



EARLY CARE & EDUCATION LAW UNIT

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IMMUNIZATION

Before admitting a child into a child care program, generally a child care provider must request proof that the child has been immunized against certain diseases.ⁱ However, there are specific exceptions to this proof of immunization requirement for children.

Further, due to a new law effective September 1, 2016, the licensee of a family child care and anyone employed or volunteering (a volunteer is any non-employee who provides care and supervision to children in care) at a family child care or child care center must be immunized against influenza, pertussis (whooping cough), and measles unless they are exempt from such requirements.ⁱⁱ

This handout will provide you with an overview of immunization issues that child care providers should be aware of as they relate to children, employees, and volunteers.

IMMUNIZATION REQUIREMENTS FOR CHILDREN

As a general rule, a child should not be admitted to a childcare facility unless the child has been immunized against diseases.ⁱⁱⁱ California law requires that children receive specific immunizations before being admitted to any public or private elementary or secondary school, child care center, family day care home, day nursery, nursery school, or development center.^{iv} These institutions are required to maintain a California School Immunization Record for all children.^v

However, the following are exemptions to the immunization requirements for children: (1) drop-in child care; 2) medical exemption; and 3) home-based private schools, independent study programs, and special education programs.

A Note about Personal Beliefs Exemptions

Please note that the personal beliefs exemption from immunization, including those based on religious beliefs, have been eliminated per a new law, Senate Bill 277, effective in 2016.^{vi} The personal beliefs exemption previously allowed children to be exempt from the immunization requirements based on their

parents' personal beliefs. However, a child with a current personal beliefs exemption on file before January 1, 2016, will be allowed to keep that exemption until he or she reaches the next grade span. Grade spans are: 1) birth to preschool; 2) kindergarten and grades 1 to 6 (including transitional kindergarten); 3) grades 7 to 12.^{vii}

Therefore, a personal beliefs exemption filed before 2016 at:

A child-care facility will remain valid until the child first enters the span between transitional kindergarten through 6th grade.

Entry to any grade from transitional kindergarten/kindergarten through 6th grade will remain valid until the child completes 6th grade.

Entry to any grade from 7th through 12th will remain valid through 12th grade.

Also, please note that personal beliefs exemptions filed in 2015 are only valid when signed by both an authorized health care provider and a parent/guardian no more than 6 months prior to first entry into school or child care or a new grade span. Therefore, personal belief exemptions filed in 2015 are invalid for children first entering child care or school in California in the fall of 2016.^{viii}

Personal belief exemptions obtained before January 1, 2016 can be transferred between schools within California and will remain valid until the child reaches the next grade span as mentioned above.^{ix}

A Note about Conditional Admission

In some circumstances, children who have not received one or more required immunizations may attend child care or school while they catch up on these immunizations. Conditions under which a child may be conditionally admitted are for example: 1) the child is under 18 months of age and has received all immunizations required for their age but will have more required at their next age checkpoint; 2) the child is missing a dose in a series of immunizations, but the next dose is not due yet; or 3) the child has a temporary medical exemption to certain immunizations and has submitted an immunization record for vaccines not exempted. However, if a child is conditionally admitted to a child care or school, the governing authority of the child care or school must ensure that the immunization record of each child is reviewed every 30 days until that child has received all their required immunizations and any immunizations received after conditional admission must be entered in the child's immunization record.^x

EXEMPTIONS TO IMMUNIZATION REQUIREMENTS FOR CHILDREN

1) Drop-in Child Care:

Drop-in child care centers^{xi} are not required to verify or document a child's immunizations or tuberculosis testing. A drop-in child care center is "any day care center that exclusively offers a program of services for which there is no contract or agreement between any parent and the center for the

regular care of any child, and for which there is no prearranged schedule of care for any child.” These centers are not required to (1) verify children’s immunizations or tuberculosis testing; or (2) maintain files regarding children’s immunizations or tuberculosis testing.”^{xii} However, a child’s parent must sign an acknowledgement that he/she understands that verification of immunizations and tuberculosis testing is not required for any child accepted for care in this type of program.^{xiii}

2) Medical Exemption:

Under certain medical circumstances, children may be exempt from the immunization requirements. If a child’s parent or guardian files with the governing authority of the child’s school or child care, a written statement from a licensed physician (M.D. or D.O.) stating that the physical condition or medical circumstances of the child are such that immunization is not considered safe, that child will be exempt from the immunization requirement.^{xiv} The physician’s statement must include “the specific nature and probable duration” of the child’s medical condition or circumstances that make immunization unsafe.^{xv} If a child is granted a medical exemption, this must be recorded on the California School Immunization Record.^{xvi}

