



David P. Driscoll
Commissioner of Education

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Commissioner's Updates

September 7, 2001

Dear Superintendents, and Leaders of Charter Schools and Collaboratives:

Welcome to the start of a new school year. From all indications, it appears that schools are opening in a safe and orderly manner despite a few unexpected school construction delays and unanticipated enrollment increases. The smooth transitions are a credit to you and your staff, and I appreciate your hard work.

In this update I have three announcements and four items newly listed on our website at www.doe.mass.edu.

Accommodation for Religious Observances

With my August back-to-school memo to you I attached a list of holiday observances in Massachusetts, including legal holidays and major religious holidays for the 2001-2002 school year. I hope you find the list useful in planning the school calendar, accommodating students and staff who observe religious holidays, and determining possible days of low attendance. For information on other religious holidays observed by members of religions represented in your school community, I encourage you to contact local clergy.

State and federal law require schools to make reasonable accommodation to the religious needs of students and employees in observance of holy days. Mass. Gen. Laws c. 151B, s. 4 (1)(A) addresses this issue with respect to employees. For students, Mass. Gen. Laws c. 151C, s. 2B provides, in relevant part:

Any student in an educational or vocational training institution...who is unable, because of his religious beliefs, to attend classes or to participate in any examination, study or work requirement on a particular day shall be excused from any such examination or study or work requirement, and shall be provided with any opportunity to make up such examination, study or work requirement which he may have missed because of such absence on any particular day; provided, however, that such makeup examination or work shall not create an unreasonable burden upon such school. No fees of any kind shall be charged by the institution for making available to the said student such opportunity. No adverse or prejudicial effects shall result to any student because of his availing himself of the provisions of this section.

Schools may meet their obligation to accommodate students by excusing individual absences for religious observance, or by adjusting the school calendar to provide a school year of at least 180 school days, while taking into account possible days of low attendance due to religious holidays. Please share this information with your school building administrators.

Donations to Schools from Tobacco Companies

The leaders of the American Cancer Society, the American Heart Association and several other national organizations concerned with health have asked me to caution school officials about accepting donations of materials (such as book covers) or grants of funds from tobacco companies. I am pleased to pass this message on to you. In my view, collaboration between the public schools and the tobacco industry is contrary to the Commonwealth's initiatives to protect public health by reducing tobacco use among children and youth. I am asking you to refrain from accepting such offers if they are sent to your schools. Thank you for your cooperation.

Mass Ed Net Cost Increase

Due to rising costs, the fee for subscribing to Mass Ed Net which is our unlimited dial-up Internet access will increase. This price increase will be in effect for an eight-month period, from November 1, 2001, through June 30, 2002, and the fee will be \$56. In October, subscribers will receive a notice to re-register. I regret this additional expense and hope that you and your staff will continue to take advantage of this valuable service that is still well below market rate. I am posting this message to all Mass Ed Net subscribers.

Listed on our website at www.doe.mass.edu are the following four items

1. Compass Schools Pathways to Excellence Conference
[[PDF](#)]
2. SIMS Data Collection Memo
[[PDF](#)]
3. Recruitment for Panelists for School Reviews
[[HTML](#)]
4. Children's Protection Act Emergency Waiver
[[PDF](#)]

Thank you for your leadership and for your continuing support. With all best wishes, and

Sincerely,

David P. Driscoll
Commissioner of Education

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Pathways to Excellence Conference

REGISTER NOW

**Best Western Royal Plaza Hotel and Conference Center,
Marlboro, MA**

October 15, 2001

Join teams from 14 *Commonwealth Compass Schools* for presentations and workshops on their successful strategies for improvement, including revising and aligning curriculum, using performance data to inform planning and shape instruction, collaborative problem solving, and restructuring the school day.

The recognition luncheon will include a keynote address.

There are limited seats available. To allow as many schools as possible to participate, teams of up to two people per school must register **no later than October 10, 2001**.

