

# Delaware Vaccine Exemption Laws

## TITLE 14. EDUCATION

### PART 1. FREE PUBLIC SCHOOLS

#### CHAPTER 1. DEPARTMENT OF EDUCATION

##### SUBCHAPTER II. POWERS AND DUTIES

#### § 131. Public school enrollees' immunization program; exemptions.

(a) The Department shall from time to time, with advice from the Division of Public Health, adopt and promulgate rules and regulations to establish an immunization program to protect pupils enrolled in public schools from certain diseases. Such rules and regulations shall include at least the following:

- (1) The designation of a basic series of immunizations to be administered according to these rules;
- (2) The requirement that all persons enrolling in the public schools at any age or level as authorized by this title shall have:
  - a. Been immunized according to the required program prior to the time of enrollment in the Delaware schools;
  - b. Begun the series of immunizations not later than the time of enrollment to be completed within a reasonable time as prescribed by the Department in relation to the particular immunization involved; or
  - c. Presented written documentation of any claim of prior immunization in the form of a statement from the immunizing physician or agency or such other form as may from time to time be approved by regulation of the Department;
- (3) Provision that persons seeking to be enrollees of the public school who have not been immunized or do not meet the requirements for immunization within the time prescribed shall be denied further attendance in the public schools;
- (4) Provision for written notification of the parent, or legal guardian of an enrollee, of a pending exclusion;
- (5) Provision for exemption from any or all of the immunization program prescribed for a particular enrollee upon a written statement from a physician, i.e., medical doctor or doctor of osteopathy, stating that the enrollee should not receive the prescribed immunization or immunizations required in the basic series because of the reasonable certainty of a reaction detrimental to that person. A history of clinical illness of measles or rubella shall not be accepted as cause for exemption;
- (6) Provision for exemption from the immunization program for an enrollee whose parents or legal guardian, because of individual religious beliefs, reject the concept of immunization. Such a request for exemption shall be supported by the affidavit herein set forth:

AFFIDAVIT OF RELIGIOUS BELIEF

STATE OF DELAWARE

..... COUNTY

1. (I) (We) (am) (are) the (parent(s)) (legal guardian(s)) of

.....

Name of Child

2. (I) (We) hereby (swear) (affirm) that (I) (we) subscribe to a belief in a relation to a Supreme Being involving duties superior to those arising from any human relation.

3. (I) (We) further (swear) (affirm) that our belief is sincere and meaningful and occupies a place in (my) (our) life parallel to that filled by the orthodox belief in God.

4. This belief is not a political, sociological or philosophical view of a merely personal moral code.

5. This belief causes (me) (us) to request an exemption from the mandatory

school vaccination program for

.....

Name of Child

.....

Signature of Parent(s) or Legal Guardian(s)

SWORN TO AND SUBSCRIBED before me, a registered Notary Public, this

..... day of ....., .....

..... (Seal)

Notary Public

My commission expires:

.....

(7) Provision that, in the event that the Division of Public Health of the Department of Health and Social Services of the State declares that there is throughout the State or in a particular definable region of the State an epidemic of a vaccine preventable disease, any child who is enrolled in a public school and who has been exempt from the immunization program for any of the causes authorized herein shall be temporarily excluded from attendance at the public school. Rules and regulations of the Department shall provide that in the event of such temporary exclusion, it will be the responsibility of the school and the parents or legal guardian of the enrollee to assist the enrollee in keeping up with that enrollee's school work and that no academic penalty shall be suffered by the enrollee upon return to school if the student has maintained that student's relationship with the school through the assignments prescribed. An enrollee so temporarily excluded shall be authorized to return to school upon the lifting by the Division of Public Health of the epidemic declaration;

(8) Provision that in any situation where the parents or legal guardian of the enrollee states that the enrollee has been immunized, but that the record has been lost or destroyed by the provider of the immunizations, the following procedure may be carried out by that responsible person and shall be accepted by the local school district board of education or its designee in lieu of compliance with the immunization requirement:

a. The responsible person, or the school nurse, shall sign a statement that the record of the enrollee's immunization has been lost; and

b. The responsible person shall be responsible for the enrollee obtaining 1 dose of each of the vaccines prescribed in the basic series of immunization;

(9) Provision for an enrollee who has reached the statutory age of majority set by laws for the State to be responsible for that enrollee's immunization program and for execution of the request for religious exemption herein authorized;

(10) Provision that it shall be the responsibility of each Delaware public school district to administer, or prescribe a designee to administer, rules and regulations herein authorized and promulgated by the Department of Education.

