



# Students Displaced by Recent Hurricanes

Laws and Regulations  
Governing Districts' Obligations



New York State  
**EDUCATION DEPARTMENT**  
*Knowledge > Skill > Opportunity*

# Introduction



- 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 are deeply concerned about these tragedies and what they mean, in particular, for schoolchildren in impacted areas.
- Some families from impacted areas, and their school-aged children, have relocated to New York State and many more may relocate in the near future.
- The Department is ready to help school districts and Boards of Cooperative Educational Services (BOCES) with this process, and wishes to provide information and resources regarding the rights of and services available to students displaced by these natural disasters.

# McKinney-Vento Eligibility



- Students displaced by recent hurricanes and temporarily living in NYS are likely protected as homeless under McKinney-Vento.
- McKinney-Vento protects children and youth lacking a fixed, regular, and adequate nighttime residence, including students:
  - Temporarily doubling-up with friends and family members
  - Living in motels and hotels
  - Living in shelters
- McKinney-Vento protects children and youth in temporary housing living apart from their parents (“unaccompanied youth”)
- McKinney-Vento eligibility determinations are made on case-by-case basis by local educational agencies.

# McKinney-Vento Protections



- Core protections include:
  - Immediate enrollment in the local school
  - Free school meals
  - Title I services
  - McKinney-Vento liaison in every LEA



# Resources



- **McKinney-Vento State Coordinator, Melanie Faby**
  - 518-473-0295 or [melanie.faby@nysed.gov](mailto:melanie.faby@nysed.gov)
- **NYS-TEACHS**
  - NYSED's homeless education technical assistance center
  - 800-388-2014 or [info@nysteachs.org](mailto:info@nysteachs.org)
  - Website: [www.nysteachs.org](http://www.nysteachs.org)
  - Disaster Response: <http://www.nysteachs.org/info-topic/disaster.html>
  - Trauma-Sensitive Strategies for School Success: <http://www.nysteachs.org/info-topic/schoolsuccess.html>
- **National Center for Homeless Education**
  - A McKinney-Vento Toolbox: Constructing a Robust and Rigorous Homeless Education Program, In Case of Disaster and Every Day: [https://nche.ed.gov/pr/mv\\_dis\\_toolbox.php](https://nche.ed.gov/pr/mv_dis_toolbox.php)
  - Connecting Schools and Displaced Students Handbook Series: [http://nche.ed.gov/pr/dis\\_hb.php](http://nche.ed.gov/pr/dis_hb.php)
  - Disaster Preparation and Response Resource Page: [https://nche.ed.gov/ibt/dis\\_prep.php#students](https://nche.ed.gov/ibt/dis_prep.php#students)
- **FEMA**
  - (800) 621-3362 or <http://www.disasterassistance.gov/>

# Students with Disabilities

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- The New York State Education Department (NYSED) is not authorized to provide waivers to the requirements of federal law and rulemaking relating to a district's responsibilities for special education, nor may the United States Department of Education.
- However, in an emergency where natural disasters prevent a school district from meeting the requirements of the Individuals with Disabilities Education Act (IDEA), NYSED will not issue findings of noncompliance when it is evident that the failure to comply is the direct result of the disaster emergency.

# Students with Disabilities

- If a school district experiences difficulty in meeting all of the recommendations in a hurricane displaced student's Individualized Education Program (IEP), the district must take the following actions in accordance with the Regulations of the Commissioner of Education, Part 200:
  - 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 district conducts an individual evaluation and develops a new IEP if appropriate.
  - Promptly obtain the IEP and any other records relating to the provision of special education programs and services to the child.
    - If an IEP is not immediately available, but it is understood that a student is a student with a disability, a temporary IEP can be developed with the agreement of the parent or guardian.
    - If a parent or guardian is not in agreement with a temporary IEP, the student should be enrolled in a regular school program until appropriate evaluations and determinations.
  - Provide parent(s) a copy of the procedural safeguards notice that indicates the legal rights of parents under federal and State law regarding students with disabilities.
    - The procedural safeguards notice must be provided in the native language of the parent or other mode of communication, unless it is clearly not feasible to do so.
    - A copy of the procedural safeguards notice is available at <http://www.p12.nysed.gov/specialed/formsnotices/procedural-safeguards-notice.htm>

# Students with Disabilities

- The Office of Special Education (OSE) will take steps to expedite variance requests to assist in the placement of hurricane-displaced students with disabilities where a school district and/or NYSED approved special education preschool or school-age program needs to temporarily exceed:
  - A special class size;
  - Integrated co-teaching class size;
  - Resource room size; and/or
  - Caseloads maximums for resource room and/or consultant teachers.

# Students with Disabilities

- NYSED's 14 Special Education Parent Centers are available to assist families of students with disabilities impacted by these emergency disasters in the transition of their children to NYS school districts.
- The Special Education Parent Centers can provide information regarding the Committee on Preschool Special Education and Committee on Special Education processes to ensure students with disabilities receive the services to which students are entitled.
- Contact Information for the Special Education Parent Centers can be found at:  
<http://www.p12.nysed.gov/specialed/techassist/parentcenters.htm>

# English Language Learners/Multilingual Learners (ELL/MLL)

- All newly enrolled students (including those who reenter New York State public schools after a two-year absence) must go through the ELL/MLL identification process within ten (10) school days.
  - A Home Language Questionnaire (HLQ) is administered by qualified personnel.
  - 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.
  - Based on information gathered at the 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/MLL (and if so, the student's level of English language proficiency).
  - If a newly enrolled student is identified as an ELL/MLL 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.
- Districts that experience a large influx of ELLs due to displacement by recent hurricanes may contact the [Office of Bilingual Education and World Languages](#) for guidance and technical assistance in serving timely such students.

# English Language Learners/Multilingual Learners

- NYSED also encourages districts with an increase in their ELL/MLL 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.
- The RBERNs provide invaluable support and assistance to all districts and schools across NYS, to educators, leaders, support persons, families and students.
- The RBERNs can provide hands-on assistance and professional development opportunities to districts in areas such as:
  - Student Identification/placement
  - Translations and interpretations
  - Socio-emotional support
  - Parent/guardian involvement
  - Access to community-based organizations

# Possible Incoming Teachers from Puerto Rico

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- Teachers displaced from Puerto Rico interested in teaching in New York State are directed to email the [Office of Teacher Certification](#) with the subject line of Teacher from Puerto Rico.

# Office of Student Support Services

- The Office of Student Support Services promotes positive school climate and school improvement by focusing on social and emotional development and learning through programs, services and activities that emphasize family engagement, strong community partnerships, and additional supports for students and families.
- Resources are available on the [Student Support Services](#) website and include information on student registration and enrollment, trauma-sensitive strategies for school success, pupil personnel services, and mental health and health services, among others.
- Educators may also find information regarding mental health by viewing guidance at [Mental Health Resources for Educators](#).
- Resources on school health are available at the [New York State Center for School Health](#).