Information Sheet – 3/08/16 - Board of Trustees Meeting

TO: Board of Trustees Item: 8.1

FR: Celli Coeville

RE: Second Reading – Policy Revision

BP/AR 5141.31 – Immunizations

(BP/AR revised) Policy and regulation updated to reflect NEW LAW (SB 277, 2015) which limits the personal beliefs exemption to students whose parent/guardian submits a letter or written affidavit by January 1, 2016, in which case the exemption shall be effective only until the student enters the next grade span, as defined. Policy also deletes material related to conditional enrollment of transfer students while waiting for the transfer of immunization records, now addressed in AR. Regulation also reflects provisions of SB 277 which (1) require districts to ensure that students advancing to grade 7 are fully immunized against all specified diseases, (2) state that students with disabilities must be provided special education and related services regardless of their immunization status, and (3) exempt students from immunization requirements who are enrolled in an independent study program and who do not receive classroom-based instruction.

IMMUNIZATIONS

To protect the health of all students and staff and to curtail the spread of infectious diseases, the Governing Board shall cooperate with state and local public health agencies to encourage and facilitate immunization of all district students against preventable diseases.

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)
(cf. 5141.22 - Infectious Diseases)
(cf. 5141.26 - Tuberculosis Testing)
(cf. 6142.8 - Comprehensive Health Education)

Note: The following **optional** paragraph should be revised to reflect the grade levels and programs offered by the district.

Health and Safety Code 120335 requires districts to ensure that students are fully immunized prior to admission. In addition, beginning July 1, 2016, Health and Safety Code 120335, as amended by SB 277 (Ch. 35, Statutes of 2015), requires districts to ensure that students are fully immunized against all specified diseases before advancing to grade 7. See the accompanying administrative regulation for requirements pertaining to the immunization record, including the diseases for which students must be immunized.

Health and Safety Code 120335, as amended by SB 277, further provides that students must be exempted from immunizations for any one of the following reasons: (1) a licensed physician indicates that a student should be exempted for medical reasons, (2) a parent/guardian files a letter or affidavit prior to January 1, 2016 stating his/her personal beliefs opposed to immunization (effective only until the student enters the next grade span), or (3) a student is enrolled in independent study and does not receive classroom-based instruction. See the accompanying administrative regulation for further information about exemptions.

Each student enrolling for the first time in a district elementary or secondary school, preschool, or child care and development program or, after July 1, 2016, enrolling in or advancing to grade 7 shall present an immunization record from any authorized private or public health care provider certifying that he/she has received all required immunizations in accordance with law. Students shall be excluded from school or exempted from immunization requirements only as allowed by law.

~~In order to ensure that children who have not been immunized may be enrolled in school without delay, the Superintendent or designee shall arrange for qualified medical personnel to administer the immunizations at school in accordance with law. Immunizations shall not be given without parental consent.~~

~~*(cf. 5145.6 - Parental Notifications)*~~
(cf. 5112.1 - Exemptions from Attendance)
(cf. 5112.2 - Exclusions from Attendance)
(cf. 5141.32 - Health Screening for School Entry)
(cf. 5148 - Child Care and Development)
(cf. 5148.3 - Preschool/Early Childhood Education)

~~Except to the extent otherwise authorized by law, each transfer student shall present evidence of immunization before he/she is admitted to school. Such evidence may include the child's personal immunization record from his/her authorized health care provider or his/her~~

~~cumulative file from his/her previous school.~~

Note: 17 CCR 6070 allows a transfer student to be conditionally admitted for up to 30 days while waiting for the transfer of immunization records from his/her previous school; see the accompanying administrative regulation. However, the California Department of Public Health's California Immunization Handbook for Child Care Programs and Schools recommends that schools request parents/guardians to bring their child's personal immunization record from his/her health care provider to registration, rather than waiting for the cumulative file, especially if the student's former school is located outside the United States. In this way, districts would only need to request the record from the previous district for those students who could not present an adequate record at the time of entry.

IMMUNIZATIONS (continued)

Pursuant to 42 USC 11431 and Education Code 48853.5, homeless children and foster youth must be immediately enrolled even if they are unable to produce records normally required for enrollment, including medical records. See AR 6173 - Education for Homeless Children and AR 6173.1- Education for Foster Youth. In addition, pursuant to Education Code 49701, children of military families must be allowed 30 days from the date of enrollment to obtain required immunizations; see AR 6173.2 - Education of Children of Military Families. These exceptions are also addressed in the accompanying administrative regulation.

Each transfer student shall be requested to present his/her immunization record, if possible, upon registration at a district school.

