



Vaccine Mandates in Schools

Dr. Daniel Goldberg, JD, PhD

Housekeeping

- Webinar attendees will be automatically **muted** for the presentation.
 - If you have any difficulties or questions, please put them in the **chat box**.
- We will be conducting **Q&A at the end** of the presentation.
- Please take time to fill out the **post-event evaluation** after the webinar.
- The **recording and slides** will be available on the Immunize Colorado website within one week of this presentation and will also be emailed to all attendees.

Partnering to KEEP COLORADO COMMUNITIES HEALTHY

OUR MISSION

Founded in 1991, Immunize Colorado (formerly the Colorado Children's Immunization Coalition) is a statewide 501(c)3 nonprofit that serves to protect Colorado families, schools and communities from vaccine-preventable diseases.

New Resources from Immunize Colorado!

- Fact Sheet: *Improving Equity with Data: Vaccine Reporting & Visualizations*
- Toolkit: *Immunization Policy Toolkit for Colorado Child Care Programs*
- Fact Sheet: *Vaccine Requirements in Colorado*
- Fact Sheet: *A National Review of Successes and Barriers to Pharmacists' Participation in the Vaccines for Children Program*
- Fact Sheet: *Vaccinating 5-11 Year Olds Against COVID-19*



All resources are available on our website:
www.immunizecolorado.org/resources/


School District and Childcare Immunization Factsheets

- Factsheets for each school district updated with 2020/21 school data
- Childcare immunization stats by county

Visit coschooliz.org

IMMUNIZATION

in Colorado Schools (Statewide), 2020-2021



Overview








Vaccines are a safe and effective way to prevent the spread of serious disease and keep children healthy as they grow. For each birth cohort vaccinated in the U.S. per the recommended schedule, vaccines save 40,000 lives, prevent 20 million cases of disease, and save nearly \$17 billion in direct healthcare costs.

All students and school staff deserve a healthy school environment that supports their wellbeing and builds a strong foundation for learning. It takes an entire community to protect against serious disease. Because diseases such as measles can spread rapidly, adequate vaccination coverage at the school level – roughly 95% for each vaccine -- helps to protect the health of students, staff and others in the community, including those who cannot be vaccinated for medical reasons or because they are still too young to receive vaccines. This is known as herd immunity, or community protection.

Why It Matters


- While the majority of Colorado parents vaccinate, data show there is **variation in vaccination coverage** across the state. Areas of low vaccination put children and communities at risk for outbreaks, which can spread rapidly in school settings.
- State and local **vaccination requirements** for school entry are important tools for maintaining high vaccination coverage rates and, in turn, lower rates of dangerous and costly diseases.
- Low vaccination rates can be an indicator that **families may need help understanding which vaccines their children should have** and/or where they can conveniently access free or low-cost vaccines.
- Ensuring high vaccination rates can help **keep students in school**, reducing absenteeism linked to preventable disease in support of the Every Student Succeeds Act (ESSA).
- During the COVID-19 pandemic, it's important to maintain high vaccination rates to **prevent additional outbreaks** and subsequent strain on the health care system.


What Can Schools Do?


-  **REMIND** students, families and staff of the importance of on-time vaccination, school vaccine requirements (especially during the pandemic) and additional CDC recommended vaccines such as flu.
-  **BUILD RELATIONSHIPS** between school administrators, school nurses and local public health to meet state vaccination requirements.
-  **PARTNER** with other stakeholders to identify opportunities to deliver and/or improve access to vaccines for students, such as supporting school-based health centers and vaccination clinics.
-  **SEEK SUPPORT AND GUIDANCE** from your local public health agency and CDPHE regarding communicable disease control protocol.
-  **STAY INFORMED** of science-based immunization information, as well as what's happening with vaccine coverage rates and outbreaks in your community and beyond. Vaccine-preventable disease can spread quickly across regions.
-  **ENCOURAGE** families to provide accurate vaccination records rather than claim an exemption out of convenience. Assist families in locating their child's record.
-  **SUPPORT POLICIES** that help families access vaccines and ensure appropriate funding for school nurses and resources that save time and money for schools, such as the Colorado Immunization Information System (CIIS).

Vaccination in the COVID-19 Era

As our communities continue to fight COVID-19, we've seen how a child's education can be interrupted and negatively impacted by a disease outbreak. Maintaining high COVID-19 and routine vaccination coverage of eligible students and staff is critical to ensuring their safety and that of those who cannot be vaccinated, preventing additional disease outbreaks, keeping kids in school, and preventing disruptions to learning.

