



## Immunization Law Clarification

### Updates to Wisconsin's Administrative Code (Wis. Admin. Code ch. DHS 144) THAT PERTAIN TO SCHOOL IMMUNIZATION REQUIREMENTS

Link: [https://docs.legis.wisconsin.gov/code/admin\\_code/dhs/110/144](https://docs.legis.wisconsin.gov/code/admin_code/dhs/110/144)

The following updates to DHS 144 will take effect for the 2024-2025 school year and subsequent years.

Students are required to receive one dose of a Meningococcal ACWY-containing vaccine (MenACWY) vaccine before the start of 7<sup>th</sup> grade. A booster dose is required for eligible students entering 12<sup>th</sup> grade. Students receiving their first dose of MenACWY after age 16 do not need a booster dose.

Students must have a diagnosis of chickenpox from a qualified health care provider (MD, DO, NP, or PA) to be exempt from this requirement. Existing exemption options still apply. Parent report of chickenpox disease is no longer acceptable for exemption from the varicella (chickenpox) vaccine requirement but current Wisconsin students (excluding new enterers and kindergarteners) with a parental report of varicella prior to May 2024 are not required to receive Varicella vaccine.

#### Compliance Categories:

**Meets Minimum:** Applies to students with a record containing the dates (month/day/year) of immunizations for every dose of vaccine required for his or her grade level. For students in "ungraded" programs, use the requirement for the traditional age-appropriate grade. **Does not apply to a child that has any immunization waiver (health, religious, or personal conviction.)**

**In Process:** Applies to students enrolling for the first time in a Wisconsin school (e.g., prekindergarten or kindergarten, out-of-state transfers, and homeschooled children) and to existing students for whom there is a new vaccine requirement. To be considered "in process," the student must provide the immunization dates demonstrating receipt of the first doses of required vaccines within 30 school days of admission. Prior to the 30<sup>th</sup> school day, the legal notice should be sent as needed. "In process" also applies to the second doses within 90 school days of admission and the third (and fourth doses, if required) within 30 school days of admission the following school year. A student cannot be considered "in process" if the missing vaccine is a single-dose vaccine requirement (i.e., Tdap). These children, as well as any other students who fail to meet the deadlines, would be "behind schedule."

**Behind Schedule:** Applies to students who have an immunization record on file but are missing required doses of vaccine, are not in process, and do not have a waiver on file for the vaccine. Because the Wisconsin Student Immunization Law applies to all public and private schools, a transfer student from any school within the state who is "behind schedule" enters the new school as "behind schedule," not "in process."

**No Record:** Applies to students who do not have a student immunization record on file and any transfer student for whom a record has not yet been received from the previous school. It also applies to students who have submitted a record with inappropriate information, such as "all vaccines received," "child up to date," or "record at doctor's office."

**Waiver:** Waivers are available for medical/health, religious, or personal conviction reasons. Children for whom waivers are filed are compliant. However, they may be subject to exclusion from school in the event of an outbreak of diseases against which they are not completely immunized. A history of chickenpox is not a waiver. If a waiver is selected, all vaccines the child has already received should be listed on the Student Immunization Record by the parent or guardian. Although they are compliant with the Wisconsin Student Immunization Law, **students with a waiver should not be classified in the Meets Minimum category.**

**Compliant Categories:** Meet minimum, In Process, Waiver.

**Noncompliant Categories:** Behind Schedule, No Record.

**Exclusion:** Every year schools are required to assess all students' immunization records to determine compliance with the Wisconsin Student Immunization Law, as described in the Wisconsin Student Immunization Law Timeline: Actions Required of Schools (P-01442). Students have until the 30<sup>th</sup> school day to provide the appropriate documentation of immunization or a signed waiver. Starting on the 31<sup>st</sup> school day, noncompliant students in kindergarten through grade 5 must be excluded for up to 10 consecutive school days if one of the following is true about the school:

- The school is a public school and the school district's compliance level from the previous school year was less than 99.00%.
- The school is a private school and the school's compliance level from the previous school year was less than 99.00%.

Exclusion is optional for grades 6 through 12.

Exclusion is optional for schools that met the 99.00% compliance level in the previous year.

