

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: **Department of Education** (*jointly with the Department of Human Services*)
Umbrella-Unit: **05-071**
Statutory authority: 20-A MRS §§ 6352-6358; 22 MRS §806
Chapter number/title: **Ch. 126** (DHHS: Ch. 261), *Immunization Requirements for School Children*
Filing number: **2021-186**
Effective date: 9/25/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Department of Health and Human Services - Maine Center for Disease Control and Prevention (DHHS) and the Maine Department of Education (DOE) are jointly adopting this routine technical rule change to implement PL 2019 ch. 154: *An Act to Protect Maine Children and Students from Preventable Disease by Repealing Certain Exemptions from the Laws Governing Immunization Requirements* (the "Act") by amending *Immunization Requirements For School Children*, a joint rule that specifies the diseases for which immunity or immunization is required for children entering elementary and secondary school. The Act prohibits the inclusion of any provision governing medical exemptions in this rule. (PL 2019 ch. 154 §7). The Act repeals the exemption from required immunization for school students who object based on a sincere religious belief or philosophical reasons, effective September 1, 2021, with exceptions for certain students, including those participating in distance learning programs and those covered by an individualized education plan. Those students who have previously declined immunizations based on religious or philosophical objection and are otherwise not eligible for exemptions permitted by law, including those attending elementary or secondary schools for pre-kindergarten instruction, will be subject to current immunization requirements for specified diseases. This rule requires schools to include in their annual reports any applicable immunization requirements adopted by ordinance or policy, in addition to the immunization status of all students, including immune students, exempt and non-immunized students. Additionally, these rule changes include new and revised definitions; add a vaccine schedule for pre-kindergarten students; clarify existing authority and responsibility to exclude an individual from school when there is a public health threat pursuant to 20-A MRS §§ 6301, 6356(1), 22 MRS ch. 250, and 10-144 CMR ch. 258 and responsibility related to non-immunized and exempt students. Finally, changes are adopted to the format of the rule for conformity with Maine CDC rulemaking standards.

Basis statement:

This joint rule is established to ensure a safe and healthful school environment for all Maine students by requiring all children entering public or private schools in the State of Maine to receive the required vaccines recommended by the Federal Centers for Disease Control (CDC) and the Advisory Committee on Immunization Practices (ACIP).

This rule prescribes the dosage for required immunization for students enrolled in or attending in-person classes or remote learning program instruction for pre-kindergarten through grade 12, clarifies circumstances requiring exclusions from school, and refines record-keeping and reporting requirements for school officials specific to children enrolled in or attending a school, including immune students, students exempt from immunization requirements in accordance with 20-A MRS §6355 and the rule, and non-immunized students. The adopted rule includes changes made based on public comment and recommendations by the Office of Attorney General, which the Department determined further clarify proposed

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provisions and, as non-substantive in nature, do not meet the threshold to require further public comment.

Public Law ch. 154 (introduced as LD798): *An Act to Protect Maine Children and Students from Preventable Disease by Repealing Certain Exemptions from the Laws Governing Immunization Requirements* was signed by Janet Mills on May 24, 2019. This new law, which takes effect September 1, 2021, removes the provisions permitting exemption from immunization requirements, based on religious and philosophical objection, and prohibits the rule from including provisions governing medical exemptions. This rule implements the requirement that all students provide a complete immunization record or a signed medical exemption that is provided by a Maine-licensed physician, nurse practitioner (NP) or physician assistant (PA) to enroll and/or attend a public or private elementary or secondary school in the State of Maine, unless otherwise exempt in accordance with this law and the adopted rule.

The Department determines that this rule adoption has no significant financial impact. This rule is supported by the Maine Immunization Program providing vaccines at no cost for children in the State, including all required school vaccines. Additionally, the rule provides for a child who has not receive vaccinations in accordance with the rule, to consult with a Maine-licensed physician, NP or PA to advise on a revised immunization schedule to catch up on required vaccination doses.

Fiscal impact of rule:

No significant financial impact.