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## MEMORANDUM

TO: Don Callaghan, Bureau Chief, Iowa Department of Public Health  
FROM: Heather Adams, Assistant Attorney General  
DATE: August 29, 2019  
RE: Immunization and School Exclusion

Iowa law requires parents and guardians assure their children obtain legally required immunizations, and requires schools to exclude from enrollment children who are not adequately immunized.<sup>1</sup>

Specifically, the immunization law provides in relevant sections:

### **Iowa Code section 139A.8: Immunization of children.**

1. A parent or legal guardian shall assure that the person's minor children residing in the state are adequately immunized[.]  
...
2. *a.* A person shall not be enrolled in any licensed child care center or elementary or secondary school in Iowa without evidence of adequate immunizations against diphtheria, pertussis, tetanus, poliomyelitis, rubeola, rubella, and varicella.  
...
- c.* Evidence of hepatitis type B immunization shall be required of a child born on or after July 1, 1994, prior to enrollment in school in kindergarten or in a grade.  
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<sup>1</sup> The law authorizes medical and religious exemptions to immunizations, and provides for provisional enrollment of a child for up to 60 calendar days if the child has begun the required immunizations. Iowa Code § 139A.8(4), (5); 614 IAC 7.3, 7.7. Additionally, homeless children cannot be excluded from school if they lack the required immunization records. See McKinney-Vento Homeless Assistance Act.

e. A person shall not be enrolled in school in the seventh grade or twelfth grade in Iowa without evidence of adequate immunization against meningococcal disease[.]

**641 IAC 7.6: Proof of immunization.**

**7.6(1)** A valid Iowa department of public health certificate of immunization shall be submitted by the applicant or, if the applicant is a minor, by the applicant's parent or guardian to the admitting official of the school or licensed child care center in which the applicant wishes to enroll.

...

**7.10 Compliance.** Applicants not presenting proper evidence of immunization, or exemption, are not entitled to enrollment in a licensed child care center or elementary or secondary school under the provisions of Iowa Code section 139A.8. It shall be the duty of the admitting official to deny enrollment to any applicant who does not submit proper evidence of immunization according to rule 641—7.6(139A) and to exclude a provisionally enrolled applicant in accordance with rule 641—7.7(139A).

The United States Supreme Court has long affirmed a state's authority to enact and enforce mandatory vaccination laws and a school's authority to exclude children from school who are not compliant with required vaccinations. *See Jacobson v. Mass.*, 25 S.Ct. 358 (1905) (there are manifold restraints, including compulsory vaccination laws, to which every person is necessarily subject for the common good); *Zucht v. King*, 43 S.Ct. 24 (1922) (affirming law which excluded children from school unless a certificate of vaccination was presented).

A school district or individual school employee may be liable if a non-compliant student is allowed to attend school and spreads a vaccine-preventable disease as a result of the district or employee's failure to comply with state immunization laws. A school district or individual school employee who knowingly enrolls a non-compliant student should seek advice from the district's legal counsel as to potential liabilities for such action. In addition, a person who knowingly violates the immunization law by enrolling a non-compliant student in school would be guilty of a misdemeanor. Iowa Code § 139A.25.

In sum, in order to enroll a child in elementary or secondary school, a parent or guardian must provide (1) a valid certificate of immunization; or (2) a valid certificate of provisional enrollment, or (3) a valid certificate of immunization exemption. An admitting official of an elementary or secondary school has a legal duty to deny enrollment to a child who does not present with one of these three valid certificates. This duty commences on the first day of a child's attendance at an elementary or secondary school and continues throughout the child's enrollment at such school.