

NEW LAW, NEW GUIDELINES: IMPLEMENTING SB 277 IN THE SCHOOL SETTING

ORANGE COUNTY HEALTH CARE AGENCY

March 24, 2016

Lysa Saltzman

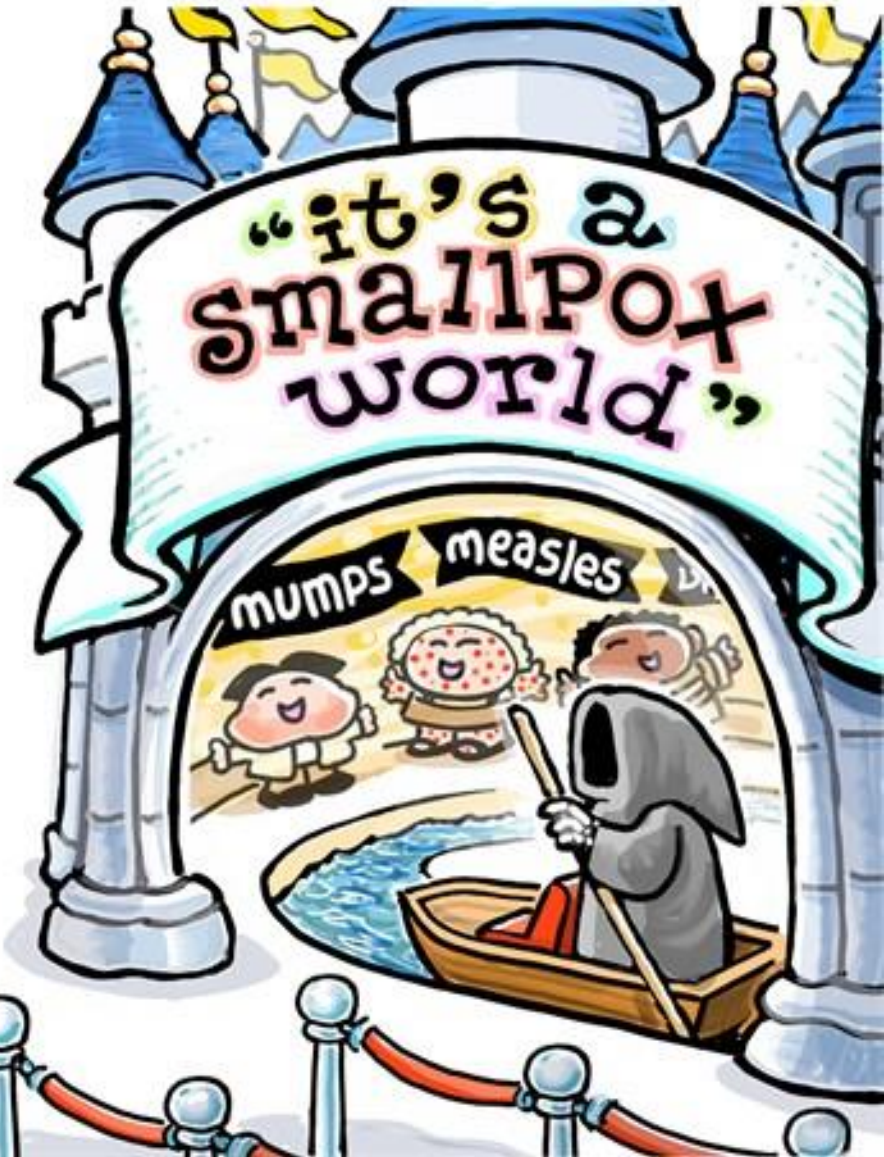
Counsel

Orange County Department of Education

© 2016 Orange County Superintendent of Schools



New Ride
FOR OUR
ANTI-VAXXER
GUESTS...



