

KEY POINTS IF USING YOUR OWN EXEMPTION STATEMENT

- **Vaccine Choice** means a parent has the choice to fully vaccinate, spread out, delay, opt out of some but not all, or opt out of all mandated vaccinations. Michigan law protects that choice for medical, religious or other reasons. If any of the mandated vaccines are missing, the parent will need to exempt their child. In 2015, the health department implemented a policy/rule that parents must have their vaccine waiver obtained and certified at the health department. Parents must provide private information about their child at the meeting, often against their consent, sign statements they might not agree with, often answer questions they are not comfortable with, in order to obtain this waiver. As an alternative, some parents have been successful using their own vaccine exemption statement – which was the norm prior to 2015 and the law outlining that process is still in place.
- Per Michigan law, parents are able to exempt their child from any of the mandated vaccinations by **providing a statement to the school official** that the requirements cannot be met because of religious or other objection. In general, when the law clearly defines a statutory process, an administrative rule (such as the health department requirement for education/certification) should not change that process. If your school is not willing to accept **your statement**, you can ask them to seek **legal guidance** on whether they can indeed accept your statement. This likely involves the superintendent level, not school principal. Several parents have met with their superintendents in groups to discuss their concerns and request the district seek legal guidance. Districts that have done this thus far have been advised by their attorney that the parent's statement **is acceptable** and the school **does not have the authority to deny** the statement. Every school has legal counsel available to answer questions like this. There is no guarantee this will work for you, or that your school will accept your statement.
- Additionally, **public** schools must **also** follow the Revised School Code (Public Act 451 of 1976), which defines the immunization record requirements for school entry. This law clearly states that a parent's vaccine exemption statement is what that is required.

MCL 380.1177

- (1) A child enrolling in a public or nonpublic school for the first time or, beginning in the 2014-2015 school year, enrolling in grade 7 for the first time shall submit 1 of the following:
 - (a) A statement signed by a physician that the child has been tested for and immunized or protected against diseases specified by the director of the department of community health.
 - **(b) A statement signed by a parent or guardian to the effect that the child has not been immunized because of religious convictions or other objection to immunization.**
 - (c) A statement signed by a physician that certifies that the child is in the process of complying with all immunization requirements.
- Per an analysis conducted by the Michigan Legislative Services Bureau, Legal Research Division, "there is no provision within the law that allows a public school or a local department of community health to **reject** a parent's written statement objecting to the immunization of their child." A link to that analysis is provided below and you may print and provide to your school.
- Per an analysis conducted by the Michigan Law Firm Ogne, Alberts & Stuart, P.C., schools should not force parents to provide private health information to a third party (the local health department), essentially surrendering their privacy rights under FERPA, in order to meet school immunization record requirements, when the law provides a method for exemption that does not violate privacy rights (see MCL 333.9215) and is in harmony with FERPA. Analysis available at the hyperlink below which may be shared.

- Though **state law** requires schools to share information with the local and state health department, **federal law** (FERPA) prohibits this data sharing **for any school that accepts federal funding** unless the school has **written consent from the parent**. Parents can let their schools know that this information **cannot** be shared without their written consent. Violating FERPA can result in the loss of federal education dollars for the State of Michigan (~1.7 billion dollars) and for the particular school. Parents may file a complaint with the federal FERPA office if they feel their FERPA rights were violated. You can direct schools to contact the Michigan Department of Education if they have questions about this, as MDE is aware that the current practice of universally sharing this student data with the health department, without written parental consent, violates FERPA. MDE can provide specific guidance to the school but the schools themselves are responsible for ensuring they abide by FERPA provisions.
- Michigan state laws require schools to report **compliance with immunization record requirements**. Schools must either have an immunization record showing the child has met the vaccination requirements, or an exemption statement on **95% of their students** at the checkpoint years (Kindergarten, 7th grade, students new to district) to be in compliance. Public schools not in compliance are at risk of losing 5% of their state funding. **Note this is not 100%**. Schools may choose to accommodate parents who choose to submit their own exemption statement per 333.9215 and/or do not choose to provide consent for immunization data sharing. As long as the school is compliant for 95% of students in the checkpoint years, they are in compliance.
- Though schools are not required by law to inform parents of the availability of school vaccine exemptions, **they should**. If you note that your school did not inform parents of available exemptions consider working with your superintendent to foster a more transparent process. No parent should be coerced into vaccinating their child for them to attend school.
- The term OR OTHER OBJECTION TO IMMUNIZATION means that you as an individual or parent have the right to choose whether or not you vaccinate your child, and in what way you do vaccinate if choosing vaccinations. The statute does not require you to disclose what your objection to immunization is. As with any medical decision, vaccine decisions are the right of the individual or parent. The State of Michigan, your doctor and public health employees cannot force you or your child to be vaccinated. Your child cannot be excluded from a school or public program because you have exercised your right to exempt your child.

