



NYSASN Talking Points in Opposition to A 8123 and S 6141

The Primary Duty of the State is to Protect its Citizens

All Other Duties are Secondary

- **The Legal Duty to Immunize:** New York's Public Health Law (PHL) § 2164 prohibits a school from admitting a child without evidence that the child has received certain immunizations.
- **The Purpose of PHL § 2164:** New Yorkers will be kept safe from outbreaks of vaccine-preventable diseases through high levels of herd immunity.
- **Herd immunity:** The level of immunization needed in the community to keep New Yorkers safe from vaccine-preventable illnesses. According to the CDC, this level must be 95% or above.
- **Religious Exemptions:** New York permits exemptions to the legal duty to immunize for those children whose parent, parents, or guardian hold genuine and sincere religious beliefs which are contrary to the requirements of PHL § 2164 (9).
- **Philosophical Exemptions:** New York does not permit philosophical exemptions to immunizations.
- **Percentages Matter:** In order to maintain herd immunity at 95% or above, it follows that no more than 5% of the population can be unimmunized.
- **Vulnerable Groups in this 5% Must be Protected:** Certain New Yorkers cannot be immunized – the very young, and children with cancer and other medical conditions where immunizations are contraindicated due to immunosuppression.
- **The Protective Cocoon:** These vulnerable New Yorkers *who cannot be immunized* rely on the protective cocoon that robust herd immunity confers upon society at large.
- **Scarce and Conditional:** A religious exemption must be recognized for what it is: a scarce resource, and it is conditional: school officials must make a good faith effort to determine (a) whether the purported beliefs are religious, and (b) whether such religious beliefs are genuinely and sincerely held.
- **Removing the Burden of Proof:** Those seeking a religious exemption have a burden of proof, and it is this burden of proof that will be removed if A 8123/S 6141 is passed.

- **What this Effectively Means:** Removing the ability of agents of the state to determine whether the required conditions for granting a religious exemption have been met would effectively remove the ability of the state to differentiate between a sincerely held religious belief and a philosophical belief.
- **Unintended Consequences:** If passed, this legislation would effectively permit a scarce and conditional resource to be claimed at will, which would jeopardize herd immunity, which would in turn inevitably endanger the health and safety of all New Yorkers.
- **Important Precedents in Other States:**
 - In states where herd immunity dropped below 95%, outbreaks of vaccine-preventable diseases have followed, as in the measles outbreak in California in January 2015.
 - Following this threat to public health, and the public outcry which ensued, the California legislature swiftly responded by eliminating all non-medical exemptions – including religious belief exemptions - in June 2015.
- **New York's Processes are Necessary:** Seen in this overall context, New York's requirements are not overly onerous to those seeking a religious exemption to vaccinations. In fact, the requirements *safeguard* the rights of those seeking religious exemptions.
- **New York's Processes are Fair and Just:** These processes have enabled the delicate balance between maintaining herd immunity on one hand and respecting the rights of New Yorkers with sincerely held religious objections to immunizations on the other to be maintained.

NYSASN believes that PHL§ 2164 should remain unchanged. It achieves a remarkable and delicate balance between the public health and religious rights. A 8123-B and S 6141, while well intentioned, will have very predictable and significant unintended consequences if passed.

It is the position of NYSASN that this legislation be opposed.