OVERVIEW OF SENATE BILL 277

- Governor Brown signed Senate Bill 277 (Pan) on June 30, 2015
 - Governor's signing message indicates that only exception is for medical reasons "when a physician believes that circumstances – in the judgement and sound discretion of the physician- so warrant."
- Main impact of SB 277 is to limit exemptions from immunizations to medical reasons effective January 1, 2016



OVERVIEW OF SENATE BILL 277

- As of January 1, 2016 exemptions for religious beliefs and personal beliefs are no longer available
 - Deadline for submitting a Personal Beliefs Exemption (PBE) was December 31, 2015
 - PBE's filed **before January 1, 2016** remain valid until the student enrolls in the next "grade span"



OVERVIEW OF SENATE BILL 277

- On and after July 1, 2016 a school district shall not unconditionally admit for the first time, or admit or advance any student to the 7th grade level, unless the student has been immunized as required for his/her age
 - See Grades TK/K-12 Guide to Immunizations Required for School Entry
<http://eziz.org/assets/docs/IMM-231.pdf>
- Parents have expressed concern and confusion about different “effective dates” and “operative dates” within SB 277
 - Advocates have asked districts to adopt resolutions urging the State Legislature to amend SB 277 to extend the PBE filing deadline to July 1, 2016 or have a 2 year moratorium

OVERVIEW OF SENATE BILL 277

- Senate Bill 277 amends Health and Safety Code sections:
 - 120325 Legislative Intent
 - 120335 Unconditional Admission; Immunization Requirement; Documentation...
 - 120370 Exemptions; Physical Condition or Medical Circumstances Rendering Immunizations Unsafe...
 - 120375 Documentary Proof of Entrants Status; Recording; review of Conditional Admissions

OVERVIEW OF SENATE BILL 277

- Senate Bill 277 adds Health and Safety Code section:
 - 120338 Mandated Immunizations Prior to Pupil's First Admission (PBE and medical exemptions required for any new vaccination required per H & S Code §§ 120325(a)(11) and 120335(a)(11))
- Senate Bill 277 repeals Health and Safety Code section:
 - 120365 Personal Beliefs Exemption to Required Immunizations Form – CDPH-8262 (AB 2109 effective 1/1/14)



MEDICAL EXEMPTIONS UNDER SB 277 H&S CODE SECTION 120370

- SB 277 provides additional flexibility to a physician to exempt a student from immunizations under certain circumstances including, but not limited to, family medical history

MEDICAL EXEMPTIONS UNDER SB 277

H&S CODE SECTION 120370

- SB 277 authorizes a parent or guardian to file with the governing authority a written statement by a **licensed physician [M.D. or D.O.]**:

“to the effect that the physical condition of the child is such, or medical circumstances relating to the child are such, that immunization is not considered safe, indicating the specific nature and probable duration of the medical condition or circumstances, including, but not limited to, family medical history, for which the physician does not recommend immunization, that child shall be exempt from the *[immunization]* requirements... to the extent indicated by the physician’s statement.”

- See Title 17 Cal. Code of Regulations section 6050 Conditional Admission with Temporary Medical Exemption
- See Title 17 Cal. Code of Regulations section 6051 Unconditional Admission with Permanent Medical Exemption
- Compare to Shots for Schools SB 277 FAQ #17 – 20

MEDICAL EXEMPTIONS UNDER SB 277

H&S CODE SECTION 120370

- If there is good cause to believe that a child has been exposed to a disease listed in H&S Code section 120335 *[10 required immunizations]* and his/her documentary proof of immunization status does not show proof of immunization against that disease, that child may be temporarily excluded from school until the local health officer is satisfied that the child is no longer at risk of developing or transmitting the disease
 - Title 17 Cal. Code of Regulations section 6051(a)
 - Unconditional Admission with Permanent Medical Exception
 - Title 17 Cal. Code of Regulations section 6050
 - Conditional Admission with Temporary Medical Exemption

MEDICAL EXEMPTIONS UNDER SB 277

H&S CODE SECTION 120370

- There is no medical exemption form at this time.
- In the future, the State of California may develop a medical exemption form.
- Until that time, a letter from a doctor which contains the required information should be sufficient.



MEDICAL EXEMPTIONS UNDER SB 277

- School districts are not required to verify the legitimacy of the medical exemption.
- The school district should accept the physician's medical exemption statement unless it does not, on its face, meet the SB 277 legal requirements.
 - If needed, request Authorization for Release of Information



PBE FILED PRIOR TO JANUARY 1, 2016

H&S CODE SECTION 120335(g)

- Parents may file a personal beliefs exemption with the school prior to January 1, 2016.
- The personal beliefs exemption will be honored until the pupil enrolls in the next grade span, which generally means when the student enters TK/Kindergarten or grade 7.