Please include the following information to register for the conference:

1. Name of school and district
2. How many of your leadership team will attend (up to 2)
3. Name and title of each attendee
4. School phone and FAX number

To register, email this information by October 10, 2001 to: Compass@doe.mass.edu



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Student Information Management System

Memorandum

To: Superintendents and Charter School Leaders
From: David P. Driscoll, Commissioner of Education
Date: September 5, 2001

As part of our continuing effort to share with districts the methods for aggregating SIMS data to replace existing school and district reports, we have completed a comparison of the SIMS period 1 data and last year's Foundation Enrollment Report. Both collections reflected student information as of October 2, 2000, and the subsequent results in the attached report should be very similar, if not identical. The October 1 SIMS collection will eventually replace your online report, but for this current school year, the existing Foundation Enrollment Report will be used.

Please review these data for accuracy. If you have corrections, please make them to your student software system. Upon your next transmission to us, your SIMS will be updated. For your information, when the collection of data from the October 1 report is completed we will prepare and distribute a similar comparison report.

Also enclosed is a table that indicates the sequence of codes and data fields used to generate the foundation enrollment categories from the SIMS data. The additional pages list all students from SIMS who were not included in the foundation enrollment calculations either because of foundation enrollment instructions or incorrect codes in the various SIMS fields. Please note that there are two areas that will need further consideration. One, the SIMS data elements do not identify 'role model' pre-kindergarten pupils, but the Foundation Enrollment Report includes this category. Secondly, the definition of "post secondary" students will need further definition in the SIMS handbook to meet the Foundation Enrollment requirements. If you have any questions regarding your data or why students were not included, please contact your Field Technologist, or Department staff Carolyn Faria at 781-338-3667 (cfaria@doe.mass.edu), or Maureen Lovett at 781-338-6876 (mlovett@doe.mass.edu).

I am encouraged by the progress we have made thus far with the student information management system, and thank you for your continued efforts.

cc: Business Managers
SIMS Contact

Enclosures

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Recruitment for Panelists for School Reviews

September 7, 2001

Dear Superintendent:

As part of the Massachusetts School and District Accountability System, the Department of Education will continue to conduct on-site reviews during the next school year, both to identify schools that are under-performing and schools that are exemplars of improvement. The Department is actively recruiting qualified school-based practitioners, including principals, assistant principals, and teachers to participate in these reviews. Educators at the elementary, middle, and high school levels are encouraged to apply.

Panelists will serve on five- member teams composed of Department staff, educational consultants, and active practitioners. Selected schools are reviewed over a two-day period using a detailed protocol. Panelists must commit to four hours training, some preparatory reading, and a two-day on-site visit, and will require the approval of the Superintendent for their release. Participants will receive a \$100 honorarium and 30 professional development points for their service.

On-site visits are guided by a detailed protocol for interviewing and observation, and culminate in a meeting by the panel to come to consensus on the answers to the two key questions which frame the evaluation process. A report on the team's findings is submitted to the Commissioner, who considers it either in the determination of under-performance, or in the final selection of improving schools to serve as Compass Schools.

Participation in the Panel Review process enables panelists to observe the organizational structure, curriculum development, and instructional practice in a variety of schools. Panelists analyze information on: the process of developing and implementing school improvement plans, how schools use various kinds of student performance data to drive the planning process, what school level assessments are used to track student progress and measure the success of improvement efforts, and what kind of professional development teachers are focusing on.

Panelists describe the experience of evaluating other schools in an objective, systematic way as a valuable form of professional development, which they can bring to bear in the operation of their own schools and districts.

For more information on the process, or to apply to serve as a panelist, please contact Lynda Foisy by phone at 781-338-3525 or by email at lfoisy@doe.mass.edu.

Sincerely,

David P. Driscoll
Commissioner of Education

EMERGENCY WAIVER PROVISIONS¹
THE CHILDREN'S AND FAMILIES' PROTECTION ACT ("the Act")

Introduction

This document serves as a guide for Boards of Health and Health Officials, Schools, and Pest Management Professionals (PMP) when making decisions regarding pest problems that are deemed an emergency in accordance with the Children's and Families' Protection Act ("**the Act**").

