

STATE OF MAINE

**IMMUNIZATION REQUIREMENTS
FOR SCHOOL CHILDREN**



**10-144 CODE OF MAINE RULES
CHAPTER 261
Department of Health and Human Services
Maine Center for Disease Control and Prevention**

AND

**05-071 CODE OF MAINE RULES
CHAPTER 126
Department of Education**

Last Amended: September 25, 2021

**10-144 DEPARTMENT OF HEALTH AND HUMAN SERVICES
MAINE CENTER FOR DISEASE CONTROL AND PREVENTION**

Chapter 261: IMMUNIZATION REQUIREMENTS FOR SCHOOL CHILDREN

A joint rule with

05-071 DEPARTMENT OF EDUCATION (COMMISSIONER)

Chapter 126: IMMUNIZATION REQUIREMENTS FOR SCHOOL CHILDREN

SUMMARY: This rule is issued jointly by the Commissioner of Education and the Director of the Maine Center for Disease Control and Prevention, within the Department of Health and Human Services, to implement the provisions within (20-A MRS §§ 6352-6358). It prescribes the dosage for required immunizations for children enrolled and/or attending elementary and secondary schools and defines record-keeping and reporting requirements for school officials. For the purpose of complying with this rule, “licensed” physicians, nurse practitioners and physician assistants means licensed by the State of Maine.

NOTICE

The Maine State Legislature has designated rules specifying diseases for which immunization is required as major substantive (20-A MRS §6358(1)).

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SECTION 1. DEFINITIONS

A. For the purpose of this rule, the following terms have the following meanings:

1. **Certificate of immunization** means a written statement from a physician, nurse or public health official who has administered an immunizing agent to a child, specifying that the required dosage was administered and the month, day and year in which it was administered.
2. **Children entering school** means any child who enters a school for the first time via pre-kindergarten or kindergarten enrollment, transfers from one school to another, or otherwise enrolls in a school for the first time.
3. **Disease** means diphtheria, varicella (chickenpox), measles, mumps, pertussis, poliomyelitis, rubella, meningococcal meningitis and/or tetanus.
4. **Enroll** means to complete a formal procedure of adding or maintaining a student to a roster as a pupil in a public school or school administrative unit, as appropriate, or private school.
5. **Immunizing agent** means a vaccine, toxoid or other substance used to increase an individual's immunity to disease.
6. **Parent** means a child's parent, legal guardian, or custodian. A person is regarded as a child's custodian if that person is an adult and has assumed legal charge and care of the child.
7. **Proof of Immunity** means laboratory evidence of immunity or reliable documented evidence from a physician, nurse practitioner or physician assistant that the individual is immune to a specific disease.
8. **Public health official** means the Director of the Maine Center for Disease Control and Prevention, or any designated employee or agent of the Department of Health and Human Services.
9. **School** means any public or private elementary or secondary or special education facility providing instruction for any combination of pre-kindergarten through grade 12. For the purpose of complying with this rule, this definition includes in-person classes and remote learning programs offered by the school.
10. **Student health record** means documentation of health information and school nursing services provided to individual students including, but not limited to, immunizations, health screening, health assessment and nursing care plans, as needed.
11. **Superintendent** means the superintendent of a school administrative unit or his designee, or the chief administrative officer of a private school.

SECTION 2. IMMUNIZATION REQUIRED

A. Parental Responsibility

Except as otherwise prohibited by law, every parent must cause to be administered to his child the required dosage of an immunizing agent against each of the following diseases.

1. Diphtheria,
2. Measles
3. Meningococcal meningitis
4. Mumps
5. Pertussis
6. Poliomyelitis
7. Tetanus
8. Rubella
9. Varicella

B. Superintendents' Responsibility

Unless exempt by law and this rule, no superintendent may permit any student to be enrolled in or to attend school without a certificate of immunization for each disease listed in this rule or proof of immunity against each disease.

SECTION 3. EXCEPTIONS

A. Enrollment or Attendance Without Immunization Information

A child who does not provide a certificate of immunization or proof of immunity against a disease listed in this rule is not permitted to enroll in or attend school unless one or more of the following circumstances apply:

1. **Written Assurance from Parent of Private Effort to Immunize Child:** The parent provides the school with a written assurance that the child will be immunized by private effort within 90 days of enrollment or of the child first attending, whichever date is the earliest, in accordance with 20-A MRS § 6355(1).

The granting of this 90-day period is a one-time provision. If, after 90 days have passed, the parent fails to provide the required certificate of immunization or proof of immunity against each of the diseases listed in this rule, then the superintendent must exclude the student from school and may permit the student's return upon receipt of evidence of the required immunizations, immunity or exemption under law.

