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ABA/ NLADA 2006 Equal Justice Conference

Helping Homeless Families and Youth Affected by Domestic Violence Access Housing and Education

Terri Keeley, National Law Center on Homelessness & Poverty
(202) 638-2535 x205, tkeeley@nlchp.org

Joy Moses, National Law Center on Homelessness & Poverty
(202) 638-2535 x211, jmoses@nlchp.org

Michael Gregory, Trauma and Learning Policy Initiative
(617) 390-2550, mgregory@law.harvard.edu

Domestic violence often leads to homelessness among women and young adults. Homeless survivors of domestic violence may face discrimination in obtaining housing and may encounter difficulties enrolling in school. The presentation provides a legal framework for addressing these obstacles and highlights school resources for homeless families fleeing domestic violence. In particular, presenters will discuss VAWA's new housing protections for domestic violence victims/survivors, the McKinney-Vento Act, as well as special education law and how it relates to homelessness.

Topical Outline:

Part One: Domestic Violence and Homelessness

I. Background: DV & Homelessness

- a. Families
 - 1. Make up 40% of the homeless population
 - 2. Typical homeless family - headed by a single mother, usually in her late twenties, with 2 or 3 young children, typically preschoolers.
 - 3. 1 in 4 homeless mothers cite DV as the reason they became homeless
- b. Children
 - 1. 18% of homeless children lose permanent housing when a custodial parent escapes DV

II. DV disproportionately impacts women of low-income means

- a. Women living in households making less than \$7,500 a year are 7 times more likely to experience DV than women living in households making over \$75,000
- b. Women living in rental housing are 3 times more likely to be abused than women who own their own homes

III. Why housing is important

- a. Plays a central role both in decision to leave, or return to, abuser
- b. Provides the foundation to address other needs such as education and employment

IV. Shelter for DV survivors & their families

- a. For many, staying with family or friends is not an option, as many abusers isolate victims from friends and family
- b. Emergency shelter – only an immediate and short-term solution
 1. Average stay at an emergency shelter - 60 days
 2. Average length of time it takes a homeless family to secure housing – 6 to 10 months

V. Housing Difficulties DV Victims/Survivors Face

- a. In addition to losing housing when they flee their partners, DV victims/survivors face
 1. Discrimination in obtaining housing – denial based on status as current or former victim of DV
 2. Eviction
 - (A) 2005 nationwide survey - local housing & DV attorneys reported 580 documented cases where victims evicted because of the DV committed against them. Represents about 10% of the total eviction caseload handled by those surveyed.
 3. Examples: Noise violations, criminal activity

VI. Legal Remedies

- a. State Laws
 1. E.g., protections for breaking a lease, changing locks, right to call for emergency assistance, defenses to eviction, protection from denials based on status as DV victim (Some states include stalking and SA as well.)
 2. See hand-out
 3. In states without specific laws, attorneys have used the following theories: constructive eviction, breach of quiet enjoyment, seeking reasonable accommodation for disability based on trauma suffered from DV
- b. Federal Laws
 1. Fair Housing Act – public and private
 2. VAWA – certain kinds of public housing

VII. Fair Housing Act – 42 U.S.C. sec. 3601 et. seq.

- a. Emerging legal theory: sex discrimination
 1. Landlord denies T or prospective T housing, evicts T, or discriminates against T w/ regards to “terms, conditions, or privileges” or “in the provision of services and facilities”

- (A) E.g., evicts or denies DV victim, but not other crime victims; imposes conditions on rental does not do for others, denies admission b/c of status
- b. 2 theories:
 - 1. Disparate impact: women comprise overwhelming majority of DV victims
 - 2. Disparate treatment: gender stereotyping - Bouley v. Young-Sabourin, No. Civ.1:03 CV 320, 2005 WL 950632 (D. Vt. Mar. 10, 2005)
- c. Many states have similar state analogs