(b) Appeals from the decision of the Department rendered pursuant to this section shall be to the Superior Court and shall be made in the same manner as is provided by the Superior Court Civil Rules for appeals from commissions, boards and agencies. Such appeal shall be on the record before the Department.

**Title 14 EDUCATION**  
**800 HEALTH AND SAFETY**  
**804 IMMUNIZATIONS**

**1.0 Definition**

"School Enterer" means any child between birth and twenty (20) years inclusive entering or being admitted to a Delaware school district for the first time, including but not limited to, foreign exchange students, immigrants, students from other states and territories and children entering from nonpublic schools.

**2.0 Minimum Immunizations Required for All School Enterers**

2.1 All School Enterers shall have immunizations given up to four days prior to the minimum interval or age and shall include:

2.1.1 Four or more doses of diphtheria, tetanus, pertussis (DTaP, DTP, or other approved vaccine) or a combination of these vaccines. A booster dose of Td or Tdap (adult) is recommended by the Division of Public Health for all students at age 11 or five years after the last DTaP, DTP or DT dose was administered whichever is later. Notwithstanding this requirement:

2.1.1.1 A child who received a fourth dose prior to his or her fourth birthday shall have a fifth dose;

2.1.1.2 A child who received the first dose of Td (adult) at or after age seven may meet this requirement with only three doses of Td or Tdap (adult).

2.1.2 Three or more doses of inactivated polio virus (IPV), oral polio vaccine (OPV), or a combination of these vaccines with the following exception: a child who received a third dose prior to the fourth birthday shall have a fourth dose.

2.1.3 Two doses of measles, mumps and rubella (MMR) vaccine. The first dose should be administered on or after the age of 12 months. The second dose should be administered after the fourth birthday. Individual combination vaccines of measles, mumps, rubella (MMR) may be used to meet this requirement.

2.1.3.1 Disease histories for measles, rubella and mumps shall not be accepted unless serologically confirmed.

2.1.4 Three doses of Hepatitis B vaccine.

2.1.4.1 For children 11 to 15 years old age, two doses of a vaccine approved by the Center for Disease Control (CDC) may be used.

2.1.4.2 Titers are not acceptable in lieu of completing the vaccine series and a disease history for Hepatitis B shall not be accepted unless serologically confirmed.

2.1.5 Varicella vaccine is required beginning in the 2003-2004 school year with kindergarten. One grade shall be added each year thereafter so that by the 2015-2016

school year all children in grades kindergarten through 12 shall have received the vaccination. Beginning in the 2008-2009 school year new enterers into the affected grades shall be required to have two doses of the Varicella vaccine. The first dose shall be administered on or after the age of twelve (12) months and the second at kindergarten entry into a Delaware public school. A written disease history, provided by the health care provider, parent, legal guardian, Relative Caregiver or School Enterer who has reached the statutory age of majority (18), 14 Del.C. §131(a)(9), will be accepted in lieu of the Varicella vaccination. Beginning in the 2008-2009 school year, a disease history for the Varicella vaccination must be verified by a health care provider to be exempted from the vaccination.

2.2 Children who enter school prior to age four (4) shall follow current Delaware Division of Public Health recommendations.

### **3.0 Certification of Immunization**

3.1 The parent, legal guardian, Relative Caregiver or a School Enterer who has reached the statutory age of majority (18), 14 Del.C. §131(a)(9), shall present a certificate specifying the month, day, and year that the immunizations were administered by a licensed health care practitioner.

3.2 According to 14 Del.C. §131, a principal or person in charge of a school shall not permit a child to enter into school without acceptable evidence of immunization. The parent, legal guardian, Relative Caregiver or a School Enterer who has reached the statutory age of majority (18), 14 Del.C. §131(a)(9), shall be notified of this requirement in writing. Within 14 calendar days after notification, evidence must be presented to the school that the basic series of immunizations has been initiated or has been completed.

3.3 A school enterer may be conditionally admitted to a Delaware school district by presenting a statement from a licensed health care practitioner who specifies that the School Enterer has received at least:

3.3.1 One dose of DTaP, or DTP, or DT; and

3.3.2 One dose of IPV or OPV; and

3.3.3 One dose of measles, mumps and rubella (MMR) vaccine; and

3.3.4 The first dose of the Hepatitis B series; and

3.3.5 One dose of Varicella vaccine as per 2.5.

3.4 14 DE Admin. Code 901 Education of Homeless Children and Youth 6.0 states that "School districts shall ensure that policies concerning immunization, guardianship and birth certificates do not create barriers to the school enrollment of homeless children and youth". To that end, school districts shall as stated in 14 DE Admin. Code "assist homeless children and youth in meeting the immunization requirements".

