



School FAQs About Measles Prevention and Control

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Given last week's cluster of measles cases at a suburban Cook County daycare center, Illinois elementary and secondary schools are focusing on their legal obligations and options for handling an outbreak of this highly contagious communicable disease. This Law Alert provides answers to questions that school boards and administrators are asking on those subjects. If you have concerns regarding measles control measures which your district is considering, we encourage you to seek a legal opinion and medical advice based upon the facts of your particular case.

Immunization Requirements

1. Are all Illinois students required to be immunized against measles?

Section 27-8.1 of the *Illinois School Code* and Illinois Department of Public Health ("IDPH") implementing rules require s that all students in any Illinois public, private/independent or parochial school present proof of immunity against various communicable diseases, including measles, prior to enrolling. 105 ILCS 5/27-8.1; 77 Ill.Admin.Code 665.30(a); 77 Ill.Admin.Code 695.10(c).

However, two statutory exceptions allow non-immunized students to attend Illinois schools. *See Question No. 2, below.*

2. What statutory exceptions allow non-immunized students to attend schools?

Section 27-8.1(8) of the *Illinois School Code* (105 ILCS 5/27-8.1(8)) provides that students may be exempted from immunization requirements based on medical or religious objections.

Any such medical objection requires that a physician licensed to practice medicine in all its branches specifically identify the student's medical condition that precludes immunization. The physician must endorse and sign the objection on the IDPH's Certificate of Child Health Examination form, which must be placed in the student's permanent record. 77 Ill.Admin.Code 665.520(a). If the student's medical condition later permits immunization, then the student will need to meet immunization requirements. 77 Ill.Admin.Code 665.520(b).

Parents or legal guardians may also make a religious objection to immunization by submitting a signed statement of objection which details the grounds for the objection and sets forth the specific religious belief which conflicts with immunization. The religious objection may be personal and need not be directed by the tenets of an established religious organization; however, a general philosophical or moral reluctance to allow immunizations is not sufficient. The local school authority is responsible

for determining whether the written statement constitutes a valid religious objection. 77 Ill.Admin.Code 665.510. *See also* 77 Ill.Admin.Code 695.30.

When a medical or religious objection to immunization is presented, the student's parents or legal guardians must be informed about measles outbreak control exclusion procedures, as required by the IDPH's rules at 77 Ill.Admin.Code Part 690, *Control of Communicable Diseases Code*. *See Question No. 7, below, for further information regarding exclusion of non-immunized students.*

3. How do I know which students are not immunized?

Each attendance center is required to maintain a list of all students who have not presented proof of immunity against various communicable diseases, including measles. 77 Ill.Admin.Code 665.290.

Local school authorities are also required to monitor immunization schedules to assure that students complete the required immunizations. If a student is delinquent for a scheduled immunization appointment, then he/she is no longer considered in compliance with Section 27-8.1 of the *Illinois School Code* (105 ILCS 5/27-8.1). 77 Ill.Admin.Code 665.270.

Schools should ensure that their lists of non-immunized students are accurate and up to date - not only to identify students who have not complied with immunization requirements, but also to quickly identify non-immunized students who may be excluded from school in case of a measles outbreak. *See Question No. 7, below, for further information regarding exclusion of non-immunized students.*

4. What is acceptable proof of a student's immunity to measles?

Acceptable proof of measles immunity consists of one of the following:

- A written record from the student's physician or a health professional that indicates dates of vaccination and type of vaccine administered; or
- A statement from a physician indicating the date when the student had measles; or
- A laboratory report indicating that the student has a protective measles antibody titer as measured by a test with demonstrable reliability.

77 Ill.Admin.Code 690.520(c)(4)(A-C). *See also* 77 Ill.Admin.Code 665.250; 695.10(f).

5. Must school district employees be immunized against measles?

No. The *Illinois School Code* and IDPH regulations do not require that school district employees be immunized against measles or any other communicable diseases.

Responding to a Measles Outbreak

6. What should schools do if they suspect someone in their attendance center may have measles?

Personnel in each attendance center responsible for investigating absenteeism must immediately report suspect cases of measles to the school principal or the school nurse. 77 Ill.Admin.Code 690.520(c)(1).

On the same day that they receive a report of a suspected case of measles, school personnel must conduct an inquiry into absenteeism to determine whether there are any other cases of the illness in the class and school of the student involved. 77 Ill.Admin.Code 690.520(c)(2).

