



Advocates for Children of New York

Protecting every child's right to learn

April 15, 2019

Michael Hickey
Office of Students in Temporary Housing
NYC Department of Education
52 Chambers Street
New York, NY 10007
Via Email: RegulationA-780@schools.nyc.gov

Re: Comments Regarding the Revised Proposed Amendments to Chancellor's Regulation A-780

Dear Mr. Hickey:

Advocates for Children of New York (AFC) appreciates the opportunity to submit comments regarding the *revised* 2019 amendments to Chancellor's Regulation A-780. For more than 45 years, AFC has worked to ensure a high-quality education for New York students who face barriers to academic success, focusing on students from low-income backgrounds. Every year, we help thousands of New York City parents navigate the education system. We house the New York State Education Department's homeless education technical assistance center, NYS-TEACHS; advocate on behalf of many individual students experiencing homelessness; and push for broader educational supports for children and youth experiencing homelessness. As such, we are well positioned to comment on the proposed amendments.

We are extremely pleased that the New York City Department of Education (DOE) revised its proposed changes to A-780 to include busing or a comparable, alternative mode of transportation, other than public transportation, for students living in shelters in grades K-6. This revision will help cement one of the Administration's landmark achievements for students who are homeless and provides an important protection for the thousands of students living in shelter, helping ensure that they have regular and consistent access to school. We are also very pleased to see that the DOE made other revisions that align with the recommendations we made in our March 26th comments regarding the amended regulations originally proposed, including clarifying the rights of preschoolers who are homeless and ensuring that the DOE identifies the housing status of children referred for preschool special education evaluations.

There are two issues from our March 26th comments that are not addressed in the revised proposed revisions to A-780 that we would like to highlight again.

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- **Section I.C. Definition of Unaccompanied Youth.** We continue to be concerned about the definition of unaccompanied youth. Federal and state law define an unaccompanied youth as a homeless youth who is not in the physical custody of a parent or legal guardian. 42 U.S.C. § 11434a(6); Education Law § 3209(1)(a)(1)(i). The proposed changes to the regulation define unaccompanied youth as homeless youth not in the physical custody of a *person in parental relation*. Many students who meet the federal and state definition of unaccompanied youth would not be considered an unaccompanied youth under the proposed changes to the regulation because they are living with an adult caretaker who is not a parent or legal guardian but who meets the definition of “person in parental relation.” For example, if a parent kicks a youth out of the home and the youth goes to stay temporarily with a relative, the relative may provide care for the youth, but does not have legal custody or guardianship. In this scenario, the youth would not be considered an unaccompanied youth under the proposed changes to the regulation because the youth is living, albeit temporarily, with an adult who is caring for the youth. However, under federal law, the youth would be considered an unaccompanied youth. Having a city definition that differs from state and federal law is problematic for the following reasons:
 - As a result of the Every Student Succeeds Act (ESSA), federal and state law require that McKinney-Vento liaisons inform unaccompanied youth of their independent youth status for purposes of federal financial aid and provide them with verification of such status. The more restrictive definition of unaccompanied youth that is proposed will make it difficult for liaisons to identify those unaccompanied youth excluded by the local policy who still are required to receive this verification under the more expansive definition of unaccompanied youth in federal and state law.
 - School districts are required to collect and report data to the New York State Education Department on students who meet the federal and state definition of unaccompanied youth, not a more restrictive local definition.

We recommend that the DOE make the minor, clarifying amendment to section I.C of retaining the words “or guardian” after “parent” and deleting footnote 2 to ensure that A-780 comports with federal and state definitions of unaccompanied youth and to help avoid confusion about the rights of these students.



- **Section VII. Transportation.** This section does not mention the new requirement in State Education Law, which went into effect as a result of the federal Every Student Succeeds Act (ESSA), that school districts provide transportation for students who are homeless to participate in extracurricular activities and summer school where the lack of transportation poses a barrier to participation. Education Law § 3209(4)(e), (f).

We recommend adding the following language to section VII to comport with federal and state law:

Students in temporary housing shall be provided with transportation to participate in extracurricular activities where the student would like to participate in an extracurricular activity, including an after-school activity, at the school; the student meets the relevant eligibility criteria for the activity; and the lack of transportation poses a barrier to the student's participation in the activity.

We are eager to see the revised proposed amendments to Chancellor's Regulation A-780 adopted. We encourage the DOE to make the two changes recommended in these comments to comport with federal and state law and move forward with the regulations promptly. If the DOE moves forward with the regulations this week without making these changes, we encourage the DOE to amend the regulations at a later time to address these issues and, in the meantime, to develop informal guidance and training for the field regarding 1) which youth should be considered unaccompanied youth consistent with federal and state law and 2) when and how transportation is to be provided for students in temporary housing to participate in extracurricular activities and summer school.

Thank you, again, for the positive amendments the DOE is proposing to Chancellor's Regulation A-780 to protect the rights and enhance the education of students who are homeless. We look forward to seeing the amendments move forward. If you have any questions or would like to discuss these issues further, please do not hesitate to contact me.

Sincerely,

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