

KNOW THE LAW ABOUT IMMUNIZATION REQUIREMENTS FOR CHILDREN IN CHILD CARE IN CALIFORNIA

1. What is Immunization?

“Immunization” is the process where a person becomes resistant to an infection or disease. Someone can become immunized by getting a shot called a “vaccine.” Vaccine shots protect a person’s immune system from an infection or disease. These shots prevent 2 to 3 million deaths each year.¹

2. Does a child have to get his or her shots before starting child care?

Yes. The state agency that regulates child care, the Community Care Licensing Division, requires shots. A child can be “exempt” or excused from shots only if she or he has a valid medical

¹ World Health Organization, “Immunization,” available at <http://www.who.int/topics/immunization/en/> (last visited November 16, 2021).

exemption.² Otherwise, a child care provider cannot allow a child without shots into her or his child care.³

3. What shots are required?

- Haemophilus influenza type b (Hib meningitis)
- DTaP (diphtheria, tetanus, pertussis/whooping cough)
- MMR (measles, mumps, rubella)
- Polio
- Hepatitis B
- Varicella (chickenpox)

For a list of shots required by age, see <http://www.shotsforschool.org/child-care/>.

4. Can a child be exempt from the required shots?

Yes. A child can be exempt from the required shots only because of her or his physical condition or medical circumstances. California no longer allows exemptions based on religious or personal beliefs.⁴ But, if more shots become required by the California Department of Public Health, Personal Beliefs Exemptions will be allowed.⁵

Note: The law is unsettled about whether a child who has an Individualized Education Plan (IEP) or Individualized Family Service Plan (IFSP), and does not have the necessary vaccinations or a valid medical exemption can be prevented from attending child care or school.

² Cal. Health & Safety Code § 120370 (a)(3); See Cal. Health & Safety Code § 120325 (Legislative intent to exempt children with medical exemptions). See also Cal. Code Regs., tit. 17 § 6000 (defining “pupil” as “means a person admitted to or seeking admission to any school or pre-kindergarten facility” which includes “private or public child care center, day nursery, nursery school, family day care home, pre-school, or development center for young children”); Cal. Code Regs., tit. 17 § 6025 (schedule of required immunizations); Cal. Health & Safety Code §, 120372 (For an immunization exemption to be valid, a parent must submit a request for a medical exemption through the Department of Public Health); Cal Health & Safety Code § 120335(a) (“Governing authority” in child care is the family child care provider or the administrator of a child care center. “Governing authority” in schools is “the governing board of each school district or the authority of each other private or public institution responsible for the operation and control of the institution or the principal or administrator of each school or institution.”). “Parent” in this publication includes legal guardian.

³ Cal. Health & Safety Code § 120335 (b) (child care providers may not “unconditionally admit any person as a pupil of any ... child care center, day nursery, nursery school, family day care home, or development center, unless, prior to his or her first admission to that institution, he or she has been fully immunized.”); Cal. Code Regs., tit. 22 §§ 102418, 101220.1 (children in family child care homes and centers must be immunized against specified diseases before admittance into child care; child care providers may admit children with immunization exemptions (personal beliefs exemption no longer valid), and child care providers must maintain immunization and immunization exemption records).

⁴ The passage of Senate Bill 277, effective January 1, 2016, eliminated the personal beliefs exemption.

⁵ Cal. Health & Safety Code § 120338.

5. What are the requirements for a valid medical exemption?

A valid medical exemption is a letter from a licensed doctor.⁶ To get a valid medical exemption, a child's parent or guardian must submit this exemption to the child's family child care home or child care center.⁷

Starting January 1, 2021, the Department of Public Health is required to create a website for parents to request medical exemptions from vaccinations for their children and for physicians to issue and manage medical exemptions for children in child care.⁸

More information about the request or accessing a request for medical exemption can be found at the following website: <https://cair.cdph.ca.gov/exemptions/home>

A "temporary medical exemption" is a type of medical exemption that excuses a child from getting shots for a limited period of time, because of a medical condition.⁹ A temporary exemption cannot exceed more than one year.¹⁰ A "permanent medical exemption" is for a medical condition that permanently exempts a child from vaccination.¹¹ However all medical exemptions cannot extend beyond the grade span discussed in Question 7 below.¹²

6. Must a child care provider admit a child who has a valid medical shots exemption?

Federal and state civil rights laws may protect children who get an exemption because of a medical condition.¹³ Parents may sue a child care provider and/or file a discrimination complaint against a child care provider who will not admit a child with a valid medical exemption. If a parent of an excluded child does this, it could be very expensive for a child care provider.

If a child with a valid medical exemption has been denied from a child care facility, parents may also file a complaint with the California Department of Social Services, Child Care Licensing Division.

Note: If a child has not received all of her or his shots for a particular disease, she or he may be excluded if there is good cause to believe that child was exposed to the disease during an outbreak.¹⁴

⁶ Cal. Health & Safety Code § 120370.

⁷ See Cal. Code Regs., tit. 17 § 6051.

⁸ Cal. Health & Safety Code § 120382 (a).

⁹ See Cal. Code Regs., tit. 17 § 6050.

¹⁰ Cal. Health & Safety Code § 120372(a)(2)(G).

¹¹ See Cal. Code Regs., tit. 17 § 6051 (portion about the "personal beliefs exemption" is no longer valid).

¹² Cal. Health & Safety Code § 120372(a)(2)(G).

