

# Texas Vaccine Exemption Laws

## Texas Statutes

**EDUCATION CODE**  
**TITLE 2. PUBLIC EDUCATION**  
**SUBTITLE G. SAFE SCHOOLS**  
**CHAPTER 38. HEALTH AND SAFETY**  
**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 38.001. IMMUNIZATION; REQUIREMENTS; EXCEPTIONS.**

(a) Each student shall be fully immunized against diphtheria, rubeola, rubella, mumps, tetanus, and poliomyelitis, except as provided by Subsection (c).

Text of subsection as amended by Acts 2007, 80th Leg., R.S., Ch. 43, § 1

(b) Subject to Subsections (b-1) and (c), the executive commissioner of the Health and Human Services Commission may modify or delete any of the immunizations in Subsection (a) or may require immunizations against additional diseases as a requirement for admission to any elementary or secondary school.

Text of subsection as amended by Acts 2007, 80th Leg., R.S., Ch. 94, § 2

(b) Subject to Subsection (c), the Department of State Health Services may modify or delete any of the immunizations in Subsection (a) or may require immunizations against additional diseases as a requirement for admission to any elementary or secondary school.

Text of subsection as added by Acts 2007, 80th Leg., R.S., Ch. 43, § 1

(b-1) Immunization against human papillomavirus is not required for a person's admission to any elementary or secondary school; however, by using existing resources, the Health and Human Services Commission shall provide educational material about the human papillomavirus vaccine that is unbiased, medically and scientifically accurate, and peer reviewed, available to parents or legal guardians at the appropriate time in the immunization schedule by the appropriate school. This subsection preempts any contrary executive order issued by the governor. This subsection expires January 11, 2011.

Text of subsection as added by Acts 2007, 80th Leg., R.S., Ch. 94, § 2

(b-1) Each year, the Department of State Health Services shall prepare a list of the immunizations required under this section for admission to public schools and of any additional immunizations the department recommends for school-age children. The department shall prepare the list in English and Spanish and make the list available in a manner that permits a school district to easily post the list on the district's Internet website as required by Section 38.019.

(c) Immunization is not required for a person's admission to any elementary or secondary school if the person applying for admission:

(1) submits to the admitting official:

(A) an affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine in the United States, in which it is stated that, in the physician's opinion, the immunization required poses a significant risk to the health and well-being of the applicant or any member of the applicant's family or household; or

(B) an affidavit signed by the applicant or, if a minor, by the applicant's parent or guardian stating that the applicant declines immunization for reasons of conscience, including a religious belief; or

(2) is a member of the armed forces of the United States and is on active duty.

(c-1) An affidavit submitted under Section (c)(1)(B) must be on a form described by Section 161.0041, Health and Safety Code, and must be submitted to the admitting official not later than the 90th day after the date the affidavit is notarized.

(d) The Department of State Health Services shall provide the required immunization to children in areas where no local provision exists to provide those services.

(e) A person may be provisionally admitted to an elementary or secondary school if the person has begun the required immunizations and if the person continues to receive the necessary immunizations as rapidly as is medically feasible. The Department of State Health Services shall adopt rules relating to the provisional admission of persons to an elementary or secondary school.

(f) A person who has not received the immunizations required by this section for reasons of conscience, including because of the person's religious beliefs, may be excluded from school in times of emergency or epidemic declared by the commissioner of public health.

**Sec. 38.002. IMMUNIZATION RECORDS; REPORTING.**

(a) Each public school shall keep an individual immunization record during the period of attendance for each student admitted. The records shall be open for inspection at all reasonable times by the Texas Education Agency or by representatives of local health departments or the Texas Department of Health.

(b) Each public school shall cooperate in transferring students' immunization records to other schools. Specific approval from students, parents, or guardians is not required before transferring those records.

(c) The Texas Education Agency and the Texas Department of Health shall develop the form for a required annual report of the immunization status of students. The report shall be submitted by all schools at the time and in the manner indicated in the instructions printed on the form.

