IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

VERONICA SALAZAR, et al.	)	
	)	
Plaintiffs,	)	
	)	No. 92 CH 5703
v.	)	
	)	Judge Julia Nowicki
JOHN EDWARDS, et al.,	)	
	)	
Defendants.	)	

MOTION OF PLAINTIFF HOMELESS CHILDREN AND PARENTS FOR INJUNCTIVE AND DECLARATORY RELIEF TO ENFORCE SETTLEMENT AGREEMENT

I. INTRODUCTORY STATEMENT

1. This is a Motion brought pursuant to ¶ 29(b) of the Salazar v. Edwards Settlement Agreement on behalf of the plaintiff classes A and B: parents and children in the City of Chicago who are, have been or will be homeless, to enforce the Settlement Agreement entered into on July 27, 2000 (the "Salazar Decree") as well as both the McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11431 *et seq.* and Illinois Education for Homeless Children Act, 105 ILCS 45/1-1 *et seq.*, the provisions of which are fully incorporated into that Decree. (Salazar Decree ¶ 10(c)).

2. Enforcement is sought against the Chicago Public Schools, its Board and Arne Duncan, its Chief Executive Officer (hereinafter "CPS" as defined in ¶ 2.(d)(a) of the Decree). This Court retains continuing jurisdiction over this lawsuit to ensure enforcement. (Salazar Decree ¶ 29). Pursuant to the Decree, "Any class member…may file a motion seeking enforcement." (Decree ¶ 29).

3. Plaintiff homeless parents and children[1] challenge the sudden, unlawful, unreasonable and precipitous plan of Defendant CPS closing 10 Chicago public elementary schools in June 2004 and further proposing, all pursuant to a plan termed "Renaissance 2010," to close more than 60 Chicago Public Schools within the next 6 years in utter violation of the educational rights of homeless families.

4. Under the Salazar Decree, the Illinois School Code and the McKinney-Vento Homeless Assistance Act, these families have a clear legal right to remain at their "school of origin" when they become homeless and for the full year in which they become housed. (Decree ¶ 11(c), 42 U.S.C. § 11432(g)(3)(A)(i); 105 ILCS 45/1-10). Closure of a "school of origin" deprives homeless children of that opportunity. Moreover, CPS had and has additional legal mandates to "minimize the educational disruption of children who become homeless," 42 U.S.C. § 11432(g)(5)(B); to address all "barriers" to the educational success of class member children, 42 U.S.C. § 11432(g)(1)(F) and (g)(7); to inform and involve class member parents "meaningfully" in the education of their children, 42 U.S.C. § 11432 (g)(6)(A)(iv); and to provide needed services to enable class members to meet state educational standards, 42 U.S.C. § 11432(d)(2).

5. Rather than comply with these mandates, Defendant CPS is, instead, maximizing the educational disruption of Chicago's homeless students. These school closings, if carried forward as currently planned, will constitute a massive school displacement of thousands of low-income minority children already at risk of educational

[1] In the 2003-04 school year, CPS identified more than 8,000 homeless students. The Chicago Coalition for the Homeless estimates that annually there are 21,000 children between the ages of 0 and 21 who are homeless in Chicago.

failure whose families struggle with housing instability and who have, in many instances, been moved again and again in conjunction with the demolition of public housing.

6. Plaintiffs seek both declaratory and injunctive relief to declare the actions of CPS unlawful and to remedy the harm caused to specific class members by displacement. They further seek to enjoin any future attempted CPS school closings that are not planned in a manner which meaningfully involves homeless parents and minimizes the educational disruption of class members or are not otherwise executed in full conformity with the rights of the class in the Salazar Decree.

II. PARTIES

A. Homeless Parents and Children

7. Plaintiff Kathleen M. is an African-American resident of Chicago, Illinois and a member of the parent class in this case (Class B). She is "homeless" within the meaning of the Salazar Decree living doubled-up at her own mother's public housing unit in the Cabrini-Green development. She is the mother of five African-American children who attend Chicago Public Schools.

8. Plaintiff Jenai M., 9 years old, is Kathleen M.'s daughter. She resides with her mother and is a member of the class of children (Class A) in this case. She is homeless within the meaning of the Salazar Decree. Jenai attended the Sojourner Truth Elementary School in 2003-2004, a Chicago Public School which was ordered to close by the Defendant Chicago Board of Education on June 23, 2004.