VIII. Violence Against Women Act – Public Law 109-162

- a. 2005 Reauthorization includes housing protections for former or current victims of DV, dating violence, and stalking
- b. Amends existing housing laws
 - 1. Public Housing Program - 42 U.S.C. § 1437d
 - 2. Housing Choice Voucher Program - 42 U.S.C. § 1437f(o)
 - 3. Project-Based Section 8 – 42 U.S.C. § 1437f(c),(d)
- c. Governs public housing agencies administering public housing & Section 8 Voucher program as well as landlords, owners, and managers participating in Section 8 Voucher and project-based programs
- d. Effective when signed into law (January 5, 2006)

IX. Overview of VAWA’s Protections

- a. Can’t deny admission based on status as a current or former victim
- b. Can’t evict on based on DV
 - 1. Exception to “one-strike” criminal activity eviction rule when action based on DV and tenant is a victim
 - 2. Landlord may “bifurcate a lease” to evict offender, while allowing victim/tenant/occupant to remain
 - 3. Exception if PHA or landlord can demonstrate DV poses “an actual or imminent threat to other tenants or those employed at or servicing the property”
- c. Transfer to another jurisdiction in Section 8 voucher program, based on fear of further violence
- d. Any state, local, or federal law providing greater protection trumps

X. How VAWA’s protections work

- a. PHA or landlord *may* ask victim for documentation that the “incident or incidents in question are bona fide incidents of abuse”
 - 1. Victim attests under penalty of perjury, along with victim service provider, attorney, medical professional, etc.
 - 2. Victim must name offender
 - 3. VAWA requires PHA, landlord, etc. to keep information confidential

XI. VAWA’s Exclusions

- a. Does not address long-term housing for battered immigrants
 - 1. BUT expands scope of services LSC grantees can provide
- b. Does not address waiting list preferences for victims of DV

- c. Does not amend the Fair Housing Act
- d. Does not address every federal housing program

XII. Further Resources

- a. State Law Remedies & VAWA information
 - 1. Domestic Violence Program, NLCHP, <http://www.nlchp.org>
tkeeley@nlchp.org, (202) 638-2535 x205
- b. Fair Housing Claims
 - 1. Local fair housing centers
 - 2. National Fair Housing Alliance (800) 910-7315
 - 3. ACLU Women's Rights Project,
<http://www.aclu.org/WomensRights/WomensRightsMain.cfm>
 - 4. (212) 549-2615
 - 5. National Fair Housing Alliance (800) 910-7315
 - 6. Wendy R. Weiser & Geoff Boehm, Housing Discrimination Against Victims of Domestic Violence, Clearinghouse Rev. 708, 709-714 (March-Apr. 2002) (discussing potential litigation strategies)
- c. Battered immigrants
 - 1. Legal Momentum Immigrant Women Program,
<http://www.legalmomentum.org/issues/imm/index.shtml> (202) 326-0040
- d. HUD guidance to PHA's regarding DV
 - 1. Chapter 19, HUD Public Housing Occupancy Guidebook (2003),
<http://www.hud.gov/offices/pih/index.cfm> → Quick Find → pp. 224-230 of PDF file

Part Two: Basic Education Rights for Homeless Children Affected by Domestic Violence

I. General Information About Child and Youth Homelessness

- a. 1.35 million children (10% of all children living in poverty) experience homelessness each year.
- b. An estimated 1.7 to 2.8 million youth live on their own in homeless situations each year.
- c. Many communities have reported an increase in family homelessness in recent years.
- d. Child homelessness is caused by such factors as a lack of affordable housing, poverty, and domestic violence. Often, more than one factor is evident in individual family situations.

II. Educational Barriers Faced By Homeless Children

- a. Enrollment requirements (residency, school records, immunizations, legal guardianship, etc.)
- b. High residential mobility resulting in lack of school stability
- c. Lack of access to programs (Title I, special education, after school programs, extra-curricular activities)
- d. Lack of transportation
- e. Lack of school supplies, clothing, etc.

- f. Poor health, fatigue, hunger
- g. Prejudice and misunderstanding

III. Frequent School Transfers Are Educationally Harmful

- a. It takes children 4-6 months to academically recover from each school transfer.
- b. Students who switch schools frequently score lower on standardized tests. A study found that mobile students scored 20 points lower than non-mobile students.
- c. Students suffer psychologically, socially, and academically from mobility. Mobile students are less likely to participate in extracurricular activities and more likely to act out or get into trouble.

