011/12/15/143781048/sharp-rise-in-homeless-children-study-says>.

<sup>17</sup> Los Angeles Unified School District, Overview of LAUSD Homeless Students 1 (2011).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 2.

<sup>20</sup> *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist., Westchester County v. Rowley*, 102 S. Ct. 3034, 3035 (1982).

<sup>21</sup> Tiina Itkonen, *PL 94-142: Policy, Evolution, and Landscape Shift*, 16 ISSUES IN TEACHER EDUCATION 7, 7 (2007).

<sup>22</sup> *Id.* at 8.

<sup>23</sup> *Id.*

policy.<sup>24</sup> Senators Harrison William and Jennings Randolph noted these efforts and enlisted several of the new organizations (particularly the Council for Exceptional Children, United Cerebral Palsy and The Arc all of which are still active participants in reauthorization) to write the actual legislative language of what would become the Education of All Handicapped Children Act, the first iteration of the Individuals with Disabilities Education Act.<sup>25</sup> The act would go on to be reauthorized several times most recently in 2004.<sup>26</sup>

Through conditions on funding, the IDEA seeks to ensure a meaningful (providing some benefit), free, appropriate public education for youth with disabilities from birth to age twenty-one.<sup>27</sup> The IDEA mandates that regional centers<sup>28</sup> and school districts find youth with disabilities to provide the meaningful, free, appropriate public education.<sup>29</sup> Once found, the youth must be evaluated for services in a timely manner by a team of stakeholders: parents, teachers, school administrators and medical professionals.<sup>30</sup> Based on the IEP developed by this team, the child is placed into the least restrictive environment possible (meaning the most mainstreamed setting feasible, several factors are balanced).<sup>31</sup> If the parent or other educational rights holder objects to the school district's assessment or placement plan, they can ask for an independent assessment or appeal to an administrative law judge.<sup>32</sup> Should they receive an unfavorable ruling at the initial administrative hearing, they can appeal the result to a superior or district court.<sup>33</sup>

The McKinney-Vento Act also resulted from the effort of individuals and small community groups around the country.<sup>34</sup> In the early 1980's, people were beginning to notice that the face of homelessness had changed. In the Great Depression and the decades that followed, the homeless population was male and highly mobile.<sup>35</sup> The new homeless were families with children, anchored in a single geographic area.<sup>36</sup>

There was no legislative precedent for the McKinney-Vento Act: no federal bill had ever attempted to implement systemic solutions to end homelessness, let alone address issues relating to homeless children's access to education and it did not appear such legislation was forthcoming.<sup>37</sup> However, several groups including the National Center on Homelessness and Poverty, The Center For Creative Nonviolence, former Peace Core participants and local religious groups from Washington D.C. forced the federal government to take action.<sup>38</sup> Their members collectively erected more than 600 beds in front of the capitol building in a sleep-out against homelessness, undertook a forty-eight day hunger strike, ran blanket collections and built a large sculpture of Mary and Jesus on top of a steam grate with the caption "and there was still

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<sup>24</sup> Id. at 9.

<sup>25</sup> Id.

<sup>26</sup> Id. at 12.

<sup>27</sup> 20 U.S.C. § 1412 (a)(1)(A) (2004).

<sup>28</sup> Regional centers are government-related organizations that provide services to disabled children before age 3 and when the disability is too severe for participation in school.

<sup>29</sup> 34 C.F.R. § 300.111 (2006).

<sup>30</sup> 20 U.S.C. § 1414(d)(1)(B) (2005).

<sup>31</sup> 20 U.S.C. § 1412(a)(5)(A) (2005).

<sup>32</sup> Burlington School Committee v. Department of Education, 105 S.Ct. 1996, 1997 (1985).

<sup>33</sup> Burlington, 105 S.Ct. 1996, 1997 (1985).

<sup>34</sup> National Coalition for the Homeless, McKinney-Vento Act Fact Sheet, 1 (2006).

<sup>35</sup> Editorial, *Ever More Homeless Families*, N.Y. Times, Oct. 7, 2011,

<http://www.nytimes.com/2011/10/31/opinion/ever-more-homeless-families.html>.

<sup>36</sup> Id.

<sup>37</sup> National Coalition for the Homeless, McKinney-Vento Act Fact Sheet, 1 (2006).

<sup>38</sup> *Washington Talk; The Homeless Become An Issue*, N.Y. Times, Feb. 7, 1987, at A8.

no room at the inn” that they toured to state capitols.<sup>39</sup> The publicity from this campaign pushed congress into action and in 1987 the first version of the McKinney-Vento Act was passed.<sup>40</sup> As with the IDEA, community groups participated in the actual crafting of legislation.<sup>41</sup> Like the IDEA, the McKinney-Vento Act has been reauthorized several times, most recently in 2002 when it was incorporated into the No Child Left Behind Act.<sup>42</sup>

The McKinney-Vento Act originally had nine titles covering a wide range of homeless issues including the granting of military buildings to community groups for use as shelters, food stamp enhancement programs, creation of an Interagency Counsel on Homelessness and homeless healthcare in addition to the homeless education mandates.<sup>43</sup> The court in Lampkin v. Dist. of Columbia makes this point, stating that “Furnishing educational services to homeless children is merely a portion of the services that Congress intended to offer.”<sup>44</sup> As the funding dramatically decreased for many of the titles in the original act, the homeless education provision incorporated into the No Child Left Behind Act has become the central feature of the McKinney-Vento Act.<sup>45</sup> The homeless education provisions create homeless liaisons at every school district, who remove barriers to enrollment and identify homeless families in need of assistance.<sup>46</sup> In addition, youth are given the right to stay at their school of origin if their family moves (including to a residence outside of the district) and receive free transportation from their new residence to their school of origin.<sup>47</sup> Perhaps most importantly, the act encourages partnership between community providers and the district to deal with the issue of homeless education.<sup>48</sup>

Understanding that community groups were directly involved and continue to be involved in the IDEA and the McKinney-Vento Act legislative processes and in the implementation of the laws is essential to understanding that collaborative solutions to noncompliance are possible. The history and formation of the legislation shows that parents, social service providers, government agencies and legislators are capable of working together to address issues relating to homeless youth with a disability.

