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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION  
LEE M. D. JACKETT, CLERK  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALA

PENNY DOE, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	CIVIL ACTION NO. 98-1165-N
	)	
ED RICHARDSON, et al.,	)	
Defendants.	)	

### STIPULATION OF DISMISSAL

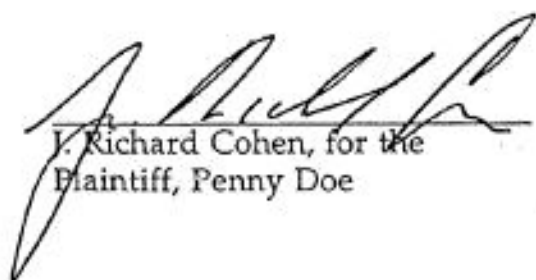
This action was filed on October 13, 1998. The plaintiff, an African American child residing in a homeless shelter, alleged that she had been denied admission to one school because of her homeless status and steered away from another because of her race. The defendants have denied any violations of federal law.

Shortly after the case was filed, the parties began to work cooperatively to ensure that homeless children have the full range of educational opportunities available to them. On October 28, 1998, the parties reached an interim agreement regarding the schooling of the plaintiff. On May 27, 1999, the State Board of Education adopted new rules pertaining to the education of homeless youth. The rules became effective on July 19, 1999. On July 30, 1999, the Marshall County Board of Education passed a resolution reaffirming its commitment to nondiscrimination and the education of homeless youth.


On August 23, 1999, the Guntersville City Board of Education passed a resolution reaffirming its commitment to the education of homeless youth.

Copies of the new State Board of Education rules and the two local school board resolutions are attached. In light of their passage, the plaintiff is convinced that the problems that led to the commencement of this lawsuit are unlikely to reoccur.

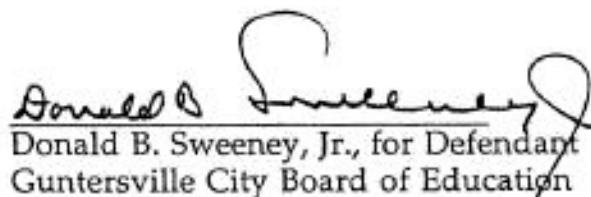
Based on the foregoing, the parties agree to the dismissal of this case without prejudice. The defendants acknowledge that the plaintiff is the prevailing party under 42 U.S.C. § 1988 and agree to the payment of \$5,000.00 in fees and costs.



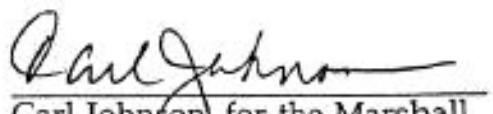
J. Richard Cohen, for the  
Plaintiff, Penny Doe



Larry E. Craven, for the  
Defendants Ed Richardson,  
Alabama State Superintendent  
of Education, and Dorothy  
Riggins, the Coordinator of  
Education for Homeless  
Children and Youth for the  
Alabama State Department of  
Education



Donald B. Sweeney, Jr., for Defendant  
Guntersville City Board of Education



Carl Johnson for the Marshall  
County Board of Education, its  
Superintendent, and its Liaison  
for its Program for the  
Education of Homeless  
Children and Youth

Louis B. Lusk

Louis B. Lusk, for Defendant  
Guntersville City Board of Education,  
by Donald B. Sweeney, Jr. as <sup>att</sup> ~~att~~  
authorized by Louis B. Lusk.

Kenneth Wilson

Kenneth Wilson, for the  
Marshall County Board of  
Education, its Superintendent,  
and its Liaison for its Program  
for the Education of Homeless  
Children and Youth

By CARL JOHNSON / PERMISSION OF  
KENNETH WILSON

# CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the foregoing by first class mail and facsimile, on this the 30<sup>th</sup> day of August, 1999, to persons whose addresses are listed below:


Larry Craven  
General Counsel  
Alabama Department of Education  
Gordon Person Building  
50 North Ripley Street  
Montgomery, Alabama 36132

Kenneth Wilson  
P.O. Box 1203  
Albertville, Alabama 35950

Louis B. Lusk  
452 Gunter Avenue  
P.O. Box 609  
Guntersville, AL 35976

Donald B. Sweeney, Jr.  
Rives & Peterson  
505 20th Street North  
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Birmingham, AL 35203-2696

Carl Johnson  
Bishop, Colvin, Johnson & Kent  
Post Office Box 370404  
Birmingham, Alabama 35237



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J. Richard Cohen  
Rhonda Brownstein  
400 Washington Avenue  
Post Office Box 2087  
Montgomery, AL 36102-2087  
(334) 264-0286

290-3-1-.02(7)(c)

290-3-1-.02(7)(d)

(c) Definition: Section 103(a) of the McKinney Act defines the term homeless as including:

1. An individual who lacks a fixed, regular and adequate nighttime residence; and

2. An individual who has a primary nighttime residence that is:

(i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelter, and transitional housing for the mentally ill);

(ii) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(iii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(iv) Children living in doubled-up accommodations with family or friends due to a loss of housing and no other means of shelter.