IV. Basics of the Federal McKinney-Vento Homeless Assistance Act

- a. The education provisions of McKinney-Vento were reauthorized in 2002 and incorporated within the No Child Left Behind Act.
- b. McKinney-Vento is the primary federal law addressing the educational needs of homeless children and youth.
- c. Primary goals of McKinney-Vento
 - 1. Increase school stability
 - 2. Reduce enrollment delays

V. Definition of “homeless” under the McKinney-Vento Act

- a. Children who lack a fixed, regular, and adequate nighttime residence.
- b. Specific examples cited within the Act
 - 1. Sharing the housing of others due to a loss of housing, economic hardship, or similar reason
 - 2. Living in motels, hotels, trailer parks, or camping grounds due to a lack of alternative accommodations
 - 3. Living in emergency or transitional shelters
 - 4. Awaiting foster care placement
 - 5. Living in a public or private place not designed for sleeping
 - 6. Living in cars, parks, abandoned building, bus or train stations

VI. Homeless Program Personnel

- a. State Coordinators of Homeless Education
 - 1. Each state must appoint a coordinator of state-level activities
 - 2. Coordinator responsibilities include ensuring school district compliance, collecting data on educational barriers, and providing trainings and technical assistance.
- b. Local Homeless Liaisons
 - 1. Each school district must appoint a liaison to coordinate school district activities.
 - 2. Liaison duties include ensuring identification, enrollment, access to services, and resolution of disputes.

VII. McKinney-Vento and School Choice

- a. Homeless children can choose between a school of origin and a school of current location.
- b. School of Origin
 1. A school of origin is the school attended when permanently housed or the school in which the student was last enrolled.
 2. Students can remain in a school of origin the entire time they are homeless, and until the end of any academic year in which they move into permanent housing.
 3. The one limitation on school of origin is feasibility connected to the best interests of the child.
 4. The U.S. Department of Education offers sample criteria for best interest determinations:
 - (A) Continuity of instruction
 - (B) Age of the child or youth
 - (C) Safety of the child or youth (e.g. D.V. concerns)
 - (D) Length of stay at the shelter
 - (E) Student's need for special instructional programs
 - (F) Impact of commute on education
 - (G) Time remaining in the school year
- c. School of Current Location
 1. A school of current location is any public school that students living in the same attendance area are eligible to attend.
 2. When students attend a new school of current location it becomes a school of origin for future purposes.

VIII. McKinney-Vento and School Enrollments

- a. McKinney-Vent defines “enroll” and “enrollment” as attending classes and participating fully in school activities.
- b. Records
 1. Homeless children and youth have the right to enroll in school immediately, even if they do not have typically required documents such as school records, medical records, proof of residency, or other documents.
 2. Enrolling schools must obtain school records from the previous school and students must be enrolled in school while records are obtained.
 3. If a student does not have immunizations, immunization records, or medical records, the liaison must assist the family in obtaining them. In the meantime, the student must be enrolled and attending classes.
- c. Special considerations for children in domestic violence situations
 1. Advocates should encourage schools and districts to protect student privacy.
 2. TROs should specify that student records are protected from inspection
 - (A) Schools can transfer records through a state attorney general's office or a state coordinator.
 - (B) Schools can enroll students under assumed names.

IX. Appeals (Dispute Resolution)

- a. Every state must establish dispute resolution procedures.
- b. McKinney-Vento specifies a process for when a dispute arises:
 1. Student must be immediately admitted to the school of choice while the dispute is being resolved.
 2. Parent, guardian, or youth must be provided with a written explanation of the school's decision, including information about the right to appeal.
 3. Homeless liaisons must carry out the process as expeditiously as possible.