### **Issue 1: Child Find For Disabled Homeless Youth**

The IDEA’s child find obligation, requires local school districts to “identify, locate and evaluate” children with disabilities as part of providing access to a free, appropriate public education.<sup>49</sup> Federal regulation specifically state that this obligation extends to homeless youth and other youth who are “highly mobile” through age twenty-one.<sup>50</sup> Child find is an affirmative obligation: the school district must actively seek children with disabilities (including at private

<sup>39</sup> *Speaker Pledges Aid To The Homeless; Wright Tours D.C. Shelter, Negotiates End To Snyder Vigil*, Wash. Post., Jan. 11, 1987, at B3.

<sup>40</sup> National Coalition for the Homeless, McKinney-Vento Act Fact Sheet, 1 (2006).

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* at 4. The No Child Left Behind Act was designed to improve education at failing public primary and secondary schools through rigorous assessment, incentive based funding and greater emphasis on basic reading and math skills.

<sup>43</sup> *Id.* at 1.

<sup>44</sup> *Id.* at 2., Lampkin v. Dist. of Columbia, 879 F. Supp. 116, 123 (D.D.C. 1995).

<sup>45</sup> National Coalition for the Homeless, McKinney-Vento Act Fact Sheet, 4 (2006).

<sup>46</sup> 42 U.S.C. § 11431 (B)(722)(6) (2002).

<sup>47</sup> 42 U.S.C. § 11431 (B)(722)(C)(ii)(I, II) (2002).

<sup>48</sup> 42 U.S.C. § 11431 (B)(722)(F)(5)(B) (2002).

<sup>49</sup> 34 C.F.R. § 300.111 (2006).

<sup>50</sup> 34 C.F.R. § 300.111(a)(1)(i) (2006).

schools), not wait for a parent or physician to make a referral, regardless of cost.<sup>51</sup> However, the statutes and regulations do not define exactly what public school efforts are sufficient to meet the burden of providing adequate child find. In private schools some of the child find activities enumerated in the federal regulation include but are not limited to: “widely distributing informational brochures, providing regular public service announcements, staffing exhibits at health fairs and other community activities.”<sup>52</sup> The private school regulation states that these activities are “similar” to the district’s public school child find obligations.<sup>53</sup> Posting of public notice about educational rights available to homeless students including special education services is also required under the McKinney-Vento Act: public notice shall be present where homeless youth receive services.<sup>54</sup>

Case law provides expanded insight into the activities useful in satisfying child find. In Alex K. v. Wissahickon, the school district met its burden under child find by distributing pamphlets, publishing notices in newspapers and furnishing information on the internet.<sup>55</sup> In Celina Indep. Sch. Dist., the court suggested posting of fliers around the city and in community agencies.<sup>56</sup> In Jasper City Bd. of Educ., where the district did not meet its burden, the court recommended television and radio ads as well as mailing letters to local pediatricians asking them to refer students for special education evaluation after obtaining approval from the youth or their parent.<sup>57</sup> While these courts make many suggestions, they all emphasize that child find activities should be tailored to locate students with a disability based on the characteristics and population of each local district. Case law surrounding McKinney-Vento also states that school districts must post fliers, posters and other materials in local agencies to inform homeless children and their families of their educational rights including the right to special education.<sup>58</sup>

The courts have held school districts to an exacting standard with regard to the effectiveness of their child find programs. In Hillsboro School District, the court held that it was not enough that a school district’s efforts were reasonably calculated to find children with disabilities.<sup>59</sup> The court pronounced that if there were but one disabled child locked away in a closet, one child laboring in the fields, or one disabled homeless child left on the street, that alone would demonstrate the district failed to meet their child find obligation.<sup>60</sup> The court in Hillsboro also stated that the child find obligation should be equivalent to the district pulling a cart down the main street of a city shouting announcements about free screening for their special education program.<sup>61</sup> The stringency of the standard was reaffirmed in another recent case where the court held that failure to locate three percent of special education students over a period of years constituted a breach of child find.<sup>62</sup>

<sup>51</sup> 34 C.F.R. § 300.133 (2006).

<sup>52</sup> Education of Children with Disability, 71 Fed. Reg. 46540, 46593 (2006) (responding to comments and changes).

<sup>53</sup> 34 C.F.R. § 300.131(c) (2006).

<sup>54</sup> 42 U.S.C. § 11431 (B)(722)(g)(6)(A)(vii) (2002).

<sup>55</sup> Alex K. v. Wissahickon Sch. Dist., 40 IDELR 210 (E.D. Pa. 2004).

<sup>56</sup> Celina (TX) Indep. Sch. Dist., 34 IDELR 31 (OCR 2000).

