

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #5

Do Not Mark In This Box

**FILED**

2014 APR 29 A 11:09

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE OF STATE  
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

AGENCY: DHHR - BUREAU FOR PUBLIC HEALTH TITLE NUMBER: 64

CITE AUTHORITY: WV CODE §§5-16-9, 16-1-4, 16-1-6, 16-3-4 AND 16-3-5.

RULE TYPE: PROCEDURAL \_\_\_\_\_ INTERPRETIVE X \_\_\_\_\_

EXEMPT LEGISLATIVE RULE \_\_\_\_\_

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

\_\_\_\_\_

AMENDMENT TO AN EXISTING RULE: YES X NO \_\_\_\_\_

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 95

TITLE OF RULE BEING AMENDED: IMMUNIZATION REQUIREMENTS AND  
RECOMMENDATIONS FOR SCHOOL CHILDREN

\_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

\_\_\_\_\_

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE

EFFECTIVE DATE OF THIS RULE IS MAY 29, 2014

  
Authorized Signature

TITLE 64

INTERPRETIVE RULE  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
BUREAU FOR PUBLIC HEALTH

SERIES 95

IMMUNIZATION REQUIREMENTS AND  
RECOMMENDATIONS FOR SCHOOL CHILDREN

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**§64-95-1. General.**

1.1. Scope. -- This rule establishes immunization requirements for pre-school, elementary, middle and high school in West Virginia. Additionally, the rule includes recommendations for immunizations to promote public health.

1.2. Authority. -- WV Code §§5-16-9, 16-1-4, 16-1-6, 16-3-4 and 16-3-5.

1.3. Filing Date. -- April , 2014.

1.4. Effective Date. -- May , 2014.

1.5. Applicability - This rule applies to all children in elementary, middle and high school.

1.6. Purpose - The purpose of this rule is to clearly define the requirements and recommendations for immunizations for all students.

1.7. Standards - The standards of medical practice used in this rule incorporate the most current recommendations issued by the U.S. Department of Health and Human Services, Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), the American Academy of Family Physicians (AAFP) and the Centers for Disease Control and Prevention (CDC).

**§64-95-2. Definitions.**

2.1. Bureau - means the Bureau for Public Health in the Department of Health and Human Resources.

2.2. Child or Children - means any person between the ages of birth and eighteen years or up to twenty-one years of age when that person is attending school.

2.3. Commissioner - means the Commissioner of the Bureau for Public Health or his or her designee.

2.4. Contraindication - means a medical condition which renders an immunization improper for a particular individual. Contraindications for each vaccine are found in statements written and published by the Advisory Committee on Immunization Practices (ACIP) as Recommendations of the Immunization Practices Advisory Committee and in Vaccine Information Statements (VIS) from the Centers for Disease Control and Prevention (CDC). The recommendations of the ACIP and VIS regarding contraindications can be found at [www.cdc.gov](http://www.cdc.gov).

2.5. Delinquent - means lacking age appropriate immunization(s) which are required to have been completed prior to school entry.

2.6. Local Health Officer - means the individual physician, with a current West Virginia license to practice medicine, who supervises and directs the medical activities of a local health department and is appointed by the local board of health with approval from the Commissioner.

2.7. Medical exemption - means an exemption from any of the requirements for compulsory immunization due to a contraindication or precaution to any or all of the vaccines required by law and this rule.

2.8. Precaution - means a condition defined under the current standards of immunization practice that might increase the chance or severity of an adverse vaccine reaction or compromise the ability of the vaccine to produce immunity.

2.9. State Health Officer - means the person appointed to serve as Commissioner and State Health Officer of the Bureau who is a licensed physician authorized to practice medicine in accordance with WV Code §16-1-5.

2.10. Student - means any child who enters into a school building housing kindergarten through twelfth grade to attend classes or programs or to participate in extracurricular activities taking place in a school building, on school grounds or at a place where the school conducts extracurricular activities and includes children entering for preschool programs as well as children in grades kindergarten through twelfth grade and children who transfer into a West Virginia School from another state or who transfer from being home schooled or from a private or alternative school.

#### **§64-95-3. Recommended Immunization Schedules.**

The recommended immunization schedule for childhood immunization is the schedule jointly approved by the Advisory Committee on Immunization Practices, the American Academy of Pediatrics, and the American Academy of Family Physicians. This schedule is issued annually and can be found at [www.cdc.gov](http://www.cdc.gov) by searching under "Immunization Schedules". Recommended schedules for children birth to age 6 as well as for children age 7 through 18 may be found at this website.

