



**Texas Association of School Boards**

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## **Immunization Requirements and Exceptions**

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People may have complicated views on immunizations, but when it comes to the law that schools must follow, the guidelines are relatively clear. Before a student may attend a public school, the student must show acceptable evidence of appropriate vaccination. The Texas Education Code, however, does provide for exceptions. This article addresses a school's obligations under the immunization laws in Texas.

### ***Q: Which immunizations are required for students?***

A: The Texas Department of State Health Services (DSHS) annually prepares a list of required immunizations. The list includes the Texas Education Code requirements that each student be fully immunized against diphtheria, rubeola (measles), rubella, mumps, tetanus, and poliomyelitis. That same statute enables DSHS to modify, delete, or add immunization requirements. Currently, DSHS requires students in kindergarten through twelfth grade to have the following additional vaccines, according to the immunization schedules set forth in DSHS regulations: pertussis, hepatitis B, hepatitis A (as applicable to the grade levels specified in state rule), and varicella (chickenpox). DSHS also requires students enrolling in seventh through twelfth grade to have one dose of meningococcal vaccine on or after the student's 11th birthday. More information about the minimum number of doses required by grade level can be found on the [DSHS](#) website.

### ***Q: What are the district's main obligations?***

#### **Notice**

Districts with websites are required to create a prominent website post that lists required and recommended immunizations. Many districts publicly post the annual list made available by DSHS (see above). The district must also post a link to the DSHS website that provides information on how to claim an exemption and health clinics in the district that offer the influenza vaccine. In addition to the legal notice requirements, many districts choose to educate parents on vaccine requirements and recommendations through the student handbook and other literature distribution. See TASB Policy FFAB(LEGAL); Tex. Educ. Code § 38.019.

### **Enrollment and Review**

At the time of enrollment, a student's immunization record or exemption paperwork must be produced. 25 Tex. Admin. Code § 97.61(a). The school is responsible for reviewing the immunization record. DSHS has clarified that schools should accept documentation or immunization if the record is validated by a physician or a physician's designee or other public health personnel, but the record does not need to be in any specific form or format. To be valid, the record must show the month, day, and year when each immunization was received. Tex. Dept. State Health Services, [FAQs About Immunization Requirements for School Admittance](#). DSHS offers a Texas Immunization Registry called [ImmTrac2](#). Individuals, including students with parental consent, can include their information in the online, secure, and centralized database. Schools and other authorized organizations can access the registry records.

### **Documentation and Coordination**

Schools are required by law to keep a student's immunization record on file during the student's attendance. The record can be kept in paper or electronic form, but must be sufficient for a federal, state, or local audit. In addition, when a student transfers to another school, each school should fully cooperate in the transfer of the immunization records, regardless of student or parental approval of the transfer of records. Tex. Educ. Code § 38.002; 25 Tex. Admin. Code § 97.67, .69.

The immunization records of a district's students are subject to review by DSHS, the Texas Education Agency, and local health departments. Tex. Educ. Code § 38.002. Each year, all public school districts and accredited private schools in Texas are required to complete the Annual Report of Immunization Status. This report captures vaccination coverage data for students in kindergarten and seventh grade as well as the numbers of conscientious and medical exemptions reported from each district. As part of the reporting process, DSHS may choose a sample of public and private schools to validate the immunization records. 25 Tex. Admin. Code §§ 97.70-.71.

### ***Q: What is provisional enrollment?***

A: Provisional enrollment allows a student to be enrolled on a temporary basis while they are actively seeking the necessary vaccines to be in compliance or while awaiting the transfer of an immunization record.

### **Students In-Progress**

A student that has begun the required immunizations can be provisionally admitted to attend school. To qualify for provisional enrollment, the student must have received at least one dose of each age-appropriate vaccine as specified by DSHS (see question 1).

To remain enrolled, the student must receive the remaining required immunizations as rapidly as is medically feasible. Although the student is required to provide acceptable evidence of the continued vaccination to the school, a school nurse or administrator is required to review the immunization status of the student every 30 days to ensure continued compliance.

If the student has not received a subsequent dose as on schedule and as rapidly as medically feasible at the end of the 30 days, the school is required to exclude the student from school until he or she has received the required dose. Tex. Educ. Code § 38.001(e); 25 Tex. Admin. Code § 97.66(a); Tex. Atty. Gen. Op. GA-178 (2004).

### **Transfer Students and Military Dependents**

Students transferring from one Texas public or private school to another can be enrolled provisionally for no more than 30 days while awaiting the transfer of the immunization record. As part of the Interstate Compact on Educational Opportunity for Military Children, students who are dependents of an active duty member of the armed forces may be provisionally enrolled even if the school that they are transferring from is outside of Texas. Tex. Educ. Code 162.002 art. IV, C; 25 Tex. Admin. Code § 97.69.