**Sec. 38.0025. DISSEMINATION OF BACTERIAL MENINGITIS INFORMATION.**

(a) The agency shall prescribe procedures by which each school district shall provide information relating to bacterial meningitis to its students and their parents each school year. The procedures must ensure that the information is reasonably likely to come to the attention of the parents of each student. The agency shall prescribe the form and content of the information. The information must cover:

- (1) the symptoms of the disease, how it may be diagnosed, and its possible consequences if untreated;
- (2) how the disease is transmitted, how it may be prevented, and the relative risk of contracting the disease for primary and secondary school students;
- (3) the availability and effectiveness of vaccination against and treatment for the disease, and a brief description of the risks and possible side effects of vaccination; and
- (4) sources of additional information regarding the disease, including any appropriate office of the school district and the appropriate office of the Texas Department of Health.

(b) The agency shall consult with the Texas Department of Health in prescribing the content of the information to be provided to students under this section. The agency shall establish an advisory committee to assist the agency in the initial implementation of this section. The advisory committee must include at least two members who are parents of students at public schools in this state.

(c) A school district, with the written consent of the agency, may provide the information required by this section to its students and their parents by a method different from the method prescribed by the agency under Subsection (a) if the agency determines that method would be effective in bringing the information to the attention of the parents of each student.

**EDUCATION CODE**

**TITLE 3. HIGHER EDUCATION**

**SUBTITLE A. HIGHER EDUCATION IN GENERAL**

**CHAPTER 51. PROVISIONS GENERALLY APPLICABLE TO HIGHER EDUCATION**

**SUBCHAPTER A. CONTROL OF FUNDS**

**Sec. 51.933. IMMUNIZATION REQUIREMENTS; EXCEPTION.**

(a) An institution of higher education may require applicants for admission to be immunized against diphtheria, rubeola, rubella, mumps, tetanus, and poliomyelitis, except as provided in Subsection (d).

(b) The Texas Board of Health may require immunizations against the diseases listed in Subsection (a) and additional diseases for students at any institution of higher education who are pursuing a course of study in a human or animal health profession, and the board may require those immunizations for any students in times of an emergency or epidemic in a county where the commissioner of public health has declared such an emergency or epidemic.

(c) An institution of higher education, in conjunction with the Texas Department of Health, should provide individual notice to each student applying for admission regarding:

- (1) the consequences of not being current on immunization for certain diseases;
- (2) the age groups most vulnerable to these vaccine preventable diseases; and
- (3) local providers of immunization services.

(d) No form of immunization is required for a person's admission to an institution of higher education if the person applying for admission:

(1) submits to the admitting official:

(A) an affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine within the United States in which it is stated that, in the physician's opinion, the immunization required poses a significant risk to the health and well-being of the applicant or any member of the applicant's family or household; or

(B) an affidavit signed by the applicant or, if a minor, by the applicant's parent or guardian stating that the applicant declines immunization for reasons of conscience, including a religious belief; or

(2) is a member of the armed forces of the United States and is on active duty.

(d-1) An affidavit submitted under Section (d)(1)(B) must be on a form described by Section 161.0041, Health and Safety Code, and must be submitted to the admitting official not later than the 90th day after the date the affidavit is notarized.

(e) The exception provided by Subsection (d)(1)(B) does not apply in a time of emergency or epidemic declared by the commissioner of public health.

## **GOVERNMENT CODE**

### **TITLE IV. EXECUTIVE BRANCH**

#### **SUBTITLE I. HEALTH AND HUMAN SERVICES**

#### **CHAPTER 531. HEALTH AND HUMAN SERVICES COMMISSION**

#### **Sec. 531.0335. PROHIBITION ON PUNITIVE ACTION FOR FAILURE TO IMMUNIZE.**

(a) In this section:

(1) "Person responsible for a child's care, custody, or welfare" has the meaning assigned by Section 261.001, Family Code.

(2) "Punitive action" includes the initiation of an investigation of a person responsible for a child's care, custody, or welfare for alleged or suspected abuse or neglect of a child.

(b) The commissioner by rule shall prohibit a health and human services agency from taking a punitive action against a person responsible for a child's care, custody, or welfare for failure of the person to ensure that the child receives the immunization series prescribed by Section 161.004, Health and Safety Code.

- (c) This section does not affect a law, including Chapter 31, Human Resources Code, that specifically provides a punitive action for failure to ensure that a child receives the immunization series prescribed by Section 161.004, Health and Safety Code.

