

The logo for the New York City Bar, featuring the text "NEW YORK CITY BAR" in a bold, serif font, centered between two horizontal blue bars.

NEW YORK
CITY BAR

PRESIDENT

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September 28, 2005

Hon. J. Dennis Hastert
House Speaker
235 Cannon House Office Building
Washington, DC 20515

Hon. Nancy Pelosi
Democratic Leader
2371 Rayburn House Office Building
Washington, DC 20515 -0508

Dear Speaker Hastert and Democratic Leader Pelosi:

I am writing on behalf of the Association of the Bar of the City of New York (the "Association"). The Association urges you to oppose any proposed legislation that would grant the Secretary of Education broad waiver authority of McKinney-Vento Homeless Education Assistance Act requirements in schools accepting children displaced by Hurricane Katrina. Waiving these requirements would undermine a law that protects our most vulnerable students at a time when the need for such protection is especially critical.

The Association is a professional organization of more than 22,000 attorneys in private practice, public service and academia, principally from New York City. It was founded in 1870 with the view that a professional association of attorneys could and should provide a positive voice in the life of the community. From its outset, the Association has been active in local, state, and federal public affairs.

The Association has had a long history of supporting the rights, liberties and educational and economic opportunities of all Americans, beginning with the Association's founding, for the purpose of combating corruption, and continuing to the current day. In the specific context of displaced students, this commitment is in part exemplified by the fact that one of the Association's standing committees is the Committee on Education and the Law.

Students who are victims of Hurricane Katrina currently derive substantial benefits from the McKinney-Vento Act, which provides critical protections for school-age children experiencing homelessness. Among those protections are: immediate school enrollment; the right to benefit from the normalcy, structure, and resources of a mainstream school environment; access to the same educational programming as other children; the opportunity to maintain school stability despite residential moves; coordination of supportive and academic services; and referrals for health, mental health, housing, and other supports.

The need for the McKinney-Vento Act is readily apparent at a time like this. Yet the U.S. Department of Education is seeking broad authority to waive the obligations of school districts to serve these children, a large percentage of whom are low-income and African-American. The danger of such broad waiver authority is that waivers could be granted that undermine the purpose of the statute, and create the risk that Katrina victims would:

- be schooled in racially and economically segregated temporary school facilities;
- receive inappropriate or inadequate education services, including services to students with disabilities;
- be denied equal educational opportunity.

The first of these risks was highlighted in a recent article in the Wall Street Journal (“Separate but Equal? Schooling of Evacuees Provokes Debate,” September 14, 2005), which noted that some districts have requested waivers of McKinney-Vento requirements as part of an effort to educate students made homeless by Hurricane Katrina in separate facilities. Separate schooling for Katrina victims would represent a particularly inappropriate response to the plight of the displaced students, and further highlights why broad waiver authority should not be granted by Congress. While Katrina victims might need a range of mental health supports based on the trauma they have experienced, the provision of such services is already contemplated in McKinney-Vento and can take a range of forms other than separate schooling.


We know of no good reason why students made homeless by Hurricane Katrina should have fewer rights than other homeless students. Nor is there a need to create additional educational barriers for these traumatized students. At a time when Katrina victims are experiencing all the stress of dislocation and disruption, enrollment in regular school programs can provide a crucial aspect of normalcy.

The McKinney-Vento Act has opened the doors of school to children made homeless by the hurricane. Numerous schools nationwide are using the Act successfully as a tool to stabilize and support students displaced by Katrina. This is true in those states serving large numbers of evacuees as well as those with fewer displaced children.

To the extent that specific districts and states need additional support in meeting McKinney-Vento’s requirements, this should be addressed through the provision of emergency funding, such as that called for by the American Association of School Administrators. S. 1715, the Hurricane Katrina Education Relief Act, would provide some of this needed funding. We wholeheartedly support funding provisions that would help impacted districts meet McKinney-Vento requirements as the best and most appropriate alternative to waiving those requirements.

In conclusion, we urge you to oppose any legislation that would grant the Secretary of Education broad waiver authority under the McKinney-Vento Act for children who are displaced by Hurricane Katrina, and to support a significant supplemental appropriation for the McKinney-Vento Act.

Sincerely,

A handwritten signature in cursive script that reads "Bettina B. Plevan".

Bettina B. Plevan

CC: Members of the House Education and Workforce Committee