Within 24 hours, school officials must make a telephone report to the local health authority (either a full-time official health department as recognized by the IDPH, or a regional office of the IDPH), specifying the name, age, and sex of any student suspected of having contracted measles. The name of the student's private physician, if any, shall also be reported. The IDPH or local health department must be contacted by school personnel and should be involved in investigating the outbreak so that all necessary vaccination services are made available. 77 Ill.Admin.Code 690.520(c)(3).

A notice must be sent home with each student who has not presented proof of immunity, explaining that the student is to be excluded, effective the following morning, until the school receives acceptable proof of immunity or until 21 days after the onset of the last reported measles case. 77 Ill.Admin.Code 690.520(c)(4). *See Question No. 4, above, for what constitutes acceptable proof of immunity.*

Suspected cases of measles should be processed in accordance with school district policies and procedures governing communicable and chronic infectious disease including, if applicable, referral to the school district's Communicable and Chronic Infectious Disease Review Team.

7. What kind of notice should be sent home if there is a case of measles in an attendance center, and who should receive it?

In addition to the notice sent to each student who has not presented proof of immunity (*see Question No. 6, above*), when a case of measles has been confirmed in an attendance center, the following notices should be issued:

- A **general** notice to all employees and parents/guardians advising that an unnamed student or employee in the attendance center has been diagnosed with measles.
- A **specific** notice to all employees and parents/guardians of students enrolled in classes shared with the unnamed student or employee diagnosed with measles which advises of the context for the contact.

For example, if a student in Ms. Smith's 4th grade class is diagnosed with measles, the notice sent to all parents/guardians of students in Ms. Smith's class should advise them that "a student with measles was present in your student's class on [*insert dates*]."

If the student or employee diagnosed with measles was present in multiple classes, then multiple notices should be sent. For example, if a 10th grade student who switches classes during the school day is diagnosed with measles, the notice sent to all parents/guardians of students in each of the 10th grade student's classes should identify, with specificity, when the direct contact occurred, such as "a student with measles was present in your student's 6th period class on [*insert dates*]."

Both the general and specific notice should also advise recipients of measles symptoms, the risks of contracting measles if someone is or is not vaccinated, resources for additional information, and that parents/guardians should keep their student at home if they suspect he/she may have measles.

8. What are the rights of school districts with regard to excluding non-immunized students if a

case of measles is diagnosed in a particular attendance center, the district, or the community at large?

If measles is diagnosed in an attendance center, each non-immunized student must be excluded from that school until 21 days after the onset of the last reported measles case, or until the school receives acceptable proof of immunity for the excluded student. 77 Ill.Admin.Code 690.520(b)(3); 77 Ill.Admin.Code 690.520(c)(4).

Illinois law is silent as to whether a school may exclude non-immunized students when a case of measles is diagnosed in a different attendance center within the same district or within the community at large. For example, a student at School A may be diagnosed with measles, and that student may reside with siblings who attend School B. Or, a non-district student may be diagnosed with measles, and the non-district student may attend the same after-school care program that serves district students. In such cases, we recommend that school districts work closely with the local public health authority to determine whether their students are considered "contacts" at risk of contracting measles. IDPH regulations define a "contact" as:

Any person known to have been sufficiently associated with a case or carrier of a communicable disease to have been the source of infection for that person or to have been sufficiently associated with the case or carrier of a communicable disease to have become infected by the case or carrier; and, in the opinion of the Department, there is a risk of the individual contracting the contagious disease. A contact can be a household or non-household contact.

77 Ill.Admin.Code 690.10. When evaluating who may be considered a "contact", schools should be mindful not only of interactions that individuals may have had with the case/carrier in a formal classroom or program setting, but also of interactions that may have occurred in other shared settings, such as transportation vehicles or locker room facilities.

IDPH regulations also define a "susceptible (non-immune)" person as:

A person who is not known to possess sufficient resistance against a particular pathogenic agent to prevent developing infection or disease if or when exposed to the agent.

77 Ill.Admin.Code 690.10. If the school district and local public health authority determine that students and/or employees at one or more attendance centers are "contacts", then the school may treat non-immunized students at those attendance centers as "susceptible contacts" and may exclude them from school until 21 days after the onset of the last reported measles case or until the school receives acceptable proof of immunity.

