

Texas Administrative Code

http://r.search.yahoo.com_ylt=A0LEVr7LaipW4QMAM78nnIlQ;_ylu=X3oDMTBybGY3bmpvBGNvbG8DYmYxBHBvcwMyBHZ0aWQDBHNIYwNzcg--/RV=2/RE=1445649227/RO=10/RU=http%3a%2f%2fwww.dshs.state.tx.us%2fimmunize%2fforms%2f6-103.pdf/RK=0/RS=OJaXi7xvZKeJR4mp6lOS1_uwDJU-

TITLE 25

PART 1

CHAPTER 97

SUBCHAPTER B

HEALTH SERVICES

DEPARTMENT OF STATE HEALTH SERVICES

COMMUNICABLE DISEASES

IMMUNIZATION REQUIREMENTS IN TEXAS ELEMENTARY AND SECONDARY SCHOOLS AND INSTITUTIONS OF HIGHER EDUCATION

Provisional Enrollment for (Non-Higher Education; Non-Veterinary) Students

RULE §97.66

(a) The law requires that students be fully vaccinated against the specified diseases. A student may be enrolled provisionally if the student has an immunization record that indicates the student has received at least one dose of each specified age-appropriate vaccine required by this rule. To remain enrolled, the student must complete the required subsequent doses in each vaccine series on schedule and as rapidly as is medically feasible and provide acceptable evidence of vaccination to the school. A school nurse or school administrator shall review the immunization status of a provisionally enrolled student every 30 days to ensure continued compliance in completing the required doses of vaccination. If, at the end of the 30-day period, a student has not received a subsequent dose of vaccine, the student is not in compliance and the school shall exclude the student from school attendance until the required dose is administered.

(b) **A student who is homeless, as defined by §103 of the McKinney Act, 42 USC §11302, shall be admitted temporarily for 30 days if acceptable evidence of vaccination is not available. The school shall promptly refer the student to appropriate public health programs to obtain the required vaccinations.**

Source Note: The provisions of this §97.66 adopted to be effective April 1, 2004, 29 TexReg 3188; amended to be effective March 5, 2009, 34 TexReg 1433



July 9, 2004

Dear School Administrator:

Re: New Immunization Requirements for School Admittance

Important immunization requirements for enrollment will affect schools this school year. The Texas Education Agency (TEA) and the Texas Department of Health (TDH) will assist with implementing the new vaccine requirements and provide information and technical assistance.

Provisional Enrollment Criteria

On April 15, 2004, in response to a joint request by TEA and TDH to clarify portions of the Education Code relating to provisional enrollment and immunization requirements, the Texas Attorney General issued No. GA-0178. The Attorney General determined that only TDH may adopt rules relating to provisional admission and immunization requirements.

Attached is a list of Frequently Asked Questions that has specific information about provisional enrollment. All public and private schools are expected to enforce the rules, in addition to all other age-appropriate vaccine requirements.

Length of Validity for Conscientious Exemption from Immunizations

On March 11, 2004, the Texas Board of Health approved final rules concerning immunization requirements for Texas schools. This rule adoption changed the length of validity from immunization from five years to two years for conscientious exemption from immunization. However, those exemption affidavits submitted to school before March 11, 2004 continues to be valid for the full five-year period.

For more information about immunization requirements go to: www.ImmunizeTexas.com or contact the Immunization Division Customer Service team at (512) 458-7284 or (800) 252-9152.

Our best wishes for a productive school year. Both TDH and TEA are available to assist you with information to create a safe, healthy educational environment for Texas schoolchildren.

Sincerely,

Eduardo J. Sanchez, M.D., M.P.H.
Commissioner of Health

Shirley J. Neeley, PhD.
Commissioner of Education

Attachment

Frequently Asked Questions on Immunization Requirements for School Admittance

Reprinted from: <http://www.tea.state.tx.us/tea/FAQs072204.pdf>

Q. *What is Provisional Enrollment?*

A. Provisional enrollment is a component of the rules adopted by the Texas Department of Health (TDH) for the minimum immunization requirements for school entry. Provisional enrollment allows a student meeting certain specific criteria to be admitted to school on a temporary basis for up to 30 days. During this 30-day period, the parent is responsible for ensuring that the student receives the necessary vaccine(s) as fast as is medically feasible, and/or providing a complete and current immunization record to the school. Texas schools are also responsible for ensuring that immunization records are sent to requesting Texas schools within the 30-day period.

Q. *What government agency adopts the rules on provisional enrollment?*

A. According to the Texas Attorney General Opinion No. GA-0178, only TDH may adopt rules relating to provisional admission.

Q. *Can TDH adopt rules that would prohibit a student from being admitted into a school?*

A. Yes. Admission to a school is not allowed until records are produced showing (1) that the child has been immunized in accordance with the rules; (2) the child has an exemption from immunization requirements on file with the school in accordance with the rules; or (3) that the child is entitled to provisional enrollment.

Q. *What specific circumstances must a child fall under to qualify for provisional enrollment?*

A. Provisional enrollment allows a student to enroll in school under the following situations:

1 Transfer Students

- Students transferring from one Texas public or private school to another.

2 Homeless Students

- Students who are defined as homeless according to the federal McKinney-Vento Act, 42 U.S.C. §11434a.