## STUDENTS AND SCHOOLS

**Kindergarten:** Kindergarten is typically for children ages 5 to 6 and is the grade prior to grade 1. On the School Report to Local Health Department form, [F-04002](#), results for kindergarten students are reported separately (in left column) and again combined with all students (in right column) to assess compliance specifically among children at the age of school entry into Kindergarten. Kindergarten is considered the first year of school even if the student attended a pre-K class.

**4K Kindergarten, 3K Kindergarten, Early Childhood:** The vaccine requirements of the Wisconsin Student Immunization Law are not grade-specific for children enrolled in 4K

kindergarten, 3K kindergarten, and early childhood programs. The law requires specific doses of vaccines for children ages 2 through 4. The vaccine requirements and timeline for when they are to be met should begin when the child enters school for the first time. Compliance information for these children should be included in the “All students enrolled at this school” section (Column B) of the School Report to the Local Health Department form, [F-04002](#). Exclusion of noncompliant students in 4K, 3K, and early childhood programs is optional. Children 5 years of age and older attending a Pre-K class should be assessed using the requirements for kindergarten through grade 5.

**School Assessment vs. Child Care Assessment:** The school assessment measures compliance with the Wisconsin Student Immunization Law among children enrolled in school, including children enrolled in early childhood, 3K, and 4K programs, and kindergarten through grade 12. Students enrolled in early childhood, 3K, or 4K programs within a school should be reported on the School Report to Local Health Department form, [F-04002](#).

The Wisconsin Student Immunization Law also requires that licensed Wisconsin child care centers assess and report the immunization status of children enrolled in licensed child care centers. The assessment of the immunization status of children enrolled in licensed child care centers is separate from the assessment of children enrolled in school. If a licensed child care center is located in a school, the child care center will be assessed separately from the school by the Wisconsin Department of Health Services. The child care assessment is typically done in late winter or early spring through a separate, direct mailing. It is possible that some children will be assessed twice in the same school year: once as the student in a school and again as an attendee of a licensed child care.

**Charter Schools:** The Wisconsin Student Immunization Law applies equally to all of the following: public schools, private schools, charter schools, and non-charter schools.

**Homeschooled Children:** The Wisconsin Student Immunization Law does not cover homeschooled children unless they enroll in any class or grade in a Wisconsin public or private school. If the child is enrolled for the first time, he or she should be handled like any other first-time enrollee and allowed to be “in process” if all vaccines have not already been administered. If that child leaves the Wisconsin school and later re-enrolls, that child would be considered “behind schedule” if all required vaccines have not been administered.

**"Off-campus" Students:** For the purpose of this immunization assessment, students who are officially enrolled in a school but spend time away from that school should be counted in the school where they are officially enrolled. This would include students in group educational settings and alternative schools, or students who take one class at the high school but are enrolled in middle school.

**Virtual or Online Schools:** Wisconsin students who attend virtual or online schools only and do not attend any classes or participate in extracurricular activities at a brick-and-mortar school are not subject to the student immunization law. However, students who attend virtual or online schools, and also attend a brick-and-mortar school for coursework or extracurricular activities are considered admitted to the brick-and-mortar school and subject to the student immunization law requirements.

## IMMUNIZATION RECORDS

**Transfer Student Records:** For students who transfer from one Wisconsin school to another, schools must transfer the record to the new school within 10 school days of the records request per Wis. Admin. Code § DHS 144.07(7).

### **Foreign Exchange Students**

Foreign Exchange students need to meet the same immunization requirements as any other student when entering into a public or private school. If possible, schools should provide the Student Immunization Law Age/Grade Requirements, [P-44021](#), and the Student Immunization Record form, [F-04020L](#), prior to the student's arrival in Wisconsin.

**Immunization Records:** Written evidence of immunization can be supplied on either the Student Immunization Record form, [F-04020L](#), or an electronic immunization record, such as a printout from the Wisconsin Immunization Registry (WIR). Parents who choose to waive an immunization are required to sign a waiver on the Student Immunization Record form, [F-04020L](#), and list the dates (month, day, year) of all of the vaccines the child has received. Alternatively, if [F-04020L](#) is not used, the parent should provide documentation of all of the vaccines received, the dates (month, day, year) the vaccines were received, the specific vaccines that are being waived, the type of waiver, the date of the waiver, and the parent name and signature.

**Immunization Records Retention:** The Student Immunization Record form, [F-04020L](#) is part of a student's progress record and, as such, should be maintained for at least five years after the student ceases to be enrolled at the school per Wis. Stat. § 118.125(3).

