

EDUCATION LAW
TITLE 1. GENERAL PROVISIONS
ARTICLE 19. MEDICAL AND HEALTH SERVICE

NY CLS Educ § 914 (2007)

§ 914. Immunization of children.

1. Each school shall require of every child entering or attending such school proof of immunization in accordance with the provisions of section twenty-one hundred sixty-four of the public health law.
2. Each school district shall assist and cooperate with the municipality in the development of a plan required by section six hundred thirteen of the public health law.
3. Each school district shall participate in the surveys directed by the state commissioner of health pursuant to section six hundred thirteen of the public health law of the immunization level of the children entering and attending school within such district, and which shall be subject to audit by the state commissioner of health. Each school and school district shall provide the state commissioner of health with any records and reports required for the purpose of such audit. In no event shall the state commissioner of health disclose a student's identity.

PUBLIC HEALTH LAW
ARTICLE 21. CONTROL OF ACUTE COMMUNICABLE DISEASES
TITLE VI. POLIOMYELITIS AND OTHER DISEASES

NY CLS Pub Health § 2164 (2007)

§ 2164. Definitions; immunization against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, Haemophilus influenzae type b(Hib), pertussis, tetanus, pneumococcal disease, and hepatitis B.

1. As used in this section, unless the context requires otherwise:
 - a. The term "school" means and includes any public, private or parochial child caring center, day nursery, day care agency, nursery school, kindergarten, elementary, intermediate or secondary school.
 - b. The term "child" shall mean and include any person between the ages of two months and eighteen years.
 - c. The term "person in parental relation to a child" shall mean and include his father or mother, by birth or adoption, his legally appointed guardian, or his custodian. A person shall be regarded as the custodian of a child if he has assumed the charge and care of the child because the parents or legally appointed guardian of the minor have died, are

imprisoned, are mentally ill, or have been committed to an institution, or because they have abandoned or deserted such child or are living outside the state or their whereabouts are unknown, or have designated the person pursuant to title fifteen-A of article five of the general obligations law as a person in parental relation to the child.

d. The term "health practitioner" shall mean any person authorized by law to administer an immunization.

2.

a. Every person in parental relation to a child in this state shall have administered to such child an adequate dose or doses of an immunizing agent against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, Haemophilus influenzae type b (Hib), pertussis, tetanus, pneumococcal disease, and hepatitis B, which meets the standards approved by the United States public health service for such biological products, and which is approved by the department under such conditions as may be specified by the public health council.

b. Every person in parental relation to a child in this state born on or after January first, nineteen hundred ninety-four and entering sixth grade or a comparable age level special education program with an unassigned grade on or after September first, two thousand seven, shall have administered to such child a booster immunization containing diphtheria and tetanus toxoids, and an acellular pertussis vaccine, which meets the standards approved by the United States public health service for such biological products, and which is approved by the department under such conditions as may be specified by the public health council.

3. The person in parental relation to any such child who has not previously received such immunization shall present the child to a health practitioner and request such health practitioner to administer the necessary immunization against poliomyelitis, mumps, measles, diphtheria, Haemophilus influenzae type b (Hib), rubella, varicella, pertussis, tetanus, pneumococcal disease, and hepatitis B as provided in subdivision two of this section.

4. If any person in parental relation to such child is unable to pay for the services of a private health practitioner, such person shall present such child to the health officer of the county in which the child resides, who shall then administer the immunizing agent without charge.

5. The health practitioner who administers such immunizing agent against poliomyelitis, mumps, measles, diphtheria, Haemophilus influenzae type b (Hib), rubella, varicella, pertussis, tetanus, pneumococcal disease, and hepatitis B to any such child shall give a certificate of such immunization to the person in parental relation to such child.

6. In the event that a person in parental relation to a child makes application for admission of such child to a school or has a child attending school and there exists no certificate or other acceptable evidence of the child's immunization against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, hepatitis B, pertussis, tetanus, and, where

applicable, Haemophilus influenzae type b (Hib) and pneumococcal disease, the principal, teacher, owner or person in charge of the school shall inform such person of the necessity to have the child immunized, that such immunization may be administered by any health practitioner, or that the child may be immunized without charge by the health officer in the county where the child resides, if such person executes a consent therefor. In the event that such person does not wish to select a health practitioner to administer the immunization, he or she shall be provided with a form which shall give notice that as a prerequisite to processing the application for admission to, or for continued attendance at, the school such person shall state a valid reason for withholding consent or consent shall be given for immunization to be administered by a health officer in the public employ, or by a school physician or nurse. The form shall provide for the execution of a consent by such person and it shall also state that such person need not execute such consent if subdivision eight or nine of this section apply to such child.

