

TITLE 7 HEALTH
CHAPTER 5 VACCINATIONS AND IMMUNIZATIONS
PART 2 IMMUNIZATION REQUIREMENT

7.5.2.1 ISSUING AGENCY: Public Health Division, Department of Health.
[7.5.2.1 NMAC - Rp, 7.5.2.1 NMAC, 11/27/13]

7.5.2.2 SCOPE: These regulations govern children presenting satisfactory evidence of age appropriate immunization, or children presenting satisfactory evidence demonstrating that they are in the process of being age appropriately immunized, enrolled in, or who are seeking to be enrolled in, all public, private, home, parochial, elementary, childcare, pre-school, and secondary schools, except for those children who have been legally exempted from these immunizations and those children attending school in areas/counties that have not been targeted for a specific immunization requirement. This regulation is incorporated by reference in 6.12.2.8 “Requirements for Immunization of Children Attending Public, Nonpublic, or Home Schools” as promulgated by the New Mexico public education department, and 8.16.2 and 8.17.2 NMAC, “Childcare Centers, Out of School Time Programs, Family Childcare Homes, and Other Early Care and Education Programs and Requirements Governing Registration of Non-Licensed Family Childcare Homes,” as promulgated by the children youth and families department (CYFD).
[7.5.2.2 NMAC - Rp, 7.5.2.2 NMAC, 11/27/13]

7.5.2.3 STATUTORY AUTHORITY: These regulations are promulgated by the secretary of the New Mexico department of health under the authority of Section 9-7-6.3, Section 24-1-3 (N); and Section 24-5-1 NMSA 1978. Enforcement of these regulations is the responsibility of the public health division of the New Mexico department of health.
[7.5.2.3 NMAC - Rp, 7.5.2.3 NMAC, 11/27/13]

7.5.2.4 DURATION: Permanent.
[7.5.2.4 NMAC - Rp, 7.5.2.4 NMAC, 11/27/13]

7.5.2.5 EFFECTIVE DATE: November 27, 2013, unless a later date is cited at the end of a section.
[7.5.2.5 NMAC - Rp, 7.5.2.5 NMAC, 11/27/13]

7.5.2.6 OBJECTIVE: The objective is to provide for the health and safety of students enrolled in New Mexico schools, educational facilities, and daycare centers by requiring immunizations to abate the spread of diseases that are dangerous to the public health.
[7.5.2.6 NMAC - Rp, 7.5.2.6 NMAC, 11/27/13]

7.5.2.7 DEFINITIONS:

A. “Age appropriately immunized” means satisfactory evidence has been provided documenting that the person has completed all required immunizations which someone his or her age is eligible to receive according to the public health division school/daycare entry immunization requirements, which are within the Advisory Committee on Immunization Practice (ACIP) recommendations.

B. “Child” or “Children” are persons who are of the age birth through 18 years.

C. “Department” means the New Mexico department of health.

D. “In the process of being age appropriately immunized” means a child has received all required immunizations he or she is eligible to receive according to the public health division school/daycare entry immunization requirements, but has not completed one or more vaccine series because a sufficient time interval has not elapsed for the subsequent dose or doses of vaccine to be administered according to the recommended intervals between doses published by the ACIP.

E. “Licensed physician” means physician licensed to practice medicine or osteopathic medicine in New Mexico, another state or territory.

F. “Public health authority” means an agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is responsible for public health matters as part of its official mandate. The public health authority is authorized by law to collect or receive protected health information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting

of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions; or, at the direction of a public health authority, to an official of a foreign government agency that is acting in collaboration with a public health authority.

G. “Public health division” means the public health division of the department.

H. “Public health division regional health officer” means the physician medical director assigned to a public health region in New Mexico as defined by the public health division of the department.

I. “Public health division school/daycare entry immunization requirements” means the immunizations required for entry into all schools and facilities (public, private, home, parochial, elementary, childcare, pre-school, and secondary schools) in New Mexico as set forth by the secretary of the department.

J. “Required immunizations” means those immunizations against diseases deemed to be dangerous to the public health by the public health division, and set forth in its immunization requirements, which are within recommendations of the ACIP.

K. “Satisfactory evidence of commencement of immunization” means satisfactory evidence of a person having begun the process of immunizations, such as a certificate or record signed by a duly licensed physician or other recognized licensed public or private health facility stating that the person has received at least the first in the series of required immunizations and is proceeding with the immunizations according to the prescribed schedule.

