

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NATIONAL LAW CENTER ON HOMELESSNESS AND
POVERTY, R.I., individually, and as parent and natural
guardian of A.B., a minor child, M.W., individually, and as
parent and natural guardian of Da.W., Di.W., Dq.W., T.H. and
S.J., minor children, M.K., individually, and as parent and
natural guardian of S.P., a minor child, T.K. and N.K.,
individually, and as parents and natural guardians of K.K.,
D.M., individually and as parent and natural guardian of M.M.,
C.T., individually and as grand parent and guardian of M.W.,
and R.C., individually, and as parent and natural guardian of
J.C., on behalf of themselves and all those similarly situated,

Plaintiffs,

v.

STATE OF NEW YORK, NEW YORK STATE
EDUCATION DEPARTMENT, RICHARD P. MILLS (as
Commissioner of Education of the State of New York);
SHEILA EVANS-TRANUMN (as Associate Commissioner of
Education of the State of New York); PATRICIA MCGUIRK
(as Program Manager for the Homeless of the New York State
Education Department); NEW YORK STATE OFFICE OF
TEMPORARY AND DISABILITY ASSISTANCE, ROBERT
DOAR (as Acting Commissioner of the New York State Office
of Temporary and Disability Assistance), SUFFOLK
COUNTY DEPARTMENT OF SOCIAL SERVICES, JANET
DEMARZO (As Commissioner Of The Suffolk County
Department Of Social Services), DAN HICKEY (As Associate
Commissioner Of The Suffolk County Department Of Social
Services), and JOHN DOE SCHOOL DISTRICTS 1-10,

Defendants.

Civil Action No. 04 0705
(ADS/ARL)

**SETTLEMENT
AGREEMENT AND
CONSENT ORDER
BETWEEN PLAINTIFFS
AND COUNTY
DEFENDANTS**

BACKGROUND

This action was brought by the National Law Center on Homelessness and Poverty and a class of homeless children and parents of homeless children to enforce, inter alia, the provisions of the McKinney-Vento Act (42 U.S.C. § 11431 et seq.) and New York Education Law § 3209.

In their Complaint, the Plaintiffs allege that homeless children in Suffolk County face substantial obstacles to a free, appropriate public school education in violation of the McKinney-Vento Act and New York Education Law § 3209. Defendants Suffolk County Department of Social Services (“SCDSS”), Janet DeMarzo and Dan Hickey (collectively, the “SCDSS Defendants”), denying liability but agreeing on the importance of educating homeless children and desiring that this action be settled by appropriate Order and without the burden of continued protracted litigation, agree to the jurisdiction of this Court over the parties and the subject matter of this action, and hereby waive, for purposes of this Order, hearings and findings of fact and conclusions of law on all issues. The parties further agree to the entry of this Order as final and binding among themselves as to the issues raised in the Amended Complaint or which could have been raised in the Amended Complaint.

In resolution of this action, the parties hereby AGREE, and the Court expressly APPROVES, ENTERS and ORDERS the following:

I. DURATION OF CONSENT ORDER AND GENERAL TERMS

1. This Consent Order is effective upon its entry by the Court and shall remain in effect through and including March 1, 2008.
2. This Court shall retain jurisdiction of this action and jurisdiction over the parties during the term of this Order for the purpose of enforcing the Order as may be necessary. Upon substantial compliance with this Consent Order up through and including March 1, 2008, this

matter shall be dismissed unless the Plaintiffs move, for good cause shown upon notice to the SCDSS Defendants, for its continuation to carry out the purposes or provisions of this Order. In the event that the Plaintiffs move to extend the duration of this Order, it shall remain in effect until such motion is resolved.

3. The parties to this Order shall endeavor in good faith to resolve informally any disputes or issues that may arise under or concerning this Order.

4. The time limits set forth throughout this Order may be expanded by the mutual, written agreement of the Plaintiffs and the SCDSS Defendants.

5. The parties agree that Plaintiffs are to be deemed the "prevailing party" for purposes of 42 U.S.C. § 1988(b). Plaintiffs will submit a motion for reasonable attorneys' fees and costs up to and including the date of entry of this Order. This motion will be submitted to the Court within fourteen (14) days of the entry of this Order by the Court.

