MEMORANDUM

TO: Christopher Koch, State Superintendent

FROM: Marica Cullen, Homeless Education Coordinator

SUBJECT: Case of: [redacted] and [redacted] (parent) and Riverside Brookfield District 208

January 14, 2011 Homeless Dispute Resolution Hearing – Appeal by Jacqueline F. Wernz, Franczek Radelett, on behalf of Riverside Brookfield District 208

In regards to the Homeless Student Dispute Procedures, either party may, within 5 school days of receipt of the Ombudsperson’s decision, send a written request to the State Coordinator asking the State Coordinator to review such decision for compliance with applicable law. Such request must include any documentation related to the dispute resolution proceeding.

Upon receiving a request for review, the State Coordinator may request from either party any additional information that he or she deems relevant to determining compliance with applicable law. No later than 10 school days after receiving the request for review, the State Coordinator shall make a recommendation to the State Superintendent of Education regarding the Ombudsperson’s decision and the appropriate placement of the student.

On February 28, 2011, the Homeless Education Coordinator received a packet of information and notice of appeal from Jacqueline F. Wernz of Franczek Radelett, on behalf of Riverside Brookfield School District 208 requesting the Homeless Education Coordinator review the decision of Michael Piertzak for compliance with applicable law related to the dispute resolution proceeding on January 14, 2011. In the request, documentation was provided showing the school district received the Ombudsperson’s final decision on February 23, 2011. In addition, Elizabeth Cunningham, attorney for [redacted], submitted documentation on March 2, 2011 supporting the Ombudsperson’s decision in the Dispute Resolution. In response, Jacqueline Wernz submitted an additional reply on March 8, 2011.

I have determined that the Ombudsperson’s decision is in compliance with applicable law.

District’s Appeal

The applicable state law requires each regional superintendent of schools to appoint an ombudsperson who is fair and impartial and familiar with the educational right and needs of homeless children to provide resource information and resolve disputes at schools within his or her jurisdiction relating to the rights of homeless children under this Act (See 105 ILCS 45/1-25(a)).
As the basis for their appeal, the District claims the Ombudsperson did not follow proper procedures in 1) considering the evidence and arguments presented in the hearing, and 2) arriving at a finding of fact. As a result of these procedural deficits, the District is asking for ISBE to vacate the Ombudsperson’s decision and remand the hearing to a new and impartial Ombudsperson.

A review of the documentation shows the Ombudsperson did make a finding of fact after considering the evidence and arguments. On the second page of the Opinion (Attachment A), Mr. Piertzak writes, “Sufficient evidence was presented to show that [redacted] and [redacted] reside in a basement at the home of [redacted], a cousin to [redacted] the mother of the children.” Additionally, on page three of the same document, the Ombudsperson notes, “the conditions under which [redacted] and [redacted] were living at the time of registration did not meet the McKinney Vento standard of fixed, regular, and [emphasis added] adequate.”

The District’s Position

Riverside Brookfield District 208 maintains in its appeal that [redacted] and her children never resided within the district boundaries. A review of documents provided by both the district and the attorney for the parent suggest a “murky” space of claims and assertions by each side. It is, indeed, unclear what the length of stay and actual dates of stay for [redacted] and her minor children in her cousin’s home were. However, the dispute resolution procedures outlined by the Illinois State Board of Education clearly place the responsibility for making factual findings within the purview of the regional Ombudsperson.

I have found nothing in my review to question either the fairness of or the procedural process of the Ombudsperson in this dispute resolution hearing. Therefore, I recommend the State Superintendent deny the appeal.

Respond to the following:

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