L. “Satisfactory evidence of immunization” means a statement, certificate, or record signed by a duly licensed physician or other recognized licensed public or private health facility stating that the required immunizations have been given to the person or record of receipt of immunization in the New Mexico Statewide Immunization Information System (NMSIIS) registry.

[7.5.2.7 NMAC - Rp, 7.5.2.7 NMAC, 11/27/13]

7.5.2.8 IMMUNIZATION REQUIREMENTS:

A. In accordance with Section 9 below required immunizations shall be administered in accordance with guidelines established by the ACIP of the United States department of health and human services and the American academy of pediatrics.

B. A child shall be determined to be non-compliant with these regulations if the child has not been properly exempted from immunization and has not received any of the required immunization doses within the recommended intervals between doses published by the ACIP.

C. Immunization records shall be kept on file at all schools and facilities (public, private, home, parochial, elementary, childcare, pre-school, and secondary schools) or in the NMSIIS under these regulations in accordance with retention periods defined in Subsection D of 1.20.2.101 NMAC and in 1.15.8.101 NMAC.

D. Immunization records shall be kept current and available to the public health division as defined in Section 24-5-4, NMSA 1978.

E. All schools and facilities under these regulations shall be required to participate in an annual immunization records audit at the request of the department.

F. All schools required to comply with these regulations shall notify the local public health division regional health officer if a child about to be enrolled or while enrolled has been held out of school for more than five consecutive school days for non-compliance with these regulations. Contact information for regional health officers shall be published in the school immunization requirements.

[7.5.2.8 NMAC - Rp, 7.5.2.8 NMAC, 11/27/13]

7.5.2.9 REQUIRED IMMUNIZATIONS LIST:

A. Diphtheria.

B. Pertussis.

C. Tetanus.

D. Poliomyelitis.

E. Measles.

F. Mumps.

G. Rubella.

H. Haemophilus influenza type b (HiB) (for facilities regulated by CYFD as described in 8.16.2 NMAC or other pre-school or school-age populations as determined by the secretary of the department of health).

I. Hepatitis B.

J. Varicella.

- K.** Hepatitis A (for facilities regulated by CYFD as described in NMAC 8.16.2 or other pre-school populations as determined by the secretary of the department of health).
 - L.** Pneumococcal Disease.
 - M.** Other vaccines for preventable diseases as determined by the secretary of the department of health and within those recommended by the ACIP.
- [7.5.2.9 NMAC - Rp, 7.5.2.9 NMAC, 11/27/13]

7.5.2.10 IMMUNIZATION RECORD SHARING:

A. Under the Health Insurance Portability and Accountability Act (HIPAA), immunization data are protected health information; however, HIPAA permits covered entities to disclose, without individual authorization or prior notification, protected health information to public health authorities authorized by law to collect or receive such information for the purpose of prevention or controlling disease (45 CFR § 164.502). Under federal guidelines, the definition of a “public health authority” requires that an agency’s official mandate include the responsibility for public health matters. The mandate can be responsibility for public health matters, generally, or it can be for specific public health matters. An agency’s official mandate does not have to be exclusively or primarily for public health. To the extent a public health authority is authorized by law to collect or receive information for the public health purposes specified in the public health provision, covered entities may disclose protected health information to such public health authorities without authorization pursuant to the public health provision.

B. Public health authorities include federal public health agencies, tribal health agencies, state public health agencies, local public health agencies, and anyone performing public health functions under a grant of authority from the department.

C. New Mexico schools shall act as a “public health authority” in cooperation with the department when they track immunization status of enrolled students and those in the process of enrolling.

[7.5.2.10 NMAC - Rp, 7.5.2.10 NMAC, 11/27/13]

History of 7.5.2 NMAC:

Pre-NMAC Filing History:

Material in this part was derived from that previously filed with the State Records Center:

HSSD 70-2, Regulations Governing Immunizations Required for School Attendance, 2/17/70.

HSSD 71-2, Regulations Governing Immunizations Required for School Attendance, 12/27/71.

History of Repealed Material:

HSSD 71-2, Regulations Governing Immunizations Required for School Attendance, repealed by Rule 91-05, Rule Repealing Obsolete Rules and Regulations, filed 10-24-91.

7.5.2 NMAC, Immunization Requirement, filed 8/15/00 - Repealed effective 11/27/13.