6. As used, herein, the following definitions shall apply:

- a. Defendants State of New York, The New York State Education Department, Richard P. Mills (as Commissioner of Education of The New York State Education Department), Sheila Evans-Tranumn (as Associate Commissioner of Education of The New York State Education Department) and Patricia McGuirk (as Program Manager for the Homeless of the New York State Education Department) will be referred to collectively herein as the "State Defendants."
- b. Defendants New York State Office of Temporary and Disability Assistance, and Robert Doar will be referred to as "OTDA."
- c. Defendants Suffolk County Department of Social Services ("SCDSS"), Janet DeMarzo and Dan Hickey will be referred to collectively herein as the "SCDSS Defendants." The term SCDSS is intended to include Suffolk County Department of Social Services and all persons acting in the employment of, at the direction of or at the behest of Suffolk County Department of Social Services.
- d. Defendants Longwood Central School District, Hampton Bays School District, Middle Country School District, Copiague Union Free School District, South Huntington School District, Patchogue-Medford School District, William Floyd School District, Central Islip School District, Bay Shore Union Free School District, South Country School District, Brentwood School District, North

Babylon School District, Amityville School District and Riverhead School District will be referred to collectively herein as the "School District Defendants."

- e. "Plaintiffs" shall mean Plaintiff National Law Center on Homelessness and Poverty, named class representatives R.I., A.B., M.W., Da.W, Di.W, Dq.W, T.H. and S.I., M.K., S.P., K.K. and T.K., and all members of the Plaintiff classes certified by the Court in this matter.
- f. "Homeless" shall have the same definition as set forth in 42 U.S.C. § 11434a(2).
- g. "Parent" or "guardian" shall mean any person "in parental relation" to, or a "custodian" of, any homeless child, as set forth in New York State Education Law § 3212.
- h. "State Plan" shall mean the New York State Plan for the Education of Homeless Children and Youth, and any amendments, modifications or successive plans.
- i. "School-aged" shall mean of sufficient age to be eligible for any free pre-school or public school education made generally and publicly available to children of such an age.
- j. "Children" shall mean both children and youths, as the terms are used in the McKinney-Vento Act and New York Education Law § 3209.
- k. "Unaccompanied Youth" shall mean youth not in the physical custody of a parent or guardian, who otherwise meet the definition of "Homeless."
- l. "School Transportation" shall mean transportation to and from the school district selected by the parent, guardian or unaccompanied youth, transportation to the program set forth in a homeless child's individualized education plan, including pre-school students with disabilities, and transportation to any activities, including but not limited to extracurricular activities, pre-K programs (for special education students), head start programs, summer school and any other program for which non-homeless children are provided transportation by the school district in which they are enrolled.

II. PROVIDING INFORMATION TO HOMELESS CHILDREN AND FAMILIES

7. The parties agree that providing complete and timely information to homeless families is essential to ensuring that homeless children and Unaccompanied Youth receive the educational services to which they are entitled under federal and state law. Accordingly, the Defendants agree that they will take all reasonable measures to timely inform homeless families and Unaccompanied Youths of their right to receive services under the McKinney-Vento Act

and/or New York Education Law § 3209, and will provide accurate and complete information to those children and their families about their rights and options to enable them to obtain the services they need and/or desire. Such reasonable measures shall include, but are not limited to, the following:

Homeless Rights Posters and Brochures

8. The SCDSS Defendants agree that they shall prominently display in each homeless shelter office and in the waiting room of each SCDSS administration building where parents transact business with the SCDSS Defendants such poster or posters in English and Spanish as the State Defendants or their agents or contractors may have developed or in the future develop advising parents and guardians of their children's rights under the McKinney-Vento Act and/or New York Education Law § 3209. Next to such poster or posters, the SCDSS Defendants shall prominently display the name and number of a relevant contact person at SCDSS to assist with homeless education issues and the number for any hotline for homeless students or parents maintained by New York State Technical and Education Assistance Center for Homeless Students ("NYS-TEACHS") (or any other state or local contractor that provides similar services), and/or the State Defendants or their designees.

9. The SCDSS Defendants shall ensure that the poster or posters referenced above are prominently and permanently displayed in each location in each shelter and in the waiting room of each administration building where parents and guardians discuss or document travel arrangements for students. SCDSS will also request that hotels and motels in which homeless families in SCDSS care are housed display the poster or posters in appropriate places within the hotel or motel.

