

Supplemental Statement of Reasons

The California Department of Public Health (Department) has instituted additional changes to these proposed regulations, and they are discussed below. These changes are either initiated by the Department or are in response to comments that were received during the 45-day public comment period that ended on April 24, 2017.

The Department received over 550 written comments, of which many were duplicative. Given the large number of duplicative comments that did not result in a proposed change, the Department is opting to provide a brief response in the Supplemental Statement of Reasons (SSOR) to some of the most frequently submitted comments.

The Department will provide responses to all comments in the Final Statement of Reasons as is required.

Frequently submitted comments

Several comments suggested that by not repeating in regulations the exceptions to immunization requirements provided in Health and Safety Code (HSC) section 120335, subdivisions (f) and (h), that these exceptions would not be in effect. That is not correct; the statutory exceptions remain in effect.

Section 6000

Subsection (b)

In response to a public comment that adopting the definition of “governing authority” may not accurately reflect the governing authority of a public school district, the Department proposes to revise the definition by referring to the definition provided in HSC section 120335.

Subsection (c)

To be consistent with the other immunization abbreviations, “vaccine” is added to the “Td” definition in paragraph 4.

Subsection (f)

In response to public comments requesting clarification of a “licensed physician,” the Department proposes to add the more encompassing statutory citation that includes information specific to the requirements for licensure of physicians and osteopathic physicians. The Reference Note is revised accordingly.

Subsection (g)

The Department proposes nonsubstantive changes.

Subsection (h)

The Department proposes nonsubstantive changes.

Subsection (j)

In response to a public comment, the Department proposes to revise the definition of “pupil’s record” by referring to the definition of pupil record in California Code of Regulations (CCR), title 5, section 430, subdivision (d) for pupils in K-12.

Subsection (m)

In response to a public comment, the Department proposes to add a definition for “vaccine.” As the Department is directed in statute to take into consideration the recommendations of the Advisory Committee on Immunization Practices (ACIP), this proposed definition refers to the immunizations recommended by ACIP.

Reference Note

The Department proposes nonsubstantive changes.

Section 6020

The Department proposes nonsubstantive changes to the Reference Note.

Section 6025

Subsection (b)

The Department proposes nonsubstantive changes.

Table A

In response to a public comment, the Department proposes to add footnote 1 to clarify that as pupils age in pre-kindergarten they become subject to additional requirements and to allow parents up to 30 days after a pupil ages into a new requirement to submit proof of immunization. The footnotes are re-numbered accordingly.

In footnote 2, the Department proposes to clarify that the combination vaccine “DTP” may count toward the DTaP requirement.

In footnote 3, the Department proposes nonsubstantive changes.

In order to be consistent with ACIP recommendations, the Department proposes to revise footnote 4 to specify that only children younger than five years are subject to the Hib vaccine requirement.

Table B

In footnotes 2 and 5, the Department proposes to specify that the combination vaccine “DTP” may count toward the DTaP requirement.

For footnote 3, the Department proposes a nonsubstantive change.

The Department proposes to add footnote 6 to reflect HSC section 120335, subdivision (c), which excludes Hep B immunization status to be a condition by which a school

admits or advances a pupil into 7th grade but not other grades. The footnotes are re-numbered accordingly.

The Department proposes to revise footnote 10 by changing the expiration date of the time-limited 7th grade varicella vaccine requirement from June 30, 2024 to June 30, 2025. The date was originally proposed based on an anticipated effective date that would have allowed for implementation by fall of 2017. The Department now anticipates the effective date will be in 2018, moving the expiration date to June 30, 2025.

Section 6035

Subsection (a)

The Department proposes nonsubstantive changes.

Subsection (c)

The Department proposes nonsubstantive changes.

Subsection (d)

The Department proposes nonsubstantive changes.

In response to public comments, the Department proposes to revise 6035(d)(2) to clarify that documentation other than receipt of a Tdap dose may satisfy the Tdap requirement (e.g., medical exemption or other means footnoted in Table B).

Subsection (e)

The Department proposes a nonsubstantive change.

Table C

The Department proposes to add a statement to clarify that pupils must receive at least the first dose of each required vaccine and not be due for any doses before they can be conditionally admitted. Though this requirement is implied by not including a first dose as an option in the table, this statement makes the requirement explicit.

