

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency _____

Department _____

Contact _____ E-mail _____ Phone _____

Statutory Authority for Promulgating Rules _____

Rule Title: _____

Intended Effective Date

(Check One)

Date

Emergency (ACA 25-15-204) Legal Notice Published _____

10 Days After Filing (ACA 25-15-204) Final Date for Public Comment _____

Other _____ Reviewed by Legislative Council _____
(Must be more than 10 days after filing date.)

Adopted by State Agency _____

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

Phone Number

E-mail Address

Title

Date

**DIVISION OF ELEMENTARY AND SECONDARY EDUCATION RULES
GOVERNING IMMUNIZATION REQUIREMENTS IN ARKANSAS PUBLIC
SCHOOLS**

Effective Date: July 6, 2020

1.0 PURPOSE

1.01 The purpose of these rules is to establish the requirements and procedures for governing grades Kindergarten through Twelve (K-12) immunization requirements in Arkansas Public Schools.

2.0 REGULATORY AUTHORITY

2.01 The Rules are duly adopted and promulgated pursuant to the State Board of Education's authority under Ark. Code Ann. §§ 6-11-105, 6-18-702, and 25-15-201 et seq.

3.0 REQUIREMENTS

3.01 Except as otherwise provided in these rules, no child shall be admitted to a public school of this state who has not been immunized against the following, as evidenced by an immunization record from a licensed physician or a public health department (See Table I):

- 3.01.1 Poliomyelitis;
- 3.01.2 Diphtheria;
- 3.01.3 Tetanus;
- 3.01.4 Pertussis;
- 3.01.5 Red (rubeola) measles;
- 3.01.6 Rubella;
- 3.01.7 Mumps;
- 3.01.8 Hepatitis B;
- 3.01.9 Hepatitis A;
- 3.01.10 Meningococcal disease; and
- 3.01.11 Varicella (chickenpox).

3.02 The requirements for entry into school are:

3.02.1 For students entering into Kindergarten:

3.02.1.1 At least four doses of the following vaccines:

3.02.1.1.1 Diphtheria/Tetanus/Acellular Pertussis (DTaP);

3.02.1.1.2 Diphtheria/Tetanus/Pertussis (DTP); or

3.02.1.1.3 Diphtheria/Tetanus (DT pediatric).

3.02.1.2 At least three doses of Polio vaccine;

3.02.1.3 Three doses of Hepatitis B vaccine;

3.02.1.4 Two doses of Measles/Mumps/Rubella (MMR) vaccine;

3.02.1.4.1 If a student received two doses of measles, one dose of mumps, and one dose of rubella prior to January 1, 2010, the doses will be accepted as compliant with Section 3.02.1.4

3.02.1.5 Two doses of Varicella (chickenpox) vaccine; and

3.02.1.5.1 A history of disease may be accepted in lieu of receiving the Varicella vaccine.

3.02.1.5.2 The history of disease must be provided by a medical doctor (MD), advanced practice nurse (APN), doctor of osteopathy (DO), or physician assistant (PA).