X. Transportation

- a. School of Origin Transportation
 1. McKinney-Vento requires school districts to provide transportation to and from schools of origin.
 2. If students continue to live in the same school district, that district must provide transportation.
 3. If students move to new districts, districts of origin and new districts must reach an agreement about who pays for transportation. If they can't agree, they must split the costs evenly.
- b. Other Types of Transportation—Districts must provide homeless students with transportation services comparable to those provided to other students.
- c. Types of transportation
 1. McKinney-Vento does not specify the type of transportation that must be provided. However, transportation should be appropriate and consider such factors as the age and needs of the child.
 2. Common forms of transportation provided by school districts include:
 - (A) Regular school buses
 - (B) Special education buses
 - (C) Passes/tokens for public transportation
 - (D) Taxi or van services
 - (E) Monetary reimbursement to shelters or families for gas and mileage
- d. Special considerations for children in domestic violence situations
 1. To protect family safety, encourage districts to not place bus stops right in front of domestic violence shelters.
 2. Encourage districts to be sensitive to other special needs (e.g. a preference for a female bus driver).

XI. Equal Access

- a. Homeless students must receive services that are comparable to the services offered to other students.
- b. "Comparable services" includes, but is not limited to, a variety of school programs. McKinney-Vento specifically lists the below programs:
 1. Transportation services
 2. Title I of the No Child Left Behind Act
 3. Educational programs for children with disabilities
 4. LEP programs

5. Vocational and technical education
6. Gifted and talented programs
7. School nutrition services

XII. Important Services

- a. Homeless education programs
 1. Some school districts use McKinney-Vento subgrants, Title I funds, state resources, and/or community donations to create comprehensive homeless education programs.
 2. Such programs often offer useful services such as the following:
 - (A) Tutoring
 - (B) Mentoring
 - (C) Free back packs and school supplies
 - (D) After school programming
 - (E) Summer programming
- b. School nutrition programs
 1. Homeless students are automatically eligible for free school lunches. They are excused from the application process that requires income certification.
 2. USDA guidance has limited the documentation requirement to the student's name, effective date to receive meals, and the signature of a homeless liaison or service provider.
- c. Special education
 1. The Individuals with Disabilities Education Act (IDEA) enables students with disabilities to receive special education services (e.g. speech therapy, psychological counseling) that cater to their individual needs.
 2. This legislation is vital to homeless students who are at higher risk for developmental delays, speech problems, and learning disabilities.
 3. IDEA includes provisions that account for children who are highly mobile, decreasing the likelihood that school transfers will result in delays in the provision of necessary services.

XIII. More Information

- a. Several national organizations can provide useful information on educating homeless children, including those involved in domestic violence situations.
 1. National Law Center on Homelessness & Poverty (202-638-2535, www.nlchp.org)
 2. National Association for the Education of Homeless Children and Youth (202-364-7392, www.naehcy.org)
 3. National Center for Homeless Education (336-315-7453, www.serve.org/nche)
- b. More information may also be available from your state education department or school district office.

Part Three: Special Education for Homeless Children Affected by Domestic Violence

I. Connection between DV/Homelessness and Special Education

- a. Trauma from exposure to DV and/or homelessness can impact a child's ability to focus, behave appropriately, and learn at school.
- b. A child's trauma response may (but does not always) result in a diagnosis/disability. Common diagnoses include:
 1. Post-Traumatic Stress Disorder (PTSD)
 2. Attention Deficit Hyperactivity Disorder (ADHD)
 3. Depression
 4. Oppositional Defiant Disorder (ODD)
 5. Conduct Disorder (CD)
 6. Anxiety Disorder
 7. Phobic Disorder
 8. Borderline Personality
 9. "Developmental Trauma Disorder"—a new diagnosis proposed by Dr. Bessel A. van der Kolk (2005)
- c. Trauma can impact a child's ability to learn at school in multiple ways, whether or not there is a formal diagnosis. Research organizes the various impacts into three principal domains:
 1. Academic Performance
 - (A) Language and communication disorders
 - (B) Difficulty with cause and effect
 - (C) Difficulty with focusing and paying attention
 2. Classroom Behavior
 - (A) Impulsivity and limited ability to regulate emotions
 - (B) Aggression or defiance
 - (C) Withdrawal
 3. Relationships
 - (A) Distrustful of adults; lack of meaningful relationships
 - (B) Lack of social skills; difficulty interacting with peers
- d. If a child's trauma response results in a formal diagnosis OR if the child already has a diagnosis that is interfacing with the trauma response, the child *may* be entitled to special education services at school.