#### **§64-95-4. Immunizations Required for School Entry and Specifics of Each Immunization Requirement.**

4.1. All students attending a West Virginia school for the first time shall show proof of immunization against the following diseases, before being admitted:

- 4.1.a. DIPHTHERIA;
- 4.1.b. HEPATITIS B;
- 4.1.c. MUMPS;
- 4.1.d. PERTUSSIS (whooping cough);
- 4.1.e. POLIOMYELITIS (polio);
- 4.1.f. RUBELLA;
- 4.1.g. RUBEOLA (measles);
- 4.1.h. TETANUS;

4.1.i. VARICELLA (chickenpox) and

4.1.j. MENINGOCOCCAL (meningitis).

4.2. Dosage and interval schedule for DIPHTHERIA, PERTUSSIS and TETANUS vaccines are as follows:

4.2.a. Before being admitted to school, each child shall show proof that he or she has received a minimum of four doses of DIPHTHERIA, TETANUS, acellular PERTUSSIS (DTaP) vaccine, with the fourth dose having been received on or after the child's fourth birthday and prior to school entry; and

4.2.b. The interval between the third and fourth dose shall be at least six (6) months; and

4.2.c. A fifth dose of DTaP between the ages of 4 and 6 is only necessary if the fourth dose was given either before the child's fourth birthday or if the interval between the third and fourth doses was less than six months.

4.2.d. Children between the ages of 11 and 12 shall have one dose of TETANUS, DIPHTHERIA and acellular PERTUSSIS vaccine (Tdap). Tdap can be administered regardless of the interval since the last tetanus and diphtheria toxoid containing vaccine (Td). This includes children/students transferring into school or newly joining school who have never had the DTaP or Tdap prior. Inadvertent doses of Tdap given between the ages of 7 and 10 will not count as the 11-12 year old dose except as provided in subdivision 4.2.f. below.

4.2.e. Students who become pregnant may receive one dose of Tdap during each pregnancy (preferred during 27-36 weeks gestation) regardless of the number of years since prior Tdap or Td vaccination.

4.2.f. Students aged 7 – 10 years who are not fully immunized with the childhood DTaP vaccine series shall receive the Tdap vaccine as the first dose in the catch-up series and if additional doses are needed, these students should receive the Td vaccine. These children, once they receive the Tdap vaccine, are specifically excluded from the requirements of subdivision 4.2.d.

4.3. Dosage and interval schedule for HEPATITIS B vaccine is as follows:

4.3.a. Students entering school shall show proof that they have received at least three doses of HEPATITIS B vaccine with at least one dose having been given on or after six months of age. The first and second dose shall be at least four (4) weeks apart. The second and third doses should be separated by at least eight (8) weeks. Additionally, the third dose should be at least sixteen (16) weeks after the first dose.

4.3.b. Unvaccinated students shall complete a three (3) dose series. However, a two (2) dose series (with doses separated by a minimum of four (4) months) using the adult formulation Recombivax HB which is licensed for children aged 11 -15 years and is an acceptable alternative to the three dose requirement.

4.3.c. Occurrence of prior disease may be used as evidence of immunity in accordance with subsection 6.4. of this rule.

4.3.d. Students may attend school and participate in extracurricular activities after they have received the first of the series of Hepatitis B vaccinations. The series shall be completed within seven (7)

months of the date of entry or the student will be excluded from school and all extracurricular activities until the student completes the Hepatitis B series. It is the responsibility of the student and their parents or legal guardians to ensure the timely completion of the Hepatitis B series and submit the acceptable proof to the school authorities.

4.4. Dosage and interval schedule for RUBEOLA (Measles) vaccine is as follows:

4.4.a. Children entering school shall show proof that they have received two doses of RUBEOLA (MEASLES) vaccine, the first dose on or after the first birthday and the second dose no less than four (4) weeks after the first dose. Alternatively, immunity may be proven through laboratory testing. The laboratory testing result proving immunity shall be presented to the Local Health Officer for review and approval before the child may be admitted to school without the required vaccinations for measles.

4.4.b. Occurrence of prior disease may be used as evidence of immunity in accordance with subsection 6.4. of this rule.

4.5. Dosage and interval schedule for MUMPS vaccine is as follows:

4.5.a. Children entering school shall show proof that they have received at least two doses of MUMPS vaccine, the first dose on or after the first birthday and the second dose no less than four (4) weeks after the first dose. Alternately, immunity may be shown through laboratory testing. The laboratory testing result proving immunity shall be presented to the Local Health Officer for review and approval before the child may be admitted to school without the required vaccinations for mumps.

4.5.b. Occurrence of prior disease may be used as evidence of immunity in accordance with subsection 6.4. of this rule.