<sup>57</sup> Jasper City Bd. of Educ., 38 IDELR 117 (SEA AL 2002).

<sup>58</sup> Kaleuati v. Tonda, Civil Action No. 07-504 (U.S. District Court, District of Hawaii, filed Oct. 6, 2007), Bullock, et al. v. Board of Education of Montgomery County, et al., DKC-2002-798 (U. S. District Court, District of Maryland, filed Mar. 14, 2002).

<sup>59</sup> Hillsboro School District, 29 IDELR 429 (SEA OR 1998).

<sup>60</sup> Id.

<sup>61</sup> Id.

<sup>62</sup> Jamie S. v. Milwaukee Public Schools, Case No. 01-C-928 (U. S. District Court, Eastern District of Wisconsin, filed Sept. 11, 2007).



The Los Angeles Unified School District is not pulling a cart through the streets announcing special education services for homeless youth. According to Michael Kessler and Melissa Shoonmaker, the only child find activities employed at LAUSD are notices placed in elementary school offices, pamphlets left at school sites and a once yearly outreach to certain campuses.<sup>63</sup> The lack of affirmative action to spread information and find homeless youth with disabilities in the community is confirmed by My Friend's Place Clinical Director Erin Casey and DPSS employee Cheryl Rosenbleet who for all their years in social service have never seen a flier, poster, pamphlet or had a district employee contact them regarding provision of special education for homeless youth despite being two of the primary providers for this population.<sup>64</sup> All the experts agreed that homeless children are often absent from school and that homeless families could not be expected to go to the school site in search of services, therefore the notices and pamphlets would not even meet the reasonably-calculated-to-locate standard which the court found insufficient in Hillsboro. The experts also agreed that the other passive means the school district claims to rely on, physicians and parents, are not effective means of targeting homeless youth because the youth do not have consistent access to a pediatrician for proper diagnoses and their parents are often not involved in their lives or are victims of substance abuse.<sup>65</sup>

Though the statutes do not allow cost to be a factor in executing child find, even districts such as LAUSD under the pressure of a financial crisis can intelligently take advantage of court suggested solutions to meet their legal obligations to homeless youth with a disability.<sup>66</sup> First, districts can use existing statistics to target their efforts more efficiently, saving time in commissioning new studies and additional expense. For example, LAUSD already has the distribution of homeless students organized by district and by school, through access to reliable third party reports such as "Home For Good" paid for by the City of Los Angeles, the Los Angeles Chamber of Commerce and local business leaders that look at geographic dispersion of homeless in Los Angeles and the 2011 homeless count.<sup>67</sup> By focusing more intensely on the few areas where homeless children are known to reside, LAUSD has a better chance of finding homeless youth with a disability than using the current under-funded blanket approach.

For young children still likely to be with a caregiver, placing pamphlets and posters at CalWorks (the California cash aid program for low income families) and WIC offices (a government program providing assistance for new mothers) in the areas where homelessness is most prevalent would effectively notify families of their right to special education screenings.<sup>68</sup> Distributing fliers to agencies that perform special education advocacy and to family shelters would allow the workers at these organizations to become aware of the screening services and recommend them to their clients (Melissa Schoonmaker already has access to a large database of community providers). Additionally, as pediatrician Jim Varga and the Jasper court recommend,

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<sup>63</sup> Interview with Melissa Shoonmaker, Homeless Liaison, Los Angeles Unified School District, in L.A., Cal. (Feb. 21, 2012)., Interview with Michael Kessler, Special Education Program Director, Los Angeles Unified School District, in L.A., Cal. (Feb. 27, 2012).

<sup>64</sup> Interview with Erin Casey, Clinical Director, My Friend's Place, in L.A., Cal. (Feb. 24, 2012)., Interview with Cheryl Rosenbleet, Hearing Advocate, Los Angeles Department of Public Social Services, in L.A., Cal. (Mar. 4, 2012).

<sup>65</sup> National Coalition for the Homeless, Substance Abuse and Homelessness 1, (2009).

<sup>66</sup> 34 C.F.R. § 300.133 (2006).

<sup>67</sup> Los Angeles Homeless Services Authority, Homeless Count Detailed Geography Report 22 (2011)., Los Angeles Unified School District, Overview of LAUSD Homeless Students 1 (2011)., *Home For Good*, United Way of Greater Los Angeles, (Mar. 26, 2012 5:46 PM), <http://www.unitedwayla.org/home-for-good/>.

<sup>68</sup> Suggestion from: Interview with Cheryl Rosenbleet, Hearing Advocate, Los Angeles Department of Public Social Services, in L.A., Cal. (Mar. 4, 2012).

the school district should connect with local walk-in community health clinics such as Venice Family Clinic, JWCH Clinic and the Children's Hospital Mobile Care units, which are the primary points of contact between homeless children and healthcare professionals, to help the providers expedite special education evaluation referrals since many of the children only see them for a single visit.<sup>69</sup> Further, the school district should take the court's recommendation one step further and involve nurse practitioners at points of contact because often a child may never get past the initial consultation with a nurse.<sup>70</sup>

Finally, the district should work with the Department of Public Social Services. One of the requirements to maintain Cal Works benefits is the presentation of a report card showing that the youth attended classes.<sup>71</sup> Currently, eligibility workers do not look at the grades on these report cards, but they could.<sup>72</sup> It would be easy and inexpensive for them to distribute school district fliers, pamphlets and contact information for special education evaluations (DPSS has no referrals of any kind for education at this time, but they have referrals that they provide for other services) to those who they note are continually failing classes or voicing concern about their school experience, if the school district provided the materials.

