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Elimination of Religious Exemption to Immunizations June 17, 2019

Due to serious public health concerns, Governor Cuomo enacted legislation on June 13, 2019, which eliminated the religious exemption from immunizations for school children in public, private and parochial schools (for students in pre-k through 12th grade), as well as in child day care programs. This legislation is **effective immediately**.

The New York State Public Health Law (“Public Health Law”) requires that school children receive certain immunizations, before they are allowed to attend school. The list of required immunizations includes poliomyelitis, mumps, measles, diphtheria, rubella, varicella, hepatitis B, pertussis, tetanus, meningitis and, where applicable, Haemophilus influenzae type b (Hib) and pneumococcal disease. If school children do not receive all of these required immunizations, they are not allowed to attend school.

Prior to June 13, 2019, there were two valid exemptions to immunizations. The first exemption was the religious exemption, where the individual claiming the exemption had to demonstrate genuine and sincerely held religious beliefs which prohibited immunization. The other exemption is if the required immunization presents a risk to a child’s health.

Going forward, the only valid exemption to immunizations is if a treating physician provides a certification, that the immunization would be detrimental to the child’s health (Public Health Law 2164(8)). Any student who does not qualify for this narrow and limited exemption must be immunized prior to attending school.

Questions Raised by This Legislation

- 1. With the legislation’s immediate effective date, how should the District proceed during Regents testing?**

The legislation does not specifically address how districts should handle students who were previously granted religious exemptions to immunizations.

However, on June 14, 2019 the New York State Department of Health (“DOH”), the Office of Children and Family Services (“OCFS”), and the New York State Department of Education (“SED”) issued a joint statement (hereafter the “OCFS/SED Memo”) which states that children who had previously been granted religious exemptions to immunizations, must receive their first age appropriate dose of the required immunization by June 28, 2019 (which we believe is after school / testing is over).

With the school year ending this week, districts should allow all students to attend school through the remainder of the 2018-2019 school year, unless serious health concerns arise.

2. What if a Student Who was Previously Granted a Religious Exemption is Enrolled in a Summer School program?

If there are students enrolled in summer school programs who have previously received a religious exemption to immunization, parents of those students should be notified immediately, that their children must receive the required immunizations before they can attend the program. According to the OCFS/SED Memo, to attend or remain in school over the summer or to attend child day care, children must receive their first age appropriate dose of each required immunization by June 28, 2019. Then, by July 14, 2019, parents must show that appointments have been scheduled for all required follow-up doses. These dates appear only apply to students who will be attending a summer school program, and do not apply to students who will be attending school starting in September 2019.

3. What Should Districts Do Prior to the Start of the 2019-2020 School Year?

As soon as possible, districts should send out a notice (enclosed) to all parents of the district, notifying them of New York State’s elimination of the religious exemption to immunization. Within the notification, districts should include language which provides that all students who have not already been immunized, must receive the required immunizations at least fourteen (14) days prior to the first day of school, absent a valid certification from a doctor (as provided above).

Furthermore, the OCFS/SED Memo provides that within thirty (30) days of the first day of school, parents of students who have not been immunized, must show that they have made appointments for their child to receive all required follow-up doses of the immunizations. The parental notice should include language to this effect.

Moreover, the notice should provide that failure to receive the required immunizations or provide the district with a valid certification from a doctor, will result in the student being unable

to attend school.

In the past, building principals were allowed to give students a fourteen (14) day grace period to access or attend school, if the student's parent failed to provide the District with a certification of the child's immunizations or other acceptable evidence of the child's immunizations. Under the new legislation, the fourteen (14) day grace period may be extended to a maximum of thirty (30) days, if a parent, guardian, or any other person in parental relationship to such child can demonstrate that a child has received at least the first dose in each required immunization and has age appropriate appointments scheduled to complete the immunization series according to the Advisory Committee on Immunization Practices Recommended Immunization Schedules for Persons Aged 0 through 18 Years (enclosed).

It is recommended that districts re-send the enclosed notice to all parents within a month of the start of the 2019-2020 school year.

As always, if you have specific questions, please contact our office.