

PUBLIC HEALTH IN SCHOOLS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Norman K Thurston

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill amends the vaccination requirements for school attendance.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends the Utah Health Code regarding vaccinations and records of student vaccinations;
- ▶ subject to certain exceptions, continues the requirement that a student receive certain vaccinations in order to attend school;
- ▶ requires the renewal of a student's vaccination exemption before the student begins grade 7;
- ▶ continues the practice of preventing a local education agency from receiving weighted pupil unit money for a student who does not comply with vaccination requirements;
- ▶ amends rulemaking authority of the Department of Health;
- ▶ addresses policies and procedures relating to vaccinations, recordkeeping, and disease outbreaks;
- ▶ continues the practice of allowing local health departments to vaccinate students and recover costs; and
- ▶ makes technical changes.



28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 This bill provides a special effective date.

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **26-1-17.5**, as last amended by Laws of Utah 2008, Chapter 382

35 **26-10-9**, as enacted by Laws of Utah 2011, Chapter 147

36 **26-39-402**, as renumbered and amended by Laws of Utah 2008, Chapter 111

37 ENACTS:

38 **53A-11-300.5**, Utah Code Annotated 1953

39 **53A-11-307**, Utah Code Annotated 1953

40 REPEALS AND REENACTS:

41 **53A-11-301**, as last amended by Laws of Utah 1992, Chapter 53

42 **53A-11-302**, as last amended by Laws of Utah 2010, Chapter 395

43 **53A-11-302.5**, as enacted by Laws of Utah 1992, Chapter 129

44 **53A-11-303**, as enacted by Laws of Utah 1988, Chapter 2

45 **53A-11-304**, as enacted by Laws of Utah 1988, Chapter 2

46 **53A-11-305**, as last amended by Laws of Utah 1988, Chapter 202

47 **53A-11-306**, as enacted by Laws of Utah 1988, Chapter 2



49 *Be it enacted by the Legislature of the state of Utah:*

50 Section 1. Section **26-1-17.5** is amended to read:

51 **26-1-17.5. Confidential records.**

52 (1) A record classified as confidential under this title shall remain confidential, and be
53 released according to the provisions of this title, notwithstanding Section **63G-2-310**.

54 (2) In addition to those persons granted access to ~~[records]~~ a private record described in
55 Subsection **63G-2-302(1)(b)**, ~~[immunization records may be shared among]~~ schools, school
56 districts, and local and state health departments and the state Department of Human Services
57 may share an immunization record as defined in Section **53A-11-300.5** or any other record
58 relating to a vaccination or immunization as necessary to ~~[assure]~~ ensure compliance with

59 [~~Section 53A-11-301~~] Title 53A, Chapter 11, Part 3, Immunization of Students, and to prevent,
60 investigate, and control the causes of epidemic, infectious, communicable, and other diseases
61 affecting the public health.

62 Section 2. Section **26-10-9** is amended to read:

63 **26-10-9. Vaccinations -- Consent of minor to treatment.**

64 (1) This section:

65 (a) is not intended to interfere with the integrity of the family or to minimize the rights
66 of parents or children; and

67 (b) applies to a minor, who at the time care is sought is:

68 (i) married or has been married;

69 (ii) emancipated as provided for in Section [78A-6-805](#);

70 (iii) a parent with custody of a minor child; or

71 (iv) pregnant.

72 (2) (a) A minor described in Subsections (1)(b)(i) and (ii) may consent to:

73 (i) [~~immunizations~~] vaccinations against epidemic infections and communicable
74 diseases as defined in Section [26-6-2](#); and

75 (ii) examinations and [~~immunizations~~] vaccinations required to attend school as
76 provided in Title 53A, Chapter 11, Students in Public Schools.

