NEW YORK STATE | Department of Health | Office of Children and Family Services | State Education Department

Frequently Asked Questions About Legislation Removing Non-Medical Exemptions from School Vaccination Requirements

Overview:

On June 13, 2019, Governor Andrew M. Cuomo signed legislation removing non-medical exemptions from school vaccination requirements for children. The United States is currently experiencing the worst outbreak of measles in more than 25 years, with outbreaks in pockets of New York primarily driving the crisis. As a result of non-medical vaccination exemptions, many communities across New York have unacceptably low rates of vaccination, and those unvaccinated children can often attend school where they may spread the disease to other unvaccinated students, some of whom cannot receive vaccines due to medical conditions. This new law will help protect the public amid this ongoing outbreak.

1. **What did the new law do?**

As of June 13, 2019, there is no longer a religious exemption to the requirement that children be vaccinated against measles and other diseases to attend either:

- public, private or parochial school (for students in pre-kindergarten through 12th grade), or
- child day care settings.

2. **When did the law become effective?**

The law became effective on June 13, 2019.

3. **How will schools and child day care settings be notified?**

A joint notification by the NYS Department of Health, State Education Department, and Office of Children and Family Services was distributed to schools and child day care settings beginning on June 15, 2019.

4. **For those children who had a religious exemption to vaccination, what are the deadlines for being vaccinated?**

Children who are attending child day care or public, private or parochial school and who had a religious exemption to required immunizations, must now receive the first age appropriate dose in each immunization series by **June 28, 2019** to attend or remain in school or child day care. Also, by **July 14, 2019** parents and guardians of such children must show that they have scheduled appointments for all required follow-up doses. The deadlines for follow-up doses depend on the vaccine. The Department follows the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices (ACIP) catch-up immunization schedule for all

immunizations that are required to attend school in New York State, and expects children to receive required doses consistent with Table 2 of ACIP's Recommended Child and Adolescent Immunization Schedule for ages 18 years or younger. (Please note that the guidelines contain all ACIP recommended vaccines, including some that are not currently required for schools and child day care programs in New York State.)

5. **Where can I find the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices (ACIP) catch-up immunization schedule?**

The ACIP catch-up immunization schedule is available at the following link: https://www.cdc.gov/vaccines/schedules/downloads/child/0-18yrs-child-combined-schedule.pdf (Please note that the guidelines contain all ACIP recommended vaccines, including some that are not currently required for schools and child day care programs in NYS.)

6. **Are the vaccination requirements, as described in Question 5, required for my child to attend summer schools that are overseen by NYSED and summer child day care programs that are overseen by OCFS?**

Yes. This requirement applies to summer school and summer child day care programs.

7. **What is the deadline for first dose vaccinations if my child is not attending school until September?**

The Department encourages parents and guardians of all children who do not have their required immunizations to receive the first dose in each immunization series as soon as possible. The deadline for obtaining first dose vaccinations in each immunization series for children attending school in the fall is 14 days from the first day of school or enrollment in child day care. Within 30 days of the first day of school, parents and guardians of such children must show that they have scheduled appointments for all required follow-up doses.

8. **Does this new legislation apply to my child attending college?**

The new legislation did not change the vaccination requirements for college attendance. Students attending college in NYS can still obtain a religious exemption. The Department requires that every student attending college be vaccinated against measles, mumps and rubella (MMR), unless the student has a valid religious or medical exemption.

9. **Does this new legislation affect my child's medical exemption?**

No. The new legislation does not affect valid medical exemptions.

10. **What is a valid medical exemption?**

A valid medical exemption must:

1. Be on a sample medical exemption form issued by the Department https://www.health.ny.gov/forms/doh-5077.pdf or the NYC Department of Health and Mental Hygiene, or on a signed statement that certifies that the immunization may be detrimental to a child's health;
2. Be signed by a physician licensed to practice medicine in New York State;
3. Contain sufficient information to identify the medical contraindication to a specific immunization. The Department recommends that health care practitioners consult the ACIP guidelines for contraindications and precautions to childhood vaccinations, available at: https://www.cdc.gov/vaccines/hcp/acip-recs/general-recs/contraindications.html. (Please note that the guidelines contain all ACIP recommended vaccines, including some that are not currently required for schools and child day care programs in New York State); and
4. Be confirmed annually.

11. **My child is not being allowed to attend school and/or child day care program based on vaccination status. How do I appeal this decision?**

Education Law §310(6-a) allows an appeal to the Commissioner of the State Education Department 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/.

There is no appeal process for child day care programs. Programs must be in compliance with all applicable laws.

12. **What are the penalties for a school and child day care program if it does not comply?**

All public, private and parochial schools are required to comply with the law. The Department will determine the cause of a school's violation or noncompliance and, where appropriate, seek civil penalties from noncompliant schools. NYS OCFS regulates child day care programs and may sanction programs that do not comply with the law.

13. **How does New York State verify vaccination rates at schools and child day care programs?**

The NYSDOH annually conducts surveys of school and child day care immunization coverage and exemption rates. Schools and child day care settings are required to participate in the surveys. Additionally, the NYSDOH audits a sample of schools each year for compliance with PHL Section 2164 and to verify the rates reported in their survey. If any students out of compliance with PHL Section 2164 are discovered during the audit, then the NYSDOH will require the students be excluded from school until they comply with the law. The Department will determine the cause of a school's noncompliance and, where appropriate, seek civil penalties from noncompliant schools. In some counties, the Department has delegated the county health department with authority to assist in conducting audits of schools to verify compliance.

NYS OCFS reviews vaccination records for compliance.

14. **Does the new law apply to students who receive special education services?**

Yes, the new law applies to students who receive special education services. However, the new legislation does not affect valid medical exemptions, and the United States Department of Education ("USDE") has issued guidance to assist schools in ensuring that students with disabilities under the federal Individuals with Disabilities Education Act ("IDEA") who are medically unable to receive vaccines due to a disability are not discriminated against on the basis of disability. USDE's Office for Civil Rights' *Fact Sheet: Addressing the Risk of Measles in Schools while Protecting the Civil Rights of Students with Disabilities* is available at: https://www2.ed.gov/about/offices/list/ocr/docs/ocr-factsheet-measles-201503.pdf.

Questions may be directed to the State Education Department's Office of Special Education, Policy Unit, 518-473-2878, SPECED@nysed.gov or to the appropriate Special Education Quality Assurance Regional Office, SEQA@nysed.gov.

15. **My child receives educational services from a public, private or parochial school off school grounds. Do they need to be vaccinated?**

If a student is enrolled in the school, regardless of where they receive educational services, they will need to comply with the vaccination requirements for schools.

Version: June 18, 2019 – Document will be reissued with additional questions in the future.