The Act limits and prohibits the use of certain pesticides in schools, day care centers, and school-age childcare programs (**Note: schools, day care centers, and school-age childcare programs will be referred to as schools and their respective properties as school property**). In addition, the Act requires written notification for outdoor uses at least two (2) days prior to the commencement of the use of any pesticide allowed by Act. **However, pest situations deemed an emergency might warrant a pesticide not otherwise allowed in the Act or warrant its use sooner than two (2) days.**

The emergency provisions provide schools with the only mechanism to waive the requirements of the Act in order to protect children in the event of an emergency pest problem (one that poses an immediate threat and when no viable alternative to the use of pesticides exist). *Although the law provides for schools to apply for an emergency waiver from the Department of Food and Agriculture, the Department encourages schools to communicate with the Board of Health regarding these matters particularly in the case of public schools.*

Finally, it is recommended that schools work closely with their local public health authorities and pest management professional (PMP) to carefully consider each pest situation individually since no blanket approvals will be given. The Act requires the use of Integrated Pest Management or IPM, which focuses on prevention strategies to minimize and/or eliminate the need for such emergency waivers.

Emergency Waiver Overview

The main components of the emergency provisions are:

(a) Schools should first:

- **determine that an immediate human health emergency exists** that warrants the use of pesticides not allowed under the Act or that warrants their use sooner than the two day notification requirement would allow
- **apply for a single-use waiver** from the local Board of Health Agent or Department of Food and Agriculture

(b) Boards of Health or the Department of Food and Agriculture (if applicable) must:

- **determine if the single-use emergency waiver is warranted** using the following criteria:
 - (a) *the pest problem poses an immediate threat to human health **AND***
 - (b) *no viable alternatives other than pesticides exist to address the problem*
- **require a commitment from school(s) to identify the cause(s) of the emergency pest problem in order to prevent future problems**

(c) Schools are required to:

- **post warning signs near and along the perimeter of the site of the treatment**
- **leave the warning signs posted for at least 72 hours**
- **provide standard written notification** to employees, pupils, and parents **immediately prior to or immediately following emergency treatment**
- **maintain and make available to the public upon request written or electronic records of the emergency, the cause, and actions taken on site for 5 years**

¹ Section 6 H of Chapter 85 of the Acts of 2000 amending Chapter 132 B of the Massachusetts General Laws (State Pesticide Control Act)

Emergency Waiver Requirement and Recommendation

The Act requires that the local Board of Health Agent or Department of Food and Agriculture (if applicable) determine if an emergency waiver requested by schools is warranted. The decision to grant the waiver should be based upon the following criteria.

1. The emergency pest situation must present an immediate threat to human health **AND**
 2. There must be no viable alternatives to the use of pesticides to address the pest problem
- If an emergency exists, the Department of Food and Agriculture recommends that schools request a waiver **by faxing the attached emergency waiver application** (see attached application form) to the Board of Health. **For the purpose of implementation, the Department of Food and Agriculture recommends that the local authority such as the Board of Health exercise approval authority for emergency requests particularly in the case of public schools.**

Examples of Emergency Waiver

It would not be practical to pre-determine all of the anticipated situations that could be approved as an emergency waiver. However, it would be safe to say that the following circumstances are commonplace at schools.

Example A

Hymenopterous insects (ants, bees, wasps, and hornets) located in an area (entryway) where employees and pupils are at risk of being harmed is an example of an immediate threat to human health which could necessitate an emergency waiver. In this circumstance, the risk of being stung and potential allergic reactions call for immediate action. Pesticide products that ensure quick knockdown and stupefaction are warranted and as such should be approved as an emergency waiver. In this case, viable alternatives that could assure immediate protection would not exist.

However, if these insects were located in another area (away from buildings) of the school property where the risk of being harmed was negligible, an immediate threat to human health would not exist. Therefore, an emergency waiver should not be approved.

On the other hand, hymenopterous insects attracted to dandelions and clover could be construed as an example of an immediate threat to human health. However, a viable alternative to the use of chemical pesticides exists such as frequent mowing to remove flower heads that attract stinging insects. This scenario proves unworthy for emergency status!

Many situations appearing to be a health threat will have viable alternatives. These situations would have to be closely reviewed with accurate identification of the pest an important part of the decision-making process.

