

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672

7420 SENATE HEALTH EDUCATION & SOCIAL SERVICES

12/4  
Laware Moffit (801) 944-9861  
9344 So. Sunset Ridge Circle  
Sandy, Utah 84092  
~~Alison Moffit~~

please notify if immunization  
bill surfaces again.

let him know no action was  
taken at 1/22 mtg. & that most  
of the testimony was in  
opposition to the personal  
exemption

Honda Snow 465-3991 <sup>3:05</sup>  
leg. Research <sup>8/15</sup>

4AAC 6.155  
Sections 2 & 3

already in  
realt?

not philosophical, just  
medical & religious

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would you like her to  
focus just on philosophical  
since the others are already  
there?

# Alaska State Legislature



Legislative Research Agency

P.O. Box Y  
Juneau, AK 99811-3100  
Phone: (907) 465-3991  
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August 26, 1991

## MEMORANDUM

TO: Senator Arliss Sturgulewski

FROM: Linda J. Snow *LJSnow*  
Legislative Analyst

RE: Recent Developments in Laws Affecting Immunizations of Minors  
Research Request 92.021

You asked for information about recent developments in other states concerning mandatory immunization of minors attending public schools, and exemptions from those requirements. You were particularly interested in developments in philosophical or personal belief exemptions from mandatory immunization of school children.

According to a recent survey of the 50 states' mandatory childhood immunization laws prepared by the Centers for Disease Control (CDC), U.S. Public Health Service, all 50 states allow medical exemptions from mandatory immunization, with the exception of Mississippi and West Virginia all allow exemptions for religious reasons, and 20 states allow exemptions for philosophical or personal reasons.<sup>1</sup> We interviewed public health officials in six of the 20 states which allow exemptions on the grounds of philosophical or personal beliefs, as well as officials in those two states which recently eliminated philosophical exemptions from their laws. Relevant statutes of the six states contacted (Arizona, California, Colorado, Minnesota, Utah and Washington) which currently allow philosophical exemptions are included as Attachment A. Montana and Delaware recently eliminated philosophical reasons as allowable exemptions to childhood immunization requirements in public schools.

### Common Elements of State Laws

State mandatory childhood immunization laws are structured similarly in the states our research encompassed. In general, state laws applied to public school enrollment, though many also applied to private schools, day care

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<sup>1</sup>The 20 states which currently allow exemptions from mandatory childhood immunizations for philosophical or personal reasons are Arizona, California, Colorado, Idaho, Indiana, Louisiana, Maine, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, Utah, Vermont, Washington and Wisconsin.

centers, and postsecondary education facilities. Three elements are common to these state laws: 1) admission to educational institutions is conditional upon compliance with mandatory immunization laws; 2) allowable exemptions from mandatory immunization are defined; and 3) reasons for exclusion from attendance are delineated.

In most cases, a child's admission to an institution is conditional upon presenting either a medical record of immunization, medical proof of immunity from specified diseases, or an authorized exemption form. Reasons for exemption from immunization may include physical or medical circumstances, religious beliefs, philosophical or personal beliefs, and provisional exemptions which allow a period of time for compliance when a child is new to a school system. Exclusion from school attendance may occur because the requirements of conditional admission to the facility have not been met and/or when children who have been exempted from immunization are subject to infection due to an outbreak of a communicable disease. Although not always codified in state law, this last condition for exclusion from school attendance generally exists in state public health policy.

#### Policy of National Organizations

Mr. Bob Snyder, public health advisor with the Vaccination Project, CDC in Atlanta, Georgia, stated that the CDC opposes philosophical exemptions to mandatory immunization requirements in public schools because the exemptions are believed to be open-ended and vulnerable to abuse. Because exclusion from school attendance or quarantine may result in several months of missed school for unvaccinated children during an outbreak of infectious disease, the CDC supports a model law for mandatory childhood immunizations which does not include an exemption for philosophical or personal beliefs.

According to Dr. John Middaugh, chief of Epidemiology in the Alaska Department of Health and Social Services, the American Association of Pediatrics has recommended that states eliminate not only philosophical belief exemptions to mandatory immunization, but religious belief exemptions as well.

#### States Which Allow Philosophical Belief Exemptions

Arizona. Arizona state law allows exemptions from mandatory immunization for medical, religious, philosophical and provisional reasons. The law requires exclusion from school attendance for noncompliance but does not codify exclusion or quarantine during infectious disease outbreaks. However, an Arizona attorney general's opinion states that children with a religious exemption may be excluded from attendance in the case of an outbreak of measles. According to Dr. Sands of the Arizona Department of Health Services, the state recently changed the law to state that admission to public school is conditional to compliance with state immunization laws. The department requested the change because the old law was considered unenforceable and

inadequate to protect school-aged children. Dr. Sands stated that Arizona courts have upheld the legality of exclusion practices during the outbreak of infectious diseases.

California. State law in California allows medical exemptions, personal exemptions (which incorporate both religious and philosophical reasons), and provisional exemptions to mandatory immunization. The law also establishes authority to exclude children for noncompliance and to exclude exempted children during infectious outbreaks. Marcy Jones, health promotion consultant for the California Department of Health Services, stated that philosophical exemptions to mandatory school immunizations are not abused in that state. Of 500,000 California children enrolling in kindergarten this year in California, 439 children (.088 percent) had medical exemptions and 2,700 children (0.54 percent) had personal belief exemptions.

Colorado. Colorado state law allows medical, religious and philosophical exemptions to the mandatory immunization law, but does not codify provisional exemptions. However, provisional exemptions are allowed without statutory authority. Exclusion from attendance is allowed for noncompliance and during infectious outbreaks. Ms. Judy Conner, director of Immunization in the Colorado Department of Health stated that 97 percent of children enrolling in that state's public school system are immunized. Of those not immunized, 0.1 percent have medical exemptions, 0.2 percent have religious exemptions, 1.1 percent have personal belief exemptions, and 1.6 percent are provisionally exempt because they are newly enrolled in Colorado public schools and have 60 days to comply with immunization requirements. Ms. Conner did not believe that any of the exemptions were being abused.

Minnesota. State law in Minnesota allows exemption from mandatory immunization for medical reasons and personal reasons (which include both religious and philosophical reasons). The law does not authorize provisional exemptions, nor does it allow for exclusion from attendance for noncompliance or during infectious outbreaks. That state has an unwritten policy to exclude unvaccinated children from attending classes during an infectious disease outbreak, and no court cases in Minnesota have challenged that policy to date. According to Cheryl Norton, immunization program representative for the Minnesota Department of Health, there is no abuse of the personal belief exemption from mandatory vaccination in Minnesota public schools.

Utah. Utah state law allows medical exemptions, personal belief exemptions (which incorporate both religious and philosophical reasons), and provisional exemptions to mandatory immunization. The law allows exclusion from classes for noncompliance. According to Mr. Rick Crankshaw, immunization program director with the Utah Department of Health, the state legislature is currently attempting to eliminate existing personal belief exemptions (while still allowing religious belief exemptions) to mandatory public school immunization laws. The pending legislation was prompted by an outbreak of measles in a Utah community in 1990 in which 67 of the 125 recorded cases could be traced directly to children with personal belief exemptions from mandatory

immunization. While not in statute, state regulations call for exclusion and quarantine of unvaccinated children. However, it is Mr. Crankshaw's belief that by the time exempted children are excluded, they have already been exposed to the infectious disease.

Mr. Crankshaw believes that the mandatory immunization law would not have passed in Utah without the personal belief exemption and that eliminating that exemption from the law will be difficult. However, it is his opinion that the personal belief exemption is a handicap to the mandatory immunization law. Mr. Crankshaw stated that 1.9 percent of students entering public school in Utah have exemptions from mandatory immunization, and 75 percent of those exemptions are for personal beliefs. State law requires either a record of immunization, medical proof of immunity or a valid exemption form for enrollment in public school. Mr. Crankshaw feels that the personal belief exemption may be abused in that often parents will sign a personal beliefs exemption form if they cannot immediately locate immunization records. Although these children have been protected by vaccination, they may unnecessarily be excluded from attendance to school.

Washington. Washington state law allows medical, religious belief, and personal belief exemptions to mandatory vaccination. State statutes allow exclusion only for noncompliance with the law, but state policy advocates exclusion in the case of an outbreak of infectious disease. Walt Lasota, senior health advisor in the Washington Department of Health, stated that Washington has experienced outbreaks of measles among groups of people who philosophically object to mandatory immunization of children. He feels that exclusion from classes is the price one pays for not vaccinating.

#### States Which Have Eliminated Philosophical Belief Exemptions

Delaware. In 1984, the Delaware state legislature eliminated philosophical beliefs as a basis for exemption from mandatory immunization of public school children. According to Edith Vincent, state supervisor of Health Services and Health Education in the State Department of Public Instruction, that department had recommended allowing only medical exemptions. The recommendation was based on a study of costs to educate children who had been handicapped or severely debilitated by infectious disease conducted by the Delaware Department of Public Instruction. However, an organized religious group in that state supported the exemption on religious grounds, and it was kept in the law. The state's current religious exemption is broader than most, and nearly encompasses philosophical beliefs by stating that children may be exempt if their parents' or guardians' "individual religious beliefs reject the concept of immunization," thereby eliminating the need for belief in an "organized" religion with established tenets.

Montana. According to Dick Paulsen, program manager for the Montana Immunization Program in the Montana Health and Environmental Services Department, that state eliminated the philosophical exemption from mandatory

immunization of public school children in 1988. There was no opposition in the legislature to this change. Large outbreaks of measles in the state directly related to children with personal beliefs exemptions in the prior year prompted the legislation. Whole communities protested the exemptions and supported the change.

Mr. Paulsen stated that he believes 95 percent immunization (the rate prior to the change in Montana law) is not enough to stop the spread of measles.<sup>2</sup> He believes that the personal beliefs exemptions were abused because many times when children with personal exemptions were excluded from school during infectious disease outbreaks, the parents would immunize and return the children to classes. The 1988 legislation allows for exemptions on religious grounds; however, an affidavit must be signed each year for the exemption to be valid. Mr. Paulsen stated that his department rarely receives calls (about one call per year) from parents complaining about the lack of a personal belief exemption.

#### The Alaska Experience

Dr. John Middaugh, chief of Epidemiology in Alaska's Department of Health and Social Services stated that Alaska's childhood immunization program is one of the most successful in the country. We now immunize 99 percent of school-aged children and have had no infectious disease outbreaks since 1976. There were recently two cases of measles in the Fairbanks area, which were brought in from out of state by adults. After intensive surveillance, it was determined that the infection had not spread to any other residents of the state. Dr. Middaugh attributes this to Alaska's immunization program.

#### A Legal Perspective

Attachment B contains a May 1991 article from the *National Law Journal* entitled "Rights of State and Family Clash In Forced-Immunization Cases." The article mainly addresses court cases involving absence of immunization or other medical care for children because of the parents' religious beliefs. Although all states but two allow exemptions from mandatory immunization on a religious beliefs basis, that basis has not held up well in state or federal courts.<sup>3</sup> The court cases pit the first amendment clause of free exercise of religion and the 14th amendment due process clause (which provides parental rights to raise

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<sup>2</sup>The vaccine for measles is only 95 percent effective. If only 95 percent of the school children are immunized, this effectively means only 90 percent of the children are immune.

<sup>3</sup>It could be argued that religious grounds are stronger than philosophical grounds. Personal belief exemptions would likely fare worse in the courts if challenged.

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August 26, 1991  
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their children without state intervention) against the state's power to protect a child's interests (*parens patriae*). In *Prince v. Massachusetts*, the U.S. Supreme Court stated *in dicta* (not binding in subsequent cases) "[t]he right to practice religion freely does not include liberty to expose the community or the child to communicable disease or the latter to ill health or death." According to the article, state courts have consistently held that intervention to protect the health of a child is justified. The U.S. Supreme Court recognized the states' power to require vaccinations in *Jacobson v. Massachusetts*, stating that mandatory vaccinations did not interfere with personal liberty. Maryland state law allows that the Secretary of Health may declare an emergency or epidemic, and under these conditions, children may be immunized over the objections of their parents.

### Synopsis

Twenty states allow philosophical or personal belief exemptions to mandatory childhood immunizations. Both the Centers for Disease Control and the American Association of Pediatrics are opposed to philosophical belief exemptions, and court cases on both the state and national level seem to indicate that the courts do not believe religious or philosophical reasons are adequate to warrant endangering a child's health by refusing to immunize.

Of the six states contacted which allow philosophical or personal belief exemptions to mandatory childhood immunization, only one (Utah) believed the exemptions were being abused. Montana public health officials cited abuse as one reason for eliminating the personal belief exemption from Montana law in 1988. All states interviewed practice exclusion of unvaccinated children from classes during outbreaks of communicable diseases with authority from either state laws or public health policy. Thus, it appears that children who are not immunized are subject to the risk of contracting infectious disease and the risk of being excluded from classes during outbreaks.

Included as Attachment C is the CDC report entitled "State Immunization Requirements 1989 - 1990." I hope this information is helpful to you. If you need further assistance, feel free to call this office.

Attachments

DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL SCIENCES



STAN STEPHENS, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

FAX # (406) 444-2606

HELENA, MONTANA 59620

August 21, 1991

Linda Snow  
Legislative Research Agency  
P.O. Box Y  
Juneau AK, 99811

Dear Linda,

Enclosed is information relating to Montana's dropping the philosophical exemption from the Immunization Law in 1989.

As I mentioned on the phone, there was no opposition, written or verbal, to removing the personal exemption. There was strong support from schools, hospitals, physicians and health officials for the removal of the personal exemption. I think the bill passed unanimously with no opposing votes in both the Montana senate and house.

The only group which was concerned with the proposed changes was a religious group who wanted to make sure they were still allowed a religious exemption. The conditions of the religious exemption, which appear in the law, were developed by the spokesman for the Christian Scientists. Parents who claim religious exemptions must submit a new, notarized religious exemption each year.

To my knowledge, there have been no problems faced by Montana school or health official in enforcing this law. I know of no phone calls or inquiries to our office this year from people who are upset with the immunization requirements.

Montana has not had a measles outbreak since the law was changed. This means that no one has imported measles to Montana residents and Montana has not exported measles cases to other states (including Alaska!).

I hope this information is useful. If you need more information, please call me at (406) 444-5580.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dick Paulsen".

Dick Paulsen, Manager  
Montana Immunization Program

Enclosure

March 1989

MONTANA DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES  
FOR THE SENATE EDUCATION AND CULTURAL RESOURCES COMMITTEE

MONTANA IMMUNIZATION LAW TESTIMONY  
HB 364

Chairman Hammond and Committee members, I am Dick Paulsen and I submit this testimony, as the manager of the Montana Immunization program, on behalf of the Montana Department of Health and Environmental Sciences.

The Montana Immunization Law has proven effective in reducing illness due to vaccine-preventable diseases in Montana School children. These proposed legislative changes are intended to reduce the potential for disease introduction into the school system and allow the county health officer the ability to determine appropriate control measures, including length of exclusion, during an outbreak. These changes are based upon our recent experiences with disease introduction and the continuation of outbreaks that have occurred in Montana since the enactment of the Montana Immunization Law in 1980. Proposed changes in the law include; 1) broadening of the application of immunization law from only K-12 schools to other educational settings that play an important part in disease transmission, 2) it defines "pre-school" for use in the law, 3) it includes mumps as a necessary vaccine, 4) it removes the personal exemption, 5) it removes the 30-day exclusion period for those excluded during outbreaks. The length of exclusion would then be determined by the county health officer who is responsible to determine what is necessary to control communicable disease outbreaks.

The bill was amended in the House to reinstate the religious exemption which the Department originally wanted to remove. The Glacier County measles outbreak in 1985 (137 cases) was started due to a religious exemption. The Department is willing to accept the amendment that puts the religious exemption back into the law as found in this bill. However, we will reassess our position with the next legislature if it is found that the religious exemption leads to future disease outbreaks in Montana.

The Department also favors the House amendment that removes the 30 day transfer period for immunization records which was, in part, responsible for the recent measles outbreak in Flathead County. This amendment was recommended by a school superintendent in Kalispell. The schools will now copy the immunization record and give the copy to the student. Allowing a 30 day period for the original copy of the record to be transferred is a sensible approach for both getting the record to the school and helping keep disease out of the school.

The personal exemption played an important part in starting the 1987 statewide measles where 127 measles cases occurred. It started in Great Falls and was initiated by a student with a personal exemption. Following the 1987 outbreak, a "measles critique" was sponsored by the Department which included six major health departments (Cascade, Missoula, Flathead, Lewis and Clark, Yellowstone, and Silver Bow Counties) and representatives from the Indian Health Service and the Centers for Disease Control in Atlanta, Georgia. From that critique came a strong recommendation to remove the personal and religious exemptions from the Immunization Law. The Department has also received communication from the County Health Departments and Montana Medical Association supporting a removal of the exemptions. Montana is in the minority of states that do allow philosophical (personal) exemptions. Presently, 28 states do not allow philosophical exemptions for school entry.

What actually happens during an outbreak demonstrates how the exemptions are being abused. During the recent outbreak in Flathead County, there were 15 Flathead County High School students that had claimed personal exemptions and two that had claimed religious exemptions for measles for school entry. Upon exclusion from school, due to the outbreak, all students had returned to school as immunized except for one student who stayed out for the entire period due to a religious exemption. In the Great Falls outbreak in 1987, there were 21 personal and 13 religious exemptions in the junior high and high schools in Great Falls. Once those students were excluded due to the outbreak, all except for three students returned to school immunized. It is easier for the parents to sign an exemption rather than to take action to immunize their child. This puts the rest of the school system and communities at unnecessary risk to vaccine-preventable diseases.

There have been ten measles or rubella outbreaks on college campuses in Montana since 1976. This includes outbreaks, since 1987, effecting with both universities at Bozeman and Missoula, Rocky Mountain College, Eastern Montana College, and Flathead Valley Community College. Remember, measles is most serious in adults. At Principia College (a Christian Science college) in Illinois, in 1985, there were three deaths in students due to measles. Since rubella has its most serious consequence related to pregnancy, it's very important to ensure that the college age group is well immunized against rubella. It has been extremely frustrating and difficult to stop measles outbreaks on college campuses when there is no required documentation of immunization for students.

College immunization requirements have been recommended by the Advisory Committee on Immunization Practices\* (ACIP) since 1980 and the American College Health Association since 1983. The Board of Regents has recently developed a policy for implementing a measles and rubella immunization requirement for all students in the university system. The Department has met with the Commissioner of Higher Education several times and have agreed that the primary focus for the law, on prevention of vaccine preventable diseases in this population, is measles and rubella. Both of the Montana universities have already adopted similar requirements for entry. The proposed change in the law is intended to cover all post-secondary schools including those not in the university system. Post-secondary facilities have played an important part in measles outbreaks, not only in the United States but in Montana.

Mumps was not included in the original draft of the immunization law primarily due to the fact that the immunization program was not able to provide mumps vaccine to all school-aged children due to cost. The program now provides mumps vaccine in the combined MMR vaccine. MMR is the vaccine of choice and is received by all children when they receive measles and rubella vaccination. Including mumps in the law would not be difficult for schools as they already have information on mumps vaccine included on the immunization records.

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\*Note: The ACIP is the group which sets the standard for public health practices related to immunization in the U.S.

Pre-school and head start are also not included presently in the requirements for immunization laws and rules. There are some schools which have a pre-school within the school facility as listed in the Directory of Montana Schools published by the Office of Public Instruction. This is a dangerous mixture of potentially un-immunized children in a school setting.

Exclusion period being limited to 30 days in the law is contrary to what is recommended for outbreak control by the Centers for Disease Control. Un-immunized students should not be allowed into a school even if an outbreak continues past 30 days. During the recent outbreak in Kalispell, the situation arose where a student wanted to return to school after the 30-day period but still had not been immunized. The county health officer had to apply to the parent for the parent to decide not to send the children on their own accord. Local Health officers have the authority, by the Administrative Rules of Montana, to do what is necessary to control communicable disease in their county. The determination, on when the return should occur, should be made by a County Health Officers. Should the child return to school and develop measles because the law says they can return, the following could happen: 1) the child would be unnecessarily exposed to a dangerous disease, 2) the outbreak would continue with possible spread of the disease to others (especially other un-immunized siblings), and 3) the parents may have legal recourse against the state of Montana should the child get measles due to their return to school as presently allowed by the Montana Immunization Law.

In closing, Montana has experienced some serious problems related to vaccine-preventable diseases. We, in Montana, have been very lucky in that we have not had anybody die during our measles outbreaks. Texas is not so fortunate. In the current outbreak in Texas, there have been as many as five deaths that may be directly related to measles. This included a 21 year old who was 21 weeks pregnant. There was a child that died due to pertussis in Ravalli county in 1986. The Montana Immunization Law has played an important part in reducing the occurrence and subsequently the consequence of vaccine-preventable diseases. Apparently maintaining high immunization levels alone is not good enough. We have to keep these diseases from being seeded in our schools. Once a disease

March 1989

like measles gets into a school, it can spread very quickly as was seen again this year in the Flathead measles outbreak. The Montana School Immunization Law needs to be strengthened so that the potential for disease introduction into our population can be reduced. If these proposed changes are acted upon favorably, it would be a major step in ensuring the health and safety of Montanans. Your consideration is appreciated.

REP/vg-106d

## Removing the Personal and Religious Exemptions

1. Number of persons with religious and personal exemptions in Montana (Based upon 1986-87 school year data):

\*Personal -- 2,270

\*Religious -- 350

**Note:** Schools that failed to report are not included in this data.

2. It is anticipated that use of personal and religious exemptions will increase due to information received in the Park County outbreak that occurred in the summer of 1988. Of the 24 cases of measles that occurred in Park County, all had refused immunization. There is an increase of people in Park County that are now using personal and/or religious exemptions.
3. Religious and personal exemptions played an important part in starting measles outbreaks that occurred in Glacier and Cascade Counties.
  - a. Glacier County -- 137 cases; occurred in 1985; was initiated by a student who claimed a religious exemption, visited out-of-state and brought measles back into Montana.
  - b. Statewide outbreak -- started in Great Falls in 1987; 127 measles cases were reported statewide; was initiated by a student with a personal exemption who had not traveled outside of Montana.
4. Following the 1987 measles outbreak a "measles critique" was sponsored by the Department which included six major health departments (Cascade, Missoula, Flathead, Lewis and Clark, Yellowstone and Silver Bow Counties) and representatives from the Indian Health Service and the Centers for Disease Control (Atlanta, GA). From that critique came a strong recommendation to remove the religious and personal exemptions in Montana as they have played a major role in starting disease outbreaks.