9. If a non-immunized student is excluded from school during a measles outbreak, is he/she entitled to continued educational services during the period of exclusion?

Non-immunized students excluded from school during a measles outbreak are generally **not** entitled to continued educational services during the period of exclusion. However, a student may be entitled to continued education if the student has a medical condition which would place the student at risk of severe health consequences if he/she were to become infected by measles and therefore must be excluded from school for 21 days. In such a case, if the student is a student with a disability pursuant

to *Section 504 of the Rehabilitation Act of 1973* ("Section 504", 29 U.S.C. §794, *et seq.*) or the *Individuals with Disabilities Education Act* ("IDEA", 20 U.S.C. §1400, *et seq.*), a district should consider convening a 504 or IEP meeting to discuss the student's eligibility for educational services during a period of exclusion.

Please consult with legal counsel in such situations to seek a legal opinion that is based upon the facts of your particular case.

10. If a student is diagnosed with measles, how long can he/she be excluded from school?

Children with measles shall be kept out of school for at least four days after appearance of the rash. 77 Ill.Admin.Code 690.520(a)(2).

In addition, the student's case should be processed in accordance with school district policies and procedures governing communicable and chronic infectious disease including, if applicable, referral to the school district's Communicable and Chronic Infectious Disease Review Team.

11. What are the rights of school districts with regard to excluding non-immunized employees should a case of measles be diagnosed in the school, the district, or the community?

Should a case of measles be diagnosed in a particular school, non-immunized employees shall be excluded from school until 21 days after the onset of the last reported measles case, or until the school receives acceptable proof of immunity. 77 Ill.Admin.Code 690.520(b)(3); 77 Ill.Admin.Code 690.520 (c)(4).

Illinois law is silent as to whether a school may exclude non-immunized employees when a case of measles is diagnosed in a different attendance center within the same district or within the community at large. For example, a student at School A may be diagnosed with measles, and that student may have siblings who attend School B. Or, a non-district student may be diagnosed with measles and attend a school event staffed by school district employees. In such cases, we recommend that school districts work closely with the local public health authority to determine whether their employees are considered "contacts" at risk of contracting measles. If so, then the school may treat their non-immunized employees as "susceptible contacts" and exclude them from school until 21 days after the onset of the last reported measles case or until the school receives acceptable proof of immunity. *See Question No. 7, above, for the IDPH definitions of "contacts" and "susceptible".*

12. If a non-immunized employee is excluded from school due to a measles outbreak, is he/she entitled to use sick leave?

While Section 24-6 of the *Illinois School Code* defines "sick leave" to include situations involving "personal illness" and "quarantine at home", it does not address whether sick leave encompasses an employee being excluded from school due to public health regulations because he/she is susceptible to contracting a highly communicable disease. Therefore, we recommend that school districts consult any applicable collective bargaining agreements, past practices, and/or school district policies and procedures regarding employee use of sick leave to determine whether sick leave may be used by an employee under such circumstances.

13. If a school district employee is diagnosed with measles, how long can he/she be excluded

from school?

As noted above in response to Question No. 9, IDPH regulations provide that "children with measles shall be kept out of school or child care facilities for at least four days after appearance of the rash". 77 Ill.Admin.Code 690.520(a)(2). Unfortunately, IDPH regulations are silent with regard to how long an employee with measles should be excluded from a school. School districts may elect to apply the four-day rule to employees, and we also recommend that school districts work closely with the local public health authority to identify best practices.

The employee's case should be processed in accordance with school district policies and procedures governing communicable and chronic infectious disease including, if applicable, referral to the school district's Communicable and Chronic Infectious Disease Review Team.

School districts may also consider requiring the infected employee to submit documentation from a physician certifying that he/she does not pose an infection risk to others before the employee is permitted to return to work.

If a school district employee were to contract measles, then the employee would most certainly be entitled to use sick leave and FMLA leave.

14. A number of our employees are pregnant. During a measles outbreak, are pregnant employees at an increased risk for contracting measles?

Whether a pregnant employee is at an increased risk for contracting measles during an outbreak will depend on factors including whether the employee was immunized before becoming pregnant. Pregnant employees should contact their physicians for medical advice.

For further information regarding measles, including its symptoms, please visit the Centers for Disease Control and Prevention's measles website at www.cdc.gov/measles/. If you have any questions, please feel free to contact any of the firm's attorneys in the Student and Special Education or Labor and Employment practice groups.

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