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NYS FIELD MEMO
NCLB McKinney-Vento
02-2015

TO: District Superintendents
Superintendents of LEAs and Charter Schools
Title I Coordinators
McKinney-Vento Liaisons
School Nurses

FROM: Ira Schwartz *Ira Schwartz*
Assistant Commissioner Office of Accountability

SUBJECT: Addendum to Joint Guidance on State Requirements for Vaccinations

DATE: March, 2015

The purpose of this memorandum is to clarify how the requirements for vaccinations apply to students in temporary housing. On February 9, 2015, the New York State Education Department (NYSED or “the Department”) and the New York State Department of Health (DOH) issued guidance on state requirements for vaccinations, available here: <http://www.p12.nysed.gov/sss/documents/GuidanceonStateRequirementsforVaccinations.pdf>. Since the issuance of the joint guidance, NYSED has received questions as to the applicability of such requirements to students eligible for services under the federal McKinney-Vento Homeless Education Assistance Act (the McKinney-Vento Act). Nothing in the February 9, 2015 guidance changes or modifies the rights of students in temporary housing.

Under the McKinney-Vento Act and State Education Law, school districts are required to immediately enroll students experiencing homelessness, even if the student is unable to provide documents typically required for enrollment, such as school records, medical records including immunization records, proof of residency, guardianship papers, or a birth certificate (42 USC § 11432[g][3][C]; Education Law § 3209[2][e]; 8 NYCRR §100.2[x][4]). It is the enrolling school's responsibility to immediately request immunization records for the student in temporary

housing from the previous school district attended (42 USC § 11432[g][3][C]; Education Law § 3209[2][e]; 8 NYCRR §100.2[x][4]). Within 5 days of receipt of such request, the former district must forward the student’s records, including but not limited to proof of age, academic records, evaluations, immunization records and guardianship papers, if applicable (Education Law § 3209[2][f]; 8 NYCRR §100.2[x][5]). If a child or youth needs to obtain immunizations or immunization or medical records, the enrolling school must immediately refer the parent or guardian to the district’s McKinney-Vento Liaison, who must assist in obtaining the necessary immunizations or immunization or medical records (42 USC § 11432[g][3][C]; 8 NYCRR § 100.2[x][4][v]). A listing of the McKinney-Vento Liaisons by name and school district is located at: <http://www.nysteachs.org/liaisons/>.

To ensure the timely transfer of records, the U.S. Department of Education’s non-regulatory guidance on the McKinney-Vento Act recommends that schools “take into account procedures for State-to-State records transfers.”¹ If the student in temporary housing last attended school out-of-state, and the enrolling district is having difficulty obtaining the immunization records from the previous district, please contact the McKinney-Vento State Coordinator for that state. Contact information for McKinney-Vento State Coordinators can be found here: <http://center.serve.org/nche/downloads/sccontact.pdf>

Pursuant to Public Health Law (PHL) §2164, public and private school officials may not admit unvaccinated children to school in excess of 14 days unless: (1) the student is transferring from out-of-state or from another country and can show a good faith effort to get the necessary certification or other evidence of immunizations, in which case the 14-day period may be extended to not more than 30 days; or (2) the student has been legally exempted for medical reasons or because the child’s parents hold genuine and sincere religious beliefs which are contrary to vaccination practices (PHL § 2164[7][a], [8], [9]; Education Law § 914[1]; 10 NYCRR § 66-1.3). Students in temporary housing are not exempt from the immunization requirements. However, as described above, in cases where the student in temporary housing needs immunizations or immunization or medical records, the enrolling school district must act immediately to assist in obtaining the necessary immunizations or immunization or medical records.

School administrators are reminded to review the district’s policies to ensure compliance both with PHL §2164 as well as the McKinney-Vento Act, Education Law §3209, and 8 NYCRR §100.2(x). The McKinney-Vento Act specifically requires that districts develop, and review and revise, policies to remove barriers to enrollment so that students in temporary housing have immediate access to a public education to which they are entitled (see 42 USC § 11432[g][1][I]).

¹ See question G-7 at: <http://www2.ed.gov/programs/homeless/guidance.pdf> .

Please contact Melanie Faby, Homeless Program Associate, at (518)473-0295, Student Support Services at (518) 486-6090 or NYS-TEACHS at (800)388-2014 for assistance with any questions. Thank you.

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