77 (b) A minor described in Subsections (1)(b)(iii) and (iv) may consent to the
78 [~~immunizations~~] vaccinations described in Subsections (2)(a)(i) and (ii), and the vaccine for
79 human papillomavirus only if:

80 (i) the minor represents to the health care provider that the minor is an abandoned
81 minor as defined in Section [76-5-109](#); and

82 (ii) the health care provider makes a notation in the minor's chart that the minor
83 represented to the health care provider that the minor is an abandoned minor under Section
84 [76-5-109](#).

85 (c) Nothing in Subsection (2)(a) or (b) requires a health care provider to immunize a
86 minor.

87 (3) The consent of the minor pursuant to this section:

88 (a) is not subject to later disaffirmance because of the minority of the person receiving
89 the medical services;

90 (b) is not voidable because of minority at the time the medical services were provided;

91 (c) has the same legal effect upon the minor and the same legal obligations with regard
92 to the giving of consent as consent given by a person of full age and capacity; and

93 (d) does not require the consent of any other person or persons to authorize the medical
94 services described in Subsections (2)(a) and (b).

95 (4) A health care provider who provides medical services to a minor in accordance
96 with the provisions of this section is not subject to civil or criminal liability for providing the
97 services described in Subsections (2)(a) and (b) without obtaining the consent of another
98 person prior to rendering the medical services.

99 (5) This section does not remove the requirement for parental consent or notice when
100 required by Section 76-7-304 or 76-7-304.5.

101 (6) The parents, parent, or legal guardian of a minor who receives medical services
102 pursuant to Subsections (2)(a) and (b) are not liable for the payment for those services unless
103 the parents, parent, or legal guardian consented to the medical services.

104 Section 3. Section 26-39-402 is amended to read:

105 **26-39-402. Residential child care certificate.**

106 (1) ~~[(a)]~~ A residential child care provider of five to eight qualifying children shall
107 obtain a Residential Child Care Certificate from the department, unless Section 26-39-403
108 applies.

109 ~~[(b)]~~ (2) The minimum qualifications for a Residential Child Care Certificate are:

110 ~~[(i)]~~ (a) the submission of:

111 ~~[(A)]~~ (i) an application in the form prescribed by the department;

112 ~~[(B)]~~ (ii) a certification and criminal background fee established in accordance with
113 Section 26-1-6; and

114 ~~[(C)]~~ (iii) in accordance with Section 26-39-404, identifying information for each adult
115 person and each juvenile age 12 through 17 years of age who resides in the provider's home:

116 ~~[(1)]~~ (A) for processing by the Department of Public Safety to determine whether any
117 such person has been convicted of a crime;

118 ~~[(2)]~~ (B) to screen for a substantiated finding of child abuse or neglect by a juvenile
119 court; and

120 ~~[(3)]~~ (C) to discover whether the person is listed in the Licensing Information System

121 described in Section [62A-4a-1006](#);

122 ~~[(ii)]~~ (b) an initial and annual inspection of the provider's home within 90 days of
 123 sending an intent to inspect notice to:

124 ~~[(A)]~~ (i) check the immunization record, as defined in Section [53A-11-300.5](#), of each
 125 qualifying child who receives child care in the provider's home;

126 ~~[(B)]~~ (ii) identify serious sanitation, fire, and health hazards to qualifying children; and

127 ~~[(C)]~~ (iii) make appropriate recommendations; and

128 ~~[(iii)]~~ (c) annual training consisting of 10 hours of department-approved training as
 129 specified by the department by administrative rule, including a current department-approved
 130 CPR and first aid course.

131 ~~[(e)]~~ (3) If a serious sanitation, fire, or health hazard has been found during an
 132 inspection conducted pursuant to Subsection ~~[(+)(b)(ii)]~~ (2)(b), the department shall require
 133 corrective action for the serious hazards found and make an unannounced follow up inspection
 134 to determine compliance.