4.6. Dosage and interval schedule for the POLIO (IPV) vaccine is as follows:

4.6.a. Four doses of trivalent inactivated polio vaccine (IPV) are recommended for routine immunization of all children with the fourth dose given on or after the child's fourth birthday and at least a six (6) month interval from the third dose. Before being admitted to school, each child shall show proof that he or she has received a minimum of three doses of IPV with the last dose given on or after the child's fourth birthday and at least six months after the second dose.

4.6.b. Children who have not received the recommended doses of IPV should receive a minimum of three doses, with four (4) weeks between dose one and two, and six (6) months between doses 2 and 3. Additionally, dose three shall be received on or after the child's fourth birthday.

4.6.c. Students may attend school and participate in extracurricular activities after they have received the first of the series of IPV vaccinations. The series shall be completed within seven (7) months of the date of entry or the student will be removed from school and all extracurricular activities until the IPV series is complete. It is the responsibility of the student and their parents or legal guardians to ensure the timely completion of the IPV series and submit the acceptable proof to the school authorities.

4.6.d. The IPV is the only available Polio vaccine in the United States in 2013. An oral, live attenuated version of the Polio Vaccine (OPV) is available in other parts of the world. Children who have lived outside the United States may have received the OPV. The dosage schedule is the same. Children who have had three or more doses of OPV or a combination of OPV and IPV, the last dose of which was given on or after the child's fourth birthday with at least a six (6) month separation between the second and third dose are in compliance with this rule. Otherwise, subdivision 4.6.b. applies but doses of OPV may be substituted in the record for IPV.

4.7. Dosage and interval schedule for the RUBELLA vaccine is as follows:

4.7.a. Children entering school shall show proof that they have received at least two doses of RUBELLA vaccine, the first dose on or after the first birthday and the second dose no less than one month after the first dose. Alternately, immunity may be proven through laboratory testing. The laboratory testing result proving immunity shall be presented to the Local Health Officer for review and approval before the child may be admitted to school without the required vaccinations for rubella.

4.7.b. Occurrence of prior disease may be used as evidence of immunity in accordance with subsection 6.4. of this rule.

4.8. Dosage and interval schedule for the VARICELLA (Chickenpox) vaccine is as follows:

4.8.a. Children four (4) to twelve (12) years old entering school shall show proof that they have received two doses of VARICELLA (Chickenpox) vaccine, the first dose on or after the first birthday and the second dose no less than three month after the first.

4.8.b. Children 13 years and older without proof of immunity should receive two doses of the VARICELLA vaccine with at least 4 weeks between shots.

4.8.c. Students who have only received one dose of the VARICELLA vaccine are required to obtain a second dose. For children from 4 to 12 years old the second dose shall be given at least 28 days after the first dose.

4.8.d. Alternately, immunity may be shown through the written or verbal statement of a parent or legal guardian attesting to the fact of their child's history of chickenpox accompanied by laboratory testing showing immunity, if requested.

4.8.e. Students may attend school and participate in extracurricular activities after they have received the first of the series of Varicella vaccinations. The series shall be completed within three (3) months of the date of entry for children 4 to 12 years old and within one (1) month for children 13 or older, or the student shall be removed from school and all extracurricular activities until such time as the Varicella series is complete or laboratory evidence of immunity is supplied. It is the responsibility of the student and their parents or legal guardian to ensure the timely completion of the Varicella series or laboratory testing and submit acceptable proof to the school authorities.

4.9. Dosage and interval schedule for the MENINGOCOCCAL (MCV4) vaccine is as follows:

4.9.a. Students at age 11 or 12 shall show proof of MENINGOCOCCAL vaccination prior to entry into the 7<sup>th</sup> grade. These students will require a booster shot at age 16 or older, and will need to show proof of the MCV4 booster prior to entry into the 12<sup>th</sup> grade.

4.9.b. Students who are newly entering the school system at age 13 – 15 and have not been previously vaccinated with MCV4 shall receive MCV4 vaccination and shall also show proof of a booster shot on or after age 16 and prior to entry into the 12<sup>th</sup> grade.

4.9.c. Students who are newly entering the school system at age 16 or older and have not been previously vaccinated with MVC4 shall receive a MCV4 vaccination and will not be required to show proof of a booster prior to entry into the 12<sup>th</sup> grade.

4.10. Pre-School Students. For preschool children entering a school building housing other children in grades kindergarten through twelfth, the above immunization requirements hold to the extent that they are age appropriate in accordance with the immunization schedules referenced in section 3 of this rule.

**§64-95-5. Compliance with the Law.**

5.1. A child shall be considered to be in compliance with the law requiring compulsory immunizations of school children prior to school entry when that child has a complete certificate of immunization, or similar medical record of immunizations.