**14,851** Colorado kids were hospitalized or went to an emergency room with vaccine-preventable diseases in 2019.

**96%** of vaccine exemptions in Colorado are claimed for non-medical reasons.

**30,677** K-12 students entered Colorado schools in 2019-20 without protection from one or more vaccines.

Which Vaccines Are Required for School?

MMR (Measles, Mumps, Rubella)	IPV (Inactivated Poliovirus)
DTaP (Diphtheria, Tetanus, Pertussis)	HepB (Hepatitis B)
Tdap (Diphtheria, Tetanus, Pertussis)	Varicella (Chicken Pox)

Which Vaccines Are Also Recommended by the CDC?*

Rotavirus	Influenza (Flu)
Hepatitis A	Pneumococcal
HPV (Human papillomavirus)	MenACWY (Meningococcal)
COVID-19	

*While not required for school, these vaccines are recommended by the CDC for certain age groups. [Visit the CDC's website](#) to learn more about the vaccine schedule and the diseases these vaccines prevent.

Senate Bill 163, passed into law in 2020, changed the process for claiming a non-medical exemption starting for the 2021-22 school year. [Learn more.](#)



Introducing

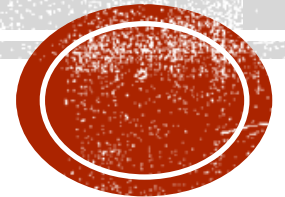
Dr. Daniel Goldberg

SCHOOL VACCINE MANDATES, ETHICS, & PUBLIC HEALTH LAW

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University of Colorado
Anschutz Medical Campus



LAND ACKNOWLEDGEMENT

I honor and acknowledge that the University of Colorado Anschutz Medical Campus sits on the traditional territories and ancestral homelands of the Cheyenne, Arapaho, and Ute. I recognize and affirm the ties these nations have to their traditional homelands and the many Indigenous people who thrive in this place, alive and strong. I also acknowledge the painful history of ill treatment and forced removal that has had a profoundly negative impact on Native nations.

I respect the many diverse Indigenous peoples still connected to this land. I honor them and thank the indigenous ancestors of this place.



NOTICE of the REQUIREMENT of VACCINATION.

To the Father, or Mother, or Person having the
Custody of the Child herein named,

Copy hereunder the No. of the Entry of the
Child's Birth from the Register Book.

Entry }
No. }

88

1. Insert Child's
name and surname.

I, the undersigned, hereby give you Notice to have the Child named
Clifford Hurst deWale, whose birth is now registered,
vaccinated by a Public Vaccinator or some other Medical Practitioner, pursuant to the
provisions of the Vaccination Acts, and that in default of your doing so, you will

MANDATORY VACCINES

- Already the norm!
- K-12 ☒
- Colleges & universities (dorms) ☒
- Private businesses ☒
- Laws mandate private entities create safe workplaces
- Needed exemptions?

2. To be filled up
by the Registrar.

The following are the attendances for Public Vaccination in your District :—





Center for Bioethics
and Humanities

UNIVERSITY OF COLORADO
ANSCHUTZ MEDICAL CAMPUS



(DISRESPECTFULLY) BRIEF OVERVIEW OF HISTORY OF SCHOOL VACCINE MANDATES IN US

- Laws tying school attendance to vaccination in US go as far back as 1855 (Massachusetts)
- Driven by small pox in particular
- However, enforcement was spotty since controlled by local school boards, many of whom opposed vaccine mandates





WHAT IS NEW IS OLD

- w/ lots of anti-vaccinationist opposition, most New England states enacted compulsory school vaccination laws by end of 19th c.
- Principals and school officials often objected to any program that would disrupt school routines



“A major hindrance to the success of the vaccination law[s] was the question of the relative authority of the health and school officials.

In 1886, the Lockport [NY] superintendent of public instruction argued that only the local school board had control over the vaccination of school children and that the health inspectors had no authority to enter schools and exclude the unvaccinated” (Duffy 1978).





THE 1894 SMALLPOX RIOTS

- In Milwaukee (1894), local politician seized on Polish and German immigrants' suspicion of government, hospitals, & vaccinations
 - Health officials seeking to quarantine homes of smallpox patients were attacked by a club-wielding mob
 - Local physicians joined in to denounce city health officer;
 - he was fired and local board of health had authority greatly reduced





HISTORICAL THEMES

1. Compulsory vaccination laws for school attendance are ~170 years old in the US
2. Fervent opposition to these laws and strong resistance to enforcement is just as old
3. Strong tradition of local control
4. Reluctance to disrupt school routine/attendance



25-4-902. Immunization prior to attending school - standardized immunization information.