**WIR Records—Health Care Provider vs. School:** The Wisconsin Student Immunization Law requires students to have a minimum number of doses of vaccine. For some vaccines, the Advisory Committee on Immunization Practices (ACIP), the committee that makes recommendations for vaccine use in the United States, recommends that children receive more doses than are required by the Wisconsin Student Immunization Law. The school WIR record may indicate that a student is compliant with the law; however, that same student may need further immunizations based on the WIR record of the student's health care provider, which follows the ACIP recommendations. If a parent asks about further recommended immunizations for their children, they should be referred to their health care provider. A "refusal of [vaccine name]" documented in the WIR does not constitute a valid waiver. The school is responsible for obtaining waiver documentation.

### **Family Educational Rights and Privacy Act:**

The Family Educational Rights and Privacy Act (FERPA) is a federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education. If you have questions about releasing information, contact your school's legal counsel.

Generally, schools must have written permission from the parent to release any information from a student's education record (including immunization information). However, FERPA allows schools to disclose those records, without consent, under certain conditions, including

to comply with a judicial order or lawfully issued subpoena, and to appropriate officials in the event of health and safety emergencies.

The following describes the circumstances under which student immunization information can be released to local health departments, district attorneys, and WIR.

Released to local health departments:

- Should the local health department determine that there is a health emergency (i.e., an outbreak of a vaccine-preventable disease) at a school, the local health department may request the names and contact information of students who are not protected from the disease (i.e., students not fully vaccinated against the disease) from the school. This determination should inform the school's decision whether a disclosure of the requested information is necessary to protect the health or safety of one or more students or others, consistent with federal law.
- However, for ensuring compliance only, schools may not share names of noncompliant students with the local health department unless the parent has provided signed consent.

Released to district attorneys:

- If your school is in a jurisdiction where a court order has been issued for schools to provide names of noncompliant students to the county district attorney's office, this disclosure is allowed under FERPA (to comply with the judicial order.)

Released to WIR:

- Schools may not share student immunization information with WIR or with health care providers unless the parent provided signed consent.
- The parent signature portion of the Student Immunization Record form, [F-04020L](#), includes a checkbox where parents can give permission for schools to share the student's immunization information with WIR.
- Schools are encouraged to use this form for all new and transferring students.

For existing students, schools may use the Student Immunization Record form, [F-04020L](#), to obtain consent to release-immunization information, or the school may choose to develop some other form to obtain consent for the release.

**Waivers:** The Wisconsin student immunization requirements can be waived for personal conviction, religious, or medical/health reasons. Children for whom waivers are filed are compliant with the Wisconsin Student Immunization Law; however, these children may be subject to exclusion from school in the event of an outbreak of a disease against which they are not completely immunized.

Parents who choose to waive an immunization are required to sign a waiver on the Student Immunization Record form, [F-04020L](#), and list the dates (month, day, year) of all of the vaccines the child has already received. Alternatively, if [F-04020L](#) is not used, the parent should provide documentation of all of the vaccines received, the dates (month, day, year) the vaccines were received, the vaccines that are being waived, the type of waiver, the date of the waiver, and the parent name and signature. The school is responsible for obtaining waiver documentation.

A “refusal of [vaccine name]” documented in WIR does not constitute a valid waiver. A history of chickenpox is not a waiver but does exempt a student from the varicella vaccine requirement.

Every year schools should review all student waivers for accuracy. Those students’ immunization records can be checked in WIR to determine if the student has received the vaccine and therefore the waiver status is no longer necessary.

**New Vaccines and Waivers:** If a waiver is chosen, it applies to a vaccine(s) required at the time a student enrolls into a Wisconsin school for the first time (e.g., a student entering kindergarten or a student transferring from an out-of-state school). Any new vaccines or new dose of an existing vaccine required after enrollment in the Wisconsin school would require a separate waiver for that vaccine.