5.2. If a child has been determined to be medically exempt from receiving one or more vaccinations, in accordance with the provisions of section nine of this rule, the certificate of immunization shall note specifically which vaccine the child is exempt from, the reason for the exemption, and whether or not the reason for the exemption is permanent or temporary. If the exemption is temporary, it shall be re-evaluated annually unless a longer period of time is indicated by the child's treating physician. A temporary exemption shall have a maximum period of 24 months before re-evaluation.

5.3. A student who does not have a completed certificate of immunization or other similar medical record of immunizations shall show proof that he or she has received at least one dose of each of the required vaccines in order to be provisionally enrolled in school.

5.4. Provisional enrollment may continue for the time medically necessary to complete the missing vaccinations. At no time should the provisional enrollment period exceed 8 months from school entry, the time medically necessary to complete all required childhood vaccine series under the standard catch up schedule. After attending school for the provisional enrollment time period, all provisionally enrolled students shall show proof to the school that they have completed all of the required immunizations or laboratory evidence of immunity.

5.5. Children who are delinquent for any required vaccinations, or who have exceeded the provisional enrollment period, will be considered to be out of compliance with the law and are required to stop attending school until the appropriate vaccine(s) or laboratory evidence is received and the records are amended.

**§64-95-6. Proof of Immunity.**

6.1. Proof that a child has received the immunizations required by law and this rule, in the correct number and spacing of doses, shall be recorded on a completed document, such as a certificate of immunization, for all students.

6.2. A Certificate of Immunization form has been developed by the West Virginia Department of Health and Human Resources, Bureau for Public Health, Immunization Program. This form is available to appropriate health care providers electronically through participation in the West Virginia Statewide Immunization Information System (WVSIIS) <http://www.wvdhhr.org/immunizations/wvsiis1.asp>. The form is also available from:

ATTN: WVSIIS  
Bureau for Public Health  
Immunization Program  
350 Capitol Street, Room 125  
Charleston, WV 25301

6.3. The documentary evidence of immunizations shall contain the day, month and year of each vaccine received by the child or sufficient information of the time interval between doses to enable verification that the minimum intervals required or suggested by this rule have been observed.

6.4. Proof of prior measles, mumps, rubella, varicella or hepatitis B disease being used in lieu of vaccination requires a document signed by a physician indicating, at a minimum, the name of the patient, the date of the illness and laboratory evidence of immunity in the form of titers for measles, mumps and rubella and a Hepatitis B panel for Hepatitis B. If the historical disease diagnosis is in question, current laboratory evidence of immunity may be required.

**§64-95-7. Commissioner's Authority to Change Immunization Requirements for School Children.**

The Commissioner may, by Order filed with the Secretary of State, modify, add or delete vaccines to be required for school children. The Commissioner's Orders shall be consistent with the immunization schedules referenced in section 3 of this rule. The Commissioner's Orders shall not exceed those recommendations.

**§64-95-8. Vaccine Recommendations for all school children.**

The following vaccines are recommended for all children attending West Virginia schools:

**8.1. INFLUENZA VACCINE.**

8.1.a. Any child aged six months or older should be vaccinated annually against influenza. Children from six to twenty-three months are at substantially increased risk for influenza-related hospitalizations and children ages twenty-four to fifty-nine months are at increased risk for influenza-related clinic and emergency room visits. Children and school personnel with certain medical conditions and school personnel who are older are at increased risks of influenza complications and death.

8.1.b. An annual flu vaccine is recommended in accordance with annually released ACIP recommendations.

**8.2. HUMAN PAPILLOMAVIRUS VACCINE - HPV Vaccine.** Most human papillomavirus (HPV) infections are inapparent clinically. However, HPVs can cause benign though disfiguring epithelial proliferation of the skin and mucous membranes and are associated with several cancers. The HPV vaccines are the only available vaccine that protects against certain cancers. The American Academy of Pediatrics recommends that routine vaccination of females with the HPV2 or HPV4 starting at age 11 or 12, though the vaccine has been approved starting at age 9. The vaccine is a three dose series with a minimum of one month between doses one (1) and two (2) and dose three (3) given six months after dose one (1). The vaccine for females is approved from age 9 to 26. The vaccine is also recommended for males from age 13 to 26 with the same dosing schedule. HPV4 is the only HPV vaccine approved for males.

**8.3. OTHER VACCINATIONS.** Other vaccines recommended for various high risk populations in the school setting may be found on the immunization schedules jointly approved by the Advisory Committee on Immunization Practices, the American Academy of Pediatrics, and the American Academy of Family Physicians at [www.cdc.gov](http://www.cdc.gov) by searching under "Immunization Schedules".

