



Rules Hearing– Immunizations Rulemaking

Chapter 246-105 WAC

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Overview and Proposed Changes



Rulemaking Progress



Filed CR-101
(March 2018)

TAC Meetings
(July & Oct 2018)

Drafting revised rule (Nov
2018 - May 2019)

Stakeholder comments
on preliminary draft
(Oct 2018 & May 2019)

CR-102 Filed
(July 2019)

Technical Advisory Committee (TAC)

- WA Association of School Administrators
 - Coalition for Safety and Health in Early Learning
 - Commission on Hispanic Affairs
 - Association of WA School Principals
 - WA State Association of Local Public Health Officials
 - WA Vaccine Advisory Committee
 - Parent Representatives
 - School Nurses of Washington
 - Treuman Katz Center for Pediatric Bioethics
 - WA Parent Teacher Association
 - School Health Consultants, Inc.
 - American Indian Health Commission
- WA Association of School Administrators
 - Coalition for Safety and Health in Early Learning
 - Commission on Hispanic Affairs
 - Association of WA School Principals
 - WA State Association of Local Public Health Officials
 - WA Vaccine Advisory Committee
 - Parent Representatives
 - School Nurses of Washington
 - Treuman Katz Center for Pediatric Bioethics
 - WA Parent Teacher Association
 - School Health Consultants, Inc.
 - American Indian Health Commission

Proposed Changes: WAC 246-105-020 - Definitions

Adding definitions for:

- Child care health consultant
- Medically verified immunization record
- Out of compliance
- School nurse
- Washington state immunization information system (WAIS)
- WAIS school module

Revising existing definitions for clarity and consistency



Proposed Changes: WAC 246-105-040 – Requirements based on national immunization guidelines



- Updating the reference to the Advisory Committee on Immunization Practices (ACIP) recommendations to the 2019 publication
- Clarifying rule language about establishing requirements based on grade level

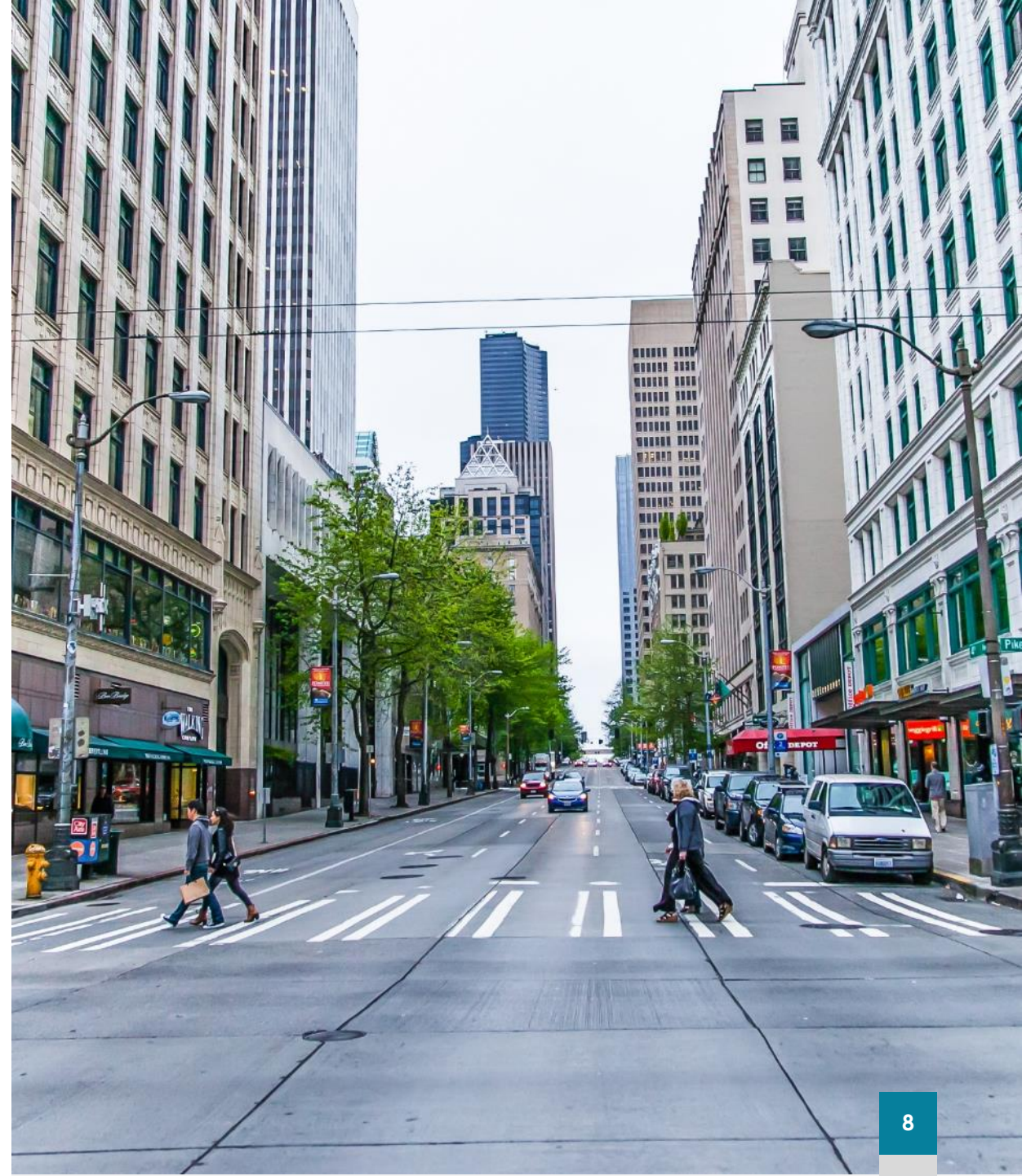
Proposed Changes: WAC 246-105-050 – Required documentation of immunization status

