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TO: Superintendents of Schools
District Superintendents
Presidents of Boards of Education

FROM: James R. Butterworth 

SUBJECT: School District Procedures for Implementing Requests for Religious
Exemption to Immunization

This memorandum provides guidance to school district officials on how to implement the religious exemption from student immunization requirements.

I. Background on Immunization Requirements in New York State

Education Law §914(1) requires that every child attending school submit proof of the immunizations required by Public Health Law §2164. Section 2164, in turn, requires immunizations against polio, mumps, measles, diphtheria, rubella, varicella (chickenpox), Haemophilus influenzae type b, pertussis, tetanus, and hepatitis B. Parent(s) must provide evidence of a child's vaccination before he/she can be admitted to school.

A key strategy to ensure that children receive recommended vaccinations in the United States is the use of state legislative mandates to require proof of immunization upon school entry. Schools have been sites of transmission for measles, pertussis, varicella and other vaccine-preventable diseases (VPDs). Under New York law, local school officials are given the important task of ensuring that only children with proof of vaccinations enter school, where they may spread or contract diseases against which they have not been vaccinated. Laws requiring that children be immunized before they begin school have contributed to a 98% to 100% reduction in the incidence of most VPDs. State immunization laws provide a safety net for immunization programs ensuring that nearly all school-aged children are vaccinated.

Some states—including New York—have recognized the need to balance the protection of public health against the constitutional right of parents to raise their children in accordance with their own religious views. They have therefore provided for a statutory religious exemption from the vaccination requirements. Specifically, Public Health Law §2164 (9) states that immunizations are not required where the parent(s) or guardian “hold genuine and sincere religious beliefs” which are contrary to immunization.

Both the New York State Department of Health and the New York State Education Department have implemented the religious exemption through regulations. Department of Health Regulation 10 NYCRR §66-1.3(d) requires the submission of:

A written and signed statement from the parent, parents or guardian of such child, stating that the parent, parents or guardian objects to their child's immunization due to sincere and genuine religious beliefs which prohibit the immunization of their child in which case the principal or person in charge of the school may require supporting documents.

II. Procedures for Implementing the Religious Exemption to Immunization

The State Education Department is committed to providing guidance for school districts in their implementation of religious exemptions for immunization that balances parental autonomy with protecting the public. School district officials are charged with the responsibility of determining, on a case-by-case basis, whether a parent/guardian is entitled to invoke the religious exemption from required immunizations. Because of the personal nature of the subject matter and the potential implication of First Amendment rights, school officials must exercise extreme sensitivity and great care when inquiring into the nature of a parent's/guardian's beliefs.

In order to encourage more consistent implementation of religious exemption requests in school districts throughout the State, we have collaborated with the Department of Health and statewide educational, health, and labor organizations to develop a request form as well as procedures to guide its use. Attached find the documents:

- *Request for Religious Exemption to Immunization Form–Parent/Guardian Statement;* and
- *School District Procedures for Implementing Requests for Religious Exemption to Immunization.*

The State Education Department strongly recommends the use of this form, following the procedures listed in the above documents.

As required by regulation, in order to obtain a religious exemption to immunization for a child, a parent/guardian must submit a written and signed statement stating his or her religious objection to immunization. On the *Parent/Guardian Statement Form*, the elements listed for inclusion in the written statement are intended to assist the parent/guardian in providing a statement that clearly and completely articulates the sincere and genuine religious beliefs which prohibit the immunization of his or her child.

If the parent/guardian follows the instructions on the form, most requests will be able to be implemented based solely on the basis of the written statement. The supporting documents suggestion is intended only as an illustrative, not inclusive, list and any supporting documents should be requested *only* when questions remain about the existence of a sincerely held religious belief based on review of the parental/guardian statement.

Please note that while the school nurse is responsible for the issuance and collection of the *Parent/Guardian Statement Form*, and also for the distribution of the Centers for Disease Control/Department of Health informational immunization materials, it is the building principal who holds responsibility for reviewing each request form and for communicating in writing with the parent/guardian regarding the request's approval or denial. If the request is denied, the written communication must address the specific reasons for the denial; merely stating that the request does not demonstrate a sincerely held religious belief is not sufficient articulation.

In the absence of a building school nurse, the building principal may designate an individual to issue/collect the form and distribute the immunization materials. However, the building principal still must review all requests and communicate in writing with parents/guardians and cannot assign these duties to the designee.

If you have any questions regarding this process, please contact the Student Support Services Team at (518) 486-6090.

Attachments

cc: NYSUT PEF NYS School Counselor Association
CSEA SAANYS NYS Parent Teacher Association
NYSSBA NYSCOSS NYS Nurse Practitioner Association
NYSASN UFT Nurse Alliance, Local 1199
NYS Nurses' Association
Medical Society of the State of NY
Council of School Supervisors and Administrators