

Monetary Damages Permitted Against Schools That Violate the McKinney-Vento Act

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By: [Vito Gagliardi, Jr.](#), [Kerri Wright](#), [David Disler](#)

On August 14, 2024, a significant court decision impacting New Jersey schools was handed down in the case of *Martin v. Piserchia*, where a New Jersey federal court judge ruled that a school district can be liable for monetary damages for violating the McKinney-Vento Homeless Assistance Act (Act). This ruling represents a notable development in the enforcement of the Act, which protects the educational rights of homeless children.

Case Background

The case began when the student's mother attempted to enroll her son at Lenape Regional High School at the start of the 2022 school year. During that time, the family was experiencing homelessness and had been staying in various hotels, sometimes in Mount Laurel (which sends its students to Lenape Regional High School) and other times in Maple Shade (where students are sent to Maple Shade High School). When the mother sought to enroll her son in Lenape Regional High School, the school's Homeless and Displaced Student Liaison denied the enrollment based upon the determination that the family was staying at a hotel in Maple Shade at the time. Instead, she directed the family to enroll in Maple Shade High School. The mother disputed this decision, claiming that they were residing in a hotel in Mount Laurel at the time of enrollment. The school district neither enrolled the student nor submitted the dispute to the Executive County Superintendent for a decision. The mother then filed a lawsuit on behalf of herself and her son, without legal representation, asserting that the school district had violated their rights under the McKinney-Vento Act.

Court's Findings

The court found that the school district violated the Act by failing to adhere to its requirements. Specifically, the court identified three key mistakes made by the school district:

- Failure to Immediately Enroll the Student:** The school district was required under the Act to immediately enroll the child once the mother disputed that she did not reside in Mount Laurel at the time of registration. The court rejected the school's argument that its "unilateral fact-finding" justified the refusal to enroll the student. Under the Act, if there is a dispute regarding a child's residency, the school is obligated to immediately enroll the child in the school chosen by the parent or guardian, regardless of the residency dispute.
- Lack of Written Explanation and Appeal Rights:** The district failed to provide the family with a written explanation of its decision not to enroll the child and did not inform the family of their right to appeal the decision, as required by law.
- Failure to Implement the Dispute Resolution Process:** The district did not follow the formal dispute resolution process mandated by N.J.A.C. 6A:17-2.7, which provides that in disputes over a homelessness determination or school district enrollment, the school district is required to immediately notify the executive county superintendent, who must promptly decide the child's status.

Significance of the Decision

What sets this case apart is that it appears to be the first case to address whether monetary damages can be awarded for a violation of the McKinney-Vento Act. Typically, the remedy for such violations is to require the school to enroll the child immediately. However, in this case, the family sought damages, claiming that the mother was fired from her job because she had to stay home with her son (who allegedly was forced to take online classes due to the school district not enrolling him). The court's decision to allow the family to pursue damages is noteworthy. Furthermore, to allow the family to enforce its rights, the court took it upon itself to assign a pro bono attorney to represent the family in their lawsuit against the school district.

In summary, this ruling serves as a critical reminder for school districts to strictly comply with the Act's provisions. Failure to do so not only risks legal action but also may result in monetary damages. We encourage all districts to review their policies and procedures regarding the enrollment of homeless students to ensure full compliance with the Act and to ensure their staff is properly trained on its requirements.

As always, the Porzio [Education Team](#) is available to assist in all aspects of the implementation of the McKinney–Vento Homeless Assistance Act, including policy development, training, and guidance.