10. In addition, the SCDSS Defendants shall agree to distribute, as set forth below, any informational brochures or materials prepared by the State Defendants concerning the rights of students or parents under the McKinney-Vento Act and/or New York Education Law § 3209. The SCDSS Defendants shall request from the State Defendants and maintain a supply of any such brochures (in English and Spanish and such other languages as the State Defendants or NYS-TEACHS or a similar state or local contractor provides) at each shelter at which SCDSS places homeless families in a quantity sufficient to supply each homeless family. SCDSS shall also provide a supply of such brochures to each hotel or motel in which SCDSS places homeless families. No later than May 30, 2005, and once each school year thereafter, the SCDSS Defendants shall distribute a copy of any such brochure to each identified homeless family.

11. The SCDSS Defendants shall ensure that the Brochures referenced above are distributed to homeless families when they first request housing or services from SCDSS, and are also provided to homeless families by shelter workers at the shelters where SCDSS places homeless families.

12. The SCDSS Defendants shall coordinate efforts to ensure that the family of each such child receives the Brochure at the point at which they are first identified as homeless, that it becomes a part of the SCDSS "intake forms" that homeless families receive when they lack (or are in danger of losing) permanent housing, and that it is in the native language of the family, where available, or in English, if not.

13. The SCDSS Defendants shall make reasonable efforts to ensure that homeless families placed in motels are informed of their rights as to the education of homeless children as promptly as possible by case workers or other SCDSS staff that provide services to such families.

Training of Shelter and SCDSS Personnel

14. The parties agree that providing appropriate services to homeless children requires that personnel at SCDSS and others involved in transporting homeless children understand the rights and needs of homeless children and have sufficient knowledge of homeless children's rights and needs to be able to help them. Accordingly, the SCDSS Defendants agree that they, in coordination and conjunction with OTDA and NYS-TEACHS, will provide appropriate and reasonable training to all personnel who are likely to have contact with homeless children or their families concerning homeless children's education.

15. The SCDSS Defendants shall cooperate fully with all trainings provided, mandated, or sponsored by OTDA that pertain to the transportation of homeless children to and from school. The SCDSS Defendants shall ensure that all personnel involved in the transportation of homeless children will attend such trainings.

16. To the extent that OTDA does not provide to SCDSS personnel training concerning the transportation of homeless children to and from school, SCDSS shall train its personnel as set forth in this paragraph: At least twice each school year, the SCDSS Defendants shall require appropriate staff from shelters (including, without limitation, domestic violence programs and programs for Unaccompanied Youth), and SCDSS staff involved in the transportation of homeless children to and from school, to attend training on the rights of homeless children. This training will include the proper use of forms needed to implement transportation, the time frames for completion of the forms and transmitting them to the SCDSS Defendants, the tracking requirements specified by OTDA, the role of shelter staff or SCDSS personnel in providing information to homeless families and assisting them in obtaining school transportation and coordinating with school and social services personnel to ensure that delays in implementing transportation are kept to a minimum. In addition, SCDSS will provide training to

new shelter workers and new SCDSS staff involved in transportation of homeless children to and from school on a monthly basis to ensure that all persons involved in providing services for homeless children are aware of their responsibilities.

17. The SCDSS Defendants shall maintain a complete and accurate record of the identity of all SCDSS personnel who received training, the dates of the training, and copies of any materials used or distributed at the training. The SCDSS Defendants shall further document any relevant personnel who did not receive the training, and shall make the necessary arrangements to have such personnel receive the training on the earliest practicable occasion.

18. The SCDSS Defendants shall make the trainings referred to above available to any third party transportation companies that provide transportation services for homeless children receiving housing from SCDSS. The SCDSS Defendants shall encourage any such third-party transportation companies to attend such trainings.

19. The SCDSS Defendants shall ensure that relevant SCDSS and/or shelter personnel attend such trainings as OTDA may require.