## VACCINES AND IMMUNIZATIONS

### Required Vaccines

|         |  |
|---------|--|
| DT      | Diphtheria and tetanus vaccine (pediatric)                         |
| Td      | Tetanus and diphtheria vaccine (for ages 7 years or older)         |
| Tdap    | Tetanus, diphtheria, and acellular pertussis vaccine (adolescents) |
| DTaP    | Diphtheria, tetanus, and acellular pertussis vaccine (pediatric)   |
| DTP     | Diphtheria, tetanus, and pertussis vaccine (no longer available)   |
| Hep B   | Hepatitis B vaccine  |
| MMR     | Measles, mumps, and rubella vaccine                                |
| Polio   | Polio vaccine  |
| MenACWY | Meningococcal ACWY-containing vaccine                              |
| Var     | Varicella (chickenpox vaccine)                                     |

**Vaccine Trade Names:** A health care provider might administer a vaccine and provide the parent with a note listing only the vaccine trade name rather than listing the specific type of vaccine received. The following list of commonly used vaccines and their manufacturer trade names is provided to help you determine which vaccines were received.

### U.S Vaccines

| Vaccine                  | Trade Name | Abbreviation  | Manufacturer    |
|--------------------------|------------|---------------|-----------------|
| DTaP                     | Daptacel®  | DTaP          | Sanofi          |
|                          | Infanrix®  | DTaP          | GlaxoSmithKline |
| DTaP, Polio              | Kinrix®    | DTaP-IPV      | GlaxoSmithKline |
|                          | Quadracel® |               |                 |
| DTaP, Hepatitis B, Polio | Pediarix®  | DTap-HepB-IPV | GlaxoSmithKline |

|   |   |  |   |
|---|---|--|---|
| <b>DTaP, Polio,<br/>Haemophilus<br/>influenzae type b</b> | Pentacel®   | DTaP-IVP/Hib   | Sanofi  |
| <b>DT</b>   | Generic   | DT   | Sanofi  |
| <b>Haemophilus<br/>influenzae type b</b>                  | ActHIB®<br>Hiberix®<br>PedavaxHIB®  | Hib (PRP-T)<br>Hib (PRP-T)<br>Hib (PRP-OMP)  | Sanofi<br>GlaxoSmithKline<br>Merck  |
| <b>Hepatitis B</b>  | Engerix-B®<br>Recombivax HB®<br>Hepelisav-B®  | HepB<br>HepB<br>HepB   | GlaxoSmithKline<br>Merck<br>Dynavax<br>Technologies   |
| <b>Hepatitis A,<br/>Hepatitis B</b>                       | Twinrix®  | HepA-HepB  | GlaxoSmithKline   |
| <b>Human<br/>Papillomavirus</b>                           | Gardasil® 9   | 9vHPV  | Merck   |
| <b>Influenza</b>  | Afluria®<br>Fluad®<br>Fluarix®<br>Flublok®<br>Flucelvax®<br>FluLaval®<br>FluMist®<br>Fluzone®<br>Fluzone High-<br>Dose® | IIV3; IIV4<br>IIV3<br>IIV4<br>RIV4<br>ccIV4<br>IIV4<br>LAIV4<br>IIV3; IIV4<br>IIV3 | Sequiris<br>Sequiris<br>GlaxoSmithKline<br>Sanofi<br>Sequiris<br>GlaxoSmithKline<br>Medimmune<br>Sanofi<br>Sanofi |
| <b>Measles, Mumps,<br/>Rubella</b>                        | M-M-R® II   | MMR  | Merck   |
| <b>Measles, Mumps,<br/>Rubella, Varicella</b>             | ProQuad®  | MMRV   | Merck   |
| <b><u>Meningococcal</u></b>                               | Menactra®<br>Menveo®<br>Trumenba®<br>Bexsero®   | MCV4; MenACWY-<br>D<br>MCV4; MenACWY-<br>CRM<br>MenB-FHbp<br>MenB-4C               | Sanofi<br>GlaxoSmithKline<br>Pfizer<br>GlaxoSmithKline  |
| <b>Polio</b>  | Ipol®   | IPV  | Sanofi  |
| <b>Tetanus (reduced)<br/>Diphtheria</b>                   | Tenivac®<br>(Generic)   | Td<br>Td   | Sanofi<br>Massachusetts<br>Biological Labs  |
| <b>Tetanus<br/>Diphtheria<br/>Pertussis</b>               | Adacel<br>Boostrix  | Tdap<br>Tdap   | Sanofi<br>GlaxoSmithKline   |
| <b>Varicella</b>  | Varivax®  | VAR  | Merck   |

**Valid Doses:** Vaccines in a series (when more than one dose is required) are most effective when the doses are administered according to recommended time intervals. However, the Wisconsin Student Immunization Law does not require that vaccines are received at specific time intervals. Therefore, the number of doses received, including those that were received at



inappropriate time intervals, can be counted toward compliance with the Wisconsin Student Immunization Law. In WIR, doses received at inappropriate time intervals are marked as "not valid." These doses can be counted towards meeting the minimum required doses. The only exceptions to this are the first dose of MMR vaccine, which must be administered on or after the first birthday, and a dose of DTaP/DT vaccine, which should be given on or after the fourth birthday for children entering 5K Kindergarten.