9. Plaintiff Latice M., also a daughter of Kathleen M., is 4 years old and attended the Truth Parent-Child Center during 2003-2004. She, too, is homeless.

10. Kathleen M. brings this motion on behalf of herself, on behalf of the parent class and, pursuant to 735 ILCS 5/2-1008, as next friend for her children.

11. Plaintiff Lucinda W. is the mother of 4 minor children. She resides in Chicago, is an African-American and is a member of the parent class (Class B). She is "homeless" within the meaning of the Salazar Decree. She has moved from place to place over the last several years, including in and out of homeless shelters. She is currently doubled-up living with her sister.

12. Plaintiffs Kharisma H., age 11, Anthony H., age 9, Khamesha H., age 8 and Antwon H., age 4 are Lucinda W.'s children. They reside with their mother doubled-up in the housing of their aunt and are homeless within the meaning of the Salazar Decree and are members of the class of children in this case (Class A). All of Lucinda's children are African American and all attended Raymond Elementary School during the 2003-2004 school year, a school ordered to close by the Defendant Chicago Board of Education on June 23, 2004.

13. Plaintiff Lucinda W. brings this motion on behalf of herself, on behalf of the parent class and, pursuant to 735 ILCS 5/2-1008, as next friend for her children.

B. <u>Defendant School Officials</u>

14. Defendant Board of Education of the City of Chicago is the governing body of the CPS and, as such, it is responsible for ensuring compliance with state and federal laws and the Salazar Decree which embodies these laws. Pursuant to 735 ILCS 5/2-1008(d), new members of the Chicago Board of Education, Michael W. Scott, Norman

Bobins, Tariq Butt, Alberto A. Carrero, Jr., Clare Munana and Gene Saffold are now substituted for prior members.

15. Defendant Chief Executive Officer of Chicago Public Schools, Arne Duncan, is also responsible for ensuring compliance with state and federal laws and the Decree. Pursuant to 735 ILCS 5/2-1008(d), Mr. Duncan is now substituted for Paul Vallas. Defendant Board of Education and its Chief Executive Officer are referred to as "CPS."

16. Defendant members of the Illinois State Board of Education, Defendant Illinois Coordinator for Homeless Children and Youth and Defendant State Superintendent of Education are referred to collectively as "State Defendants." This enforcement action is brought solely against CPS, not against the State Defendants.

III. FACTS

A. Harmful Effects on Children of Forced Changes in Schools

17. One of the most harmful practices that impede the ability of a child to learn is "mobility," i.e., the movement of a child from one school to another. As described in materials provided by the Defendant CPS, mobility harshly affects students, classmates, teachers and schools:

- "It may take four to six months for mobile students to recover academically from a [school] transfer and they are half as likely to graduate from high school as their non-mobile peers.
- Many highly mobile students experience isolation after a [school] move, which impacts attendance and performance (Homes for Homelessness, 1999; Rumberger, Larson, Ream & Palardy, 1999).
- Students who move frequently have lower attendance rates: a twenty percent absentee rate has resulted in achievement scores twenty points lower than their stable peers (Family Housing Fund, 1998).

- Mobile students are twice as likely to repeat a grade, (and mobility even negatively impacts the academic achievement of stable students)
- Children who live in high poverty and frequently change schools suffer the most academically
- High student mobility has [negative] consequences for mobile students, non-mobile students, teachers, and schools
- For students, the long-term effects of high mobility include lower achievement levels and slower academic pacing, and reduced likelihood of high school completion
- Non-mobile students suffer from severely retarded curriculum pacing and decreased social and educational attachments to fellow students"

B. Legal Mandates Regarding Stability in School Placement

18. Homeless children are almost by definition, "highly mobile." Accordingly, the federal McKinney-Vento Act, the Illinois Education for Homeless Children Act and the Salazar Decree –which is premised on and incorporates these laws—all place paramount value on the educational stability of homeless children.

19. This stability is achieved chiefly in two ways. First, the Salazar Decree and federal and state law require that school districts allow homeless children to remain in the "school of origin" for as long as they are homeless and, if they become housed, to allow them to remain in attendance at the "school of origin" until the end of the academic year in which they become housed. (Decree at ¶ 11(c) and (e); 105 ILCS 45/1-10; 42 U.S.C. § 11432(g)(3)(A)(i)). Second, highlighting the significance of this goal, the Salazar Decree, the Illinois Education for Homeless Children Act, and the federal McKinney-Vento Act require the provision of transportation of homeless children by the school district to their "school of origin" to enable the children to continue attendance. (Decree at ¶12-15; 105 ILCS 45/1-15; 42 U.S.C. § 11432(g)(1)(J)(iii)).