3.02.1.5.3 No student, parent, or guardian history of varicella disease will be accepted (See Table I).

3.02.1.6 One dose of Hepatitis A vaccine.

3.02.2 For students entering into grades One through Twelve (1-12):

3.02.2.1 No fewer than three doses of:

3.02.2.1.1 Diphtheria/Tetanus/Acellular Pertussis (DTaP);

3.02.2.1.2 Diphtheria/Tetanus/Pertussis (DTP);

- 3.02.1.1.3 Diphtheria/Tetanus (DT pediatric);
 - 3.02.1.1.4 Tetanus/Diphtheria (Td-adult); or
 - 3.02.1.1.5 Tetanus/Diphtheria/Acellular Pertussis (Tdap).
- 3.02.2.2 One dose of Tetanus/Diphtheria/Acellular Pertussis (Tdap) for students who are eleven (11) years old as of September 1, and for students older than eleven (11) years if the student has not received the dose of Tdap at age eleven.
- 3.02.2.2.1 If a student is unvaccinated and age seven (7) or older, the student must receive one dose of Tetanus/Diphtheria/Acellular Pertussis (Tdap) and two doses of Tetanus/Diphtheria (Td-adult).
 - 3.02.2.2.2 Students who cannot document prior vaccination must be vaccinated as stated in Section 3.02.2.2.1.
- 3.02.2.3 At least three doses of Polio vaccine, with the final dose received after 4 years of age;
- 3.02.2.4 Two doses of Measles/Mumps/Rubella (MMR) vaccine;
- 3.02.2.4.1 If a student has previously received two doses of measles, one dose of mumps and one dose of rubella before January 1, 2010, the doses will be accepted as compliant to immunization requirements and 2 MMRs are not required.
- 3.02.2.5 Two doses of Varicella (chickenpox) vaccine;
- 3.02.2.5.1 A documented history of disease may be accepted in lieu of receiving the Varicella vaccine.
 - 3.02.2.5.2 The history of disease must be provided by a medical doctor (MD), advanced practice nurse (APN), doctor of osteopathy (DO), or physician assistant (PA).
 - 3.02.2.5.3 No student, parent, or guardian history of varicella disease will be accepted (See Table I).

- 3.02.2.6 No fewer than two doses of Hepatitis B vaccine;
 - 3.02.2.7 Meningococcal vaccine;
 - 3.02.2.7.1 Each student must have one dose to enroll in Seventh Grade.
 - 3.02.2.7.2 Each student age sixteen (16) on September 1 must receive a second dose, unless the first dose was administered at age sixteen (16) or older.
 - 3.02.2.7.2.1 If the first vaccine is administered at age sixteen (16) or older, no second dose is required.
 - 3.02.2.8 Each student must receive at least one dose of Hepatitis A to enroll in First Grade.
- 3.03 If a student has not met the immunization requirements for enrolling in a public school, the student should be referred to a medical authority, such as a private doctor or the health department, for immunization or consultation.
- 3.04 A school may temporarily admit a student if:
- 3.04.1 The student is in the process of receiving the needed doses of the required vaccines; or
 - 3.04.1.1 If a student is admitted and is in the process of completing the required minimum immunizations, the school shall require the student to complete the required doses on schedule.
 - 3.04.1.2 The school shall keep a written statement from a medical professional verifying that the student is in the process of completing the required minimum immunizations and stating a date when the student must receive the next immunization.
 - 3.04.1.3 For purposes of these Rules, "in process" means the student has received at least one dose of the required immunizations and is waiting the minimum time interval to receive the additional doses.
 - 3.04.2 The student has applied for an exemption for the vaccines the student has not received within thirty (30) calendar days after the child's admission, or by October 1 for Tdap and Meningococcal at age eleven and sixteen.

- 3.05 If the student does not provide documentation under Section 3.04.1.2, or show proof that the student has received an exemption from the immunization requirements, the student must be excluded from the school until the documentation is provided.

4.0 DOCUMENTATION FOR IMMUNIZATION OR PROOF OF IMMUNITY

- 4.01 The following documentation of immunizations is required:

4.01.1 A copy of the original source document or a copy from the immunization provider's medical record shall be placed in the student's permanent record.

4.01.2.1 A school shall only accept a record provided by a licensed physician, the health department, a military service, or an official record from another Arkansas educational entity.

4.01.2.1.1 The record must state the vaccine type and the dates of vaccine administration.

4.01.2.1.2 Terms such as "up-to-date", "complete", "adequate", or other similar terms shall not be accepted as proof of immunization.

4.01.2.2 The immunization record printed off of the statewide immunization registry with the Official Seal of the State of Arkansas is an approved immunization record.

- 4.02 The following documentation for proof of immunity is required:

4.02.1 Serologic testing shall only be accepted as proof of immunity for the following:

4.02.1.1 Hepatitis B virus;

4.02.1.2 Measles;

4.02.1.3 Mumps;

4.02.1.4 Rubella; and

4.02.1.5 Varicella (chickenpox).

4.02.2 Any individual who has immunity to any of the diseases listed in

Section 4.02.1, as documented by appropriate serological testing, shall not be required to have the vaccine for that disease.

