



**Department
of Health**

**Office of Children
and Family Services**

**State Education
Department**

June 14, 2019

Statement on Legislation Removing Non-Medical Exemption from School Vaccination Requirements

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.

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.

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 made appointments for all required follow-up doses. The deadlines for follow-up doses depend on the vaccine. The New York State Department of Health follows the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices catch-up immunization schedule and expects children to receive required doses consistent with Table 2 at the following link in order to continue to attend school or child day care: <https://www.cdc.gov/vaccines/schedules/downloads/child/0-18yrs-child-combined-schedule.pdf>

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

Parents and guardians of all children who do not have their required immunizations are encouraged to have them receive the first dose as soon as possible. The deadline for obtaining first dose vaccinations for children attending school in the fall is 14 days from the first day of school. Within 30 days of the first day of school, parents and guardians of such children must show that they have made appointments for all required follow-up doses.

Additional information will be forthcoming.



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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.



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Effective June 13, 2019, Chapter 35 of the Laws of 2019 repealed non-medical exemptions from vaccination for children attending school.

This document is in follow-up to [FAQs issued on June 18, 2019](#).

The [2019-20 School Year New York State Immunization Requirements for School Entrance/Attendance](#) is available online.

The Center for Disease Control and Prevention Advisory Committee on Immunization Practices (ACIP) [catch-up immunization schedule](#) is available online.

VACCINATION REQUIREMENTS APPLICABLE TO ALL STUDENTS

Public Health Law §2164, as amended by Chapter 35 of the Laws of 2019 applies to students attending all schools as defined in Public Health Law §2164 to include any public, private or parochial child caring center, day nursery, day care agency, nursery school, kindergarten, elementary, intermediate or secondary schools.

Public Health Law §2164, as amended by Chapter 35 of the Laws of 2019 prohibits a school from permitting any child to be admitted to such school, or to attend such school, in excess of 14 days without sufficient evidence that the child has received all age appropriate required vaccinations. The 14 days may be extended where the student is transferring from out of state or from another county and can show a good faith effort to get the necessary evidence **or** where the parent, guardian or any other person in parental relationship can demonstrate that a child has received the first age-appropriate dose in each immunization series and that they have age appropriate scheduled appointments for follow-up doses to complete the immunization services in accordance with the CDC's Advisory Committee on Immunization Practices Recommended Immunization Schedules for Persons Aged 0 through 18.

1. Does the new law apply to children's camps issued a permit by the State or local health department?

No. The new legislation applies to schools as defined in Public Health Law §2164 and does not apply to children's camps that are issued a permit by the State or local health department.

2. My child had a religious exemption and attends summer school, or extended school year (ESY) for students with disabilities, which are not children's camps. Does the new law apply to summer school/ESY and if so, what is the

timeline I must follow to get my child vaccinated so my child can continue to attend school?

Yes, the law applies to both summer school and ESY. Proof of immunization must be provided within 14 days after the first day of summer school/ESY. The 14 days may be extended where the student is transferring from out of state or from another country and can show a good faith effort to get the necessary evidence; **or**, where the parent, guardian or any other person in parental relationship can demonstrate that a child has received the first age-appropriate dose in each immunization series within the 14 days and that they have age-appropriate scheduled appointments for follow-up doses to complete the immunization series in accordance with the Advisory Committee on Immunization Practices (“ACIP”) “Recommended Child and Adolescent Immunization Schedules for ages 18 years or younger.”

Thereafter, if such students require additional vaccinations due to entering a new grade level when school starts again in the future, those students must provide evidence of having received any additional age-appropriate required immunizations within 14 days of the first day instruction commences. The 14 days may be extended where the parent, guardian or any other person in parental relationship can demonstrate that a child has received the first age-appropriate dose in each immunization series within the 14 days and that they have age-appropriate scheduled appointments for follow-up doses to complete the immunization series in accordance with the ACIP “Recommended Child and Adolescent Immunization Schedules for ages 18 years or younger.”

<https://www.cdc.gov/vaccines/schedules/hcp/imz/child-adolescent.html>.

3. When do parents need to provide proof of immunization in the fall for students who did not attend summer school or ESY?

Proof of immunization must be provided within 14 days after the first day of instruction in September. The 14 days may be extended where the student is transferring from out of state or from another county and can show a good faith effort

to get the necessary evidence **or** where the parent, guardian or any other person in parental relationship can demonstrate that a child has received the first age-appropriate dose in each immunization series within the 14 days and that they have age appropriate scheduled appointments for follow-up doses to complete the immunization services.

4. Does the new law apply to attendance at activities that are on school property but open to the general public? Examples may include: SAT prep, sporting events, and plays.

No. The new legislation does not apply to attendance at activities on school property that are open to the general public.

5. My child's school operates year-round, excluding ESY and summer school. When did the new law start applying to year-round schools?

The change in the law took effect on June 13, 2019 and allowed 14 days for children to get their first dose of each required vaccine in order to be admitted to or continue attending school. Therefore, children at year-round schools were required to be vaccinated with the first doses by June 28, 2019. These children must be excluded from school immediately if they do not meet this requirement.

6. Does this new law apply to students aged 18 and older?

No. The mandatory vaccination law only applies to a child, which Public Health Law §2164(1)(b) defines as a person between the ages of two months and 18 years. Once a student reaches the age 18, he/she is no longer required to show proof of immunization.

7. My child's school operates a year-round day care center. When did the new law start applying to these year-round day care centers in schools?

