

## **CHAPTER 7 SCHOOL ENTRY REQUIREMENTS**

### **CHAPTER CONTENTS**

#### **Statutes**

- 43-2007 Requirement for certified copy of birth certificate
- 79-214 Admission of children; kindergarten; age; evidence of physical examination; visual evaluation
- 79-217 Immunization
- 79-218 Immunization clinics
- 79-219 Immunization Rules & Regulations
- 79-220 Physical examination; visual evaluation; immunization; right of refusal
- 79-221 Immunization; when not required
- 79-222 Immunizations; provisional enrollment
- 79-223 Violations; penalty
- 71-539. Legislative intent to share immunization information
- 71-541. Immunization information system; immunization information access
- 79-201. Compulsory education; attendance required
- 79-209. Nonattendance; school district duties

#### **Regulations**

- TITLE 173 CONTROL OF COMMUNICABLE DISEASE. CHAPTER 3 SCHOOL HEALTH, COMMUNICABLE DISEASE CONTROL, AND IMMUNIZATION STANDARDS

#### **Immunization Program Information**

#### **Appendix 1 Helpful Forms**

- Refusal of Immunizations for Medical Reasons
- Refusal of Immunization of Student for Religious Reasons

## Statutes

### 43-2007. Schools; exempt school; duties.

(1) Upon notification by the patrol of a missing person, any school in which the missing person is currently or was previously enrolled shall flag the school records of such person in such school's possession. The school shall report immediately any request concerning a flagged record or any knowledge of the whereabouts of the missing person.

(2) Upon enrollment of a student for the first time in a public school district or private school system, the school of enrollment shall notify in writing the person enrolling the student that within thirty days he or she must provide either (a) a certified copy of the student's birth certificate or (b) other reliable proof of the student's identity and age accompanied by an affidavit explaining the inability to produce a copy of the birth certificate.

(3) Upon enrollment of a student who is receiving his or her education in an exempt school subject to sections 79-1601 to 79-1607, the parent or guardian of such student shall provide to the Commissioner of Education either (a) a certified copy of the student's birth certificate or (b) other reliable proof of the student's identity and age accompanied by an affidavit explaining the inability to produce a copy of the birth certificate.

(4) Upon failure of the person, parent, or guardian to comply with subsection (2) or (3) of this section, the school or Commissioner of Education shall notify such person, parent, or guardian in writing that unless he or she complies within ten days the matter shall be referred to the local law enforcement agency for investigation. If compliance is not obtained within such ten-day period, the school or commissioner shall immediately report such matter. Any affidavit received pursuant to subsection (2) or (3) of this section that appears inaccurate or suspicious in form or content shall be reported immediately to the local law enforcement agency by the school or commissioner.

(5) Any school requested to forward a copy of a transferred student's record shall not forward a copy of such record to the requesting school if the record has been flagged pursuant to subsection (1) of this section. If such record has been flagged, the school to whom such request is made shall notify the local law enforcement agency of the request and that such student is a reported missing person.

Available at <http://nebraskalegislature.gov/laws/statutes.php?statute=43-2007&print=true>

**79-214 Admission of children; kindergarten; age; evidence of physical examination; visual evaluation**

(1)(a) Except as provided in subdivision (1) (b) of this section, the school board of any school district shall not admit any child into the kindergarten of any school of such school district unless such child has reached the age of five years on or before July 31 of the calendar year in which the school year for which the child is seeking admission begins.

(b) The board shall admit a child who will reach the age of five years on or after August 1 and on or before October 15 of such school year if the parent or guardian requests such entrance and provides an affidavit stating that (i) the child attended kindergarten in another jurisdiction in the current school year, (ii) the family anticipates relocation to another jurisdiction that would allow admission within the current year, or (iii) the child is capable of carrying the work of kindergarten which can be demonstrated through a recognized assessment procedure approved by the board. Each school board shall, for purposes of this subdivision, approve and make available a recognized assessment procedure for determining if a child is capable of carrying the work of kindergarten. The school board shall update approved procedures as the board deems appropriate.

(2) The board shall comply with the requirements of subsection (2) of section 43-2007 and shall require evidence of: (a) A physical examination by a physician, a physician assistant, or an advanced practice registered nurse, practicing under and in accordance with his or her respective certification act, within six months prior to the entrance of a child into the beginner grade and the seventh grade or, in the case of a transfer from out of state, to any other grade of the local school; and (b) a visual evaluation by a physician, a physician assistant, an advanced practice registered nurse, or an optometrist within six months prior to the entrance of a child into the beginner grade or, in the case of a transfer from out of state, to any other grade of the local school, which consists of testing for amblyopia, strabismus, and internal and external eye health, with testing sufficient to determine visual acuity, except that no such physical examination or visual evaluation shall be required of any child whose parent or guardian objects in writing. The cost of such physical examination and visual evaluation shall be borne by the parent or guardian of each child who is examined.