Establishing requirements for the use of medically verified immunization records

Acknowledgement signed by a parent of child's attendance under conditional status

Modification to the certificate of exemption form for documenting religious membership

Editorial clean up for clarity and consistency



Personal/Philosophical or Religious Exemption

Exemption Type: ☐ Personal/Philosophical ☐ Religious

I am exempting my child from the requirement that my child be vaccinated against the following diseases to attend school or child care:

☐ Diphtheria ☐ Hepatitis B ☐ Hib ☐ Measles ☐ Mumps ☐ Pertussis (whooping cough)
☐ Pneumococcal ☐ Polio ☐ Rubella ☐ Tetanus ☐ Varicella (chickenpox)

Parent/Guardian Declaration

One or more of the required vaccines are in conflict with my personal, philosophical or religious beliefs. I have discussed the benefits and risks of immunizations with the health care practitioner below. I have received notice that if an outbreak of vaccine-preventable disease for which my child is exempted occurs, my child may be excluded from the school or child care center for the duration of the outbreak. The information on this form is complete and correct.

Parent/Guardian Name (print)

Parent/Guardian Signature

Date

Health Care Practitioner Declaration

I have discussed the benefits and risks of immunizations with the parent/legal guardian as a condition for exempting their child. I am a qualified MD, ND, DO, ARNP or PA licensed under Title 18 RCW, and the information provided on this form is complete and correct.

☐ MD ☐ ND ☐ DO ☐ ARNP ☐ PA

Licensed Health Care Practitioner Name (print)

Licensed Health Care Practitioner Signature

Date

Religious Membership Exemption

Complete this section **ONLY** if you belong to a church or religion that objects to the use of medical treatment. Use the section above if you have a religious objection to vaccinations but the beliefs or teachings of your church or religion allow for your child to be treated by medical professionals such as doctors and nurses.

Parent/Guardian Declaration

I am the parent or legal guardian of the above named child. I affirm that I am a member of a church or religion whose teaching preclude health care practitioners from providing medical treatment to my child. I have received notice that if an outbreak of vaccine-preventable disease for which my child is exempted occurs, my child may be excluded from the school or child care center for the duration of the outbreak. The information on this form is complete and correct.

Parent/Guardian Name (print)

Parent/Guardian Signature

Date

Name of Church or Religion of which you are a member: _____

New Section: WAC 246-105-055 – Philosophical and personal exemption for measles, mumps, and rubella vaccine prohibited

Implementing Engrossed House
Bill 1638

Law went into effect on July 28,
2019



Proposed Changes: WAC 246-105-060 – Duties of schools and child care centers



Clarifying rule language about conditional status

Proposed Changes: WAC 246-105-070, WAC 246-105-080, and WAC 246-105-090

Editorial changes only –
standardizing language with defined
terms and updating references to other
sections of the rule