4.02.3 The student, parent, or guardian shall submit a copy of the serological test to the Arkansas Department of Health, Immunization Section, along with a letter requesting that the serological test be accepted as proof of immunity in lieu of receiving vaccine for the disease indicated on the serological test.

4.02.3.1 After review by the Medical Director, Immunization Section, a letter indicating approval or denial of the proof of immunity is sent to the individual, parent, or guardian and it is that person's responsibility to inform the school of the approval or denial.

4.02.3.2 If the proof of immunity is approved, no annual approval is required.

4.02.3.3 If the proof of immunity is approved, the school shall maintain a copy of the approval letter in the student's permanent record.

4.02.3.4 If the proof of immunity is denied, the student must receive the required immunization or request an exemption from the Arkansas Department of Health.

4.03 An individual who has lost his/her immunization records or whose serology test results are unavailable shall be properly immunized for those diseases or will be required to show proof that they have applied for an exemption for those vaccines he/she has not received.

4.04 Each public school shall maintain a list of individuals not appropriately immunized and a list of individuals with medical, religious or philosophical exemptions.

4.05 Immunization records may be stored on a computer database, such as the Arkansas Public School Computer Network (APSCN).

5.0 EXEMPTIONS

5.01 General Requirements

5.01.1 Exemptions shall be granted only by the Arkansas Department of Health.

5.01.2 Individuals shall complete an annual application for medical, religious, and philosophical exemptions.

- 5.01.3 A notarized statement by the individual requesting the exemption must accompany the application.
- 5.01.4 All individuals requesting an exemption must complete an educational component developed by the Department of Health that includes information on the risks and benefits of vaccinations.
- 5.01.5 All individuals must sign an “informed consent” form provided by the Department of Health that includes:
 - 5.01.5.1 A statement of refusal to vaccinate;
 - 5.01.5.2 A statement of understanding that at the discretion of the Department of Health the non-immunized child or individual may be removed from the applicable facility, for no fewer than twenty-one (21) days, during an outbreak if the child or individual is not fully vaccinated; and
 - 5.01.5.3 A statement of understanding that the child or individual shall not return to the applicable facility until the outbreak has been resolved and the Department of Health approves the return.

5.02 Medical Exemptions

- 5.02.1 Only a letter issued by the Medical Director, Immunization Section of the Arkansas Department of Health, stating the vaccine(s) ~~or vaccines~~ for which a ~~child~~/student is exempt is to be accepted as a valid medical exemption by the school.
- 5.02.2 Statements from private physicians shall not be accepted by the school as proof of a medical exemption unless accompanied by a letter issued by the Medical Director, Immunization Section of the Arkansas Department of Health.
- 5.02.3 In addition to the general requirements of Section 5.01 of these Rules, individuals seeking a medical exemption must submit the Immunization Section's standard form for medical exemptions.
 - 5.02.3.1 This form is available from the Immunization Section upon request.

5.03 Religious Exemptions

5.03.1 In addition to the general requirements found in Section 5.01 of these Rules, individuals seeking a religious exemption must submit the Immunization Section's standard form for religious exemptions.

5.03.1.1 This form is available from the Immunization Section upon request.

5.04 Philosophical Exemptions

5.04.1 In addition to the general requirements found in Section 5.01 of these Rules, individuals seeking a philosophical exemption must submit the Immunization Section's standard form for philosophical exemptions.

5.04.1.1 This form is available from the Immunization Section upon request.

6.0 EXCLUSION FROM SCHOOL

6.01 Each school must maintain an accurate and current list of all students who have obtained an exemption from the vaccinations requirements and who are in the process of obtaining the vaccination requirements.

6.02 If the Department of Health determines that a possibility of disease transmission exists, individuals who have an exemption or who are in the process of obtaining the vaccinations will be excluded from the school.