(cf. 6173 - Education for Homeless Children)
(cf. 6173.1 - Education for Foster Youth)
(cf. 6173.2 - Education of Children of Military Families)

Note: The following **optional** paragraph is for use by districts that permit medical personnel to administer immunizations at school as authorized by Education Code 49403. Pursuant to Education Code 49403, immunizations may be provided by a licensed physician or, if acting under the direction of a supervising physician, a registered nurse (including a school nurse), physician assistant, nurse practitioner, licensed vocational nurse, or nursing student acting under the supervision of a registered nurse. The authority of any health care practitioner, other than a licensed physician, to administer immunizations in a school immunization program is limited to immunizations for annual seasonal influenza, influenza pandemic episodes, and other diseases that represent a current or potential outbreak as declared by a federal, state, or local public health officer. Whenever a health care provider is authorized to administer immunizations at school, the school nurse must be notified and must maintain control, as necessary, as the supervisor of health in accordance with Education Code 44871 and other statutes.

The Superintendent or designee may arrange for an authorized health care provider to administer immunizations at school to any student whose parent/guardian has consented in writing. At the beginning of the school year, parents/guardians shall be notified of their right to provide consent for the administration of an immunization to their child at school. (Education Code 49403)

(cf. 5141.3 - Health Examinations)
(cf. 5141.6 - School Health Services)
(cf. 5145.6 - Parental Notifications)

IMMUNIZATIONS (continued)

Legal Reference:

EDUCATION CODE
44871 Qualifications of supervisor of health
46010 ~~Absences excluded in computing~~Total days of attendance
48216 Immunization~~;~~
48853.5 Immediate enrollment of foster youth
48980 Required notification of rights
49403 Cooperation in control of communicable disease and immunizations
~~44871 Qualifications of supervisor of health~~
~~48853.5 Immediate enrollment of foster youth~~
49426 Duties of school nurses
49701 Flexibility in enrollment of children of military families
51745-51749.6 Independent study
HEALTH AND SAFETY CODE
120325-120380 Immunization against communicable disease, especially:
120335 Immunization requirement for admission
120395 Information about meningococcal disease, including recommendation for vaccination
120440 Disclosure of immunization information
CODE OF REGULATIONS, TITLE 5
430 Student records
CODE OF REGULATIONS, TITLE 17
6000-6075 School attendance immunization requirements
UNITED STATES CODE, TITLE 20
1232g Family Educational Rights and Privacy Act
UNITED STATES CODE, TITLE 42
11432 Immediate enrollment of homeless children
CODE OF FEDERAL REGULATIONS, TITLE 34
99.1-99.67 Family Educational Rights and Privacy

Management Resources:

CALIFORNIA DEPARTMENT OF PUBLIC HEALTH
California Immunization Handbook for ~~Schools and~~ Child Care Programs~~, July 2003~~ and Schools, August 2015
Guide to Immunizations Required for Child Care
Guide to Immunizations Required for School Entry
Parents' Guide to ~~the Requirements of the California School Immunization Law~~Immunizations Required for ~~Parents of Children in or Entering School or~~ Child Care
Parents' Guide to Immunizations Required for School Entry
EDUCATION AUDIT APPEALS PANEL PUBLICATIONS
Guide for Annual Audits of Local Education Agencies and State Compliance Reporting, July 2015
U.S. DEPARTMENT OF EDUCATION GUIDANCE
Family Educational Rights and Privacy Act (FERPA) and H1N1, October 2009
WEB SITES
California Department of Education: http://www.cde.ca.gov
California Department of Public Health, Immunization Branch: http://www.cdph.ca.gov/programs/immunize
California Department of Public Health, Shots for Schools: http://shotsforschools.org
Centers for Disease Control and Prevention: http://www.cdc.gov
Education Audit Appeals Panel: http://www.eaap.ca.gov
U.S. Department of Education: http://www.ed.gov

IMMUNIZATIONS

Required Immunizations

Note: The following **optional** paragraph may be revised to reflect district practice. The California Department of Public Health's (CDPH) California Immunization Handbook for Child Care Programs and Schools recommends that districts provide parents/guardians with a written notice of immunization requirements. The CDPH's Parents' Guide to Immunizations Required for School Entry and Parents' Guide to Immunizations Required for Child Care may be used for this purpose.

The Superintendent or designee shall provide parents/guardians, upon school registration, a written notice summarizing the state's immunization requirements.