3. Section 103(c) excludes from the definition of homeless "any individual imprisoned or otherwise detained pursuant to an Act of Congress or a state law."

(d) Enrollment Eligibility Determination

1. A student who may be homeless or has an uncertain place of residence may present themselves for enrollment at a public school or a school system's office. School administrative personnel should make a determination of the student's residential status based upon the definition in Section 103(a) of the McKinney Act. If the student is identified as homeless via the definition, carefully consider enrollment options provided by the law presented in the next item (2) enroll the student and determine free meal and transportation needs.

2. Enrollment of a student shall not be denied or delayed due to any reason related to their homelessness including but not limited to the following reasons:

(i) Lack of transcripts/school records

(ii) Lack of immunization/health records

(iii) Residency requirements

(iv) Guardianship/custody requirements

(v) Lack of transportation

(vi) Lack of birth certificate

3. There are two options for the placement of homeless students:

(i) Continued enrollment in the school attended prior to homelessness; or

(ii) Enrollment in any schools that nonhomeless students who live in the attendance area where the homeless students is presently living are eligible to attend.

(iii) The placement decision shall be made according to the best interest of the child. Factors to be considered include family plans, educational services available, special programs, transportation, and length of stay in shelter facility. To the extent feasible, school administrators shall comply with any placement request made by a parent or guardian.

4. A child enrolled pursuant to these provisions shall not be denied services offered to other students in the school system.

290-3-1-.02(7)(c)

290-3-1-.02(7)(d)

(e) School and Health Records

(i) A homeless parent/guardian and student may want to enroll without transcript/grade records. If so, enroll the student while school administrative personnel contact the former school about immunization information and tentative placement. They should then request a 30-day in state or a 90-day out-of-state extension certificate for immunization from the Superintendent or a designee. If it is determined that no records are available or exist, the local school should create a cumulative record folder in accordance with established guidelines. School administrative personnel should obtain a simple release from the parent/guardian to facilitate release of the information by former school/school district.

(ii) The school administrative personnel should contact the local health department to obtain information about the immunization status of a homeless student. If there are no records of the homeless student's immunization status, an appointment for the student needs to be made within the local health department and follow-up provided to ensure that the student has been immunized.

(f) Guardianship/Custody

(i) A homeless student may arrive at the school without a parent or legal guardian and want to enroll. If so, enroll the student and make every effort to contact the parent/guardian to complete the enrollment process or in cases of suspected abuse, contact the local social services agency. Maintain documentation of all written/verbal communication and home visits to contact the parent/guardian.

(ii) In exceptional cases where no parent/guardian can be located, contact the local social services agency to report the homeless child as a child in need of assistance, and in the interim, appoint an adult (relative, friend or volunteer) who will act in place of a parent to make educational decisions. A "Release of Information" form may be used to assist in obtaining the necessary authorization as part of this process.

(g) Transfer/Withdrawal

(i) Homeless students often leave school without officially transferring or withdrawing from the school. In this event, follow policy established by the Board of Education.

Receiving school: If a homeless student is transferring without the proper transfer or withdrawal form from the previous school, enroll the student and call the former school for transfer and/or withdrawal information.

Sending school: Give requested information by telephone and forward records for the homeless student within 15 days. Complete necessary forms to place student on transfer or withdrawal status at your school.

(ii) Homeless students may return to their former school or transfer to a new school within the same academic year. In this event, make every effort to remove student from withdrawal status and place on re-entry or transfer status. School administrative personnel should contact the previous school by telephone to request the student's records and discuss educational placement. Student records should be forwarded within 15 days.



290-3-1-.02(7)(h)

290-3-1-.02(7)(i)

(h) Prompt Resolution of Interdistrict Disputes

If there is a dispute about the proper placement of a homeless child between the school district of the child's school of origin and the school district where the child is presently living, administrative personnel from both districts have the responsibility to bring the matter to the attention of an Assistant State Superintendent (or other designee of the State Superintendent, Alabama Department of Education) immediately for an interim resolution to avoid any delay in the enrollment of a homeless child. The school districts involved shall enroll the child without delay in accordance with the decision of the Assistant State Superintendent or other designee; however, a school system may seek review of the decision by the State Superintendent in accordance with section (i) below.

(i) Resolution of Disputes

(i) Enrollment shall not be denied pending resolution of a dispute. Any dispute in regard to providing public education to a child who may be eligible or designated as homeless shall follow Board Administrative Regulations.

(ii) In the event of a dispute regarding eligibility or placement, the parent or guardian shall be given notice of their right to a review. In the event the dispute cannot be resolved locally, the parent or guardian may request a review of the dispute by an Assistant State Superintendent or other designee of the State Superintendent, Alabama Department of Education. The Assistant Superintendent, or other designee, will address the issues in the dispute within 10 days from the receipt of a written request for resolution.

