



The Pennsylvania Coalition for Informed Consent

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#### Notice To School Officials:

Our organization has received reports from the parents of students that schools have led them to believe the only option for enrolling their children was to have them fully vaccinated.

The purpose of this letter is to remind you of the requirements of Pennsylvania law, which offers options besides vaccination for school attendance, and the legal duty of school administrations to fully inform parents of those options.

This duty is set forth in the Pennsylvania Code, Title 28, Subchapter C, Immunization, §23.85, Responsibilities of Schools and School Administrators, a copy of which is enclosed for your convenience. Subsection 23.85(a)(1) requires school administrators to appoint a knowledgeable person to inform a parent, guardian or emancipated child of Subchapter C requirements. Subchapter C includes §23.84, Exemption from Immunization (also enclosed), which provides students the options of attending school under a medical or religious/ethical exemption from immunization. Moreover, §23.85(d) mandates that students are to be admitted to school or allowed to continue attending upon submitting information sufficient for a §23.84 immunization exemption.

Furthermore, when §23.85(a)(2) requires the “knowledgeable person” appointed by a school administrator to ascertain a student’s immunization status before school admission or continued attendance, §23.85(b) makes it clear that a §23.84 immunization exemption is an optional immunization status. Therefore, the requirement to ascertain a student’s immunization status cannot be fully met unless school administrations ask whether a student has a §23.84 immunization exemption.

A school administration that does not inform parents about the availability of §23.84 immunization exemptions as required by §23.85(a)(1), or which does not inquire about such exemptions when ascertaining a student’s immunization status per §23.85(a)(2) & (b), is not in compliance with Pennsylvania law. These omissions --- and especially misleading parents to believe that fully immunizing students is their only option for school attendance --- are unlawful, raise issues of informed medical consent, are potentially dangerous to student health, and open schools to potential legal liability.

In order to ensure that you are providing complete and accurate information in compliance with Pennsylvania law, we recommend that you use the enclosed PA Department of Health flyer, which can also be found on the department’s website.

We appreciate your attention to this serious and urgent matter.

Sincerely,

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## **§ 23.84. Exemption from immunization.**

(a) *Medical exemption.* Children need not be immunized if a physician or the physician's designee provides a written statement that immunization may be detrimental to the health of the child. When the physician determines that immunization is no longer detrimental to the health of the child, the child shall be immunized according to this subchapter.

(b) *Religious exemption.* Children need not be immunized if the parent, guardian or emancipated child objects in writing to the immunization on religious grounds or on the basis of a strong moral or ethical conviction similar to a religious belief.

### **Source**

The provisions of this § 23.84 amended through September 17, 1982, effective August 1, 1983, 12 Pa.B. 3288; amended August 22, 1997, effective August 23, 1997, 27 Pa.B. 4317. Immediately preceding text appears at serial pages (164332) to (164333) and (129145).

### **Cross References**

This section cited in 22 Pa. Code § 11.20 (relating to nonimmunized children); 22 Pa. Code § 51.13 (relating to immunization); 22 Pa. Code § 405.49 (relating to immunizations); 28 Pa. Code § 23.85 (relating to responsibilities of schools and school administrators); and 28 Pa. Code § 27.77 (relating to immunization requirements for children in child care group settings).

## **§ 23.85. Responsibilities of schools and school administrators.**

(a) The administrator in charge of a school shall appoint a knowledgeable person to perform the following:

(1) Inform the parent, guardian or emancipated child at registration or prior to registration, if possible, of the requirements of this subchapter.

(2) Ascertain the immunization status of a child prior to admission to school or continued attendance at school.

(i) The parent, guardian or emancipated child shall be asked for a completed certificate of immunization.

(ii) In the absence of a certificate of immunization, the parent, guardian or emancipated child shall be asked for a record or history of immunization which indicates the month, day and year that immunizations were given. This information shall be recorded on the certificate of immunization and signed by the school official or the official's designee, or the details of the record shall be stored in a computer database.

(b) If the knowledgeable person designated by the school administrator is unable to ascertain whether a child has received the immunizations required under § 23.83 (relating to immunization requirements) or under subsection (e) or is exempt under § 23.84 (relating to exemption for immunization), the school administrator may admit the child to school or allow the child's continued attendance at school only according to the requirements of subsections (d) and (e).

(c) The parent or guardian of a child or the emancipated child who has not received the immunizations required under § 23.83 shall be informed of the specific immunizations required and advised to go to the child's usual source of care or nearest public clinic to obtain the required immunizations.

(d) A child not previously admitted to or not allowed to continue attendance at school because the child has not had the required immunizations shall be admitted to or permitted to continue attendance at school only upon presentation to the school administrator or school administrator's designee of a completed certificate of immunization or immunization record, upon submission of information sufficient for an exemption under § 23.84, or upon compliance with subsection (e).

(e) *Provisional admittance to school.*

(1) *Multiple dose vaccine series.* If a child has not received all the antigens for a multiple dose vaccine series described in § 23.83, the child may be provisionally admitted to school only if evidence of the administration of at least one dose of each antigen described in § 23.83 for multiple dose vaccine series is given to the school administrator or the administrator's designee and the parent or guardian's plan for completion of the required immunizations is made part of the child's health record.

(2) *Single dose vaccines.* If a child has not received a vaccine for which only a single dose is required, the child may be provisionally admitted to school if the parent or guardian's plan for obtaining the required immunization is made a part of the child's health record.

(3) *Completion of required immunizations.* The plan for completion of the required immunizations shall be reviewed every 60 days by the school administrator or the school administrator's designee. Subsequent immunizations shall be entered on the certificate of immunization or entered in the school's computer database. Immunization requirements described in § 23.83 shall be completed within 8 months of the date of provisional admission to school. If the requirements are not met, the school administrator may not admit the child to school or permit continued attendance after that 8 month provisional period.

(f) A school shall maintain on file a certificate of immunization for a child enrolled. An alternative to maintaining a certificate on file is to transfer the immunization information from the certificate to a computer database. The certificate of immunization or a facsimile thereof generated by computer shall be returned to the parent, guardian or emancipated child or the school shall transfer the certificate of immunization (or facsimile) with the child's record to the new school when a child withdraws, transfers, is promoted, graduates or otherwise leaves the school.

### **Authority**

The provisions of this § 23.85 amended under section 1303 of the Public School Code of 1949 (24 P. S. § 13-1303); section 16(b) of the Disease Prevention and Control Law of 1955 (35 P. S. § 521.16(b)); and section 2102(g) of The Administrative Code of 1929 (71 P. S. § 532(g)).

### **Source**

The provisions of this § 23.85 amended through September 17, 1982, effective August 1, 1983, 12 Pa.B. 3288; amended August 22, 1997, effective August 23, 1997, 27 Pa.B. 4317; amended May 28, 2010, effective August 1, 2011, 40 Pa.B. 2747. Immediately preceding text appears at serial pages (287121) to (287122).

### **Cross References**

This section cited in 22 Pa. Code § 405.49 (relating to immunizations); and 28 Pa. Code § 27.77 (relating to immunization requirements for children in child care group settings).