5. The Montana Medical Association has sent written communication to the Department supporting a removal of the religious and medical exemptions.
6. Montana is in the minority of states that do allow philosophical (personal) exemptions. Presently 28 states do not allow personal exemptions for school entry.
7. Other states that do not allow religious exemptions include Mississippi and West Virginia.
8. Is it constitutional to not allow for religious exemptions? -- Mississippi law was challenged in 1979 in a suit entitled "Brown v. Stone" -- it was determined that excluding the religious exemption from the law was constitutional and the Mississippi Supreme Court said that allowing a religious exemption would not be in the best interest of the health and welfare of the state.
9. The use of exemptions has been abused and recent outbreaks provide examples of what happens when an outbreak occurs and school exclusion follows:
  - a. Great Falls 1987 -- There were 21 personal and 13 religious exemptions in junior and high school students in Great Falls. Once those students were excluded due to the outbreak, all except three students returned to school immunized.
  - b. Flathead County outbreak 1988 -- There were 15 Flathead County High School students that claimed personal exemptions and two that had claimed religious exemptions for measles for school entry. Upon exclusion from school all students with exemptions returned to school immunized, except for one student who stayed out for the entire outbreak.
10. Personal and religious exemptions have put the entire school system and communities at risk to vaccine-preventable diseases.

OCT 02 1989

## HOUSE BILL NO. 364

INTRODUCED BY R. NELSON, CONNELLY,

SQUIRES, B. BROWN, HARP

BY REQUEST OF THE DEPARTMENT OF HEALTH

AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE IMMUNIZATION OF STUDENTS ATTENDING PRESCHOOLS, VOCATIONAL-TECHNICAL CENTERS, COLLEGES, AND UNIVERSITIES; TO INCLUDE MUMPS IN THOSE DISEASES THAT REQUIRE IMMUNIZATION PRIOR TO A STUDENT'S ATTENDANCE IN A SCHOOL OTHER THAN A POSTSECONDARY SCHOOL; TO ELIMINATE THE RIGHT OF A STUDENT TO BE EXEMPT FROM IMMUNIZATION ON PERSONAL OR--RELIGIOUS GROUNDS; TO REQUIRE THAT A RELIGIOUS EXEMPTION BE REASSERTED ANNUALLY BY AFFIDAVIT, SUBJECT TO A PENALTY FOR PERJURY FALSE SWEARING; TO REMOVE THE LIMIT ON THE LENGTH OF TIME THAT A STUDENT MAY BE EXCLUDED FROM SCHOOL DURING A DISEASE OUTBREAK IF THE STUDENT IS EXEMPT FROM IMMUNIZATION REQUIREMENTS; TO DELETE THE 30-DAY GRACE PERIOD FOR TRANSFER PUPILS; TO REQUIRE A SCHOOL TO RELEASE IMMUNIZATION RECORDS OF A TRANSFERRING PUPIL; AMENDING SECTIONS 20-5-402 THROUGH 20-5-405, AND 20-5-408, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-5-402, MCA, is amended to read:

"20-5-402. Definitions. For the purposes of this part, the following definitions apply:

(1) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(2) "Governing authority" means the board of trustees of a school district or the administrator of a private school, preschool, vocational-technical-center, college, or university OR POSTSECONDARY SCHOOL.

(3) "Immunization" means induction of a state of resistance to a disease through administration of an immunizing agent.

(4) "Local health officer or department" means a city, city-county, county, or district health officer or department.

(5) "Local health department" means a city, city-county, county, or district health department.

(6) "POSTSECONDARY SCHOOL" MEANS A VOCATIONAL-TECHNICAL CENTER, A COMMUNITY COLLEGE, A UNIT OF THE MONTANA UNIVERSITY SYSTEM, OR A PRIVATE UNIVERSITY OR COLLEGE.

(6)(7) "Preschool" means a place or facility that provides, on a regular basis and as its primary purpose, educational instruction designed for children 5 years of age or younger and that:

1 (a) serves no child under 5 years of age for more than  
 2 3 hours a day; and

3 (b) serves no child 5 years of age for more than 6  
 4 hours a day.

5 {5}{7}{8} "School" means an a place or institution for  
 6 the teaching of individuals, including a preschool any  
 7 establishment the curriculum of which is comprised of the  
 8 work of:

9 (A) any combination of kindergarten through grade 12,  
 10 a vocational-technical center, a college, or a university;

11 (B) A POSTSECONDARY SCHOOL; OR

12 (C) A PRESCHOOL."

13 Section 2. Section 20-5-403, MCA, is amended to read:

14 "20-5-403. Immunization required -- grace-period-for  
 15 transfers RELEASE AND ACCEPTANCE OF IMMUNIZATION RECORDS.

16 (1) The governing authority of any school OTHER THAN A  
 17 POSTSECONDARY SCHOOL may not allow any person to commence  
 18 attendance as a pupil unless the person:

19 (a) has been immunized against diphtheria, pertussis,  
 20 tetanus, poliomyelitis, rubella, mumps, and measles  
 21 (rubeola) in the manner and with immunizing agents approved  
 22 by the department, except that pertussis vaccination is not  
 23 required for a person 7 years of age or older;

24 (b) qualifies for conditional attendance; OR

25 (c) files for an exemption; or

1 (d) is a pupil transferring from another school  
 2 district, in which case the provisions of subsection (2)  
 3 apply;

4 (2) A person who transfers from one school district to  
 5 another has 30 calendar days after commencement of  
 6 attendance at the school to which he or she transfers to  
 7 either complete immunization as specified in subsection  
 8 (1)(a), commence immunization in the manner required by  
 9 20-5-404, or file for an exemption; if none of the foregoing  
 10 actions is taken within 30 days, the transfer pupil is  
 11 prohibited from further attendance until such an action is  
 12 taken.

13 (2) (A) THE GOVERNING AUTHORITY OF A POSTSECONDARY  
 14 SCHOOL MAY NOT ALLOW ANY PERSON TO COMMENCE ATTENDANCE AS A  
 15 PUPIL UNLESS THE PERSON:

16 (I) HAS BEEN IMMUNIZED AGAINST RUBELLA AND MEASLES  
 17 (RUBEOLA) IN THE MANNER AND WITH IMMUNIZING AGENTS APPROVED  
 18 BY THE DEPARTMENT; OR

19 (II) FILES FOR AN EXEMPTION.

20 (B) THE GOVERNING AUTHORITY OF A POSTSECONDARY SCHOOL  
 21 MAY IMPOSE IMMUNIZATION REQUIREMENTS AS A CONDITION OF  
 22 ATTENDANCE THAT ARE MORE STRINGENT THAN THOSE REQUIRED BY  
 23 [THIS ACT].

24 (3) A PUPIL WHO TRANSFERS FROM ONE SCHOOL DISTRICT TO  
 25 ANOTHER MAY PHOTOCOPY IMMUNIZATION RECORDS IN THE POSSESSION

1 OF THE SCHOOL OF ORIGIN. THE SCHOOL DISTRICT TO WHICH A  
 2 PUPIL TRANSFERS SHALL ACCEPT THE PHOTOCOPY AS EVIDENCE OF  
 3 IMMUNIZATION. WITHIN 30 DAYS AFTER A TRANSFERRING PUPIL  
 4 CEASES ATTENDANCE AT THE SCHOOL OF ORIGIN, THE SCHOOL SHALL  
 5 SEND THE ORIGINAL IMMUNIZATION RECORDS FOR THE PUPIL TO THE  
 6 SCHOOL DISTRICT TO WHICH THE PUPIL TRANSFERS."

7 Section 3. Section 20-5-404, HCA, is amended to read:

8 "20-5-404. Conditional attendance. The governing  
 9 authority of a school OTHER THAN A POSTSECONDARY SCHOOL may  
 10 allow the commencement of attendance in school by a person  
 11 who has not been immunized against each disease listed in  
 12 20-5-403 if that person has received one or more doses of  
 13 polio, measles (rubeola), mumps, rubella, diphtheria,  
 14 pertussis, and tetanus vaccine, except that pertussis  
 15 vaccine is not required for a person 7 year of age or  
 16 older."

17 Section 4. Section 20-5-405, HCA, is amended to read:

18 "~~20-5-405. Personal, religious, or medical~~ Medical OR  
 19 RELIGIOUS exemption. ~~{1} When a parent, guardian, or adult~~  
 20 ~~who has the responsibility for the care and custody of a~~  
 21 ~~minor seeking to attend school, or the person seeking to~~  
 22 ~~attend school, if an adult, signs and files with the~~  
 23 ~~governing authority a written statement on a form prescribed~~  
 24 ~~by the department stating that immunization is contrary to~~  
 25 ~~the personal or religious beliefs of the signer,~~

1 immunization of the person seeking to attend school may not  
 2 be required prior to commencement of attendance in any  
 3 school. The statement must be maintained as part of the  
 4 person's immunization records.

5 (1) WHEN A PARENT, GUARDIAN, OR ADULT WHO HAS THE  
 6 RESPONSIBILITY FOR THE CARE AND CUSTODY OF A MINOR SEEKING  
 7 TO ATTEND SCHOOL OR THE PERSON SEEKING TO ATTEND SCHOOL, IF  
 8 AN ADULT, SIGNS AND FILES WITH THE GOVERNING AUTHORITY,  
 9 PRIOR TO THE COMMENCEMENT OF ATTENDANCE EACH SCHOOL YEAR, A  
 10 NOTARIZED AFFIDAVIT ON A FORM PRESCRIBED BY THE DEPARTMENT  
 11 STATING THAT IMMUNIZATION IS CONTRARY TO THE RELIGIOUS  
 12 TENETS AND PRACTICES OF THE SIGNER, IMMUNIZATION OF THE  
 13 PERSON SEEKING TO ATTEND THE SCHOOL MAY NOT BE REQUIRED  
 14 PRIOR TO ATTENDANCE AT THE SCHOOL. THE STATEMENT MUST BE  
 15 MAINTAINED AS PART OF THE PERSON'S IMMUNIZATION RECORDS. A  
 16 PERSON WHO FALSELY CLAIMS A RELIGIOUS EXEMPTION IS SUBJECT  
 17 TO THE PENALTY FOR PERJURY FALSE SWEARING PROVIDED IN  
 18 45-7-291 45-7-202.

19 ~~{2}{1}~~ (2) When a parent, guardian, or adult who has  
 20 the responsibility for the care and custody of a minor  
 21 seeking to attend school, or the person seeking to attend  
 22 school, if an adult, files with the governing authority a  
 23 written statement signed by a physician licensed to practice  
 24 medicine in any jurisdiction of the United States or Canada  
 25 stating that the physical condition of the person seeking to

attend school or medical circumstances relating to him indicate that some or all of the required immunizations are not considered safe and indicating the specific nature and probable duration of the medical condition or circumstances which contraindicate immunization, he is exempt from the requirements of this part to the extent indicated by the physician's statement. The statement must be maintained as part of the person's immunization records.

~~(3)(2)~~(3) Whenever there is good cause to believe that a person for whom an exemption has been filed under this section has a disease or has been exposed to a disease listed in 20-5-403 or will as the result of school attendance be exposed to such disease, the person may be excluded from the school by the local health officer or the ~~local health~~ department until the excluding authority is satisfied that the person no longer risks contracting or transmitting that disease. ~~The--exclusion--period--may--not exceed--30--calendar--days--~~

SECTION 5. SECTION 20-5-408, MCA, IS AMENDED TO READ:

"20-5-408. Enforcement. (1) The governing authority of any school other than a postsecondary school shall prohibit from further attendance any pupil allowed to attend conditionally who has failed to obtain the immunizations required by 20-5-403(1) within time periods established by the department until that pupil has been immunized as

1 required by the department or unless that pupil has been  
2 exempted under 20-5-405.

3 (2) Each governing authority shall file a written  
4 report on the immunization status of all pupils under its  
5 jurisdiction with the department and the local health  
6 department at times and on forms prescribed by the  
7 department.

8 (3) The local and state health departments shall have  
9 access to all information relating to immunization of any  
10 pupil in any school."

11 NEW SECTION. Section 6. Extension of authority. Any  
12 existing authority to make rules on the subject of the  
13 provisions of [this act] is extended to the provisions of  
14 [this act].

15 NEW SECTION. Section 7. Severability. If a part of  
16 [this act] is invalid, all valid parts that are severable  
17 from the invalid part remain in effect. If a part of [this  
18 act] is invalid in one or more of its applications, the part  
19 remains in effect in all valid applications that are  
20 severable from the invalid applications.

21 NEW SECTION. Section 8. Effective date. [This act] is  
22 effective July 1, 1989.

-End-

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§ 15-803

juvenile institution after committing burglary to obtain money for drugs was not entitled to additional year of eligibility to play high school basketball. *Clay v. Arizona Interscholastic Ass'n, Inc.* (App.1988) 157 Ariz. 350, 757 P.2d 1059.

**§ 15-803. Immunizations for school attendance; rules and regulations; record; exclusion of children; violation; classification; definitions**

**A.** The department of health services shall adopt rules and regulations prescribing immunizations for school attendance and pertaining to the approved means of immunization and indicated reinforcing immunization for such diseases, including recommended optimum ages for administration of such immunizations.

**B.** Beginning with the 1981-1982 school year, prior to attending school in this state, the parent or guardian or person in loco parentis of a child shall submit to the school administrator an immunization record of such child if such a record has not previously been submitted to the school. Such record shall contain one of the following statements signed by such parent or guardian or person in loco parentis:

1. That the child has received the immunizations prescribed by the department of health services pursuant to this section.
2. That the physical condition of the child is such that such immunizations would seriously endanger the child's health.
3. That the child has not received such immunizations because the child is being reared as an adherent to a religion the teachings of which are opposed to such immunizations.
4. That the child has not received the necessary immunizations because the parent, guardian or person in loco parentis does not consent to the immunization of the child.
5. That the child's necessary immunizations will be initiated within fifteen days of the first day of school attendance and completed in accordance with this section.

**C.** A parent, guardian or person in loco parentis submitting a statement pursuant to subsection B, paragraph 5 shall within fifteen days of the child's first day of school attendance and thereafter submit records of the necessary immunizations prescribed by the department of health services pursuant to subsection A of this section.

**D.** A child is not entitled to attend school unless the parent, guardian or person in loco parentis has submitted one of the statements required pursuant to subsection B of this section.

**E.** The governing board may, after notice and hearing as provided in § 15-843, suspend or expel a child from school attendance if the parent, guardian or person in loco parentis has failed to submit one of the statements required pursuant to subsection B of this section.

F. In the section, unless the context otherwise requires:

1. "School" means any public school or any public preschool, headstart school or other public institution providing instructional or custodial care to children.

2. "School administrator" means the principal or person having general control and supervision of the school or his designee.

Added by Laws 1981, Ch. 1, § 2, eff. Jan. 23, 1981. Amended by Laws 1981, Ch. 283, § 1, eff. April 30, 1981.

**Repeal**

*This section is repealed by Laws 1990, Ch. 208, § 1, effective January 1, 1992*

**Historical and Statutory Notes**

**Source:**

- Laws 1912, Ch. 77, §§ 72, 85.
- Civ. Code 1913, §§ 2768, 2798.
- Laws 1925, Ch. 71, § 1.
- Rev. Code 1928, § 1030.
- Laws 1933, Ch. 65, § 2.
- Code 1939, § 54-502.
- A.R.S. former §§ 15-302, 15-341, 15-342, 15-343.
- Laws 1958, Ch. 21, § 1.
- Laws 1960, Ch. 127, § 17.
- Laws 1961, Ch. 14, § 1.
- Laws 1976, Ch. 127, § 1.
- Laws 1978, Ch. 93, § 1.
- Laws 1978, Ch. 178, § 1.
- Laws 1979, Ch. 3, § 2.
- Laws 1979, Ch. 83, §§ 1 to 3.
- Laws 1980, Ch. 195, § 1.

The 1981 amendment inserted "Beginning with the 1981-1982 school year," in the first

sentence of subsec. B; inserted a new par. 4, renumbered former par. 4 as par. 5; substituted "within fifteen days of" for "within sixty days of" in par. 5 of subsec. B; rewrote subsec. C. which had read:

"C. The governing board shall establish, with the advice of the county health department, a policy to provide for the exclusion from school of children having or suspected of having a communicable disease.;"

inserted new subsecs. D and E; and relettered former subsec. D as subsec. F.

Laws 1989, Ch. 258, § 1, effective June 21, 1989, relating to a review of issues related to the immunization of children as a condition of enrollment in school, was repealed on January 1, 1990, by § 2 of that act.

**Administrative Code References**

Department of health services, see A.C.R.R. 79-6-501.

**Library References**

- Schools 158(1).
- WESTLAW Topic No. 345.
- C.J.S. Schools and School Districts § 453.

**United States Supreme Court**

School desegregation. Annual readjustment of attendance zones, see Pasadena City Bd. of Ed. v. Spangler, 1976, 96 S.Ct. 2697, 427 U.S. 424, 49 L.Ed.2d 599, on remand 549 F.2d 733.

**Notes of Decisions**

- Exclusion of children 3
- Immunization histories 1
- Religious objections to immunization 4

**Sanctions, in general 2**

**1. Immunization histories**

Director of department of health services has adequate statutory authority to require by reg-

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**§ 15-805**

ulation that immunization histories be submitted to the county health officer. Op.Atty. Gen. No. 78-141.

tis of a child shall submit an immunization record of the child, did not authorize school districts to expel students on basis of the failure of their parents, guardians, or persons in loco parentis to comply with the requirements for providing the school with immunization records of their children. Op.Atty.Gen. No. 179-254.

**2. Sanctions, In general**

Sanction available to governing board is suspension or expulsion of child from school attendance, after notice and hearing, if the parent, guardian or person in loco parentis has failed to submit one of the statements required by this section relating to immunization records. Op.Atty.Gen. No. 187-041.

The absence of clear statutory sanctions precluded a school district from refusing to enroll a child for noncompliance with § 15-342 [repealed; now, this section] relating to conditions of school attendance. Id.

School administrator, to whom statements as to school child's immunizations were to be submitted under § 15-342 [repealed; see now, this section] relating to conditions of school attendance, was responsible for determining whether there had been compliance with a statement that a school child's immunizations would be completed within 60 days of the first day of school attendance in accordance with former section, but school administrator could not impose sanctions for failure to child's parent, guardian, or person in loco parentis to comply. Op.Atty.Gen. No. 180-131.

**3. Exclusion of children**

A school district may not exclude students who do not have proper immunization records pursuant to this section. Op.Atty.Gen. No. 187-041.

Former § 15-342 (see, now this section), stating, as a condition of school attendance, that parent, guardian, or person in loco paren-

**4. Religious objections to Immunization**

Parents may refuse, for religious reasons, to immunize their children against measles; however, under Arizona law, such unimmunized children may be excluded from school attendance during measles outbreaks. Op.Atty.Gen. No. 189-081.

**§ 15-804. Attendance officer; appointment; salary**

**A.** The governing board of a school district may appoint an attendance officer for the school district. The salary of the attendance officer shall be fixed by the governing board and paid from the funds of the school district.

**B.** If in the opinion of the governing boards of two or more school districts one officer will adequately serve such districts, such officer may be appointed by the districts jointly. His salary may be apportioned as the governing boards provide and shall be paid from the funds of the school districts.

Added by Laws 1981, Ch. 1, § 2, eff. Jan. 23, 1981.

**Historical and Statutory Notes**

Source:  
Laws 1921, Ch. 143, § 1.  
Rev. Code 1928, § 1035.

Laws 1933, Ch. 65, § 3.  
Code 1939, § 54-507.  
A.R.S. former § 15-324.

**Library References**

Schools ⇨161.  
WESTLAW Topic No. 345.

C.J.S. Schools and School Districts §§ 471 to 474.

**§ 15-805. Attendance officer; powers and duties**

**A.** The attendance officer shall enforce the law relating to:

**1.** School attendance of children between the ages of eight and sixteen years.

res:  
preschool, headstart  
or custodial care to  
person having general  
by Laws 1981, Ch. 283,

effective January

B; inserted a new par. 4,  
par. 4 as par. 5; substitut-  
days of" for "within sixty  
subsec. B; rewrote subsec.

ng board shall establish,  
the county health depart-  
provide for the exclusion  
ren having or suspected of  
able disease.";

s. D and E; and relettered  
subsec. F.

58, § 1, effective June 21,  
review of issues related to  
f children as a condition of  
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76, 96 S.Ct. 2697, 427 U.S.  
7, on remand 549 F.2d 733.

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## NOTES OF DECISIONS

The statutory scheme requiring immunization for all school-age children (Health & Saf. Code, §§ 3380-3390) does not extend a grant of immunity to vaccine manufacturers for products liability including strict liability in tort. Although a serious dilemma is created by legislation requiring mass inoculations when vaccines are not completely safe, immunizing manufacturers from liability is

not the only solution, since the market for vaccines can respond to liability by raising prices. There is nothing in the statutes, or in their legislative history, which can be read to require immunity for vaccine manufacturers. *Flood v Wyeth Laboratories, Inc.* (1986, 2d Dist) 183 Cal App 3d 1272, 228 Cal Rptr 700.

## § 3380. Legislative intent

In enacting this chapter, it is the intent of the Legislature to provide:

(a) A means for the eventual achievement of total immunization of appropriate age groups against diphtheria, pertussis, tetanus, poliomyelitis, measles, mumps, and rubella.

(b) That the persons required to be immunized be allowed to obtain immunizations from whatever medical source they so desire, subject only to the condition that the immunization be performed in accordance with the regulations of the State Department of Health Services and that a record of the immunization is made in accordance with such regulations.

(c) Exemptions from immunization for medical reasons or because of personal beliefs.

(d) For the keeping of adequate records of immunization so that health departments, schools, and other institutions, parents or guardians, and the persons immunized will be able to ascertain that a child is fully or only partially immunized, and so that appropriate public agencies will be able to ascertain the immunization needs of groups of children in schools or other institutions.

Added Stats 1977 ch 1176 § 2, effective September 30, 1977; Amended Stats 1978 ch 429 § 137.3, effective July 17, 1978, operative July 1, 1978; Stats 1979 ch 435 § 1.

Former Section: Former § 3380, similar to present §§ 3381, 3382, 3384 was added by Stats 1961 ch 837 § 1, amended by Stats 1st Ex Sess 1962 ch 26, Stats 1965 ch 86 § 1, ch 890 § 1, Stats 1968 ch 323 § 2, Stats 1971 ch 705 § 1, Stats 1973 ch 142 § 37, effective June 30, 1973, operative July 1, 1973, and repealed by Stats 1977 ch 1176 § 1, effective September 30, 1977.

## Amendments:

1978 Amendment: Substituted "State Department of Health Services" for "State Department of Health" in subd (b).

1979 Amendment: Substituted "measles, mumps, and rubella" for "and measles" in subd (a).

## Historical Derivation:

(a) Former § 3387, as added by Stats 1st Ex Sess 1962 ch 26 § 3, amended by Stats 1971 ch 1593 § 177.

(b) Former § 3407, as added by Stats 1967 ch 1021 § 1, amended by Stats 1971 ch 1593 § 179.

(c) Former § 3480, as added by Stats 1971 ch 833 § 1.

**Collateral References:**

Cal Jur 3d Health and Sanitation § 13.

**§ 3381. "Governing authority"; Immunization required for admission as pupil**

As used in this chapter, the term "governing authority" means the governing board of each school district or the authority of each other private or public institution responsible for the operation and control of the institution or the principal or administrator of each school or institution.

The governing authority shall not unconditionally admit any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, or development center, unless prior to his or her first admission to that institution he or she has been fully immunized against diphtheria, pertussis (whooping cough), tetanus, poliomyelitis, measles, mumps, and rubella in the manner and with immunizing agents approved by the state department, except that all students who have reached the age of seven shall not be required to be immunized against pertussis or mumps.