2. **Written Consent to Immunize Child:** The parent grants written consent for the child's immunization by a public health officer, physician, nurse or other authorized person in their employ, or acting as an agent of the school, where such immunization programs are in effect.
3. Medical exemption in accordance with 20-A MRS § 6355(2).
4. **Individualized Education Plan:** In accordance with 20-A MRS § 6355(4), a student covered by an individualized education plan on September 1, 2021 who elected a philosophical or religious exemption from immunization requirements on or before September 1, 2021 pursuant to the law in effect prior to that date, may continue to attend school under that student's existing exemption as long as:
 - a. The parent or guardian of the student provides a statement from a licensed physician, nurse practitioner or physician assistant that the physician, nurse practitioner or physician assistant has consulted with that parent or guardian and has made that parent or guardian aware of the risks and benefits associated with the choice to immunize; or

- b. If the student is 18 years of age or older, the student provides a statement from a licensed physician, nurse practitioner or physician assistant that the physician, nurse practitioner or physician assistant has consulted with that student and has made that student aware of the risks and benefits associated with the choice to immunize.

If a student has an immunization exemption in accordance with this section, the student will be able to maintain that exemption after dismissal from special education services and will be considered exempt until the child is no longer eligible for free, appropriate public education (FAPE).

SECTION 4. CERTIFICATE OF IMMUNIZATION; EVIDENCE OF IMMUNITY

A. Certificate of Immunization

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

B. Proof of Immunity

In the absence of a certificate of immunization, the child must present the school with laboratory evidence demonstrating immunity or reliable documented history of immunity provided by a physician or other primary care provider.

SECTION 5. IMMUNIZATION DOSAGE

The following schedule shows the minimum requirements for immunizing agents administered to children enrolling in or attending school.

A. Diphtheria/Tetanus/Pertussis (DPT/DTaP/Tdap/Td):

1. For pre-kindergarten students only, four doses of DPT/DTaP are required. The third and fourth dose must be separated by at least six months.
2. For students ages six years old and younger in kindergarten or grades above, a total of five doses of DPT/DTaP are required, except that, if the fourth dose was administered on or after the child's fourth birthday, then only four doses are required.
3. For students seven years of age and older, a minimum of three doses of DPT/DTaP with the last dose administered on or after the child's fourth birthday is required. A student who did not complete their primary DTP/DTaP immunization series or who has an unknown vaccine history, requires a single dose of Tdap followed by either Tdap or Td until three doses have been achieved.
4. In addition to receiving the required doses for DPT/DTaP, one dose of Tdap vaccine is required for students entering grade 7. Any valid dose of Tdap after age seven satisfies the requirement for 7th grade entry.

- B. **Measles/Mumps/Rubella (MMR):** All students in grades kindergarten through 12 must have been immunized against measles, mumps, and rubella with two doses of MMR vaccine, provided the first dose is administered no sooner than 12 months of age and at least four weeks separate the two doses. For pre-kindergarten students only, one dose of MMR vaccine is required.
- C. **Poliomyelitis:** For students in grades kindergarten through 12, four doses of inactivated polio vaccine (IPV) or oral polio vaccine (OPV) or combination of both are required. The first dose must be administered at least six weeks after birth, with subsequent doses given at least four weeks apart. The fourth dose is not needed if the third dose is given on or after the fourth birthday. For students in pre-kindergarten only, three doses of IPV or OPV or a combination of both are required. The first dose must be administered at least six weeks after birth, with subsequent doses given at least four weeks apart.
- D. **Varicella:** Two doses of varicella vaccine are required for children in grades kindergarten through 12. Children should receive the first dose at 12 through 15 months old and a second dose at 4 through 6 years old.
- E. **Meningococcal Meningitis:** Effective for the start of school year 2018, one dose of quadrivalent meningococcal conjugate vaccine (MCV4) is required for children entering grade seven. Any child entering grade twelve is required to have received two doses of MCV4. The first dose must have been received on or after the eleventh birthday, and the second dose must have been received on or after the sixteenth birthday, at least eight weeks after the first dose. However, if the first dose is administered when the child is sixteen years of age or older, only one dose is required.

For children who have not received vaccinations on a schedule that is in accordance with this rule, the child or parent, in consultation with a Maine-licensed physician, registered nurse practitioner or physician's assistant, may determine an appropriate catch-up schedule that will meet immunity requirements for this rule. This plan for immunization must be maintained in the child's health record.

SECTION 6. EXCLUSION FROM SCHOOL

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

A child not immunized or immune from a disease must be excluded from school and school activities when a public health official determines that the child's continued presence in school poses a clear danger to the health of others. The superintendent must exclude the child from school and school activities during the period of danger, or until the child is immunized. If another child attending the same school is infected with, or shows symptoms of, the same disease during the period of danger, the exclusion period for the student who is not immunized or immune must be extended for another full term of the incubation period set forth below.

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

1. **Measles:** 15 days (one incubation period) from the onset of symptoms of the last identified case in the school.
2. **Rubella:** 23 days (one incubation period) from the onset of symptoms of the last identified case in the school.