3 Students In-Progress

- Students who have received at least one dose of each specified age-appropriate vaccine required by the TDH rules. To remain enrolled, students must complete the required subsequent doses of each vaccine series on schedule and as rapidly as is medically feasible and provide acceptable evidence of vaccination to the school. A school nurse or school administrator shall review the immunization status of a provisionally enrolled student every 30 days to ensure continued compliance in completing the required doses of vaccination. If, at the end of the 30-day period, a student has not received a subsequent dose of vaccine, the student is not in compliance and the school shall exclude the student from school attendance until the required dose(s) is (are) administered.

Q. *Can a child without an immunization record be enrolled provisionally if they are not homeless, are not transferring from a Texas school or are not progressing towards obtaining immunizations as fast as is medically feasible?*

A. No. The child must obtain the first doses of the required vaccines and then they can be admitted provisionally as long as they are progressing towards receiving the remaining required vaccines as fast as is medically feasible.

Q. What if a child does not have all his or her shots up-to-date prior to starting school?

A. The student will be required to receive the necessary vaccinations in order to enroll or start school. If the student has started the series and is on schedule, he or she can enroll provisionally until it is medically feasible to receive the next vaccine dose.

Q. What if the student is more than a year delinquent for a vaccine? Can this student be allowed to attend school provisionally at the beginning of a new school year?

A. No. If more than the maximum amount of time to receive the next dose has expired, the student cannot attend school until he/she received the required dose.

Q. What do parents or guardians need to show as proof that their child has started the vaccine series needed?

A. Acceptable documentation of immunizations is any record of immunizations validated by a physician or his/her designee, or public health personnel. The record must show the month, day, and year when each immunization was received.

Q. Is the conscientious exemption for immunizations valid for two years or five years?

A. The conscientious exemption is valid for two years.

Q. Nurses in our schools want to know if the change to two years, for the conscientious exemption, applies to those students who have already filed an affidavit for the Exemption for Reasons of Conscience or does it apply to new applicants.

A. The two-year time period applies to new applicants. Those students, who filed an affidavit that was valid for five years, get a five-year exemption.

Q. The child has no immunizations on file. I did receive a faxed copy of a Texas Religious Exemption dated in 1999. Does this child need a new affidavit?

A. No. Religious exemptions dated prior to September 1, 2003 are life-long exemptions.

Q. In which counties is the hepatitis A vaccine required? The designation of these counties is valid for how long? Is there a website address that could be added for information?

A. Bexar, Brewster, Brooks, Cameron, Crockett, Culberson, Dimmitt, Duval, Edwards, El Paso, Frio, Grayson, Hidalgo, Hudspeth, Jeff Davis, Jim Hogg, Kenedy, Kinney, La Salle, Maverick, McMullen, Moore, Nueces, Pecos, Potter, Presidio, Randall, Real, Reeves, Starr, Sutton, Terrell, Terry, Uvalde, Val Verde, Webb, Willacy, Zapata, and Zavala Counties. Once hepatitis A vaccine is required in a county, that requirement is in effect indefinitely. This list of counties and other information on immunization requirements is available at www.ImmunizeTexas.com

Q. Where can parents take their children to get the required immunizations?

A. Parents should contact their children's physician. Alternatively, they can contact their local health department or the nearest Texas Department of Health Regional Office for information.

For more information about immunization requirements go to: www.ImmunizeTexas.com or contact the Immunization Division Customer Service team at (512) 458-7284 or (800) 252-9152.



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

This is page 1 of the AG opinion pertaining to school immunizations; the full text of the opinion may be found on the THEO website--
www.utdanacenter.org--or on the Texas Attorney General's website at <http://www.oag.state.tx.us/opinions/op50abbott/ga-0178.htm>

April 15, 2004

Eduardo J. Sanchez, M.D., M.P.H.
Commissioner of Health
Texas Department of Health
1100 West 49th Street, M-751
Austin, Texas 78756-3199

Ms. Shirley Neeley, Ed. D.
Commissioner of Education
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-9734

Opinion No. GA-0178

Re: Whether, under sections 25.001 and 25.002 of the Education Code, a child who is newly enrolled in a public school may be prohibited from attending the school during the thirty-day period allowed to produce (1) immunization records; (2) proof that the child is not required to be immunized; or (3) proof that the child may be provisionally admitted under section 38.001(e), Education Code (RQ-0124-GA)

Dear Commissioners:

Your agencies, the Texas Department of Health (the "TDH") and the Texas Education Agency (the "TEA"), jointly ask whether, under sections 25.001 and 25.002 of the Education Code, a child who is newly enrolled in a public school may be prohibited from attending the school during the thirty-day period allowed to produce (1) immunization records; (2) proof that the child is not required to be immunized; or (3) proof that the child may be provisionally admitted under section 38.001, Education Code.¹ You stipulate that federal law requires a school to admit a homeless child, *see* 42 U.S.C.A. § 11302 (West 1995 & Supp. 2003) (defining the term "homeless"), "without regard to the availability of immunization records." Request Letter, *supra* note 1, at 1; *see* 42 U.S.C.A. § 11432(g)(3)(C)(i) (West Supp. 2003). Accordingly, this opinion does not pertain to homeless children.

I. Applicable Law

A. Sections 25.001 and 25.002, Education Code

Section 25.001 provides for a child's admission into the public schools: "A person who is at least five years of age and under 21 years of age on the first day of September of any school

¹*See* Letter from Eduardo J. Sanchez, M.D., M.P.H., Commissioner of Health, Texas Department of Health, and Robert Scott, Chief Deputy Commissioner of Education, Texas Education Agency, to Honorable Greg Abbott, Texas Attorney General (Oct. 28, 2003) (on file with Opinion Committee, *also available at* <http://www.oag.state.tx.us>) [hereinafter Request Letter].