II. The Right to Special Education Services

- a. The Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et. seq., recently reauthorized in 2004 governs the right to special education services and outlines procedural protections for parents.
 1. Substantive Rights
 - (A) Free Appropriate Public Education (FAPE), 20 U.S.C. § 1401(9)
 - (a) Special education, 20 U.S.C. § 1401 (29)
 - (b) Related services, 20 U.S.C. § 1401 (26)
 - (B) Least Restrictive Environment (LRE), 20 U.S.C. § 1412(a)(5)
 - (C) Individualized Education Program (IEP), 20 U.S.C. § 1414(d)

2. Procedural Safeguards, 20 U.S.C. § 1415
 - (A) Right to inspect all records
 - (B) Right of parental consent for all evaluations, IEPs, etc.
 - (C) Prior written notice *in parents' native language* whenever the school proposes or refuses to initiate or change any aspect of the child's special education
 - (D) Right to an independent educational evaluation
 - (E) Opportunity for mediation
 - (F) Opportunity to file an administrative due process complaint
 - (G) Opportunity to file a civil action and recover attorney's fees
 - (H) Written notice *in parents' native language* of these safeguards at least annually
- b. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, prohibits any department or program receiving federal funds from discriminating on the basis of disability. Students with disabilities who are not eligible for special education under IDEA *may* still qualify for accommodations under Section 504.
 1. Standard: student must have or have had a "physical or mental impairment which substantially limits one or more major life activities" or be regarded as disabled by others. Such "impairments" might include:
 - (A) Chronic health problems
 - (B) Emotional impairments
 - (C) Physical handicaps or disabilities
 - (D) Speech/language impairments
 - (E) Hearing impairments
 - (F) Attentional deficits
 2. Types of Accommodations
 - (A) Medical assistance
 - (B) Accessibility accommodations
 - (C) Standardized testing accommodations
 - (D) Braille
 - (E) Physical therapy
 - (F) Speech/language therapy
 - (G) Counseling

III. Eligibility under the IDEA

- a. To qualify for services under the IDEA, a child must be "a child with a disability." 20 U.S.C. § 1401 (3)(A)(i). This includes:
 1. Mental retardation
 2. Hearing impairments
 3. Speech or language impairments
 4. Visual impairments
 5. Serious emotional disturbance
 6. Orthopedic impairments
 7. Autism
 8. Traumatic brain injury
 9. Health impairments

10. Specific learning disabilities

- b. As a result of the disability, the child must need special education and related services. 20 U.S.C. § 1401 (3)(A)(ii).
- c. For children ages 3 through 9, eligibility *may* include children with developmental delays. 20 U.S.C. § 1404 (3)(B).
- d. For all children, the eligibility determination must include information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. 34 C.F.R. §300.306 (c)(1)(i).

IV. Procedural Timeline under the IDEA

- a. Referral—a child’s parent, school, or another state agency can refer a child for a special education evaluation. 20 U.S.C. § 1414 (a)(1)(B).
- b. Consent—after receiving a request for an evaluation, the school must obtain informed written consent from the child’s parent. 20 U.S.C. § 1414 (a)(1)(D).
- c. Initial Evaluation—within **60 days** of receiving consent from the parent, the school must complete an evaluation of the child. 20 U.S.C. § 1414 (a)(1)(C)(i)(I).
- d. Team Meeting—the school convenes an IEP Team to determine, on the basis of the completed evaluation, whether the child is eligible for special education under the IDEA and, if so, what types special education and/or related services the child should receive.
- e. Individualized Education Program (IEP)—for an eligible child, the Team writes an IEP within **30 days** of a determination that the child needs special education and/or related services. 34 C.F.R. § 300.323 (c)(1). The IEP is a legally enforceable document that outlines the child’s disability, present levels of performance, a statement of measurable annual goals, a listing of any specialized instruction and/or related services the child is to receive, and the frequency, location and duration of said instruction or services. Parents have the right to consent to the IEP before it is implemented by the school. 20 U.S.C. § 1414 (d).
- f. Independent Educational Evaluation (IEE)—if a parent disagrees with the results of the initial evaluation provided by the school, s/he may obtain an independent evaluation at public expense. 20 U.S.C. § 1415 (b)(1).
- g. Annual Review—a child’s IEP must be reviewed by the Team at least **once per year**. 20 U.S.C. § 1414 (d)(4)(A)(i).
- h. Reevaluation—a child with a disability must be re-evaluated by the school at least **once every three years**, or sooner if the school determines it is necessary or the parent or teacher requests a reevaluation. 20 U.S.C. § 1414 (a)(2).