135 ~~[(d)]~~ (4) In addition to an inspection conducted pursuant to Subsection ~~[(+)(b)(ii)]~~
 136 (2)(b), the department may inspect the home of a residential care provider of five to eight
 137 qualifying children in response to a complaint of:

138 ~~[(i)]~~ (a) child abuse or neglect;

139 ~~[(ii)]~~ (b) serious health hazards in or around the provider's home; or

140 ~~[(iii)]~~ (c) providing residential child care without the appropriate certificate or license.

141 ~~[(2)]~~ (5) Notwithstanding this section:

142 (a) a license under Section [26-39-401](#) is required of a residential child care provider
 143 who cares for nine or more qualifying children;

144 (b) a certified residential child care provider may not provide care to more than two
 145 qualifying children under the age of two; and

146 (c) an inspection may be required of a residential child care provider in connection
 147 with a federal child care program.

148 ~~[(3)]~~ (6) With respect to residential child care, the department may only make and
 149 enforce rules necessary to implement this section.

150 Section 4. Section [53A-11-300.5](#) is enacted to read:

151 **53A-11-300.5. Definitions.**

152 As used in this part:

153 (1) "Department" means the Department of Health, created in Section [26-1-4](#).

154 (2) "Health official" means an individual designated by a local health department from
155 within the local health department to consult and counsel parents and licensed health care
156 providers, in accordance with Subsection [53A-11-302.5\(2\)\(a\)](#).

157 (3) "Health official designee" means a licensed health care provider designated by a
158 local health department, in accordance with Subsection [53A-11-302.5\(2\)\(b\)](#), to consult with
159 parents, licensed health care professionals, and school officials.

160 (4) "Immunization" or "immunize" means a process through which an individual
161 develops an immunity to a disease, through vaccination or natural exposure to the disease.

162 (5) "Immunization record" means a record relating to a student that includes:

163 (a) information regarding each required vaccination that the student has received,
164 including the date each vaccine was administered, verified by:

165 (i) a licensed health care provider;

166 (ii) an authorized representative of a local health department;

167 (iii) an authorized representative of the department;

168 (iv) a registered nurse; or

169 (v) a pharmacist;

170 (b) information regarding each disease against which the student has been immunized
171 by previously contracting the disease; and

172 (c) an exemption form identifying each required vaccination from which the student is
173 exempt, including all required supporting documentation described in Section [53A-11-302](#).

174 (6) "Legally responsible individual" means:

175 (a) a student's parent;

176 (b) the student's legal guardian;

177 (c) an adult brother or sister of a student who has no legal guardian; or

178 (d) the student, if the student:

179 (i) is an adult; or

180 (ii) is a minor who may consent to treatment under Section [26-10-9](#).

181 (7) "Licensed health care provider" means a health care provider who is licensed under
182 Title 58, Occupations and Professions, as:

183 (a) a medical doctor;

184 (b) an osteopathic doctor;

185 (c) a physician assistant; or

186 (d) an advanced practice registered nurse.

187 (8) "Local education agency" or "LEA" means:

188 (a) a school district;

189 (b) a charter school; or

190 (c) the Utah Schools for the Deaf and the Blind.

191 (9) "Local health department" means the same as that term is defined in Section

192 [26A-1-102](#).

193 (10) "Required vaccines" means vaccines required by department rule described in

194 Section [53A-11-303](#).

195 (11) "School" means any public or private:

196 (a) elementary or secondary school ~~to~~ **through grade 12** ~~;~~ ;

197 (b) preschool;

198 (c) child care ~~to~~ **[center or]** ~~to~~ program ~~to~~ , as that term is defined in Section 26-
198a **39-102** ~~;~~ ;

199 (d) nursery school; or

200 (e) ~~to~~ **[business that receives compensation for supervising or educating a child]**
200a **kindergarten** ~~;~~ .

201 (12) "Student" means an individual who attends a school.

202 (13) "Vaccinating" or "vaccination" means the administration of a vaccine.