6.02.1 Students who have had the disease as verified by appropriate serological testing will not be excluded from the school.

6.02.2 Students who are excluded from school under Section 6.02 shall not return to school until the possibility of disease transmission has been controlled and the Department of Health approves the return.

6.02.3 Students who are excluded from school under Section 6.02 shall not be dismissed or dropped from the attendance records of the school or school district in accordance with Ark. Code Ann. § 6-18-213(f).

6.02.4 Absences accrued due to exclusion under Section 6.02 shall be counted as excused or unexcused absences in accordance with the school's attendance policy.

7.0 REPORTING REQUIREMENTS

- 7.01 In order to identify areas where additional emphasis is needed and to measure levels of immunization compliance, the Arkansas Department of Health will conduct annual assessments in schools.
 - 7.01.1 Public schools are required to cooperate in completing these surveys and audits.
- 7.02 Each public school shall create and maintain a report that provides information regarding the:
 - 7.02.1 Number and percentage of students within the public school who have been granted from the Department of Health an exemption from the requirement to obtain one (1) or more vaccinations.
 - 7.02.2 The number and percentage of students within the public school who have:
 - 7.02.2.1 Failed to provide to the public school proof of the vaccinations required; and
 - 7.02.2.2 Not obtained an exemption from the Department of Health.
- 7.03 The report required under Section 7.02 must be updated by December 1 each year and be posted and available to the public online.

**TABLE I
KINDERGARTEN THROUGH GRADE TWELVE IMMUNIZATION REQUIREMENTS***

Vaccine ► ----- Grade ▼	Diphtheria, Tetanus, Pertussis (DTP/DT/T d/DTaP/Td ap)	Polio (OPV – Oral or IPV – Inactivated)	MMR***** (Measles, Mumps, and Rubella)	Hep B	Meningococcal (MCV4)	Varicella	Hepatitis A
Kindergarten	4 doses (with 1 dose on or after 4 th birthday)	3 doses (with 1 dose on or after 4 th birthday) with a minimum interval of 6 months between the 2 nd and 3 rd dose OR 4 doses with 1 dose on or after 4 th birthday and a minimum interval of 6 months between the 3 rd and 4 th dose.	2 doses (with dose 1 on or after 1 st birthday and dose 2 at least 28 days after dose 1)	3 doses	None	2 doses (with dose 1 on or after 1 st birthday and dose 2 at least 28 days after dose 1) *****A medical professional history of disease will be accepted in lieu of vaccine.	1 dose on or after 1 st birthday

<p>Grades 1 – 12</p>	<p>4 doses (with 1 dose on or after 4th birthday)</p> <p>AND</p> <p>1 dose of Tdap for ages 11 years (as of September 1st each year) and older</p> <p>OR</p> <p>3 doses of Tdap/Td ***** for persons 7 years of age or older who are not fully vaccinated (including persons who cannot document prior vaccination)</p>	<p>3 doses (with 1 dose on or after 4th birthday with a minimum interval of 6 months between the 2nd and 3rd dose)</p> <p>OR</p> <p>4 doses with 1 dose on or after 4th birthday and a minimum interval of 6 months between the 3rd and 4th dose.</p>	<p>2 doses (with dose 1 on or after 1st birthday and dose 2 at least 28 days after dose 1)</p>	<p>2** or 3*** doses (11-15 year olds could be on a 2-dose schedule)</p>	<p>Second dose at age 16 years (as of September 1st each year) with a minimum interval of 8 weeks since 1st dose</p> <p>OR</p> <p>1 dose if not vaccinated prior to age 16 years (If first dose is administered at age 16 years or older, no second dose is required.)</p>	<p>2 doses (with dose 1 on or after 1st birthday and dose 2 at least 28 days after dose 1)</p> <p>OR</p> <p>*****A medical professional history of disease may be accepted in lieu of receiving vaccine.</p>	<p>Grade 1 only:</p> <p>1 dose on or after 1st birthday</p>
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<p>Grade 7</p>	<p>4 doses (with 1 dose on or after 4th birthday) and 1 dose of Tdap**** OR 3 doses of Tdap/Td**** **** for persons 7 years of age or older who are not fully immunized (including persons who cannot document prior vaccination)</p>	<p>3 doses (with 1 dose on or after 4th birthday with a minimum interval of 6 months between the 2nd and 3rd dose) OR 4 doses with 1 dose on or after 4th birthday and a minimum interval of 6 months between the 3rd and 4th dose.</p>	<p>2 doses (with dose 1 on or after 1st birthday and dose 2 at least 28 days after dose 1)</p>	<p>2** or 3*** doses (11-15 year olds could be on a 2-dose schedule)</p>	<p>1 dose</p>	<p>2 doses (with dose 1 on or after 1st birthday and dose 2 at least 28 days after dose 1) OR *****A medical professional history of disease may be accepted in lieu of receiving vaccine.</p>	<p>NONE</p>
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*Doses of vaccine required for school entry may be less than the number of doses required for age-appropriate immunization.

