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NYS FIELD MEMO
NCLB McKinney-Vento
#01- 2015

TO: District Superintendents
Superintendents of Public Schools
Homeless Education Liaisons

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SUBJECT: New York State Education Department Guidance Regarding Out-of-State/Country Children who become Homeless and Tuition Reimbursement

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The purpose of this field memo is to clarify when a New York State school district is eligible to receive additional state aid for education (tuition reimbursement) for the cost of educating a child in temporary housing who arrives from outside of New York State and how the school district can request such aid.

News stories highlighting the increase in unaccompanied children across the United States-Mexico border have prompted questions relating to the obligation of New York State school districts to educate those unaccompanied children. In May 2014, the U.S. Department of Education ("USDOE") and the U.S. Department of Justice ("USDOJ") issued joint guidance regarding State and local educational agencies' obligation under federal law to provide all children with equal access to public elementary and secondary education, which includes enrolling all resident students regardless of their or their parents' actual or perceived immigration status.¹ USDOE has also emphasized that unaccompanied immigrant children and youth who live with a sponsor have the right to enroll in and attend public schools.²

¹ <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201405.pdf>

² <http://www2.ed.gov/policy/rights/guid/unaccompanied-children.html>

New York State Education Law entitles each person over five and under twenty-one years of age, who has not received a high school diploma, to attend a public school in the district in which such person resides (Education Law §§3202[1], 3205). In addition, in order to ensure that that all students – including unaccompanied children – eligible to attend the schools of a district under Education Law §3202 are admitted without undue delay, the Board of Regents has amended 8 NYCRR§ 100.2(y) of the Commissioner’s Regulations.³ The regulation clarifies that districts shall not request on any enrollment/registration forms or in any meeting or other form of communication any documentation or information at the time of and/or as a condition of enrollment regarding or which would tend to reveal the immigration status of the child, the child’s parent(s) or the person(s) in parental relation, including but not limited to copies of or information concerning visas or other documentation indicating immigration status.

Children who are released to live with a sponsor may also be eligible for McKinney-Vento protections, including the right to immediate enrollment in school prior to submission of records. This is determined on a case-by-case basis. The law’s definition of homeless children and youths, which includes youth who are living with family members in ‘doubled-up’ housing (e.g., sharing the housing of other persons due to economic hardship or a similar reason) may describe many unaccompanied immigrant youth who reside in sponsor households. McKinney-Vento eligibility determinations must take into account the unique circumstances of each child. School districts are reminded of their obligation to immediately enroll such children while McKinney-Vento eligibility determinations are being made in accordance with §100.2(x) of the Commissioner’s regulations.

STAC Forms and Tuition Reimbursement Eligibility

If a child in temporary housing enrolls in a new school district in New York State, additional state aid is available to the new school district if the child had been previously permanently housed in a different New York State school district. The new school district is called the “district of current location.” The school district where the student had most recently been permanently housed is referred to as the “district of origin.”

The STAC (System to Track and Account for Children) and Medicaid Unit is the office within the New York State Education Department (NYSED or “the Department”) responsible for processing requests for additional State aid for the instruction of homeless students. Tuition reimbursement is available to the school district of current location only when a student in temporary housing was last permanently housed in a different school district in New York State. In such cases, the district of current location uses the STAC 202 form “Designation of School District of Attendance for a Homeless Child” for record-keeping purposes and sends a copy of the form to the NYSED STAC and Medicaid Unit to coordinate tuition reimbursement.

³ The amendment was adopted as an emergency action at the December 2014 Regents meeting, effective December 16, 2014. A Notice of Emergency Adoption and Proposed Rule Making was published in the State Register on December 31, 2014. A second emergency action was taken by the Board at the February Regents meeting to ensure that the rule remains continuously in effect until it can be presented for adoption and take effect as a permanent rule.

If a student in temporary housing was most recently permanently housed outside of New York State or outside the United States, the district of current location will complete a STAC 202 form for record-keeping purposes only. The district of current location will not be eligible for tuition reimbursement through the STAC process. In such cases, the STAC form should not be mailed to NYSED.

Please note that students in temporary housing often face frequent housing and school moves. When a student transfers between New York State school districts, the new district of current location that absorbs the student may be eligible for additional tuition reimbursement through the STAC process, but **only if** the student was most recently permanently housed within a school district in New York State.⁴ When a student arrives from outside of New York State or outside the United States and is registered as a temporarily housed student upon arrival, and the student continues to reside in temporary housing, tuition reimbursement is not available through the STAC process. Because the school or school district the student was entitled to attend when the circumstances arose which caused the child to become homeless was located outside New York State, under Education Law §3209(2)(b)(2) such a homeless student arriving from outside the State is entitled to attend the schools of the school district in which the temporary housing is located on the same basis as a resident student.

STAC 202 Form

The STAC-202 form indicates that a student has been designated as homeless and specifies the name of the school district the child will be attending as well as the name of the previous school district in New York State where the child attended school, if applicable. The STAC 202 form and instructions are available in Spanish and English:

English:

http://www.nysteachs.org/media/INF_SED_STAC202_Form.pdf

Spanish:

http://www.nysteachs.org/media/INF_SED_STAC202_Spanish.pdf

Spanish Instructions:

http://www.nysteachs.org/media/INF_SED_STAC202_SpanishInstructions.pdf

STAC Guidance, 2013

The September 2013 Field Memo from NYSED provides additional information about when a school district can receive additional State aid for the cost of educating a student in temporary housing and how to request such aid. The memo can be found at:

http://www.nysteachs.org/media/STACGuidance_Final_9-26-13.pdf.

⁴ This does not change the school district's general eligibility for state aid based on the total student population on BEDS date each year.

Below is a chart summarizing several common fact-patterns:

Child's housing status at the time of arrival in NYS	Does the "district of current location" complete a STAC 202 form?	Does the "district of current location" submit a STAC 202 form to notify NYSED of eligibility for tuition reimbursement?	Will NYSED consider the district a "district of origin" and draw tuition dollars away if an enrolled student loses housing and transfers to a new "district of current location"?
New arrival from outside of NYS. Student is enrolled as a "permanently housed" resident.	No	No	Yes
New arrival from outside of NYS registered under McKinney-Vento as a "temporarily housed" child.	Yes – for record-keeping purposes only	No	Only if the student finds permanent housing in the district and that is the last permanent housing for the child.
New arrival registered under McKinney-Vento as a "temporarily housed" child, AND child was last permanently housed in another NYS school district.	Yes	Yes	Only if the student finds permanent housing in the district and that is the last permanent housing for the child.

It should be emphasized that if a child was last living outside of New York State at the time of the child's enrollment in a New York school district, then no NYS school district that provides instruction to the student during the duration of his/her homelessness is entitled to tuition reimbursement. Accordingly, the Department will not seek reimbursement from any school district pursuant to Education Law §3209(3)(b) for homeless students who became homeless outside of NYS.

For further information about McKinney-Vento, the rights of students in temporary housing, and strategies that schools can implement to meet students' needs, please visit the NYS-TEACHS website, www.nysteachs.org, or contact NYS-TEACHS toll-free at **1-800-388-2014**. Additional information may also be obtained through our Department's Homeless Education Program Office in Albany, New York by contacting Melanie Faby, Homeless Education Program Associate, at (518) 473-0295. You can also address questions about the reimbursement process to the NYSED STAC and Medicaid Unit directly at (518) 474-7116.

Thank you for your attention to this important issue.