20. In addition, under the Decree, Defendant CPS "shall comply with state and federal laws affecting the rights of homeless children and youth." (Decree at ¶ 10(c)

C. Immediate School Closures and Planned Closures

21. On or about June 4, 2004, –with no forewarning to, or prior participation of, the plaintiff homeless children or their parents and with no consultation with school-level personnel, teachers, school social worker, homeless student liaisons, the board-level staff of the Homeless Education Program or the legal counsel of record for the plaintiff homeless parents and children, Defendant CPS suddenly announced publicly that it was planning to immediately close 10 elementary schools, change attendance boundaries and re-assign the student populations to other existing schools.

22. Elementary schools ordered closed on June 23, 2004 were Richard E. Byrd Community Academy, James R. Doolittle West Elementary, Stephen A. Douglas Elementary, Hartigan Community Arts Specialty School, Thomas Jefferson Elementary, Benjamin W. Raymond Elementary, Spalding, Henry Suder Elementary, Sojourner Truth Elementary and Richard Wright Elementary. These closures were the first implementation of the CPS' Renaissance 2010 plan.

23. At least 182 students in these schools were identified by CPS as "homeless" at the time the closings were announced. Of those 182 class members, almost 160 were homeless students returning to a "school of origin." No evaluation of any kind, either before or after, was conducted by CPS to assess the educational impact of the closures and resulting school displacement on plaintiff homeless children.

24. Despite the existence of this Decree and regular monthly meetings that occur between CPS and plaintiffs' counsel, CPS failed to disclose to either the members of the

parent class or their legal counsel in advance of the public announcement that it was considering these closures. These closures deprive numerous homeless students of their statutory and contractual rights to stay in the "school of origin."

D. Class members Bringing This Motion

25. Plaintiff Jenai M. attended Truth Elementary school for kindergarten and first grade. Truth was an elementary school for children from preschool through third grade. During her second grade year (2002-03), because of her mother's housing instability, Jenai was separated from her mother, lived with her aunt and transferred in mid-year to Banneker Elementary. She missed many days of school and was not promoted to third grade.

26. During 2003-2004, Jenai was again living with her mother and re-enrolled in Truth School. Jenai loved her second grade teacher at Truth with whom she formed a special bond. She was promoted to third grade and was recognized for making the most significant improvement in reading.

27. Jenai's mother Kathleen attended Truth Elementary as a child and feels a particular attachment to the Cabrini-Green community and the school.

28. Jenai's mother, Kathleen M., has four other children, including a disabled 12 year old, Jaquez, and an 11 year old child, Jovan, who is a special education student, a 4 year old, Latice, and a 3 year old, D'Andrew L.. Kathleen is impoverished, currently unemployed and has a history of housing instability that includes living from place to place in the household of others. She has suffered from an array of social problems and often feels overwhelmed.

29. In April 2004, Kathleen's mother (the children's grandmother) received notice that she would have to vacate her apartment at Cabrini-Green to make way for the demolition of her building under the Chicago Housing Authority's (CHA) massive "Plan for Transformation." CHA has agreed to provide the grandmother with a housing voucher to relocate.

30. Because Kathleen is not a leaseholder at Cabrini, she was not given a housing voucher and she and her children are now faced with having to leave Cabrini within the next few months. She has nowhere to go and has been unable to find affordable housing.

31. After the residents of Cabrini received their notices to vacate in April 2004, a lawsuit was filed on June 3, 2004 to stop CHA from displacing the residents. On or about the same day, Defendant CPS suddenly announced publicly that Truth (and other schools) would be closed at the end of that academic year (18 days later).

32. Jenai learned of the closing of Truth school before her mother did. No one told her at the time where she would be enrolled in the fall of 2004. It made her sad when Truth closed and she began to feel frightened that in another new school 3rd grade would be too difficult for her.

33. When CPS announced school closures on or about June 4, 2004, rumors and statements abounded in the community regarding where the children from Truth (and other closing schools) would be enrolled. There was great confusion among parents and children because some were told the children would go to Schiller Elementary. Schiller Elementary, however, which is in the Cabrini-Green community, was a school that operated only 4th – 8th grade programs.