Persons already enrolled in California public or private schools at the kindergarten level or above as of January 1, 1980, shall be exempt from the rubella immunization requirement for school attendance until they transfer to, enter, or attend a school at the seventh and ninth grade levels. Students entering the ninth grade on or after February 1, 1985, need not be screened for rubella. Students entering the seventh grade on or after February 1, 1987, need not be screened for rubella.

Added Stats 1977 ch 1176 § 2, effective September 30, 1977. Amended Stats 1979 ch 435 § 2; Stats 1982 ch 472 § 1, effective July 10, 1982.

Former Section: Former § 3381, similar to present § 3387, was added by Stats 1961 ch 837 § 1, amended by Stats 1971 ch 705 § 2, and repealed by Stats 1977 ch 1176 § 1, effective September 30, 1977.

**Amendments:**

**1979 Amendment:** (1) Deleted "(a)" at the beginning of the section; (2) substituted "measles, mumps, and rubella" for "and measles" in the second paragraph; and (3) added the third paragraph.

**1982 Amendment:** (1) Added the exception in the second paragraph; and (2) amended the third paragraph by (a) substituting "immunization requirement for school attendance until they transfer to, enter, or attend a school at the seventh and ninth grade levels" for "and mumps immunization requirement for school entry"; and (b) adding the second and third sentences.

**Historical Derivation:**

(a) Former § 3380, as added by Stats 1961 ch 837 § 1, amended by Stats 1st Ex Sess ch 26, Stats 1965 ch 86 § 1, ch 890 § 1, Stats 1968 ch 323 § 2, Stats 1971 ch 705 § 1, Stats 1973 ch 142 § 37.

(b) Former § 3400, as added by Stats 1967 ch 1021 § 1, amended by Stats 1971 ch 705 § 6, Stats 1973 ch 142 § 38.

(c) Former § 3481, as added by Stats 1971 ch 833 § 1.

**§ 3382. Conditional admittance of persons not fully immunized against listed diseases**

A person who has not been fully immunized against one or more of the diseases listed in Section 3381 may be admitted by the governing authority on condition that within time periods designated by regulation of the state department he or she presents evidence that he or she has been fully immunized against all of these diseases.

Added Stats 1977 ch 1176 § 2, effective September 30, 1977.

**Former Section:** Former § 3382, similar to present §§ 3383, 3388, was added by Stats 1961 ch 827 § 1, amended by Stats 1971 ch 1593 § 176, operative July 1, 1973, and repealed by Stats 1977 ch 1176 § 1, effective September 30, 1977.

**Historical Derivation:**

(a) Former § 3380, as added by Stats 1961 ch 837 § 1, amended by Stats 1st Ex Sess 1962 ch 26, Stats 1965 ch 86 § 1, ch 890 § 1, Stats 1968 ch 323 § 2, Stats 1971 ch 705 § 1, Stats 1973 ch 142 § 37.

(b) Former § 3400, as added by Stats 1967 ch 1021 § 1, amended by Stats 1971 ch 705 § 6, Stats 1973 ch 142 § 38.

(c) Former § 3482, as added by Stats 1971 ch 833 § 1.

**§ 3383. Sources of immunizations; Records**

The immunizations required by this chapter may be obtained from any private or public source desired, providing that the immunization is administered and records are made in accordance with regulations of the state department.

Added Stats 1977 ch 1176 § 2, effective September 30, 1977.

**Former Section:** Former § 3383, similar to present § 3389, was added by Stats 1961 ch 837 § 1, amended by Stats 1971 ch 705 § 3, and repealed by Stats 1977 ch 1176 § 1, effective September 30, 1977.

**Historical Derivation:**

(a) Former § 3382, as added by Stats 1961 ch 827 § 1, amended by Stats 1971 ch 1593 § 176.

(b) Former § 3402, as added by Stats 1967 ch 1021 § 1, amended by Stats 1973 ch 142 § 38, Stats 1974 ch 545 § 47.

(c) Former § 3484, as added by Stats 1971 ch 833 § 1.

**§ 3384. Exceptions**

The requirements of this chapter shall not apply to any person 18 years of age or older, or to any person seeking admission to a community college.

Added Stats 1977 ch 1176 § 2, effective September 30, 1977.

**Former Section:** Former § 3384, similar to present § 3385, was added by Stats 1961 ch 837 § 1, amended by Stats 1st Ex Sess 1962 ch 26 § 2, Stats 1971 ch 705 § 4, and repealed by Stats 1977 ch 1176 § 1, effective September 30, 1977.

**Historical Derivation:**

(a) Former § 3380, as added by Stats 1961 ch 837 § 1, amended by Stats 1st Ex Sess 1962 ch 26, Stats 1965 ch 86 § 1, ch 890 § 1, Stats 1968 ch 323 § 2, Stats 1971 ch 705 § 1, Stats 1973 ch 142 § 37.

(b) Former § 3400, as added by Stats 1967 ch 1021 § 1, amended by Stats 1971 ch 705 § 6, Stats 1973 ch 142 § 38.

(c) Former § 3481, as added by Stats 1971 ch 833 § 1.

**Collateral References:**

Cal Jur 3d Health and Sanitation § 13.

**Annotations:**

Power of courts or other public agencies, in the absence of statutory authority, to order compulsory medical care for adult, 9 ALR3d 1391.

**§ 3385. Letter or affidavit stating beliefs opposed to immunization; Temporary exclusion from school**

Immunization of a person shall not be required for admission to a school or other institution listed in Section 3381 if the parent or guardian or adult who has assumed responsibility for his or her care and custody in the case of a minor, or the person seeking admission if an emancipated minor, files with the governing authority a letter or affidavit stating that such immunization is contrary to his or her beliefs. However, whenever there is good cause to believe that such person has been exposed to one of the communicable diseases listed in subdivision (a) of Section 3380, that person may be temporarily excluded from the school or institution until the local health officer is satisfied that the person is no longer at risk of developing the disease.

Added Stats 1977 ch 1176 § 2, effective September 30, 1977.

**Former Section:** Former § 3385, similar to present § 3386, was added by Stats 1961 ch 837 § 1, amended by Stats 1971 ch 705 § 5, and repealed by Stats 1977 ch 1176 § 1, effective September 30, 1977.

**Historical Derivation:**

(a) Former § 3384, as added by Stats 1961 ch 837 § 1, amended by Stats 1st Ex Sess 1962 ch 26 § 2, Stats 1971 ch 705 § 4.

(b) Former § 3404, as added by Stats 1967 ch 1021 § 1, amended by Stats 1971 ch 705 § 9.

(c) Former § 3486, as added by Stats 1971 ch 833 § 1.

**Collateral References:****Annotations:**

Power of court or other public agency to order medical treatment over parental religious objections for child whose life is not immediately endangered. 52 ALR3d 1118.

Power of court or other public agency to order medical treatment for child over parental objections not based on religious grounds. 97 ALR3d 421.

**§ 3386. Statement by physicians contraindicating immunization**

If the parent or guardian files with the governing authority a written statement by a licensed physician to the effect that the physical

condition of the child is such, or medical circumstances relating to the child are such, that immunization is not considered safe, indicating the specific nature and probable duration of the medical condition or circumstances which contraindicate immunization, such person shall be exempt from the requirements of this chapter to the extent indicated by the physician's statement.

Added Stats 1977 ch 1176 § 2, effective September 30, 1977.

Former Section: Former § 3386, similar to present § 3390, was added by Stats 1961 ch 837 § 1 and repealed by Stats 1977 ch 1176 § 1, effective September 30, 1977.

**Historical Derivation:**

- (a) Former § 3385, as added by Stats 1961 ch 837 § 1, amended by Stats 1971 ch 705 § 5.
- (b) Former § 3405, as added by Stats 1967 ch 1011 § 1, amended by Stats 1971 ch 705 § 10.
- (c) Former § 3485, as added by Stats 1971 ch 833 § 1.

**§ 3387. Record of immunization**

Any person or organization administering immunizations shall furnish each person immunized, or his or her parent or guardian, with a written record of immunization given in a form prescribed by the state department.

Added Stats 1977 ch 1176 § 2, effective September 30, 1977.

Former Section: Former § 3387, similar to present § 3380, was added by Stats 1st Ex Sess 1962 ch 26 § 3, amended by Stats 1971 ch 1593 § 177, operative July 1, 1973, and repealed by Stats 1977 ch 1176 § 1, effective September 30, 1977.

**Historical Derivation:**

- (a) Former § 3381, as added by Stats 1961 ch 837 § 1, amended by Stats 1971 ch 705 § 2.
- (b) Former § 3401, as added by Stats 1967 ch 1021 § 1, amended by Stats 1971 ch 705 § 7.
- (c) Former § 3483, as added by Stats 1971 ch 833 § 1.

**§ 3388. County health officer's immunization program; Recovery of cost**

The county health officer of each county shall organize and maintain a program to make immunizations available to all persons required by this chapter to be immunized. The county health officer shall also determine how the cost of such a program is to be recovered. To the extent that the cost to the county is in excess of that sum recovered from persons immunized, the cost shall be paid by the county in the same manner as other expenses of the county are paid.

Added Stats 1977 ch 1176 § 2, effective September 30, 1977.

**Historical Derivation:**

- (a) Former § 3382, as added by Stats 1961 ch 827 § 1, amended by Stats 1971 ch 1593 § 176.
- (b) Former § 3402, as added by Stats 1967 ch 1021 § 1, amended by Stats 1973 ch 142 § 38, Stats 1974 ch 545 § 47.
- (c) Former § 3487, as added by Stats 1971 ch 833 § 1.

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**§ 3389. Documentary proof of entrant's immunization status; Periodic review of record of entrant admitted conditionally; Prohibition from further attendance; Cooperation with county health officer**

(a) The governing authority of each school or institution included in Section 3381 shall require documentary proof of each entrant's immunization status. The governing authority shall record the immunizations of each new entrant in the entrant's permanent enrollment and scholarship record on a form provided by the state department. The immunization record of each new entrant admitted conditionally shall be reviewed periodically by the governing authority to ensure that within the time periods designated by regulation of the state department he or she has been fully immunized against all of the diseases listed in Section 3381, and such immunizations received subsequent to entry shall be added to the pupil's immunization record.

(b) The governing authority of each school or institution included in Section 3381 shall prohibit from further attendance any pupil admitted conditionally who failed to obtain the required immunizations within the time limits allowed in the regulations of the state department, unless the pupil is exempted under Section 3385 or 3386, until that pupil has been fully immunized against all of the diseases listed in Section 3381.

(c) The governing authority shall file a written report on the immunization status of new entrants to the school or institution under their jurisdiction with the state department and the local health department at times and on forms prescribed by the state department. As provided in paragraph (4) of subdivision (a) of Section 49076 of the Education Code, the local health department shall have access to the complete health information as it relates to immunization of each student in the schools or other institutions listed in Section 3381 in order to determine immunization deficiencies.

(d) The governing authority shall cooperate with the county health officer in carrying out programs for the immunization of persons applying for admission to any school or institution under its jurisdiction. The governing board of any school district may use funds, property, and personnel of the district for that purpose. The governing authority of any school or other institution may permit any licensed physician or any qualified registered nurse as provided in Section 2727.3 of the Business and Professions Code to administer immunizing agents to any person seeking admission to any school or institution under its jurisdiction.

Added Stats 1977 ch 1176 § 2, effective September 30, 1977.

**Historical Derivation:**

- (a) Former § 3383, as added by Stats 1961 ch 837 § 1, amended by Stats 1971 ch 705 § 3.
- (b) Former § 3403, as added by Stats 1967 ch 1021 § 1, amended by Stats 1971 ch 705 § 8.
- (c) Former § 3488, as added by Stats 1971 ch 833 § 1.

**25-4-804. Exceptions.** Nothing in the provisions of this part 8 shall be construed to require the testing or medical treatment for the minor child of any person who is a member of a well-recognized church or religious denomination and whose religious convictions in accordance with the tenets or principles of his church or religious denomination are against medical treatment for disease or physical defects.

Source: L. 65, p. 722, § 4; C.R.S. 1963, § 66-27-4.

Am. Jur.2d. See 39 Am. Jur.2d, Health, § 27.

PART 9

SCHOOL ENTRY IMMUNIZATION

Editor's note: The substantive provisions of this part 9 were repealed and reenacted in 1978, causing some addition, relocation, and elimination of sections as well as subject matter. (For an historical record of this article, check the cumulative table located in the front of this volume.)

**25-4-901. Definitions.** As used in this part 9, unless the context otherwise requires:

(1) "School" means a public, private, or parochial nursery school, day care center, child care facility, family care home, head start program, kindergarten, or elementary or secondary school through grade twelve.

Source: R & RE, L. 78, p. 427, § 1.

**25-4-902. Immunization prior to attending school.** Except as provided in section 25-4-903, no child shall attend any school in the state of Colorado on or after the dates specified in section 25-4-906 (4) unless such child can present to the appropriate official of the school a certificate of immunization from a licensed physician or authorized representative of the department of health or local health department stating that such child has received immunization against communicable diseases as specified by the state board of health or a written authorization signed by one parent or guardian or the emancipated child requesting that local health officials administer the immunizations or a plan signed by one parent or guardian or the emancipated child for receipt by the child of the required inoculation or the first or the next required of a series of inoculations within thirty days.

Source: R & RE, L. 78, p. 427, § 1.

Am. Jur.2d. See 68 Am. Jur.2d, Schools.

C.J.S. See 79 C.J.S., Schools and School Districts, § 453.

**25-4-903. Exceptions from immunization.** (1) A child who transfers into a school may enter school provisionally and shall have sixty days in which to submit a certificate of immunization. Any child for whom a certificate of immunization is not submitted within sixty days shall be suspended or expelled from school until a certificate of immunization is provided.

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See 39A C.J.S., Health and Environment, § 13.22.

- (2) A child shall be exempted from receiving the required immunizations:
- (a) Upon submitting certification from a licensed physician that the physical condition of the child is such that one or more specified immunizations would endanger his life or health;
  - (b) Upon submitting a statement signed by one parent or guardian or the emancipated child that the parent, guardian, or child is an adherent to a religious belief whose teachings are opposed to immunizations or that the parent or guardian or the emancipated child has a personal belief that is opposed to immunizations.
- (3) The state board of health may provide, by regulation, for further exemptions to immunization based upon sound medical practice.

Source: R & RE, L. 78, p. 428, § 1.

Am. Jur.2d. See 68 Am. Jur.2d, Schools,  
§ 231.

C.J.S. See 79 C.J.S., Schools and School  
Districts, § 453.

**25-4-904. Rules and regulations - immunization rules - rule-making authority of state board of health.** (1) The state board of health shall establish rules and regulations for administering this part 9. Such rules and regulations shall establish which immunizations shall be required and the manner and frequency of their administration and shall conform to recognized standard medical practices. Such rules and regulations may also require the reporting of statistical information and names of noncompliers by the schools. The department of health shall administer and enforce the immunization requirements.

(2) All rule-making authority granted to the state board of health under the provisions of this article is granted on the condition that the general assembly reserves the power to delete or rescind any rule of the board. All rules promulgated pursuant to this subsection (2) shall be subject to sections 24-4-103 (8) (c) and (8) (d) and 24-4-108, C.R.S.

Source: R & RE, L. 78, p. 428, § 1; L. 80, p. 788, § 23.

**25-4-905. Immunization of indigent children.** The local health department, a public health or school nurse (under the supervision of a licensed physician), or the department of health in the absence of a local health department or public health nurse shall provide, at public expense to the extent that funds are available, immunizations required by this part 9 to each child whose parents or guardians cannot afford to have the child immunized or, if emancipated, who cannot himself afford immunization and who has not been exempted. The department of health shall provide all vaccines necessary to comply with this section as far as funds will permit. Nothing in this section shall preclude the department of health from distributing vaccines to physicians or others as required by law or the regulations of the department. No indigent child shall be excluded, suspended, or expelled from school unless the immunizations have been available and readily accessible to the child at public expense.

Source: R & RE, L. 78, p. 428, § 1.

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**25-4-906. Certificate of immunization - forms.** (1) The department of health shall provide official certificate of immunization forms to the schools, private physicians, and local health departments. Any immunization record provided by a licensed physician, registered nurse, or public health official may be accepted by the school official as certification of immunization if the information is transferred to the official certificate of immunization and verified by the school official.

(2) Each school shall maintain on file an official certificate of immunization for every child enrolled as a student. The certificate shall be returned to the parent or guardian or the emancipated child when a child withdraws, transfers, is promoted, or otherwise leaves the school, or the school shall transfer the certificate with the child's school record to the new school.

(3) The department of health may examine, audit, and verify the records of immunizations maintained by each school.

(4) All children enrolled in any school in Colorado on and after August 15, 1979, shall furnish the required certificate of immunization or shall be suspended or expelled from school. Children enrolling in school in Colorado for the first time on and after July 1, 1978, shall provide a certificate of immunization or shall be excluded from school except as provided in section 25-4-903.

Source: R & RE, L. 78, p. 429, § 1.

Am. Jur.2d. See 68 Am. Jur.2d. Schools,  
 § 280.

C.J.S. See 79 C.J.S., Schools and School  
 Districts, § 453.

**25-4-907. Noncompliance.** The board of education of each school district shall suspend or expel from school, pursuant to the provisions of section 22-33-105, C.R.S., any child enrolled as a student not otherwise exempted under this part 9 who fails to comply with the provisions of this part 9. No child shall be suspended or expelled for failure to comply with the provisions of this part 9 unless there has been a direct personal notification by the appropriate school authority to the child's parent or guardian or to the emancipated child of the noncompliance with this part 9 and of their rights under sections 25-4-902 and 25-4-903. In the event of suspension or expulsion, school officials shall notify the state or local department of health. An agent of the department shall then contact the parent or guardian or the emancipated child in an effort to secure compliance with this part 9 in order that the child may be reenrolled in school.

Source: R & RE, L. 78, p. 429, § 1.

**25-4-908. When exemption from immunization not recognized.** If at any time there is, in the opinion of the state or local department of health, danger of an epidemic from any of the communicable diseases for which an immunization is required pursuant to the rules and regulations promulgated pursuant to section 25-4-904, no exemption or exception from immunization against such disease shall be recognized. Quarantine by the state or local department of health is hereby authorized as a legal alternative to immunization.

Source: R & RE, L. 78, p. 429, § 1.

Am. Jur.2d. See 68 Am. Jur.2d, Schools, § 231.

C.J.S. See 79 C.J.S., Schools and School Districts, § 453.

**25-4-909. Vaccine-related injury or death - limitations on liability.**

(1) The general assembly finds, determines, and declares that immunization of the population of this state is vital to the health of Colorado citizens and has demonstrated such finding by requiring such immunization pursuant to the provisions of sections 25-4-901 to 25-4-908.

(2) No person who administers a vaccine which is required under the provisions of this part 9 to an infant or child whose age is greater than twenty days shall be held liable for injuries sustained pursuant to such vaccine if:

(a) The vaccine was administered using generally accepted clinical methods;

(b) The vaccine was administered according to the schedule of immunization as published by the communicable disease control administration of the federal government; and

(c) There were no clinical symptoms nor clinical history present under which prudent health care professionals would not have administered such vaccine.

(3) An action shall not be maintained for a vaccine-related injury or death until action for compensation for such alleged injury has been exhausted under the terms of the "National Childhood Vaccine Injury Act of 1986", 42 U.S.C. section 300aa-10 to 300aa-33, as such law is from time to time amended.

(4) If the injury or death which is sustained does not fall within the parameters of the vaccine injury table as defined in 42 U.S.C. section 300aa-14, as enacted on November 14, 1986, a rebuttable presumption is established that the injury sustained or the death was not due to the administration of vaccine. Such presumption shall be overcome by a preponderance of the evidence.

Source: L. 88, p. 624, § 3.

Am. Jur.2d. See 39 Am. Jur.2d, Health, § 27; 68 Am. Jur.2d, Schools, § 277-280.

Law reviews. For article, "1988 Update on Colorado Tort Reform Legislation — Part I", see 17 Colo. Law, 1790 (1988).

## PART 10

### NEWBORN SCREENING AND GENETIC COUNSELING AND EDUCATION ACT

**25-4-1001. Short title.** This part 10 shall be known and may be cited as the "Newborn Screening and Genetic Counseling and Education Act".

Source: L. 81, p. 1300, § 1.

**25-4-1002. Legislative declaration.** (1) The general assembly hereby finds and declares that:

as provided for acquiring schoolhouse sites in the name and in behalf of such district, a suitable tract of land either within or without the limits of such district to be used for the purpose of instruction, experimentation, and demonstration in agriculture. The provisions of this section shall apply as well to districts organized under special acts as under the general laws, notwithstanding any provisions or restrictions in the laws under which the same are organized.

**History:** *Ex1959 c 71 art 4 s 30*

**123.65** [Repealed, 1980 c 609 art 6 s 48]

**123.66 RECORDS AS EVIDENCE.**

The records of all districts and boards and all transcripts thereof, or any part thereof, certified by the clerk or other officer having custody thereof, shall be prima facie evidence of the facts therein stated and all records, books, and papers of such district or board shall be subject to the inspection of any voter of the district.

**History:** *Ex1959 c 71 art 4 s 32*

**123.67 COUNTY ATTORNEY, DUTIES.**

When the boundaries of any district are coterminous with the boundaries of a county unless the board retains separate counsel, the county attorney may serve as attorney for the board without additional compensation from the district, but the board of county commissioners of such county may allow such additional compensation for legal services rendered to the board as the board of county commissioners deem proper.

**History:** *Ex1959 c 71 art 4 s 33*

**123.68** [Repealed, 1989 c 329 art 9 s 34]

**123.681 SALE AT AUCTION.**

Notwithstanding sections 123.37, subdivision 1, 471.345 or any other law, the board of a school district or of a cooperative center for vocational education may, in lieu of advertising for bids, sell at public auction to the highest responsible bidder a building constructed or to be constructed by a secondary or post-secondary school student or class as a school assignment. A board shall publish notice of a sale at least two weeks before the sale in the official newspaper of the district, or in the case of a cooperative center, in the official newspapers of each of the member districts, and may, at its discretion, publish additional notice in the official paper or elsewhere. A building may be withdrawn from sale prior to the completion of the sale unless the auction has been announced to be without reserve. If the sale is made at public auction, a duly licensed auctioneer shall be retained to conduct the sale. The auctioneer shall be paid from the proceeds of the sale or from any funds available to the board which are not otherwise restricted or encumbered.

**History:** *1979 c 110 s 1*

**123.69** [Expired]

**NOTE:** See also section 144.45.

**NOTE:** See Laws 1979, chapter 292, section 2.

**123.70 HEALTH STANDARDS; SCHOOL CHILDREN.**

Subdivision 1. Except as provided in subdivisions 3 and 4, no person over two months old may be allowed to enroll or remain enrolled in any elementary or secondary school or day care facility in this state until the person has submitted to the administrator or other person having general control and supervision of the school or day care facility, one of the following statements:

(1) a statement from a physician or a public clinic which provides immunizations stating that the person has received immunization, consistent with medically accept-

and in behalf of such district, and in behalf of such district to be used in demonstration in agriculture. The laws are organized under special acts or restrictions in the laws

inscriptions thereof, or any part of the custody thereof, shall be prima facie evidence, and books, and papers of such district, or of the district.

and with the boundaries of a county attorney may serve as a bond for the district, but the board of directors may provide for additional compensation for the district if the commissioners deem proper.

