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Taylor Pospichel

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Are California’s Homeless Children Being Left Behind?: Analyzing the Implementation of McKinney-Vento Education Rights in California

TAYLOR POSPICHEL*

To much of the public, the stereotypical single men soliciting spare change and ‘bag ladies’ living in alleys are the homeless. They are the visible homeless. However, fathers, mothers, babies, toddlers, children, and youth have joined their ranks. They are the invisible homeless.¹

Introduction

The phenomenon of family homelessness has become incredibly prevalent in recent years. Whereas in the past few decades the homeless population consisted mostly of individual adults, it is now reported that in the United States 1.6 million children experienced homelessness in 2010.² This reflects a 38% increase from 2007.³ An

* Senior Notes Editor, Hastings Race and Poverty Law Journal, 2012-2013; J.D. Candidate, University of California, Hastings College of the Law, 2013; B.A., cum laude, International Affairs and Hispanic Languages & Literature, The George Washington University, May 2009. I am so grateful to the members and editors of HRPLJ for all of your help and support throughout the publication process. Special thanks to my parents and siblings for their unconditional love and encouragement in everything I do, and to Leland for encouraging me to pursue this topic and for being so supportive along the way.


2. Ellen L. Bassuk, MD et al., The National Center on Family Homelessness, Americas Youngest Outcasts 2010 7, HOMELESSCHILDRENAMERICA (2011), available at
initial wave of family homelessness arose after Hurricanes Katrina and Rita caused destruction and displacement in 2005 and 2006. The compounding of factors, including the recent mortgage and foreclosure crisis, a lack of affordable housing, and the Great Recession, caused a continuous and rapid increase in the number of homeless families. Because families do not fit society’s stereotypical image of people who are homeless, many resources are not tailored to address the specific needs of families that lose their housing.

The minor children of families experiencing homelessness are placed in a position of turmoil. They may move out of their homes to live with friends or family, live in a hotel, motel or other temporary housing not designed to be a primary residence, or live in a shelter, car, or on the street. All of these living options are a form of homelessness according to the Department of Education ("DoE") because the child has been removed from his or her prior home due to economic constraints.

At the beginning of the Reagan administration, programs were created to address the rising number of homeless individuals in the United States. The Stewart B. McKinney Homeless Assistance Act of 1987 ("Act") was the first legislative response to this crisis of homelessness. It provided for the creation of several federal agencies such as the Interagency Council on Homelessness and the Federal Emergency Management Agency. The Act also authorized supportive housing and affordable housing programs. Title VII of the McKinney-Vento Act specifically addresses difficulties homeless children may face in “enrolling, attending, and succeeding in school.” The Act was reauthorized in 2001 as part of the No Child

Left Behind Act. The intent of the Education for Homeless Children and Youth program, Title VII-B of the Act, is to ensure that all homeless children and youth have access to the same free, appropriate public education, including a public preschool education, as provided to other children and youth. The Act also creates the position of the homeless education liaison to work with both the school district and homeless children to ensure their educational needs are being met.

This note will address issues that affect homeless children’s access to education in California and will analyze how to best resolve these problems. To ensure that homeless children are able to fully access their guaranteed educational rights, California should increase the role of the education liaison in counties and facilitate coordination between liaisons, school districts, and homeless service providers to ensure that every child’s needs are met. Part I will discuss America’s population of homeless children, including a discussion of factors contributing to family homelessness and the effects this life experience can have on a child. Part II will describe the Act and the educational rights it protects. Part III discusses California’s homeless education policies and the shortfalls in providing services to homeless families. Finally, Part IV will offer proposals and policy recommendations to alleviate some of California’s issues in providing McKinney-Vento benefits to homeless children.

I. Who are America’s Homeless Children?

Under the No Child Left Behind Act of 2001, which incorporates the Act’s definition of homelessness into DoE policy, the term “homeless children and youth” means children who lack a fixed/regular nighttime residence, children sharing housing, or children living in motels, trailer parks, or campgrounds as a result of economic hardship and/or loss of housing. The DoE’s definition

includes families that are “sharing the housing of other persons due to the loss of [their own] housing”, and those residing in hotels in addition to families in shelters, cars, or on the street. Under this definition, children within these varieties of living situations are considered homeless and therefore qualify for McKinney-Vento benefits.

