

05-071 DEPARTMENT OF EDUCATION

Chapter 126: IMMUNIZATION REQUIREMENTS FOR SCHOOL CHILDREN

A joint rule with

10-144 DEPARTMENT OF HUMAN SERVICES, BUREAU OF HEALTH

Chapter 261: IMMUNIZATION REQUIREMENTS FOR SCHOOL CHILDREN

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**SUMMARY:** This rule is issued jointly by the Commissioner of Education and the Bureau of Health, Department of Human Services, to implement the provisions of the School Immunization Law (20-A MRSA §§ 6352-6358). It prescribes the dosage for required immunizations and defines record-keeping and reporting requirements for school officials.

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## 1. DEFINITIONS

The definitions in this rule are those adopted in the School Immunization Law and include the following:

**Certificate of Immunization.** “Certificate of immunization” means a written statement from a physician, nurse or public health official who has administered an immunizing agent to a child, specifying that the required dosage was administered and the month, day and year in which it was administered.

**Children Entering School / School Enterers.** “Children entering school / school enterers” means any child who will be entering a school for the first time via kindergarten enrollment, transfer from one school to another, or otherwise enrolls in a school for the first time.

**Disease.** “Disease” means diphtheria, varicella (chickenpox), measles, mumps, pertussis, poliomyelitis, rubella and tetanus.

**Immunizing agent.** “Immunizing agent” means a vaccine, toxoid or other substance used to increase an individual’s immunity to disease.

**Parent.** “Parent” means a child’s parent, legal guardian or custodian. A person shall be regarded as a child’s custodian if that person is an adult and has assumed legal charge and care of the child.

**Public health official.** “Public health official” means the Director of the Bureau of Health, or any designated employee or agent of the Department of Human Services.

School. "School" means any public and private elementary and secondary school and special education facility which operates for children of compulsory school age.

Student Health Record. "Student Health Record" means documentation of health information and school nursing services provided to individual students including, but not limited to, immunizations, health screening, health assessment, and nursing care plans as needed.

Superintendent. "Superintendent" means the superintendent of a school administrative unit or his designee, or the chief administrative officer of a private school.

## 2. IMMUNIZATION REQUIRED

### A. Parental Responsibility

Except as otherwise provided by law, every parent shall cause to be administered to his child the required dosage of an immunizing agent against each disease.

### B. Superintendents' Responsibility

No superintendent may permit any student to be enrolled in or to attend school without a certificate of immunization for each disease or other acceptable evidence of required immunization or immunity against the disease.

## 3. EXCEPTIONS

### A. Enrollment Without Immunization Information

A child who does not meet the immunization/immunity requirements may be enrolled in school under the following circumstances:

1. The parent provides the school with a written assurance that the child will be immunized by private effort within ninety days of enrolling (officially registering) in school or first attendance in school classes, whichever date is the earliest.

The granting of this 90 day period is a one-time provision. A child transferring from one school to another within the state may not be granted a second 90-day period, however, a period of 21 calendar days may be granted to allow for the transfer of health records from one school to another.

2. The parent grants written consent for the child's immunization by a public health officer, physician, nurse or other authorized person in their employ, or acting as an agent of the school, where such immunization programs are in effect.
3. The parent (or child) presents to the school each year a physician's written statement that immunization against one or more of the diseases may be medically inadvisable.
4. The parent states in writing each year an opposition to immunization because of a sincere religious belief or for philosophical reasons.

#### B. Medical Exemptions

The following are medical contraindications for which medical exemptions may be certified by a physician for immunizations required by 20-A MRSA §§ 6352-6358:

Pertussis vaccine: 1) fever greater than or equal to 40.5 C (105 F); collapse or shocklike state (hypotonic-hyporesponsive episode), or persistent, inconsolable crying lasting three or more hours within 48 hours of receiving a prior dose of pertussis vaccine; 2) seizures occurring within 3 days of receiving a prior dose of pertussis vaccine; 3) encephalopathy within 7 days of administration of a previous dose of pertussis vaccine; 4) anaphylactic reaction to pertussis vaccine or a vaccine constituent; or 5) the student has reached the seventh birthday.

Diphtheria or tetanus toxoid: 1) anaphylactic reaction to diphtheria or tetanus toxoids or a toxoid constituent.

Measles or mumps vaccine: 1) pregnancy; 2) known altered immunodeficiency (hematologic and solid tumors; congenital immunodeficiency; and long-term immunosuppressive therapy); 3) anaphylactic reactions to egg ingestion or to neomycin; 4) anaphylactic reaction to measles or mumps vaccine or a vaccine constituent.