Note: The following paragraph should be revised to reflect the grade levels and programs offered by the district. Health and Safety Code 120335 requires districts to ensure that students are fully immunized prior to admission. See 17 CCR 6020 and the CDPH's California Immunization Handbook for Child Care Programs and Schools for details regarding the ages/grades at which specific immunizations are required and the doses needed.

Pursuant to Health and Safety Code 120335, districts must ensure that students entering grade 7 are fully immunized against pertussis. Beginning July 1, 2016, Health and Safety Code 120335, as amended by SB 277 (Ch. 35, Statutes of 2015), also requires districts to ensure that students are fully immunized against all specified diseases before advancing to grade 7.

The Superintendent or designee shall not unconditionally admit any student to a district elementary or secondary school, preschool, or child care and development program for the first time nor, after July 1, 2016, admit or advance ~~a~~any student to ~~specified~~ grade ~~levels~~7 unless the student has ~~presented~~been fully immunized. The student shall present documentation of full immunization, in accordance with the age/grade and dose required by the California Department of Public Health (CDPH), against the following diseases: (Health and Safety Code 120335; 17 CCR 6020)

1. Measles, mumps, and rubella (MMR)
2. Diphtheria, tetanus, and pertussis (whooping cough) (DTP, DTaP, or Tdap)
3. Poliomyelitis (polio)
4. Hepatitis B
5. Varicella (chickenpox)
6. Haemophilus influenza type b (Hib meningitis)
7. Any other disease designated by the CDPH

(cf. 5141.22 - Infectious Diseases)
(cf. 5148 - Child Care and Development)

IMMUNIZATIONS (continued)

(cf. 5148.3 - Preschool/Early Childhood Education)
(cf. 6170.1 - Transitional Kindergarten)

However, full immunization against hepatitis B shall not be a condition by which the Superintendent or designee shall admit or advance any student to grade 7. (Health and Safety Code 120335)

Note: State law does not exempt from vaccination requirements students who qualify for an individualized education program (IEP). However, Health and Safety Code 120335, as amended by SB 277 (Ch. 35, Statutes of 2015), specifies that its provisions do not prohibit a student who qualifies for an IEP from "accessing any special education and related service" required by his/her IEP. The district should consult legal counsel if it has questions about how to ensure compliance with vaccination requirements consistent with a student's IEP. The district may want to consider holding an IEP meeting to resolve any potential conflicts with the IEP.

A student who qualifies for an individualized education program (IEP), unless otherwise exempt, shall be fully immunized in accordance with Health and Safety Code 120335 and this regulation. However, the district shall continue to implement the student's IEP and shall not prohibit the student from accessing any special education and related service required by his/her IEP regardless of whether the student is fully immunized. (Health and Safety Code 120335)

(cf. 6159 - Individualized Education Program)

Note: According to the CDPH's California Immunization Handbook for Child Care Programs and Schools, the immunization record must be either a personal record with entries made by the physician or agency performing the immunization or a school immunization record from the student's previous school (either the California School Immunization Record or another state's school record). 17 CCR 6070 specifies the information that must be included in the record.

The student's immunization record shall be provided by the student's health care provider or from the student's previous school immunization record. ~~The record must show the date that each dose was administered.~~The record must show at least the month and year for each dose, except that the day, month, and year must be shown for the MMR doses given during the month of the first birthday and for the Tdap dose given during the month of the seventh birthday. (l7 CCR 6070)

Exemptions

Exemption from one or more immunization requirements shall be granted under ~~either~~any of the following circumstances: ~~(Health and Safety Code 120365, 120370; 17 CCR 6051)~~

1. The ~~student's~~ parent/guardian ~~provides~~files with the district a written statement by a licensed physician ~~that, due~~ to the effect that the physical condition of the child is such, _____ or medical circumstances

IMMUNIZATIONS (continued)

~~of the student, one or more immunizations~~ relating to the child are such, that immunization is not considered ~~unsafe or are permanently not indicated.~~safe. The ~~physician's~~ statement shall indicate the specific nature and probable duration of the medical condition or circumstances ~~that contraindicate immunization. In such circumstances, the student shall be exempted from one or more vaccines to the extent indicated by the physician's statement.~~, including, but not limited to, family medical history, for which the physician does not recommend immunization. (Health and Safety Code 120370; 17 CCR 6051)

Note: Health and Safety Code 120365, which exempted a student from one or more immunization requirements if his/her parent/guardian stated in writing that the immunizations are contrary to his/her beliefs, was repealed by SB 277 (Ch. 35, Statutes of 2015). However, SB 277 also amended Health and Safety Code 120335 to provide that a personal beliefs exemption may be granted for any student whose parent/guardian files a letter or affidavit prior to January 1, 2016 stating his/her beliefs opposed to immunization, and that such exemption shall be effective until he/she enters the next grade span. For this purpose, Health and Safety Code 120335 defines three grade spans: birth through preschool, grades K-6 (including TK), and grades 7-12. For example, a student granted a personal beliefs exemption in preschool must be immunized when entering kindergarten, and a student granted such an exemption in grade 4 must be immunized when entering grade 7. The district may revise item #2 to reflect grade levels offered by the district.

