



Measles FAQ for Educational Institutions

Publication

2.17.15

Questions

Q1. Was measles eliminated from the U.S

Q2. Why is measles reappearing?

Q3. Who is protected from measles?

Q4. Could measles reestablish itself in the U.S.?

Q5. Where can I find each state's laws on vaccination requirements for public school?

Q6. Where can I find state "Opt Out" laws?

Q7. Other surveys and resources on Opt Out and other vaccination laws:

Q8. Which states or areas have the highest unvaccinated population?

Q9. Which states have the highest vaccination rates?

Q10. Can a private school require a teacher to receive the measles vaccination?

Q11. Requirements by School or Day care level:

Q12. What should we tell families about possible school exposure?

Q13. Can we require unvaccinated students to stay home from school if we have had a case of measles at our school?

Q14. Can we choose not to offer enrollment to children whose parents elect not to have their children vaccinated?

Q15. If we have enrolled non-vaccinated children and one gets measles and exposes others who may not be vaccinated, can we be held liable to those individuals who contracted measles?

Answers

A1. Yes. CDC provides a good resource regarding Frequently Asked Questions about measles in the U.S.

A2. Every year, measles is brought into the United States by unvaccinated travelers (Americans or foreign visitors) who get measles while they are in other countries. They can spread measles to other people who are not protected against measles, which sometimes leads to outbreaks. This can occur in communities with unvaccinated people

Most people in the United States are protected against measles through vaccination, so measles cases in the U.S. are uncommon compared to the number of cases before a vaccine was available.

Since 2000, when measles was declared eliminated from the U.S., the annual number of people reported to have measles ranged from a low of 37 people in 2004 to a high of 644 people in 2014.

In 2008, 2011, 2013 and 2014, there were more reported measles cases compared with previous years. CDC experts attribute this to:

- more measles cases than usual in some countries to which Americans often travel (such as England, France, Germany, India, the Philippines and Vietnam), and therefore more measles cases coming into the US, and/or
- more spreading of measles in U.S. communities with pockets of unvaccinated people.

A3. You are considered protected from measles if you have written documentation (records) showing at least **one** of the following:

- You received **two** doses of measles-containing vaccine, and you are a(n)—
 - school-aged child (grades K-12)
 - adult who was not vaccinated as a child and will be in a setting that poses a high risk for measles transmission, including students at post-high school education institutions, healthcare personnel, and international travelers.
- You received **one** dose of measles-containing vaccine, and you are a(n)—
 - preschool-aged child
 - adult who was not vaccinated as a child and will not be in a high-risk setting for measles transmission.
- A laboratory confirmed that you had measles at some point in your life.
- A laboratory confirmed that you are immune to measles.
- You were born before 1957.

Return to the Questions

A4. Yes, it is possible that measles could become endemic (constant presence of a disease in an area) in the United States again, especially if vaccine coverage levels drop. This can happen when people:

- forget to get vaccinated on time,
- don't know that they need a vaccine dose (this is most common among adults), or
- refuse vaccines for religious, philosophical or personal reasons.

Research shows that people who refuse vaccines tend to group together in communities. When measles gets into communities with pockets of unvaccinated people, outbreaks are more likely to occur. These communities make it difficult to control the spread of the disease and make us vulnerable to having the virus re-establish itself in our country.

High sustained measles vaccine coverage and rapid public health response are critical for preventing and controlling measles cases and outbreaks.

[Return to the Questions](#)

[A5.](#) Unlike some infectious diseases, the U.S. public health efforts to eliminate measles are driven by state vaccination laws mandating certain vaccinations for school age children.

The CDC has very detailed [information](#) on state school requirements for various vaccines. [Chart](#) of state non-medical exemptions from school immunization requirements, from the National Conference of State Legislatures.

Here's more disease-by-disease [charts](#), from the Immunization Action Coalition.

[Return to the Questions](#)

[A6.](#) There are different types of opt out provisions. Genuine medical concerns are recognized in some fashion in all states, but limits may be imposed on students. Approximately 20 states allow opt out for personal reasons, and approximately 40 allow opt out for religious reasons. Some laws are enforced quite strictly, and others, such as in California, liberally allow opt out. Recognized medical science rejects the vast majority of anti-vaccination claims involving measles and related vaccines. Some state laws mandate counseling and education efforts for parents requesting an opt out.

See Pew Charitable [Trusts/Stateline](#).

[Return to the Questions](#)

[A7.](#) National Vaccine Information Center State Law & Vaccine [Requirements](#)

[Return to the Questions](#)

[A8.](#)

[Return to the Questions](#)

[A9.](#) Mississippi has the highest vaccination rate, with 99.7% of children entering kindergarten being vaccinated. Mississippi and West Virginia are the only two states that do not allow for either religious

or philosophical exemptions to vaccinations. All states provide exemptions for students with medical reasons why they cannot receive vaccinations. However, medical exemptions are rare.