Available at <http://nebraskalegislature.gov/laws/statutes.php?statute=79-214&print=true>

**79-217. School board and governing authority; student; immunization against certain contagious diseases; exception.**

(1) Except as provided in sections 79-221 and 79-222, the school board or board of education of each school district and the governing authority of each private, denominational, or parochial school in this state shall require each student to be protected against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, and tetanus by

immunization prior to enrollment. Any student who does not comply with this section shall not be permitted to continue in school until he or she so complies, except as provided by section 79-222. Each school district shall make diligent efforts to inform families prior to the date of school registration of the immunization requirements of this section.

(2) Except as provided in sections 79-221 and 79-222, on and after July 1, 2010, every student entering the seventh grade shall have 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, as such standards existed on January 1, 2009.

(3) Except as provided in the Childhood Vaccine Act, the cost of such immunizations shall be borne by the parent or guardian of each student who is immunized or by the Department of Health and Human Services for those students whose parent or guardian is financially unable to meet such cost.

Available at <http://nebraskalegislature.gov/laws/statutes.php?statute=79-217&print=true>

### **79-218. School board and governing authority; immunization clinics; request assistance.**

Any school board or board of education of a school district or the governing authority of a private, denominational, or parochial school in this state may request assistance from the Department of Health and Human Services in establishing immunization clinics. Such assistance shall consist of vaccines, serums, and other supplies, services, and guidance from the Department of Health and Human Services.

Available at <http://nebraskalegislature.gov/laws/statutes.php?statute=79-218&print=true>

### **79-219. Student; immunization status; Department of Health and Human Services; rules and regulations.**

The Department of Health and Human Services shall adopt and promulgate rules and regulations relating to the required levels of protection, provisional enrollment under the provisions of section 79-222, the evidence necessary to prove that the required examination or immunization has been received, and the reporting of each student's immunization status. The department may modify, add to, or delete from the list of required immunizations set out in section 79-217. The department shall furnish local school authorities with copies of such rules and regulations and any other material which will assist in the carrying out of sections 79-214 and 79-217 to 79-223.

Available at <http://nebraskalegislature.gov/laws/statutes.php?statute=79-219&print=true>

### **79-220. Child; physical examination; visual evaluation; immunization; right of refusal.**

At the time the parent or guardian of any child is notified that such child must have a physical examination and a visual evaluation pursuant to section 79-214 or immunizations pursuant to section 79-217, the parent or guardian shall also be notified in writing of (1) his or her right to submit a written statement refusing a physical examination, a visual evaluation, or immunization for his or her child and (2) a telephone number or other contact information to assist the parent or guardian in receiving information regarding free or reduced-cost visual evaluations for low-income families who qualify.

Available at <https://www.nebraskalegislature.gov/laws/statutes.php?statute=79-220>

### **79-221. Immunization; when not required.**

Immunization shall not be required for a student's enrollment in any school in this state if he or she submits to the admitting official either of the following:

(1) A statement signed by a physician, a physician assistant, or an advanced practice registered nurse practicing under and in accordance with his or her respective certification act, stating that, in the health care provider's opinion, the immunizations required would be injurious to the health and well-being of the student or any member of the student's family or household; or

(2) An affidavit signed by the student or, if he or she is a minor, by a legally authorized representative of the student, stating that the immunization conflicts with the tenets and practice of a recognized religious denomination of which the student is an adherent or member or that immunization conflicts with the personal and sincerely followed religious beliefs of the student.

Available at <https://nebraskalegislature.gov/laws/statutes.php?statute=79-221>

### **79-222. Immunizations; provisional enrollment; conditions.**

(1) A student may be provisionally enrolled in a school in Nebraska if he or she meets either of the following qualifications:

(a) The student has begun the immunizations required under section 79-217 and is receiving the necessary immunizations as rapidly as is medically feasible; or

(b) The student is the child or legal ward of an officer or enlisted person on active duty in any branch of the military services of the United States or of his or her spouse, enrolling in a Nebraska school following residence in another state or in a foreign country.

(2) As a condition for the provisional enrollment of a student qualified for such enrollment under subdivision (1) (b) of this section, a parent or adult legal guardian of the student shall provide the school with a signed written statement certifying that the student has completed the course of immunizations required by section 79-217.

(3) The provisional enrollment of a student qualified for such enrollment under subdivision (1) (b) of this section shall not continue beyond sixty days from the date of such enrollment. At such time the school shall be provided, with regard to the student, written evidence of compliance with section 79-217. The student shall not be permitted to continue in school until such evidence of compliance is provided.