CR-102: Proposed amendments, public comments, and Board staff recommendations



Comments in Support of the Proposed Rule

Summary of Comments	Staff Recommendation
<ol style="list-style-type: none">1. Ensuring as many students as possible are immunized supports the safety of students at school from serious diseases.2. The 30 day conditional status was a significant burden on schools and the new changes decrease the burden.3. Protects children from dangerous but vaccine-preventable diseases.4. Support the addition of requiring medically verified records.5. Support the elimination of the requirement for families to write the name of their church or religious affiliation on the Certificate of Exemption.6. Support the elimination of MMR from personal and philosophical exemptions.7. Vaccines are a safe and effective way to give lifetime protection from dangerous, infectious diseases.8. Support for clarification of conditional immunization status.9. Requiring students to complete as many immunizations as possible before starting school will help keep kids in school.10. Clarification of conditional status will be helpful to school nurses.	<p>Recommendation: Adopt as proposed.</p> <p>Comments are consistent with the significant analysis prepared by the State Board of Health (Board) and the Department of Health (Department).</p>

Comments in Support of the Proposed Rule with Recommended Revisions

Summary of Comments	Staff Recommendation
<p>OSPI supports the rule overall. Identified concerns in the following areas:</p> <ul style="list-style-type: none">• The Significant Analysis and lack of analysis regarding the requirement for paperwork to be turned in on or before the first day of attendance, including the potential impact to school funding.• The lack of provisions related to McKinney-Vento and possible disproportionate effects on vulnerable students, such as immigrants, highly mobile students, students from military families, and students experiencing homelessness.• The definition of school nurse.• Engagement with stakeholders during the rulemaking process. <p>Also included a request to slow down the rulemaking process to allow time for more stakeholder engagement with the education community.</p>	<p>See summary of comments document for explanation of recommendations regarding:</p> <p>Recommendation: Adopt as proposed.</p> <ul style="list-style-type: none">• Significant Analysis• Military Compact (RCW 28A.705.010 Article IV C)• Stakeholder engagement• Request to slow down the rulemaking <p>Recommendation: Amend rule language.</p> <ul style="list-style-type: none">• McKinney-Vento and foster children, migrant children concerns• Definition of “School Nurse”

Comments in Opposition of the Proposed Rule

Summary of Comments	Staff Recommendation
<ol style="list-style-type: none">1. Anyone should be able to opt out of any state medical procedure or test.2. We each own our own bodies and people should have their bodily integrity respected.3. It should not be a government choice to force vaccination.4. Our children have been perfectly healthy without any vaccines, we do not want to have to take the risk after hearing so many stories of the dangers they (vaccines) have caused.5. I strongly oppose the government mandating what type of medical care we receive and what pharmaceuticals (or any other substance) are put in our bodies.6. We should be able to consider our own medical history when making these decisions. There should be an opportunity for us to talk to our doctor, get educated, and make an informed decision. We cannot afford private school.7. Parenting my children is my job not the states. Government thinks this is a choice to take away from parents.8. Our children are being injected with other human cells (aborted fetal tissues). The state needs to make sure the vaccines are safer and cause the least problems.	<p>Recommendation: Adopt as proposed.</p> <p>Parents have the option to opt out of required immunizations by completing a Certificate of Exemption (COE) form (RCW 28A.210.090)</p> <p>When getting an exemption, parents are required to get information about the benefits and risks of vaccination from a health care provider.</p> <p>Private schools are required to comply with immunization laws under RCW 28A.210.080.</p>

Comments in Opposition of the Proposed Rule with Recommended Revisions

Comment or Summary of Comment	Staff Recommendation
<p>Are there any discussion around exemptions for students with special circumstance and/ or particularly high mobility- such as Migrant or McKinney-Vento? Migrant families, for example, sometimes struggle with providing the necessary documentation despite having fairly high vaccine rates in the state. The current conditional status was very helpful in ensuring that migrant students were not excluded from academic engagement from the first day of attendance.</p>	<p>Recommendation: Adopt as proposed.</p> <p>Federal statutes already cover homeless and foster youth, and some migrant youth will be covered under the definition of homeless in McKinney-Vento.</p> <p>The rule already required paperwork to be due on or before the first day of attendance, in alignment with state law, so the clarification around paperwork and conditional status is not a significant change.</p>

Comments in Opposition of the Proposed Rule with Recommended Revisions

Comment or Summary of Comment	Staff Recommendation
<p>School Nurses are adding provider verified data to the WAIS when given parent permission. Could wording for adding vaccinations to WAIS be required by providers, and instead of asking permission by nurses to add these vaccination by each parent have an opt out vs. opt in rule?</p> <p>“Providers shall record vaccinations in state data base, WAIS, School Nurses may add provider verified historical data to database unless parents have provided written request for exemption.”</p> <p>And, or perhaps this should include additional funding for the WAIS database and fully funding the School Nurses.</p>	<p>Recommendation: Adopt as proposed.</p> <p>Outside the scope of the current rulemaking.</p> <p>Staff have not done any stakeholder work or analyses on this topic but will add it to a list of considerations for the next rule update.</p>