1.345 or any other law, the board of directors may, in the highest responsible bidder at a public auction for post-secondary school student, or in the case of a cooperative district, and may, at its option, or elsewhere. A building may be sold at public auction unless the auction has been held at public auction, a duly licensed auctioneer shall be paid from the proceeds of the sale which are not otherwise

and 4, no person over two years of age who is enrolled in an elementary or secondary school shall be admitted to the administration of the school or day care

which provides immunizations against diseases with medically accept-

able standards, against red measles after having attained the age of 12 months, rubella, diphtheria, tetanus, pertussis, polio, and mumps; or

(2) a statement from a physician or a public clinic which provides immunizations stating that the person has received immunizations against red measles after having attained the age of 12 months, rubella, and mumps and that the person has commenced a schedule of immunizations for diphtheria, tetanus, pertussis, and polio and which indicates the month and year of each immunization received.

Subd. 2. No person who has commenced a treatment schedule of immunization pursuant to subdivision 1, clause (2), may remain enrolled in any day care facility, elementary, or secondary school in this state after 18 months of enrollment unless there is submitted to the administrator, or other person having general control and supervision of the school or day care facility, a statement from a physician or a public clinic which provides immunizations that the person has completed the primary schedule of immunizations for diphtheria, tetanus, pertussis, and polio and in which the month and year of each additional immunization received is included. For a child less than seven years of age, a primary schedule of immunizations shall consist of four doses of vaccine for diphtheria, tetanus, and pertussis and three doses of vaccine for poliomyelitis. For a child seven years of age or older, a primary schedule of immunizations shall consist of three doses of vaccine for diphtheria, tetanus, and polio.

Subd. 3. (a) If a person is at least seven years old and has not been immunized against pertussis, the person must not be required to be immunized against pertussis.

(b) If a person is at least 18 years old and has not completed a series of immunizations against poliomyelitis, the person must not be required to be immunized against poliomyelitis.

(c) If a statement, signed by a physician, is submitted to the administrator or other person having general control and supervision of the school or day care facility stating that an immunization is contraindicated for medical reasons or that laboratory confirmation of the presence of adequate immunity exists, the immunization specified in the statement need not be required.

(d) If a notarized statement signed by the minor child's parent or guardian or by the emancipated person is submitted to the administrator or other person having general control and supervision of the school or day care facility stating that the person has not been immunized as prescribed in subdivision 1 because of the conscientiously held beliefs of the parent or guardian of the minor child or of the emancipated person, the immunizations specified in the statement shall not be required. This statement must also be forwarded to the commissioner of the department of health.

(e) If the person is under 15 months, the person is not required to be immunized against red measles, rubella, or mumps.

Subd. 4. A person who is enrolling or enrolled in an elementary or secondary school or day care facility may substitute a statement from the emancipated person or a parent or guardian if the person is a minor child in lieu of the statement from a physician or public clinic which provides immunizations. If the statement is from a parent or guardian or emancipated person, the statement shall indicate the month and year of each immunization given. In order for the statement to be acceptable for a person who is six years of age or younger, enrolling in an elementary school or day care facility, it must indicate that the following was given: no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination, and no less than four doses of vaccine for poliomyelitis, unless the third dose was given after the fourth birthday, then three doses are minimum, and no less than five doses of vaccine for diphtheria, tetanus, and pertussis, unless the fourth dose was given after the fourth birthday, then four are minimum. In order for the statement to be acceptable for a person who is seven years of age or older, enrolling in an elementary or secondary school, the statement must indicate no less than one dose of vaccine each for measles, mumps, and rubella given separately or in combination, and no less than three doses of vaccine for poliomyelitis, diphtheria, and tetanus. The commissioner of health, on finding that any of the above requirements are not necessary to protect the public's health, may suspend for one year that requirement.

Subd. 5. If a person transfers from one elementary or secondary school to another, the person shall be allowed 30 days to submit one or more of the statements as specified in subdivision 1 or 3, during which time the person may enroll in and attend the school.

Subd. 6. The commissioner of health, on finding that an immunization required pursuant to this section is not necessary to protect the public's health, may suspend for one year the requirement that children receive that immunization.

Subd. 7. Each school or day care facility shall maintain on file immunization records for all persons in attendance that contain the information required by subdivisions 1, 2, and 3. The department of health and the board of health, as defined in section 145A.02, subdivision 2, in whose jurisdiction the school or day care facility is located, shall have access to the files maintained pursuant to this subdivision. When a person transfers to another elementary or secondary school or day care facility, the administrator or other person having general control and supervision of the school or day care facility shall assist the person's parent or guardian in the transfer of the immunization file to the person's new school or day care facility within 30 days of the transfer. Upon the request of a public or private post-secondary educational institution, as defined in section 135A.14, the administrator or other person having general control or supervision of a school shall assist in the transfer of a student's immunization file to the post-secondary institution.

Subd. 8. The administrator or other person having general control and supervision of the elementary or secondary school shall file a report with the commissioner of education on all persons enrolled in the school, except that the superintendent of each school district shall file a report with the commissioner of education for all persons within the district receiving instruction in a home school in compliance with sections 120.101 and 120.102. The parent of persons receiving instruction in a home school shall submit the statements as required by subdivisions 1, 2, and 4 to the superintendent of the school district in which the person resides by October 1 of each school year. The school report shall be prepared on forms developed jointly by the commissioner of health and the commissioner of education and be distributed to the local school districts by the commissioner of health and shall state the number of persons attending the school, the number of persons who have not been immunized according to subdivision 1 or 2, and the number of persons who received an exemption under subdivision 3, clause (c) or (d). The school report shall be filed with the commissioner of education within 60 days of the commencement of each new school term. The commissioner of education shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The administrator or other person having general control and supervision of the day care facility shall file a report with the commissioner of human services on all persons enrolled in the day care facility. The day care facility report must be prepared on forms developed jointly by the commissioner of health and the commissioner of human services and be distributed to day care facilities by the commissioner of health and must state the number of persons enrolled in the facility, the number of persons with no immunizations, the number of persons who received an exemption under subdivision 3, clause (c) or (d), and the number of persons with partial or full immunization histories. The day care facility report shall be filed with the commissioner of human services by November 1 of each year. The commissioner of human services shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The report required by this subdivision is not required of a family day care or group family day care facility.

Subd. 9. As used in this section the following terms have the meanings given them.

(a) "Elementary or secondary school" includes any public school as defined in section 120.05, or nonpublic school, church, or religious organization, or home school in which a child is provided instruction in compliance with sections 120.101 and 120.102.

(b) "Person enrolled in any elementary or secondary school" means a person enrolled in grades kindergarten through 12 and a handicapped child receiving special

instruction and services as required in section 120.17, excluding a child being provided services according to section 120.17, subdivision 2, clause (c) or (g).

(c) "Family day care" means day care for no more than ten children at one time of which no more than six are under school age. The licensed capacity must include all children of any caregiver when the children are present in the residence.

(d) "Group family day care" means day care for no more than 14 children at any one time. The total number of children includes all children of any caregiver when the children are present in the residence.

Subd. 10. A statement required to be submitted under subdivisions 1, 2, and 4 to document evidence of immunization shall include month, day, and year for immunizations administered after January 1, 1990.

*History: 1967 c 858 s 1,2; 1973 c 137 s 1-3; 1977 c 305 s 45; 1978 c 758 s 1; 1980 c 504 s 1; 1986 c 444; 1987 c 309 s 24; 1988 c 430 s 1-8; 1989 c 215 s 1-7*

## EARLY CHILDHOOD HEALTH AND DEVELOPMENTAL SCREENING

### 123.701 PURPOSE.

The legislature finds that early detection of children's health and developmental problems can reduce their later need for costly care, minimize their physical and educational handicaps, and aid in their rehabilitation. The purpose of sections 123.701 to 123.705 is to assist parents and communities in improving the health of Minnesota children and in planning educational and health programs.

*History: 1977 c 437 s 1*

### 123.702 SCHOOL BOARD RESPONSIBILITIES.

Subdivision 1. Every school board shall provide for a voluntary program of early childhood health and developmental screening for children once before entering kindergarten. This screening program shall be established either by one board, by two or more boards acting in cooperation, by educational cooperative service units, by early childhood family education programs, or by other existing programs. No school board may make this screening examination a mandatory prerequisite to enroll a student. The school districts are encouraged to reduce the costs of preschool health screening programs by utilizing volunteers in implementing the program.

Subd. 1a. **Components.** A screening program shall include at least the following components to the extent the school board determines they are financially feasible: developmental assessments, hearing and vision screening, review of health history and immunization status, and assessments of height and weight. All screening components shall be consistent with the standards of the state commissioner of health for early and periodic screening programs. No child shall be required to submit to any component of this screening program to be eligible for any other component. No screening program shall provide laboratory tests, a health history or a physical examination to any child who has been provided with those laboratory tests or a health history or physical examination within the previous 12 months. The school district shall request the results of any laboratory test, health history or physical examination within the 12 months preceding a scheduled screening clinic. A school board may offer additional components such as nutritional, physical and dental assessments, blood pressure, and laboratory tests. State aid shall not be paid for additional components.

Subd. 2. If any child's screening indicates a condition which requires diagnosis or treatment, the child's parents shall be notified of the condition and the school board shall ensure that an appropriate follow-up and referral process is available, in accordance with procedures established pursuant to section 123.703, subdivision 1.

Subd. 3. The school board shall actively encourage participation in the screening program.

Subd. 4. Every school board shall contract with or purchase service from an approved early and periodic screening program in the area wherever possible.

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opia or other visual defects. As used in this section, "division" means the Division of Services for the Visually Handicapped, State Office of Education; or

(b) a written statement signed by at least one parent or legal guardian of the child that the screening violates the personal beliefs of the parent or legal guardian.

(2) The division shall provide vision screening report forms to persons approved by the division to conduct the screening.

(3) Each school district may conduct free vision screening clinics for children aged 3½ to seven.

(4) The division shall maintain a central register of children, aged 3½ to seven, who fail vision screening and who are referred for follow-up treatment. The register shall include the name of the child, age or birthdate, address, cause for referral, and follow-up results. Each school district shall report referral follow-up results to the division.

(5) The division shall coordinate and supervise the training of persons who serve as vision screeners.

(6) A licensed health professional providing vision care to private patients may not participate as a screener in free vision screening programs provided by school districts.

(7) The Department of Health shall, by rule, set standards and procedures for vision screening required by this chapter, and shall provide the division with copies of rules, standards, instructions, and test charts necessary for conducting vision screening.

(8) The division shall supervise screening, referral, and follow-up required by this chapter.

History: C. 1953, 53A-11-203, enacted by L. 1988, ch. 2, § 153.

Effective Dates. — Laws 1988, ch. 2, § 347 makes the act effective on February 2, 1988.

Cross-References. — Utah Division of Services for the Visually Handicapped, § 53A-26-101.

PART 3

IMMUNIZATION OF STUDENTS

53A-11-301. Certificate of immunization required.

Unless exempted for personal, medical, or religious objections as provided in Section 53A-11-302, a student may not attend a public, private, or parochial kindergarten, elementary, or secondary school through grade 12, nursery school, licensed day care center, child care facility, family care home, or headstart program in this state unless there is presented to the appropriate official of the school a certificate of immunization from a licensed physician or authorized representative of the state or local health department stating that the student has received immunization against communicable diseases as required by rules adopted under Section 53A-11-303.

History: C. 1953, 53A-11-301, enacted by L. 1988, ch. 2, § 154.

Effective Dates. — Laws 1988, ch. 2, § 347 makes the act effective on February 2, 1988.

Cross-References. — Powers and duties of

local health department as to schools, § 26-24-24.

State Department of Health, Chapter 1 of Title 26.

### 53A-11-302. Conditional enrollment of move-ins and transfers — Grounds for exemption from required immunizations.

(1) A student may enter school without a certificate of immunization under a conditional enrollment if the student moves to Utah or transfers within the state within 30 days prior to entry into a school, but may not continue to attend unless a certificate of immunization is presented within 30 days after entry.

(2) A student who, at the time of school enrollment, has not been completely immunized against each specified disease may attend school under a conditional enrollment provided the student has received one dose of each specified vaccine prior to enrollment.

(3) A student is exempt from receiving the required immunizations if there is presented to the appropriate official of the school one or more of the following:

(a) a certificate from a licensed physician that the physical condition of the student is such that one or more specified immunizations would endanger the student's life or health;

(b) a statement signed by one of the following persons that the individual has a personal belief opposed to immunizations; or that the person is a bona fide member of a specified, recognized religious organization whose teachings are contrary to immunizations:

(i) one of the student's parents;

(ii) the student's guardian;

(iii) a legal age brother or sister of a student who has no parent or guardian; or

(iv) the student, if of legal age.

History: C. 1953, 53A-11-302, enacted by L. 1988, ch. 2, § 155.

Effective Dates. — Laws 1988, ch. 2, § 347 makes the act effective on February 2, 1988.

Cross-References. — Period of minority, § 15-2-1.

#### COLLATERAL REFERENCES

Am. Jur. 2d. — 39 Am. Jur. 2d Health § 27.  
C.J.S. — 39A C.J.S. Health and Environment § 22.

Key Numbers. — Health and Environment ⇄ 25.

### 53A-11-303. Regulations of department.

(1) The Department of Health shall adopt rules to establish which immunizations are required and the manner and frequency of their administration.

(2) The rules adopted shall conform to recognized standard medical practices.

(3) The rules shall require the reporting of statistical information and names of noncompliers by the schools.

History: C. 1953, 53A-11-303, enacted by L. 1988, ch. 2, § 156.

Effective Dates. — Laws 1988, ch. 2, § 347 makes the act effective on February 2, 1988.

**53A-11-304. Certificate part of student's record — Forms for certificates — Transfer of immunization record to official certificate.**

(1) Each school shall retain official certificates of immunization for every enrolled student. The certificate becomes a part of the individual student's permanent school record and follows the student through his or her public or private school career.

(2) The Department of Health shall provide official certificate of immunization forms to public and private schools, physicians, and local health departments. The forms referred to in this subsection shall include a clear statement of the student's rights under Section 53A-11-302.

(3) Any immunization record provided by a licensed physician, registered nurse, or public health official may be accepted by a school official as a certificate of immunization if the type of immunization given and the dates given are specified and the information is transferred to an official certificate of immunization and verified by the school district in which the public or private school is located.

**History:** C. 1953, 53A-11-304, enacted by L. 1988, ch. 2, § 157.

**Effective Dates.** — Laws 1988, ch. 2, § 347 makes the act effective on February 2, 1988.

**53A-11-305. Immunization by local health departments — Fees.**

(1) If a student has not been immunized against a disease specified by the Department of Health, he may be immunized by the local health department upon the request of his parent or guardian, or upon the student's request if he is of legal age. The local health department may charge a fee to cover the cost of administration of the vaccine.

(2) The vaccine necessary for immunizations required under Sections 53A-11-301 and 53A-11-303 shall be furnished to local departments of health by the Department of Health. The Department of Health may recover all or part of the cost of vaccines purchased with state funds by charging local health departments a fee for those vaccines. Local health departments may pass the cost of the vaccine on to the student, his parent or guardian, or other responsible party. However, a child may not be refused immunizations by the local health department in his area of residence because of inability to pay.

(3) The Department of Health shall establish the fee for administration of vaccines, as provided by Subsection (1), and shall establish fees for vaccines.

**History:** C. 1953, 53A-11-305, enacted by L. 1988, ch. 2, § 158; 1988, ch. 202, § 1.

**Amendment Notes.** — The 1988 amendment, effective April 25, 1988, deleted "without cost for the vaccine" following "immunized" in the first sentence of Subsection (1); substituted "vaccine" for "biologicals" in the

first sentence of Subsection (2); and added the second, third, and fourth sentences in Subsection (2) and Subsection (3).

**Effective Dates.** — Laws 1988, ch. 2, § 347 makes the act effective on February 2, 1988.

**Cross-References.** — Local health departments, Chapter 24 of Title 26.

### 53A-11-306. Conditional enrollment — Suspension for noncompliance — Procedure.

(1) Conditional enrollment time periods may be modified by the department by legally adopted rules.

(2) The requirements for conditional enrollment shall apply to each student unless that student is exempted under Section 53A-11-302.

(3) After five days written notice of a pending suspension and of the student's rights under Section 53A-11-302 shall be mailed to the last-known address of a parent, guardian, or legal age brother or sister of a student who is without parent or guardian, the governing authority of any school shall prohibit further attendance by a student under a conditional enrollment who has failed to obtain the immunization required within time period set forth in Section 53A-11-302 or otherwise established by rule.

(4) Parents or guardians of children who are prohibited from attending school for failure to comply with the provisions of this part shall be referred to the juvenile court.

History: C. 1953, 53A-11-306, enacted by L. 1988, ch. 2, § 159.

Effective Dates. — Laws 1988, ch. 2, § 347 makes the act effective on February 2, 1988.

Cross-References. — Juvenile courts, Chapter 3a of Title 78.

Period of minority, § 15-2-1.

## PART 4

### REPORTING OF PROHIBITED ACTS

#### 53A-11-401. Definitions.

For purposes of Sections 53A-11-301 through 53A-11-304 [53A-11-402 through 53A-11-404]:

(1) "Educator" means a person employed by a public school, but excludes those employed by institutions of higher education.

(2) "Prohibited act" means an act prohibited by Section 53A-3-501, relating to alcohol; Section 58-37-8, relating to controlled substances; or Section 58-37a-5, relating to drug paraphernalia.

History: C. 1953, 53A-11-401, enacted by L. 1988, ch. 2, § 160.

Effective Dates. — Laws 1988, ch. 2, § 347 makes the act effective on February 2, 1988.

Compiler's Notes. — The reference to

§§ 53A-11-301 to 53A-11-304 in the introductory language seems incorrect. Those sections deal with immunization of students. Sections 53A-11-402 to 53A-11-404 deal with reporting of prohibited acts.

#### 53A-11-402. Mandatory reporting of prohibited acts.

If an educator has reasonable cause to believe that a student at the public school where the educator is employed has committed a prohibited act, he shall immediately report that to the school's designated educator.

History: C. 1953, 53A-11-402, enacted by L. 1988, ch. 2, § 161.

Effective Dates. — Laws 1988, ch. 2, § 347 makes the act effective on February 2, 1988.

Legislative Reference Library  
P.O. BOX 1

28A.210.070

COMMON SCHOOL PROVISIONS

(3) "Local health department" shall mean the city, town, county, district or combined city-county health department, board of health, or health officer which provides public health services.

(4) "School" shall mean and include each building, facility, and location at or within which any or all portions of a preschool, kindergarten and grades one through twelve program of education and related activities are conducted for two or more children by or in behalf of any public school district and by or in behalf of any private school or private institution subject to approval by the state board of education pursuant to RCW 28A.305.130(6), 28A.195.010 through 28A.195.050, and 28A.410.120.

(5) "Day care center" shall mean an agency which regularly provides care for a group of thirteen or more children for periods of less than twenty-four hours and is licensed pursuant to chapter 74.15 RCW.

(6) "Child" shall mean any person, regardless of age, in attendance at a public or private school or a licensed day care center.

Formerly § 28A.31.102, enacted by Laws 1979, Ex.Sess., ch. 118, § 2, eff. Sept. 1, 1979. Amended by Laws 1984, ch. 40, § 4; Laws 1985, ch. 49, § 2, eff. April 17, 1985. Recodified as § 28A.210.070 and amended by Laws 1990, ch. 33, §§ 4, 191.

Historical and Statutory Notes

1984 Amendment. In the introductory phrase and in subsec. (1), substituted "through 28A.31.120" for "through 28A.31.122".

1985 Amendment. Added subsec. (6) defining "Child".

1990 Legislation

Laws 1990, ch. 33, § 191, changed internal references to correspond with recodification.

Severability—Laws 1984, ch. 40: See Historical Note following § 28A.195.050.

28A.210.080. Immunization program—Attendance of child conditioned upon presentation of alternative proofs

The attendance of every child at every public and private school in the state and licensed day care center shall be conditioned upon the presentation before or on each child's first day of attendance at a particular school or center, of proof of either (1) full immunization, (2) the initiation of and compliance with a schedule of immunization, as required by rules of the state board of health, or (3) a certificate of exemption as provided for in RCW 28A.210.090. The attendance at the school or the day care center during any subsequent school year of a child who has initiated a schedule of immunization shall be conditioned upon the presentation of proof of compliance with the schedule on the child's first day of attendance during the subsequent school year. Once proof of full immunization or proof of completion of an approved schedule has been presented, no further proof shall be required as a condition to attendance at the particular school or center.

Formerly § 28A.31.104, enacted by Laws 1979, Ex.Sess., ch. 118, § 3, eff. Sept. 1, 1979. Amended by Laws 1985, ch. 49, § 1, eff. April 17, 1985. Recodified as § 28A.210.080 and amended by Laws 1990, ch. 33, §§ 4, 192.

Historical and Statutory Notes

1985 Amendment. In the first sentence, following "shall be conditioned upon the presentation" substituted "before or on" for "within forty-five days of".

1990 Legislation

Laws 1990, ch. 33, § 192, changed internal references to correspond with recodification.

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28A.210.090

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## 28A.210.110

## COMMON SCHOOL PROVISIONS

### 28A.210.110. Immunization program—Administrator's duties upon receipt of proof of immunization or certification of exemption

A child's proof of immunization or certification of exemption shall be presented to the chief administrator of the public or private school or day care center or to his or her designee for that purpose. The chief administrator shall:

(1) Retain such records pertaining to each child at the school or day care center for at least the period the child is enrolled in the school or attends such center;

(2) Retain a record at the school or day care center of the name, address, and date of exclusion of each child excluded from school or the center pursuant to RCW 28A.210.120 for not less than three years following the date of a child's exclusion;

(3) File a written annual report with the department of social and health services on the immunization status of students or children attending the day care center at a time and on forms prescribed by the department of social and health services; and

(4) Allow agents of state and local health departments access to the records retained in accordance with this section during business hours for the purposes of inspection and copying.

Formerly § 28A.31.112, enacted by Laws 1979, Ex.Sess., ch. 118, § 7, eff. Sept. 1, 1979. Recodified as § 28A.210.110 and amended by Laws 1990, ch. 33, §§ 4, 15.

#### Historical and Statutory Notes

##### 1990 Legislation

Laws 1990, ch. 33, § 195, changed internal references to correspond with recodification.

#### Notes of Decisions

*For basic development, see Notes of Decisions under § 28A.31.112 in main volume*

### 28A.210.120. Immunization program—Prohibiting child's presence, when—Notice to parent, guardian or adult in loco parentis, contents

It shall be the duty of the chief administrator of every public and private school and day care center to prohibit the further presence at the school or day care center for any and all purposes of each child for whom proof of immunization, certification of exemption, or proof of compliance with an approved schedule of immunization has not been provided in accordance with RCW 28A.210.080 and to continue to prohibit the child's presence until such proof of immunization, certification of exemption, or approved schedule has been provided. The exclusion of a child from a school shall be accomplished in accordance with rules of the state board of education. The exclusion of a child from a day care center shall be accomplished in accordance with rules of the department of social and health services. Prior to the exclusion of a child, each school or day care center shall provide written notice to the parent(s) or legal guardian(s) of each child or to the adult(s) in loco parentis to each child, who is not in compliance with the requirements of RCW 28A.210.080. The notice shall fully inform such person(s) of the following: (1) The requirements established by and pursuant to RCW 28A.210.060 through 28A.210.170; (2) the fact that the child will be prohibited from further attendance at the school unless RCW 28A.210.080 is complied with; (3) such procedural due process rights as are hereafter established pursuant to RCW 28A.210.160 and/or 28A.210.170, as

## COMMON SCHOOL

appropriate; and (4) through the local health department.

