

Chapter 246-105 WAC - Immunization of Child Care and School Children against Certain Vaccine-Preventable Diseases
Formal Public Comments and Board Staff Recommendations (WSR 19-14-102)
Public Hearing, August 14, 2019

Comments in Support of the Proposed Rule		
Commenters		
<ul style="list-style-type: none"> Carrie Lang Valerie Hunt 	<ul style="list-style-type: none"> Bridgett Chandler Sarah Day 	
Summary of Comments		Staff Recommendation
<p>The Board received the following comments in support of the proposed rule from the 4 commenters identified above:</p> <ol style="list-style-type: none"> Ensuring as many students as possible are immunized supports the safety of students at school from serious diseases. The 30 day conditional status was a significant burden on schools and the new changes decrease the burden. Protects children from dangerous but vaccine-preventable diseases. Support the addition of requiring medically verified records. Support the elimination of the requirement for families to write the name of their church or religious affiliation on the Certificate of Exemption. Support the elimination of MMR from personal and philosophical exemptions. Vaccines are a safe and effective way to give lifetime protection from dangerous, infectious diseases. Support for clarification of conditional immunization status. Requiring students to complete as many immunizations as possible before starting school will help keep kids in school. 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		
Commenters	Summary of Comments	Staff Recommendation
Chris Reykdal, Superintendent, Office of Superintendent of Public Instruction (OSPI)	<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. 	<p>Recommendation: Adopt as proposed.</p> <p><u>Significant Analysis:</u> Staff updated the rule to clarify existing language that requires immunization documentation on or before the first day of attendance. This</p>

	<ul style="list-style-type: none"> • 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>requirement is established in statute and therefore is not required be to analyzed under RCW 34.05.328 (5)(b)(v).</p> <p><u>Military Compact (RCW 28A.705.010 Article IV C):</u> The Military Compact includes the same “on or before first day” requirement regarding documentation of immunization status that currently the current rule. However, unlike other students, military students are not required to have “all doses they are eligible for” to be in conditional status. As long as they turn in their documentation of immunization status, they have 30 days to get caught up on immunizations.</p> <p><u>Engagement process:</u> In May 2018, Board staff reached out to OSPI, the Washington Association of School Administrators, Washington State School Directors’ Association, and the Association of Washington School Principals, among other organizations, to request representation on a technical advisory committee (TAC). TAC members had the opportunity to participate in two day-long meetings to review drafts, make recommendations, and discuss potential impacts. Following the in-person meetings, all TAC members received additional communications from staff with updates and the opportunity to comment on informal drafts of the rule language.</p>
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		<p>who within those facilities has the duty to review or maintain records. Definitions for “school nurse” and “child care health consultant” were added to clarify that in addition to the chief administrator, a school nurse or child care health consultant may review and verify immunization records. To allow for flexibility, the definitions include the ability for a designee to be assigned as needed.</p> <p>Board staff consulted with the Professional Educator Standards Board (PESB) to amend the definition of school nurse to include references to both the credentialing (RCW 18.79) and qualifications (181-79A WAC). See comment from PESB for proposed amendment.</p>
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Comments in Opposition of the Proposed Rule		
Commenters		
<ul style="list-style-type: none"> Bruce Guhrie Cassandra Weeks Tamara Welty 	<ul style="list-style-type: none"> Zac Weeks Debbie Schindler Margo Thompson 	<ul style="list-style-type: none"> Olga Slobodyanik
Summary of Comments		Staff Recommendation
<p>The Board received the following comments in opposition to the proposed rule with no recommended revisions from 7 commenters. The commenters requested the ability to opt out of immunization requirements based on the following reasons:</p> <ol style="list-style-type: none"> Anyone should be able to opt out of any state medical procedure or test. We each own our own bodies and people should have their bodily integrity respected. It should not be a government choice to force vaccination. 		<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>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.</p> <p>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.</p> <p>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.</p> <p>7. Parenting my children is my job not the states. Government thinks this is a choice to take away from parents.</p> <p>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>		<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		
Commenters	Comment or Summary of Comment	Staff Recommendation
Armando Isais-Garcia, OSPI	<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>
Janet Boyett, Ingraham High School Nurse	<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>Recommendation: Adopt as proposed.</p> <ul style="list-style-type: none"> • Outside the scope of the current rulemaking. • 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.

	And, or perhaps this should include additional funding for the WAIS database and fully funding the School Nurses.”	
Alexandra Manuel, Executive Director, Professional Educator Standards Board (PESB)	<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>It is problematic for another state agency to identify a school nurse in a manner different than the way school nurses are identified by PESB.</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>This change would avoid problems with SBOH identifying school nurses in a different manner from PESB, and would have little or no impact on the implementation of this WAC 246-105 policy in the field.”</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>
Tim Hunt, Director – Communications & Outreach, Washington State Catholic Conference	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.”	<p>Recommendation: Adopt as proposed</p> <p>The Department does not collect this information from the schools and it is currently not being used in any way.</p> <p>The Board does not have the explicit authority from the Legislature to create criteria for evaluating religious exemptions.</p>

<p>Bernadette Pajer, Informed Choice Washington</p>	<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.? If not, I’d like to suggest such an addition. It may not happen often, but there will be such circumstances where the parents know the child’s vaccination history but are unable to access records.</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>
<p>Diana McAlister, Principal, Family Academy</p>	<p>“I operate a small approved private school for the purposes of providing homeschool extension services to an adjunct population wanting help to effect excellence in home-based instruction (HBI RCW 28A.225.010, and RCW 28A195.010).</p> <p>My day school students are my granddaughters. The decision to immunize or not immunize is left to their parents. (They happen to be immunized.)</p> <p>However, I serve families that have personally and philosophically objected to immunizations for their children from birth. These families attend class with me one hour a week in compliance with HBI laws and rules (see annotation above).</p> <p>The parents of these children have rejected immunizations for numerous reasons, one of which is a close relative whose cognition has been impaired, they believe, by a surfeit amount</p>	<p>Recommendation: Adopt as proposed</p> <p>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.</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>of vaccines administered to a very young child. This cousin has suffered significant educational challenges. Other families have objected to immunizations for personal beliefs. Yet others who are native American have exempted themselves for medical reasons.</p> <p>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.</p> <p>More than that, I object to being made an unpaid employee of the Washington State Board of Health (WSBoH) in being forced to compile and submit the CIS data about my students. IT IS PRIVATE DATA. In addition, I am not paid to collect this data or to force families into compliance. To do so is a violation of individual rights to privacy.</p> <p>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.</p> <p>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.”</p>	
Bob Runnells	<p>“Re: WAC 246-105-050, (1) ...either a CIS or a COE form... 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>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>

	Rationale: Added clarity in instructions will help reduce frequency of 'out-of-compliance status and allow better tracking of status by each vaccine."	
Bob Runnells	<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. 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." 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>
Bob Runnells	<p>"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."</p>	<p>Recommendation: Adopt as proposed</p> <p>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."</p> <p>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</p>

		case, suspected case, outbreak, or suspected outbreak of disease.
Leslie Stahlnecker	<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>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>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>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>
Karl Kanthak	<p>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.</p>	<p>Recommendation: Adopt as proposed.</p> <p>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.”</p> <p>Staff clarified types of immunization status by amending definitions and clarifying the process for determining immunization status in the proposed rule.</p>