3. **Mumps:** 18 days (one incubation period) from the onset of symptoms of the last identified case in the school.
4. **Varicella:** 21 days (one incubation period) from the onset of symptoms of the last identified case in the school.

In accordance with 20-A MRS § 6356(1), the superintendent must make arrangements to meet the educational needs of any child excluded from school for more than ten days. This section does not require the provision of off-site classes or tutoring.

B. Exclusion by Order of Superintendent

In addition to children who do not meet the immunization requirements of this rule, a superintendent may also exclude from schools and school activities any enrolled child if the child is a suspected public health threat by reason of a communicable disease of the skin, mouth or eyes, in accordance with 20-A MRS § 6301. The superintendent must also exclude from public school any enrolled child or employee who has contracted or has been exposed to a communicable disease as directed by a public health official.

C. Exclusion by Order of Department of Health and Human Services

The Department of Health and Human Services is authorized to order removal of an enrolled child, in accordance with 22 MRS § 806 and the Maine Control of Notifiable Diseases and Conditions Rule at 10-144 CMR ch 258, Section 9 (E)(3)(b), in the event of an actual or threatened outbreak of a communicable disease or other public health threat. After a determination is made in accordance with 22 MRS § 806(2) that a removed enrolled child is permitted to return, and the public health threat no longer exists, the Department of Health and Human Services will notify the superintendent of that determination.

SECTION 7. RECORDS AND RECORD-KEEPING

A. Designated Record Keeping

1. The school nurse (or head school nurse) in each school unit or private school is responsible for the maintenance of immunization records. If no school nurse has been employed, the superintendent must designate another responsible person.
2. If immunization and student health records are physically maintained in individual school buildings, a designated person in each building must have responsibility for supervision of the records.

B. Student Health Records

1. Each school/unit is required to adopt a uniform student health record for maintaining information regarding the health status of each child as defined under Section 1.
2. The immunization status of each student regarding each disease listed in this rule must be noted on the child's individual student health record. These records are confidential, except that state and local public health personnel may access ~~to~~ them to ensure compliance with immunization and documentation requirements of this rule, or as it relates to an emergency, as

provided by the *United States Family Educational Right and Privacy Act of 1974*, 20 U.S.C. §1232g(b)(1) and the regulations adopted under that act.

3. Whenever a superintendent permits a non-immunized student to attend school based on an exemption in accordance with this rule and 22 MRS § 6355, the school official responsible for maintaining student health records must keep a record of such exemptions. Each such record must include the date of acceptance and date that the exemption expires.

C. List of Non-Immunized Children

1. The school official responsible for maintaining student health records in each school unit or school must keep a listing of the names of all children within the school unit or school who are not currently immunized against each disease. This list must include the names of all students with authorized exemptions from immunizations, including time-limited exemptions permitted in accordance with Section 3(A) of this rule and 20-A MRS §6355(1), as well as any who might not be in compliance with the law. The purpose of the list is to provide an efficient means of identifying non-immunized children in the event of a disease outbreak.
2. A child who has not received all the required doses of vaccine must not be permitted to attend school beyond the first day, except as provided in Section 3 of this rule. When the child is permitted to return, the list must be updated accordingly.

SECTION 8. REQUIRED REPORTS

A. Superintendent's Responsibility

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

B. Summary Report

1. The summary report will include the following information at a minimum: specific information identifying the school, the superintendent; the total student enrollment, the number of new students identified by vaccine type, as either immunized, exempt or out of compliance, and the number of students who are previously enrolled and unimmunized. The summary report will not include the name of any other personally identifying information of any individual student. The report must denote the number of students enrolled pursuant to a written assurance exemption. The summary report will be constructed so as to reflect meaningful data by grade. The school superintendent must certify each report as accurate and complete.
2. Additional requirements regarding the immunization of children or employees of any school adopted by ordinance of the municipality, regulation of school board policy, or policy of a private school's governing board must be included in the summary report.

STATUTORY AUTHORITY: 20-A MRS §§ 6358(1); 22 MRS § 806

EFFECTIVE DATE:

May 29, 1985

EFFECTIVE DATE (ELECTRONIC CONVERSION):

May 5, 1996

AMENDED:

July 14, 1996 *(APA Office Note: the Education Department version, 05-071 Ch. 126, does not appear to have been amended since May 29, 1985.)*

NON-SUBSTANTIVE CORRECTIONS:

January 15, 2002 - minor formatting, history notes

AMENDED:

May 26, 2002

December 21, 2016 – filing 2016-228 *(a joint rule with the Department of Education, Ch. 126)*

May 10, 2018 – filing 2018-059 *(a joint rule with the Department of Education, Ch. 126)*

2020 – filing 2020- *(Routine Technical Rule, jointly with the Department of Education, 05-071 CMR Ch. 126)*