Return to the Questions

A10. Maybe. Measles may be determined to be a disability under the ADA because of the potential permanent harm. An employee may claim that they were discriminated against because they were perceived as having a disability condition if they refused vaccination, but this may be an attenuated claim.

If the teacher has an ADA protected disability that would prevent her from safely receiving the measles vaccination, the employer would have to go through the individualized analysis to determine if a reasonable accommodation was possible. However, given that some states already require unvaccinated students to stay home if there is a case or outbreak at the school, there would seem to be strong basis for the requirements, especially in an area with active measles cases.

The EEOC has made comments about vaccinations constituting “medical exams,” and if they are so classified under the ADA, vaccinations would have to be job-related and consistent with business necessity. An employer would analyze each job classification and many positions in healthcare and education would seem to necessitate the measles and related vaccinations. The 6th Circuit found “psychological counselling” to be a “medical exam,” but the facts are not analogous. Testing for unlawful drugs is not a medical exam but the EEOC has been litigating in an effort to challenge drug tests which ostensibly identify disability conditions.

There may also be an allegation of religious discrimination, but the duty of reasonable accommodation is substantially less demanding on an employer than in an ADA analysis and may be guided by state laws on opting out for religious or personal reasons. (EEOC Interpretation Letter). The key element is in all cases to engage in an objective individualized analysis and document reasons for the decision. However, enforcing a vaccination policy on teachers (and/or staff) can be problematic as it will require each person to either produce their decades old immunization record, or submit for testing.

Here’s what the EEOC has very generally stated:

From EEOC Pandemic Guidance:

May an employer covered by the ADA and Title VII of the Civil Rights Act of 1964 compel all of its employees to take the influenza vaccine regardless of their medical conditions or their religious beliefs during a pandemic?

No. An employee may be entitled to an exemption from a mandatory vaccination requirement based on an ADA disability that prevents him from taking the influenza vaccine. This would be a reasonable accommodation barring undue hardship (significant difficulty or expense).

Similarly, under Title VII of the Civil Rights Act of 1964, once an employer receives notice that an employee's sincerely held religious belief, practice, or observance prevents him from taking the influenza vaccine, the employer must provide a reasonable accommodation unless it would pose an undue hardship as defined by Title VII ("more than de minimis cost" to the operation of the employer's business, which is a lower standard than under the ADA). Generally, ADA-covered employers should consider simply encouraging employees to get the influenza vaccine rather than requiring them to take it.

State disability anti-discrimination laws may vary.

Many of these questions have not been answered, so an employer should follow the interactive process and be prepared for challenge. We know from past influenza seasons that employees will at least file religious discrimination claims and there is a recognized analysis in this area. Contact counsel on this issue.

[Return to the Questions](#)

[A11.](#) Immunization Action Coalition State [Mandates](#) on Immunization

CDC Information

[Requirements for childcare](#)

The data in these reports are provided by state immunization programs through the annual school assessment report submitted to CDC by April 30 each year. Please contact the state-specific point of contact for more detailed information.

[Requirements for kindergarten](#)

The data in these reports are provided by state immunization programs through the annual school assessment report submitted to CDC by April 30 each year. Please contact the state-specific point of contact for more detailed information.

[Requirements for middle school](#)

The data in these reports are provided by state immunization programs through the annual school assessment report submitted to CDC by April 30 each year. Please contact the state-specific point of contact for more detailed information.

[Return to the Questions](#)

[A12.](#) Be sensitive to both common law privacy and invasion of privacy concerns, as well as ADA medical confidentiality rules, and where insurance is involved, HIPAA. Weigh the reasons to share information, what the hearers can do with the information, and the nature of the disease. There may be no reason to identify individuals instead of simply advising the school or workforce that an exposed individual has been on site.

See California Department of Public Health recommended [letters](#).

[A13](#). Yes. In fact, some states **require** that unvaccinated students be excluded from school during an outbreak. If there has been a case of measles at your school, it would be a prudent move to require all unvaccinated students to stay home until the risk of infection has passed. For children older than preschool age, it is recommended that you try to find a way to provide work for them to do at home.

[Return to the Questions](#)

[A14](#). Possibly. Depending on state law, it may be permissible to have a policy creating a condition of enrollment for all children over the age of 1 to have full vaccinations. In many states, private schools do not have an obligation not to discriminate against students on the basis of religion, so the religious exemption to the statute would not provide a parent with a claim against the school. However, you should check your individual state laws on this issue. You should also check your individual state statutes to see if private schools are required to allow the same vaccination exemptions that apply to public schools.

[Return to the Questions](#)

[A15](#). It depends. Some states specifically provide immunity for schools when a child becomes ill from unvaccinated student in certain situations. Additionally, some schools may require parents of unvaccinated children to sign waivers of liability. However, the school will at least need to act reasonably under the situation. For example, if a school knows or should know that a child has been exposed to measles, but fails to take any action such as alerting the health department or requiring students to stay home until the risk of infection has passed, it is foreseeable that the school could be liable for negligence if other children become ill.

[Return to the Questions](#)