2. The student's parent/guardian files with the district, before January 1, 2016, a letter or written affidavit stating that an immunization is contrary to his/her personal beliefs, in which case the student shall be exempted from the immunization until he/she enrolls in the next applicable grade span requiring immunization (birth to preschool, grades K-6, grades 7-12). (Health and Safety Code 120335)

~~2.The student's parent/guardian provides a letter or affidavit documenting which immunizations required by Health and Safety Code 120355 have been given and which immunizations have not been given on the basis that they are contrary to the parent/guardian's beliefs.~~

(cf. 6141.2 - Recognition of Religious Beliefs and Customs)

~~When immunization(s) are contrary to the parent/guardian's personal beliefs but there is good cause to believe that the student has been exposed to one of the communicable diseases listed in Health and Safety Code 120325, the student may be temporarily excluded from school until the local public health officer is satisfied that the student is no longer at risk of developing the disease.~~

~~On or after January 1, 2014, the parent/guardian shall also submit a form prescribed by the CDPH which includes a signed attestation by a health care practitioner that indicates he/she has provided the parent/guardian with information regarding the benefits and risks of the immunization and the health risks of the communicable diseases listed in Health and Safety Code 120335 to the person and the community. The parent/guardian shall sign a~~

IMMUNIZATIONS (continued)

~~statement indicating that he/she has received this information. Neither the health care practitioner nor the parent/guardian shall sign these statements more than six months prior to the date that the student is subject to the immunization requirement. In lieu of the original form, the district shall accept a photocopy of the signed form or a letter by a health care practitioner that includes all information and attestations included on the form.~~

Note: The following paragraph reflects the CDPH's Senate Bill 277 Frequently Asked Questions, which indicate that a personal beliefs exemption filed before January 1, 2016 may be transferred to another school or child care facility within the same district or in another school district within California. The CDPH's position is that a personal beliefs exemption from another state or country is not valid. The district should consult legal counsel if any question arises regarding the validity of a student's personal beliefs exemption.

When a student transfers to a different school within the district or transfers into the district from another school district in California, his/her personal beliefs exemption filed before January 1, 2016, shall remain in effect until the next applicable grade span. A student transferring from a school outside the district shall present a copy of the personal beliefs exemption upon enrollment. When a student transfers into the district from outside California and presents a personal beliefs exemption issued by another state or country prior to January 1, 2016, the Superintendent or designee may consult with legal counsel regarding the applicable immunization requirements.

Note: Health and Safety Code 120335, as amended by SB 277 (Ch. 35, Statutes of 2015), exempts certain students enrolled in independent study, as provided below.

3. The student is enrolled in an independent study program pursuant to Education Code 51745-51749.6 and does not receive classroom-based instruction.

(cf. 6158 - Independent Study)

Conditional Enrollment

The Superintendent or designee may conditionally admit a student with documentation from an authorized health care provider that: (Health and Safety Code 120340; 17 CCR 6000, 6035)

1. The student has not received all the immunizations required for his/her age group, but has commenced receiving doses of all required vaccines and is not due for any other doses at the time of admission.

2. The student has a temporary exemption from immunization for medical reasons pursuant to item #1 in the section "Exemptions" above.

The Superintendent or designee shall notify the student's parents/guardians of the date by which the student must complete all the remaining doses as specified in 17 CCR 6035.

IMMUNIZATIONS (continued)

(cf. 5145.6 - Parental Notifications)

In addition, a transfer student may be conditionally admitted for up to 30 school days while his/her immunization records are being transferred from the previous school. If such documentation is not presented within 30 days, the student shall be excluded from school until the required immunizations have been administered. (17 CCR 6070)

The Superintendent or designee shall review the immunization record of each student admitted conditionally every 30 days until that student has received all the required immunizations. If the student does not receive the required immunizations within the specified time limits, he/she shall be excluded from further attendance until the immunizations are received. (Health and Safety Code 120375; 17 CCR 6070)

The Superintendent or designee shall immediately enroll homeless students, foster youth, and students of military families even if their immunization records are missing or unavailable at the time of enrollment. School or district staff shall work with the student's prior school to obtain the student's immunization records or shall ensure that he/she is properly immunized. (Education Code 48853.5, 49701; Health and Safety Code 120341; 42 USC 11432)
(cf. 6173 - Education for Homeless Children)
(cf. 6173.1 - Education for Foster Youth)
(cf. 6173.2 - Education of Children of Military Families)

Exclusions Due to Lack of Immunizations

Any student without the required evidence of immunization may be excluded from school until the immunization is obtained or an exemption is granted in accordance with the section "Exemptions" above.