A. Factors Contributing to Family Homelessness

There are several traditional factors recognized as contributing to an individual’s or a family’s homelessness. Studies have shown that ethnic minorities, especially African Americans, are overrepresented in homeless populations and homeless families are more likely to be members of a minority group. Families at risk of homelessness are generally families headed by women with children under the age of six. The younger age of the children places parents, especially mothers, at a disadvantage in terms of holding a job and affording housing. While a family will likely receive higher public benefits than an individual adult, this income is hardly ever sufficient to obtain and maintain adequate housing. This lack of sufficient financial and housing resources is another factor that has traditionally pushed families toward homelessness.

In addition to the more traditional factors that place a family at risk of homelessness, the current economic and foreclosure crisis has caused a significant increase in the number of homeless families. Many rental homes also went into foreclosure, forcing additional

16. Id.
17. Id.
19. Id. at 6.
20. Id.
21. Family income from public benefits is higher because of certain programs designed to provide for families with children, and the fact that a families has more individuals in the household (programs like food stamps determine benefit amounts based on the number of persons in the household). Id. at 5.
22. Id.
families (including those that were up to date on their rental payments) from their stable living situations. Lack of affordable housing presents yet another barrier to providing homeless children with a stable living and learning environment. The recent housing crisis has taken homeownership out of the reach of many middle-class Californians. California has one of the highest populations of renters, as well as some of the most expensive rental housing in the United States. This means that many Californians, especially low-wage workers, struggle to pay their rent. Surprisingly, since the beginning of the housing crisis in 2006 "rents have risen more in the metropolitan areas with higher foreclosure rates." Public benefits are likely not sufficient to cover these rents, and there is not a large enough supply of Section 8 vouchers to make rents affordable.

During the 2008-09 school year, 2.2% of public school students were affected by the foreclosure crisis, and it was estimated that 1.95 million children and youth would lose their homes as a result. This estimate was likely low because it did not factor in the numbers of children losing their home due to eviction from rental units, or whose parents defaulted on conventional loans. On a single night in January 2011, 236,181 homeless persons were counted as persons in families, making up 37% of all homeless people. In California,

24. Id. at 6.
27. Id. at 23.
28. Id.
30. See Locked Out, supra note 26, at 25.
32. Lovell & Isaacs, supra note 31, at 1.
27,164 persons in homeless families were counted on the streets and in shelters on the same night.\footnote{Duffield & Lovell, supra note 23, at 2.} Three months into the 2008-2009 school year, 847 school districts reported a caseload that was 50% or more of the entire previous year’s homeless caseload.\footnote{First Focus and National Association for the Education of Homeless Children and Youth, A Critical Moment: Child & Youth Homelessness in our Nation’s Schools 1 FIRST FOCUS (2010) [hereinafter A Critical Moment], available at http://www.firstfocus.net/library/reports/a-critical-moment-child-youth-homelessness-in-our-nations-schools.} Within the first six months of the 2009-2010 school year, 39% of school districts reported enrolling more homeless students than in the entire previous year.\footnote{Lovell & Isaacs, supra note 31, at 1.}

B. Effects of Homelessness on Children

Children subjected to excessive mobility, such as those whose living situations were affected by the mortgage crisis, are more likely to have difficulties with schooling.\footnote{National Coalition for the Homeless, Education of Homeless Children and Youth: NCH Fact Sheet #10 1 NATIONAL HOMELESS (Aug. 2007), available at www.nationalhomeless.org/publications/facts/education.pdf.} Each time children are forced to change schools, their education is disrupted, and three to six months of education can be lost with each move.\footnote{Lovell & Isaacs, supra note 31, at 1.} These children are much more likely than their peers to be held back and eventually drop out of school.\footnote{Brennan, supra note 25, at 1-2.} While children are generally resilient and capable of adjusting to new situations, multiple moves may diminish their capacity to adjust.\footnote{Brennan, supra note 25, at 1-2.}

Moves due to economic instability can be especially disorienting to children. Their parents may be preoccupied with finding a new home and figuring out finances. The moves may be in reaction to a change in a financial situation and not strategically chosen for the family. After going through foreclosure, the homeowners’ credit