7.

(a) No principal, teacher, owner or person in charge of a school shall permit any child to be admitted to such school, or to attend such school, in excess of fourteen days, without the certificate provided for in subdivision five of this section or some other acceptable evidence of the child's immunization against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, hepatitis B, pertussis, tetanus, and, where applicable, Haemophilus influenzae type b (Hib) and pneumococcal disease; provided, however, such fourteen day period may be extended to not more than thirty days for an individual student by the appropriate principal, teacher, owner or other person in charge where such student is transferring from out-of-state or from another country and can show a good faith effort to get the necessary certification or other evidence of immunization.

(b) A parent, a guardian or any other person in parental relationship to a child denied school entrance or attendance may appeal by petition to the commissioner of education in accordance with the provisions of section three hundred ten of the education law.

8. If any physician licensed to practice medicine in this state certifies that such immunization may be detrimental to a child's health, the requirements of this section shall be inapplicable until such immunization is found no longer to be detrimental to the child's health.

8-a. Whenever a child has been refused admission to, or continued attendance at, a school as provided for in subdivision seven of this section because there exists no certificate provided for in subdivision five of this section or other acceptable evidence of the child's immunization against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, hepatitis B, pertussis, tetanus, and, where applicable, Haemophilus influenzae type b (Hib) and pneumococcal disease, the principal, teacher, owner or person in charge of the school shall: a. forward a report of such exclusion and the name and address of such child to the local health authority and to the person in parental relation to the child together with a notification of the responsibility of such person under subdivision two of this section and a form of consent as prescribed by regulation of the commissioner, and

b. provide, with the cooperation of the appropriate local health authority, for a time and place at which an immunizing agent or agents shall be administered, as required by subdivision two of this section, to a child for whom a consent has been obtained. Upon failure of a local health authority to cooperate in arranging for a time and place at which an immunizing agent or agents shall be administered as required by subdivision two of this section, the commissioner shall arrange for such administration and may recover the cost thereof from the amount of state aid to which the local health authority would otherwise be entitled.

9. This section shall not apply to children whose parent, parents, or guardian hold genuine and sincere religious beliefs which are contrary to the practices herein required, and no certificate shall be required as a prerequisite to such children being admitted or received into school or attending school.

10. The commissioner may adopt and amend rules and regulations to effectuate the provisions and purposes of this section.

11. Every school shall annually provide the commissioner, on forms provided by the commissioner, a summary regarding compliance with the provisions of this section.

NY CLS Pub Health § 2165 (2007)

§ 2165. Immunization of certain post-secondary students.

1. As used in this section, unless the context requires otherwise:

- a. The term "institution" means a college as defined in section two of the education law.
- b. The term "student" means any person born on or after January first, nineteen hundred fifty-seven, who is registered to attend or attends classes at an institution, whether full-time or part-time. "Part-time student" shall mean a student who is enrolled for at least six but less than twelve semester hours, or the equivalent per semester or at least four but less than eight semester hours per quarter at an institution.
- c. The term "health practitioner" means any person authorized by law to administer an immunization.
- d. The term "immunization" means an adequate dose or doses of an immunizing agent against measles, mumps and rubella which meets the standards approved by the United States public health service for such biological products, and which is approved by the state department of health under such conditions as may be specified by the public health council.

2. Each student at an institution shall provide to the institution a certificate from a health practitioner or other acceptable evidence of such student's immunization, unless such student presents a certificate under subdivision eight of this section or is exempt under subdivision eight-a or nine of this section. Upon compliance, no student shall be denied attendance at an institution because of the requirements of this section.

3. A student who has not complied with subdivision two of this section shall present himself or herself to a health practitioner and request such practitioner to administer such immunization.

4. If any person is unable to pay for the services of a private health practitioner, such person shall present himself or herself to the health officer of the county in which such person resides, or the county in which the institution is located who shall then administer the immunization without charge.

5. The health practitioner who administers such immunization to any such person shall give a certificate of such immunization to such person.