As mentioned in discussion of the child find law, the district has an obligation to locate homeless teenagers and older youth who have dropped out of school and are under age twenty-one.<sup>73</sup> LAUSD's most recent statistical gathering shows half of the homeless youth enrolled in ninth grade dropped out of high school by twelfth grade.<sup>74</sup> The experts acknowledged that at this age the district would have to do more than merely place fliers or distribute pamphlets to get these out-of-school youth to be evaluated and take advantage of special education programs.<sup>75</sup>

The first suggestion was to appeal to the out-of-school youth's desire for permanent independence by providing better vocational training programs: luring homeless youth back to school at which time it would be easier to identify and evaluate their potential special education needs.<sup>76</sup> This is feasible because the McKinney-Vento Act explicitly provides funding for programs, like vocational training, that attract unaccompanied youth back to school.<sup>77</sup> The second suggestion is to give homeless teenagers more freedom in their choice of special education programs by letting them temporarily try out different programs until they find one to their satisfaction.<sup>78</sup> The McKinney-Vento Act explicitly backs this suggestion, requiring

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<sup>69</sup> Suggestion from: Interview with Jim Varga, Pediatrician, 10th Street Pediatric Group, in L.A., Cal. (Mar. 26, 2012)., Jasper City Bd. of Educ., 38 IDELR 117 (SEA AL 2002).

<sup>70</sup> Suggestion from: Interview with Jim Varga, Pediatrician, 10th Street Pediatric Group, in L.A., Cal. (Mar. 26, 2012).

<sup>71</sup> Interview with Cheryl Rosenbleet, Hearing Advocate, Los Angeles Department of Public Social Services, in L.A., Cal. (Mar. 4, 2012).

<sup>72</sup> Suggestion from: Interview with Cheryl Rosenbleet, Hearing Advocate, Los Angeles Department of Public Social Services, in L.A., Cal. (Mar. 4, 2012).

<sup>73</sup> 20 U.S.C. § 1412(a)(1)(A) (2005).

<sup>74</sup> Los Angeles Unified School District, 2010-2011 LAUSD Homeless Student Information 1 (2011).

<sup>75</sup> Interview with Erin Casey, Clinical Director, My Friend's Place, in L.A., Cal. (Feb. 24, 2012)., Interview with Melissa Shoonmaker, Homeless Liaison, Los Angeles Unified School District, in L.A., Cal. (Feb. 21, 2012)., Interview with Michael Kessler, Special Education Program Director, Los Angeles Unified School District, in L.A., Cal. (Feb. 27, 2012).

<sup>76</sup> Suggestion from: Interview with Erin Casey, Clinical Director, My Friend's Place, in L.A., Cal. (Feb. 24, 2012)., Interview with Nance Lemberger, Special Education Day Class Teacher, University High School, in L.A., Cal. (Mar. 4, 2012).

<sup>77</sup> 42 U.S.C. § 11431 (B)(723)(D)(2) (2002).

<sup>78</sup> Suggestion from: Interview with Erin Casey, Clinical Director, My Friend's Place, in L.A., Cal. (Feb. 24, 2012).

unaccompanied youth to be consulted and their views taken into account before deciding any placement.<sup>79</sup>

In conclusion, child find is an important part of providing free appropriate public education to homeless youth with a disability. Though courts have held child find requires significant effort from school districts, many of the suggested activities in the case law require little expenditure of time or resources to significantly enhance the location, identification and evaluation of the maximum amount of homeless youth with disabilities.

## Issue 2: IEP Mobility

Moving between schools is challenging for any student, but for homeless youth with a disability the challenges are even greater. First, many homeless youth transfer between schools continuously. A study from the Institute for Children and Poverty found that fifty-six percent of homeless youth transferred in any given school year and over twenty-one percent of those students transferred more than once.<sup>80</sup> Compounding this statistic, it is estimated that every time a homeless child moves between placements, they lose between three and six months of educational progress.<sup>81</sup> Second, homeless students are more likely to have unplanned, disorderly transfers as a result of being timed out of shelters, wearing out the welcome of a relative or because their parents have unstable/seasonal employment, making transitions particularly difficult.<sup>82</sup>

The McKinney-Vento Act attempts to deal with these realities, allowing immediate enrollment in a new school without traditional barriers such as immunization, school record transfer or proof of residence.<sup>83</sup> Conversely, to create continuity, The McKinney-Vento Act also gives students and families the option (and legal right) to stay-put at their old school even if housing issues force them to relocate outside the school district.<sup>84</sup>

The IDEA also has provisions governing transfer students. When a student with a disability moves to a new school district, his prior IEP is no longer valid and binding unless the new school district chooses to adopt it as written and can provide the programs and services it includes.<sup>85</sup> If the prior IEP is not adopted, the new district must reevaluate the child in a reasonable amount of time.<sup>86</sup> Some states such as California were concerned with this ill-defined standard and require the new district to complete the IEP process or adopt the old IEP within thirty days.<sup>87</sup> Upon enrollment and throughout the thirty-day period, the new district is responsible for providing services “comparable” to those present in the old IEP.<sup>88</sup> Courts have held “comparable services” does not mean an exact duplication of services is required.<sup>89</sup> A

<sup>79</sup> 42 U.S.C. § 11431 (B)(722)(g)(3)(B)(iii) (2002).