203 (14) "Vaccination exemption form" means a form, described in Section [53A-11-302.5](#),

204 that documents and verifies that a student is exempt from the requirement to receive one or

205 more required vaccines.

206 (15) "Vaccine" means the substance licensed for use by the United States Food and

207 Drug Administration that is injected into or otherwise administered to an individual to

208 immunize the individual against a communicable disease.

209 Section 5. Section [53A-11-301](#) is repealed and reenacted to read:

210 **53A-11-301. Immunization required -- Exception -- Weighted pupil unit funding.**

211 (1) A student may not attend a school unless:

212 (a) the school receives an immunization record from the legally responsible individual

213 of the student, the student's former school, or a statewide registry that shows:

- 214 (i) that the student has received each vaccination required by the department under
215 Section 53A-11-303; or
- 216 (ii) for any required vaccination that the student has not received, that the student:
217 (A) has immunity against the disease for which the vaccination is required, because the
218 student previously contracted the disease as documented by a health care provider, as that term
219 is defined in Section 78B-3-103; or
- 220 (B) is exempt from receiving the vaccination under Section 53A-11-302;
221 (b) the student qualifies for conditional enrollment under Section 53A-11-306; or
222 (c) the student:
- 223 (i) is a student, as defined in Section 53A-1-1001; and
224 (ii) complies with the immunization requirements for military children under Section
225 53A-1-1001.
- 226 (2) An LEA may not receive weighted pupil unit money for a student who is not
227 permitted to attend school under Subsection (1).
- 228 Section 6. Section 53A-11-302 is repealed and reenacted to read:
229 **53A-11-302. Grounds for exemption from required vaccines -- Renewal.**
- 230 (1) A student is exempt from the requirement to receive a vaccine required under
231 Section 53A-11-303 if the student qualifies for a medical or personal exemption from the
232 vaccination under Subsection (2) or (3).
- 233 (2) A student qualifies for a medical exemption from a vaccination required under
234 Section 53A-11-303 if the student's legally responsible individual provides to the student's
235 school:
- 236 (a) a completed vaccination exemption form; and
237 (b) a written notice signed by a licensed health care provider stating that, due to the
238 physical condition of the student, administration of the vaccine would endanger the student's
239 life or health.
- 240 (3) A student qualifies for a personal exemption from a vaccination required under
241 Section 53A-11-303 if the student's legally responsible individual provides to the student's
242 school a completed vaccination exemption form, stating that the student is exempt from the
243 vaccination because of a personal or religious belief.
- 244 (4) (a) A vaccination exemption form submitted under this section is valid for as long

245 as the student remains at the school to which the form first is presented.

246 (b) If the student changes schools before the student is old enough to enroll in
247 kindergarten, the vaccination exemption form accepted as valid at the student's previous school
248 is valid until the earlier of the day on which:

249 (i) the student enrolls in kindergarten; or

250 (ii) the student turns six years old.

251 (c) If the student changes schools after the student is old enough to enroll in
252 kindergarten but before the student is eligible to enroll in grade 7, the vaccination exemption
253 form accepted as valid at the student's previous school is valid until the earlier of the day on
254 which:

255 (i) the student enrolls in grade 7; or

256 (ii) the student turns 12 years old.

257 (d) If the student changes schools after the student is old enough to enroll in grade 7,
258 the vaccination exemption form accepted as valid at the student's previous school is valid until
259 the student completes grade 12.