\footnote{34. U.S. Dep’t of Hous. and Urban Development, HUD’s 2011 Continuum of Care Homeless Assistance Programs Homeless Populations and Subpopulations: California HUD.GOV (2011), available at http://www.hudhre.info/CoC_Reports/2011_ca_pops_sub.pdf (these numbers do not include homeless families that were doubled-up with family members or living in motels or temporary housing, and are therefore likely to be unrepresentative of the real number of homeless families).}

\footnote{35. Duffield & Lovell, supra note 23, at 2.}


\footnote{37. Lovell & Isaacs, supra note 31, at 1.}


\footnote{39. Lovell & Isaacs, supra note 31, at 1.}

\footnote{40. Brennan, supra note 25, at 1-2.}
score is likely to plummet, and it could be even more difficult to find a more affordable home to purchase or rent.

As families lose their homes, either due to foreclosure or the lack of affordable housing in California, children experience higher rates of absenteeism from school, and often lose focus on their schoolwork and social networks as a result of the high-stress move. 41 Many families double up with relatives or friends after losing their homes, which can present overcrowding problems. 42 Living in an overcrowded environment, defined as containing more than one person for each room in the house, can reduce educational achievement due to reduced parental responsiveness, increased noise and chaos that could disrupt the child’s studying, and a lack of sufficient study space. 43

For a school-aged child, “the instability and chaotic nature of homelessness can have profound effects on [the] child’s physical health, psychological development, and academic achievement.” 44 Homeless children face certain barriers that make continuing in their original school more challenging. These barriers include meeting enrollment requirements such as proof of residency, proof of legal guardianship, school and health records, lack of transportation to the original school, lack of school supplies and clothing, and health issues and hunger. 45 Remaining in the same school can provide a homeless child with a sense of constancy that can relieve some of the stress and trauma brought on by homelessness, and help the child succeed academically. 46

41. Id.
42. Id. at 3.
43. Id.
II. What Does the McKinney-Vento Act Set Out to Do?

The Act addresses the barriers to education discussed above and ensures that homeless children have access to schools and services. The Act requires that each state educational agency establish an Office of State Coordinator for the Education of Homeless Children and Youth. This office is responsible for supervising the implementation of the Act, including "providing technical assistance, resources, coordination, data collection and overseeing compliance for all local educational agencies." The Act also designates that local educational agencies (school districts) appoint staff liaisons to ensure that homeless students are properly identified, enrolled, and attending schools. Each local educational agency is required to appoint at least one liaison.

A crucial aspect of providing these services is the identification of children who are homeless or at risk of homelessness. This requires awareness by both liaisons and school staff of the DoE's definition of homelessness. Since families may not be willing to approach a school official to announce that they are homeless, staff must look for factors indicating a child's homeless status. Liaisons, as well as other school employees, can also look for changes in a student's behavior and appearance. For example, has the student been wearing the same clothes more frequently, stopped bringing a lunch, showed increased tiredness in class, or been absent more frequently? There is also a second outreach component to identification that requires a liaison to look outside of schools to find school-aged children who should be "enrolled or re-joined to appropriate school programs." Each state describes in its state plan

48. DUFFIELD ET AL., supra note 5, at 12.
49. Id. at 13.
50. Id.
52. Id. at 4.
53. DUFFIELD ET AL., supra note 5, at 20-21.
the techniques for identification of eligible students, and school personnel are obligated to follow these identification procedures.54

Through the homeless liaison, the schools must first establish whether a family is eligible for McKinney-Vento benefits because of their living situation. The liaison will collaborate and coordinate with local shelters, relief agencies, and service providers to identify families and children that are using the providers’ services. It is much more difficult to identify homeless children who are not receiving help from a shelter or relief agency. Liaisons can visit motels and local campgrounds to see if there are families staying there.55 Families often may not know that they qualify as homeless under the McKinney-Vento definition because they may still be in a somewhat traditional living situation (e.g., doubled-up with a family member). For this reason, the liaison is responsible for posting notices in the school and in the facilities of service providers (e.g., shelters, soup kitchens, housing offices) announcing the DoE’s definition and the rights that homeless children are guaranteed under federal law.56

Once homeless children have been identified, the liaison and family must make decisions surrounding the schooling based on the best interests of the child.57 The child is entitled to stay in the school of origin for the duration of their homelessness or until the end of the academic year in which the family finds permanent housing.58 If the student and family prefer, the student may be enrolled in the proper school for their current living situation.59 The liaison will assist the student with this enrollment.