Table D

The Department proposes to add a statement to clarify that pupils must receive at least the first dose of each required vaccine and not be due for any doses before they can be conditionally admitted. Though this requirement is implied by not including a first dose as an option in the table, this statement makes the requirement explicit.

The Department proposes to add footnote 1 with respect to polio vaccine to be consistent with Table B and ACIP recommendations.

The Department proposes to revise footnote 2 with respect to DTaP, DTP, and Tdap to be consistent with Table B and ACIP recommendations.

In response to a public comment, the Department proposes to extend the due date in the conditional admission schedule for the MMR dose #2 from eight weeks to four months. This change is in keeping with varicella vaccine dose #2 to accommodate MMRV interval spacing in children younger than 13 years.

Reference Note

The Department proposes a nonsubstantive change.

Section 6040

Subsection (a)

In response to a public comment, the Department proposes to revise 6040(a)(2) to clarify that documentation other than receipt of missing vaccine doses (e.g., a medical exemption) may also meet the requirement when a pupil is discovered by a school or pre-kindergarten facility to be missing doses after the time they were due.

Subsection (b)

In response to a public comment, the Department proposes to revise 6040(b) to clarify that documentation other than receipt of doses for 7th grade immunization requirements (e.g., a medical exemption) may also meet the requirement prior to first 7th grade attendance.

Section 6050

Subsection (a)

The Department proposes to reformat subsection (a) to have a consistent structure for both types of medical exemptions described in this section and section 6051. The subsections are re-numbered accordingly. Additionally, the Department proposes to revise language to clarify that receipt of required immunizations for those immunizations not temporarily exempted is not the only way to meet the requirements (e.g., permanent medical exemption).

Public comments requested the language in subsection (a) mirror the language in HSC section 120370; therefore, the Department proposes to:

1. Delete “contraindication;” the term “contraindicate” was removed from HSC section 120370 per Senate Bill 277 (Chapter 35, Statutes of 2015), and
2. Revise paragraph (a)(1) to include “the specific nature of the physical condition or medical circumstance for which the licensed physician does not recommend immunization;” this language is paraphrased from HSC section 120370(a).

Subsection (b)

The Department proposes to revise language to clarify that obtaining required immunizations after a temporary medical exemption expires is not the only way to meet the requirements (e.g., permanent medical exemption).

Subsection (c)

The Department proposes nonsubstantive changes.

Reference Note

The Department proposes a nonsubstantive change.

Section 6051

Subsection (a)

The Department proposes nonsubstantive reformatting changes.

Additionally, public comments requested that the language in subsection (a) that refers to a child's medical condition mirror the language in HSC section 120370(a). Therefore, the Department proposes paragraph (a)(1) state "the specific nature of the physical condition or medical circumstance for which the licensed physician does not recommend immunization."

Subsection (b)

The Department proposes nonsubstantive changes.

Reference Note

The Department proposes a nonsubstantive change.

Section 6055

The Department proposes a nonsubstantive change.

Section 6070

Subsection (a)

The Department proposes nonsubstantive changes.

Subsection (b)

The Department proposes nonsubstantive changes.

The Department proposes revising paragraph (9) to clarify that a permanent medical exemption (PME) should be marked for each applicable vaccine. As previously written, there may have been confusion as to whether to mark PME only once even if multiple vaccines are exempted.

Subsection (c)

As the Department is repealing the regulated forms listed in this subsection and will no longer make them available, the Department proposes to remove this subsection. The subsections are re-numbered accordingly.

The Department proposes nonsubstantive changes in this subsection.

Reference Note

The Department proposes a nonsubstantive change.

Section 6075

Subsection (c)

The Department proposes nonsubstantive changes.

Subsection (d)

The Department proposes nonsubstantive changes.

Subsection (e)

The Department proposes nonsubstantive changes.

Subparagraphs (c)(3)(I), (d)(5)(G), and (e)(5)(G)

The Department proposes to add a reporting category that can account for pupils admitted under criteria not listed in regulation, such as pupils allowed admission pursuant to HSC section 120335(f) or (h). Without this category, pupils may be inaccurately counted in other categories.