### ***Q: What exemptions apply to the required immunizations?***

A: Immunization is not required if the person applying for admission, usually the parent or guardian, submits an affidavit that complies with the exemption requirements under Texas Education Code section 38.001. Schools should require the person applying for admission to submit a separate exemption affidavit for each student, and should not accept photocopies of exemption affidavits.

### **Medical Risk**

The person applying for admission may submit an affidavit or certificate signed by a licensed doctor who has examined the student. The affidavit must state that it is the physician's opinion that the immunization is medically contraindicated or poses a significant risk to the health and wellbeing of the student or any member of the student's household. This exemption is only good for one year unless the doctor specifies on the affidavit that the condition at issue is lifelong.

### **"Reasons of Conscience"**

The person applying for admission may submit a signed affidavit stating that the student declines the immunization for "reasons of conscience." While not specifically defined by law, "reasons of conscience" includes, but is not limited to, a religious belief. On the School Requirements website, DSHS clarifies "The law does not allow parents/guardians to elect an exemption simply because of inconvenience." For example, a "reasons of conscience"

exemption would not apply if a record had been lost or a family had extenuating circumstances that made it logistically difficult to obtain the necessary vaccinations. Tex. Dept. State Health Services, [FAQs About Immunization Requirements for School Admittance](#).

To submit a “reasons of conscience” affidavit, the affidavit must be on a DSHS provided-form and notarized. This form may be obtained by writing the DSHS Immunization Branch (MC 1946) at P.O. Box 149347, Austin, Texas 78714-9347; or by requesting the form online at [Affidavit Request for Exemption from Immunization](#). The form must be submitted to the school within 90 days after it is notarized. The affidavit is valid for two years. During times of emergency or epidemic declared by the commissioner of public health, the student may be excluded from school. Tex. Educ. Code § 38.001(c), (c-1), (f); Tex. Health and Safety Code §§ 161.0041; 25 Tex. Admin. Code § 97.62; Tex. Dept. State Health Services, [FAQs About School Vaccine Exemptions for Reasons of Conscience](#).

#### **Activity Duty Member of the Armed Forces**

If the student is a member of the armed forces of the United States and is on active duty, they may also be exempt from the immunization requirements. Tex. Educ. Code § 38.001(c)(2). This is not a common exemption. Although some high school students choose to join the military between their junior and senior year, they are typically assigned to a Reserve or National Guard unit or otherwise delay active duty until after high school.

**Q: *How does the requirement to be immunized before enrollment apply to students who are homeless or in foster care?***

A: The admission of students who are homeless is governed, in part, by federal law. If, at the time of enrollment, the vaccination records are unavailable, the McKinney-Vento Homeless Assistance Act requires the school to immediately enroll the student. 42 U.S.C. § 11432(g)(3). Under the Texas Administrative Code, schools must admit students who are homeless or are in foster care temporarily for 30 days even if acceptable vaccination information is not available. “Temporary admission” differs from most forms of “provisional admission,” in that the student is not required to provide a record that indicates receipt of at least one dose of each specified age-appropriate vaccine. However, the school is required to promptly refer the student to an appropriate health care provider to obtain the required vaccinations. 25 Tex. Admin. Code § 97.66.

Students who are under age 18 and homeless or living separate and apart from a parent or guardian may find it difficult to obtain the necessary vaccinations. If a parent or guardian or other legally authorized person is not available, the Texas Family Code authorizes other individuals to provide consent for immunizations. These individuals may include certain relatives; an adult having actual care, control, and possession of the child as the child’s primary caregiver; or the child’s school. The child’s school is authorized only if the school has obtained written authorization of consent from the parent or guardian or other legally authorized person. In addition, the law requires a number of procedural safeguards in order

for someone other than a parent or guardian to consent to immunizations. Schools should consult an attorney before exercising the option to consent to immunizations for a student. The Texas Family Code also has a separate provision regarding when a minor may consent to their own immunizations, but it is limited to a child that is pregnant or is a parent with custody of the child. Tex. Fam. Code §§ 32.101-103.

**Q: *What if a student is deficient after enrollment?***

A: Schools should review immunization records on a regular basis. If a student's record shows the student is more than a year late to meet a vaccine requirement, the student cannot attend school until the student has received the required dose.

**Q: *Where can I go for more information?***

A: The [DSHS](#) school health website provides information for parents, the public, and schools and districts. For additional questions, schools may contact the Immunizations Division of DSHS at 800.252.9152.

This document is continually updated, and references to online resources are hyperlinked, at <https://www.tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Students/documents/immunization-requirements-and-exceptions.pdf>. For more information on this and other school law topics, visit TASB School Law eSource at [schoolawesource.tasb.org](http://schoolawesource.tasb.org).

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