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## VACCINATION REQUIREMENTS APPLICABLE TO ALL STUDENTS

Public Health Law [§2164](#) applies to children attending all schools as defined in Public Health Law §2164 which include any public, private or parochial child-caring center, day nursery, day care agency, nursery school, kindergarten, elementary, intermediate, or secondary school.

Public Health Law §2164 prohibits a school from permitting any child to be admitted to such school, or to attend such school in excess of 14 days without sufficient evidence that the child has received all age-appropriate required vaccinations. The 14 days may be extended to not more than 30 days where the student is transferring from out of state or from another country and can show a good faith effort to get the necessary evidence or where the parent, guardian or any other person in parental relationship can demonstrate that a child has received the first age appropriate dose in each immunization series and that they have age-appropriate scheduled appointments for follow-up doses to complete the immunization series in accordance with the [CDC's Advisory Committee on Immunization Practices Recommended Immunization Schedules for Persons Aged 0 through 18](#).

Please see the New York State Department of Health's [health.ny.gov/prevention/immunization/schools/](http://health.ny.gov/prevention/immunization/schools/) for more information on the requirements for school attendance.

Information regarding compulsory school age is available at:  
<http://www.p12.nysed.gov/sss/lawsregs/>.

### **Athletics**

**4. When are schools required to assess compliance with the immunization requirements for students participating in interscholastic athletics that begin in the summer?**

A. For students participating in interscholastic athletics schools can consider the beginning of the academic year to be the start of the 14-day time period. For students not attending year-round instruction, the 14-day time period commences on the first day of instruction for the school year (July for students attending summer school or September for students not attending summer school) or first enrollment during the school year.

### **Home, Hospital, and Institutional Instruction and Homeschooling**

**5. Does this apply to students who are receiving home, hospital, or institutional (formerly homebound) instruction, under [8 NYCRR section 100.10](#)?**

A. Yes. **Home, hospital, and institutional** instruction is a form of tutorial services provided to public or nonpublic students by the public school district of residence. These services are provided to students who are unable to attend their public or nonpublic school because of physical, mental, or emotional illness or injury.

**6. If I provide homeschooling for my child, will he or she be allowed to attend State tests (e.g., 3-8 State assessments, Regent's examinations) held at the school if he/she is not immunized?**

A. No. Only those students who have been vaccinated consistent with Public Health Law §2164 or have a valid medical exemption will be allowed to take such examinations at the school.

**7. May groups of parents provide homeschooling collectively by engaging the services of a tutor to provide group instruction to their children?**

A. Parents providing homeschooling to their child may arrange to have their child instructed in a group situation for particular subjects but not for a majority of the home instruction program. Where groups of parents organize to provide group instruction by a tutor for a majority of the instructional program, they are operating a nonpublic school and are no longer providing home instruction.

**8. Can a homeschooled student who is not immunized audit or intermittently attend some classes at a nonpublic school without the required immunizations?**

A. No. Homeschooled students who are not immunized consistent with Public Health Law §2164 or who do not have a valid medical exemption cannot audit or intermittently attend some classes at a nonpublic school.

## Transportation

**9. Can students who are not immunized and do not have a valid medical exemption be transported using school transportation with other students?**

A. No, students who have not been immunized consistent with the requirements of Public Health Law §2164 and do not have a valid medical exemption may not be transported on a school bus or school vehicle with other students.

**10. If a school district provides bus transportation to students attending another school (i.e., a nonpublic school), is the school district that provides the bus transportation responsible for ensuring that the students from other schools have all their required immunizations?**

A. No. Each school arranging for bus transportation through their school district of location is responsible for ensuring that the children enrolled in or attending such school receive the required immunizations or valid medical exemptions in accordance with the law.

## Special Education

**11. Are students with disabilities who have not been immunized entitled to special education services?**

A. Parents who choose not to vaccinate a student with a disability must still ensure that children of compulsory school age are educated and, thus, would need to provide homeschooling for those children. Where students with disabilities are provided homeschool instruction under 8 NYCRR §100.10, such students are eligible to receive special education services from their school district. Under Education Law §3602-c(2-c), these students are entitled to receive special education services in accordance with an individualized education services program (IESP) from the public school district in which the home school is located. Where the student is educated at home, the school district of location is the same as the student's school district of residence.

**12. Is it considered a change in placement when a student with a disability, who previously attended public school under a non-medical exemption from vaccination requirements, is now being homeschooled because the student does not meet vaccination requirements under State law?**

A. No. It is not considered a change in placement when a student with a disability who previously attended public school under a non-medical exemption from vaccination requirements is now being homeschooled solely because the student does not meet the . (ho)1§21(ho)164.04 Tw -32.48 -2.5d(12)Tj0 Tc 0 Tw (.)Tj/TTho

determined to be in compliance with §100.10 of the Regulations of the  
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provided that such discretion is exercised equally among all students with disabilities who file after the June 1 deadline.

**18. What options do parents have if they disagree with the recommendations on an IESP?**

A. Parents of homeschooled students with disabilities who disagree with the IESP recommendation of the CSE would be entitled to the due process procedures set forth in Education Law §4404.

**19. Can parents of homeschooled children choose which services they want their child to receive, or must parents accept all or none of the services recommended on an IESP?**

A. Parents must submit a request in writing if they want special education services provided to their child. Unless otherwise indicated, the parent's written request is for all services on the IESP. However, a parent could request that only specific services be provided (e.g., speech therapy). The school district should maintain documentation of the parent's request.

**Preschool Students with Disabilities**

**20. If a parent chooses not to immunize a preschool child, does this impact the preschool special education services that the child may receive?**

A. Preschool students with disabilities continue to be entitled to special education programs and services through an IEP developed by the committee on preschool special education (CPSE). The IEP will identify the location where special education services will be provided to preschool students with disabilities.

If the CPSE recommends special education services that can only be delivered in an approved preschool special education program, the child must either be immunized consistent with Public Health Law §2164 or have a valid medical exemption in order to attend or be admitted to that program and receive those special education services.

**21. What options do parents have if they disagree with the recommendations on an IEP?**

A. Parents of preschool students with disabilities who disagree with the IEP recommendation of the CPSE would be entitled to the due process procedures set forth in Education Law §4404.