Formerly § 28A.31.114, enacted by Laws 1979. Amended by Laws 1985. Recodified as § 28A.210.110.

#### Historical and Statutory Notes

1984 Amendment. In the last sentence, substituted "28A.31.120" for "through the local health department."

1985 Amendment. Added the first sentence, deleted the second sentence, and, in the fourth sentence, substituted "Prior to the exclusion of a child from school or day care center, each school or day care center shall provide" for "from the local health department."

### 28A.210.130. Immunization program—Structure

The superintendent of public instruction shall submit a report about the immunization program to the state board of education through 28A.210.060 through 28A.210.170 in order to promote the health of the state in order to promote the health of the state.

Formerly § 28A.31.115, enacted by Laws 1979. Recodified as § 28A.210.130.

#### Historical and Statutory Notes

##### 1990 Legislation

Laws 1990, ch. 33, § 195, changed internal references to correspond with recodification.

### 28A.210.140. Immunization program—Contents

The state board of health shall adopt rules pursuant to chapter 340A RCW that establish substantive requirements for the issuance of the proof through 28A.210.170.

Formerly § 28A.31.116, enacted by Laws 1979. Amended by Laws 1990, ch. 33, § 195.

#### Historical and Statutory Notes

1984 Amendment. At the end of the first sentence, substituted "28A.31.120" for "through the local health department."

##### 1990 Legislation

Laws 1990, ch. 33, § 195, changed internal references to correspond with recodification.

## COMMON SCHOOL PROVISIONS

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state and local health departments access to the  
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ion and copying.

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A.210.110 and amended by Laws 1990, ch. 33, §§ 4, 195.

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Notes of Decisions

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*For basic development, see Notes  
of Decisions under § 28A.31.112 in  
main volume*

ation program—Prohibiting child's presence,  
-Notice to parent, guardian or adult in loco par-  
-contents

the chief administrator of every public and private  
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and all purposes of each child for whom proof of  
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The exclusion of a child from a school shall be  
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0 through 28A.210.170; (2) the fact that the child  
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with; (3) such procedural due process rights as are  
rsuant to RCW 28A.210.160 and/or 28A.210.170, as

## COMMON SCHOOL PROVISIONS

28A.210.140

appropriate; and (4) the immunization services that are available from or  
through the local health department and other public agencies.

Formerly § 28A.31.114, enacted by Laws 1979, Ex.Sess., ch. 118, § 8, eff. Sept. 1,  
1979. Amended by Laws 1984, ch. 40, § 8; Laws 1985, ch. 49, § 3, eff. April 17,  
1985. Recodified as § 28A.210.120 and amended by Laws 1990, ch. 33, §§ 4, 196.

### Historical and Statutory Notes

1984 Amendment. In subd. (1) of the  
last sentence, substituted "through  
28A.31.120" for "through 28A.31.122".

1985 Amendment. At the beginning  
of the first sentence, deleted "Upon noti-  
fication by the local health department,";  
and, in the fourth sentence, following  
"Prior to the exclusion of a child" substi-  
tuted ", each school or day care center  
shall provide" for "from a school or day

care center each local health department  
shall provide".

### 1990 Legislation

Laws 1990, ch. 33, § 196, changed in-  
ternal references to correspond with re-  
codification.

Severability—Laws 1984, ch. 40: See  
Historical Note following § 28A.195.050.

### Administrative Code References

In general, see WAC 248-100-163 et  
seq.

28A.210.130. Immunization program—Superintendent of public in-  
struction to provide information

The superintendent of public instruction shall provide for information  
about the immunization program and requirements under RCW  
28A.210.060 through 28A.210.170 to be widely available throughout the  
state in order to promote full use of the program.

Formerly § 28A.31.115, enacted by Laws 1985, ch. 49, § 4, eff. April 17, 1985.  
Recodified as § 28A.210.130 and amended by Laws 1990, ch. 33, §§ 4, 197.

### Historical and Statutory Notes

#### 1990 Legislation

Laws 1990, ch. 33, § 197, changed in-  
ternal references to correspond with re-  
codification.

28A.210.140. Immunization program—State board of health rules, con-  
tents

The state board of health shall adopt and is hereby empowered to adopt  
rules pursuant to chapter 34.05 RCW which establish the procedural and  
substantive requirements for full immunization and the form and sub-  
stance of the proof thereof, to be required pursuant to RCW 28A.210.060  
through 28A.210.170.

Formerly § 28A.31.116, enacted by Laws 1979, Ex.Sess., ch. 118, § 9, eff. Sept. 1,  
1979. Amended by Laws 1984, ch. 40, § 9. Recodified as § 28A.210.140 and  
amended by Laws 1990, ch. 33, §§ 4, 198.

### Historical and Statutory Notes

1984 Amendment. At the end of the  
section, substituted "through  
28A.31.120" for "through 28A.31.122".

#### 1990 Legislation

Laws 1990, ch. 33, § 198, changed in-  
ternal references to correspond with re-  
codification.

Severability—Laws 1984, ch. 40: See  
Historical Note following § 28A.195.050.



# State Immunization Requirements

1989-1990

U.S. Department of Health and Human Services  
Public Health Service  
Centers for Disease Control  
Center for Prevention Services  
Division of Immunization

August 1989

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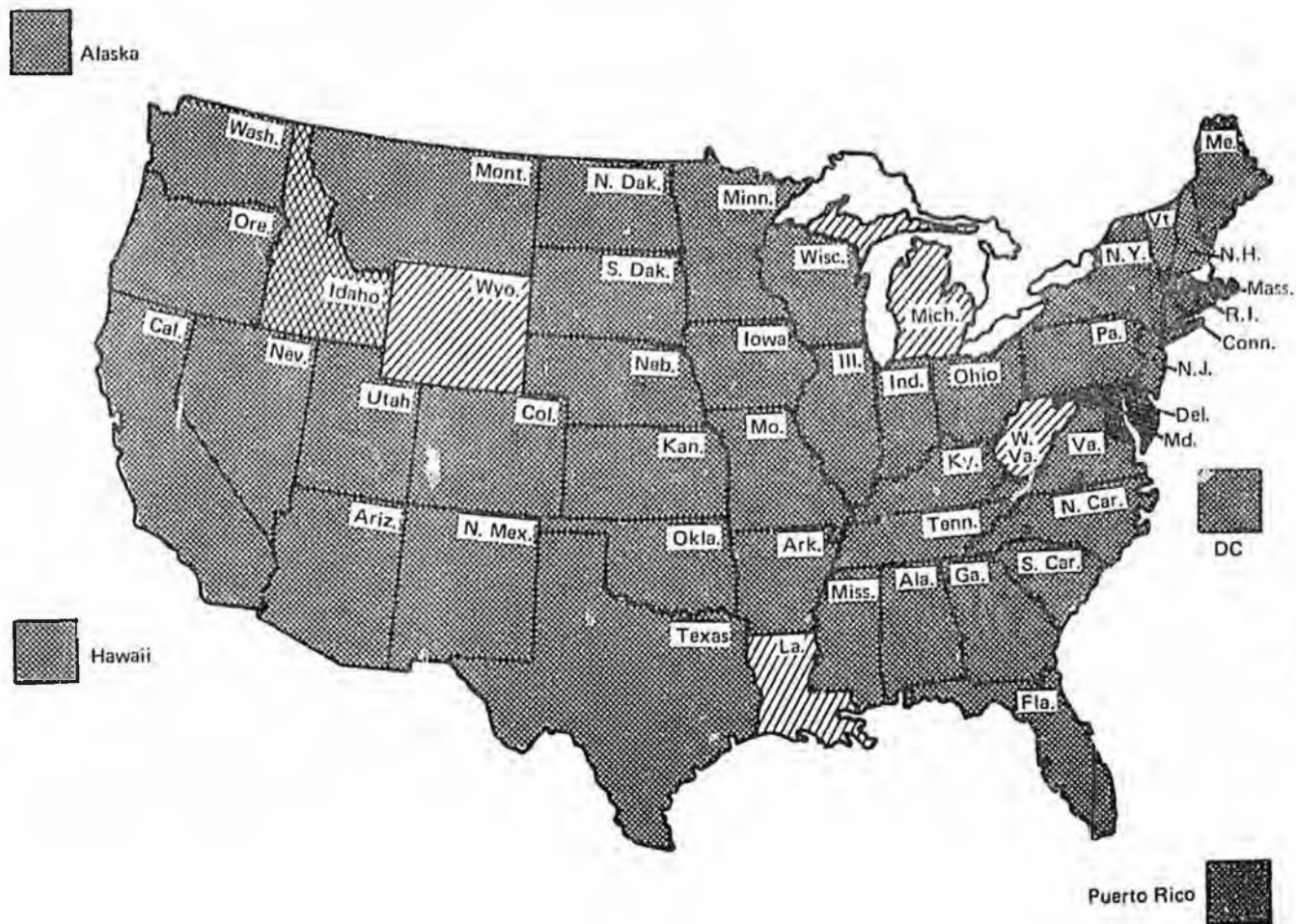
**State Immunization Requirements  
Applicable to Any or All of Grades K-12**




State	Diphtheria	Tetanus	Pertussis	Measles	Mumps	Rubella	Polio
Alabama	K-12	K-12	K-6 yrs	K-12	K-12	K-12	K-12
Alaska	K-12	K-12	K-6 yrs	K-12	Not Required	K-11 yrs	K-12
Arizona	K-12	Not Required	Not Required	K-12	Not Required	K-12	K-12
Arkansas	K-12	K-12	K-6 yrs	K-12	Not Required	K-12	K-12
California	K-12	K-12	K-6 yrs	K-12	K-5 yrs	K-12	K-12
Colorado	K-12	K-12	K-6 yrs	K-12	K	K-6	K-12
Connecticut	K-12	K-12	K-6 yrs	K-12	K-12	K-12	K-12
Delaware	K-12	K-12	K-6 yrs	K-12	K-10	K-12	K-12
Dist. of Col.	K-12	K-12	K-6 yrs	K-12	K-12	K-12	K-12
Florida	K-12	K-12	K-6 yrs	K-12	K-12	K-12	K-12
Georgia	K-12	K-12	K-6 yrs	K-12	K-12	K-12	K-12
Hawaii	K-12	K-12	K-6 yrs	K-12	K-12	K-12	K-12
Idaho	K-5	K-5	Not Required	K-5	K-5	K-5	K-5
Illinois	K-12	K-12	K-5 yrs	K-12	K-12	K-12	K-12
Indiana	K-12	K-12	K-6 yrs	K-12	K-5	K-12	K-12
Iowa	K-12	K-12	K-6 yrs	K-12	Not Required	K-12	K-12
Kansas	K-12	K-12	K-6 yrs	K-12	K-12	K-12	K-12
Kentucky	K-12	K-12	New Enterers	K-12	Not Required	K-12	K-12
Louisiana	New Enterers	New Enterers	New Enterers	New Enterers	New Enterers	New Enterers	New Enterers
Maine	K-12	K-12	K-6 yrs	K-12	K-10	K-12	K-12
Maryland	K-12	K-12	K-6 yrs	K-12	Not Required	K-12	K-12
Massachusetts	K-12	K-12	K-6 yrs	K-12	K-12	K-12	K-12
Michigan	New Enterers	New Enterers	New Enterers	New Enterers	New Enterers	New Enterers	New Enterers
Minnesota	K-12	K-12	K-6 yrs	K-12	K-12	K-12	K-12
Mississippi	K-12	K-12	K-6 yrs	K-12	New Enterers	K-12	K-12
Missouri	K-12	Not Required	Not Required	K-12	Not Required	K-12	K-12
Montana	K-12	K-12	K-6 yrs	K-12	New Enterers	K-12	K-12
Nebraska	K-12	K-12	K-6 yrs	K-12	K-12	K-12	K-12
Nevada	K-12	K-12	K-6 yrs	K-12	New Enterers	K-12	K-12
New Hampshire	K-12	K-12	K-6 yrs	K-12	K-12	K-12	K-12
New Jersey	K-12	K-12	K-6 yrs	K-12	K-15 yrs	K-12	K-12
New Mexico	K-12	K-12	K-6 yrs	K-12	Not Required	K-12	K-12
New York	K-12	Not Required	Not Required	K-12	K-12	K-12	K-12
North Carolina	K-12	K-12	K-6 yrs	K-12	New Enterers	K-12	K-12
North Dakota	K-12	K-12	K-6 yrs	K-12	K-12	K-12	K-12
Ohio	K-12	K-12	K-6 yrs	K-12	K-12	K-12	K-12
Oklahoma	K-12	K-12	K-6 yrs	K-12	New Enterers	K-12	K-12
Oregon	K-12	K-12	Not Required	K-12	New Enterers	K-12	K-12
Pennsylvania	K-12	K-12	Not Required	K-12	K-12	K-12	K-12
Puerto Rico	K-12	K-12	K-6 yrs	K-12	K-12	K-12	K-12
Rhode Island	K-12	K-12	Not Required	K-12	K-6 yrs	K-12	K-12
South Carolina	K-12	K-12	K-5 yrs	K-12	Not Required	K-12	K-12
South Dakota	K-12	K-12	K-6 yrs	K-12	K-12	K-12	K-12
Tennessee	K-12	K-12	K-6 yrs	K-12	K-12	K-12	K-12
Texas	K-12	K-12	Not Required	K-12	K-17 yrs	K-11 yrs	K-12
Utah	K-12	K-12	K-6 yrs	K-12	K-12	K-12	K-12
Vermont	K-12	K-12	K-6 yrs	K-12	Not Required	K-12	K-12
Virginia	K-12	K-12	K-6 yrs	K-12	New Enterers	K-12	K-12
Washington	K-12	K-12	Not Required	K-12	K-1	K-12	K-12
West Virginia	New Enterers	New Enterers	New Enterers	New Enterers	Not Required	New Enterers	New Enterers
Wisconsin	K-12	K-12	K-6 yrs	K-12	K-12	K-12	K-12
Wyoming	New Enterers	New Enterers	K-6 yrs	New Enterers	New Enterers	New Enterers	New Enterers

# DIPHTHERIA

## Immunization Requirements

(For Any or All of Grades K-12)



-  New Enterers
-  K-5th Grade
-  K-12th Grade

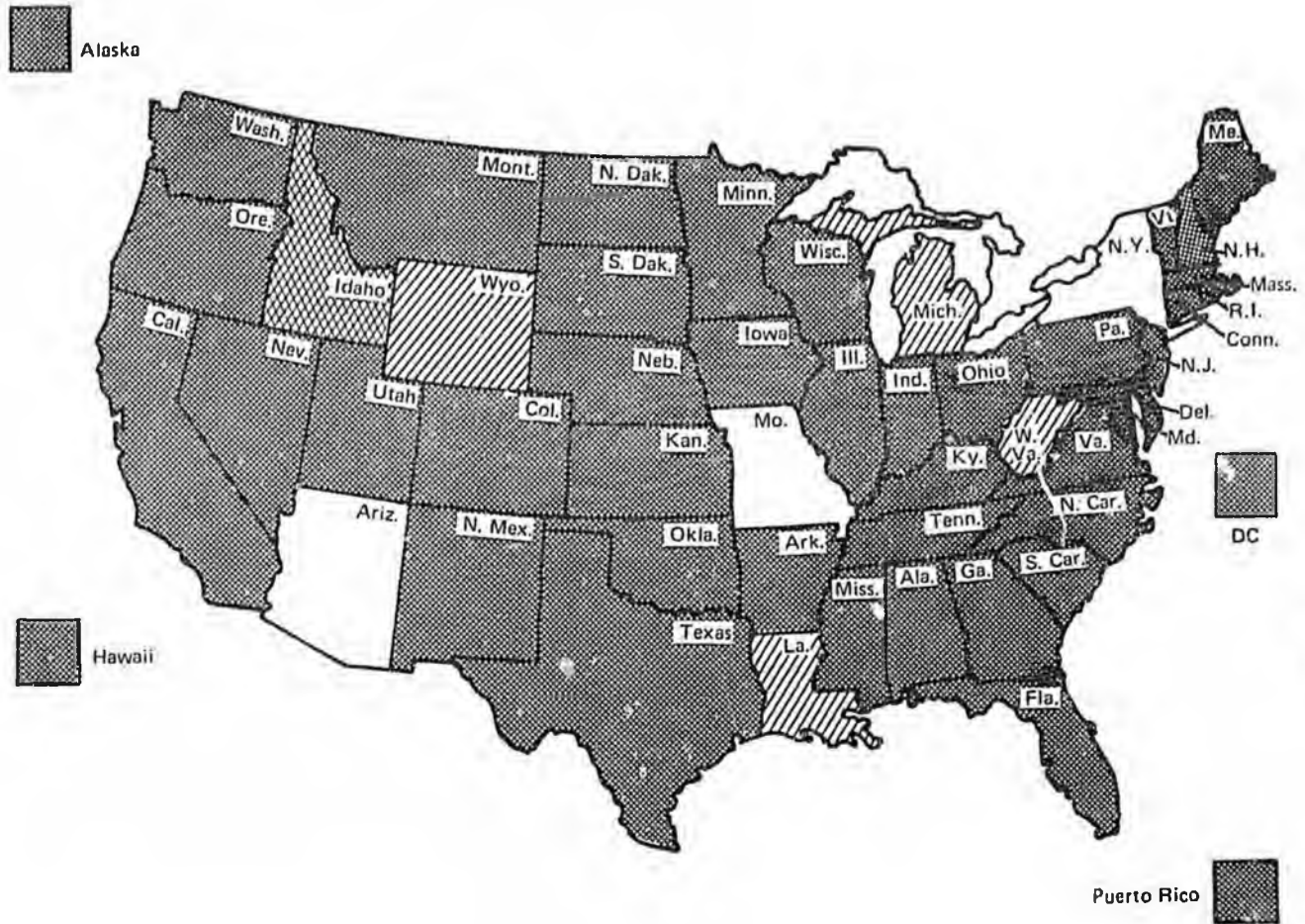
**DIPHTHERIA**  
**State Immunization Requirements**  
**Applicable to Any or All of Grades K-12**





State	Grade	Dosage Requirements and Additional Comments
Alabama	K-12	4 doses, last dose on or after 4th birthday
Alaska	K-12	5 doses unless 4th dose after 4th birthday, then 4; 3 doses if 7 years and older
Arizona	K-12	5 doses unless 4th dose after 4th birthday
Arkansas	K-12	3 doses; last must have been after 4th birthday
California	K-12	4 doses; 4th dose after 2nd birthday
Colorado	K-12	4 doses
Connecticut	K-12	3 doses
Delaware	K-12	4 doses; 5 if 4th is before 4th birthday
Dist. of Col.	K-12	3 doses plus booster if series started as infant; a 5th dose is recommended; also required of college students
Florida	K-12	5 doses unless 4th dose after 4th birthday, then 4; 3 doses if 7 yrs & older
Georgia	K-12	3 doses minimum; the last dose given after 4th birthday
Hawaii	K-12	As recommended by American Academy of Pediatrics
Idaho	K-5	4 doses
Illinois	K-12	4 doses; the last a booster on or after 4th birthday plus a 10 year booster
Indiana	K-12	4 doses for K-1, 3 doses for grades 2 and above
Iowa	K-12	3 doses, one must be after age 4 years
Kansas	K-12	4 doses if series is begun before age 7 years; 3 if begun after 6 years
Kentucky	K-12	3 to 5 doses—the last a booster on or after 4th birthday plus a 10 year booster
Louisiana	New Enterers	4 to 5 doses; at least 1 dose after age 4 years
Maine	K-12	3 doses
Maryland	K-12	4 doses if 6 yrs or younger; 3 doses if 7 yrs or older
Massachusetts	K-12	4 doses for K; 3 doses plus 10 year booster for 1-12
Michigan	New Enterers	4 doses, only 3 if series started after 6 years, plus booster every 10 years
Minnesota	K-12	5 doses unless 4th dose after 4th birthday, then 4; 3 doses if 7 yrs & older
Mississippi	K-12	4 doses if before 7 years; 3 if after 7 years; at least 1 booster dose after 4 years
Missouri	K-12	3 doses, at least 1 after age 3 years
Montana	K-12	4 doses if 6 years old or less; 3 if 7 years or older; last dose after 4th birthday
Nebraska	K-12	3 doses
Nevada	K-12	4 doses minimum, with at least 1 dose on or after 4th birthday
New Hampshire	K-12	3 doses minimum; provided the last dose is given on or after 4th birthday
New Jersey	K-12	4 doses including booster for ages 1-6; 3 doses for 7 years and older
New Mexico	K-12	4 doses if begun before age 7 years; 3 if after age 7 years; at least 1 dose after 4th birthday
New York	K-12	3 doses
North Carolina	K-12	5 doses; 3 doses by 1 yr of age, 1 booster dose in 2nd yr, 1 booster dose on or after 4th birthday; only 4 doses required if 4th dose on or after 4th birthday
North Dakota	K-12	4 doses
Ohio	K-12	4 doses; 3 if 3rd on or after 6th birthday
Oklahoma	K-12	3 doses
Oregon	K-12	4 doses; 5 if 4th was before age 4 years; 3 for grades 2-12 if in Oregon Schools on 3/14/82 unless 1 or more before 6 months, then 4 doses
Pennsylvania	K-12	3 doses
Puerto Rico	K-12	3+ doses, provided the 3rd is given after 4th birthday
Rhode Island	K-12	3 doses
South Carolina	K-12	3 doses, at least 1 must have been on or after 4th birthday
South Dakota	K-12	4 doses, at least 1 must have been after 4th birthday
Tennessee	K-12	4 doses
Texas	K-12	3 doses, 1 dose after 4th birthday plus 1 within 10 years
Utah	K-12	4 doses
Vermont	K-12	3 doses, with 6 months between 2nd dose and any thereafter
Virginia	K-12	3 doses, with 3rd after 4th birthday or 4th dose required
Washington	K-12	4 doses, last dose must be at or after age 4 years
West Virginia	New Enterers	3 doses minimum, with at least 1 after 4th birthday
Wisconsin	K-12	4 doses, only 3 if 3rd received after 4th birthday
Wyoming	New Enterers	4 doses, entering Wyoming schools

# TETANUS

## Immunization Requirements

(For Any or All of Grades K-12)