20. To the extent that the SCDSS Defendants employ a training curriculum other than or in addition to that provided by OTDA or other State agencies with respect to the trainings referred to or required herein, the SCDSS Defendants shall include the following in any such other training curriculum: (i) the causes and effects of homelessness; (ii) the educational and other needs of homeless children; (iii) the rights of homeless children and obligations of the school districts under the McKinney-Vento Act, New York Education Law § 3209 and any regulations thereunder; (iv) the proper use of the various forms for identifying and providing services to homeless children; (v) the nature and scope of services available for homeless children, both within and without the school district; (vi) the identification of homeless children;

(vii) the importance of a mechanism for coordinating with SCDSS concerning the needs of homeless children; (viii) the particular educational, social and emotional difficulties and challenges faced by homeless children; (ix) the definition of homelessness; and (x) the particular needs of Unaccompanied Youth.

21. The training curriculum and/or summary materials will be provided to all employees who attend the trainings. All new hires involved in school transportation for homeless children will receive copies of such materials as part of their employee orientation materials.

22. The provider of the above-referenced training curriculum and in-service program shall be specially trained in and knowledgeable about the curriculum and shall be effective at communicating and teaching the required material. The training curriculum and in-service program will use appropriate handouts, slides or other visual aids to maximize the pedagogic impact of the program.

23. The SCDSS Defendants shall provide Plaintiffs' counsel with a copy of any training curriculum and in-service program in advance for review and comments. The parties shall work in good faith to discuss any comments or concerns about the training curriculum and in-service program.

24. Counsel for the SCDSS Defendants and Plaintiffs shall confer to determine appropriate venues for providing information to homeless families about the education of homeless children.

III. TRANSPORTATION OF HOMELESS CHILDREN

25. The parties to this Consent Order acknowledge and agree that transportation poses a particular difficulty for homeless families and is essential to ensuring that homeless children

receive the educational services to which they are entitled. As a result, the SCDSS Defendants agree that they will make all reasonable efforts, consistent with this Consent Order, to ensure that homeless children receive transportation to and from school (and/or any preschool services for special education students or after or before school activities to which non-homeless children are provided transportation) each day.

Emergency Services Housing

26. The SCDSS Defendants shall immediately discontinue any policy or practice that requires homeless children to be physically present with their families after the first 24 hours of initial emergency placement in order for the families to obtain Emergency Services housing.

27. The SCDSS Defendants agree that homeless families will spend no more than two business days in Emergency Services housing placements, after which time such homeless families will be assigned to a shelter or equivalent longer-term emergency housing placement. The SCDSS Defendants shall amend their rules, policies and/or procedures to reflect the foregoing.

28. If SCDSS is unable to arrange for a shelter or other emergency placement outside of Emergency Services housing after two business days, SCDSS shall provide school transportation for any affected homeless children by van, taxi or other means for each day that the child remains in Emergency Services housing and until such time as the child receives both a stable shelter or other emergency housing placement and regular bus transportation between such placement and school.

29. If SCDSS requires a parent or guardian to accompany a child to school, the SCDSS Defendants shall ensure that such parent or guardian is excused from any SCDSS attendance or other requirements that the parent or guardian is likely to miss as a result of accompanying a child to school and the SCDSS Defendants shall notify any other appropriate

agencies whose policies or requirements may be affected by the need of a parent or guardian to accompany a homeless child to or from school.

School Transportation Following Initial Longer Term Emergency Housing Placement

30. Upon a homeless child's placement by the SCDSS Defendants in a shelter or other stable emergency housing location, if a bus route or other reliable and safe means of transportation to the child's chosen school district is already in place, the child may begin taking that bus or other means of transportation on the first school day following his/her arrival at the shelter.

31. If, on a homeless child's first placement by SCDSS in a shelter or other stable emergency housing location (including shelters or motels), no bus route already exists to that child's chosen school district, the SCDSS Defendants shall have three (3) business days from the child's arrival at the shelter in which to arrange regular, continuous school bus transportation. Thus, by way of example only, if a homeless child is first placed by SCDSS in a shelter on Monday and there is no existing bus route available for that child, SCDSS shall arrange school bus transportation for that child no later than Thursday morning.

32. Notwithstanding the foregoing paragraph, if a homeless child has already missed school as a result of being placed in Emergency Services housing, such child shall be provided transportation starting with the third day after the child's arrival in the SCDSS system. The SCDSS Defendants may use vans or taxi services to accomplish this transport until regular, continuous bus transportation is arranged. Thus, by way of example, if a homeless child arrives at an Emergency Services housing office on Monday, that child shall be provided transportation to school no later than Thursday, regardless of whether a bus route has been established for the child at a subsequent stable shelter or other emergency housing placement.