<sup>80</sup> Institute For Children and Poverty, *Back to the Future: The Brownstone and Futurelink After-school Programs for Homeless Children 1*, (2001).

<sup>81</sup> Interview with Katie Brown, Attorney, Public Counsel Law Center, in L.A., Cal. (Mar. 6, 2012).

<sup>82</sup> Interview with Melissa Shoonmaker, Homeless Liaison, Los Angeles Unified School District, in L.A., Cal. (Feb. 21, 2012).

<sup>83</sup> 42 U.S.C. § 11431 (B)(722)(e)(3)(E)(ii) (2002).

<sup>84</sup> 42 U.S.C. § 11431 (B)(722)(e)(3)(C)(ii) (2002).

<sup>85</sup> 30 C.F.R. § 300.323 (e) (2010).

<sup>86</sup> *Questions and Answers on Individualized Education Programs (IEPs), Evaluations, and Reevaluations*, 110 LRP 35823 (OSERS Jun. 1, 2010).

<sup>87</sup> Cal. Educ. Code 56325 (West 2003).

<sup>88</sup> 30 C.F.R. § 300.323 (e) (2010).

<sup>89</sup> *Sterling A. v. Washoe County Sch. Dist.*, 51 IDELR 152 (D. Nev. 2008).

school district that does not typically provide the services written in the prior IEP must provide different services calculated to meet the goals and spirit of the prior IEP.<sup>90</sup> The IDEA and the McKinney-Vento Act place the burden on the new school to “promptly obtain” the old IEPs, supporting documents and *any* records relating to the provision of special education services and the old school to “promptly respond” to such a request.<sup>91</sup> (*Italics added*). Importantly, school districts that do not have a reason (meaning a parent or caregiver has not brought up the possibility of a prior IEP) to believe that the enrolling child needs special education services are not obligated to screen for disability or provide immediate special education services.<sup>92</sup>

LAUSD tries to honor the McKinney-Vento Act and the IDEA’s provisions relating to the transfer of disabled homeless students. They do immediately enroll homeless students and attempt to comply with the stay-put directive.<sup>93</sup> The worksheet they use to enroll has a box to check if the student, parent or guardian is aware that the student had been receiving special education services at a prior placement.<sup>94</sup> They also take the thirty-day requirement seriously for homeless youth with disabilities and will even provide interim services based on a parent or caregiver’s description of the student’s previous special education program when a copy of the prior IEP is not available.<sup>95</sup>

Despite these significant efforts there are several troubling aspects to LAUSD’s interpretation and implementation of the law. First, as David Kessler, the Special Education Programs director admits, many, if not most, parents or caregivers registering homeless youth do not understand exactly which services count as special education.<sup>96</sup> These persons may believe that the therapist coming to work with their child during school was just “extra reading help” or may not know the child ever received such services because they were not caring for the child at the time of the original IEP.<sup>97</sup> Thus, the strategy of checking the box without further inquiry is not an effective tool for indentifying transfer students with a disability: it allows districts to plead ignorance about special education eligibility and legally circumvent their obligation to make further inquiry or evaluation. When this misunderstanding occurs, it means at least thirty days without special education services (because the records take at least that long to obtain) and if the records are lost or are never sent, it may be a semester or an entire school year before the homeless youth with a disability is recognized again as needing special education services.<sup>98</sup>

Second, LAUSD is not obtaining the additional materials relating to previous “provision of special education” that the statute tells them to collect in addition to the prior IEP.<sup>99</sup> Therefore, the new special education teacher usually does not receive the contact information of the prior special education teachers and therapists who were working with the child or the classroom

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<sup>90</sup> Id.

<sup>91</sup> 30 C.F.R. § 300.323 (g)(1) (2010)., 42 U.S.C. § 11431 (B)(722)(g)(3)(D) (2002).

<sup>92</sup> Questions and Answers on Individualized Education Programs (IEPs), *Evaluations, and Reevaluations*, 111 LRP 63322 (OSERS Sept. 1, 2011).

<sup>93</sup> Interview with Kelly Barnes, Assistant General Counsel, Los Angeles Unified School District, in L.A., Cal. (Feb. 15, 2012)., Interview with Melissa Shoonmaker, Homeless Liaison, Los Angeles Unified School District, in L.A., Cal. (Feb. 21, 2012).

<sup>94</sup> Interview with Michael Kessler, Special Education Program Director, Los Angeles Unified School District, in L.A., Cal. (Feb. 27, 2012).

<sup>95</sup> Id.

<sup>96</sup> Id.

<sup>97</sup> Id.

<sup>98</sup> Interview with Katie Brown, Attorney, Public Counsel Law Center, in L.A., Cal. (Mar. 6, 2012).