3.5 If the school enterer fails to complete the series of required immunizations the parent, legal guardian, Relative Caregiver or a school enterer who has reached the statutory age of majority

(18), 14 Del.C. §131(a)(9), shall be notified that the School Enterer will be excluded according to 14 Del.C. §131.

#### **4.0 Lost or Destroyed Immunization Record**

When a student's immunization record has been lost or destroyed by the medical provider who administered the vaccine, the parent, legal guardian, Relative Caregiver or a school enterer who has reached the statutory age of majority (18), 14 Del.C. §131(a)(9), shall sign a written statement to this effect and must obtain at least one dose of each of the immunizations as identified in 3.3. Evidence that the vaccines were administered shall be presented to the superintendent or his or her designee.

#### **5.0 Exemption from Immunization**

5.1 Exemption from this requirement may be granted in accordance with 14 Del.C. §131 which permits approved medical and notarized religious exemptions.

5.2 Alternative dosages or immunization schedules may be accepted with the written approval of the Delaware Division of Public Health.

#### **6.0 Verification of School Records**

The Delaware Division of Public Health shall have the right to audit and verify school immunization records to determine compliance with the law.

#### **7.0 Documentation**

7.1 School nurses shall record and maintain documentation of each student's immunization status.

7.2 Each student's immunization record shall be included in the Delaware Immunization Registry.

### **TITLE 16. HEALTH AND SOCIAL SERVICES**

#### **4000. DIVISION OF PUBLIC HEALTH**

#### **4200. HEALTH PROMOTION AND DISEASE PREVENTION**

#### **4202. CONTROL OF COMMUNICABLE AND OTHER DISEASE CONDITIONS**

#### **7.0 Control of Specific Contagious Diseases**

##### **7.1 Vaccine Preventable Diseases**

7.1.1 All preschool children who are enrolled in a child care facility must be age-appropriately vaccinated against diseases prescribed by the Division Director. For those diseases so prescribed, the most current recommendations of the federal Center's for Disease Control and Prevention's Advisory Committee on Immunization Practices' (ACIP) shall determine the vaccines and vaccination schedules acceptable for compliance with this regulation.

7.1.2 Any child entering private school must be age-appropriately vaccinated against diseases prescribed by the Division Director, prior to enrolling in school. For those

diseases so prescribed, the most current recommendations of the federal Center's for Disease Control and Prevention's Advisory Committee on Immunization Practices' (ACIP) shall determine the vaccines and vaccination schedules acceptable for compliance with this regulation. This provision pertains to all children between the ages of 2 months and 21 years entering or being admitted to a Delaware private school for the first time including, but not limited to, foreign exchange students, immigrants, students from other states and territories and children entering from public schools.

7.1.3 Acceptable documentation of the receipt of immunization as required by Sections 7.1.1 - 7.1.2 shall include either a medical record signed by a physician, or a valid immunization record issued by the State of Delaware or another State, which specifies the vaccine given and the date of administration.

7.1.4 Immunization requirements pursuant to sections 7.1.1 - 7.1.2 shall be waived for:

7.1.4.1 children whose physicians have submitted, in writing, that a specific immunizing agent would be detrimental to that child; and,

7.1.4.2 children whose parents or guardians present a notarized document that immunization is against their religious beliefs.

7.1.5 Child care facilities and private schools (grades K-12) shall maintain on file an immunization record for each child. The facility will also be responsible to report to the Division Director or designee on an annual basis the immunization status of its enrollees.

7.1.6 Parents whose children present immunization records which show that immunizations are lacking will be allowed 14 days (or such time as may be appropriate for a particular vaccination) to complete the required age-appropriate doses of vaccine for their children. In instances where more than 14 days will be necessary to complete the age-appropriate immunization schedule, an extension may be allowed in order to obtain the required immunizations. Extension of the 14-day allowance because of missed appointments to receive needed immunizations shall not be permitted.

7.1.7 When a child's records are lost and the parent states that the child has completed his/her series of immunizations, or a child has been refused admission or continued attendance at a child care facility or private school for lack of acceptable evidence of immunization as specified in this regulation, a written certification must be provided by a health care provider who has administered the necessary age-appropriate immunizations to the child according to the current ACIP immunization schedule.

7.1.8 It is the responsibility of the child care facility or private school to exclude a child prior to admission or from continued attendance who has failed to document required immunizations pursuant to this section.