**Four-day Grace Period:** The Wisconsin Student Immunization Law allows a four-day grace period for certain required age-dependent vaccines. The four-day grace period means a student is compliant with the immunization law if the dose of each of these vaccines was received four days or less before the date it was required. See footnotes 2, 3, 5, and 7 on the table describing "Student Immunization Law Age/Grade Requirements," [P-44021](#), for descriptions of which vaccines and doses this applies to.

**DTaP/DTP/DT Vaccine After 4 Years of Age:** The Wis. Admin. Code ch. DHS 144 requires that at least one dose (either the 3<sup>rd</sup>, 4<sup>th</sup>, or 5<sup>th</sup> dose) of DTaP/DTP/DT is to be received after the 4th birthday. The purpose of this required (and recommended) dose is to boost the level of protection primarily against pertussis (whooping cough.) If the third dose of DTaP/DTP/DT is received after the child's 4th birthday, a fourth dose is not required.

**Polio Vaccine, Four Doses Required:** ACIP recommends a fifth dose of polio vaccine for children who received their fourth dose before their 4th birthday. The Wisconsin Student Immunization Law requires four doses only; a fifth dose is not required. Children who received their third dose of polio vaccine after their 4th birthday are also compliant with the Wisconsin Student Immunization Law.

**Hepatitis B Vaccine, Two-dose Series:** An exception was made in Wis. Admin. Code ch. DHS 144 for students who receive two doses of a licensed, two-dose hepatitis B vaccine formulation. These students are not required to receive a third dose. The two-dose hepatitis B vaccine is licensed only for children ages 11 through 15 and is given four to six months apart. If the first dose was received by the 30<sup>th</sup> school day, the second would be required by the 30<sup>th</sup> school day of the following school year. This formulation is rarely used at this time.

**Varicella Vaccine Exemption:** All students in kindergarten through grade 12 are required to have two doses of varicella vaccine. Students with a history of chickenpox disease are exempt from the varicella vaccine requirement if they have a diagnosis of chickenpox from a qualified health care provider (MD, DO, NP, or PA). The MD, DO, NP, or PA must attest that the student has a reliable history of chickenpox and sign the Student Immunization Record. Parent report of chickenpox disease is no longer acceptable for exemption from the varicella (chickenpox) vaccine requirement. However, current Wisconsin students (excluding new enterers and kindergarteners) with a parental report of varicella prior to May 2024 are not required to receive Varicella vaccine. If a student received the first dose of varicella vaccine and subsequently developed chickenpox ("breakthrough disease",) or if the student has been diagnosed with shingles, the second dose of varicella vaccine is not required. The student's history of having had the disease or laboratory evidence of immunity should be noted on the Student Immunization Record. If the student has been diagnosed with shingles, a history of chickenpox can be noted on the Student Immunization Record since a person cannot develop shingles unless they previously had chickenpox.



**Tdap Vaccine Exception:** Please note that one dose of Tdap vaccine is currently recommended for adolescents and adults. The school requirement for students in grades 7 through 12 is one dose of Tdap. An exception is made for students who already received a tetanus-containing vaccine, such as Td, TT (tetanus toxoid), or DTaP, within five years (i.e., a total of five full years) before entering the grade where Tdap is required. These students are compliant with the Tdap requirement, and no further doses are required. For example, if a child received a dose of Td vaccine because of an injury within five years before entering grade 7, that child has met the Tdap requirement (even though s/he has not actually received Tdap vaccine.) Although, in these circumstances, Tdap is not required for school entry, Tdap vaccination is recommended to boost the student's immunity to pertussis. Pertussis is common among adolescents and other school-aged children, and can result in significant illness for the student, the student's family (especially infants less than 12 months old,) and can result in many missed days of school and/or work for the student and parent.

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