<sup>99</sup> 30 C.F.R. § 300.323 (g)(1) (2010)., Interview with Nance Lemberger, Special Education Day Class Teacher, University High School, in L.A., Cal. (Mar. 4, 2012).

behavior reports that these teachers kept.<sup>100</sup> Not having this information requires the new teacher to understand the disability entirely from the last IEP, which may not elaborate on specific teaching methods that were being successfully implemented.<sup>101</sup> Special Education teacher, Nance Lemberger, says that communication with the prior staff is particularly important for homeless youth with a disability because the previous staff have knowledge about how the child's often unstable home life interacts with the child's ability to make progress in the classroom and what techniques acted as effective counterbalances to those events.<sup>102</sup> While a commendable stop-gap measure, relying on a parent or caregiver's recollection of prior services is no substitute for access to a previous IEP which would trigger the legal obligation to provide comparable services until a new IEP can be created.<sup>103</sup>

There are several easy, low cost solutions to issues of IEP mobility that would improve the continuity of services for homeless youth with a disability. LAUSD already encourages school sites to conduct brief interviews with the registering party to ascertain information to supplement the enrollment forms.<sup>104</sup> This should be a mandatory part of new enrollment in all districts. The interviewer can delve deeper to help the student or caregiver understand which services constitute special education. If the services the parent, caregiver or student describes are in fact special education services, any ambiguity on the enrollment form about whether a prior IEP exists or whether the student was receiving special education services can be eliminated or greatly diminished. Additionally, school districts should promptly request more than just prior IEPs. They should obtain any relevant, helpful information and disseminate that information to teachers and administrators so that the homeless student with a disability at least has a chance to thrive in the wake of their most recent transfer (given that most students lose six months of educational progress after a move). Promptly requesting this additional information is required by statute and Education Code 56325, is revenue neutral, would likely improve standardized test scores and would benefit homeless youth with a disability.<sup>105</sup> Finally, school districts (the old and new) could solve most record compliance problems if they periodically armed parents and caregivers of identified homeless children with their child's most recent IEP and supplemental materials. In emergencies where families have to move out of temporary housing quickly, they would not have to go to their child's current school and attempt to obtain the records in a timely manner.<sup>106</sup> In addition, this would allow parents and caregivers who might not know for sure if the child in their care was receiving special education services to show documents to the new school, cutting down on possible misunderstanding and speeding progress towards the creation of a new IEP. When the new school district has attempted but failed to receive the records from the old school district, rather than give up as they often do, as a last resort they should consult community organizations such as Public Counsel Law Center.<sup>107</sup> Public Counsel regularly makes

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<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> 30 C.F.R. § 300.323 (e) (2010).

<sup>104</sup> Interview with Michael Kessler, Special Education Program Director, Los Angeles Unified School District, in L.A., Cal. (Feb. 27, 2012).

<sup>105</sup> Cal. Educ. Code 56325 (West 2003).

<sup>106</sup> Suggestion from: Interview with Nance Lemberger, Special Education Day Class Teacher, University High School, in L.A., Cal. (Mar. 4, 2012).

<sup>107</sup> Interview with Michael Kessler, Special Education Program Director, Los Angeles Unified School District, in L.A., Cal. (Feb. 27, 2012).

records requests and can leverage resources in surrounding districts to pressure noncomplying school districts with the threat of lawsuit.

Homeless youth with disabilities face many of the same challenges as regular students with disabilities in the transfer process, however they experience related problems more frequently because they are constantly moving between schools and placements.<sup>108</sup> Yet just because this population is in constant transition does not allow school districts to forego their legal obligations under the McKinney-Vento Act and the IDEA: to provide immediate comparable service, obtain records and draft a new IEP within thirty days. Through enrollment interviews, gathering additional information to supplement the prior IEP and cooperation with community organizations on record requests, school districts can produce greater continuity of services for homeless youth with disabilities.

### Issue 3: Transportation

Another aspect of maintaining continuity for homeless youth with disabilities, in addition to the portability of an IEP and other records, is transportation. A significant number of homeless households (over twenty-five percent) do not have a car and so they depend on the school district to help their children with disabilities get to school.<sup>109</sup> The IDEA provides transportation funding for qualified students within the boundaries of each school district. The IDEA includes transportation as a related service necessary to a free, appropriate public education.<sup>110</sup> The McKinney-Vento Act allows students to continue at their placement even if they move to a residence outside of the district's boundaries and provides funding for the out-of-district transportation.<sup>111</sup> The district which now has the student technically inside its boundaries (but where he is not attending because he stayed put) and the old school district (where the student is still attending) are required to work out a cost split and if they cannot agree, the costs are to be divided equally.<sup>112</sup>

There are few cases that deal with the McKinney Act's transportation component. Lampkin v. District of Columbia was the first case to address what transportation the act required.<sup>113</sup> In this case, the school district was accused of not providing adequate bus tokens to homeless youth and families living in shelters.<sup>114</sup> In its conclusion, the court held that public buses were a permitted form of transport under the McKinney-Vento Act if the provision of fare or tokens was regular and public transportation was actually available to bring the homeless child to school.<sup>115</sup> In the absence of these conditions, the school district is required to bus the homeless students to school.<sup>116</sup> The standard announced in this case was refined in two later cases. In Collier v. Board of Education of Prince George's County (a largely rural county), the court held

<sup>108</sup> Institute For Children and Poverty, *Back to the Future: The Brownstone and Futurelink After-school Programs for Homeless Children 1*, (2001).

<sup>109</sup> Evelyn Blumenberg, Professor, UCLA School of Public Affairs, Address at the National Consumer Law Center at Working Cars for Working Families Conference: Importance & Impact of Cars for Family Economic Success (Dec. 9, 2010).

<sup>110</sup> 34 C.F.R. § 300.34 (a) (2010).

<sup>111</sup> 42 U.S.C. § 11431 (B)(723)(d)(5) (2002).

<sup>112</sup> 42 U.S.C. § 11431 (B)(722)(g)(1)(J)(II) (2002).

<sup>113</sup> Lampkin, 879 F. Supp. 116 (D.D.C. 1995).

<sup>114</sup> 879 F. Supp. 116, 119 (D.D.C. 1995).