34. Until September 1, 2004, neither Jenai nor her mother received any notice about where Jenai was to attend school in the 2004-2005 year. Jenai spent the summer feeling anxious about what would happen when school starts again.

35. During this time, Kathleen and Jenai have been worried about where they will live, what neighborhood they will reside in and what will happen with the school placement. Jenai and her mother very much want to continue at Truth Elementary.

36. On information and belief, Schiller School is overwhelmed and in chaos receiving more than 300 new students for enrollment and expanding now to operate Headstart through 8th grade programming –an extension of 5 differing grade levels. Jenai and her mother fear that their needs will go unmet in this chaotic transition.

37. As of the day this Motion is filed, Plaintiff Latice M. would like very much to return to Truth but her family has received conflicting information from CPS about where she may re-enroll.

38. Lucinda W. is impoverished and unemployed. She and her children have suffered repeated homelessness, living from place to place and moving in and out of homeless shelters. Her children, Anthony H. will be going into 4th grade this school year (2004-2005), Kharisma H. into 5th grade, Khamesha into 2nd and Antwon into preschool.

39. Each of these children has attended one school for their entire period of schooling: Raymond Elementary in Chicago. As of the end of the 2003-2004 school year, Raymond school had identified 53 homeless children.

40. Ms. W. received a letter just before the end of the 2003-2004 school year announcing the school closure. She then explained the closure to her children. The

children became angry at the news. Ms. W. indicates that they do not fully understand what has occurred or why.

41. During the summer of 2004, the family moved again, doubling up in the household of Ms. W.'s sister. Ms. W.'s children are distressed about the closing of their long-time school and have asked their mother repeatedly to explain why their school was taken away. Ms. W. received a letter from Defendant CPS advising that her children could attend, Crispus Attucks Elementary. This is where they are now enrolled. As of the end of the 2003-2004 school year, Attucks Elementary had more than 156 homeless children.

42. On or about June 24, 2004, CPS announced The Renaissance 2010 ("Ren 2010") plan which calls for continuing extensive school closures: closing down at least 60 existing additional neighborhood schools and then creating 100 new schools over the next six years.

43. Under the Ren 2010 plan as announced, two-thirds of the new schools will be charter or contract schools, run by an organization other than the Chicago Public Schools. Some of these schools will be in the same location and use the same buildings but will be treated as "new" schools to which currently homeless children will have no right of return.

44. CPS has offered no information or plan, nor has it involved homeless parents in any issues regarding how these new privatized schools will comply with the Salazar Decree.

45. The Ren 2010 plan, of which the June closures were the first step, is explicitly designed by CPS in conjunction with select corporate leadership of the City, to create

more attractive, new schools for higher income families expected to be moving into gentrifying communities in the wake of the extensive demolition of more than 21,000 public housing units for very low-income families. In CPS' efforts to cater to a new potential student population, it has completely failed to protect the rights of homeless students as provided in the Salazar Decree.

46. The Renaissance 2010 plan has evoked significant community opposition at every stage of its development. CPS has pulled off the table the "Mid-South" segment of Renaissance 2010, which was scheduled for a public presentation over a month ago, due to vociferous public protest. At the August, 2004, monthly Board of Education meeting, 29 of the first 30 speakers in the public participation segment of the meeting spoke in opposition to Renaissance 2010. CPS continues to move ahead with the overall plan, offering to provide more information about the plan but failing to acknowledge or address the clear lack of public participation or support.

47. Plaintiffs Kathleen M. and Lucinda W. do not oppose, and, indeed, welcome genuine reform of the Chicago Public Schools that will improve the educational opportunities and services for their children and other class members.

48. CPS failed to consult with, involve or ensure the participation of the plaintiff homeless parents and class members or their advocates and legal representatives in the design and creation of this sweeping plan.

E. Harm to the Class

49. On June 21, 2004, the Homeless Education Program staff of CPS generated a memo directing school staff at the ten closing schools to distribute a letter from CEO, Arne Duncan, to then-current class members. (Attached as Appendix A). This letter,

dated June 17, 2004 (10 days after class counsel had written to Mr. Duncan objecting to the closures and requesting a meeting), was issued without the knowledge of, or consultation with class counsel. The letter advised class members of their legal rights.