260 Section 7. Section **53A-11-302.5** is repealed and reenacted to read:

261 **53A-11-302.5. Vaccination exemption form.**

262 (1) The department shall:

263 (a) develop a vaccination exemption form that includes only the following information:

264 (i) identifying information regarding:

265 (A) the student to whom an exemption applies; and

266 (B) the legally responsible individual who claims the exemption for the student and
267 signs the vaccination exemption form;

268 (ii) an indication regarding the vaccines to which the exemption relates;

269 (iii) a statement that the claimed exemption is for:

270 (A) a medical reason; or

271 (B) a personal or religious belief; and

272 (iv) an explanation of the requirements, in the event of an outbreak of a disease for
273 which a required vaccine exists, for a student who:

274 (A) has not received the required vaccine; and

275 (B) is not otherwise immune from the disease;

276 (b) provide the vaccination exemption form created in this Subsection (1) to local
277 health departments; and

278 (c) make the vaccination exemption form created in this Subsection (1) available to the
279 public upon request.

280 (2) (a) Each local health department shall designate one or more individuals from
281 within the local health department as a health official to consult, regarding the requirements of
282 this part, with:

- 283 (i) parents, upon the request of parents;
- 284 (ii) school principals and administrators; and
- 285 (iii) licensed health care providers.

286 (b) A local health department may designate a licensed health care provider as a health
287 official designee to provide the services described in Subsection (2)(a).

288 Section 8. Section **53A-11-303** is repealed and reenacted to read:

289 **53A-11-303. Regulations of department.**

290 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
291 department shall make rules regarding:

- 292 (a) which vaccines are required as a condition of attending school;
- 293 (b) the manner and frequency of the vaccinations; and
- 294 (c) the vaccination exemption form described in Section **53A-11-302.5**.

295 (2) The department shall ensure that the rules described in Subsection (1):

- 296 (a) conform to recognized standard medical practices; and
- 297 (b) require schools to report to the department statistical information and names of
298 students who are not in compliance with Section **53A-11-301**.

299 Section 9. Section **53A-11-304** is repealed and reenacted to read:

300 **53A-11-304. Immunization record part of student's record -- School review**
301 **process at enrollment -- Transfer.**

302 (1) Each school:

303 (a) shall request an immunization record for each student at the time the student enrolls
304 in the school;

305 (b) may not charge a fee related to receiving or reviewing an immunization record or a
306 vaccination exemption form; and

307 (c) shall retain an immunization record for each enrolled student as part of the student's
308 permanent school record.

309 (2) (a) Within five business days after the day on which a student enrolls in a school,
310 an individual designated by the school principal or administrator shall:

311 (i) determine whether the school has received an immunization record for the student;

312 (ii) review the student's immunization record to determine whether the record complies
313 with Subsection 53A-11-301(1); and

314 (iii) identify any deficiencies in the student's immunization record.

315 (b) If the school has not received a student's immunization record or there are
316 deficiencies in the immunization record, the school shall:

317 (i) place the student on conditional enrollment, in accordance with Section
318 53A-11-306; and

319 (ii) within five days after the day on which the school places the student on conditional
320 enrollment, provide the written notice described in Subsection 53A-11-306(2).

321 (3) A school from which a student transfers shall provide the student's immunization
322 record to the student's new school upon request of the student's legally responsible individual.

323 Section 10. Section 53A-11-305 is repealed and reenacted to read:

324 **53A-11-305. Immunization by local health departments -- Fees.**

325 (1) (a) If a student has not been immunized against a disease specified by the
326 department, the local health department may vaccinate the student upon the request of the
327 student's legally responsible individual.

328 (b) The local health department may charge a fee to cover the cost of the vaccine and
329 administration of the vaccine described in Subsection (1)(a).

330 (2) (a) The department shall provide to each local health department the vaccines
331 necessary for vaccinations required under Sections 53A-11-301 and 53A-11-303.

332 (b) The department may recover all or part of the cost of vaccines purchased with state
333 funds by charging local health departments a fee for those vaccines.

334 (c) A local health department may not refuse to vaccinate a student who resides in the
335 jurisdiction of the local health department because of the inability of the student or another
336 legally responsible individual party to pay for the vaccine or the administration of the vaccine.

337 (3) In accordance with Section 63J-1-504, the department shall establish fees for the

338 vaccines and for the administration of vaccines described in this section.