33. In order to expedite transportation for homeless children, the SCDSS Defendants shall require shelter workers and SCDSS motel case workers to transmit necessary forms to arrange transportation immediately, and in no event later than the next business day after a homeless child's arrival at a shelter or stable housing placement. If a homeless family refuses or declines to permit a STAC form to be filled out, SCDSS will be required to provide school transportation for any children of such family as soon as possible thereafter as is reasonable under the circumstances.

34. The SCDSS Defendants shall transmit to any third party contractors of the SCDSS Defendants (including any bus companies or transportation management companies such as GlobeGround and Suffolk Transportation) any forms necessary to arrange school transportation for homeless children on the same day such forms are received if the forms are received by the SCDSS Defendants by 1:00 p.m., and as soon as practicable the next morning the such forms are received after 1:00 p.m. The SCDSS Defendants shall ensure multiple pick-up times so that forms received in the late morning or afternoon are promptly transmitted to those personnel establishing bus routes.

35. The SCDSS Defendants shall, in good faith, review the procedures and processes used by any of their third party transportation contractors to determine whether there are additional ways in which delays or processing time for the transportation of homeless children can be minimized or eliminated.

36. In addition to the foregoing, SCDSS shall review its own processes and paperwork requirements to reduce any other delays or inefficiencies.

Subsequent Transportation Changes

37. Once a homeless child has been placed in a long term shelter or other stable housing placement, the SCDSS Defendants shall make reasonable efforts, consistent with their

other legal duties, to minimize any subsequent relocations of the child or disruption to the child's education.

38. If the SCDSS Defendants decide to change a homeless child's housing placement for administrative purposes, or to improve the housing or services of a particular homeless family, or as part of changes in shelter or motel availability, or under circumstances where the SCDSS Defendants have advance warning of such a change or know of the need for such a move prior to 2:00 p.m. of the day of the move (a "Planned Move"), the SCDSS Defendants shall immediately begin making necessary arrangements for school transportation for any affected children.

39. If the SCDSS Defendants move a homeless child as part of a Planned Move, the child must not experience any significant gaps or delays in school transportation and the SCDSS Defendants shall provide transportation for any affected children the next school day after a Planned Move, at the latest. If the SCDSS Defendants are not able to pre-arrange regular, continuous and uninterrupted bus transportation by the next school day for such children in advance of a Planned Move, they will provide school transportation for the child by van, taxi or other means such that the child will receive school transportation commencing no later than the day after the Planned Move.

40. If the SCDSS Defendants move a homeless child as a result of unforeseen but compelling circumstances (such as a major violation of shelter rules or SCDSS rules) or without advance warning of a serious need to move a child and such move takes place after 2:00 p.m. (an "Unplanned Move"), then the SCDSS Defendants shall arrange for regular, continuous safe and reliable transportation no later than the second business day after the Unplanned Move occurs. Thus, by way of example, if a homeless child is unexpectedly moved on Monday evening for

compelling and unforeseen reasons, the SCDSS Defendants shall provide that child with regular, continuous safe and reliable transportation no later than Wednesday morning.

41. If the SCDSS Defendants are not able to pre-arrange regular, continuous bus transportation for such a child by the second school day after an Unplanned Move, they will provide school transportation for the child by van, taxi or other means beginning on the second school day after the Unplanned Move.

42. Regardless of whether a move is a Planned Move or Unplanned Move, if SCDSS requires a parent or guardian to accompany a child to school, the SCDSS Defendants shall ensure that such parent or guardian shall be excused from any SCDSS attendance or other requirements that the parent or guardian is likely to be unable to fulfill as a result of accompanying a child to school.

Miscellaneous Transportation Issues

43. Notwithstanding any of the foregoing provisions of this Consent Order, the SCDSS Defendants shall make whatever transportation arrangements are necessary to ensure that homeless children do not miss major examinations, including New York State assessment tests and Regents examinations, midterm examinations and final examinations. The SCDSS Defendants shall, if necessary, provide a van or taxi service to homeless children for whom no regular bus service is yet available in order to ensure that such children are able to sit for such examinations.