## **HEALTH AND SAFETY CODE**

### **TITLE 2. HEALTH**

#### **SUBTITLE H. PUBLIC HEALTH PROVISIONS**

#### **CHAPTER 161. PUBLIC HEALTH PROVISIONS**

#### **SUBCHAPTER A. IMMUNIZATIONS**

#### **Sec. 161.004. STATEWIDE IMMUNIZATION OF CHILDREN.**

(a) Every child in the state shall be immunized against vaccine preventable diseases caused by infectious agents in accordance with the immunization schedule adopted by the board.

(b) Hospitals shall be responsible for:

(1) referring newborns for immunization at the time the newborn screening test is performed;

(2) reviewing the immunization history of every child admitted to the hospital or examined in the hospital's emergency room or outpatient clinic; and

(3) administering needed vaccinations or referring the child for immunization.

(c) Physicians shall be responsible for reviewing the immunization history of every child examined and administering any needed vaccinations or referring the child for immunization.

**(d) A child is exempt from an immunization required by this section if:**

**(1) a parent, managing conservator, or guardian states that the immunization is being declined for reasons of conscience, including a religious belief; or**

**(2) the immunization is medically contraindicated based on the opinion of a physician licensed by any state in the United States who has examined the child.**

(e) For purposes of this section, "child" means a person under 18 years of age.

(f) The board shall adopt rules that are necessary to administer this section.

(g) A parent, managing conservator, or guardian may choose the health care provider who administers the vaccine or immunizing agent under this chapter.

#### **Sec. 161.0041. IMMUNIZATION EXEMPTION AFFIDAVIT FORM.**

**(a) A person claiming an exemption from a required immunization based on reasons of conscience, including a religious belief, under Section 161.004 of this code, Section 38.001 or 51.933, Education Code, or Section 42.043, Human Resources Code, must complete an affidavit on a form provided by the department stating the reason for the exemption.**

(b) The affidavit must be signed by the person claiming the exemption or, if the person is a minor, the person's parent, managing conservator, or guardian, and the affidavit must be notarized.

(c) A person claiming an exemption from a required immunization under this section may only obtain the affidavit form by submitting a written request for the affidavit form to the department.

(d) The department shall develop a blank affidavit form that contains a seal or other security device to prevent reproduction of the form. The affidavit form shall contain a statement indicating that the person or, if a minor, the person's parent, managing conservator, or guardian understands the benefits and risks of immunizations and the benefits and risks of not being immunized.

(e) The department shall maintain a record of the total number of affidavit forms sent out each year and shall report that information to the legislature each year. The department may not maintain a record of the names of individuals who request an affidavit under this section.

## **HUMAN RESOURCES CODE**

### **TITLE 2. DEPARTMENT OF HUMAN SERVICES AND DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES**

#### **SUBTITLE D. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES; CHILD WELFARE AND PROTECTIVE SERVICES**

#### **CHAPTER 42. REGULATION OF CERTAIN FACILITIES, HOMES, AND AGENCIES THAT PROVIDE CHILD-CARE SERVICES**

##### **SUBCHAPTER A. GENERAL PROVISIONS**

##### **Sec. 42.043. RULES FOR IMMUNIZATIONS.**

(a) The department shall make rules for the immunization of children in facilities regulated under this chapter.

(b) The department shall require that each child at an appropriate age have a test for tuberculosis and be immunized against diphtheria, tetanus, poliomyelitis, mumps, rubella, rubeola, invasive pneumococcal disease, and hepatitis A and against any other communicable disease as recommended by the Department of State Health Services. The immunization must be effective on the date of first entry into the facility. However, a child may be provisionally admitted if the required immunizations have begun and are completed as rapidly as medically feasible.

(c) The Texas Department of Health shall make rules for the provisional admission of children to facilities regulated under this chapter and may modify or delete any of the immunizations listed in Subsection (b) of this section or require additional immunizations as a requirement for admission to a facility.

(d) No immunization may be required for admission to a facility regulated under this chapter if a person applying for a child's admission submits one of the following affidavits:

- (1) an affidavit signed by a licensed physician stating that the immunization poses a significant risk to the health and well-being of the child or a member of the child's family or household; or

(2) an affidavit signed by the child's parent or guardian stating that the applicant declines immunization for reasons of conscience, including a religious belief.