(1) A student shall not attend any school in the state of Colorado on or after the dates specified in section 25-4-906 (4) unless he or she has presented one of the following to the appropriate school official:

(a) An up-to-date certificate of immunization from a licensed physician, physician assistant authorized pursuant to section 12-240-107 (6), advanced practice nurse, or authorized representative of the department of public health and environment or a local public health agency stating that the student has received immunization against communicable diseases as specified by the state board of health, based on recommendations of the advisory committee on immunization practices of the centers for disease control and prevention in the federal department of health and human services; or

(b) A written authorization signed by one parent or legal guardian, an emancipated student, or a student eighteen years of age or older requesting that local public health officials administer the immunizations; or

(c) A certificate of medical exemption, a certificate of completion of the online education module, or a certificate of nonmedical exemption in compliance with section 25-4-903. A certificate of medical exemption, a certificate of completion of the online education module, or a certificate of nonmedical exemption is only valid if completed in compliance with section 25-4-903.

**LEGAL AUTHORITY IN
COLORADO**

■ **Straightforward!**





COLORADO BOARD OF HEALTH REGS

6-CCR-1009-2

- Also quite straightforward (amended 1/14/2021)
- Subject to medical, religious, or personal belief exemptions
 - Exemptions ineffective in case of outbreak of disease for which immunization is required
- CBOH legally authorized to require additional vaccinations, esp. if recommended by ACIP
- Hepatitis B
- Diphtheria, tetanus, pertussis (DTap)
- Inactivated poliovirus (IPV)
- Measles, mumps, rubella (MMR)
- Varicella (chicken pox)
- Tetanus, diphtheria, pertussis (Tdap)





STATE EXEMPTIONS

- Requires the standard form
- No additional procedural hurdles to invoking religious or personal belief exemptions
- (Courts have traditionally been reluctant to evaluate sincerity criterion)

[Hastings Law Journal](#)

Thou Shalt Not Take the Name of the Lord Thy
God in Vain: Use and Abuse of Religious
Exemptions from School Immunization
Requirements

[Dorit Rubinstein Reiss](#)



We assume with plaintiffs that they have a right in bodily integrity. They also have a right to hold property. Yet they or their parents must surrender property to attend Indiana University. Undergraduates must part with at least \$11,000 a year (in-state tuition), even though Indiana could not summarily confiscate that sum from all residents of college age.

If conditions of higher education may include surrendering property and following instructions about what to read and write, it is hard to see a greater problem with medical conditions that help all students remain safe when learning. A university will have trouble operating when each student fears that everyone else may be spreading disease. Few people want to return to remote education—and we do not think that the Constitution forces the distance-learning approach on a university that believes vaccination (or masks and frequent testing of the unvaccinated) will make in-person operations safe enough.

LEGAL CHALLENGES?





RELIGIOUS EXEMPTIONS “MAY” BE REQUIRED

- Before 2019, consensus was that vaccine mandates did not need to permit religious exemptions (though many states chose to authorize them)
- USSCT has signaled a possible shift in this in two cases
 - *Roman Catholic Diocese of Brooklyn v. Cuomo* (2021)
 - *Tandon v. Newsom* (2021)





TWO TYPES OF PROFESSIONAL ETHICAL DILEMMAS



1. “I have no idea what the right thing to do here is.”
2. “I am pretty sure I know what the right thing to do is, but I feel blocked from doing it.”
 - Evidence suggests #2 is increasingly common
 - Powerful contributor to what has been termed “moral distress” and “moral injury”





SCHOOL NURSES CAUGHT IN THE MIDDLE . . .

‘They See Us as the Enemy’: School Nurses Battle Covid-19, and Angry Parents

School nurses, who were already stretched thin before the pandemic, say that they are overworked and overwhelmed.



Sherry McIntyre, a school nurse in western Oregon, was accused by parents of violating their children's educational rights when she quarantined students on the football team. Alisha Jucevic for The New York Times

By Emily Anthes
Nov. 13, 2021





COVID-19 may be novel, but school vaccine mandates are decidedly not

(School vaccine mandates are over 170 years old)

Overwhelmingly supported by parents (80-90% favored)

Legal authority is robust and straightforward

Minority rights are important, but there are exemption processes in place to accommodate