(iii) The Assistant Superintendent, or other designee, may, if the issue is not resolved in the written review, assign members of the Alabama Department of Education to make an on-site visit to further clarify and resolve the issue. All complaints must be resolved within 60 days unless given written explanation.

(iv) The State Superintendent of Education will review, hear, and rule on grievances from students or the local board of education which have not been resolved by the Assistant Superintendent or other designee. The decision of the State Superintendent shall be final.

MARSHALL COUNTY BOARD OF EDUCATION  
RESOLUTION REGARDING HOMELESS YOUTH

On October 13, 1998, a lawsuit was filed against the Marshall County Board of Education and others by a child who was residing in a homeless shelter in Marshall County. The lawsuit alleged that the child had been denied admission to Guntersville High School because of her homeless status and steered away from the DAR High School because of her race. The Board, through its attorneys, filed an answer denying any violations of the law.

After the lawsuit was filed, the Board, through its attorneys, arrived at an interim agreement that allowed the child to enroll at Guntersville High School. Since that date, the State Board of Education has passed new rules pertaining to the education of homeless youth. These rules provide guidance to school systems facing issues concerning the education of homeless youth.

The Marshall County Board of Education is firmly committed to the principle of non-discrimination and believes that homeless youth should be provided with the full range of educational opportunities available to children who are not homeless. Based on the foregoing, it is hereby resolved that the Superintendent of the Marshall County School System shall become thoroughly familiar with the new State Board of Education rules pertaining to the education of homeless youth.



BOARD OF EDUCATION  
Nancy Martin, President  
Gerry Ledbetter, Vice President  
A.L. Bonds  
James Watkins  
Ed Wright

SUPERINTENDENT  
Joan Noel



MARSHALL COUNTY  
BOARD OF EDUCATION  
12580 U.S. Highway 431 South  
Guntersville, Alabama 35976  
(256) 582-3171  
(256) 582-3178 - FAX

July 30, 1999 – MARSHALL COUNTY BOARD OF EDUCATION

I recommend the Marshall County Board of Education approve the  
Resolution Regarding Homeless Youth.

Respectfully,

*Joan Noel*

	MOTION	SECOND	AYES	NAYS	ABS
Mrs. Nancy Martin	_____	_____	____/____	_____	_____
Mr. A.L. Bonds	_____	____/____	____/____	_____	_____
Mr. Gerry Ledbetter	____/____	_____	____/____	_____	_____
Mr. James Watkins	_____	_____	____/____	_____	_____
Mr. Ed Wright	_____	_____	____/____	_____	_____

GUNTERSVILLE CITY BOARD OF EDUCATION  
RESOLUTION REGARDING HOMELESS YOUTH

On October 13, 1998, a lawsuit was filed against the Guntersville City Board of Education and others on behalf of a child who was residing in a homeless shelter in Marshall County. The child had been denied admission to Guntersville High School because she had not attempted to enroll within the first ten days of the school year and because the Guntersville High School enrollment committee declined to enroll her. The Board, through its attorneys, filed an answer denying any violations of the law.

After the lawsuit was filed, the Board, through its attorneys, agreed to the enrollment of the child at Guntersville High. Since that date, the State Board of Education has passed new rules pertaining to the education of homeless youth. These rules provide guidance to school systems facing issues concerning the education of homeless youth.

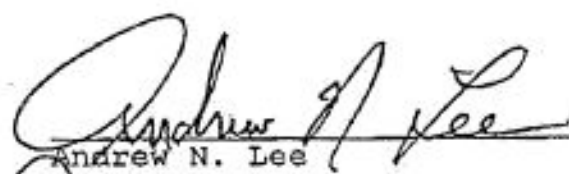
The Guntersville City Board of Education believes that homeless youth should be provided with the full range of educational opportunities available to children who are not homeless. Based on the foregoing, it is hereby resolved that:

(a) Guntersville City Board of Education acknowledges and represents that its administrative staff are not only familiar with the pertinent provisions of the Stewart B. McKinley Homeless Assistance Act, 42 U.S.C. § 11421, et seq., and the rules adopted by the State Board of Education to implement the McKinley Act, but

that they also are prepared to and will implement the provisions of that Act and those rules to the end that homeless children, as defined by the Act, will be provided the full range of educational opportunities available to children who are not homeless.

(b) The Guntersville City Board of Education shall continue its current practice to enroll homeless children, as defined by the Act, without imposition of any time barrier or rules that require other children to enroll within a certain period of time from the beginning of the school year or the start of the second semester of school.

Recommended by:

  
Andrew N. Lee  
Superintendent

Approved by:

  
John W. Boynton  
President

  
Member

  
Member

  
Member

  
Member

Dated: August 23, 1999