<sup>115</sup> Id. at 127.

<sup>116</sup> Id.

that if the ride to school required two or more transfers or if the ride was longer than thirty miles, the school district had to provide busing.<sup>117</sup> Additionally, in Kaleuati v. Tonda, the court held that the school district had to provide bus transport for children under ten years old because they could not be expected to take public transportation by themselves.<sup>118</sup>

LAUSD has several issues in complying with these policies. First, for homeless special education students who have an IEP that gives them a right to bus transportation, LAUSD has not had success in coordinating a quality extension of that service to bring students from outside district boundaries to stay-put placements inside LAUSD.<sup>119</sup> Liability issues, routing, tradition of not going outside of the boundaries and collective bargaining provisions all play a role in the issue.<sup>120</sup> The imaginary walls built at district boundaries have at times resulted in situations where a child is taken to the district line and then put on the other district's bus for the remainder of the ride.<sup>121</sup> For many of the disabled children who receiving busing as a condition of their IEP, it is already difficult to ride the bus because their disability or assistive technology makes it cumbersome to board or because they have difficulty quickly adapting to changed settings/circumstances (such as youth with autism).<sup>122</sup> This extra hurdle only makes it harder for homeless youth and discourages their parents and caregivers from exercising their stay-put rights.

In addition to the issue of bus transfers, LAUSD Assistant General Counsel Kelly Barnes says that reimbursement for this type of special education busing has been a major issue.<sup>123</sup> When working with smaller school districts they rarely, if ever, get the agreed amount of money or the half reimbursement as mandated when an agreement cannot be reached.<sup>124</sup> The lack of reimbursement chills LAUSD from trying to work out future complex, quality transport for homeless youth with disabilities under McKinney-Vento.

The situation is even more tenuous for the homeless youth with a disability that do not have transportation services included in their IEP. LAUSD's budget for next year ends all busing except to meet the IDEA requirements.<sup>125</sup> Further, LAUSD's McKinney-Vento Act allotment for transportation is under \$200,000 next year (less than twelve dollars per homeless student for the whole year's transportation).<sup>126</sup> The final compounding factor is that the Los Angeles Metro Transit Authority will no longer contribute free tokens to the school district's McKinney-Vento effort because it is also in a budget crisis.<sup>127</sup> Although LAUSD Homelessness Liaison, Melissa

<sup>117</sup> Collier, et al. v. Board of Education of Prince George's County, et al. DKC-2001-1179 (U. S. District Court, District of Maryland, filed Apr. 16, 2001).

<sup>118</sup> Kaleuati v. Tonda, Civil Action No. 07-504 (U.S. District Court, District of Hawaii, filed Oct. 6, 2007).

<sup>119</sup> Interview with Melissa Shoonmaker, Homeless Liaison, Los Angeles Unified School District, in L.A., Cal. (Feb. 21, 2012).

<sup>120</sup> Id.

<sup>121</sup> Id.

<sup>122</sup> Interview with Michael Kessler, Special Education Program Director, Los Angeles Unified School District, in L.A., Cal. (Feb. 27, 2012)., Interview with Nance Lemberger, Special Education Day Class Teacher, University High School, in L.A., Cal. (Mar. 4, 2012).

<sup>123</sup> Interview with Kelly Barnes, Assistant General Counsel, Los Angeles Unified School District, in L.A., Cal. (Feb. 15, 2012).

<sup>124</sup> Id.

<sup>125</sup> *California Schools Decry End to Busing Funds*, Associated Press, Dec. 15, 2011, [http://www.boston.com/news/education/k\\_12/articles/2011/12/15/calif\\_school\\_districts\\_decry\\_end\\_to\\_busing\\_funds/](http://www.boston.com/news/education/k_12/articles/2011/12/15/calif_school_districts_decry_end_to_busing_funds/).

<sup>126</sup> Interview with Melissa Shoonmaker, Homeless Liaison, Los Angeles Unified School District, in L.A., Cal. (Feb. 21, 2012).

<sup>127</sup> Id.

Shoonmaker, is doing her best to preserve transportation funding to supplement the McKinney-Vento Act monies, it is probable that next year the school district will not have enough funding to provide bus tokens for homeless students, let alone their parents who have traditionally been given bus fare to accompany their children with disabilities on public transportation, ensuring they get safely to their destination.<sup>128</sup>

There are short-term and long-term solutions for school districts. First, homeless students with disabilities should be transported under the IDEA rather than the McKinney-Vento Act.<sup>129</sup> The funding is more certain, greater and the quality of the transportation, (usually a smaller school bus) is better.<sup>130</sup> LAUSD is making a conscious effort to effect this change.<sup>131</sup> However, for any school district to make a policy change of this nature, all IEP teams need to be made aware that they should add transportation as a related service to every IEP for homeless youth with a disability. This can be a difficult task since every IEP team is composed of slightly different personnel based on the individual child's needs and their placement.