44. If the inability or failure of the SCDSS Defendants to arrange transportation has resulted in a child missing school, the SCDSS Defendants shall inform the relevant school district's homeless liaison and attendance officer of that fact. Should any complaint be filed by any person or entity regarding the fact that the child has missed school, and the reason the child missed school is the inability or failure of the SCDSS defendants to arrange transportation for

that child, SCDSS shall in writing immediately convey that fact to Child Protective Services and/or the Department of Probation, including, if necessary, the child's probation officer, law guardian, or family court judge.

45. Absences from school of homeless children due to changes in housing placement, administrative delays, unforeseen problems in transportation or other similar reasons shall not be a basis for any action against the homeless child's family by the SCDSS Defendants or any shelter with which the SCDSS Defendants contract.

46. The SCDSS Defendants shall provide transportation for homeless children of families receiving services from the SCDSS Defendants to any institution providing public educational services to the child, including any placement indicated on such a child's individualized education plan (IEP) or individualized family service plan (IFSP) where a school district would normally provide transportation. Such transportation shall be provided in accordance with the time frames set forth above and subject to the same provisions of this Consent Order applicable to transportation of homeless children who are not receiving special education services.

47. In selecting temporary housing arrangements for homeless families with school-aged children, the SCDSS Defendants shall consider the effect of any proposed arrangement on the education of such children. The SCDSS Defendants shall place homeless families with school-aged children as close as possible to their school district of origin if so requested by the families of such homeless children. The SCDSS Defendants shall inform homeless families of their right to request housing in the school district of origin, if available and appropriate. If the SCDSS Defendants do not place a homeless family in housing in the district of origin for such

family's school-aged children, the SCDSS Defendants shall document the reason or reasons why the family was placed in a different district.

48. If the SCDSS Defendants are providing shelter to the homeless child's family and do not provide transportation on certain school days for reasons beyond the control of the child's family, the SCDSS Defendants shall give written notice to the homeless liaison of the school district that that child attends of the reason for the absence so as to avoid an unexcused absence on the child's attendance record.

49. If a homeless child is out of school due to a lack of transportation while residing in a SCDSS shelter placement, the SCDSS Defendants shall direct shelter staff and motel caseworkers to make reasonable efforts to contact the school district's homeless liaison and shall coordinate with the homeless liaison a plan for the child to receive class notes, homework, and other school assignments.

50. In providing transportation for homeless children, the SCDSS Defendants shall, where requested by a parent or guardian of a homeless child, provide transportation to and from any after-school, before-school, preschool (in the case of special education children), summer school or extracurricular activities or free meal programs for which transportation is provided by the relevant school district for non-homeless children. SCDSS will provide such transportation in the same circumstances (and in the same hours) in which school districts provide transportation. Personnel of the SCDSS Defendants shall inform homeless families of their right to such transportation, and the SCDSS Defendants shall cooperate with the relevant school district as necessary to ensure that homeless children are receiving all appropriate educational services.

51. Counsel for the Plaintiffs will provide to counsel for the SCDSS Defendants a list of SCDSS and shelter rules that the Plaintiffs believe should be amended to promote efficient school transportation for homeless children. The SCDSS Defendants agree to meet promptly with the Plaintiffs to discuss in good faith the list and possible amendments to SCDSS and shelter rules so as to promote school transportation for homeless children.

52. The SCDSS Defendants shall take reasonable and appropriate measures to reduce the travel time of homeless children to and from school.

53. The SCDSS Defendants shall take all reasonable measures, consistent with this Consent Order, to avoid unnecessary disruption in the transportation of homeless children.

54. Where homeless children are placed in home instruction or suspension by their school districts, the parents or guardians of such children shall not be found to be in violation of shelter, motel or SCDSS rules as a result of having to be present with their children during the pendency of such home instruction or suspension.

55. In negotiating future contracts with third-party transportation providers for homeless children, the SCDSS Defendants shall attempt to negotiate appropriate assurances and protections against disruptions to school transportation for homeless children and shall ensure that any such contracts are consistent with the requirements of this Consent Order and the goal of providing continuous school transportation for homeless children as quickly as possible.

56. Any responses by the County Social Services Defendants to written inquiries or complaints by parents or guardians of homeless children as to transportation arrangements shall be made in writing to the parent or guardian, with a copy retained in the case files maintained concerning the families of those children. Such documents will be made available to the New York State Office of Temporary and Disability Assistance upon request

57. The purpose of this section is to ensure that homeless children are transported to and attend school as regularly as possible, and the provisions of this Consent Order should be construed accordingly.