(d-1) An affidavit submitted under Section (d)(2) must be on a form described by Section 161.0041, Health and Safety Code, and must be submitted not later than the 90th day after the date the affidavit is notarized.

(e) Each regulated facility shall keep an individual immunization record for each child admitted, and the records shall be open for inspection by the department at all reasonable times.

(f) The Texas Department of Health shall provide the immunizations required by this section to children in areas where there is no local provision of these services.

## Texas Administrative Code

### TITLE 25. HEALTH SERVICES

#### PART 1. DEPARTMENT OF STATE HEALTH SERVICES

#### CHAPTER 97. COMMUNICABLE DISEASES

#### SUBCHAPTER B. IMMUNIZATION REQUIREMENTS IN TEXAS ELEMENTARY AND SECONDARY SCHOOLS AND INSTITUTIONS OF HIGHER EDUCATION

##### **RULE §97.61 Children and Students Included in Requirements**

- (a) The vaccine requirements apply to all children and students entering, attending, enrolling in, and/or transferring to child-care facilities or public or private primary or secondary schools or institutions of higher education.
- (b) The vaccines required in this section are also required for all children in the State of Texas, including children admitted, detained, or committed in Texas Department of Criminal Justice, Texas Mental Health and Mental Retardation, and Texas Youth Commission facilities.
- (c) The vaccine requirements are adopted as a statewide control measure for communicable disease as defined in Health and Safety Code, §81.081 and §81.082. The requirements are adopted as an "instruction" of the department as that term is used in the Health and Safety Code, §81.002.

##### **RULE §97.62 Exclusions from Compliance**

Exclusions from compliance are allowable on an individual basis for medical contraindications, reasons of conscience, including a religious belief, and active duty with the armed forces of the United States. Children and students in these categories must submit evidence for exclusion from compliance as specified in the Health and Safety Code, §161.004(d), Health and Safety Code, §161.0041, Education Code, Chapter 38, Education Code, Chapter 51, and the Human Resources Code, Chapter 42.

(1) To claim an exclusion for medical reasons, the child or student must present a statement signed by the child's physician (M.D. or D.O.), duly registered and licensed to practice medicine in the United States who has examined the child, in which it is stated that, in the physician's opinion, the vaccine required is medically contraindicated or poses a significant risk to the health and well-being of the child or any member of the child's household. Unless it is written in the statement that a lifelong condition exists, the exemption statement is valid for only one year from the date signed by the physician.

(2) To claim an exclusion for reasons of conscience, including a religious belief, a signed affidavit must be presented by the child's parent or legal guardian, stating that the child's parent or legal guardian declines vaccinations for reasons of conscience, including because of the person's religious beliefs. The affidavit will be valid for a two-year period. The child, who has not received the required immunizations for reasons of conscience, including religious beliefs, may be excluded from school in times of emergency or epidemic declared by the commissioner of public health.

(A) A person claiming exclusion for reasons of conscience, including a religious belief, from a required immunization may only obtain the affidavit form by

submitting a written request to the department. The request must include the following:

(i) full name of child; and

(ii) child's date of birth (month/day/year).

(B) Requests for affidavit forms must be submitted to the department through one of the following methods:

(i) written request through the United States Postal Service (or other commercial carrier) to the department at: DSHS Immunization Branch, Mail code 1946, P.O. Box 149347, Austin, Texas 78714-9347;

(ii) by facsimile at (512) 458-7544;

(iii) by hand-delivery at the department's physical address at 1100 West 49th Street, Austin, Texas 78756; or

(iv) via the department's Immunization program Internet website (go to [www.ImmunizeTexas.org](http://www.ImmunizeTexas.org)).

(C) Upon request, one affidavit form for each child will be mailed unless otherwise specified (shall not exceed a maximum of five forms per child).

(D) The department shall not maintain a record of the names of individuals who request an affidavit and shall return the original request (where applicable) with the forms requested.

(3) To claim an exclusion for armed forces, persons who can prove that they are serving on active duty with the armed forces of the United States are exempted from the requirements in these sections.