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August 23, 2016

TO: Chief School Administrators
Charter School and Renaissance School Project Lead Persons

FROM: Susan Martz, Assistant Commissioner
Division of Learning Supports and Specialized Services

SUBJECT: Enrollment Considerations for Homeless and Immigrant Students

In May 2014, the United States Department of Education and the United States Department of Justice released guidance to reinforce that school districts must provide “all children with equal access to public education at the elementary and secondary level.” The following information is provided to assist you in fulfilling the federal and state requirements regarding the enrollment of students who are homeless and/or immigrants, including unaccompanied minors.

Homeless Students

The federal McKinney-Vento Act, as amended by the *Every Student Succeeds Act (ESSA)*, and State regulations at *N.J.A.C. 6A:17*, in part define homeless students as those who lack a fixed, regular and adequate residence. Further, the McKinney-Vento Act defines students who are “sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason” as homeless. The laws mandate immediate enrollment for homeless students. School districts may not require that students experiencing homelessness present residency affidavits to enroll in school. While proof of residency affidavits may ensure that only resident children enroll within the school district, the use of such forms as a requirement for enrollment, or continued enrollment, constitutes an educational barrier for homeless students. Therefore, the proof of residency affidavits normally needed for school enrollment are waived for homeless students.

The ESSA amended a number of key provisions of the McKinney-Vento Act, which take effect on October 1, 2016. Specifically, students experiencing homelessness are presumed to be best served by their school of origin, except when contrary to the request of the child’s or youth’s parent or guardian, or the youth (in the case of an unaccompanied youth). As such, the definition of the school of origin, which is the school the homeless child or youth attended when permanently housed or the school in which the child or youth was last enrolled, has been expanded to include preschools and “receiving schools.” The school of origin is the school that a child or youth attended when permanently housed, or the school in which the child or youth was last enrolled, including a preschool. (Section 722(g)(3)(I)(i)). When a child or youth completes the final grade level served by the school of origin, the school of origin includes the designated receiving school at the next grade level for all feeder schools (such as when an elementary school feeds into a middle school). (Section 722(g)(3)(I)(ii)). For example, a student was last enrolled in School A in grade 5, which is the final

grade level served by School A. Students at School A are designated to attend School B beginning in the next grade level, grade 6. The school of origin for this student would therefore include School A and the designated receiving school at the next grade level, School B.

The legislation mandates that school districts allow a homeless student to remain in his or her school of origin for the duration of homelessness or until the end of the school year in which the child or youth becomes permanently housed. Therefore, enrollment consideration for a homeless student may extend beyond the initial school in the district in which the student was enrolled.

District personnel are encouraged to utilize the resources offered by the National Center for Homeless Education (NCHE) found by visiting <http://center.serve.org/nche/>. The resources include “legal briefs” which offer step-by-step guidance tailored to local liaisons, school staff and administrators; and cover topics from identifying children and youth in homeless situations to determining eligibility for McKinney-Vento services.

Immigrant Students

School districts may not deny the enrollment of students in public schools on the basis of immigration status. In *Plyler v. Doe*, 457 US 202 (1982), the United States Supreme Court held that undocumented children living in the United States could not be excluded from public elementary and secondary schools based upon their immigration status. Accordingly, school districts are prohibited from requiring students to disclose or document their immigration status, making inquiries of students or parents that may expose their undocumented status, or engaging in any practices that hinder the right of access to public schools.

N.J.A.C. 6A:22-3.3 also prohibits the barring of any student from public elementary and secondary schools on the basis of immigration/visa status, except for students on F-1 visas. School districts are required to enroll all students over 5 and under 20 years of age who are domiciled in the district or who are otherwise entitled to attend school pursuant to *N.J.S.A. 18A:38-1*, et seq. and the implementing regulations, *N.J.A.C. 6A:22-3.1*, et seq.

The New Jersey Department of Education (Department) has consistently maintained that school districts are prohibited from implementing discriminatory enrollment practices, intentionally or unintentionally, that may exclude children from enrolling in public school based upon their immigration status. In April 2014, the Department reiterated through an email to chief school administrators that school district enrollment policies must be in compliance with State regulations. These regulations prohibit districts from conditioning enrollment contingent upon the receipt of information or documents either protected from disclosure by law or pertaining to criteria that are not a legitimate basis for determining eligibility to attend school. Such prohibited documents include, but are not limited to: income tax returns, documentation or information relating to citizenship or immigration status, and social security numbers. For instance, when enrolling students, school districts may request verification of residency, such as copies of utility bills or lease agreements; however, the district cannot deny enrollment based on a failure to provide a particular form or subset of documents. Further, when requesting documentation of a student’s age, school districts may not prohibit enrollment if the parent/guardian is unable to present a birth certificate or presents a foreign birth certificate.

