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## Children left behind

### Homeless families sue the DOE for failing to educate their children in accordance with federal law

by *Alan D. McNarie* / 11-07-07

As a staff attorney for Honolulu-based Lawyers for Equal justice, William Durham has often served as guardian ad litem (guardian of legal interests) for children in the foster care system. He began noticing a disturbing pattern for some of his young charges. As kids moved from foster home to foster home, they kept having to change schools—sometimes four or five times in a single year—seriously damaging their efforts to get an education. Durham did some research and found a 1987 federal law, called the McKinney-Vento Act, designed to prevent just such problems. The law requires that states provide all children, including homeless children, with equal access to a free and appropriate public education. Durham also discovered that the state of Hawaii received \$200,000 in federal funding last year to ensure the McKinney-Vento Act was followed.

‘When I learned about it, I thought this was great, I can start asserting the rights for some of these kids,’ he says. ‘But what I was met with was a bureaucracy that just wasn’t prepared to deal with the issue. It didn’t have forms. The staff didn’t know about it. There wasn’t a



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clear process. All the things that were required by the act just didn't exist.'


Durham started interviewing families in homeless shelters and talking to service providers for the homeless. He quickly learned that the problem stretched far beyond foster children, with children of homeless families also bearing the consequences of a flawed system.

Durham's research resulted in a federal class-action lawsuit filed last month by Lawyers for Equal Justice, the American Civil Liberties Union and the private law firm of Alston Hunt Floyd & Ing against various state officials, including State School Superintendent Patricia Hanamoto and the entire School Board, for failing to comply with McKinney-Vento. Durham expects the state attorney general's response to the lawsuit sometime this month.

In his research, Durham says he found 'lots of kids that had to change schools multiple times, who had moved out of the school district because they were homeless ... and couldn't get to the old school because of lack of transportation.'

Even relocation from one beach park to another can put kids in a different school district, Durham notes. And homeless families often find it impossible to comply with the paperwork to get their kids into a new school. One of the lawsuit's plaintiff families, who were living in their car, kept their son out of school for three months because the school required proof a permanent address in the district.

Durham notes that the DOE can issue a 'geographic exemption' allowing a child to stay in his or her old school after a move. If a student was taking a chemistry class, for instance, and moved to another school that had



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no equivalent class, he might be allowed to finish the semester at his old school. But the DOE doesn't recognize homelessness as a legitimate reason for exemption. Other schools, Durham says, denied homeless children entry because they could not document that they'd had immunization shots.

According to Hawai'i Helping the Hungry Have Hope (H-5), there are currently about 3,500 homeless people on O'ahu, about 1,225 of them are children, though exact statistics on how many of those are school-aged children are not available.

Durham maintains that complying with McKinney-Vento would not be an unbearable financial burden.

'The main expenses, I think, here are the buses and the outreach,' he says.

And in the long run, he believes, compliance will pay for itself in savings on other social programs because educated children would grow up to support themselves as adults and break the cycle of poverty. 

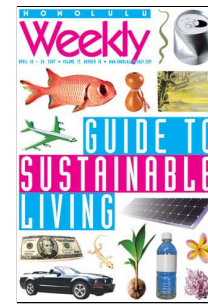
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## Quote

**'When I spoke to counselors and authorities in the school system they said children use it as a greeting. I say, well, with us being black we don't receive it as a greeting. So the misinterpretation and understanding of the n-word needs to be educated to the students on the island because they don't understand what they're really saying.'**

Francine Britt, a mother who attended the educational public forum sponsored by the Hawai'i Chapter of the NAACP in response to Duane 'Dog' Chapman's publicized use of the n-word. (Honolulu Advertiser)

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## Factoid

4.02

**Inches of rain that fell on Honolulu over the weekend according to the National Weather Service.**

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