

Interpretive Rule, **64CSR95**  
Immunization Requirements and Recommendations for School Children  
Department of Health and Human Resources  
Bureau for Public Health  
Office of Epidemiology and Prevention Services

### **BRIEF SUMMARY**

The proposed rule amends an existing rule setting forth compulsory immunization requirements for school children. Several defined terms have been amended, deleted or added. The term "new school enterer" is omitted and the term "student" is added to encompass children of all ages entering into school buildings in the state.

The rule establishes the schedule for required vaccination doses and spacing prior to school entry. This amendment to the rule omits the former section 8 on "Vaccine Requirements for adolescents". The substance of that section has been moved to section 4 titled: "Immunizations Required for School Entry and Specifics of Each Immunization Requirement". Section 4 is now the primary section of the rule that informs as to which immunizations are required the first time a student enrolls in a West Virginia school whether it is at kindergarten, a transfer at any age and includes the adolescent vaccine requirements for Tdap and MCV vaccines, required for 7<sup>th</sup> and 12<sup>th</sup> grade entry.

Section 9 on Medical Exemptions has been rewritten and clarified. First, the rule explains clearly how to go about seeking a Medical exemption from compulsory vaccination. It identifies the forms available for parents and physicians through the WVSIIIS website, and directs people to the DHHR Medical Exemption Resource Center, a website set up by the Bureau for Public Health to make vaccine exemption information readily available.

The rule sets time limits on the review of a request for a medical exemption. At the level of the Local Health Officer in subsection 9.4., the LHO has 20 days after receipt of a complete application. In section 9.8., upon an appeal to the State Health Officer, the SHO has 30 days after receipt of the appeal letter and necessary medical records or other pertinent material or information. The rule gives the State Health Officer discretion to determine if it is in the best interest of the student and other children and adults in a school for the student requesting an exemption to attend school during the pendency of the appeal.

Other changes have been made to conform to the most recent CDC and ACIP guidance on DTaP, Td and Tdap dosages, as well as Hepatitis B intervals and titers or other laboratory evidence of immunity. Other minor changes have been made in the name of clean up and consistency.

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### **STATEMENT OF CIRCUMSTANCES**

The rule has been the subject of several state lawsuits challenging the validity of the rule. In September of 2013 the West Virginia State Supreme Court of Appeals dismissed the lawsuit and affirmed the validity of the rule.

One aspect of the rule, that of establishing a clear and limited time frame for Local Health Officer review and State Health Officer appeal, of requests for Medical Exemptions, is a matter that the agency wanted to amend. The current revisions address that issue and they also make the other modifications noted in the BRIEF SUMMARY, filed with this rule.