(cf. 5112.2 - Exclusions from Attendance)
(cf. 6183 - Home and Hospital Instruction)

Before an already admitted student is excluded from school attendance because of lack of immunization, the Superintendent or designee shall notify the parent/guardian that he/she has 10 school days to supply evidence of proper immunization or an appropriate exemption. ~~(Education Code 48216; 17 CCR 6040)~~

This notice shall refer the parent/guardian to the student's usual source of medical care or, if the student has no usual source of medical care, then to the county health department or school immunization program, if any. (Education Code 48216; 17 CCR 6040)

(cf. 5141.6 - School Health Services)

The Superintendent or designee shall exclude from further attendance any already admitted student who fails to obtain the required immunization within 10 school days following the

parent/guardian's receipt of the notice specified above~~, unless the student is exempt from immunization for medical reasons or personal beliefs.~~. The student shall remain excluded from school until he/she provides written evidence that he/she has received a dose of each required vaccine due at that time. The student shall also be reported to the attendance supervisor or principal. (17 CCR 6055)

~~**Conditional Enrollment**~~

~~The Superintendent or designee may conditionally admit a student with documentation from an authorized health care provider that: (Health and Safety Code 120340; 17 CCR 6000, 6035)~~

~~1. The student has received some but not all required immunizations and is not due for any vaccine dose at the time of admission.~~

~~2. The student has a temporary exemption from immunization for medical reasons.~~

~~The Superintendent or designee shall notify the student's parents/guardians of the date by which the student must complete all the remaining doses when they become due as specified in 17 CCR 6035.~~

~~The Superintendent or designee shall review the immunization record of each student admitted conditionally every 30 days until that student has received all the required immunizations. If the student does not receive the required immunizations within the specified time limits, he/she shall be excluded from further attendance until the immunizations are received. (Health and Safety Code 120375; 17 CCR 6070)~~

Exclusion Due to Exposure to Disease

If the district has good cause to believe that a student has been exposed to a disease listed in the section "Required Immunizations" above and his/her documentation of immunization does not show proof of immunization against that disease, that student may be temporarily excluded from the school until the local health officer informs the district in writing that he/she is satisfied that the student is no longer at risk of developing or transmitting the disease. (Health and Safety Code 120370)

Records

Note: The CDPH requires that school staff record all immunization dates from each student's personal immunization record onto the California School Immunization Record (often referred to as the "blue card") and then complete the documentation section of the card which includes the type of record provided and the status of the student's immunizations. The record also may be maintained electronically. An immunization record that is directly related to a student is an "education record" subject to the Family Educational Rights and Privacy Act (20 USC 1232g; 34 CFR 99.1-99.67) and therefore generally requires parent/guardian consent to be lawfully disclosed. However, pursuant to 20 USC 1232g and 34 CFR 99.31 and 99.36, an exception exists when knowledge of the information is necessary to address an articulable and significant threat to the health or safety of the student or other individuals.

IMMUNIZATIONS (continued)

The Superintendent or designee shall record each new entrant's immunizations in the California School Immunization Record and retain it as part of the student's mandatory permanent student record. District staff shall maintain the confidentiality of immunization records and may disclose such information to state and local health departments only in accordance with law. (Health and Safety Code 120375, 120440; 17 CCR 6070)

(cf. 5125 - Student Records)

The district shall also retain in the mandatory student record any physician or health officer statement, personal beliefs letter or affidavit, reason for conditional enrollment, or any other documentation related to the student's immunization record or exemptions.

Audits

Note: The Education Audit Appeals Panel's Guide for Annual Audits of Local Education Agencies and State Compliance Reporting requires an audit of the immunization records for any school which, in the previous year, (1) failed to submit immunization assessment reports to the CDPH for kindergarten or grade 7 or (2) reported a conditional admission rate greater than 25 percent in kindergarten. The CDPH's web site contains information as to whether a school meets either of these conditions.

If an audit reveals deficiencies in the district's reporting procedures, the Superintendent or designee shall present the Board with a plan to remedy such deficiencies.