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TO: Directors of Approved 4410 Preschool Special Education Programs  
Executive Directors of Approved Private Schools  
Section 4410 County Designees  
Superintendents, State-Operated and State-Supported Schools  
Superintendents, Special Act Schools

FROM: James P. DeLorenzo 

SUBJECT: Amendment to Title 10 (Health) of the New York Codes Rules and Regulations:  
"Prevention of Influenza Transmission by Healthcare and Residential Facility  
and Agency Personnel"

In response to questions from the field, the New York State Education Department (NYSED) offers the following clarification regarding an amendment to Title 10 (Department of Health) Regulations entitled, "Prevention of Influenza Transmission by Healthcare and Residential Facility and Agency Personnel," effective July 31, 2013.

The Department of Health regulations are intended to protect patients, residents, and clients from acquiring influenza from infected healthcare workers by requiring personnel who are not vaccinated against influenza to wear a surgical or procedure mask while working in areas where patients, residents, or clients may be present during times when influenza is prevalent. However, this regulation only applies to: any facility or institution included in the definition of "hospital" in section 2801 of the Public Health Law, including but not limited to general hospitals, nursing homes, and diagnostic and treatment centers; any agency established pursuant to Article 36 of the Public Health Law, including but not limited to certified home health agencies, long-term home health care programs, acquired immune deficiency syndrome (AIDS) home care programs, licensed home care service agencies, and limited licensed home care service agencies; and hospices as defined in section 4002 of the Public Health Law. Additional information relating to this regulation can be found at [http://www.health.ny.gov/diseases/communicable/influenza/seasonal/providers/prevention\\_of\\_influenza\\_transmission/](http://www.health.ny.gov/diseases/communicable/influenza/seasonal/providers/prevention_of_influenza_transmission/).

Providers of preschool special education programs and services pursuant to section 4410 of the Education Law and State-supported and State-operated schools, Special Act School Districts and approved 853 day and residential programs are not required to meet the above Public Health regulations except when such programs are also licensed under Articles 28, 36 or 40 of the Public Health Law. However, while preschool and school-age special education programs and services are not covered under these Department of Health regulations, NYSED encourages them to take appropriate preventive measures to reduce the

possibility of influenza transmission. Questions regarding this memorandum may be directed to the P-12: Office of Special Education Preschool Policy Unit at (518) 473-6108.