Since homeless students may be staying in a residence further away from the school the child attends, the liaison is responsible for coordinating transportation to and from the school at the request of the parent or guardian.60 If the student’s place of residence and school are in different districts, the liaisons from each district will

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54. Id. at 20.
55. Id. at 2.
work out an agreement splitting the transportation costs.61

Additionally, the liaison serves the important function of linking community services to students and their families.62 Whenever possible, the liaison will identify the change in the student's living situation early on and will direct the family to services in the community. Because liaisons identify the students early on, they may be able to point the family towards preventative and emergency housing services to help avoid becoming homeless. Liaisons will also provide referrals to medical services and help students receive required immunizations and physicals necessary to enroll in school.

The Act was designed so that school districts cannot discriminate against homeless students and attempt to segregate them into certain schools rather than allow them to stay enrolled in their school of origin or the geographically accurate school.63 For this reason, the district must provide written justification if the student is sent to a school other than one requested by the student, parent, or guardian.64 The student and family also have the right to appeal the district's decision.65 Additionally, school administrators, staff, and teachers should be trained to recognize the needs of homeless children without stigmatizing or embarrassing them because of their living situation. Systemic planning and training will help keep bias and discriminatory attitudes at bay.66

III. Where is California Falling Short?

A. California is Not Providing Adequate Funding and Support to Implement the Act

64. 42 U.S.C. § 11432 (g)(3)(E)(ii).
65. Id.
66. See DUFFIELD ET AL., supra note 5, at 32.
California has historically had one of the highest homeless populations in the country, and as of 2011, the state accounted for 1 in 5 homeless people in the U.S. (21.4%).\(^{67}\) The State's limited budgetary resources have caused many cutbacks in funding for homeless service providers, therefore there is little relief for families experiencing or at risk of homelessness. In 2007, 2008, and 2009 California's population of homeless children made up 25% of the nation's homeless children.\(^{68}\) California had approximately 334,131 homeless children living in the state in 2010.\(^{69}\) It is likely, however, that this number was significantly undercounted due to a change in California's reporting system.\(^{70}\) Of these, 193,796 children were enrolled in California public schools.\(^{71}\) Resources for homeless families in the state are very strained, and additional budget cuts to school districts cause homeless education programs to lose footing.

The State's Department of Education has created a series of strategy recommendations for implementing educational support for homeless children.\(^{72}\) The Department focuses on the areas of transportation, identification, Title I (funding focused on improving the academic achievement of the disadvantaged), and enrollment.\(^{73}\) These recommendations are in line with the type of assistance that McKinney-Vento seeks to provide to homeless children, and the State offers some assistance for implementing these policies. The Department's website includes links to various forms, posters, and handouts that can be used by homeless liaisons to give notice of educational rights to homeless families.\(^{74}\) The State also provides many forms that schools can use for issues such as missing

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\(^{67}\) POINT-IN-TIME, supra note 33, at 4.

\(^{68}\) See Bassuk MD et al., supra note 2, at 6.

\(^{69}\) Id. at 29.

\(^{70}\) The number reported in California for 2010 was 162,822 less than the number from the previous year. Considering that in 2010, numbers went up in every region in the nation, it appears that California's number was underreported. This underreporting is attributed to a change in the reporting system, and a lack of proper training in this new system. See BASSUK, MD ET AL., supra note 2, at 12.


\(^{73}\) Id.

\(^{74}\) For an example of a poster created by the Department of Education, see Poster, You Can Enroll in School! (Nov. 9, 2010), available at http://www.cde.ca.gov/sp/hs/cy/.
Homeless children in California are not achieving academically. Of those tested in state proficiency tests, only small percentages were deemed proficient in reading and mathematics. Allowing this poor state of educational achievement to continue for such a large population of children is hurting the state’s future economic progress. “One of the best documented relationships in economics is the link between education and income: more highly educated people have higher incomes. Failure to graduate from high school has both private and public consequences: income is lower, which means lower tax contributions to finance public services.”