Rather than merely shifting costs to meet the legal obligation to transport homeless students with disabilities, the McKinney-Vento Act includes monies for a more permanent solution: collaborating with community providers to locate affordable housing, keeping homeless youth close to their placement and eliminating their need to move outside the district to another temporary dwelling.<sup>132</sup> The McKinney-Vento Act Section (722)(f)(5)(B) states that school districts "shall coordinate with State and local housing agencies responsible for developing the comprehensive housing affordability strategy" to "ensure that homeless children and youths have access and reasonable proximity to available education and related support services."<sup>133</sup> Despite arguments from school district officials such as Melissa Shoonmacher and Michael Kessler that they are in the business of education and not housing, the "shall" language means school districts have only one choice, to accept McKinney-Vento Act money and implement cooperative approaches to housing or to turn down the federal funds.<sup>134</sup> The statute's language does not require the school district to become a housing provider, only to work with those who already perform such services.<sup>135</sup> The court in Lampkin noted that the District of Columbia school district had undertaken appropriate housing assistance measures though without enumerating the specific measures taken.<sup>136</sup> Therefore, a close analysis of the D.C. school district's housing program at the time of Lampkin might provide a useful roadmap for other large urban school districts like LAUSD.

This approach to transportation has tremendous advantages for homeless youth with disabilities. They do not have to take long school bus rides, with problematic transfers, to receive the program best suited to their individualized educational needs. In addition, they would not be

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<sup>128</sup> Id., Los Angeles Unified School District, Policy Bulletin 1570.1 13, (2008).

<sup>129</sup> Suggestion from: Interview with Melissa Shoonmaker, Homeless Liaison, Los Angeles Unified School District, in L.A., Cal. (Feb. 21, 2012).

<sup>130</sup> Id.

<sup>131</sup> Id.

<sup>132</sup> 42 U.S.C. § 11431 (B)(722)(f)(5)(B) (2002).

<sup>133</sup> Id.

<sup>134</sup> Interview with Michael Kessler, Special Education Program Director, Los Angeles Unified School District, in L.A., Cal. (Feb. 27, 2012)., Interview with Melissa Shoonmaker, Homeless Liaison, Los Angeles Unified School District, in L.A., Cal. (Feb. 21, 2012).

<sup>135</sup> 42 U.S.C. § 11431 (B)(722)(f)(5)(B) (2002).

<sup>136</sup> Lampkin, 879 F. Supp. 116, 120 (D.D.C. 1995).



late to class, could be part of the community where other students in the school live and have a more stable home environment for studying.<sup>137</sup>

### Conclusions

Whether it be housing solutions to eliminate transportation problems or notification of health clinic providers about special education evaluation procedures, the issues relating to free, appropriate public education access are best solved through collaboration between parents, school districts, government agencies and non-profit community providers. Not only does the history of the IDEA and the McKinney-Vento Act point toward successful ongoing collaboration, the language of the McKinney-Vento Act itself requires school districts to work with these partners in six subsections.<sup>138</sup> However, someone has to take the first step. Several of these parties like Public Counsel Law Center and LAUSD, have only directly communicated when on opposite sides of a lawsuit. This will not suffice to bring the sides together.<sup>139</sup>

The ability and the desire to assist each other in this endeavor is already present though not always apparent. Over the years, LAUSD has invited parents and community service providers to a few forums on homeless youth with disabilities.<sup>140</sup> In turn, organizations like Public Counsel have occasionally created education rights pocket guides on the subject of homeless students with disabilities and left them with LAUSD to distribute.<sup>141</sup> Yet to solve the larger problems of legal compliance with the IDEA and the McKinney-Vento Act and improve the access of homeless youth with disabilities to a free, appropriate public education, a sustained and strengthened effort will be required by all parties.

All the experts interviewed agreed on one thing: helping this population is essential to a functioning society. Whether for future financial reasons (disabilities not addressed in this population will cost society millions of dollars later), because these students are among the most vulnerable of all groups or because the ideal of universal public education requires it, as a society we can do better in our treatment of this population.<sup>142</sup> Using the IDEA and the McKinney-Vento Act as guides and suggestions such as those outlined in this paper, it is possible to envision immediate and systemic cost-neutral change that would ease the burden on homeless students with disabilities, their parents and their caregivers while ensuring students a free, appropriate, public education that the law requires.

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<sup>137</sup> Interview with Nance Lemberger, Special Education Day Class Teacher, University High School, in L.A., Cal. (Mar. 4, 2012).

<sup>138</sup> 42 U.S.C. § 11431 (B)(722)(f)(4) (2002), 42 U.S.C. § 11431 (B)(722)(f)(5)(B) (2002), 42 U.S.C. § 11431 (B)(722)(f)(5)(D) (2002), 42 U.S.C. § 11431 (B)(722)(g)(5)(A)(i) (2002), 42 U.S.C. § 11431 (B)(722)(g)(5)(B) (2002), 42 U.S.C. § 11431 (B)(723)(d)(11) (2002).

<sup>139</sup> Interview with Katie Brown, Attorney, Public Counsel Law Center, in L.A., Cal. (Mar. 6, 2012).

<sup>140</sup> Interview with Melissa Shoonmaker, Homeless Liaison, Los Angeles Unified School District, in L.A., Cal. (Feb. 21, 2012).

<sup>141</sup> Interview with Katie Brown, Attorney, Public Counsel Law Center, in L.A., Cal. (Mar. 6, 2012).

<sup>142</sup> Reasons for helping this population were derived from: Interview with Melissa Shoonmaker, Homeless Liaison, Los Angeles Unified School District, in L.A., Cal. (Feb. 21, 2012), Interview with Michael Kessler, Special Education Program Director, Los Angeles Unified School District, in L.A., Cal. (Feb. 27, 2012), Interview with Katie Brown, Attorney, Public Counsel Law Center, in L.A., Cal. (Mar. 6, 2012), Interview with Erin Casey, Clinical Director, My Friend's Place, in L.A., Cal. (Feb. 24, 2012).

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