V. Special Education and School Discipline

- a. Children with disabilities can be removed from school (i.e., suspended or educated in an alternative setting) for up to **10 consecutive days** for violations of the code of student conduct. 20 U.S.C. § 1415 (k)(1)(B).
- b. If a school seeks to remove a child with a disability for more than 10 days, additional procedural protections apply.

1. Manifestation Determination—Within **10 days** of the decision to remove the child for 10 days, the Team must convene to determine whether the child’s behavior was a manifestation of his/her disability. 20 U.S.C. § 1415 (k)(1)(E)(i).
 - (A) Behavior **was** a manifestation—The school must conduct a functional behavioral assessment, develop or review a behavioral intervention plan, and return the child to the placement from which s/he was removed. 20 U.S.C. § 1415 (k)(1)(F).
 - (B) Behavior **was not** a manifestation—The child can be disciplined in the same manner and to the same extent as children without disabilities, *except* that the child must continue to receive FAPE, though it may be provided in a different setting. 20 U.S.C. § 1415 (k)(1)(C).
2. Removals Constituting a Pattern—Children with disabilities are entitled to a Manifestation Determination even when an individual removal is not for 10 or more days if several shorter removals constitute a pattern. 34 C.F.R. § 300.536 (b). A pattern will be found where:
 - (A) Removals total more than 10 total days in a school year;
 - (B) The child’s behavior is substantially similar to the behavior that resulted in prior removals; and
 - (C) Additional factors such as the length of each removal, the total amount of time removed, and the proximity of the removals suggest a pattern.
- c. Children with disabilities can be removed from their placement and placed in an interim alternative educational setting for up to **45 school days**, regardless of whether their behavior was a manifestation of their disability, if they do one of the following: 20 U.S.C. § 1415 (k)(1)(G).
 1. Bring a weapon to school
 2. Knowingly possess, use, sell, or solicit illegal drugs at school
 3. Inflict serious bodily injury upon another person at school
- d. Parents who disagree with any placement decision or manifestation determination can file an administrative appeal. 20 U.S.C. § 1415 (k)(3).
- e. Parents filing an appeal of any disciplinary decision or action are entitled to an expedited hearing within 20 school days of making a request and to a decision within 10 school days of the hearing. 34 C.F.R. § 300.532 (c).
- f. Even if a child has not been deemed eligible under the IDEA, they can still receive procedural protections if the school knew that the child had a disability *before* the behavior that precipitated the disciplinary action occurred. 20 U.S.C. § 1415 (k)(5). The school had knowledge if one of the following is true:
 1. The parent of the child expressed concern in writing that the child might be in need of special education services
 2. The parent requested an evaluation
 3. The child’s teacher or other school personnel expressed specific concerns about a pattern of behavior directly to the special education director or other school administrator