Furthermore, with an increased caseload due to the economic downturn, budget cuts, and a lack of funding, school districts are struggling to provide the services outlined in the McKinney-Vento Act. Budget cuts have negatively impacted the services schools can provide to homeless children, and schools are also struggling to collect school supplies, clothing, and food due to a decline in charitable donations as a result of the economic downturn. Congress provided a one-time funding of $70 million through the American Recovery and Reinvestment Act (“Recovery Act”) for the McKinney-Vento education initiatives. This additional funding more than doubled the appropriation for the Education for Homeless Children and Youth Program, however, this still meant that less than one in five school districts received any support from either the Recovery Act or regular McKinney-Vento funding.

The National Center on Family Homelessness produced a report analyzing each state’s effectiveness in addressing family homelessness,

75. All of these forms can be located at Cal. Dep’t of Educ., http://www.cde.ca.gov/sp/hcs/cy/ (last visited Mar. 14, 2012).
77. Id.
80. UNITED STATES DEP’T OF EDUC., GUIDANCE ON MCKINNEY-VENDO HOMELESS CHILDREN AND YOUTH PROGRAM FUNDS MADE AVAILABLE UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 1 (2009).
using data from the years 2005-2006. This comprehensive report ranked California as number forty out of the fifty states, and qualified the State’s policies and planning regarding homeless families as “inadequate.” In 2011 an updated report was released in which California’s composite state rank dropped to number forty-six, despite the fact that the state planning rank has since been raised to “moderate.” These numbers indicate that California is not able to successfully serve its population of homeless families.

While California has increased its efforts in planning and creating policies to address issues resulting from family homelessness, there has been little actual implementation of such policies. During his second term (2006-2010), Governor Schwarzenegger commissioned and approved a Ten Year Chronic Homelessness Action Plan (“Plan”) that was intended to serve as a structured program and policy guide for ending chronic homelessness in California. This comprehensive plan was a major step in the right direction for dealing with California’s homelessness issues, but it largely ignored family homelessness. The Plan instead focuses on individuals experiencing chronic homelessness. While the Plan does provide minimal insight to family homelessness through its “Best Practices” sections, some of which praise organizations that provide services to children and families, it is clear that family homelessness is still not a priority in California.

The State currently lacks a state Interagency Council on Homelessness to coordinate statewide efforts for addressing the needs of homeless persons and families and assisting service providers. Efforts made in 2011 to pass a bill through the California legislature to create a council failed. Groups in the state are

82. National Center on Family Homelessness, supra note 76.
83. Id. at 1.
84. Bassuck, MD et al., supra note 2, at 29.
85. Id.
86. This Plan was adopted in February 2010. See Governor’s Ten Year Chronic Homelessness Action Plan (2010), available at http://www.homebaseccc.org/PDFs/CATenYearPlan/Final%20Ten%20Year%20Chronic%20Homelessness%20Action%20Plan.pdf.
87. Id.
88. Id.
89. Id. at 4.
90. National Center on Family Homelessness, supra note 76, at 4.
currently encouraging Governor Brown to create an interagency council through executive order. Using existing resources, a council would be able to "streamline the administration of programs, improve efficiency, and eliminate fragmentation." California is struggling to keep itself afloat financially, and as a result, many state-funded service providers have experienced severe budget cuts or have been eliminated in recent years. Despite significant budget cuts, education accounts for more than 50% of the General Fund. Governor Brown introduced a ballot measure to be voted on in November 2012 that could introduce more education funds. If approved, Proposition 98 would restore some of the funds that have been withheld from public K-14 schools in prior years. Should the measure not pass, schools will be able to reduce the number of days in the school year to help lower costs. After proposing to eliminate funding for bus transportation to schools, the Governor's final budget did include the funding, however no money was designated specifically for the transportation of homeless students. The conflict caused by the high number of homeless children in the state and budgetary uncertainty has placed California's McKinney-Vento efforts at a standstill.

B. The Liaison and the School Districts Lack Resources and Collaboration

Many school districts have just one educational liaison. The liaison therefore is responsible for children at multiple schools and levels of schooling. Because the number of homeless families with...
children has increased so significantly over the past few years, the responsibilities of the liaison have increased as well. The same individual is now trying to help a significantly greater number of children. As previously discussed, homeless education liaisons are responsible for “ensuring the identification, school enrollment, attendance, and opportunities for academic success of students in homeless situations.”