-  Not Required
-  New Enterers
-  K-5th Grade
-  K-12th Grade

# TETANUS

## State Immunization Requirements Applicable to Any or All of Grades K-12

5

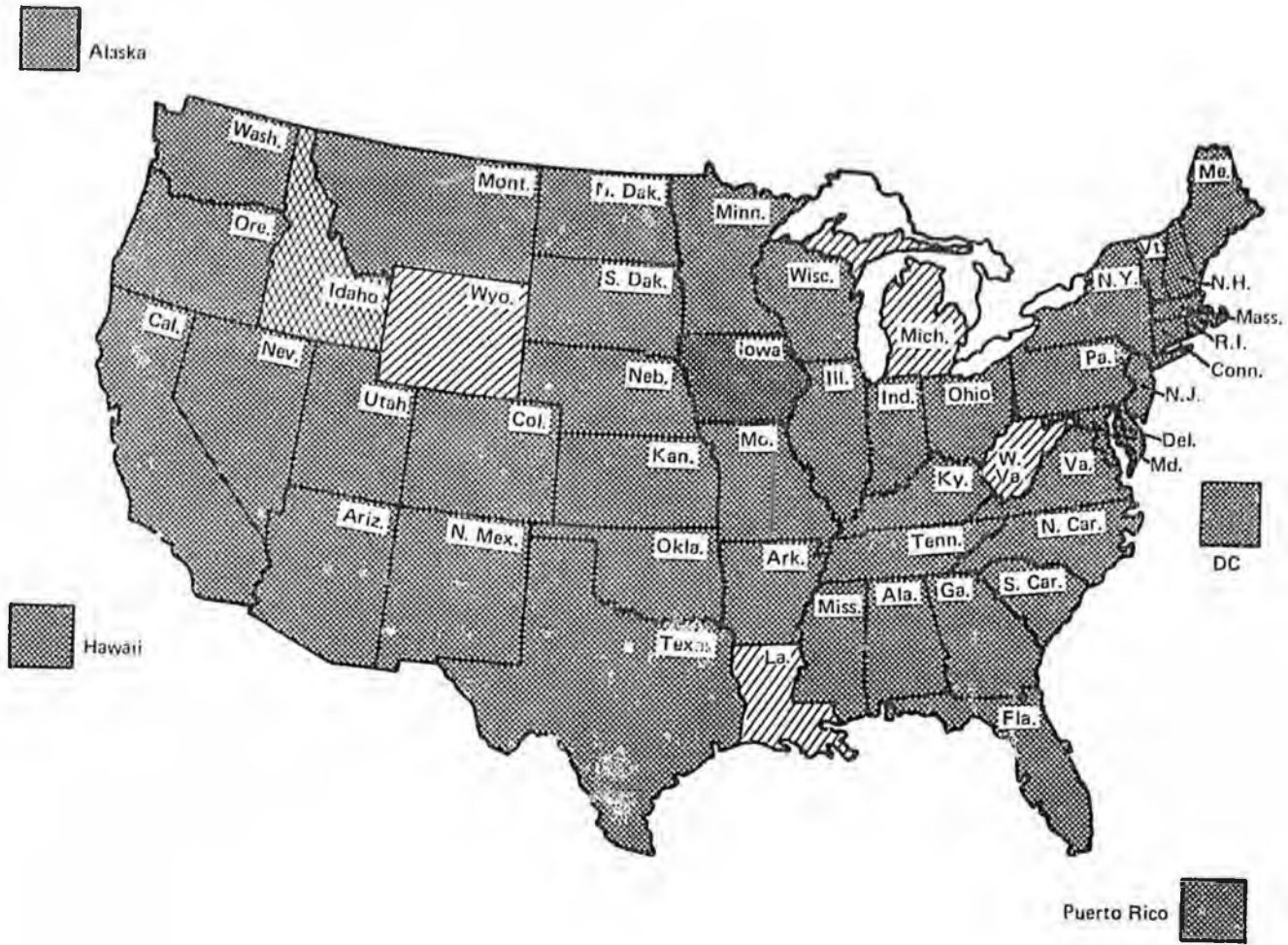
State	Grade	Dosage Requirements and Additional Comments
Alabama	K-12	3 dose minimum required
Alaska	K-12	5 doses unless 4th dose after 4th birthday, then 4 doses; 3 doses if 7 years and older
Arizona	Not Required	Usually given with diphtheria
Arkansas	K-12	3 doses, but last must have been since 4th birthday
California	K-12	4 doses, 4th dose after 2nd birthday
Colorado	K-12	4 doses
Connecticut	K-12	3 doses
Delaware	K-12	4 doses; 5 if 4th was before 4th birthday
Dist. of Col.	K-12	3 doses plus booster if series started as infant; a 5th dose is recommended; also required of college students
Florida	K-12	5 doses unless 4th dose after 4th birthday, then 4; 3 doses if 7 yrs & older
Georgia	K-12	3 doses minimum, the last dose given after the 4th birthday
Hawaii	K-12	As recommended by American Academy of Pediatrics
Idaho	K-5	4 doses
Illinois	K-12	4 doses; the last a booster on or after 4th birthday plus a 10 year booster
Indiana	K-12	4 doses for K-1, 3 doses for grades 2 and above
Iowa	K-12	3 doses, 1 must be after age 4 years
Kansas	K-12	4 doses if started before age 7 years; 3 if begun after 7 years
Kentucky	K-12	3 to 5 doses—the last a booster on or after 4th birthday plus a 10 year booster
Louisiana	New Enterers	4 to 5 doses; at least 1 dose after age 4 years
Maine	K-12	3 doses
Maryland	K-12	4 doses if 6 yrs or younger; 3 doses if 7 yrs or older
Massachusetts	K-12	4 doses for K; 3 doses plus 10 year booster for 1-12
Michigan	New Enterers	4 doses, only 3 if series started after 6 years of age, plus booster every 10 years
Minnesota	K-12	5 doses unless 4th dose after 4th birthday, then 4; 3 doses if 7 yrs & older
Mississippi	K-12	4 doses if before 7 years; 3 if after 7 years; at least 1 booster dose after 4 years
Missouri	Not Required	3 doses, at least 1 after age 3 years recommended
Montana	K-12	4 doses if 6 years or less; 3 if 7 years or older; last dose after 4th birthday
Nebraska	K-12	3 doses
Nevada	K-12	4 doses minimum, with at least 1 dose on or after 4th birthday
New Hampshire	K-12	3 doses minimum, provided the last dose is given on or after 4th birthday
New Jersey	K-12	4 doses including booster for ages 1-6; 3 doses for 7 years and older
New Mexico	K-12	4 doses if begun before age 7 years; 3 if begun at age 7 years or older; at least 1 dose after 4th birthday
New York	Not Required	
North Carolina	K-12	5 doses; 3 doses by 1 yr of age, 1 booster dose in 2nd yr, 1 booster dose on or after 4th birthday; only 4 doses required if 4th dose on or after 4th birthday
North Dakota	K-12	4 doses
Ohio	K-12	4 doses; 3 if 3rd received on or after 6th birthday
Oklahoma	K-12	3 doses
Oregon	K-12	4 doses; 5 if 4th was before age 4 years; 3 for grades 2-12 if in Oregon Schools on 3/14/82 unless 1 or more before 6 months, then 4 doses
Pennsylvania	K-12	3 doses
Puerto Rico	K-12	3+ doses, provided the 3rd is given after 4th birthday
Rhode Island	K-12	3 doses
South Carolina	K-12	3 doses, at least 1 must have been on or after 4th birthday
South Dakota	K-12	4 doses, at least 1 must have been after 4th birthday
Tennessee	K-12	4 doses
Texas	K-12	3 doses, 1 dose after 4th birthday plus 1 within 10 years
Utah	K-12	4 doses
Vermont	K-12	3 doses, with 6 months between 2nd dose and any thereafter; plus booster in 10 years
Virginia	K-12	3 doses, with 3rd after 4th birthday or 4th dose required
Washington	K-12	4 doses, last dose must be at or after age 4 years
West Virginia	New Enterers	3 doses minimum, with at least 1 after 4th birthday
Wisconsin	K-12	4 doses, only 3 doses if 3rd received after 4th birthday
Wyoming	New Enterers	4 doses, entering Wyoming schools






**PERTUSSIS**  
**State Immunization Requirements**  
**Applicable to Any or All of Grades K-12**

State	Grade	Dosage Requirements and Additional Comments
Alabama	K-6 yrs	3 dose minimum required
Alaska	K-6 yrs	5 doses unless 4th dose after 4th birthday, then 4 doses
Arizona	Not Required	Usually given with diphtheria
Arkansas	K-6 yrs	3 doses, but last must have been after 4th birthday
California	K-6 yrs	4 doses, 4th dose after 2nd birthday
Colorado	K-6 yrs	4 doses
Connecticut	K-6 yrs	3 doses
Delaware	K-6 yrs	4 doses; 5 if 4th was before 4th birthday
Dist. of Col.	K-6 yrs	3 doses
Florida	K-6 yrs	5 doses unless 4th dose after 4th birthday; then 4 doses
Georgia	K-6 yrs	3 doses minimum; the last dose given after the 4th birthday
Hawaii	K-6 yrs	As recommended by American Academy of Pediatrics
Idaho	Not Required	
Illinois	K-5 yrs	4 doses; the last a booster on or after 4th birthday
Indiana	K-6 yrs	4 doses
Iowa	K-6 yrs	3 doses, 1 must be after age 4 years
Kansas	K-6 yrs	4 doses
Kentucky	New Enterers	4 doses minimum; if 4th given before 4th birthday, a 5th is required
Louisiana	New Enterers	4 to 5 doses; at least 1 after age 4 years; required to age 7 years
Maine	K-6 yrs	3 doses
Maryland	K-6 yrs	4 doses if 6 yrs or younger
Massachusetts	K-6 yrs	4 doses
Michigan	New Enterers	4 doses, not required after 6th birthday
Minnesota	K-6 yrs	5 doses unless 4th dose after 4th birthday; then 4 doses
Mississippi	K-6 yrs	4 doses if before 7 years; at least 1 booster after 4th birthday
Missouri	Not Required	3 doses, at least 1 after age 3 years recommended
Montana	K-6 yrs	4 doses if 6 yrs or less; last dose after 4th birthday
Nebraska	K-6 yrs	3 doses
Nevada	K-6 yrs	4 doses minimum, with at least 1 dose on or after 4th birthday
New Hampshire	K-6 yrs	3 doses minimum; provided the last dose is given after the 4th birthday; not required to be given if 7 years or older
New Jersey	K-6 yrs	4 doses including booster for ages 1-6
New Mexico	K-6 yrs	4 doses
New York	Not Required	
North Carolina	K-6 yrs	5 doses; 3 doses by 1 yr of age, 1 booster dose in 2nd yr, 1 booster dose on or after 4th birthday; only 4 doses required if 4th dose on or after 4th birthday
North Dakota	K-6 yrs	4 doses
Ohio	K-6 yrs	4 doses; 3 if 3rd dose required on or after 6th birthday
Oklahoma	K-6 yrs	3 doses
Oregon	Not Required	
Pennsylvania	Not Required	
Puerto Rico	K-6 yrs	3+ doses, if 3rd is given after 4th birthday; not required after 7th birthday
Rhode Island	Not Required	
South Carolina	K-5 yrs	3 doses, at least 1 received on or after 4th birthday
South Dakota	K-6 yrs	4 doses, at least 1 received after 4th birthday
Tennessee	K-6 yrs	4 doses
Texas	Not Required	
Utah	K-6 yrs	4 doses
Vermont	K-6 yrs	3 doses, 6 months between 2nd and any thereafter
Virginia	K-6 yrs	3 doses, with 3rd dose after 4th birthday or 4th dose required
Washington	Not Required	
West Virginia	New Enterers	3 doses minimum, with at least 1 dose after 4th birthday; not required after 7 years of age
Wisconsin	K-6 yrs	4 doses, only 3 doses if 3rd received after 4th birthday
Wyoming	K-6 yrs	4 doses; required up to but not including 7th birthday

# MEASLES Immunization Requirements (For Any or All of Grades K-12)



-  New Enterers
-  K-5th Grade
-  K-12th Grade

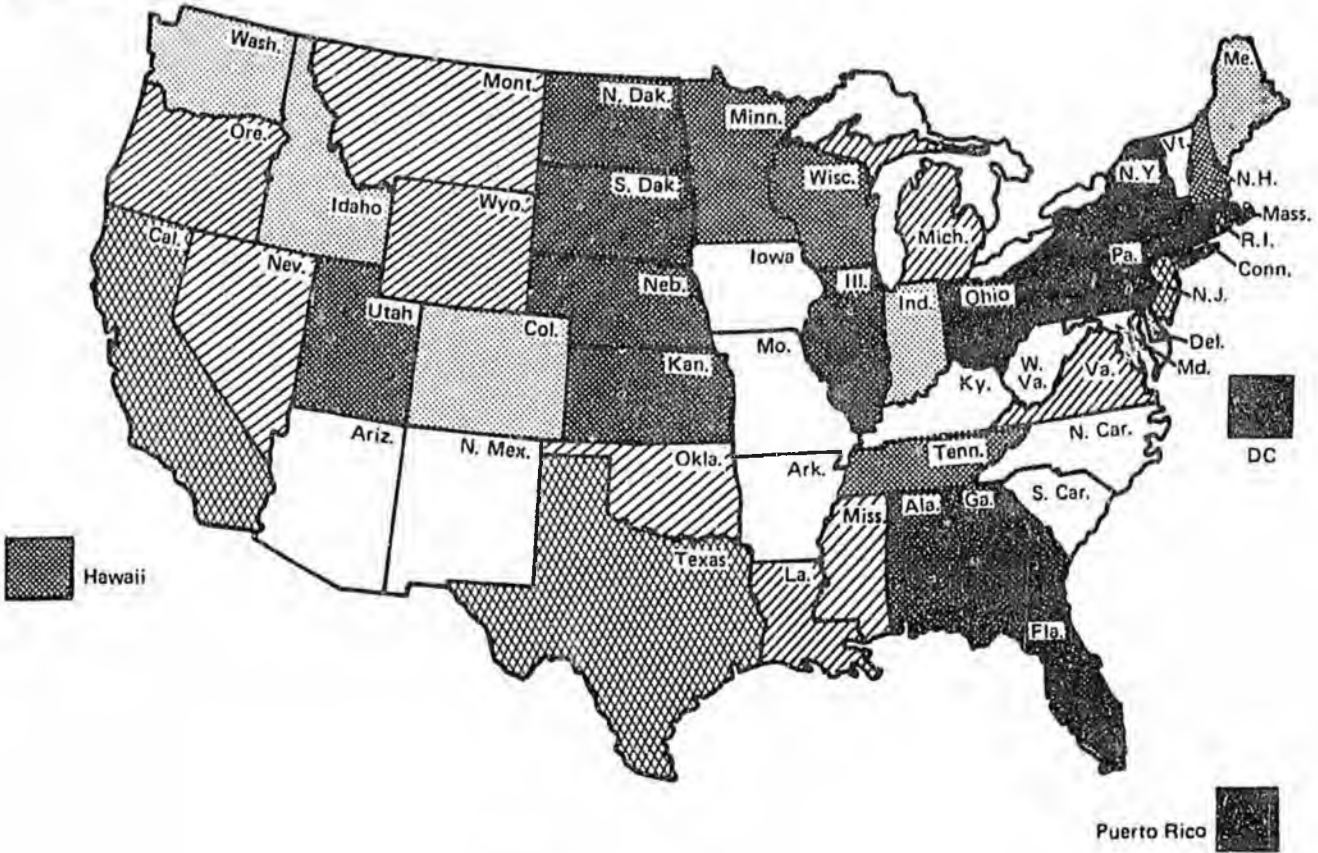
**MEASLES**  
**State Immunization Requirements**  
**Applicable to Any or All of Grades K-12**






State	Grade	Dosage Requirements and Additional Comments
Alabama	K-12	1 dose after 15 months of age
Alaska	K-12	1 dose on or after 1st birthday
Arizona	K-12	1 dose live measles vaccine given on or after 1st birthday
Arkansas	K-12	1 dose given after 1st birthday and after January 1968
California	K-12	1 dose of live virus vaccine administered on or after 1st birthday
Colorado	K-12	1 dose on or after 1st birthday
Connecticut	K-12	1 dose after age 1 and vaccine did not include gamma globulin
Delaware	K-12	1 dose after 15 months of age
Dist. of Col.	K-12	1 dose, must be repeated if given before 1969; also required of college students
Florida	K-12	1 dose at 15 months recommended, over 12 months accepted; and in 1968 or later
Georgia	K-12	1 dose of live virus vaccine given after the 1st birthday and after 1968; or positive serology
Hawaii	K-12	1 dose as recommended by American Academy of Pediatrics
Idaho	K-5	1 dose after 1st birthday; MD diagnosis of disease or laboratory confirmation of immunity accepted
Illinois	K-12	1 dose at 15 months of age or later; MD diagnosis of disease or laboratory confirmation accepted
Indiana	K-12	1 dose on or after 12 months of age; MD diagnosis of disease or laboratory confirmation accepted
Iowa	K-12	1 dose after 15 months of age or physician's diagnosis
Kansas	K-12	1 dose given after 12 months of age
Kentucky	K-12	1 dose on or after 12 months of age, recommended 15 months
Louisiana	New Enterers	1 dose given on or after 15 months, 12 to 15 months also accepted
Maine	K-12	1 dose after 1st birthday or serologic confirmation of immunity
Maryland	K-12	1 dose live vaccine at 1 year or older or serologic confirmation of immunity
Massachusetts	K-12	1 dose on or after 1st birthday
Michigan	New Enterers	1 dose after 1st birthday; MD diagnosis of disease accepted
Minnesota	K-12	1 dose after 12 months of age
Mississippi	K-12	1 dose after 1st birthday
Missouri	K-12	1 dose given after 12 months of age; children born in or after 1982 at 15 months
Montana	K-12	1 dose given after 12 months of age; on or after 15 months after 7/1/89
Nebraska	K-12	1 dose at or after 12 months of age
Nevada	K-12	1 dose, either single or any combination of vaccine on or after 12 months of age
New Hampshire	K-12	1 dose live vaccine on or after 1st birthday
New Jersey	K-12	1 dose live virus vaccine given after 12 months of age, except 15 months if child born after 1/88
New Mexico	K-12	1 dose live virus given on or after 12 months of age
New York	K-12	1 dose live vaccine administered after 12 months of age, but recommended at 15 months
North Carolina	K-12	1 dose live vaccine on or after 1st birthday
North Dakota	K-12	1 dose if given after 15 months of age; 12 months accepted; also required for students attending state funded colleges & universities
Ohio	K-12	1 dose live virus vaccine on or after 1st birthday
Oklahoma	K-12	1 dose, received on or after 1st birthday
Oregon	K-12	1 dose at or after 12 months of age, but recommended at 15 months
Pennsylvania	K-12	1 dose live vaccine on or after 1st birthday, or positive serology
Puerto Rico	K-12	1 dose live vaccine if given after 15 months of age; 12 months accepted
Rhode Island	K-12	1 dose after 12 months of age; also required of college students
South Carolina	K-12	1 dose, must have been on or after 1st birthday
South Dakota	K-12	1 dose after 12 months of age or MD's diagnosis of disease; also required by State funded colleges
Tennessee	K-12	1 dose given after 12 months of age
Texas	K-12	1 dose on, after, or during the calendar month of the 1st birthday or physician verified history of disease
Utah	K-12	1 dose given after 12 months of age
Vermont	K-12	1 dose administered on or after 1st birthday or a MD diagnosed disease history
Virginia	K-12	1 dose after 12 months of age
Washington	K-12	1 dose of live vaccine after 1st birthday; laboratory confirmation of disease accepted
West Virginia	New Enterers	1 dose given after 12 months of age
Wisconsin	K-12	1 dose on or after 1st birthday
Wyoming	New Enterers	1 dose after 12 months of age entering Wyoming schools

## MUMPS

### Immunization Requirements (For Any or All of Grades K-12)

 Alaska



-  Not Required
-  New Enterers
-  K, K-1st, K-5th, or K-10th Grade
-  K-6yrs, K-15yrs, or K-17yrs
-  K-12th Grade

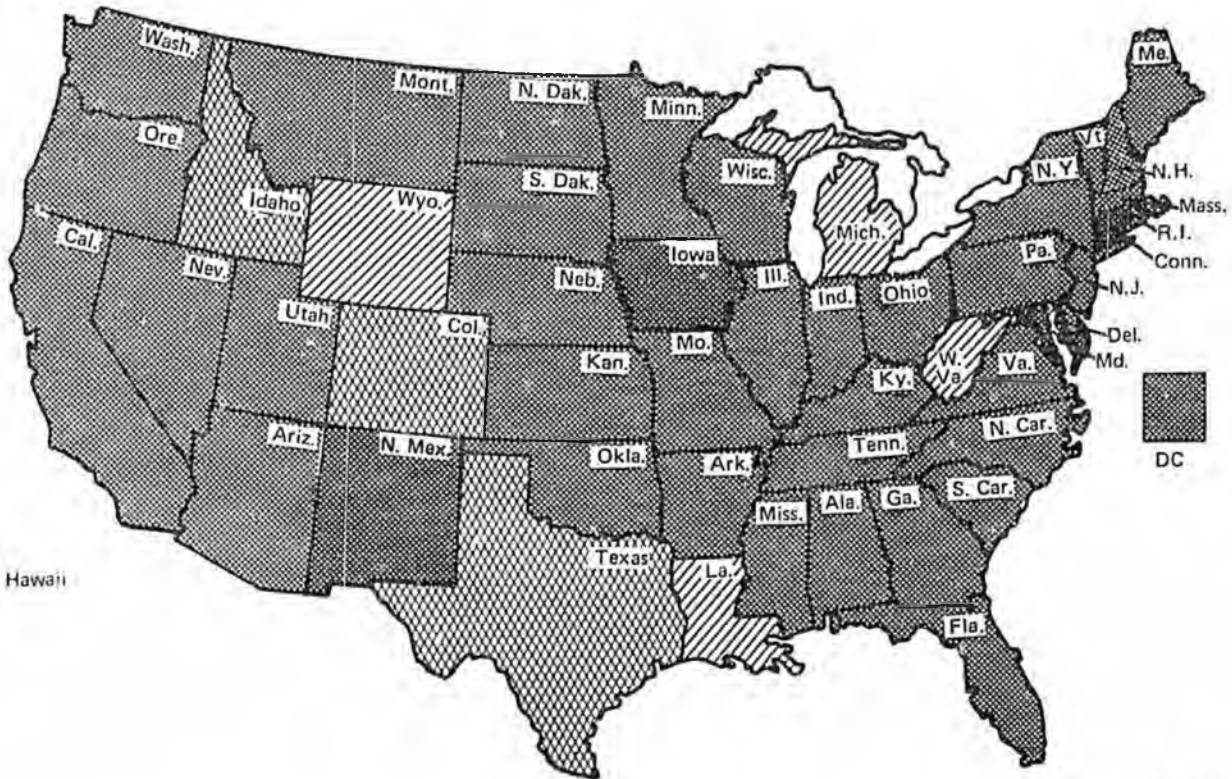
**MUMPS**  
**State Immunization Requirements**  
**Applicable to Any or All of Grades K-12**