VI. Additional Rights for Homeless Children

- a. Continuation of Services—When homeless children move to a new school district, they have the right to continue receiving any special education or related services they were receiving in their old school district.
 1. Transfer within the same state—the new district must implement the old IEP until it either adopts the old IEP or develops a new one. 20 U.S.C. §1414 (d)(2)(C)(i)(I).
 2. Transfer outside state—the new district must implement the old IEP until it either develops a new one or reevaluates the child. 20 U.S.C. § 1414 (d)(2)(C)(i)(II).
- b. Transmittal of Records—Homeless children have the right to have their school records, *including their IEPs*, transferred to their new school district in an expeditious manner.
 1. McKinney-Vento homelessness liaisons at both the old and the new school are responsible for immediately seeing to the transfer of student records. 42 U.S.C. § 11432 (g)(3)(C)(ii)-(iii).
 2. The IDEA requires the new school district to take reasonable efforts to obtain records, including records relating to special education, from the prior school district, and the prior school district must respond promptly to such requests. 20 U.S.C. § 1414 (d)(2)(C)(ii).
- c. Completion of Evaluations—When homeless children change schools in the middle of a year during which they are being evaluated for special education, the old and new district must coordinate to ensure that a full evaluation is completed in an expeditious manner. 20 U.S.C. § 1414 (b)(3)(D).
- d. “Stay Put” Protections—When homeless children change schools, the new school district cannot change their placement or services without parental consent until they have complied with all procedural protections outlined in the IDEA. This means that if the parent disagrees with the new district’s proposed changes, the old IEP must be implemented until the dispute is settled. 20 U.S.C. § 1415 (j).
- e. Expedited Evaluations—When children are homeless, their parents can request an expedited special education evaluation (i.e., an evaluation completed sooner than the 60 days required by the IDEA). 20 U.S.C. § 11433 (d)(2). Circumstances that qualify for an expedited evaluation include:
 1. A child becomes homeless for the first time
 2. A homeless child enrolls in a new school
 3. A child is placed in foster care or a placement awaiting foster care
 4. A homeless child starts exhibiting new behavioral or learning problems
 5. The parent/guardian of a homeless child requests an evaluation or re-evaluation

VII. Advocacy Tips

- a. *Consult your own state’s special education laws and regulations.* In the federal/state special education regime, states will sometimes provide protections to parents and children that exceed the “baseline” protections mandated by the IDEA.

- b. *Consider multiple types of evaluations for children who have experienced homelessness and/or domestic violence.* Often children who have been traumatized by stressful life events may experience difficulties with language and processing. Accordingly, it makes sense to consider whether a speech/language evaluation is necessary for these children. Likewise, these children may also have difficulty regulating their behaviors and emotions. Therefore, you might also consider requesting a Functional Behavioral Assessment.
- c. *When obtaining an Independent Educational Evaluation, consider finding an expert who has experience with trauma as well as with the child's suspected disability.*
- d. *Try to expedite the evaluation process for children experiencing homelessness.* Often, homeless children who have been referred for evaluation change communities before their evaluation is complete. In order to avoid this, advocates can try to ensure that evaluations are completed in a timely manner by making sure there is a quick turn around time on the parent's consent and alerting schools to the expedited evaluations language in McKinney. Also, even though incomplete evaluations must "follow" the child to the new school district, the new district is not bound by the original timeline and is supposed to "agree" with the parent on a new timeline. Advocacy in these situations can ensure that the agreed upon timeline is an expedited one.
- e. *Consider having transportation and other safety arrangements written into the child's IEP.* Sometimes in domestic violence situations, it can be necessary for children to be dropped off at and/or picked up from school at a certain time or location to ensure their safety. You can advocate to have the Team include provisions like these in the child's IEP.
- f. *Make sure the school is aware of any restrictions on the non-custodial parent's right of access to school records.* For example, make sure that the school has copies of any relevant restraining or custody orders.
- g. *Consider filing a claim for compensatory education if a school's failure to evaluate a homeless child or implement an IEP results in a denial of FAPE.* Compensatory education remedies can include additional services during or before or after school, services during the summer, and other creative remedies designed to make up for what the child has lost.
- h. *Visit the Massachusetts Advocates for Children website (www.massadvocates.org) for more resources on advocating for children traumatized by homelessness and/or domestic violence.* Two useful resources are available for free download on the MAC website: "Helping Traumatized Children Learn," a report and policy agenda for making schools supportive learning environments for traumatized children; and "Educational Rights of Children Affected by Homelessness and/or Domestic Violence," an advocates manual which, though specifically targeted for advocates in Massachusetts, nonetheless contains some tips that are relevant to advocates in other states as well.