Additionally, school districts are not prepared to address all the needs that a homeless child faces. However, by increasing cooperation between local service providers, children and families will be able to access services in a more streamlined and efficient way. Because homeless families often have to access services provided by various systems, “each with its own requirements, policies, procedures, and goals ... without agency collaboration, a youth may bounce haphazardly among agencies that provide services which may be duplicated or possibly even contradictory.”

Every county and school district is required under McKinney-Vento to plan for collaboration. However, without an Interagency Council on Homelessness to address the collaboration or a ten-year plan to eliminate homelessness, these efforts are failing.

In order to receive Act grants, a community must submit a single, coordinated application for funds as prepared by the Continuum of Care (“CoC”). The goal in requiring the CoCs is to encourage “maximum participation in the planning process by all interested parties - including public, private, and nonprofit sectors and representatives of homeless subpopulations.” The responsibilities of CoCs include establishing a common vision and strategically planning system-wide performance goals, creating a system for recording data about the community’s homelessness population, and evaluating provider performance. The CoCs are not required to include homeless education liaisons in their meetings. However, some counties in California do include them.

100. Local Homeless Education Liaisons, supra note 56.
101. Id. at 7.
103. Id. at 4.
104. Id. at 4–5.
105. Both San Francisco and Santa Clara counties indicate that they allow an educational liaison to participate in CoC meetings. See San Francisco Continuum of Care,
This brings an important voice to the monthly meetings, increases the visibility of the liaison, and is a good starting point for countywide collaboration.

C. Homeless Students are not Properly Identified

One of the most difficult challenges in ensuring that homeless children receive the educational opportunities to which they are entitled is successfully identifying them. Because the DoE uses a more expansive definition of homelessness than other governmental departments, the McKinney-Vento rights are not limited to those children living on the streets or in a shelter. As discussed above, children whose families are doubling up or living in a facility not intended for permanent habitation also qualify. As a result of the stigma of homelessness and a fear of having their children taken away, most families do not approach school officials to notify them of the change in their residential status.  

It is up to the school to reach out to these children. It is important that all members of a school community be informed of this definition of homelessness in order to help teachers and administrators pick up signs that a child's living situation has changed. The most common form of outreach currently involves putting up posters, notices, and brochures both in schools as well as shelters and emergency housing. While such notices are necessary for informing families with school-age children of their educational rights, more active methods of identification are needed to reach the maximum of California's homeless students in need of educational support and assistance.

D. School Selections are not Taking Best Interest of the Child Into Account

School selection can have the biggest impact on the child. The benefits of the stability of staying in the school of origin must be weighed against factors such as the transportation time to the new


106. Identification, supra note 51.
school and the wishes of the parent or guardian. The decisions should be based on the best interest of the child. This generally means keeping the child in the school of origin, especially if the change in housing status occurs during the middle of a school year. As discussed above, an additional change caused by a new school to the child’s already hectic and chaotic life can be detrimental to the development and social capacity of the child. “A rule of thumb is that it takes a child four to six months to recover academically after changing schools.”

Keeping a child at their school of origin is not always a realistic possibility. Depending on the new housing situation, the family may be living in another school district or in a different municipality, thus making travel to the school of origin difficult. While the district is responsible for coordinating the transportation of the student, the time that it takes the child to get to the school of origin should also be considered. Public transportation may be an affordable option for getting the child to and from the school of origin, but excessive tardiness or absences caused by such transportation could hurt the child’s schooling. Other options that could ensure a more timely arrival of the child at school each morning are significantly more expensive. These include hiring taxicabs or vans to shuttle students, reimbursing parents for gas, and leasing vans from other organizations to use in transportation efforts. As social service and educational programs in California continue to face severe budget cuts, it is unlikely that the state will be able to pursue any option other than compensating all or some portion of public transportation.


E. Lack of Protections Against No Fault Evictions Increases Family Homelessness

Since the subprime mortgage crisis began, more families than ever have been forced to move from their permanent living situations, sometimes at no fault of their own.\textsuperscript{110} Families that rent may be completely up to date on their rent payments, but may be forced into eviction proceedings either because the landlord is going into foreclosure or because the owner wants to move into the home.\textsuperscript{111} These eviction proceedings can cause an unexpected housing change on a previously stable family, and could cause the family to become homeless.