Available at <http://nebraskalegislature.gov/laws/statutes.php?statute=79-222&print=true>

### **79-223. Violations; penalty.**

Any person violating the provisions of section 79-214, 79-217, 79-219, or 79-220 shall be guilty of a Class V misdemeanor

Available at <http://nebraskalegislature.gov/laws/statutes.php?statute=79-223&print=true>

### **71-539. Legislative intent.**

It is the intent of the Legislature that sections 71-539 to 71-544 provide for the exchange of immunization information between health care professionals, health care facilities, health care services, schools, postsecondary educational institutions, licensed child care facilities, electronic health-record systems, public health departments, health departments of other states, Indian health services, and tribes for the purpose of protecting the public health by facilitating age-appropriate immunizations which will minimize the risk of outbreak of vaccine-preventable diseases.

Available at <http://nebraskalegislature.gov/laws/statutes.php?statute=71-539&print=true>

### **71-541. Immunization information system; immunization information; access; fee.**

Any person or entity authorized under section 71-541.01 to access immunization information in the immunization information system established pursuant to section 71-541.01 may access such information pursuant to rules and regulations of the Department of Health and Human Services for purposes of direct patient care, public health activities, or enrollment in school or child care services. The unrestricted immunization information shared may include, but is not limited to, the patient's name and date of birth, the dates and vaccine types administered, and any immunization information obtained from other sources. A person or entity listed in section 71-539

which provides immunization information to a licensed child care program, a school, or a postsecondary educational institution may charge a reasonable fee to recover the cost of providing such immunization information.

Available at <http://nebraskalegislature.gov/laws/statutes.php?statute=71-541&print=true>

#### **44-2804 — Physician, defined.**

Physician shall mean a person with an unlimited license to practice medicine in this state pursuant to the Medicine and Surgery Practice Act or a person with a license to practice osteopathic medicine or osteopathic medicine and surgery in this state pursuant to sections 38-2029 to 38-2033

Available at <http://nebraskalegislature.gov/laws/statutes.php?statute=44-2804&print=true>

#### **79-201. Compulsory education; attendance required; exceptions; reports required.**

(1) For purposes of this section, a child is of mandatory attendance age if the child (a) will reach six years of age prior to January 1 of the then-current school year and (b) has not reached eighteen years of age.

(2) Except as provided in subsection (3) of this section, every person residing in a school district within the State of Nebraska who has legal or actual charge or control of any child who is of mandatory attendance age or is enrolled in a public school shall cause such child to enroll in, if such child is not enrolled, and attend regularly a public, private, denominational, or parochial day school which meets the requirements for legal operation prescribed in Chapter 79, or a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements, each day that such school is open and in session, except when excused by school authorities or when illness or severe weather conditions make attendance impossible or impracticable.

(3) Subsection (2) of this section does not apply in the case of any child who:

(a) Has obtained a high school diploma by meeting the graduation requirements established in section 79-729;

(b) Has completed the program of instruction offered by a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements;

(c) Has reached sixteen years of age and has been withdrawn from school pursuant to section 79-202;

(d)(i) Will reach six years of age prior to January 1 of the then-current school year, but will not reach seven years of age prior to January 1 of such school year, (ii) such child's parent or guardian has signed an affidavit stating that the child is participating in an education program that the parent or guardian believes will prepare the child to enter grade one for the following school year, and (iii) such affidavit has been filed by the parent or guardian with the school district in which the child resides;

(e)(i) Will reach six years of age prior to January 1 of the then-current school year but has not reached seven years of age, (ii) such child's parent or guardian has signed an

affidavit stating that the parent or guardian intends for the child to participate in a school which has elected or will elect pursuant to section 79-1601 not to meet accreditation or approval requirements and the parent or guardian intends to provide the Commissioner of Education with a statement pursuant to subsection (3) of section 79-1601 on or before the child's seventh birthday, and (iii) such affidavit has been filed by the parent or guardian with the school district in which the child resides; or

(f) Will not reach six years of age prior to January 1 of the then-current school year and such child was enrolled in a public school and has discontinued the enrollment according to the policy of the school board adopted pursuant to subsection (4) of this section.

(4) The board shall adopt policies allowing discontinuation of the enrollment of students who will not reach six years of age prior to January 1 of the then-current school year and specifying the procedures therefor.

(5) Each school district that is a member of a learning community shall report to the learning community coordinating council on or before September 1 of each year for the immediately preceding school year the following information:

(a) All reports of violations of this section made to the attendance officer of any school in the district pursuant to section 79-209;

(b) The results of all investigations conducted pursuant to section 79-209, including the attendance record that is the subject of the investigation and a list of services rendered in the case;

(c) The district's policy on excessive absenteeism; and

(d) Records of all notices served and reports filed pursuant to section 79-209 and the district's policy on habitual truancy.