DEFINITION OF “GRADE SPAN” H&S CODE SECTION 120335(G)(2)

- Birth to preschool
- Kindergarten and grades 1 to 6, inclusive, including TK
- Grades 7 through 12 inclusive



PBEs FILED PRIOR TO JANUARY 1, 2016

- When a student moves from preschool to TK/Kindergarten, or from 6th grade to 7th grade, the student will be required to be immunized
- A student in 7th grade with a PBE filed before January 1, 2016, would be exempt from vaccination requirements through 12th grade

PBEs FILED PRIOR TO JANUARY 1, 2016 SEE SHOTS FOR SCHOOLS SB 277 FAQ #7-16

- A PBE filed before 2016 at entry to any grade from TK/Kindergarten through 6th grade will remain valid until the child completes 6th grade
- A PBE filed before 2016 at entry to any grade from 7th grade through 12th grade will remain valid through 12th grade
- A PBE filed with a school before 2016 remains valid if a student transfers between schools in California

EXEMPTIONS FILED PRIOR TO JANUARY 1, 2016

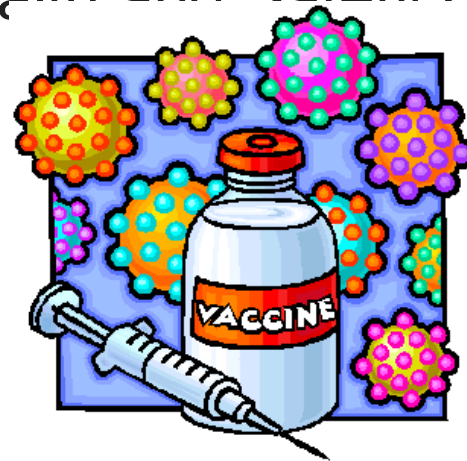
- Parents should consult with their physician on how compliance with the immunization requirements will be achieved prior to the child entering the next grade span
 - Typically TK/Kindergarten or 7th grade
- A medical exemption may apply if there is a delayed immunization schedule or a modified immunization schedule



REQUIRED VACCINATIONS

H&S CODE §120335(b),(g)(3)

- On or after July 1, 2016, the governing authority shall not unconditionally admit to any private or public elementary or secondary school, child day care center, day nursery, nursery school, family day care home, or development center for the first time, or admit or advance any pupil to 7th grade level, unless the pupil has been immunized for his or her age as required by the Health and Safety Code.



REQUIRED VACCINATIONS

The following vaccinations are required:

- Diphtheria
- Haemophilus influenza type b
- Measles
- Mumps
- Pertussis (whooping cough)
- Poliomyelitis
- Rubella
- Tetanus
- Hepatitis B*
- Varicella (chickenpox)
- Any other disease deemed appropriate by the CDPH, taking into consideration the recommendations of the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services, the American Academy of Pediatrics, and the American Academy of Family Physicians.

SPECIAL EDUCATION STUDENTS H&S CODE SECTION 120335(h)

- SB 277 does not exempt special education students.
- Special education students are required to be immunized.
- However, special education students with an IEP may access special education and related services required by their IEP while in the process of obtaining their vaccine



SPECIAL EDUCATION STUDENTS

- The language of Senate Bill 277 does not specify any penalties or remedies if parents refuse to vaccinate their children.
- However, school districts may, if necessary, after advising parents in writing of the legal requirements of Senate Bill 277, request assistance from OCHCA a



ROLE OF THE COUNTY HEALTH OFFICER H&S CODE SECTION 120370(b)

If there is good cause to believe that a child has been exposed to a disease listed in the Health and Safety Code or his or her documentary proof of immunization is not available, that child may be temporarily excluded from that school until the local health officer is satisfied the child is no longer at risk of developing or transmitting the disease.



PROOF OF IMMUNIZATION

H&S CODE SECTION 120375(a)

- The governing authority shall require documentary proof of each entrant's immunization status
- The governing authority shall record the immunizations of each new entrant in the entrant's permanent enrollment record on a form provided by CDPH
- The immunization record of each new entrant admitted conditionally shall be reviewed periodically by the governing authority to ensure that within the time periods designated by regulation of the CDPH, the student has been fully immunized against all of the diseases listed in Section 120335

CONDITIONAL ADMISSION H&S CODE SECTION 120375(b)

- The governing authority of each school or institution included in Section 120335 shall prohibit from further attendance any student admitted conditionally who failed to obtain the required immunizations within the time limits allowed in the CDPH regulations, unless the student has a medical exemption under Section 120370, until that student has been fully immunized against all of the diseases listed in Section 120335.