IV. MONITORING AND DATA COLLECTION

58. Upon the receipt by the SCDSS Defendants of the forms necessary to arrange for school transportation for a homeless child, including but not limited to the "STAC Form" and any forms for use by GlobeGround or other transportation providers (collectively, the "Transportation Forms") from a shelter, motel or other case worker, SCDSS shall enter into a written log book the time and date of the receipt of such forms, the child seeking transportation and the shelter and school involved. (This log will be referred to herein as the "SCDSS Logbook.")

59. Each caseworker at a shelter, motel or other housing facility shall be required by SCDSS to maintain a written log of the time and date each homeless child enters the shelter, motel or housing facility, and the time and date on which the Transportation Forms were transmitted to the SCDSS Defendants. (This log will be referred to herein as the "Shelter/Motel Logbook.")

60. The SCDSS Defendants shall maintain a written log, or require each transportation company or third party vendor contracting with the SCDSS Defendants to maintain a written log, reflecting the time and date on which each child placed in SCDSS received transportation services, including the name of the child, shelter and school involved. (This log will be referred to herein as the "Transportation Logbook.")

61. The SCDSS Defendants shall provide copies of the SCDSS Logbook, the Shelter/Motel Logbooks and the Transportation Logbook to OTDA or its designated representatives or agents as requested by OTDA.

62. The SCDSS Defendants shall provide such other information and statistics to OTDA or its designated representatives or agents as OTDA may from time to time require.

63. The SCDSS Defendants shall periodically review and check the information it maintains for review by OTDA, including, without limitation, the SCDSS Logbook, the Shelter/Motel Logbooks and the Transportation Logbook, to ensure accuracy, integrity and completeness of data.

64. The SCDSS Defendants shall designate one of its personnel as a "Compliance Officer" to ensure that the requirements of this Consent Order are being satisfied, to review relevant SCDSS policies and procedures therefor, and to ensure that the SCDSS Defendants are maintaining and reviewing the information required by this Consent Order. The Compliance Officer shall be given the requisite authority and responsibility by the SCDSS Defendants to carry out these goals.

V. COORDINATION

65. The parties agree and acknowledge that coordination among the State, County and local authorities responsible for providing educational services to homeless children is essential to ensuring that homeless children enroll in and stay in school. The SCDSS Defendants therefore agree that they will coordinate, communicate and collaborate on a regular basis as to the homeless children within their care to ensure that all such children have access to all of the educational services to which they are entitled under the relevant laws and regulations.

66. The SCDSS Defendants agree to communicate with the Homeless Liaisons from each of the School District Defendants in which homeless children placed by SCDSS attend school, telephonically or in person, at least twice each school year (once per semester), to discuss any problems or issues concerning the education of homeless children, with particular emphasis on transportation and provision of information to homeless families. The SCDSS Defendants shall record the time and date of each such conference and any problems or issues identified, and shall retain the record of each such conference with the other documents the SCDSS Defendants are required to maintain under this Order.

67. The SCDSS Defendants shall keep a written log of their communications with State and local authorities concerning the school transportation of homeless children.

VI. APPEALS AND DISPUTE RESOLUTION

68. The parties recognize and agree that any and all disputes concerning or relating to the education of homeless children and Unaccompanied Youth must be resolved as expeditiously as possible. The parties further recognize and agree that homeless children and Unaccompanied Youth are entitled, during the pendency of any dispute or appeal concerning the enrollment or transportation of homeless children or Unaccompanied Youth, to immediate and continuing admission and transportation to the school in which enrollment is sought.

69. The parties agree to use direct and expedited discussions amongst counsel for addressing any problems or concerns that may arise concerning compliance with this Consent Order, including an informal "hotline" to resolve disputes. This hotline will consist of procedures by which representatives of the Plaintiffs (or others involved in the education of homeless children) can quickly and effectively reach the Compliance Officer of SCDSS, or such other personnel of SCDSS as may be authorized and responsible for helping to address any

problems or concerns arising out of this Consent Order. The parties shall confer in good faith to establish reasonable procedures to permit immediate and direct communications.