7.1.9 Upon the occurrence of a case or suspect case of one of the vaccine preventable diseases specified in pursuant to sections 7.1.1 and 7.1.2, any child not immunized against that disease shall be excluded from the premises, until the Division Director or designee has determined that the disease risk to the unimmunized child has passed. Such exclusion shall apply to all those in the facility who are admitted under either medical or religious exemption as well as to those previously admitted who have not yet received vaccine against the disease which has occurred. If, in the judgment of the Division

Director or designee, the continued operation of the facility presents a risk of the spread of disease to the public at large, he/she shall have the authority to close the facility until the risk of disease occurrence has passed.

7.1.10 All full-time students of post-secondary educational institutions and all full and part-time students in such educational institutions if engaged in patient-care related curriculums (included but not limited to nursing, dentistry and medical laboratory technology), shall be required to show evidence of immunity to measles, rubella and mumps prior to enrollment by the following criteria:

7.1.10.1 Measles immunity:

7.1.10.1.1 persons born before January 1, 1957; or

7.1.10.1.2 physician documented history of measles disease; or

7.1.10.1.3 serological confirmation of measles immunity; or

7.1.10.1.4 a documented receipt from a physician or health facility that two doses of measles vaccine were administered after 12 months of age.

7.1.10.2 Rubella immunity:

7.1.10.2.1 persons born before January 1, 1957; except women who could become pregnant; or

7.1.10.2.2 laboratory evidence of antibodies to rubella virus; or

7.1.10.2.3 a documented receipt from a physician or health facility that rubella vaccine was administered on or after 12 months of age.

7.1.10.3 Mumps immunity:

7.1.10.3.1 persons born before January 1, 1957; or

7.1.10.3.2 physician diagnosed history of mumps disease; or

7.1.10.3.3 laboratory evidence of immunity; or

7.1.10.3.4 a documented receipt from a physician or health facility that mumps vaccine was administered on or after 12 months of age.

7.1.11 Immunization requirements pursuant to section 6.1.10 shall be waived for:

7.1.11.1 A student whose licensed physician certifies that such immunization may be detrimental to the student's health;

7.1.11.2 A student who presents a notarized document that immunization is against their religious beliefs.

7.1.12 The student health service, the admissions office and the office of the university or college registrar are jointly responsible for implementing Section 7.1.10 through notification of immunization requirements, the collection and verification of documented vaccine histories, identification and notification of students not in compliance and imposition of sanctions for non-compliance.

7.1.13 Students who can not show evidence of immunity to measles pursuant to 6.1.10 and who cannot show documented receipt of ever having received measles vaccine shall be permitted to enroll on the condition that 2 doses be administered within 45 days or at the resolution of an existing medical contraindication. Students who cannot show evidence of immunity to rubella and/or mumps or who have had only 1 dose of measles vaccine shall be permitted to enroll on the condition that measles, mumps and rubella immunizations be obtained within 14 days or at the resolution of an existing medical contraindication. However, in implementing these requirements, doses of a measles containing vaccine shall not be given closer than 28 days apart.

7.1.14 The Division Director may maintain a registry of the immunization status of persons vaccinated against any vaccine preventable diseases (hereafter called an "immunization registry").

7.1.14.1 Physicians and other health care providers who give immunizations shall report information about the immunization and the person to whom it was given for addition to the immunization registry in a manner prescribed by the Division Director or designee.

7.1.14.2 The Division Director or designee may disclose information from the immunization registry without a patient's, parent's, or guardian's written release authorizing such disclosure to the following:

7.1.14.2.1 The person immunized, or a parent or legal guardian of the person immunized, or persons delegated in writing by same.

7.1.14.2.2 Employees of public agencies or research institutions, however only when it can be shown that the intended use of the information is consistent with the purposes of this section.

7.1.14.2.3 Health records staff of school districts and child care facilities.

7.1.14.2.4 Persons who are other than public employees who are entrusted with the regular care of those under the care and custody of a state agency including but not limited to operators of day care facilities, group, residential care facilities and adoptive or foster parents.

7.1.14.2.5 Health insurers, however only when the person immunized is a client of the health insurer.

7.1.14.2.6 Health care professionals or their authorized employees who have been given responsibility for the care of the person immunized.

7.1.14.3 If any person authorized in subsection 6.1.14.2 discloses information from the immunization registry for any other purpose, it is an unauthorized release and such person may be subject to civil and criminal penalty.

Source: State of Delaware. (2009, January, 1). [wwwdocument] URL.  
<http://regulations.delaware.gov/AdminCode/>