



**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](https://www2.ed.gov/about/offices/list/ocr/docs/ocr-factsheet-measles-201503.pdf) 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.

2019-20 School Year New York State Immunization Requirements for School Entrance/Attendance¹

NOTES:
Children in a prekindergarten setting should be age-appropriately immunized. The number of doses depends on the schedule recommended by the Advisory Committee on Immunization Practices (ACIP). For grades pre-k through 11, intervals between doses of vaccine should be in accordance with the ACIP-recommended immunization schedule for persons 0 through 18 years of age. Doses received before the minimum age or intervals are not valid and do not count toward the number of doses listed below. Intervals between doses of vaccine DO NOT need to be reviewed for grade 12 except for interval between measles vaccine doses. See footnotes for specific information for each vaccine. Children who are enrolling in grade-less classes should meet the immunization requirements of the grades for which they are age equivalent.

Dose requirements MUST be read with the footnotes of this schedule.

| Vaccines | Prekindergarten (Day Care, Head Start, Nursery or Pre-k) | Kindergarten and Grades 1, 2, 3, 4 and 5 | Grades 6, 7, 8, 9, 10 and 11 | Grade 12 |
|--|--|---|---|--|
| Diphtheria and Tetanus toxoid-containing vaccine and Pertussis vaccine (DTaP/DTP/Tdap/Td)² | 4 doses | 5 doses or 4 doses if the 4th dose was received at 4 years or older or 3 doses if 7 years or older and the series was started at 1 year or older | 3 doses | |
| Tetanus and Diphtheria toxoid-containing vaccine and Pertussis vaccine booster (Tdap)³ | Not applicable | | 1 dose | |
| Polio vaccine (IPV/OPV)⁴ | 3 doses | 4 doses or 3 doses if the 3rd dose was received at 4 years or older | 4 doses or 3 doses if the 3rd dose was received at 4 years or older | 3 doses |
| Measles, Mumps and Rubella vaccine (MMR)⁵ | 1 dose | 2 doses | | |
| Hepatitis B vaccine⁶ | 3 doses | 3 doses | 3 doses or 2 doses of adult hepatitis B vaccine (Recombivax) for children who received the doses at least 4 months apart between the ages of 11 through 15 years | |
| Varicella (Chickenpox) vaccine⁷ | 1 dose | 2 doses | | 1 dose |
| Meningococcal conjugate vaccine (MenACWY)⁸ | Not applicable | | Grades 7, 8, 9 and 10: 1 dose | 2 doses or 1 dose if the dose was received at 16 years or older |
| Haemophilus influenzae type b conjugate vaccine (Hib)⁹ | 1 to 4 doses | Not applicable | | |
| Pneumococcal Conjugate vaccine (PCV)¹⁰ | 1 to 4 doses | Not applicable | | |