6. In the event that a student registers at an institution and has not complied with subdivision two of this section, the institution shall inform such student of the necessity to be immunized, that such immunization may be administered by any health practitioner, or that the student may be immunized without charge by the health officer in the county where the student resides or in which the institution is located. In the event that such student does not comply with this section, he or she shall be given notice that attendance at the institution requires immunization unless a valid reason is provided by such student pursuant to subdivision eight or nine of this section.

7. No institution shall permit any student to attend such institution in excess of thirty days without complying with subdivision two of this section. However, such thirty day period may be extended to not more than forty-five days for a student where such student is from out-of-state or from another country and can show a good faith effort to comply with subdivision two of this section.

8. If any licensed physician or nurse practitioner certifies that such immunization may be detrimental to the person's health or is otherwise medically contraindicated, the requirements of this section shall be inapplicable until such immunization is found no longer to be detrimental to such person's health or is no longer medically contraindicated.

8-a. Proof of honorable discharge from the armed services within ten years from the date of application to an institution shall qualify as a certificate enabling a student to attend the institution pending actual receipt of immunization records from the armed services. If while awaiting the receipt of actual immunization records a health risk shall arise at an institution, a student presenting a certificate under the terms of this subdivision shall be removed from the institution if proper immunization cannot be proved or otherwise rectified.

9. This section shall not apply to a person who holds genuine and sincere religious beliefs which are contrary to the practices herein required, and no certificate shall be required as a prerequisite to such person being admitted or received into or attending an institution.

10. The institution shall provide annually to the commissioner, on forms provided by the commissioner, a summary regarding compliance with this section.

11. The commissioner may adopt and amend rules and regulations to effectuate the provisions and purposes of this section.

12. The commissioner shall report annually to the governor and the legislature concerning the immunization of all students pursuant to this section.

13.

a. Prior to August first, nineteen hundred ninety-one, this section shall not apply to (i) part-time students or (ii) any student who attended the institution he or she is attending prior to August first, nineteen hundred eighty-nine.

b. Prior to August first, nineteen hundred ninety-one, the thirty and forty-five day periods referred to in subdivision seven of this section shall be deemed to be sixty and ninety days, respectively.

NY CLS Pub Health § 2167(2007)

§ 2167. Immunization against meningococcal meningitis.

1. As used in this section, unless the context requires otherwise:

a. The term "student" means a person attending an institution and, in the case of a student attending college, "student" means a person who is registered to attend or who attends classes at an institution, who is enrolled for at least six semester hours or the equivalent per semester, or at least four semester hours per quarter.

b. The term "institution" means an academy or college, as defined in section two of the education law, or a children's overnight camp as defined in section one thousand three hundred ninety-two of this chapter, where the person attending such camp remains overnight for a period of not fewer than seven days.

c. The term "immunization" means an adequate dose or doses of an immunizing agent against meningococcal meningitis which meets the standards approved by the United States public health service for such biological products and which is approved by the department under such conditions as may be specified by the public health council.

2. Each institution shall distribute, in a form provided or approved by the commissioner, written information about meningococcal meningitis and meningitis immunization to all students. The information provided by the institution shall include, but not be limited to, the following:

a. a description of the disease and means of transmission;

b. the benefits, risks, and effectiveness of immunization;

c. the availability and cost of immunization, including an indication of whether or not the institution offers meningococcal meningitis immunization services.

3. Each institution shall also distribute, in a form provided or approved by the commissioner of health, a response form, to be completed by the student or, where the

student is under the age of eighteen years, such student's parent or guardian, which shall include the following:

- a. The student, or if under the age of eighteen years the parent or guardian of the student, certifies that the student has already received immunization against meningococcal meningitis within the ten years preceding the date of the response form;
- b. The student, or if under the age of eighteen years the parent or guardian of such student, has received and reviewed the information provided by the institution, understands the risks of meningococcal meningitis and the benefits of immunization, and has decided that the student shall not obtain immunization against meningococcal meningitis. The student, or if under the age of eighteen years the parent or guardian of such student, shall indicate his or her decision in a box or space placed appropriately on the form and shall return the completed form to the institution. Nothing in this subdivision shall be construed to prohibit an institution from incorporating the form required by this subdivision into another health certificate or form required by the institution.

4. Each institution shall maintain completed response forms.

5. No institution shall permit any student to attend the institution in excess of thirty days without complying with this section; provided, however, that such thirty day period may be extended to not more than sixty days if a student can show a good faith effort to comply with this section.

6. Nothing in this section shall be construed to prohibit institutions from adopting or maintaining more stringent policies regarding immunization against meningococcal meningitis.