

PUBLIC HEALTH IN SCHOOLS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Norman K Thurston

Senate Sponsor: _____

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.



Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26-1-17.5, as last amended by Laws of Utah 2008, Chapter 382**26-10-9**, as enacted by Laws of Utah 2011, Chapter 147**26-39-402**, as renumbered and amended by Laws of Utah 2008, Chapter 111

ENACTS:

53A-11-300.5, Utah Code Annotated 1953**53A-11-307**, Utah Code Annotated 1953

REPEALS AND REENACTS:

53A-11-301, as last amended by Laws of Utah 1992, Chapter 53**53A-11-302**, as last amended by Laws of Utah 2010, Chapter 395**53A-11-302.5**, as enacted by Laws of Utah 1992, Chapter 129**53A-11-303**, as enacted by Laws of Utah 1988, Chapter 2**53A-11-304**, as enacted by Laws of Utah 1988, Chapter 2**53A-11-305**, as last amended by Laws of Utah 1988, Chapter 202**53A-11-306**, as enacted by Laws of Utah 1988, Chapter 2

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **26-1-17.5** is amended to read:**26-1-17.5. Confidential records.**(1) A record classified as confidential under this title shall remain confidential, and be released according to the provisions of this title, notwithstanding Section **63G-2-310**.(2) In addition to those persons granted access to ~~[records]~~ a private record described in Subsection **63G-2-302(1)(b)**, ~~[immunization records may be shared among]~~ schools, school districts, and local and state health departments and the state Department of Human Services may share an immunization record as defined in Section **53A-11-300.5** or any other record relating to a vaccination or immunization as necessary to ~~[assure]~~ ensure compliance with

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

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

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

(1) This section:

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

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

(i) married or has been married;

(ii) emancipated as provided for in Section ~~78A-6-805~~;

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

(iv) pregnant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26-39-402. Residential child care certificate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(e)]~~ (3) If a serious sanitation, fire, or health hazard has been found during an inspection conducted pursuant to Subsection ~~[(1)(b)(ii)]~~ (2)(b), the department shall require corrective action for the serious hazards found and make an unannounced follow up inspection to determine compliance.

~~[(d)]~~ (4) In addition to an inspection conducted pursuant to Subsection ~~[(1)(b)(ii)]~~ (2)(b), the department may inspect the home of a residential care provider of five to eight qualifying children in response to a complaint of:

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

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

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

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

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

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

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

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

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

53A-11-300.5. Definitions.

As used in this part:

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

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

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

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

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

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

(i) a licensed health care provider;

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

(iii) an authorized representative of the department;

(iv) a registered nurse; or

(v) a pharmacist;

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

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

(6) "Legally responsible individual" means:

(a) a student's parent;

(b) the student's legal guardian;

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

(d) the student, if the student:

(i) is an adult; or

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

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

(a) a medical doctor;

(b) an osteopathic doctor;

(c) a physician assistant; or

(d) an advanced practice registered nurse.

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

(a) a school district;

(b) a charter school; or

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

(9) "Local health department" means the same as that term is defined in Section 26A-1-102.

(10) "Required vaccines" means vaccines required by department rule described in Section 53A-11-303.

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

(a) elementary or secondary school;

(b) preschool;

(c) child care center or program;

(d) nursery school; or

(e) business that receives compensation for supervising or educating a child.

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

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

(14) "Vaccination exemption form" means a form, described in Section 53A-11-302.5, that documents and verifies that a student is exempt from the requirement to receive one or more required vaccines.

(15) "Vaccine" means the substance licensed for use by the United States Food and Drug Administration that is injected into or otherwise administered to an individual to immunize the individual against a communicable disease.

Section 5. Section 53A-11-301 is repealed and reenacted to read:

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

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

(a) the school receives an immunization record from the legally responsible individual of the student, the student's former school, or a statewide registry that shows:

(i) that the student has received each vaccination required by the department under Section 53A-11-303; or

(ii) for any required vaccination that the student has not received, that the student:

(A) has immunity against the disease for which the vaccination is required, because the student previously contracted the disease as documented by a health care provider, as that term is defined in Section 78B-3-103; or

(B) is exempt from receiving the vaccination under Section 53A-11-302;

(b) the student qualifies for conditional enrollment under Section 53A-11-306; or

(c) the student:

(i) is a student, as defined in Section 53A-1-1001; and

(ii) complies with the immunization requirements for military children under Section 53A-1-1001.

(2) An LEA may not receive weighted pupil unit money for a student who is not permitted to attend school under Subsection (1).

Section 6. Section 53A-11-302 is repealed and reenacted to read:

53A-11-302. Grounds for exemption from required vaccines -- Renewal.

(1) A student is exempt from the requirement to receive a vaccine required under Section 53A-11-303 if the student qualifies for a medical or personal exemption from the vaccination under Subsection (2) or (3).

(2) A student qualifies for a medical exemption from a vaccination required under Section 53A-11-303 if the student's legally responsible individual provides to the student's school:

(a) a completed vaccination exemption form; and

(b) a written notice signed by a licensed health care provider stating that, due to the physical condition of the student, administration of the vaccine would endanger the student's life or health.

(3) A student qualifies for a personal exemption from a vaccination required under Section 53A-11-303 if the student's legally responsible individual provides to the student's school a completed vaccination exemption form, stating that the student is exempt from the vaccination because of a personal or religious belief.

(4) (a) A vaccination exemption form submitted under this section is valid for as long

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

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

(i) the student enrolls in kindergarten; or

(ii) the student turns six years old.

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

(i) the student enrolls in grade 7; or

(ii) the student turns 12 years old.

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

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

53A-11-302.5. Vaccination exemption form.

(1) The department shall:

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

(i) identifying information regarding:

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

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

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

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

(A) a medical reason; or

(B) a personal or religious belief; and

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

(A) has not received the required vaccine; and

(B) is not otherwise immune from the disease;

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

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

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

(i) parents, upon the request of parents;

(ii) school principals and administrators; and

(iii) licensed health care providers.

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

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

53A-11-303. Regulations of department.

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

(a) which vaccines are required as a condition of attending school;

(b) the manner and frequency of the vaccinations; and

(c) the vaccination exemption form described in Section **53A-11-302.5**.

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

(a) conform to recognized standard medical practices; and

(b) require schools to report to the department statistical information and names of students who are not in compliance with Section **53A-11-301**.

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

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

(1) Each school:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 11. Section **53A-11-306** is repealed and reenacted to read:

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

Procedure.

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

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

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

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

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

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

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

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

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

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

(d) A school principal or administrator:

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

recommended to complete all required vaccination dosages; and

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

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

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

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

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

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

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

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

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

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

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

(c) for a period determined by the local health department not to exceed the duration of the disease outbreak, do one of the following at the discretion of the school principal or administrator:

(i) provide a separate educational environment for the students described in Subsection (3)(b) that ensures protection of the remainder of the student body; or

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

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

Section 13. **Effective date.**

This bill takes effect on July 1, 2018.

Legislative Review Note
Office of Legislative Research and General Counsel