Example B

Honey bees unlike wasps and hornets have bodies that appear densely covered with hairs. Although they can sting, their behavior is less aggressive. A honey bee swarm although appearing to be an immediate threat would not require action with a pesticide. Children and employees can be told to avoid the area temporarily since the swarm will leave on its own accord within a few hours. Digger bees and wasps that may burrow in sand around play areas can cause consternation. However, correctly identifying these insects would indicate that they are non-aggressive type of wasp and the play area could be covered with plastic to deter activity. Mud-dauber wasps are not aggressive and are another example whereby a viable alternative exists such as scraping away and removing of nests. Stinging ants hitchhiking on indoor potted plants from another part of the country have viable alternatives such as removing and replacing the plants. **In these situations, it is imperative that the school works closely with the pest management professional (PMP) to correctly identify the pest so that viable alternatives can be implemented to correct and prevent these pests.**

Example C

A high school football coach sends a letter to the school principal regarding the current conditions of his athletic fields. The turf has a severe grub problem and the turf has died back making the playing surface unsafe for upcoming football games. In his letter, he is petitioning the school to seek an emergency waiver from the local Board of Health to control grubs.

The situation does not reflect an immediate human health problem. Further, chemical treatments later in the year may not remedy or prevent harm to football players in this particular instant. The damage has already been done and it is too late to intervene with chemicals. The damaged turf will need to be removed and replaced. Thereafter, a viable alternative would be to monitor and sample turf earlier in any given year to prevent damage that may occur later in any year.

In this kind of circumstance, a good Integrated Pest Management or IPM plan would anticipate this problem and recommend actions to prevent this problem in the future.

Key and Ultimate Responsibility

The key in determining any emergency pest situation will rely on the following criteria:

- ✓ The emergency pest situation must present an immediate threat to human health AND
- ✓ There must be no viable alternatives to the use of pesticides to address the pest problem

However, it should be acknowledged that schools are ultimately responsible for their employees and students. Therefore, if a school reasonably believes that more protection is warranted than otherwise allowed by the law, it would be prudent for local health authorities and the department to lend its support by facilitating approval of emergency waiver requests on a case-by-case basis. For example, this action may come into play when infected mosquitoes or human cases are confirmed positive for West Nile Virus has been found near the school.

EMERGENCY WAIVER APPLICATION

FOR PESTICIDE USE IN SCHOOLS, DAY CARE CENTERS, OR SCHOOL AGE CHILD CARE PROGRAMS

The school, day care center, or school aged child care program listed below has determined that a human health emergency pest problem exists making necessary the use of a pesticide(s) not otherwise allowed under the Massachusetts Pesticide Control Act. In addition, the emergency nature of the pest problem warrants exempting standard written notification until after the emergency treatment. Further, the school, day care center, or school-aged child care program listed below requests formal approval of a single-use waiver in accordance with above statute. *(Note: School refers to school, day care center, or school aged child care program)*

I. GENERAL INFORMATION (Applicant must complete-please print)

NAME OF SCHOOL: _____

ADDRESS: _____

CITY/TOWN: _____

TELEPHONE: _____

FAX NUMBER: _____

E-MAIL ADDRESS: _____

NAME OF PERSON REQUESTING EMERGENCY WAIVER:

AN IPM PLAN IS ON FILE: (effective 11-1-01)? _____ YES _____ NO

II. EMERGENCY INFORMATION (Applicant should describe the emergency as well as any other method(s) used to solve the problem)

Applicant must answer (yes or no) regarding the emergency situation

Does the pest problem pose an immediate threat to human health? _____ YES _____ NO

Are there any viable alternatives that could be used in place of pesticides?
to solve the pest problem? _____ YES _____ NO

FAX THIS FORM TO YOUR MUNICIPAL BOARD OF HEALTH OR TO THE DEPARTMENT OF FOOD AND AGRICULTURE AT (617) 626-1850. COPIES OF THIS APPROVED EMERGENCY WAIVER (pages 1 & 2) MUST BE MAINTAINED BY THE PEST MANAGEMENT PROFESSIONAL (PMP) AND BE IN THE POSSESSION OF THE PMP AT THE TIME OF TREATMENT.