70. If, after prompt and good faith discussions, the parties have not been able to resolve their differences with respect to any particular problem or issue arising under this Consent Order, either party may submit the matter to the Court. The Court shall have continuing jurisdiction, for the entire term of this Consent Order, to issue such rulings and fashion such relief as may be reasonably necessary to promote the terms and purposes of this Consent Order.

71. The SCDSS Defendants shall provide assistance to homeless families seeking to appeal from any decision involving the transportation or education of a homeless child as to any appeals that such homeless families may bring. The SCDSS Defendants shall provide families with a written explanation of any denial of requested services. Such explanations shall be accompanied by 1) information about their right to appeal, 2) information about their right to access to counsel without fee such as Nassau/Suffolk Law Services or Long Island Advocacy Center (including the phone numbers for those agencies), the Brochure referenced above, and any required forms to effectuate an appeal.

VII. EVALUATION AND ASSESSMENT

72. SCDSS will provide to Plaintiffs' counsel, on a regular and prompt basis, any documentation SCDSS provides to OTDA concerning the transportation of homeless children, subject to appropriate measures to maintain the confidentiality of private information concerning any individual homeless families. The parties shall work together in good faith with respect to the exchange of information pertinent to the implementation of this Consent Order, to the extent permitted under relevant laws and regulations.

73. Once each six months in the first year after entry of the Order, and once annually thereafter, the SCDSS Defendants shall provide the Court and Plaintiffs' counsel with a general Compliance Report, which will discuss the SCDSS Defendants' efforts and initiatives with respect to the matters set forth in this Consent Order.

74. The SCDSS Defendants shall conduct a program review of their school transportation policies, procedures and systems once annually, and shall report to the Court and Plaintiffs' counsel concerning the same in the Compliance Report.

75. Information made available to the Plaintiffs' counsel under this Order shall also be made available to counsel for any of the parties.

VIII. REVISION OF POLICIES

76. On or by July 1, 2005, the SCDSS Defendants shall revise any policies, procedures, guidelines, directives or other documents to incorporate and/or reflect the terms of this Order, as necessary.

77. The parties acknowledge that this Order does not prohibit future legislative or regulatory action by the SCDSS Defendants consistent with the provisions of this Order.

IX. MISCELLANEOUS

78. The individuals executing this Order represent that they are authorized to sign for and bind the party or parties for whom they execute the Order. The individual(s) signing on behalf of the SCDSS Defendants represent and warrant that the execution and delivery of this Consent Order has been duly authorized and approved.

79. In construing this Consent Order, the same shall not be construed against any party on the basis that the party was the drafter. Rather, the language of this Consent Order shall in all cases be construed as a whole, according to its fair meaning and purpose, and not strictly for or against any of the parties.

80. No waiver of any breach of any term or provisions of this Consent Order shall be construed to be, or shall be, a waiver of any other breach of this Consent Order. No waiver shall be binding unless in writing and signed by the party waiving the breach. Failure to enforce, or delays by a party in seeking enforcement of the terms of this Consent Order against any breach thereof shall not act as a waiver of any such breaches or of any subsequent breaches.

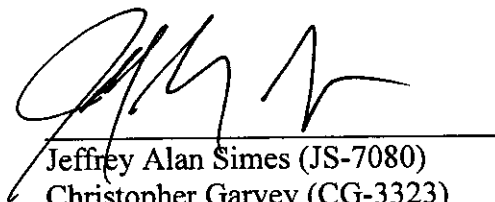
81. This Consent Order may not be modified except as ordered by the Court, and with good cause shown. Parties may seek a modification of this Consent Order only upon fifteen days' written notice to counsel for the other affected parties, or, in the event of emergent circumstances, with as much advance notice as is practicable under the circumstances.

82. This Consent Order may be executed in counterparts, and each counterpart, when executed, shall have the full efficacy of a signed original. Photocopies of such signed counterparts may be used in lieu of the originals for any purpose.

Dated: August 31, 2005

We hereby consent to the foregoing:

On behalf of the Plaintiffs:



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We hereby consent to the foregoing:

On behalf of the SCDSS Defendants:

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JENNIFER K McNamara
Name

Assistant County Attorney
Assistant County Attorney
Title

Chris Termini
JM
Chris Termini, Esq.
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So ORDERED this 31st day of MARCH 2006

Hon. Arthur D. Spate, United States District Judge