**An alternative two-dose hepatitis B schedule for 11-15 year-old children may be substituted for the three-dose schedule. Only a FDA-approved alternative regimen vaccine for the two-dose series may be used to meet this requirement. If you are unsure if a

particular child's two-dose schedule is acceptable, please contact the Immunization Section for assistance at 501-661-2169.

*** 3rd dose of hepatitis B should be given at least 8 weeks after the 2nd dose, at least 16 weeks after the 1st dose, and it should not be administered before the child is 24 weeks (168 days) of age. (All 3rd doses of hepatitis B vaccine given earlier than 6 months of age before 6/21/96 are valid doses and should be counted as valid until 6/21/2014.)

**** Tdap vaccine can be administered regardless of the interval since the last tetanus and diphtheria toxoid-containing vaccine.

***** Exception: If a student has previously received two doses of measles, one dose of mumps and one dose of rubella before January 1, 2010, the doses will be accepted as compliant to immunization requirements and 2 MMRs are not required.

***** A medical professional is a medical doctor (MD), advanced practice nurse (APN), doctor of osteopathy (DO), or physician assistant (PA). No self or parental history of disease will be accepted.

***** For unvaccinated persons 7 years of age and older (including persons who cannot document prior vaccination), the primary series is 3 doses. The first two doses should be separated by at least 4 weeks, and the third dose at least 6 months after the second. One of these doses (preferably the first) should be administered as Tdap and the remaining two doses administered as Td.

Vaccine doses administered up to 4 days before the minimum interval for age can be counted as valid for doses already administered. Exception: the minimum interval between doses of live vaccines (such as MMR and Varicella) must be 28 days.

If the child does not meet the immunization requirements for entering school, the school shall refer the child to a medical authority (private doctor or health department) for immunization or consultation for when the immunization is due.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT: Arkansas Department of Education

DIVISION: Division of Elementary and Secondary Education, Division of Learning Services

PERSON COMPLETING THIS STATEMENT: Mary Claire Hyatt

PHONE NO.: 501-683-0960 **FAX NO.:** 501-682-4249 **E-MAIL:** maryclaire.hyatt@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE DESE Rules Governing Kindergarten through 12th Grade Immunization Requirements in Arkansas Public Schools

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes _____ No X

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes X No _____

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes _____ X No _____

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;

 - (b) The reason for adoption of the more costly rule;

 - (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

 - (d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.
3. If the purpose of this rule is to implement a federal rule or regulation, please state the following:
- (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
Federal Funds _____

Next Fiscal Year

General Revenue _____
Federal Funds _____

Cash Funds _____
 Special Revenue _____
 Other (Identify) _____
 Total _____ n/a _____

Cash Funds _____
 Special Revenue _____
 Other (Identify) _____
 Total _____ n/a _____

(b) What is the additional cost of the state rule? N/A

Current Fiscal Year

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____
 Total _____

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____
 Total _____

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ _____ 0 _____

\$ _____ 0 _____

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ _____ 0 _____

\$ _____ 0 _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes _____ No _____

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously

with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.