**§64-95-9. Medical Exemptions.**

9.1. The provisions of this rule may not apply if a child has a valid medical contraindication or



precaution to a particular vaccine. To obtain a medical exemption the child's parent or guardian shall present a written request for an exemption from a physician who has treated or examined the child to the local health officer in the county where the child attends school. The request shall be submitted using the "Request for Medical Exemption from Compulsory Immunization" form available through the WVSIIIS website for parents and their physicians to submit a request for a medical exemption from the physician's office. Additionally, forms may be found on the DHHR Medical Exemption Resource Center website: <http://www.dhhr.wv.gov/oeps/immunization/Pages/MedEx.aspx>.

9.2. The physician's request for exemption from immunization shall state specifically which vaccine or vaccines the child should be exempt from receiving, an explanation of the medical contraindication or precaution relied upon to make the request, and whether the reason for the exemption is permanent or temporary. If the medical exemption is temporary, the request shall also provide the future date or time when the exemption should be reevaluated. Requests for temporary medical exemptions shall not exceed twenty-four (24) months from the time of the requested medical exemption.

9.3. Requests for medical exemption from vaccine requirements shall be reviewed and approved or denied by the local health officer in the county where the requestor attends school.

9.4. The Local Health Officer shall respond with a determination on each request within twenty (20) days of receipt of a complete application for exemption. It is the responsibility of the parent or guardian seeking an exemption to cause to be delivered to the local health officer a complete application for exemption. The Local Health Officer shall make reasonable attempts to notify the parent or guardian about any deficiencies in the application but it remains the responsibility of the parent or guardian seeking an exemption to assure that the application is complete. If the request remains incomplete for forty-five (45) days, the request for an exemption shall be denied. Approval or denial of a request for a medical exemption shall be in writing and a copy of the response shall be sent to the State Health Officer and to the parents or guardian of the student. If the Local Health Officer does not respond to a properly completed application for an exemption within the twenty days, the parents or guardian seeking the exemption may appeal directly to the State Health Officer.

9.5. The Local Health Officer shall make the determination based upon most recent guidance from the Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP) with respect to medical contraindications or precautions for each vaccine.

9.6. The Local Health Officer shall verify that immunization exemptions are entered into the West Virginia Statewide Immunization Information System -- WVSIIIS -- to enable support of individuals at increased risk of disease in an outbreak and to aid in disease control and surveillance.

9.7. The Local Health Officer's decision on a request for a medical exemption from immunization may be appealed to the State Health Officer. The request for an appeal and the State Health Officer's decision on such requests shall be in writing on the "Request for Appeal" of the Local Health Officer's Denial of a Medical Exemption form which can be found on the WVSIIIS website. Additionally, this form will be available on the DHHR Medical Exemption Resource Center website at: <http://www.dhhr.wv.gov/oeps/immunization/Pages/MedEx.aspx>.

9.8. The State Health Officer shall determine what information may be required to complete the review and provide a written decision on the appeal. The State Health Officer shall make the decision within thirty (30) days of receipt of the appeal letter and all other pertinent material or information needed to make the decision. The appellant shall be notified within fifteen (15) days of receipt of the Appeal form of the pertinent material or information that the State Health Officer needs to make a decision. At a minimum, the State Health Officer will need a copy of the original request for exemption, a statement

from the appellant as to why the local health officer's decision should be overturned, a copy of all pertinent medical records and a statement from a treating physician, if relevant. It is the parent or guardian's responsibility to ensure that the State Health Officer has all of the material or information requested. Failure of the parent or guardian to submit the required information or material within forty-five (45) days of the request from the State Health Officer shall result in a denial of the exemption. The State Health Officer's time of 30 days does not commence until he or she receives all of the requested information and materials. Reasonable attempts shall be made by the State Health Officer to advise the parents or guardian seeking the exemption of any deficiencies in the record, but it is the parent or guardian's responsibility to make sure a complete record is available to the State Health Officer. The State Health Officer shall determine if it is in the best interest of the child and the other children and adults in the school for the student to attend school during the pendency of the appeal.

9.9. Appeal from the ruling of the State Health Officer may be made through the administrative review procedure described in section ten of this rule.

9.10. All requests for medical exemption from immunization shall be reviewed, and determinations made, based on current medical science and recommendations from the Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP).

**§64-95-10. Administrative Due Process.**

Any person adversely affected by the enforcement of this rule desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so in the manner prescribed in the Bureau's procedural rule, Rules for Contested Case Hearings and Declaratory Rulings, 64CSR1.