¹³ The Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101, et seq., the California Unruh Civil Rights Act, Cal. Civ. Code § 51, et seq., and California Disabled Persons Act, § 54, et seq. prevent child care centers and family child care homes from discriminating against a child based on his or her disability.

¹⁴ Cal. Health & Safety Code § 120370(b).

7. Are Personal Beliefs Exemptions filed before January 1, 2016 still valid?

It depends. Personal Beliefs Exemptions meet the shot requirements until a child's next "grade span." Each grade span is below:

1. Birth – Preschool
2. Transitional Kindergarten (TK) – 6th grade
3. 7th – 12th grades

Personal Beliefs Exemptions are no longer valid when a child reaches the end of her or his grade span. The exemption can be transferred between schools within the same grade span.¹⁵

EXAMPLE: Billy just graduated from preschool and will now attend TK. Billy's mom filed a Personal Beliefs Exemption at Billy's preschool when he started in December 2015. Is this Personal Beliefs Exemption still valid when Billy starts TK? → No, Billy's Personal Beliefs Exemption is no longer valid in Billy's new grade span. He must now receive the required shots to be enrolled in TK.

8. What is conditional admission?

Even if a child has not yet received certain required shots, she or he may be admitted "conditionally" to child care for one or more of the following reasons:

- The child is less than 18 months old, has received all required shots for her or his age, and is waiting for additional shot dose(s) or booster(s). When more doses of a shot are due, this child must get them. The child's parent or guardian must be informed of the date(s) when new doses are due.
- The child has not yet received all required shots for her or his age group, but has started receiving doses. When admitted, this child must not be due for any additional doses, and will receive the additional doses when due. The parent or guardian must be informed of the date(s) when new doses are due.
- The child has a valid medical exemption. Children with a "temporary medical exemption" must receive the required shots after the exemption ends.¹⁶ A temporary medical exemption cannot last longer than one year.¹⁷

¹⁵ See Cal. Health & Safety Code § 120335(g)(1).

¹⁶ Cal. Code of Regs., tit. 17, §§ 6035 & 6050. See Cal. Health & Safety Code § 120335 (g)(3) (students cannot be admitted or advance to the 7th grade in a public or private school if the student has not been immunized for her or his age group).

¹⁷ Cal. Health & Safety Code § 120372(a)(2)(G).

9. Must a child care provider admit a foster child or homeless child who does not have her or his shot records?

Yes. Child care providers must admit a foster child or homeless child with unavailable or missing shot records. The child care and/or school must still get the shot records of the child to make sure the child has received all necessary shots.¹⁸

EXAMPLE: Jesse is in foster care and does not have a record of his shot history. Is Ms. Fox allowed to admit him to her child care? → Yes, Ms. Fox may still admit Jesse without records of his shots. However, Jesse still must meet his shot requirements. So, if Ms. Fox admits Jesse, she should use her available resources to make sure Jesse receives his shot requirements as soon as possible. The same process applies for homeless children.

10. What if a child care provider believes that an unvaccinated child in their care has been exposed to a contagious disease?

If a child care provider has good reason to believe that a child who doesn't have proof of immunization has been exposed to one of the listed contagious diseases, they may temporarily exclude that child from care until a local health officer says the child is no longer at risk of catching or transmitting the disease.¹⁹

11. How can child care providers avoid getting in trouble with Licensing or sued by parents?

Inform parents about shots.

1. Tell parents how you feel about shots and your legal responsibilities, both when you speak with them and in your written contract.
2. Explain the medical shots exemptions and the requirements.
3. Explain that when there is “good cause to believe” that a child without her or his shots has been exposed to a disease listed [here](#), the child may not be allowed to attend your child care until the local public health department decides that the child is no longer at risk of getting the disease.²⁰

Sample Contract Language

“Happy Babies Child Care” believes that shots are important to protect your child’s health and the health of other children in our care. Under California law, I cannot enroll any child without shots, unless they have a valid medical exemption.”

¹⁸ Cal. Health & Safety Code § 120341; McKinney-Vento Homeless Assistance Act Education for Homeless Children and Youth, 42 U.S.C. § 11432 (g)(3)(C)-(D).

¹⁹ Cal. Health & Safety Code §§ 120370(b)

²⁰ Cal. Health & Safety Code §§ 120370(b), 120335(b) (list of diseases).

Good Practices

If you enroll a child without her or his shots, make sure the exemption paperwork is complete, signed, and dated within six months of the child entering your care.

As legally required, keep copies of all shots paperwork in the child's file. This includes exemption paperwork.²¹

Inform all parents that children without shots may be in your care. You may not tell parents whether you currently care for children without shots; you can reveal only that children without shots may be in your care. This rule applies even if you do not offer the names of children without shots.²² However, if a parent of a child without shots gives you written permission, you can reveal the child's name to other parents.

12. What shots do I need to work or volunteer in a child care?

Child care employees and volunteers who provide care and supervision to children at the facility, in a child care must get shots for:

- Influenza (flu) (Aug. 1- Dec. 1 each year),
- Pertussis, and
- Measles.²³

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²¹ Cal. Health & Safety Code §§ 1597.05(b)(2) & 1597.541(b) (child care providers must confirm and maintain evidence of children's immunization records); Cal. Code Regs., tit. 22 §§ 102418(e)-(g), 101220.1(e)-(g).

²² See Cal. Code Regs. tit. 22 §§ 102423 (family child care) & 101223 (child care center).

²³ Ca. Health & Safety Code §§ 1596.7995 (child care centers) 1597.622 (family child care homes).