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**To:** District Superintendents of BOCES  
Superintendents of Public School Districts  
Administrators of Public, Charter, and Nonpublic Schools

**From:** Kathleen R. DeCataldo 

**Subject:** Measles Outbreak and School Exclusion

According to the New York State Department of Health (“NYSDOH”), there is currently an outbreak of measles in Rockland, Orange, and Kings counties. As a result, temporary exclusion orders to exclude students and children lacking evidence of measles immunity in certain schools and day cares have been made within those jurisdictions. According to the NYSDOH, at this time, the only exclusions currently in effect apply to specific schools within those jurisdictions. However, if the measles outbreak continues to spread, temporary school exclusions may also be made in other counties where there are confirmed cases.

NYSDOH Regulations (10 NYCRR §66-1.10) provide that, in the event of an outbreak of a vaccine-preventable disease in a school, the NYS Commissioner of Health, or in the City of New York, the Commissioner of Health of the City Department of Health and Mental Hygiene, may order the appropriate school officials to exclude from attendance all students who either have medical or religious exemptions to immunization against the disease occurring in a school or who are in the process of receiving immunizations against such disease.

In light of the measles outbreak, the New York State Education Department (“Department”) has received inquiries regarding situations in which schools are excluding students with religious and medical exemptions in other regions of the State where there is no outbreak of a vaccine-preventable disease and no exclusion order in effect. In this situation, the Department advises parents and guardians of children with religious and medical exemptions who have been excluded from attending a school of their legal remedies to appeal such action by a school, pursuant to Education Law §310.

Specifically, Education Law §310(6-a) allows an appeal to the Commissioner from persons considering themselves aggrieved by an action taken by “a principal, teacher, owner or other person in charge of any school in denying a child admission to, or continued attendance at, such school for lack of proof of required immunizations in accordance with” Public Health Law §2164. Such appeal may include a request for a “stay” of the school’s action while the appeal is pending before the Commissioner. Information regarding the appeal process is available at: <http://www.counsel.nysed.gov/appeals/>.