Available at <http://nebraskalegislature.gov/laws/statutes.php?statute=79-201&print=true>

### **79-209. Compulsory attendance; nonattendance; school district; duties; collaborative plan; considerations; referral to county attorney; notice.**

(1) In all school districts in this state, any superintendent, principal, teacher, or member of the school board who knows of any violation of subsection (2) of section 79-201 shall within three days report such violation to the attendance officer of the school, who shall immediately investigate the case. When of his or her personal knowledge or by report or complaint from any resident of the district, the attendance officer believes that there is a violation of subsection (2) of section 79-201, the attendance officer shall immediately investigate such alleged violation.

(2) All school boards shall have a written policy on attendance developed and annually reviewed in collaboration with the county attorney of the county in which the principal office of the school district is located. The policy shall include a provision indicating how the school district will handle cases in which excessive absences are due to illness. The policy shall also state the circumstances and number of absences or the hourly equivalent upon which the school shall render all services to address barriers to attendance. Such services shall include, but not be limited to:

(a) Verbal or written communication by school officials with the person or persons who have legal or actual charge or control of any child; and

(b) One or more meetings between, at a minimum, a school attendance officer, a school social worker, or a school administrator or his or her designee, the person who has legal

Chapter 7



or actual charge or control of the child, and the child, when appropriate, to attempt to address the barriers to attendance. The result of the meeting or meetings shall be to develop a collaborative plan to reduce barriers identified to improve regular attendance. The plan shall consider, but not be limited to:

- (i) Illness related to physical or behavioral health of the child;
- (ii) Educational counseling;
- (iii) Educational evaluation;
- (iv) Referral to community agencies for economic services;
- (v) Family or individual counseling; and
- (vi) Assisting the family in working with other community services.

(3) The school may report to the county attorney of the county in which the person resides when the school has documented the efforts it has made as required by subsection (2) of this section that the collaborative plan to reduce barriers identified to improve regular attendance has not been successful and that the child has been absent more than twenty days per year. The school shall notify the child's family in writing prior to referring the child to the county attorney. Failure by the school to document the efforts required by subsection (2) of this section is a defense to prosecution under section 79-201 and adjudication for educational neglect under subdivision (3) (a) of section 43-247 and habitual truancy under subdivision (3) (b) of section 43-247. Illness that makes attendance impossible or impracticable shall not be the basis for referral to the county attorney.

(4) Nothing in this section shall preclude a county attorney from being involved at any stage in the process to address excessive absenteeism.

Available at <http://nebraskalegislature.gov/laws/statutes.php?statute=79-209&print=true>

## **Rules & Regulations**

### **TITLE 173 CONTROL OF COMMUNICABLE DISEASE. CHAPTER 3 SCHOOL HEALTH, COMMUNICABLE DISEASE CONTROL, AND IMMUNIZATION STANDARDS**

Available at <http://govdocs.nebraska.gov/epubs/H8200/R173.0003-2004.pdf>

## **DHHS Immunization Program**

- Summary of the School Immunization Rules and Regulations in English and Spanish for the current school year
- Exemptions
  - Medical Exemption
  - Religious Affidavit
- Documentation for Varicella (Chickenpox) Disease
- Provisional Enrollment
- Contact Information:

P.O. Box 95026  
Lincoln, NE 68509-5026  
Phone: 402 471-6423  
Fax: 402 471-6426

Available at <http://dhhs.ne.gov/publichealth/Immunization/Pages/Schools.aspx>

# Appendix 1 Helpful Forms

# Statement of Medical Exemption to Immunization

As the physician, physician assistant or advanced practice registered nurse – nurse practitioner of:

<i>Child's Last Name</i>	<i>First Name</i>	<i>Age</i>
<i>Birth Date (mm/dd/yyyy)</i>	<i>School</i>	<i>Grade</i>

I have elected to not immunize this student against the following disease(s):

♣ Each disease for which a vaccine has not been administered must be checked. Parent / guardian must submit dates of immunization for all other diseases.

- Diphtheria..... \_\_\_\_\_
- Tetanus..... \_\_\_\_\_
- Pertussis ..... \_\_\_\_\_
- Polio ..... \_\_\_\_\_
- Measles (Rubeola) ..... \_\_\_\_\_
- Mumps ..... \_\_\_\_\_
- Rubella (German measles)..... \_\_\_\_\_
- Hepatitis B..... \_\_\_\_\_
- Varicella ..... \_\_\_\_\_
- Pneumococcal Conjugate..... \_\_\_\_\_
- HIB (Haemophilus Influenzae Type b) ..... \_\_\_\_\_

In my opinion as the medical provider, this immunization would be injurious to the health and well-being of:

- The student ..... \_\_\_\_\_
- A member of the student's household or family ..... \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Physician, Physician Assistant, or Advanced Practice Registered Nurse – Nurse Practitioner



My Commission expires: \_\_\_\_\_