State	Grade	Dosage Requirements and Additional Comments
Alabama	K-12	1 dose after 15 months of age
Alaska	Not Required	
Arizona	Not Required	Usually given with measles and rubella vaccine
Arkansas	Not Required	
California	K-6 yrs	1 dose administered on or after 1st birthday
Colorado	K	1 dose on or after 1st birthday, not required after K
Connecticut	K-12	1 dose given after age 1 year
Delaware	K-10	1 dose after 1 year of age; K-11 in 90-91, K-12 in 91-92
Dist. of Col.	K-12	1 dose, also required of college students
Florida	K-12	1 dose at 15 months recommended, over 12 months accepted
Georgia	K-12	1 dose of live virus vaccine given after the 1st birthday
Hawaii	K-12	1 dose as recommended by American Academy of Pediatrics
Idaho	K-5	1 dose after 1st birthday; MD diagnosis of disease or laboratory confirmation of immunity accepted
Illinois	K-12	1 dose at 1 year of age or later, or MD diagnosis of disease
Indiana	K-5	1 dose on or after 12 months of age; 1 additional grade each year; MD diagnosis of disease or laboratory confirmation of immunity accepted
Iowa	Not Required	
Kansas	K-12	1 dose given after 12 months of age
Kentucky	Not Required	
Louisiana	New Enterers	1 dose given on or after 15 months; 12 to 15 months also accepted
Maine	K-10	1 dose after 1st birthday; or serologic confirmation of immunity
Maryland	Not Required	
Massachusetts	K-12	1 dose at or after 12 months of age
Michigan	New Enterers	1 dose, only in children who entered K in 1979 or later; MD diagnosis of disease accepted
Minnesota	K-12	1 dose
Mississippi	New Enterers	1 dose after 12 months of age
Missouri	Not Required	1 dose, given on or after 15 months; recommended
Montana	New Enterers	1 dose given on or after 15 months of age
Nebraska	K-12	1 dose at or after 12 months of age
Nevada	New Enterers	1 dose, either single or any combination of vaccine, on or after 12 months of age
New Hampshire	K-12	1 dose after 12 months of age, except 15 months of age if child born after 1/88
New Jersey	K-15 yrs	1 dose; required of those born on or after 1/1/73
New Mexico	Not Required	1 dose strongly recommended
New York	K-12	1 dose live vaccine given after 12 months of age
North Carolina	New Enterers	1 dose live vaccine by 2 yrs of age; not required for children who entered 1st grade before July 1, 1987
North Dakota	K-12	1 dose if given after 15 months of age — 12 months accepted
Ohio	K-12	1 dose live virus vaccine on or after 1st birthday
Oklahoma	New Enterers	1 dose received on or after 1st birthday
Oregon	New Enterers	1 dose includes all out-of-state transferees but not students in grades 2-12 in Oregon schools on 3/14/82
Pennsylvania	K-12	1 dose on or after 1st birthday or MD diagnosis of disease
Puerto Rico	K-12	1 dose live vaccine if given after 15 months of age; 12 months accepted
Rhode Island	K-6 yrs	1 dose after 12 months of age
South Carolina	Not Required	
South Dakota	K-12	1 dose given after 12 months of age
Tennessee	K-12	1 dose given after 12 months of age
Texas	K-17 yrs	1 dose or physician verified disease; by September 1990, mumps will be required for all enrollees
Utah	K-12	1 dose given after 12 months of age
Vermont	Not Required	
Virginia	New Enterers	1 dose given at 12 months of age or older; required of all new enterers since 8/1/81
Washington	K-1	1 dose at or after 12 months of age
West Virginia	Not Required	
Wisconsin	K-12	1 dose on or after 1st birthday
Wyoming	New Enterers	1 dose, entering Wyoming schools


## RUBELLA Immunization Requirements (For Any or All of Grades K-12)


 Alaska

 Hawaii



 New Enterers

 K-11 yrs, K-5th, or K-6th Grade

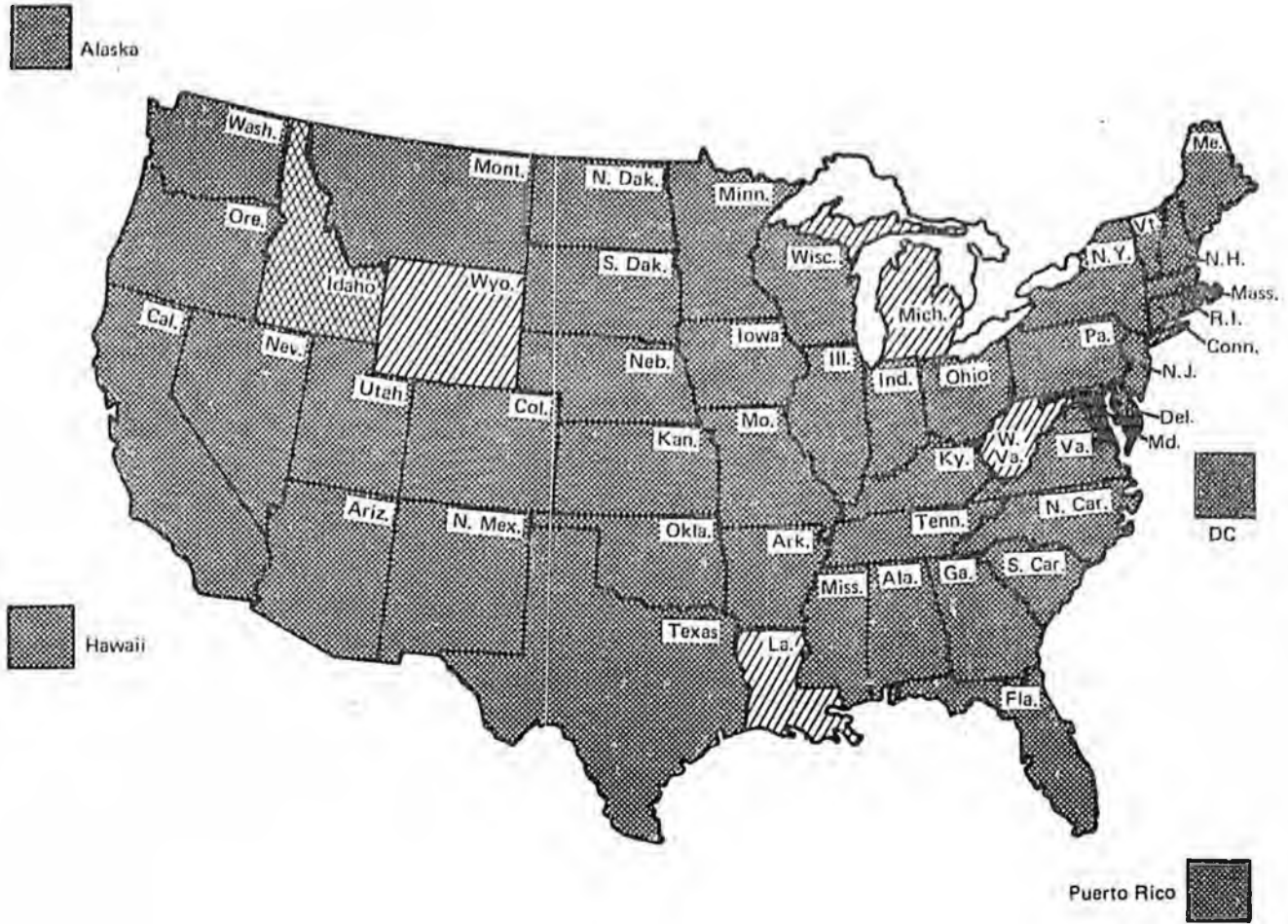
 K-12th Grade




**RUBELLA**  
**State Immunization Requirements**  
**Applicable to Any or All of Grades K-12**

State	Grade	Dosage Requirements and Additional Comments
Alabama	K-12	1 dose administered after 15 months of age
Alaska	K-11 yrs	1 dose administered on or after 1st birthday
Arizona	K-12	1 dose given on or after 1st birthday
Arkansas	K-12	1 dose given after the 1st birthday and after 6/1/69
California	K-12	1 dose administered on or after 1st birthday
Colorado	K-6	1 dose on or after 1st birthday; post pubertal females exempt
Connecticut	K-12	1 dose given after 1 year of age
Delaware	K-12	1 dose given after 1 year of age
Dist. of Col.	K-12	1 dose; also required of college students
Florida	K-12	1 dose at 15 months of age recommended, over 12 months accepted
Georgia	K-12	1 dose of live virus vaccine given after the 1st birthday
Hawaii	K-12	1 dose, as recommended by American Academy of Pediatrics
Idaho	K-5	1 dose after 1st birthday; laboratory confirmation of immunity accepted
Illinois	K-12	1 dose at 1 year of age or later, or laboratory confirmation
Indiana	K-12	1 dose on or after 12 months of age; laboratory confirmation of immunity accepted
Iowa	K-12	1 dose after 15 months of age, or laboratory confirmation
Kansas	K-12	1 dose given after 12 months of age
Kentucky	K-12	1 dose on or after 12 months of age
Louisiana	New Enterers	1 dose given on or after 15 months of age; 12 to 15 months also accepted
Maine	K-12	1 dose after 1st birthday; or serologic confirmation of immunity
Maryland	K-12	1 dose of live vaccine or serologic confirmation of immunity
Massachusetts	K-12	1 dose at or after 12 months of age
Michigan	New Enterers	1 dose given after the 1st birthday
Minnesota	K-12	1 dose
Mississippi	K-12	1 dose after 12 months of age
Missouri	K-12	1 dose given after 12 months of age; children born in or after 1982, at 15 months
Montana	K-12	1 dose after 12 months of age; on or after 15 months after 7/1/89
Nebraska	K-12	1 dose at or after 12 months of age
Nevada	K-12	1 dose, either single or any combination of vaccine, on or after 12 months of age
New Hampshire	K-12	1 dose after 12 months of age, except 15 months of age if child born after 1/08
New Jersey	K-12	1 dose
New Mexico	K-12	1 dose at 12 months of age
New York	K-12	1 dose live vaccine after 12 months of age; may be waived for females 11 years old and up
North Carolina	K-12	1 dose of live vaccine by age 2 years
North Dakota	K-12	1 dose, if given after 15 months of age — 12 months accepted; also required for student attending state funded colleges and universities
Ohio	K-12	1 dose live virus vaccine on or after 1st birthday
Oklahoma	K-12	1 dose; received on or after 1st birthday
Oregon	K-12	1 dose at or after 12 months of age, but recommended at 15 months
Pennsylvania	K-12	1 dose on or after 1st birthday, or positive serology
Puerto Rico	K-12	1 dose live vaccine if given after 15 months of age; 12 months accepted
Rhode Island	K-12	1 dose after 12 months of age; also required of college students
South Carolina	K-12	1 dose on or after 1st birthday; not required of females after onset of puberty
South Dakota	K-12	1 dose given after 12 months of age; or positive serology; also required by state funded colleges
Tennessee	K-12	1 dose on or after 12 months of age; females 13 years old and up are exempt
Texas	K-11 yrs	1 dose
Utah	K-12	1 dose given after 12 months of age
Vermont	K-12	1 dose given on or after 1st birthday, or positive serology
Virginia	K-12	1 dose given after 12 months of age or older
Washington	K-12	1 dose after 1 year; or positive serology
West Virginia	New Enterers	1 dose given after 12 months of age
Wisconsin	K-12	1 dose given on or after 1st birthday
Wyoming	New Enterers	1 dose after 12 months of age, entering Wyoming schools through age 10 years

# POLIO

## Immunization Requirements (For Any or All of Grades K-12)

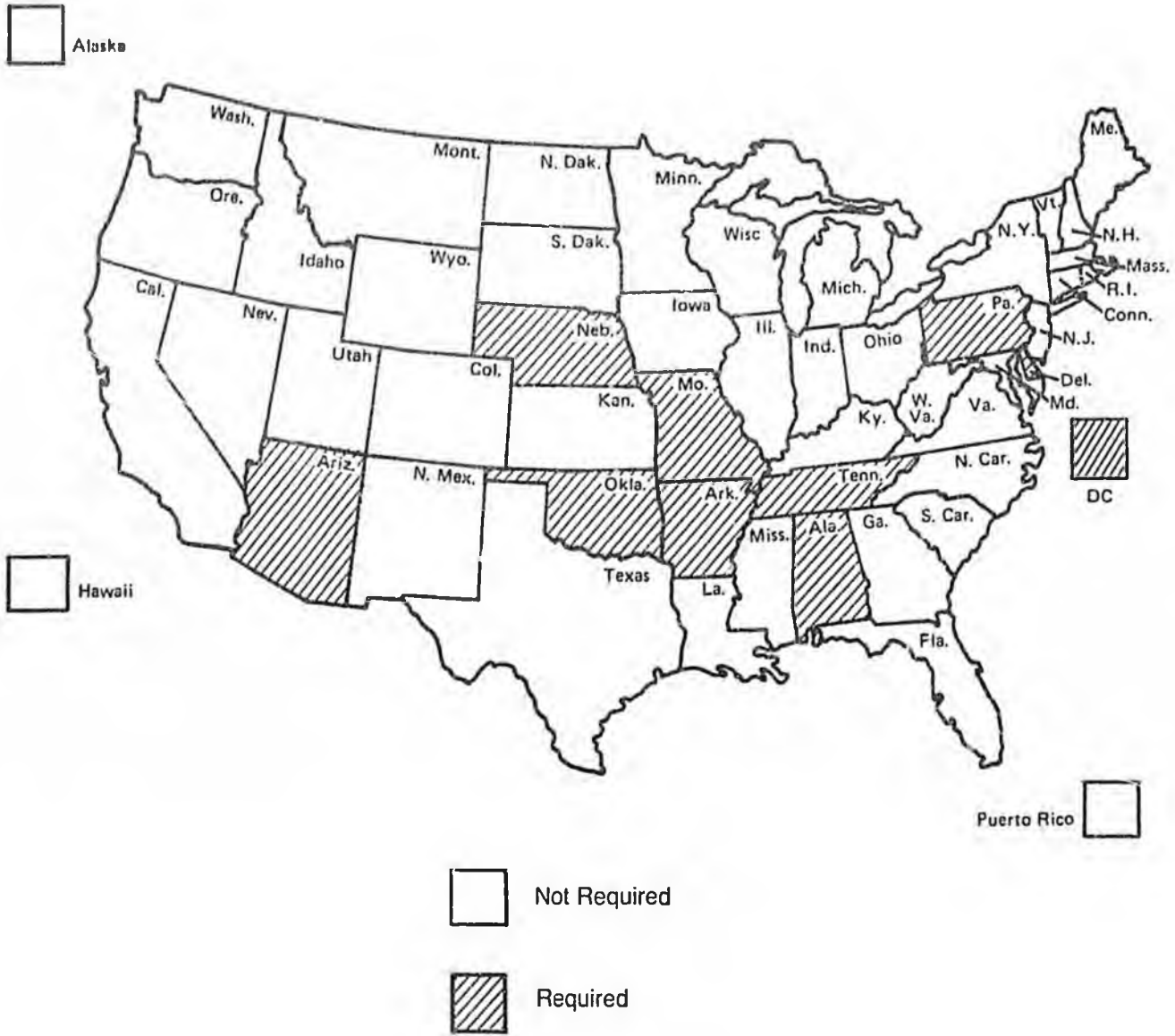


-  New Enterers
-  K-5th Grade
-  K-12th Grade

**POLIO**  
**State Immunization Requirements**  
**Applicable to Any or All of Grades K-12**

State	Grade	Dosage Requirements and Additional Comments
Alabama	K-12	3 dose minimum required, last dose on or after 4th birthday
Alaska	K-12	4 doses unless 3rd dose after 4th birthday, then 3 doses
Arizona	K-12	5 doses unless 4th dose after 4th birthday, then 4 doses
Arkansas	K-12	3 doses, last must have been given after 4th birthday
California	K-12	3 doses, 3rd dose after 2nd birthday
Colorado	K-12	3 doses
Connecticut	K-12	3 doses TOPV or IPV-3 virus types plus 1 TOPV; or IPV with 2 year boosters
Delaware	K-12	4 to 5 doses; 3 doses if given after 4th birthday
Dist. of Col.	K-12	3 OPV plus booster if series started before 4 years of age
Florida	K-12	4 doses; unless 3rd dose after 4th birthday, then 3 doses
Georgia	K-12	3 doses minimum of TOPV or 4 of IPV given after 1968; last dose must have been given after 4th birthday
Hawaii	K-12	As recommended by American Academy of Pediatrics
Idaho	K-5	3 doses
Illinois	K-12	3 doses; the last a booster on or after 4th birthday
Indiana	K-12	3 doses
Iowa	K-12	3 doses, 1 must be after 4 years of age; not required after 18 years of age
Kansas	K-12	3 doses
Kentucky	K-12	3 to 4 doses, the last a booster on or after 4th birthday
Louisiana	New Enterers	4 to 5 doses; at least 1 dose after age 4 years
Maine	K-12	3 doses, 1 of which is given after 1st birthday
Maryland	K-12	3 doses; not required age 18 yrs and older
Massachusetts	K-12	3 doses
Michigan	New Enterers	3 doses, not required after 18th birthday
Minnesota	K-12	4 doses; unless 3rd dose after 4th birthday, then 3 doses
Mississippi	K-12	3 doses, 1 must have been after 4th birthday
Missouri	K-12	3 doses TOPV, at least 1 after age 3 years
Montana	K-12	3 dose minimum of trivalent poliomyelitis vaccine, last dose after 4th birthday
Nebraska	K-12	3 doses
Nevada	K-12	3 doses minimum, with at least 1 dose on or after 4th birthday
New Hampshire	K-12	3 doses; if 3rd is on 4th birthday
New Jersey	K-12	3 doses OPV including booster; IPV 4 doses including booster 1968 and after
New Mexico	K-12	3 doses, at least 1 dose after 4th birthday
New York	K-12	3 or more doses of TOPV, or 4 or more doses of IPV, and administered after 1968
North Carolina	K-12	4 doses oral vaccine; 3 doses by age 2 yrs; 1 dose on or after 4 years; only 3 doses if 3rd dose on or after 4th birthday
North Dakota	K-12	4 doses
Ohio	K-12	3 doses OPV or 4 IPV through 17 years of age
Oklahoma	K-12	3 doses
Oregon	K-12	4 doses; 3 for grades 2-12 in Oregon schools on 3/14/82 unless 1 or more received before 6 months, then 4 doses
Pennsylvania	K-12	3 doses OPV or 4 doses IPV
Puerto Rico	K-12	3 doses, provided the 3rd is given after 4th birthday
Rhode Island	K-12	3 doses
South Carolina	K-12	3 doses, at least 1 must be on or after 4th birthday
South Dakota	K-12	3 doses OPV or 4 doses IPV, at least 1 received after the 4th birthday
Tennessee	K-12	4 doses, 1 dose given on or after the 6th birthday
Texas	K-12	3 doses, 1 dose since 4th birthday; through 17 years old
Utah	K-12	3 doses
Vermont	K-12	3 doses, with 6 months between 2nd dose and any thereafter
Virginia	K-12	3 doses, with 3rd after 4th birthday or 4th dose required
Washington	K-12	3 doses OPV or 4 IPV, with last dose after 4 years of age
West Virginia	New Enterers	3 doses minimum, with 1 after 4th birthday
Wisconsin	K-12	4 doses, only 3 if 3rd received after 4th birthday
Wyoming	New Enterers	4 doses, entering Wyoming schools

### Haemophilus b Immunization Requirements (For Licensed Day-Care Centers)



**Physician Diagnosis of Disease  
Accepted as Evidence of Immunity (K-12)**

Accepted     Not Accepted     Not Applicable (Immunity not required)

State	Diphtheria	Tetanus	Pertussis	Measles	Mumps	Rubella	Polio
Alabama							
Alaska					—		
Arizona		—	—		—		
Arkansas					—		
California							
Colorado							
Connecticut							
Delaware							
Dist. of Col.							
Florida							
Georgia							
Hawaii							
Idaho			—				
Illinois							
Indiana							
Iowa					—		
Kansas							
Kentucky					—		
Louisiana							
Maine							
Maryland					—		
Massachusetts							
Michigan							
Minnesota							
Mississippi							
Missouri		—	—		—		
Montana							
Nebraska							
Nevada							
New Hampshire							
New Jersey							
New Mexico					—		
New York		—	—				
North Carolina							
North Dakota							
Ohio							
Oklahoma							
Oregon			—				
Pennsylvania			—				
Puerto Rico							
Rhode Island			—				
South Carolina					—		
South Dakota							
Tennessee							
Texas			—				
Utah							
Vermont					—		
Virginia							
Washington			—				
West Virginia					—		
Wisconsin							
Wyoming							

## Immunization Date and Dose Documentation Required (K-12)

Single date/dose documentation required   
  Mixed date/dose documentation used

State	Dose Only	Applicable Vaccines	Dose & Year	Applicable Vaccines	Dose & Mo/Yr	Applicable Vaccines	Dose & M/D/Y	Applicable Vaccines
Alabama						ALL		
Alaska						ALL		
Arizona						D,PO,R		MEASLES
Arkansas								ALL
California						ALL		
Colorado						DTP,PO		MMR
Connecticut								ALL
Delaware						ALL		
Dist. of Col.		ALL						
Florida								ALL
Georgia						ALL		
Hawaii								ALL
Idaho								ALL
Illinois								ALL
Indiana						DTP,PO		MMR
Iowa								ALL
Kansas								ALL
Kentucky						ALL		
Louisiana						DTP,PO,MU,R		MEASLES
Maine						ALL		
Maryland								ALL
Massachusetts						ALL		
Michigan								ALL
Minnesota						DTP,PO,MU,R		MEASLES
Mississippi						ALL		
Missouri						ALL		
Montana								ALL
Nebraska						ALL		
Nevada						ALL		
New Hampshire								ALL
New Jersey						DTP,PO		MMR
New Mexico								ALL
New York								ALL
North Carolina								ALL
North Dakota						ALL		
Ohio								ALL
Oklahoma						ALL		
Oregon						ALL		
Pennsylvania						ALL		
Puerto Rico						ALL		
Rhode Island						ALL		
South Carolina						DTP,PO		ME,R
South Dakota						ALL		
Tennessee						ALL		
Texas						ALL		
Utah						ALL		
Vermont								ALL
Virginia								ALL
Washington								ALL
West Virginia								ALL
Wisconsin								ALL
Wyoming								ALL

ALL = All vaccines required by individual states

## Exemptions from Immunization Requirements (K-12)

Allowed     Not Allowed

State	Medical	Religious	Philosophical
Alabama			
Alaska			
Arizona			
Arkansas			
California			
Colorado			
Connecticut			
Delaware			
Dist. of Col.			
Florida			
Georgia			
Hawaii			
Idaho			
Illinois			
Indiana			
Iowa			
Kansas			
Kentucky			
Louisiana			
Maine			
Maryland			
Massachusetts			
Michigan			
Minnesota			
Mississippi			
Missouri			
Montana			
Nebraska			
Nevada			
New Hampshire			
New Jersey			
New Mexico			
New York			
North Carolina			
North Dakota			
Ohio			
Oklahoma			
Oregon			
Pennsylvania			
Puerto Rico			
Rhode Island			
South Carolina			
South Dakota			
Tennessee			
Texas			
Utah			
Vermont			
Virginia			
Washington			
West Virginia			
Wisconsin			
Wyoming			



## Enforcement of Immunization Requirements

Law/requirement contains clause     Law/requirement does not contain clause  
 Not Applicable (No law or requirement)