Rubella vaccine: 1) pregnancy; 2) known altered immunodeficiency (hematologic and solid tumors; congenital immunodeficiency; and long-term immunosuppressive therapy); 3) anaphylactic reactions to neomycin; 4) anaphylactic reaction to rubella vaccine or a vaccine constituent.

Live polio vaccine: 1) known altered immunodeficiency (hematologic and solid tumors; congenital immunodeficiency; long-term immunosuppressive therapy); other immunodeficient condition; 2) immunodeficient household contact; 3) anaphylactic reaction to polio vaccine or a vaccine constituent.

or

Inactivated polio vaccine: 1) anaphylactic reactions to neomycin or streptomycin;  
2) anaphylactic reaction to polio vaccine or a vaccine constituent.

Varicella: 1) pregnancy; 2) immunosuppression; 3) anaphylactic reaction to a vaccine component ; 4) recent recipient of antibody-containing blood product.

#### 4. CERTIFICATE OF IMMUNIZATION; EVIDENCE OF IMMUNITY

##### A. Certificate of Immunization

To demonstrate adequate immunization against each disease, a child shall present the school with a Certificate of Immunization from a physician, nurse or public health official who has administered the immunizing agent(s) to the child. The certificate shall specify the immunizing agent, the dosage administered and the date(s) on which it was administered.

##### B. Proof of Immunity

The child shall present the school with laboratory evidence demonstrating immunity or reliable documented history provided by a physician or other primary care provider.

#### 5. IMMUNIZATION DOSAGE

The following schedule is the schedule of minimum requirements for immunizing agents administered to children entering school.

Diphtheria/Pertussis/Tetanus: Five doses of any DTP containing vaccine or DT (pediatric). If the fourth dose was administered on or after the fourth birthday, then only four doses are required. The first dose must be administered at least 6 weeks after birth. The first three doses must be given at least 4 weeks apart and the fourth dose must be given at least 6 months after the third dose.

Td (Adult) may be substituted for DTP containing vaccine for non-immunized or incompletely immunized students who have reached the seventh birthday. If administering Td (Adult) vaccine, only 3 doses are required, with the first two doses given at least 4 weeks apart and the third dose given 6 months after the second.

Measles/Mumps/Rubella: All students in grades kindergarten - 12 shall be immunized against measles, mumps, and rubella with 2 doses of MMR vaccine, provided the first

dose is administered no sooner than 12 months of age and at least 4 weeks separate the 2 doses.

Poliomyelitis: Four doses of oral polio vaccine. The first dose of OPV must be administered at least 6 weeks after birth, with subsequent doses given at least 4 weeks apart. The fourth dose is not needed if the third dose is given on or after the 4<sup>th</sup> birthday.

or

Four doses of inactivated polio vaccine. The first dose of IPV must be administered at least 6 weeks after birth, with subsequent doses given at least 4 weeks apart. The fourth dose is not needed if the third dose is given on or after the 4<sup>th</sup> birthday. An all-IPV schedule is the preferred schedule for routine polio vaccination, including children who began the series with OPV. If a child receives both types of vaccine, four doses of any combination of IPV or OPV by 4-6 years of age is considered a complete polio vaccination series.

Varicella: Effective for the start of school year 2003, 1 dose of varicella vaccine is required for children entering kindergarten and 1<sup>st</sup> grade, with implementation of additional grades to occur as follows:

- a) Start of school year 2003 – Kindergarten (K) and 1<sup>st</sup> grade (K-1)
- b) Start of school year 2004 – K-2 and grade 9
- c) Start of school year 2005 – K-3 and 6, 9 and 10
- d) Start of school year 2006 – K-4 and 6, 7, 9, 10 and 11
- e) Start of school year 2007 – K-12

Children age 13 and over with no reliable history of chickenpox or vaccination should receive 2 doses of varicella given at least 4 weeks apart.

Any such immunizing agent must meet the standards for such biological products as are approved by the United States Public Health Service.

## 6. EXCLUSION FROM SCHOOL

### A. Exclusion by Order of Public Health Official

A child not immunized or immune from a disease shall be excluded from school and school activities when in the opinion of a public health official the child's continued presence in school poses a clear danger to the health of others. The superintendent shall exclude the child from school and school activities during the period of danger or until the child is immunized.

The following periods are defined as the "period of danger:"

Measles: 15 days (one incubation period) from the onset of symptoms of the last identified case.