50. By its terms, the letter instructed class member parents that they had “special rights” which “will not change” but then, in complete contravention of the Salazar Decree, the McKinney-Vento Act and the Illinois Education for Homeless Children Act, it unilaterally assigned class members to “new” and “alternate school[s] of origin.” This letter circumvented the requirements of the Decree by unilaterally and unlawfully changing the school of origin of homeless children. The Duncan letter also unlawfully imposed an automatic selection *out* of the school of origin, if the parent didn’t respond by June 25th, 2004.

51. The Duncan letter of June 17, 2004, sent to schools on June 21, 2004 was not distributed consistently and, in fact, was never received by many class members.

52. In at least three instances known to class members, those “alternate” schools of origin described in the letter that were assigned by Duncan for this year are schools in which poor, minority students, including class members, have been shifted multiple times from school to school. For example, students forced out of public housing at the Wells and Madden Projects who were once at Einstein Elementary were moved to Donoghue. Donoghue was then closed and students were moved to Doolittle West. Doolittle West is now closing and the students are being shifted to Doolittle East and Fuller. On information and belief, both Dolittle East and Fuller have been mentioned publicly as possible schools to be closed under the Ren 2010 plan.

53. Similarly, students once at Riis near the ABLA Projects were moved to Jefferson and now Jefferson has been closed with students directed to Smyth.

54. In the case of Lucinda W., her children's assigned school of origin, Crispus Attucks, has also been identified as a school that will be closed in 2005. More than half of the students attending Attucks were identified as homeless in the 2003-2004 school year. Thus, if the Ren 2010 plan continues with its school closures, Ms. W.'s children and many other class members likely will be forced to make yet another school change.

55. Dr. Joy Rogers, PhD., Professor of the School of Education, Loyola University Chicago states:

> "The problem of mobility –the lack of continuity in education—is widely recognized in the field of education as jeopardizing any child's school success. As a general rule, it takes a child four to six months to recover academically and emotionally from the disruption of changing schools. When children change schools, they also lose familiar teachers, curriculum, friendships, and support systems."

56. Generally, low-income students are more highly mobile. Research in Chicago has shown that African American students of CPS are twice as likely as white students to switch schools in the middle of the year. High student mobility is intimately related to the lack of affordable housing. (See Hartman, Chester, "High Classroom Turnover: How Children Get Left Behind" in Discriminatory Practices in Education (Citizen's Commission on Civil Rights), discussing studies of mobility, housing issues and the racial implications, attached as Appendix B

57. By creating massive, unnecessary movement of students from one school to another, CPS is causing and will cause excessive transience ("mobility") in the student population, particularly for class members who lack housing stability. Such transience –

as admitted by Defendant CPS in its own materials (see ¶ 17 *supra*) --grievously affects the academic achievement, success and educational and emotional stability of at least hundreds, and potentially thousands of class members over the next six years. Indeed, homeless children –who in Chicago are also overwhelmingly African American-- are perhaps the most highly academically at-risk students within the CPS system.

58. According to mental health professionals working with children in the Cabrini Green displacement, great anxiety, distress and fear have been experienced by many of the class member children and parents who face the uncertainty of where they will now go to school as well as the instability of their living situation. Indeed, there is a double trauma experienced where housing dislocation coincides with school closure and/or forced transfer.

59. Class members are further harmed by their total exclusion from the process of considering and planning how to reform the schools which their children attend or might attend and the planning for transition to new schools. The process has left parents and children in a state of alarm not knowing what the future holds and feeling powerless.

60. In the 21st century, in one of the largest cities in the world, the complete exclusion of Chicago's poorest parents and students from such an important and extensive educational reform --a process occurring in tandem with the relocation and displacement of 25,000 public housing residents implicates more than the Salazar Decree or domestic legal mandates: civil and political rights accorded by international human rights law are also implicated. See Article 25 of the International Covenant on Civil and Political Rights; see also, Articles 12 and 13 of The United Nations Convention on the Rights of the Child.

IV. VIOLATIONS OF THE SALAZAR DECREE, THE MCKINNEY-VENTO ACT AND THE EDUCATION FOR HOMELESS CHILDREN ACT

A. Right to Attend the School of Origin

61. Under the express terms of the Salazar Decree, upon entry of this court's final order, the Defendant CPS agreed to: " provide *each homeless child and youth"* with "the choice of enrolling in: (1) the school he or she attended when permanently housed or (2) the school in which he or she was last enrolled." (Salazar Decree ¶ 11(c)). Choices (1) and (2) are known in federal and state law as the "school of origin." Homeless children and youth were also assured in the Decree of another choice, the local attendance area school.

