

TITLE 14. EDUCATION
PART I. FREE PUBLIC SCHOOLS
CHAPTER 1. DEPARTMENT OF EDUCATION
SUBCHAPTER II. POWERS AND DUTIES

14 Del. C. § 131 (2002)

§ 131. Public school enrollees' immunization program; exemptions

(a) The Department shall from time to time, with advice from the Division of Public Health, adopt and promulgate rules and regulations to establish an immunization program to protect pupils enrolled in public schools from certain diseases. Such rules and regulations shall include at least the following:

- (1) The designation of a basic series of immunizations to be administered according to these rules;
- (2) The requirement that all persons enrolling in the public schools at any age or level as authorized by this title shall have:
 - a. Been immunized according to the required program prior to the time of enrollment in the Delaware schools;
 - b. Begun the series of immunizations not later than the time of enrollment to be completed within a reasonable time as prescribed by the Department in relation to the particular immunization involved; or
 - c. Presented written documentation of any claim of prior immunization in the form of a statement from the immunizing physician or agency or such other form as may from time to time be approved by regulation of the Department;
- (3) Provision that persons seeking to be enrollees of the public school who have not been immunized or do not meet the requirements for immunization within the time prescribed shall be denied further attendance in the public schools;
- (4) Provision for written notification of the parent, or legal guardian of an enrollee, of a pending exclusion;
- (5) Provision for exemption from any or all of the immunization program prescribed for a particular enrollee upon a written statement from a physician, i.e., medical doctor or doctor of osteopathy, stating that the enrollee should not receive the prescribed immunization or immunizations required in the basic series because of the reasonable certainty of a reaction detrimental to that person. A history of clinical illness of measles or rubella shall not be accepted as cause for exemption;
- (6) Provision for exemption from the immunization program for an enrollee whose parents or legal guardian, because of individual religious beliefs, reject the concept of immunization. Such a request for exemption shall be supported by the affidavit herein set forth:

AFFIDAVIT OF RELIGIOUS BELIEF

STATE OF DELAWARE

..... COUNTY

1. (I) (We) (am) (are) the (parent(s)) (legal guardian(s)) of

.....

Name of Child

2. (I) (We) hereby (swear) (affirm) that (I) (we) subscribe to a belief in a relation to a Supreme Being involving duties superior to those arising from any human relation.

3. (I) (We) further (swear) (affirm) that our belief is sincere and meaningful and occupies a place in (my) (our) life parallel to that filled by

the orthodox belief in God.

4. This belief is not a political, sociological or philosophical view of a merely personal moral code.

5. This belief causes (me) (us) to request an exemption from the mandatory school vaccination program for.....

Name of Child

.....

Signature of Parent(s) or Legal Guardian(s)

SWORN TO AND SUBSCRIBED before me, a registered Notary Public, this

..... day of, 198.....

.....(Seal)

Notary Public

My commission expires:

.....

(7) Provision that, in the event that the Division of Public Health of the Department of Health and Social Services of the State declares that there is throughout the State or in a particular definable region of the State an epidemic of a vaccine preventable disease, any child who is enrolled in a public school and who has been exempt from the immunization program for any of the causes authorized herein shall be temporarily excluded from attendance at the public school. Rules and regulations of the Department shall provide that in the event of such temporary exclusion, it will be the responsibility of the school and the parents or legal guardian of the enrollee to assist him or her in keeping up with his or her school work and that no academic penalty shall be suffered by the enrollee upon return to school if the student has maintained his or her relationship with the school through the assignments prescribed. An enrollee so temporarily excluded shall be authorized to return to school upon the lifting by the Division of Public Health of the epidemic declaration;

(8) Provision that in any situation where the parents or legal guardian of the enrollee states that he or she has been immunized, but that the record has been lost or destroyed by the provider of the immunizations, the following procedure may be carried out by that responsible person and shall be accepted by the local school district board of education or its designee in lieu of compliance with the immunization requirement:

a. The responsible person, or the school nurse, shall sign a statement that the record of the enrollee's immunization has been lost; and

b. The responsible person shall be responsible for the enrollee obtaining 1 dose of each of the vaccines prescribed in the basic series of immunization;

(9) Provision for an enrollee who has reached the statutory age of majority set by laws for the State to be responsible for his or her immunization program and for execution of the request for religious exemption herein authorized;

(10) Provision that it shall be the responsibility of each Delaware public school district to administer, or prescribe a designee to administer, rules and regulations herein authorized and promulgated by the Department of Education.

(b) All kindergarten enrollees for the 2001-2002 and 2002-2003 school years shall be exempt from the provisions of Chapter 26 of Title 16.

(c) Appeals from the decision of the Department rendered pursuant to this section shall be to the Superior Court and shall be made in the same manner as is provided by the Superior Court Civil Rules for appeals from commissions, boards and agencies. Such appeal shall be on the record before the Department.