CONDITIONAL ADMISSION

- The governing authority shall not unconditionally admit any student unless, prior to his/her first admission to that school he/she has been fully immunized
 - H&S Code § 120335(b)
- The governing authority shall not unconditionally admit or advance any student to the 7th grade unless, the student has been fully immunized against pertussis, including all pertussis boosters appropriate for the student's age
 - H&S Code § 120335(d)
- Except for the PBE “grandfathering” provisions, on and after July 1, 2016, the governing authority shall not unconditionally admit to school for the first time, or admit or advance any student to the 7th grade unless, the student has been immunized for his/her age as required by H&S Code section 120335
 - H&S Code § 120335(g)(3)

CONDITIONAL ADMISSION

- The CDPH, in consultation with CDE, shall adopt and enforce all regulations necessary to carry out H&S Code sections 120325-120375
 - H&S Code § 120330
 - Title 17 of the California Code of Regulations Sections 6000-6075
- CDE/SSPI Back to School Message August 18, 2015- indicates that CDE will be working with the CDPH to develop implementation plans and will issue guidance to schools and parents in the coming months

<http://www.cde.ca.gov/nr/el/le/yr15ltr0818.a>

CONDITIONAL ADMISSION

- The Title 17 Regulations define unconditional and conditional admission – but not in alignment with SB 277
 - Unconditional admission includes documentation of a permanent medical exemption or PBE - 17 Cal. Code Regs § 6000
 - Ed Code section 48216 - Notice of immunization requirements and 2 weeks to provide evidence of immunization or exemption
- Guide for Annual Audits of K-12 LEA and State Compliance Reporting
 - Section Z – Immunization

PRIVATE SCHOOLS & INDEPENDENT STUDY PROGRAMS



- A pupil in a home-based private school or a pupil who is enrolled in an independent study program is not required to be immunized if they do not receive classroom based instruction
 - Health and Safety Code section 120335(f)



PRIVATE SCHOOLS & INDEPENDENT STUDY PROGRAMS

- Classroom based instruction is generally defined as a pupil engaged in educational activities under the immediate supervision and control of a certificated employee who possesses a valid teaching certification.
- If the student comes to school to meet with the teacher, the student must be immunized.

PRIVATE SCHOOLS & INDEPENDENT STUDY PROGRAMS

- It should be noted that under Education Code sections 51745-51749.6, which regulate independent study programs operated by county offices of education and school districts, the written agreement for each independent study pupil must include the manner, time, frequency and place for submitting a pupil's assignments and recording his or progress.



PRIVATE SCHOOLS & INDEPENDENT STUDY PROGRAMS

- Education Code section 51747.5 states that the independent study by each pupil shall be coordinated, evaluated and shall be under the general supervision of an employee of the school district or county office of education who possess a valid certification document.

PRIVATE SCHOOLS & INDEPENDENT STUDY PROGRAMS

- Education Code section 51749.5 states that the signed learning agreement shall include the duration, number of equivalent daily instructional minutes for each school day that a pupil is enrolled, number of equivalent total instructional minutes and number of course credits for each course.
- Certificated employees and each pupil are required to communicate in person, by telephone or by any other live visual or audio connection no less than twice per calendar month to assess whether each pupil is making satisfactory educational progress.



PRIVATE SCHOOLS & INDEPENDENT STUDY PROGRAMS

- The California Department of Public Health has indicated that parents and guardians must continue to provide immunization records of students in a home-based private school or independent study program with no classroom based instruction to their schools and schools must continue to maintain and report immunizations that have been received.
 - See Shots for School SB 277 FAQ #22-23

FOSTER YOUTH AND HOMELESS CHILDREN

- Foster youth and homeless children who do not have immunization documentation should be enrolled immediately pursuant to federal and state law
 - Ed Code Section 48853.5
 - 42 USC §11431
- Foster youth and homeless students are not exempt from immunization requirements and the adults responsible for those foster youth and homeless students should be advised to obtain the documentation of vaccination or vaccinate the students as soon as possible
 - H&S Code Section 120341
 - See Shots for School SB 277 FAQ #22-23

CHARTER SCHOOLS

- Senate Bill 277 applies to pupils enrolled in any private or public elementary or secondary school.
- Charter schools are part of the public school system.



BOARD POLICIES AND ADMINISTRATIVE REGULATIONS



- Districts should review their board policies and administrative regulations to ensure compliance with the new vaccination requirements effective January 1, 2016.
- Districts may also need to update student enrollment forms and their annual notification of parent rights and responsibilities to reflect the new requirements.