



THE STATE EDUCATION DEPARTMENT

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TO: District Superintendents  
Superintendents of Schools  
Public School Administrators  
Nonpublic School Administrators

FROM: Jhone M. Ebert

SUBJECT: Students Displaced by Recent Hurricanes

Recently, Hurricanes Harvey, Irma, and Maria battered Texas, Florida, Puerto Rico, the U.S. Virgin Islands, and several other countries in the Caribbean, leaving thousands displaced. The Board of Regents and the New York State Education Department (NYSED) are deeply concerned about the mounting scope of these tragedies and what it means, in particular, for schoolchildren in the impacted areas.

Some families from these impacted areas, and their school-aged children, have relocated to New York State and many more may relocate in the coming weeks and months. The Department stands ready to help school districts with this process. This Field Memorandum provides information and resources for local educational agencies (LEAs)<sup>1</sup> regarding the rights of and services available to students displaced by these natural disasters.

### McKinney -Vento Act

Students who are temporarily displaced due to disaster are likely protected by the McKinney-Vento Homeless Education Assistance Act, a federal law that details the educational rights of students in temporary housing. The definition of homelessness under this Act is broad and covers children and youth who lack a fixed, regular and adequate nighttime residence, including those who, for example, are doubling up with friends or family due to loss of housing; living in motels or hotels; and children who have a primary nighttime location such as a shelter, vehicle, substandard housing and other temporary arrangements.<sup>2</sup> The Act also protects unaccompanied youth who are not in the physical custody of their parents or legal guardian and are living in a temporary housing situation. McKinney-Vento protects students, for example, who are temporarily housed in New York because they lost their housing in a different state such as Florida

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<sup>1</sup> LEAs include school districts, charter schools, and BOCES.

<sup>2</sup> See 42 U.S.C. §11434a[2]; Education Law §3209[1][a].

or Texas, in a U.S. territory such as Puerto Rico or the U.S. Virgin Islands, or a different country.

in temporary housing must have access to all of the LEA's programs, activities and services to the same extent as they are provided to

homeless and are entitled to immediate enrollment and full participation in school and do not need parental consent to enroll in school.

If an unaccompanied youth has a disability and needs special education services, and the parent, including any person in parental relation, is unavailable (i.e. after reasonable efforts, the whereabouts of the parent or person in parental relation is unknown), the board of education or other appropriate body shall select a surrogate parent from the school district's list of individuals who are eligible and willing to serve as surrogate parents in order to ensure that the rights

- o [FEMA Resource Page for Texas](#) and
  - o [FEMA Resource Page for Florida](#)
- x The Department's homeless education technical assistance center, NYS-TEACHS, has many resources available to LEAs, including outreach posters and brochures, and a hotline available to answer your questions Monday - Friday from 9 am to 5 pm, 800-388-2014. In addition, the National Center for Homeless Education also has several resources including:
- f A McKinney -Vento Toolbox: Constructing a Robust and Rigorous Homeless Education Program, In Case of Disaster and Every Day is designed to help school districts implement the McKinney-Vento Act fully and contains information and practical lessons learned and resources developed during the recovery process following the 2005 Gulf Coast hurricanes. For further information, visit the complete [McKinney-Vento Toolbox](#);
  - f [Connecting Schools and Displaced Students Handbook Series](#) are printable handbooks that relay disaster-related school information to parents, relief agencies, and school districts.
  - f The [Disaster Preparation and Response Resource Page](#) includes several resources for working with students who have been affected by a

- x Provide the student with a free appropriate public education, including special education programs and services comparable to those described in the previously held IEP, in consultation with the parent(s), until the school district conducts an individual evaluation (if determined necessary by the school district), makes an eligibility determination, and develops a new IEP if appropriate.
- x Take reasonable steps to promptly obtain the IEP and any other records relating to the provision of special education programs and services to the child.
- x

Hudson Valley Regional Office: (518) 473-1185  
Long Island Regional Office: (631) 952-3352  
New York City Regional Office: (718) 722-4544  
Western Regional Office: (585) 344-2002  
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### Guidance specifically for English Language Learners (ELLs)

Pursuant to Commissioner's Regulations Part 154, all newly enrolled students (including those who reenter New York State public schools after a two-year absence) must normally go through the ELL identification process within ten (10) school days. Commissioner's Regulations §154-2.3(a) describes this identification process. A Home Language Questionnaire (HLQ) is administered by qualified personnel.<sup>19</sup> If the HLQ reflects that a language other than English is spoken at home, qualified personnel must conduct an individual interview in English and the student's home language, at which the student's prior work in English and the home language is reviewed if available.<sup>20</sup> Based on information gathered at the informal interview, the qualified personnel determines if the student will take the New York State Identification Test for English Language Learners (NYSITELL). The student's NYSITELL score determines if he or she is an ELL (and if so, the student's level of English language proficiency).<sup>21</sup> If a newly enrolled student is identified as an ELL pursuant to the above procedure, such student is to be provided a final program placement in a Bilingual Education (BE) or English As a New Language (ENL) program within ten (10) school days. For more information, read the memorandum on [Guidance Regarding Bilingual Programs and English Language Learner \(ELL\) Parent Information Resources in New York State \(NYS\)](#).

Districts that experience a large influx of ELLs due to displacement by recent hurricanes may contact the [Office of Bilingual Education and World Languages](#) at [obewl@nysed.gov](mailto:obewl@nysed.gov) for guidance and technical assistance in providing timely and appropriate services for such students.

NYSED also encourages districts that experience an increase in their ELL populations to utilize supports and technical assistance offered by eight (8) [Regional Bilingual Education Resource Networks \(RBERNs\)](#) throughout the State, which include seven (7) regional RBERNs and one (1) Statewide Language RBERN.

- x NYSED works in partnership with the RBERNs to offer regional, high quality, professional development opportunities to build capacity in districts and schools in order to address the needs of ELLs.
- x The RBERNs provide invaluable support and assistance to all districts and schools across NYS, to educators, leaders, support persons, families and students.
- x The RBERNs can provide hands-on assistance and professional development opportunities to districts in areas such as:
  - o



needs that stem from stress and/or trauma that need to be addressed in order for them to thrive academically and socially. There is much evidence to suggest that creating a safe and supportive school environment, building secure attachments, and developing a student's non-cognitive skills can lead to student stability and success. Visit [NYS-TEACHS' Trauma-Sensitive Strategies for School Success webpage](#)