There are both federal and state laws that protect tenants whose homes are going into foreclosure. The Protecting Tenants in Foreclosure Act requires that most tenants be given a 90-day notice period if they will be required to move out after a foreclosure.\textsuperscript{112} Additionally, some cities in California have provided their tenants with extra assurances through "just cause for eviction" ordinances.\textsuperscript{113} These ordinances provide that tenants whose homes are in foreclosure cannot be evicted based solely on foreclosure alone; the new owner must honor the terms of the lease unless there is a just cause for an eviction.\textsuperscript{114}

These laws benefit families with school-aged children because they provide, at the very least, an extended period of time before the family moves out. This gives the family time to plan for a new place to live rather than being forced into a sudden change in housing. Families may also be able to negotiate a timeframe with the new


\textsuperscript{111} Id. at 9.

\textsuperscript{112} The act requires that the tenant be a bona fide tenant to qualify for protection under the law. See Protecting Tenants at Foreclosure Act of 2009, Pub. L. No. 111-22, §702, 123 Stat. 1632. A bona fide tenant is one who is: (1) not the spouse, child, or parent of the landlord, (2) the lease/tenancy was the result of an arms-length transaction, and (3) the tenant was not paying significantly less than the fair market rent. See Protecting Tenants in Foreclosure Act, §702(b) (2009).

\textsuperscript{113} For a list of some California cities that have just causes ordinances, see Tenants Together, City-level Just Cause for Eviction and Rent Control Ordinances, TENANTS TOGETHER, http://tenantstogether.org/article.php?id=935&preview=1&cache=0 (last visited Oct. 24, 2012).

\textsuperscript{114} Id.
owner that would allow them to remain in the home until the children have finished the semester or school year.

IV. How Can California Better Implement McKinney-Vento Rights?

Despite its economic state, California can take steps, through school districts and educational liaisons, which will greatly benefit homeless children. Some of these recommendations will ultimately require more funding, but it is clear that these children need additional assistance both for their own benefit and the benefit of California.\(^{115}\)

A. Increased Role of Education Liaison and Greater Collaboration with Service Providers

The role of liaison is demanding and cannot be optimized when only one person acts across a district and various schools to fulfill that role. While school districts in California are currently strapped for financial resources due to major budgetary restrictions, they could greatly benefit from employing multiple educational liaisons. This would allow for a division of labor between liaisons: some could focus on outreach and identification of homeless students, while others could coordinate assistance to the children by helping them decide which school to attend or setting up transportation.

To best perform outreach tasks, liaisons should collaborate and work with as many homeless service providers in the city as possible. These service providers should include not only shelters, housing authorities, and food providers, but also other community groups such as faith-based organizations, Head Start and after-school programs, and social service providers.\(^{116}\) This expanded outreach could help the liaison better identify homeless children and will also make liaisons more visible members of the community. It would be beneficial within the community to increase awareness of the role of the homeless liaison as a source for the services provided by the school district. This could promote families to seek out the

\(^{115}\) National Center on Family Homelessness, supra note 76, at 3.
\(^{116}\) See Moore, supra note 44, at 11-12.
assistance of the liaison or school district should their housing situation change. Additionally, efforts to better incorporate at least one liaison in every CoC meeting should be increased across California, and should be the bare minimum of a starting point for a collaborative effort and an increased role of the educational liaison. This at least provides a recurring opportunity for services providers and the education liaisons to be current with the situation of homeless children and families in the respective community.

Chicago is a good example of a city that has taken proactive steps to strengthen its educational resources for homeless children. In Chicago, the public school district found effective a cross-training between shelter staff and school staff who operate a “Students in Temporary Living Situations” program. This ensures that each department can clarify their responsibilities and come to understand the roles other departments take on in assisting homeless children. Such trainings would be a good starting point for school districts in California, but liaisons should work to bring more participants to the table. Cross-agency communication is also beneficial by allowing for more powerful and cohesive assistance for the family. For example, if a family is trying to keep their school-age children in their school of origin, the liaison and school district can work with the local housing authorities or shelter providers to ensure the family gets a spot as close to the school as possible.