1. Demonstrated serologic evidence of measles, mumps, rubella, hepatitis B, varicella or polio (for all three serotypes) antibodies is acceptable proof of immunity to these diseases. Diagnosis by a physician, physician assistant or nurse practitioner that a child has had varicella disease is acceptable proof of immunity to varicella.
2. Diphtheria and tetanus toxoids and acellular pertussis (DTaP) vaccine. (Minimum age: 6 weeks)
 - a. Children starting the series on time should receive a 5-dose series of DTaP vaccine at 2 months, 4 months, 6 months and at 15 through 18 months and at 4 years or older. The fourth dose may be received as early as age 12 months, provided at least 6 months have elapsed since the third dose. However, the fourth dose of DTaP need not be repeated if it was administered at least 4 months after the third dose of DTaP. The final dose in the series must be received on or after the fourth birthday.
 - b. If the fourth dose of DTaP was administered at 4 years or older, the fifth (booster) dose of DTaP vaccine is not required.
 - c. For children born before 1/1/2005, only immunity to diphtheria is required and doses of DT and Td can meet this requirement.
 - d. Children 7 years and older who are not fully immunized with the childhood DTaP vaccine series should receive Tdap vaccine as the first dose in the catch-up series; if additional doses are needed, use Td vaccine. If the first dose was received before their first birthday, then 4 doses are required, as long as the final dose was received at 4 years or older. If the first dose was received on or after the first birthday, then 3 doses are required, as long as the final dose was received at 4 years or older. A Tdap vaccine (or incorrectly administered DTaP vaccine) received at 7 years or older will meet the 6th grade Tdap requirement.
3. Tetanus and diphtheria toxoids and acellular pertussis (Tdap) vaccine. (Minimum age: 7 years)
 - a. Students 11 years or older entering grades 6 through 12 are required to have one dose of Tdap. A dose received at 7 years or older will meet this requirement.
 - b. Students who are 10 years old in grade 6 and who have not yet received a Tdap vaccine are in compliance until they turn 11 years old.
4. Inactivated polio vaccine (IPV) or oral polio vaccine (OPV). (Minimum age: 6 weeks)
 - a. Children starting the series on time should receive a series of IPV at 2 months, 4 months and at 6 through 18 months, and at 4 years or older. The final dose in the series must be received on or after the fourth birthday and at least 6 months after the previous dose.
 - b. For students who received their fourth dose before age 4 and prior to August 7, 2010, 4 doses separated by at least 4 weeks is sufficient.
 - c. If the third dose of polio vaccine was received at 4 years or older and at least 6 months after the previous dose, the fourth dose of polio vaccine is not required.
 - d. Intervals between the doses of polio vaccine do not need to be reviewed for grade 12 in the 2019-20 school year.
 - e. If both OPV and IPV were administered as part of a series, the total number of doses and intervals between doses is the same as that recommended for the U.S. IPV schedule. If only OPV was administered, and all doses were given before age 4 years, 1 dose of IPV should be given at 4 years or older and at least 6 months after the last OPV dose.
5. Measles, mumps, and rubella (MMR) vaccine. (Minimum age: 12 months)
 - a. The first dose of MMR vaccine must have been received on or after the first birthday. The second dose must have been received at least 28 days (4 weeks) after the first dose to be considered valid.
 - b. Measles: One dose is required for prekindergarten. Two doses are required for grades kindergarten through 12.
 - c. Mumps: One dose is required for prekindergarten and grade 12. Two doses are required for grades kindergarten through 11.
 - d. Rubella: At least one dose is required for all grades (prekindergarten through 12).
6. Hepatitis B vaccine
 - a. Dose 1 may be given at birth or anytime thereafter. Dose 2 must be given at least 4 weeks (28 days) after dose 1. Dose 3 must be at least 8 weeks after dose 2 AND at least 16 weeks after dose 1 AND no earlier than age 24 weeks.
 - b. Two doses of adult hepatitis B vaccine (Recombivax) received at least 4 months apart at age 11 through 15 years will meet the requirement.
7. Varicella (chickenpox) vaccine. (Minimum age: 12 months)
 - a. The first dose of varicella vaccine must have been received on or after the first birthday. The second dose must have been received at least 28 days (4 weeks) after the first dose to be considered valid.
 - b. For children younger than 13 years, the recommended minimum interval between doses is 3 months (if the second dose was administered at least 4 weeks after the first dose, it can be accepted as valid); for persons 13 years and older, the minimum interval between doses is 4 weeks.
8. Meningococcal conjugate ACWY vaccine. (Minimum age: 6 weeks)
 - a. One dose of meningococcal conjugate vaccine (Menactra or Menveo) is required for students entering grades 7, 8, 9 and 10.
 - b. For students in grade 12, if the first dose of meningococcal conjugate vaccine was received at 16 years or older, the second (booster) dose is not required.
 - c. The second dose must have been received at 16 years or older. The minimum interval between doses is 8 weeks.
9. Haemophilus influenzae type b (Hib) conjugate vaccine. (Minimum age: 6 weeks)
 - a. Children starting the series on time should receive Hib vaccine at 2 months, 4 months, 6 months and at 12 through 15 months. Children older than 15 months must get caught up according to the ACIP catch-up schedule. The final dose must be received on or after 12 months.
 - b. If 2 doses of vaccine were received before age 12 months, only 3 doses are required with dose 3 at 12 through 15 months and at least 8 weeks after dose 2.
 - c. If dose 1 was received at age 12 through 14 months, only 2 doses are required with dose 2 at least 8 weeks after dose 1.
 - d. If dose 1 was received at 15 months or older, only 1 dose is required.
 - e. Hib vaccine is not required for children 5 years or older.
10. Pneumococcal conjugate vaccine (PCV). (Minimum age: 6 weeks)
 - a. Children starting the series on time should receive PCV vaccine at 2 months, 4 months, 6 months and at 12 through 15 months. Children older than 15 months must get caught up according to the ACIP catch-up schedule. The final dose must be received on or after 12 months.
 - b. Unvaccinated children ages 7 through 11 months of age are required to receive 2 doses, at least 4 weeks apart, followed by a third dose at 12 through 15 months.
 - c. Unvaccinated children ages 12 through 23 months are required to receive 2 doses of vaccine at least 8 weeks apart.
 - d. If one dose of vaccine was received at 24 months or older, no further doses are required.
 - e. For further information, refer to the PCV chart available in the School Survey Instruction Booklet at: www.health.ny.gov/prevention/immunization/schools

For further information, contact:

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