State	Penalty Clause for Noncompliance			Exclusion Clause for Noncompliance		
	K-12	Day-Care	College	K-12	Day-Care	College
Alabama			---			---
Alaska			---			---
Arizona			---			---
Arkansas						
California			---			---
Colorado			---			---
Connecticut			---			---
Delaware			---			---
Dist. of Col.						
Florida						
Georgia			---			---
Hawaii			---			---
Idaho		---	---		---	---
Illinois						
Indiana			---			---
Iowa			---			---
Kansas			---			---
Kentucky			---			---
Louisiana			---			---
Maine						
Maryland			---			---
Massachusetts						
Michigan			---			---
Minnesota			---			---
Mississippi						
Missouri			---			---
Montana						
Nebraska			---			---
Nevada			---			---
New Hampshire			---			---
New Jersey			---			---
New Mexico			---			---
New York			---			---
North Carolina						
North Dakota						
Ohio			---			---
Oklahoma			---			---
Oregon			---			---
Pennsylvania			---			---
Puerto Rico						
Rhode Island						
South Carolina			---			---
South Dakota						
Tennessee			---			---
Texas						
Utah			---			---
Vermont			---			---
Virginia						
Washington			---			---
West Virginia						
Wisconsin			---			---
Wyoming						

### Rubella Susceptibility Testing

Required     Not Required

State	Premarital	Hospital Employee
Alabama		
Alaska		<input checked="" type="checkbox"/>
Arizona		
Arkansas		
California	<input checked="" type="checkbox"/>	
Colorado	<input checked="" type="checkbox"/>	
Connecticut		
Delaware		<input checked="" type="checkbox"/>
Dist. of Col.		
Florida		
Georgia	<input checked="" type="checkbox"/>	
Hawaii	<input checked="" type="checkbox"/>	
Idaho		
Illinois		
Indiana	<input checked="" type="checkbox"/>	
Iowa		
Kansas		
Kentucky		
Louisiana		
Maine		<input checked="" type="checkbox"/>
Maryland		
Massachusetts		
Michigan		
Minnesota		
Mississippi		
Missouri		
Montana	<input checked="" type="checkbox"/>	
Nebraska	<input checked="" type="checkbox"/>	
Nevada		
New Hampshire		<input checked="" type="checkbox"/>
New Jersey		<input checked="" type="checkbox"/>
New Mexico	<input checked="" type="checkbox"/>	
New York	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
North Carolina		
North Dakota		
Ohio		
Oklahoma		
Oregon		
Pennsylvania		
Puerto Rico		
Rhode Island	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
South Carolina		
South Dakota		
Tennessee		
Texas		
Utah		
Vermont		
Virginia		
Washington		
West Virginia		
Wisconsin		<input checked="" type="checkbox"/>
Wyoming	<input checked="" type="checkbox"/>	

### Immunization of Rubella Susceptibles

Required     Not Required

State	Premarital	Hospital Employee
Alabama		
Alaska		<input checked="" type="checkbox"/>
Arizona		
Arkansas		
California		
Colorado		
Connecticut		
Delaware		
Dist. of Col.		
Florida		
Georgia		
Hawaii		
Idaho		
Illinois		
Indiana		
Iowa		
Kansas		
Kentucky		
Louisiana		
Maine		<input checked="" type="checkbox"/>
Maryland		
Massachusetts		
Michigan		
Minnesota		
Mississippi		
Missouri		
Montana		
Nebraska		
Nevada		
New Hampshire		<input checked="" type="checkbox"/>
New Jersey		
New Mexico		
New York		<input checked="" type="checkbox"/>
North Carolina		
North Dakota		
Ohio		
Oklahoma		
Oregon		
Pennsylvania		
Puerto Rico		
Rhode Island		<input checked="" type="checkbox"/>
South Carolina		
South Dakota		
Tennessee		
Texas		
Utah		
Vermont		
Virginia		
Washington		
West Virginia		
Wisconsin		<input checked="" type="checkbox"/>
Wyoming		

23 January 1992

Children's Defense Fund  
122 C Street, NW  
Washington, D.C. 20001

ATTN: Publications

Dear Mesdames or Sirs:

Enclosed is a check for \$9.00 to purchase two copies of your children's immunization report.

Also enclosed is an envelope in which to return these reports. I would be most appreciative of an expedited return since the Senate HESS Committee is currently considering legislation that would provide a personal exemption to mandatory immunization in Alaska.

Sincerely yours,

Melissa Aber Fouse  
Committee Aide

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# MEDICAID AND CHILDHOOD IMMUNIZATIONS: A NATIONAL STUDY

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January, 1992

Joseph Tiang-Yau Liu\*

Sara Rosenbaum \*\*



\* Senior Associate, Children's Defense Fund

\*\* Senior Attorney, Children's Defense Fund;  
Senior Fellow, George Washington University  
Center for Health Policy Research

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Supported by a grant from the Robert Wood Johnson Foundation

## Executive Summary and Overview of Key Findings

### The Immunization Crisis

One appalling manifestation of the broader crisis in the nation's health care system has been the falling number of children immunized against wholly preventable diseases like polio, measles, mumps, rubella, diphtheria, tetanus, pertussis, and meningitis. Falling immunization rates have inevitably led to more cases of disease and death and disability. The most glaring result has been a three-year long measles epidemic that has claimed over 55,000 Americans, including 89 who died in 1990 alone. Twice as many children contracted pertussis last year than in 1981, and rubella cases stood five times higher than in 1988.

While the rest of the world, including developing nations, has rapidly increased immunization rates, the U.S. has fallen behind. During the 1980s, the proportion of American preschoolers immunized against routine childhood diseases fell to fewer than one-half.

The United States ranks behind 16 other nations in the proportion of infants immunized against polio. When the proportion of U.S. nonwhite infants adequately immunized is compared to other nations' overall rates, the United States ranks 70th in the world, behind Burundi, Indonesia, Cuba, Jamaica, and Trinidad and Tobago.

Key reasons for the U.S. immunization decline have included skyrocketing vaccine costs, rising child and family poverty rates, inadequate access to health care, and underfunding of public health programs.

- o Since 1981, the price of a single dose of diphtheria, tetanus, pertussis (DTP) vaccine rose from 33 cents to nearly \$10. The price for a dose of polio vaccine quadrupled from \$2.10 to \$9.45. Measles, mumps, rubella (MMR) vaccine nearly tripled, rising from \$9.32 to \$25.29.
- o In one recent study, 84 percent of pediatricians and 66 percent of family practitioners reported rererring at least some of their patients to public clinics for immunizations. The overwhelming majority of these doctors cited the affordability of immunizations both to themselves and their patients as the underlying cause.
- o After adjusting for inflation, funding for community health centers fell by 38 percent between 1981 and 1991. With shrinking resources and rising demand for immunization services, 70 percent of all health centers have reported vaccine shortages in their clinics.

**Findings of the Study: Medicaid Reimbursement Systems Are Discouraging Providers from Vaccinating Children While Unnecessarily Inflating State and Federal Costs.**

In the fall of 1991 the Children's Defense Fund undertook a survey of 49 states and the District of Columbia to determine how well Medicaid programs are providing immunizations. It shows that Medicaid, the nation's safety net health program which should be easing the immunization crisis, instead is worsening the problems. In 1990, nearly one-quarter of all young children, 5.3 million youngsters under age 6, relied on the Medicaid program for health care.

There are two basic price levels for vaccines in this country. The "catalog" price that physicians or other providers pay for vaccines (and then in turn charge to insurance companies or patients) is far higher than the "contract" prices that the federal Centers for Disease Control (CDC) pay for bulk purchase of vaccines they distribute to public clinics. Oral polio vaccine, for example, is \$9.45 for private purchase and \$2.00 when bulk purchased by CDC.

CDC's contract with vaccine manufacturers allows states to bulk purchase as much vaccine as they want. In theory every state could -- and should -- buy and distribute enough vaccine at least for its Medicaid eligible children, rather than reimbursing physicians to buy vaccine at far higher prices.

But only a minority of states bulk purchase some or all types of vaccine, either for Medicaid recipients or for all children in the state. Thirty states instead continue a fee-for-service reimbursement system in Medicaid. But most of these states, while paying far more than the CDC price for vaccine alone, pay providers an unreasonably low combined amount for vaccines and administration. This led many physicians to discontinue delivering immunizations to Medicaid children.

- o States reimburse Medicaid providers only a fraction of the fee typically charged by office-based physicians for immunization services. On average, Medicaid programs pay just 53 percent of usual fees for the diphtheria, tetanus, and pertussis (DTP) vaccine and only 67 percent of usual fees for oral polio vaccine (OPV). Average state Medicaid reimbursements for measles, mumps, and rubella (MMR) and meningitis (HiB) vaccines were 72 and 84 percent of usual fees, respectively.
- o In a single office visit for immunizations for a 15-month-old child, the typical Medicaid program underpays doctors by nearly \$40. In some states, Medicaid underpays physicians more than \$60 compared to usual fee for vaccinations.

- o Only one state out of the 30 states that use a fee-for-service vaccine system in Medicaid pays over 85 percent of the usual fee charged by private doctors to immunize children for all four routine vaccines. -- diphtheria, tetanus, and pertussis (DTP); oral polio vaccine (OPV), measles, mumps and rubella (MMR); and haemophilus influenza B (HiB).
- o Several states actually reimburse physicians for immunizations services at a rate less than the cost of the vaccine alone. Kentucky's reimbursements for all four routine vaccines fell below the catalog price available to private doctors. Nevada and West Virginia set reimbursements for measles, mumps, and rubella (MMR) and meningitis (HiB) vaccines below cost. And Georgia, Hawaii, Nebraska, Oklahoma, and South Dakota have Medicaid vaccination fees set below the cost of vaccines for at least one antigen.
- o When a child needs a followup visit to complete an immunization series, 17 states refuse to pay physicians for the second office visit and only allow billing for the vaccine and administration. The result is that many children never get the additional immunizations they need.

Low Medicaid reimbursement rates for immunization services and the absence of followup visit fees lead to serious problems. Combined with generally depressed reimbursements for other primary care services, insufficient payment for immunization services may push a pediatric provider out of Medicaid completely. More commonly, the low payment levels can lead providers to cease offering immunization services to Medicaid-enrolled children and to routinely refer their patients to public immunization clinics. The result is that Medicaid-covered children get pushed into an already overwhelmed public health system that cannot meet all their needs and safety net health services deteriorate even further for both Medicaid-eligible and other children. As a consequence fewer and fewer children receive protection against preventable disease.

In Milwaukee, 86 percent of the preschool measles cases reviewed by the CDC were among children entitled to Medicaid. Similarly, 60 percent of the cases in Los Angeles, 75 percent of the cases in New York, and 22 percent of the cases in Dallas occurred among children entitled to Medicaid benefits.

### Recommendations

All states could solve the problem of high vaccine cost, which in turn drives down the vaccination fee paid to Medicaid providers. They could accomplish this and save money by taking advantage of

the special discounts for bulk purchase vaccine negotiated by the federal Centers for Disease Control. In the past three years, Ohio's Medicaid program has saved \$3.3 million by taking advantage of the federal discount prices. Similar savings have been achieved by the other states that purchase and distribute vaccines directly.

Moreover, every state should implement a universal vaccine distribution system to save money and to assure that no child is denied immunizations because a family cannot afford the cost of vaccines. At a minimum state Medicaid agencies should develop vaccine replacement programs to capture vaccine price savings available through the CDC and increase immunization rates. States should invest part of those savings in more adequate reimbursement levels to Medicaid providers for the administration of the free vaccine. Improved reimbursements will stem the tide of children into public immunization clinics and make immunization services more accessible. At a time of exceedingly tight state budgets, states must stop wasting the millions they pay in high vaccine prices rather than bulk purchasing at a discount and in treating children who are unnecessarily ill from preventable diseases because of state-created barriers to delivery of vaccines.

In the long run, the nation must move towards a system that guarantees every child immunizations, regardless of family income or insurance status. All the necessary vaccines could be purchased by the CDC and distributed free of charge to all health care providers in the country. Considering that more than a quarter of all vaccines are paid for by the federal government and another quarter is purchased by states, creating a universal vaccine program is a logical next step towards eliminating preventable disease.

## INTRODUCTION

The United States health care system is filled with ironies, not the least of which is the failure of the world's most expensive health system to deliver basic preventive care to its children. Health expenditures exceed 12 percent of the nation's gross national product. The U.S. spends more on personal health care per capita than any other nation and is the world's leader in advanced medical technology. At the same time our infant mortality rate lags behind 19 other nations, including Hong Kong, Spain, and Singapore. And the U.S. falls behind 16 other nations in the proportion of infants immunized against polio, including Bulgaria and Chile (Table 1). When the proportion of U.S. nonwhite infants adequately immunized is compared to other nations' overall rates, the nation ranks 70th in the world, behind Burundi, Iran, Indonesia, Cuba, Jamaica, and Trinidad and Tobago, among others. U.S. preschool immunization rates, according to all available measures, declined during the 1980s, causing major new outbreaks of preventable childhood diseases.

Problems on such basic indicators as these mark a health care system with fundamental failings. They evidence a need for major changes in how basic health services are delivered. They tell us that the most essential preventive health services are an increasingly remote benefit for a growing share of our child population, to be enjoyed only by those children fortunate enough to live in families with substantial incomes and good health

Table 1. Percentage of One Year-Old Children Fully Immunized Against Polio, 1990

<u>Rank</u>	<u>Nation</u>	<u>Rate</u>	<u>Rank</u>	<u>Nation</u>	<u>Rate</u>
1	Denmark	100	38	Iran	91
2	Bulgaria	99	40	Austria	90
2	Chile	99	40	Dominican Republic	90
2	Czechoslovakia	99	40	Finland	90
2	Hungary	99	40	Malaysia	90
2	North Korea	99	40	Mauritius	90
7	China	98	40	Sri Lanka	90
7	Sweden	98	40	Syria	90
7	Switzerland	98	40	Tunisia	90
10	Greece	97	48	Algeria	89
11	Albania	96	48	Argentina	89
11	Hong Kong	96	50	Philippines	88
11	Mexico	96	50	Uruguay	88
11	Oman	96	52	Egypt	87
11	Pakistan	96	52	Honduras	87
11	Poland	96	52	Jamaica	87
17	Australia	95	52	Trinidad & Tobago	87
17	Belgium	95	52	United Kingdom	87
17	Bhutan	95	52	Vietnam	87
17	Costa Rica	95	58	Burundi	86
17	France	95	58	Nicaragua	86
17	Germany	95	58	Panama	86
17	Romania	95	61	Canada	85
17	United States	95	61	Italy	85
25	Cuba	94	61	Mongolia	85
25	Kuwait	94	61	Singapore	85
25	Netherlands	94	61	United Arab Emirates	85
25	Saudi Arabia	94	66	Morocco	84
29	Brazil	93	66	Norway	84
29	Colombia	93	68	Rwanda	83
29	India	93	68	Sierra Leone	83
29	Israel	93	70	Botswana	82
29	Japan	93	70	Central Africa Rep.	82
34	Jordan	92	70	Lebanon	82
34	Portugal	92	70	Tanzania	82
34	Thailand	92		U.S., Black	82
34	Yugoslavia	92	74	Libya	81
38	Indonesia	91			

SOURCE: UNICEF, State of the World's Children, 1992, except U.S. data which is from the 1985 U.S. Immunization Survey.

insurance.

This special report looks at the role of Medicaid, one of the most important sources of funding for children's health services, in the nation's vaccination crisis. It is based on a national survey of state Medicaid programs conducted during the fall of 1991. That survey finds widespread and significant underpayment for vaccination services by state Medicaid programs. It also finds that a majority of states have failed to take advantage of special federal arrangements that could both reduce their Medicaid (and indeed all families') vaccine costs substantially, while at the same time promoting increased provider participation in childhood vaccination programs, including Medicaid, and promoting higher immunization rates.

In great part as a result of inadequate state Medicaid program vaccination practices, in countless communities throughout the country there are critical shortages of physicians willing to vaccinate Medicaid-eligible children (who now constitute nearly one in four children under age 6 in the United States). At the same time, publicly funded providers of pediatric health care, such as community and migrant health centers and local health department clinics, are overwhelmed by unimmunized children and lack the supplies, staff, or the financial resources (through Medicaid or other programs) to accommodate the growing demand for their services. They are neither equipped nor financed to address a total breakdown of the private vaccination system.

Worst of all, this lethal chain of events is not well

understood, perhaps because it has proven easier for some officials to blame low income parents for neglecting their children than to address a breakdown in national and state vaccination programs that pose ever-higher barriers to care. Indeed, this study shows that Maryland, a state which in recent weeks has proposed measures conditioning AFDC payments on proof of childhood vaccination status, pays Medicaid childhood immunization fees far below the levels necessary to assure either that enough private providers are immunizing children in the Medicaid program or that there is sufficient support for public vaccination services.

The answer to these problems lies in the development at the state level, and ultimately at the national level, of a universal vaccine program that assures a steady supply of vaccines to all health providers, pays physicians and clinics reasonably for the immunization delivery services they provide, eliminates financial barriers to vaccination for families, and develops sources of primary health services in communities with shortages.

Such steps are well within our grasp, and they would benefit all children. At a time when a single measles shot in a physician's office can cost \$50, vaccination reforms are not only vital for poor, Medicaid-enrolled children. Today 25 million children -- 40 percent of all children -- have no employer health insurance. Tens of millions of others from poor, moderate, and middle income families will experience intermittent spells without insurance coverage or have insurance that does not cover the cost of immunizations. For working families with moderate incomes,

Table 2. Percentage of Infants and Toddlers Who Were Fully Immunized<sup>1</sup>, by Age and Race, U.S.<sup>2</sup>, 1980 and 1985

Infants		Polio	DTP <sup>3</sup>	Measles	Mumps	Rubella
Total	1980	80.0%	84.2%	These vaccines are not recommended for children of this age.		
	1985	79.6	82.7			
White	1980	80.9	84.9			
	1985	81.5	84.4			
Nonwhite	1980	73.2	79.0			
	1985	58.5	64.8			
Age one		Polio	DTP	Measles	Mumps	Rubella
Total	1980	95.5%	76.2%	These vaccines are not recommended for children of this age.		
	1985	95.2	78.3			
White	1980	96.2	78.6			
	1985	96.9	80.1			
Nonwhite	1980	89.1	56.5			
	1985	82.3	64.9			
Age two		Polio	DTP	Measles	Rubella	Mumps
Total	1980	80.7%	87.0%	83.0%	83.2%	80.2%
	1985	76.7	85.8	81.7	77.3	78.9
White	1980	83.0	89.4	84.8	84.4	81.5%
	1985	79.5	88.0	82.7	78.6	80.8
Nonwhite	1980	62.8	68.0	69.0	73.4	70.7
	1985	56.5	69.1	74.7	66.9	64.2

<sup>1</sup> Dosage levels are approximations of level needed to fully immunize a child of a given age: younger than age one, one or more doses of polio and DTP; at age one, one or more doses of polio and three or more doses of DTP; and at age two, three or more doses of polio and DTP and one dose of measles, rubella, and mumps vaccines.

<sup>2</sup> Data are from the U.S. Immunization Survey sample confirmed by parent consultation with an immunization record.

<sup>3</sup> DTP stands for a combined dose of diphtheria, tetanus, and pertussis vaccines.

SOURCE: U.S. Immunization Survey, Centers for Disease Control.

whose children are most vulnerable to the loss of insurance or limited insurance, yet too "well off" for Medicaid, the vaccination crisis is not Medicaid's problem alone. Only a system that makes immunizations a basic guarantee for all children will repair this problem.

#### THE GROWING CHILDHOOD VACCINATION CRISIS IN THE UNITED STATES

Over the past decade, the proportion of U.S. infants and toddlers adequately immunized against preventable childhood disease has fallen, and the incidence of preventable disease has risen enormously. Between 1980 and 1985 the proportion of children at age two who were fully immunized against seven major childhood illnesses declined (Table 2), with rates as low as 50 percent or fewer of all children adequately immunized in some major American cities, according to the national Centers for Disease Control. The Reagan Administration ceased the collection of nationwide immunization rates, but numerous neighborhood, city, and state studies in the late 1980s and 1990 showed continuing erosion of immunization levels among preschoolers, especially minority and inner city children.

Inadequate immunization rates inevitably led to a soaring incidence of preventable childhood diseases. In 1979, the U.S. Surgeon General set a goal of no more than 500 cases of measles nationally in 1990. In 1983 the nation was down to fewer

Table 3. Cases of Selected Preventable Childhood Diseases

<u>Disease</u>	<u>Public Health Service Year 2000 Objective</u>	<u>Lowest Number of Cases (Year)</u>	<u>Number of Cases in 1991<sup>1</sup></u>
Measles	0	1,497 (1983)	9,378
Mumps	500	2,982 (1985)	3,822
Rubella	0	225 (1988)	1,344
Pertussis	1,000	1,248 (1981)	2,441

<sup>1</sup> Reported cases through Dec. 7, 1991.

SOURCE: Centers for Disease Control.

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than 1500 measles cases, but by 1990 the number surpassed 27,000 and 89 died. In 1991, the number of measles cases dipped significantly, but experts warn that the three-year long measles epidemic (which claimed over 55,000 cases before beginning to abate in part because so many children were exposed) will strike again soon. Like all cyclical epidemics of preventable disease, measles will not go away unless aggressive action is taken to raise immunization rates substantially.

Similarly, other preventable childhood diseases have risen again to unacceptably high levels (Table 3). More than twice as many children suffered pertussis in 1991 than in 1981 and rubella cases were five times higher last year than in 1988. The number of mumps cases also remained at levels over 25 percent higher than in 1985.

Letting immunization rates drop and disease rates climb is a particularly self-destructive act for a nation. It not only causes

Table 4. Catalog Prices for Selected Vaccines, Per Dose, 1977-1991.

Year	Diphtheria, Tetanus & Pertussis (DTP)	Oral Polio Vaccine (OPV)	Measles, Mumps & Rubella (MMR)
1981	\$0.33	\$2.10	\$9.32
1982	\$0.37	\$2.75	\$10.44
1983	\$0.45	\$5.56	\$11.30
1984	\$0.99	\$4.60	\$12.08
1985	\$2.80	\$6.15	\$13.53
1986	\$11.40	\$8.67	\$15.15
1987	\$8.92	\$8.07	\$17.88
1988	\$11.03	\$8.07	\$24.11
1989	\$10.65	\$9.45	\$24.11
1990	\$10.65	\$9.45	\$24.07
1991	\$9.97	\$9.45	\$25.29
Increase 1981-91	2,921%	350%	171%

SOURCE: Centers for Disease Control.

greatly increased childhood death, disability, and suffering, but it is very expensive. Studies show that every \$1 the U.S. has invested in immunization in recent decades has saved \$10 in hospital and other costs.

Several key factors are causing this totally avoidable crisis:

**Skyrocketing vaccine costs:** Between 1981 and 1991 the price of vaccines skyrocketed (Table 4). The cost of a dose of DTP climbed from \$0.33 to \$9.97 and polio vaccine increased from \$2.10 to \$9.45. The price for a single dose of MMR vaccine nearly tripled to \$25.29. These soaring prices became harder and harder for economically pressed low and middle income families to pay and wiped out increases in federal funding for childhood vaccine grant