Unaccompanied Children

As with any immigrant student, school districts may not deny immediate enrollment to unaccompanied minors immigrating to the United States. Some unaccompanied minors may be eligible for services under the federal McKinney-Vento Homeless Education Program and/or the federal Migrant Education Program. During the enrollment process, school districts should ascertain the relevant information to determine children's eligibility for participation in these programs.

School districts are required to annually review the immunization records of all students, pursuant to *N.J.A.C. 6A:16-2.2(a)*, and it is the responsibility of the certified school nurse (CSN) to review all immunization records under *N.J.A.C. 6A:16-2.3(b)3v*. Additionally, students entering a New Jersey school for the first time are required to have an entry medical exam, screenings of vision, hearing, blood pressure, height, weight, and if age 10 to 18, a scoliosis screening according to *N.J.A.C. 6A:16-2.2(1)4*. According to *N.J.A.C. 6A:16-2.2(g)*, the entry medical examination shall include the immunizations pursuant to *N.J.A.C. 8:57-4.1* through 4.24 and the medical history, including allergies, past serious illnesses, injuries, operations, medications and current health problems.

When children enter the United States, unaccompanied by a parent or guardian, they are placed in a short term shelter operated by the Administration for Children and Families Office of Refugee Resettlement (ORR) in the U.S. Department of Health and Human Services (HHS). All children who come into ORR care and custody are medically screened, vaccinated and screened for behavioral health issues. Children with illness are treated before being released to a sponsor. When a child is released to a sponsor, the sponsor is given a copy of the child's medical and immunization record. Therefore, the sponsor should be able to present a record that satisfies the requirements described above. If the sponsor does not have a written immunization record at the time of enrollment, the CSN should direct the sponsor to submit a written request for this information from the HHS. Written requests for a copy of a child's immunization record can be e-mailed to Requests.DUCS@acf.hhs.gov. The sponsor may be required to fill out an authorization to receive this information. If the information in the record provided by ORR does not include the information required in the entry medical examination (above), the school physician must provide the entry medical examination for students who do not have a medical home.

School districts must admit any student upon registration and submission of proof that the child has received the necessary immunizations. School districts must not delay or deny attendance based on their non-receipt of:

- A certified copy of the child's birth certificate or other proof of identity. This is required within 30 days of initial enrollment (*N.J.A.C. 6A:22-4.1(g)*; *N.J.S.A. 18A:36-25.1*);
- Medical information, although attendance at school may be deferred while awaiting immunization records (*N.J.A.C. 6A:22-4.1(h)*; *N.J.A.C. 8:57-4*); or
- The child's prior educational record pursuant to *N.J.A.C. 6A:22-4.1(i)*.

During the recent influx of unaccompanied immigrant minors into schools, the Department added the following resources to its website, which many districts may still find to be helpful. These resources offer background information on the plight of children fleeing from their birth country, inform districts on ways to support these students, explain how students interact with the immigration

system and address concerns districts may have about children's medical/immunization records, eligibility for participation in federal grant programs, and appropriate instructional strategies.

- United States Department of Education Fact Sheet:
<http://www2.ed.gov/policy/rights/guid/unaccompanied-children.pdf>
- NJDOE's Bureau of Bilingual/ESL Education web page:
<http://www.state.nj.us/education/bilingual/resources/>
Specific resources for Unaccompanied Minors can be found under the heading "Information on Specific ESL Populations."
- United States Department of Health and Human Services (HHS) guidance:
<http://www.cdc.gov/immigrantrefugeehealth/exams/medical-examination.html>
- Minimal Immunization Requirements for School Attendance in New Jersey:
<http://www.state.nj.us/education/students/safety/health/cdpr/immune/>
- Required medical examinations and health screenings in New Jersey Schools (*N.J.A.C. 6A:16-2.2(f through h)*):
<http://www.state.nj.us/education/code/current/title6a/chap16.pdf>
- Centers for Disease Control and Prevention (CDC) Office of Refugee Resettlement (ORR), 2012 *Revised Medical Screening Guidelines for Newly Arriving Refugees*, and related attachments:
www.cdc.gov/immigrantrefugeehealth/guidelines/refugee-guidelines.html.

Please distribute this memorandum to principals, school nurses and physicians, and all staff involved in the student enrollment process. For further information on the enrollment of immigrant students, contact your executive county superintendent of schools or the Office of Supplemental Educational Programs at (609) 292-8777 or lep@doe.state.nj.us. For questions on the enrollment of homeless children, contact Danielle Anderson-Thomas, Homeless Education coordinator, at (609) 984-4974 or danielle.anderson-thomas@doe.state.nj.us. For clarification on school health requirements, contact the Office of Student Support Services at (609) 633-1752.

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