62. By law and the terms of the Salazar Decree, the choice of which of these schools to attend is solely the decision of the class member parents and children, not the school administrators or the Board of Education. Salazar Decree ¶ 11(c), 105 ILCS 45/1-10. Under the McKinney-Vento Act, schools must keep homeless children in their school of origin unless that choice is "contrary to the wishes of the… parent." 42 U.S.C. §11432(g)(3)(B)(i).

63. Under the terms of the Decree, Defendant CPS must comply with Illinois State Board of Education (ISBE) Policy on the Education of Homeless Children and Youth (Decree ¶ 10(c) which mandates that "[w]herever possible" to "help foster consistent attendance," Defendants must "*reach[] out to homeless families and work[] with them* to provide that homeless children and youth continue to attend their school of origin." (ISBE Policy, attached as Exhibit D to the Decree)

64. If a family chooses to attend a "school of origin," the Defendant CPS committed (as required by federal and state law) to: "permit homeless children and youth to remain in the school selected…for as long as they remain homeless, or, if they become permanently housed, until the end of the academic year." Salazar Decree ¶ 11(e); see also 105 ILCS 45/1-10(1); 42 U.S.C. § 11432(g)(3)(A)(i)..

65. Defendant CPS cannot discourage homeless students from exercising their right to return. Salazar Decree ¶ 11(d).

66. The closure of these 10 elementary schools in June 2004 absolutely deprives each of the homeless children who attended a now-closed school of their right to attend the school of origin.

B. Duty to Minimize Educational Disruption for Homeless Children

67. The McKinney-Vento Act specifically requires that local school districts "coordinate with State and local housing agencies responsible for developing the comprehensive housing affordability strategy described in section 105 of the Cranston-Gonzalez National Affordable Housing Act …*to minimize educational disruption* for children and youths who become homeless." 42 U.S.C. § 11432(g)(5)(B). In Chicago, the Chicago Housing Authority ("CHA") is one such housing agency.

68. The CHA is engaged in a massive demolition of public housing in Chicago ("The Transformation Plan") which is displacing hundreds of families. Many of the proposed school closings are in the vicinity of public housing that has been or is being destroyed by CHA. Some families leaving these buildings who attended the schools closed in June will become homeless as a result and some students "doubled-up" in these

buildings with other families are legally considered homeless because they have nowhere else to go.

69. Rather than coordinate with the CHA to <u>minimize</u> disruption for such children, however, Defendant CPS has utterly failed to work to avoid displacement and instead, in concert with CHA, is simply closing existing schools of origin and thus <u>maximizing</u> the educational disruption of these poor and at-risk children. In addition to the emotional and financial trauma faced by parents and children who are losing their homes and their long-term communities, many of whom are uncertain as to where they will live, these students will now completely lose the benefit of having a "school of origin," i.e., a stable school community.

C. <u>Duty to Remove Barriers to the Educational Success of Homeless Children</u>

70. Pursuant to the McKinney-Vento Act homeless children are to be given a "full and equal opportunity to *succeed* in schools of [their] local educational agency," 42 U.S.C. §11432(g)(6)(A)(ii); (Salazar Decree ¶10(a) and (b)). Moneys spent from the federal McKinney grant must be used to "enable such children and youths to enroll in, attend and *succeed* in school," 42 U.S.C. §11432(d)(2), and the school district must "revise any policies that may act as barriers to [their] enrollment…in schools that are selected under [the Act]." 42 U.S.C. §11432(g)(7). Similarly, barriers to the "retention of homeless children and youth in schools" must also be revised. 42 U.S.C.§11432(g)(1)(F). In addition "[H]omeless children and youth must have access to educational and other services in order to meet the same challenging academic standards." (Salazar Decree ¶ 10(b)).

71. Highly mobile students are very likely to suffer lower test scores, poorer grades, and poorer attendance and to have significantly greater drop-out rates. Defendant CPS knows this. Requiring homeless students, by definition "highly mobile," to make additional school changes—for which they were wholly unprepared by the school district and which could have been mitigated by proper planning (such as a phased close out of the school), causes another formidable barrier for the child's academic success. Accordingly, Defendant CPS must cease these planned closures and revise this devastating plan and process to reduce educational disruption, and safeguard the academic success of homeless students.