However, whenever the governing authority has good cause to believe that a child who is not completely immunized against a particular communicable disease may have been exposed to that disease, the child may be temporarily excluded from the child care facility until the local health officer determines that the child is no longer at risk of developing the disease.^{xvii}

3) Home-based Private Schools, Independent Study Programs, and Special Education:

Children in home-based private schools and children enrolled in independent study programs who do not receive classroom-based instruction are exempt from the immunization requirements.^{xviii} The immunization requirements for attendance at school or child care also do not prohibit a student who qualifies for an individualized education program, from accessing any special education and related services required by his or her individualized education program.^{xix}

IMMUNIZATION REQUIREMENTS FOR LICENSEES, EMPLOYEES AND VOLUNTEERS

As mentioned above, due to a new law effective September 1, 2016, the licensee of a family child care and anyone employed or volunteering (a volunteer is any non-employee who provides care and supervision to children in care) at a family child care or child care center must be immunized against influenza, pertussis (whooping cough), and measles unless they are exempt from such requirements.^{xx}

The law specifically states that each licensee of a family child care, employee and volunteer shall receive an influenza vaccination between August 1 and December 1 of each year.^{xxi} If someone meets the requirements for working or volunteering at a child care facility, but needs more time to obtain and provide their immunization records, the person may be employed or volunteer conditionally for a maximum of 30 days upon signing and submitting a written statement attesting that she or he has been immunized as required.^{xxii}

A person may be exempt from the above immunization requirements only if: 1) the person submits a written statement from a licensed physician declaring that because of the person's physical condition or medical circumstances, immunization is not safe; 2) the person submits a written statement from a licensed physician providing that the person has evidence of current immunity to the diseases described above; 3) the person submits a written declaration that he or she has declined the influenza vaccination--this applies only to the influenza vaccination; or 4) the person was hired after December 1 of the previous year and before August 1 of the current year--this applies only to the influenza vaccination during the first year of employment or volunteering.^{xxiii}

The child care facility must maintain documentation of the required immunizations or exemptions from immunizations in each person's personnel record that is maintained by the facility.

Further, the new law makes clear that teachers hired by a day care center and family child care providers and adults in the home while care is being provided must provide evidence of a current tuberculosis clearance.^{xxiv}

ADDITIONAL RESOURCES

For additional information on California immunization requirements, please refer to:

1. Shots for School Immunization FAQs at <http://www.shotsforschool.org/laws/sb277faq/>
2. A copy of the California School Immunization Record or "Blue Card," which can be found at <http://www.cdph.ca.gov/pubsforms/forms/CtrldForms/cdph286.pdf>.

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ⁱ See California Health & Safety Code § 120325 and § 120335(b).

ⁱⁱ California Health & Safety Code §1596.7995.

ⁱⁱⁱ See California Health & Safety Code § 120325 and § 120335(b).

^{iv} *Id.*

^v California Health & Safety Code § 120375(a).

^{vi} 2015 Cal. Legis. Serv. Ch. 35 (S.B. 277); California Health & Safety Code §120335(g)(1) .

^{vii} California Health & Safety Code §120335(g)(1) and §120335(g)(2).

^{viii} <http://www.shotsforschool.org/laws/sb277faq/#Q9>

^{ix} <http://www.shotsforschool.org/laws/sb277faq/#Q9>

^x <http://www.shotsforschool.org/laws/conditional-admission/>; California Code of Regulations, §6020, §6035 and §6070(f).

^{xi} California Health & Safety Code § 1596.799.

^{xii} California Health & Safety Code § 1596.799(a)(1) & (2).

^{xiii} California Health & Safety Code § 1596.799(b).

^{xiv} California Health & Safety Code § 120370(a).

^{xv} California Health & Safety Code § 120370(a).

^{xvi} California Administrative Code, Title 17 § 6070.

^{xvii} California Health & Safety Code § 120370(b).

^{xviii} California Health & Safety Code § 120335(f).

^{xix} California Health & Safety Code § 120335(h).

^{xx} California Health & Safety Code §1596.7995.

^{xxi} California Health & Safety Code §1596.7995(a)(1) and California Health & Safety Code §1597.622(a)(1).

^{xxii} California Health & Safety Code §1596.7995(a)(2) and California Health & Safety Code §1597.622(a)(2).

^{xxiii} California Health & Safety Code §1596.7995(a)(2)(b) and California Health & Safety Code §1597.622(b).

^{xxiv} California Health & Safety Code §1597.055(a)(5) and California Health & Safety Code §1597.54(d).