B. Better Identification of Homeless Students

All members of the school community should be educated on common indicators of homelessness in children. These include: chronic hunger and exhaustion, erratic attendance, excessive tardiness, mood swings or a change in behavior, lack of preparedness for class, personal hygiene or clothing choices that are inappropriate for the season, and resistance to parting with personal possessions. Being able to recognize these signs would result in

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119. These factors are examples of those used by the Illinois State Board of
more successful identification of homeless children. Another interesting technique that could aid in identifying younger homeless children would involve creating classroom assignments requiring the child to describe their living situation. This could bring changes in housing to the teacher's attention and could be a good starting point to approach a family about their children's educational rights.

Greater communication between the homeless liaison or other school officials, and school transportation providers (e.g., bus drivers) could help to further facilitate identification. For example, the driver may notice a family request for a child to be dropped off at a new address, or that the child is not going into the old home. Outreach to school nurses could also be valuable. Because homeless children generally lose access to healthcare and may live in less healthy environments, they tend to be sick more often. They may also open up to a nurse while describing symptoms, and therefore make it easier for a nurse to identify a child experiencing homelessness.

C. School Selection Based on Best Interest of the Child

The most important step in choosing the school for the child is to make sure that the family is informed of their right to keep the child at the original school. This includes letting the family know that the liaison will help coordinate transportation and assist in immediate enrollment in the school of their choice by helping to overcome difficulties with documentation and immunizations. The liaison should then work with the student to decide whether remaining at the school of origin is the right choice for them, and give the family information about their right to appeal should they not be happy with the ultimate placement of the child.

In approaching the issue of transportation, collaboration between the school district and both district and public transportation providers would allow the child to be presented with

120. See DUFFIELD ET AL., supra note 5, at 21.
121. See Bassuck, MD et al., supra note 2, at 10.
the optimal transportation plan. This could result in changing school bus routes to go past more temporary housing situations (including motels, shelters, and transitional housing), therefore facilitating the school commute for homeless children. Increased communication between schools and transportation providers would also present an opportunity to “provide sensitivity training to bus drivers and arrange bus stops to keep students’ living situations confidential.”

Should the family and liaison come to the decision that it would be in the best interest for the child to move from the school of origin to the local school, efforts should be made to ensure that the transition is as smooth as possible. The current teacher should coordinate with the new teacher and provide them with a portfolio of the student’s work to ensure educational continuity. The school could also assign a mentor or partner for the homeless child so that they may be introduced to the class and to new friends. It would also be beneficial to the student if the liaison could assist in setting up tutoring and extracurricular activities for the child, ensuring that both the educational and social skills of the child will continue to develop in the new school.

D. Preventative Legal Protections for No Fault Evictions

Aside from ensuring that the rights provided by the Act are protected, there are other avenues for providing children with a stable learning environment. San Francisco’s Board of Supervisors passed a law in 2010 that prohibits the evictions of families with children during the school year. The ordinance states that owner move-in evictions cannot occur where the tenant family includes a minor under the age of 18 that is currently enrolled in a local school. This law offers stability to a family’s living situation and

122. Transportation, supra note 118.
123. Id.
124. School Selection, supra note 107, at 3.
125. Id. at 2.
126. Id.
128. S.F., CAL. ORDINANCE 33-10 (Mar. 14, 2010) (exceptions to this rule are if the
provides assurance that a child will not need to consider a change of school from roughly September through June of any given year.\textsuperscript{129} The family can then try to find adequate housing in the interim or the child can make a more natural transition to a new school at the end of the school year.

While this law does nothing to protect the educational rights of children who are already homeless, it represents a strong effort to prevent more children from losing their homes and be faced with a possible change in school. In a time where states are struggling to provide educational services to children in their districts, keeping children in a stable living and learning environment for as long as possible is beneficial for both the schools and the children. Innovative legal measures such as these should be more broadly applied across California to protect the maximum number of children.

**Conclusion**

Family homelessness is at a crisis level in California, and the issue is not receiving the attention and dedication that it deserves. The next generation of Californians is in a vulnerable position and may not be able to get the best education possible. The large population of homeless children in California should have full access to the educational rights guaranteed under federal law. However, there are important steps that California needs to take in order to meet the needs of its school children. From strengthening the position of the liaison, to better identifying homeless students and creating laws the protect families at risk of homelessness, the state needs to be more involved in providing services. While this is an incredible task that cannot be successful without expanded funding and manpower, the rewards will be far worth the effort.