The change in the law took effect on June 13, 2019 and allowed 14 days for children to get their first dose of each required vaccine. Therefore, children at year-round day care centers are required to be vaccinated with the first doses by June 28, 2019.

These children must be excluded from day care centers in school immediately if they do not meet these requirements.

8. My child had a religious exemption before the new law was enacted. Is my religious exemption still valid?

No. Religious exemptions are no longer valid in New York State.

9. Does the new requirement apply to charter schools?

Yes.

10. Do I need to schedule all of my child's appointments for all required doses, including all follow-up doses, within 30 days of the first day of attendance?

Parents and guardians must demonstrate, within 30 days of the first day of attendance, that their child has age-appropriate appointments scheduled for the next follow-up doses to complete the immunization series in accordance with the ACIP schedule. However, the actual appointments for the follow-up doses may be more than 30 days out, so long as they are in accordance with the ACIP schedule available online at <https://www.cdc.gov/vaccines/schedules/hcp/imz/child-adolescent.html>.

11. When are follow-up doses required for children who received their first doses prior to the change in law and are overdue for their next doses?

Such students must still receive their next doses as soon as they are due, in accordance with the ACIP schedule. Children must receive all first doses, or overdue follow-up doses if they already received prior doses in a series, within 14 days of school or child day care attendance, and must provide evidence of age appropriate appointments for the next follow-up doses, in accordance with the ACIP schedule, within 30 days of the first day of attendance. All required vaccine schedules must be completed in accordance with the ACIP schedule. Here is a link for the routine immunization and catch up schedules:

<https://www.cdc.gov/vaccines/schedules/hcp/imz/child-adolescent.html>

12. Is the rotavirus vaccine required to attend school?

No.

13. My child never received the pneumococcal vaccine or Haemophilus Influenzae type B (Hib) vaccine as a baby. Now my child is entering kindergarten. According to the ACIP schedule, healthy children age 5 and older don't need these vaccines. Does my child still need these vaccines to attend school?

No. Pneumococcal and Haemophilus Influenzae type B (Hib) vaccines are only required for day cares and pre-kindergarten programs. Children in kindergarten through grade 12 do not need to receive a pneumococcal or Hib vaccine.

14. Who may issue a medical exemption?

Pursuant to Section 2164 of the Public Health Law, only physicians licensed to practice medicine in NYS may issue a medical exemption.

15. Is serological evidence of immunity acceptable proof of immunization for school enrollment?

A positive serologic test can be accepted as proof of immunity for school enrollment only for the following diseases: measles, mumps, rubella, varicella (chickenpox), hepatitis B and all three serotypes of poliomyelitis found in the polio vaccines.

16. If I'm a Group Family Child Care Provider, with my own children in my home, in addition to day care children, what are my options regarding my own children who remain in the home during day care hours and are not vaccinated? Can they remain in another part of the house during day care hours?

In home-based child care programs (family day care and group family day care), a provider's own non-school aged children count in the program's capacity and are considered to be enrolled in the program. The provider must comply with Public Health Law and New York State Child Care Regulations regarding immunizations, and must keep documentation of immunizations all enrolled children have received, including the provider's own children. The provider's own children who are enrolled in kindergarten or a higher grade do not count in the program's capacity, and OCFS does not review immunization records of school-aged children.

17. Are "homeoprophylaxis vaccines" acceptable alternatives for required vaccinations?

No. Only licensed vaccines recommended by the ACIP are acceptable.

18. Are out-of-country immunization records acceptable?

Yes, as long as they are official records and can be read and understood by the school or have been reviewed and signed by a physician licensed to practice medicine in NYS.

19. Are children allowed to follow a delayed vaccination schedule for required vaccines?

No. The ACIP schedule must be used. Delayed vaccination schedules are not permitted.

20. What does the June 30, 2020 date mean in the law?

Until June 30, 2020, a child can attend school if they receive the first age-appropriate dose in each immunization series within 14 days from the first day of school attendance and can show within 30 days that they have scheduled age-appropriate appointments for required follow-up doses. This allows students who were not fully up-to-date on their vaccinations on June 13, 2019, when the law was enacted, to continue to attend school, as long as they receive the first age-appropriate dose in each immunization series within 14 days from the first day of school attendance and can show within 30 days that they have scheduled age-appropriate appointments for required follow-up doses. By June 30, 2020, all students who were attending school at the time the law was enacted are expected to be fully up-to-date on their required immunizations and therefore the 30-day extension allowing such children to be enrolled as long as they have scheduled appointments to complete their immunization series according to the ACIP schedule will expire.

21. Can all required vaccines be given at the same time? Can the schedule be spread out?

Scientific data show that getting several vaccines at the same time does not cause any health problems. If combination vaccines are used, the number of injections can be reduced. The highest number of vaccines that a child might need to attend school or daycare is seven. However, the number varies by age, and older children need fewer doses to catch up. It is important to note that infants routinely get multiple

vaccines at once, according to the ACIP schedule. The ACIP schedule is approved by the American Academy of Pediatrics, the American Academy of Family Practice, and is the standard of practice for vaccination in the United States. Vaccines can be spread out to start, so long as a child receives the first age-appropriate dose in each immunization series within 14 days of the first day of attendance.

22. If a school doesn't receive State Aid, can it offer religious exemptions to the vaccination requirement?

No. All schools must comply with the immunization requirements, regardless of whether they receive State Aid. Public Health Law §2164(1)(a) defines "school" to include any public, private or parochial child caring center, day nursery, day care agency, nursery school, kindergarten, elementary, intermediate or secondary school.