339 Section 11. Section [53A-11-306](#) is repealed and reenacted to read:

340 **53A-11-306. Conditional enrollment -- Suspension for noncompliance --**

341 **Procedure.**

342 (1) A student for whom a school has not received a complete immunization record may
343 attend the school on a conditional enrollment:

344 (a) during the period in which the student's immunization record is under review by the
345 school; or

346 (b) for 21 calendar days after the day on which the school provides the notice described
347 in Subsection (2).

348 (2) (a) Within five days after the day on which a school places a student on conditional
349 enrollment, the school shall provide written notice to the student's legally responsible
350 individual, in person or by mail, that:

351 (i) the school has placed the student on conditional enrollment for failure to
352 comply with the requirements of Subsection [53A-11-301](#)(1);

353 (ii) describes the identified deficiencies in the student's immunization record or states
354 that the school has not received an immunization record for the student;

355 (iii) gives notice that the student will not be allowed to attend school unless the legally
356 responsible individual cures the deficiencies, or provides an immunization record that complies
357 with Subsection [53A-11-301](#)(1), within the conditional enrollment period described in
358 Subsection (1)(b); and

359 (iv) describes the process for obtaining a required vaccination.

360 (b) A school shall remove the conditional enrollment status from a student after the
361 school receives an immunization record for the student that complies with Subsection
362 [53A-11-301](#)(1).

363 (c) Except as provided in Subsection (2)(d), at the end of the conditional enrollment
364 period, a school shall prohibit a student who does not comply with Subsection [53A-11-301](#)(1)
365 from attending the school until the student complies with Subsection [53A-11-301](#)(1).

366 (d) A school principal or administrator:

367 (i) shall grant an additional extension of the conditional enrollment period, if the
368 extension is necessary to complete all required vaccination dosages, for a time period medically

369 recommended to complete all required vaccination dosages; and

370 (ii) may grant an additional extension of the conditional enrollment period in cases of
 371 extenuating circumstances, if the school principal or administrator and a school nurse, a health
 372 official, or a health official designee agree that an additional extension will likely lead to
 373 compliance with Subsection 53A-11-301(1) during the additional extension period.

374 Section 12. Section **53A-11-307** is enacted to read:

375 **53A-11-307. School record of students' immunization status -- Confidentiality.**

376 (1) Each school shall maintain a current list of all enrolled students, noting each
 377 student:

378 (a) for whom the school has received a valid and complete immunization record;

379 (b) who is exempt from receiving a required vaccine; and

380 (c) who is allowed to attend school under Section 53A-11-306.

381 (2) Each school shall ensure that the list described in Subsection (1) specifically
 382 identifies each disease against which a student is not immunized.

383 (3) Upon the request of an official from a local health department in the case of a
 384 disease outbreak, a school principal or administrator shall:

385 (a) notify the legally responsible individual of any student who is not immune to the
 386 outbreak disease, providing information regarding steps the legally responsible individual may
 387 take to protect students;

388 (b) identify each student who is not immune to the outbreak disease; and

389 (c) for a period determined by the local health department not to exceed the duration of
 390 the disease outbreak, do one of the following at the discretion of the school principal or
 391 administrator ~~H→~~ **after obtaining approval from the local health department** ~~←H~~ :

392 (i) provide a separate educational environment for the students described in Subsection
 393 (3)(b) that ensures ~~H→~~ **their** ~~←H~~ protection ~~H→~~ **as well as the protection** ~~←H~~ of the remainder
 393a of the student body; or

394 (ii) prevent each student described in Subsection (3)(b) from attending school.

395 (4) A name appearing on the list described in Subsection (1) is subject to
 396 confidentiality requirements described in Section 26-1-17.5 and Section 53A-13-301.

397 Section 13. **Effective date.**

398 This bill takes effect on July 1, 2018.

**Legislative Review Note
Office of Legislative Research and General Counsel**