Comments in Opposition of the Proposed Rule with Recommended Revisions

Comment or Summary of Comment	Staff Recommendation
<p>The Washington State Professional Educators Standards Board (PESB) sets standards for certification of Educational Staff Associates (ESAs) in schools. The school nurse is one of the ESA roles our agency sets certification policy for.</p> <p>One of the requirements for a school nurse ESA certificate is that the individuals hold a Department of Health Registered Nurse (RN) license. The PESB has set a number of additional requirements for school nurse certification as well.</p> <p>We request that the State Board of Health (SBOH) remove the word “school” from the phrase “school nurse” throughout Chapter 246-105 WAC. Every time the phrase “school nurse” appears in this WAC, SBOH could replace it with “nurse.”</p>	<p>Recommendation: Amend Rule Language.</p> <p>Amended definition under WAC 246-105-020 WAC: <u>“School nurse” means a person credentialed under chapter 18.79 RCW, meeting the qualifications established under chapter 181-79A WAC, or their designee.</u></p>

Comments in Opposition of the Proposed Rule with Recommended Revisions

Comment or Summary of Comment	Staff Recommendation
Concerns regarding removing the place to name the church or religious body for individuals claiming religious membership exemption on the COE form. Requested that, "...explicit guidance be provided -- from the State Board of Health to all appropriate stakeholders -- outlining a clear, consistent, and accountable process to evaluate religious exemption claims."	Recommendation: Adopt as proposed The Department does not collect this information from the schools and it is currently not being used in any way. The Board does not have the explicit authority from the Legislature to create criteria for evaluating religious exemptions.

Comments in Opposition of the Proposed Rule with Recommended Revisions

Comment or Summary of Comment	Staff Recommendation
<p>Are there any allowances within the language for situations where medically-verified records are unavailable because of life circumstances, such as moving from another country, records destroyed in a natural disaster, etc.?</p> <p>If DOH is not working to align grade entry requirements with federal age guidelines as per this WAC, how do I formally request that be done? Is that a BOH or DOH issue? Who should I contact? ICWA has been trying to get this problem addressed for at least two years because the current school requirements force parents to vaccinate on the early end of the age-range or go through the hassle of getting a doctor's appointment to get an exemption signed for a vaccine they intend to get their child later on. Many simply don't bother, and that leads to out-of-compliance.</p>	<p>Recommendation: Adopt as proposed.</p> <p>Provisions for circumstances such as a natural disaster are often accommodated on a case-by-case basis. For example, students displaced by Hurricane Katrina entering school in Washington were allowed entry to school under the same protections provided by McKinney-Vento. If immunization documentation is unable to be found the national guidelines recommend revaccination or, for some vaccines, checking immunity by titer.</p> <p>The Department already establishes guidelines by grade in alignment within the ages and intervals in the national guidelines.</p>

Comments in Opposition of the Proposed Rule with Recommended Revisions

Comment or Summary of Comment	Staff Recommendation
I object strongly to the state imposing Certificate of Immunization compliance for children in private schools and for students in home school extension programs. If the HBI students get sick they stay home. As a matter of fact, most of their time is spent at home or with family that already has group immunity in place.	Recommendation: Adopt as proposed Private schools are required to comply with the rule according to state law (RCW 28A.210.080), and this requirement is not new to this rule update.
Family compliance to CIS recommendations has been voluntary. Immunization status of a private family members is private business. Rights to privacy are an American birthright.	Parents have the option to opt out of required immunizations by completing a Certificate of Exemption (COE) form (RCW 28A.210.090)
Requiring me to collect, compile and report this information on behalf of the WDBoH without compensation is a form of conscription I do not support.	