Rubella: 23 days (one incubation period) from the onset of symptoms of the last identified case.

Mumps: 18 days (one incubation period) from the onset of symptoms of the last identified case.

Varicella: 16 days (one incubation period) from the onset of symptoms of the last identified case. (The 16-day exclusion will not take effect until the start of school year 2007 when all students K-12 are required to be immunized against varicella as indicated under Section 5 of this rule.)

### B. Exclusion by Order of Superintendent

A superintendent shall also exclude from schools and school activities any child on account of filth or communicable disease, in accordance with 20-A MRSA §6301. The superintendent shall also exclude from public school any child or employee who has contracted or has been exposed to a communicable disease as directed by a public health official or as recommended by the school physician.

### C. Requirement for Educational Arrangements

For any child so excluded from school for more than 10 days, the superintendent must make arrangements to meet his educational needs.

This section does not require the provision of off-site classes or tutoring. Instead, the child's educational needs may be met by making arrangements for the delivery of school assignments, correction of papers, and similar activities which can be accomplished at home. Any child who is unable to take examinations during this period shall be afforded the opportunity to make up the examinations, similar to arrangements made for children who have other excused absences.

## 7. RECORDS AND RECORD-KEEPING

### A. Designated Record Keeping

The school nurse (or head school nurse) in each school unit or private school shall be responsible for the maintenance of immunization records. If no school nurse has been employed, the superintendent shall designate another responsible person.

If immunization and school health records are maintained in individual school buildings, a designated person in each building shall have responsibility for supervision of the records.

### B. Individual Health Records

Each school/unit shall adopt a uniform student health record for maintaining information regarding the health status of each child as defined under Section 1.

The immunization status of each student regarding each disease shall be noted on the child's individual student health record. These records are confidential, except that state and local health personnel shall have access to them in connection with ensuring compliance with these regulations or an emergency, as provided by the United States Family Educational Rights and Privacy Act of 1974, 20 U.S.C. §1232g(b)(1) and the regulations adopted under that act.

Where an exemption has been granted for sincere religious or philosophical reasons, the parent's written request for exemption must be on file with the school health record and updated annually.

### C. List of Non-Immunized Children

The designated record keeper in each school unit or school shall keep a listing of the names of all children within the school unit or school who are not currently immunized against each disease. This list shall include the names of all students with authorized exemptions from immunization as well as any who might not be in compliance with the law. The purpose of the list is to provide an efficient referral to non-immunized children in time of disease outbreaks.

A child who has not received all the required doses of vaccine shall not be permitted to attend school beyond the first day without a statement, which indicates the child will be immunized by private effort within ninety days (or the parent grants written consent for the child's immunization by a public health officer, physician, nurse or other authorized person acting as an agent of the school), unless the parent is claiming an exemption due to a sincere religious

belief or for philosophical reasons, or the school is presented with a medical exemption signed by the child's physician.

## 8. REQUIRED REPORTS

### A. Superintendent's Responsibility

The superintendent is responsible for submitting a summary report regarding the immunization status of students within his or her jurisdiction by December 15 of each year, on a prescribed form, to the Director of the Bureau of Health and the Commissioner of Education.

### B. Summary Report

The summary report will include the following information at a minimum: specific information identifying the school, the superintendent; the total student enrollment, the number of new students identified by vaccine type, as either immunized, exempt or out of compliance, and the number of students who are previously enrolled and unimmunized. The summary report will be constructed so as to reflect meaningful data by grade groupings, but with kindergarten treated separately. Each report shall be signed by the school superintendent as a certification that the information is accurate and complete.

The Bureau of Health will from time to time select a small sample of student health records for the purpose of comparing reported results against the criteria delineated in these rules. The results of this sample survey will be shared with school superintendents for the purpose of identifying problem areas that may be occurring in the completion of their school health records. Individual students will not be identified by name.

Additional requirements regarding the immunization of children or employees of any school may be adopted by ordinance of the municipality, regulation of school board policy or policy of a private school's governing board.

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STATUTORY AUTHORITY: 20-A MRSA §6352-6358

EFFECTIVE DATE:

April 26, 1981 - as "Health and Safety Standards"

REPEALED AND REPLACED:

May 29, 1985 - as "Immunization Requirements for School Children"

EFFECTIVE DATE (ELECTRONIC CONVERSION):

May 19, 1996

*(APA Office Note: the Department of Human Services amended its version, 10-144 CMR Ch. 261, effective July 14, 1996, but the Department of Education did not simultaneously revise Ch. 126.)*

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