D. Requirement to Involve Class Member Parents in Educational Planning

72. Pursuant to its legal responsibilities under McKinney-Vento, school districts "shall ensure that" class member parents "are informed of the educational and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children." 42 U.S.C.§11432(g)(6)(A)(iv). Parent-involvement is a very significant requirement as States are required to consider the parent-involvement factor in decisions to grant or deny funding to particular districts. 42 U.S.C.§11433(c)(2)(C).

73. In both the ten school closures of June 2004, and the proposed closings of sixty additional schools, CPS has wholly failed to either inform class members of these proposed educational opportunities, or provide any "meaningful opportunit[y] to participate." 42 U.S.C.§11432(g)(6)(A)(iv). This is so, despite the CPS commitment in the Salazar Decree to engage in continued joint efforts with class members to improve educational service. (Decree¶ 2(c)

74. Since settlement of this case in 2000, class counsel has had regular monthly meetings with representatives of CPS, including the Homeless Education Program staff and Board attorneys. Class counsel made repeated inquiries in the winter and spring of 2004 regarding what CPS was doing to coordinate with CHA to minimize the educational disruption of the children forced out of CHA. Studies show that many such children were, in fact, becoming homeless.

75. CPS advised that they were generating a draft memorandum with CHA. Oral requests were made by plaintiffs for such memorandum which was never produced. During that time, CPS never solicited the input of homeless persons or warned of the impending displacement of so many “schools of origin.” These closings and “reforms” were only announced publicly as a fait accompli.

76. The Salazar Decree expressly commits CPS to ensuring the enrollment of homeless students “in a manner that is sensitive to the social, financial and safety considerations” of class members. (Decree¶10(a) Nothing about these closures or the future planned closures reflects sensitivity to the social needs of homeless families.

77. On June 10, 2004, plaintiff class members, through counsel, objected to the recommended school closures and implored Defendant Arne Duncan by letter to meet to reconsider the closings. (Attached as Appendix C) Neither Mr. Duncan nor CPS counsel has agreed to meet as requested in violation of the implicit commitment of ¶ 29 to engage with plaintiff class members in negotiation and resolution.

78. More than 60 days have passed since that letter was delivered to CEO Duncan and copied to CPS legal counsel. Pursuant to ¶ 29 of the Salazar Decree, “any class

member" may file a motion seeking systemic relief for the class 60 days after Defendant CPS has received notification of the "difficulty."

E. Article X, Sec. 1 and Article I, Sec. 2 of the Illinois Constitution

79. Class members have the right to a free, appropriate public education as guaranteed by the Illinois Constitution and defined, in part, by the legislature in the Illinois School Code. Depriving class members of their statutory right under 105 ILCS 45/1-10 to attend the school of origin coupled with the massive transfer and re-transfer of homeless students in the Ren 2010 plan done with the full knowledge of Defendant CPS of the consequences of high mobility on the academic success of homeless children violates both Art. IX, Sec. 1 and Art. I, Sec. 2 of the Illinois Constitution.

PRAYER FOR RELIEF

80. For all of the foregoing reasons, plaintiffs respectfully request that the Court set this matter for hearing in 90 days and, after such hearing:

a. Issue a declaratory judgment that the actions of Defendant CPS as herein described violate the Salazar Decree, ¶¶ 2(c), 10 (a), 10 (b), 10(c), 11(c), 11(d), 11(e) and 29; the Illinois Education for Homeless Children Act, §§ 45/1-10; the McKinney-Vento Homeless Assistance Act §§ 11432(d)(2), 11432(g)(1)(F), 11432(g)(3)(A)(i), 11432(g)(3)(B)(i), 11432(g)(5)(B), 11432(G)(6)(A)(iv)(g)(7), 11432 and Art. IX, Sec. 1 and Art. I, Sec. 2 of the Illinois Constitution.

b. Issue an injunction requiring Defendant CPS to:

i. Take specific, adequate and meaningful steps in the form of a comprehensive advance plan to coordinate with the Chicago Housing Authority and class members to minimize the educational disruption of students who become

homeless, including, where appropriate, preserving their "school of origin."

ii. Revise the Ren 2010 plan to fully comport with the Salazar Decree and include fully class members and their representatives in such revision;

iii. Conduct individualized evaluations of the educational needs of each class member who has been displaced by the June school closures and provide all needed services to mitigate any harm caused by their displacement from the "school of origin"

c. Grant relief as prayed for, together with attorney's fees, costs and such other and further relief as may be warranted.

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One of Plaintiffs' Attorneys

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