Comments in Opposition of the Proposed Rule with Recommended Revisions

Comment or Summary of Comment	Staff Recommendation
<p>Re: WAC 246-105-050, (1) ...either a CIS or a COE form...</p> <p>Comment: The WAC does not clearly state what to do if parents choose to comply with a portion of the schedule but also choose to be exempt for a subset of the vaccines.</p> <p>Suggested resolution: add instructions for parents to submit both forms when choosing not to take some vaccines.</p> <p>Rationale: Added clarity in instructions will help reduce frequency of 'out-of-compliance status and allow better tracking of status by each vaccine.</p>	<p>Recommendation: Amend rule language.</p> <p>Added, "or both" to WAC 246-105-050 WAC to clarify that a parent can submit a CIS and a COE form for their child if the child is exempt from certain vaccines and immunized for others.</p>

Comments in Opposition of the Proposed Rule with Recommended Revisions

Comment or Summary of Comment	Staff Recommendation
<p>Re: WAC 246-105-060 (2) A school nurse...shall...determine the immunization status of a child. Comment: When is the status officially determined? It will take time for schools to review the increasingly complex paperwork involved with vaccines. A child could be excluded from school due to paperwork delays, which is only unfair to the child. This makes a 30-day conditional status more favorable to school staff while they make the status determination.</p> <p>Recommendation: Add statement "Schools shall notify parents of immunization status immediately, and parents shall have 30 days of conditional status in which to update paperwork."</p> <p>Rationale: many families are very busy and many will be surprised by such a strict rule that requires time on their part to address. Further, it is completely unfair to the child if paperwork delays is what leads to missed days of school.</p>	<p>Recommendation: Adopt as proposed</p> <p>According to RCW 28A.210.080, the attendance of every child is conditioned upon the presentation of proof of immunization status on or before the first day of attendance. Status is determined by the school during the period of enrollment.</p>

Comments in Opposition of the Proposed Rule with Recommended Revisions

Comment or Summary of Comment

Re: WAC 246-105-060 (3)(b) Keep or be able to produce within twenty-four hours a current list of children who are not fully immunized. This list must be transmitted to the local health department upon request. Comment: This kind of health information is personal and sensitive. The local health department should not be allowed to simply request it. Controls should be in place such that the info is only transmitted when a relevant outbreak is active.

Recommendation: after "upon request" add "in the event of a sufficiently large outbreak." Similar recommendation and rationale for section (3)(d) regarding providing access to immunization records. As sensitive as immunization information is becoming, privacy in this matter must be not taken lightly.

Staff Recommendation

Recommendation: Adopt as proposed

RCW 28A.210.110 (4) states that the chief administrator shall, "Allow agents of state and local health departments access to the records retained in accordance with this section during business hours for the purposes of inspection and copying."

In addition, schools are required to comply with chapter 246-101 WAC (notifiable conditions) and chapter 246-110 WAC (contagious disease – school districts and child care centers). These rules require varying levels of notification and cooperation between schools, child care centers, and local health in the event of a case, suspected case, outbreak, or suspected outbreak of disease.

Comments in Opposition of the Proposed Rule with Recommended Revisions

Comment or Summary of Comment	Staff Recommendation
<p>Relating to 246-105-020 (7). The first sentence says "not fully immunized" and the last sentence "only if the child provides proof of full immunization". I see 2 areas of possible confusion - first is "the child provides proof" - I think the parent or guardian provides proof, not the child. I see this language in other places in these rules. Second is not fully immunized and full immunization. I do not think the reference to 246-105-060 makes this clear.</p>	<p>Recommendation: Amend rule language.</p> <p>Recommend amending throughout the rule to clarify that the parent provides the proof of immunization for the child.</p> <p>Recommend removing the term "full" from the definition of conditional status in WAC 246-105-020.</p>
<p>How is 246-105-040 (3) (b) different from 246-105-050 - it seems that this only needs to be said once (050) and referenced in 040.</p>	<p>WAC 246-105-040 (3)(b) refers to what can be accepted as proof of immunization for varicella, while WAC 246-105-050 references overall immunization documentation requirements.</p>

Comments in Opposition of the Proposed Rule with Recommended Revisions

Comment or Summary of Comment

Commenter requested that the Board update or add new categories to the existing immunization status categories in order to more accurately report vaccination uptake and exemption use in Washington. Included a copy of the petition received by the Board on March 8, 2019.

Staff Recommendation

Recommendation: Adopt as proposed.

At the March 13, 2019 Board meeting the Board passed the following motion on Mr. Kanthak's petition, "The Board denies the petition for rulemaking to amend chapter 246-105 WAC – Immunization of child care and school children against certain vaccine-preventable diseases, and directs staff to better clarify the types of immunization status allowed within the scope of the current rule update."

Staff clarified types of immunization status by amending definitions and clarifying the process for determining immunization status in the proposed rule.

Next Steps



Rules hearing and
potential rule adoption
(August 2019)

File CR-103
(October 2019)

Rule becomes effective
(November 2019 &
August 2020)

Questions?

| THANK YOU