Reading Material:

- **Michigan Legislative Services Bureau, Legal Research Division Analysis:**
https://docs.wixstatic.com/ugd/36330e_4a69c584919a495d88151dc02638c32c.pdf?dn=LSB+Parent+Statement.pdf
- **FERPA Privacy Rights and Access to Student Immunization and Exemption Records: Legal Analysis of State and Federal Laws** - Hyperlinks throughout for supplementary material:
https://docs.wixstatic.com/ugd/36330e_93d6615ee3824039923a1b31d3949007.pdf?dn=MVC+FERP+A+LAW+FINAL.pdf
- **Legal Analysis of MDHHS Administrative Rule Requiring Education and Certification of Vaccine Exemptions:**
https://docs.wixstatic.com/ugd/49f017_2c0ab71d974846c8a9f15a32925fe396.pdf

DISCLAIMER:

The contents of this document are intended to convey general information only and not to provide legal advice or opinions. This should not be construed as, and should not be relied upon for, legal advice in any particular circumstance or fact situation.

VACCINE EXEMPTION STATEMENT

THERE ARE TWO OPTIONS.

YOU CAN HAVE IT NOTARIZED IF YOU WISH

VACCINE EXEMPTION STATEMENT PURSUANT TO MICHIGAN STATUTE MICHIGAN COMPILED LAWS (MCL) 333.9215

MCL 333.9215 is entitled "EXEMPTIONS":

- (1) A child is exempt from the requirements of this part as to a specific immunization for any period of time as to which a physician certifies that a specific immunization is or may be detrimental to the child's health and is not appropriate;
- (2) A child is exempt from this part if a parent, guardian in loco parentis of a child presents a written statement to the administrator of the child's school or operator of the group program to the effect that the requirements of this part cannot be met because of RELIGIOUS CONVICTIONS OR OTHER OBJECTIONS TO IMMUNIZATIONS.

I, _____, as the parent, guardian or person in loco parentis of the child
(insert your name)

_____, with date of birth ____/____/____, hereby exempt my child from the following
(insert child's name)

State of Michigan vaccine requirements due to my religious conviction(s) or other objection to immunization:

- | | | |
|--------------------------------------|--|---|
| <input type="checkbox"/> Diphtheria | <input type="checkbox"/> Measles | <input type="checkbox"/> Pneumococcal Conjugate |
| <input type="checkbox"/> Tetanus | <input type="checkbox"/> Mumps | <input type="checkbox"/> Meningitis |
| <input type="checkbox"/> Pertussis | <input type="checkbox"/> Rubella | <input type="checkbox"/> Other |
| <input type="checkbox"/> Polio | <input type="checkbox"/> Varicella | |
| <input type="checkbox"/> Hepatitis B | <input type="checkbox"/> Haemophilus influenzae type b | |

Pursuant to the statute MCL 333.9215 (2), I am providing a copy of my statement to the child's school administrator or operator of the group program.

FOR SCHOOLS THAT RECEIVE FEDERAL FUNDING: Pursuant to my rights under the Family Educational Rights and Privacy Act (**FERPA**) (20 U.S.C. § 1232g; 34 CFR Part 99), I **do NOT give consent** for the school to share, or discuss, my child's school vaccination records or this vaccine exemption statement, which are part of the education record, with the local health department, Michigan Department of Health and Human Services, or any other third party.

Date: _____

Signature of Parent/Guardian or Person in loco parentis

Provide this Vaccine Exemption Statement to your School, Preschool, or Daycare

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Date: _____

Signature of Parent/Guardian or Person in loco parentis

SUBSCRIBED AND SWORN TO before me, a Notary Public, this _____ day of _____, _____.

Notary Public

SEAL

Printed Name: _____

Resident of: _____

My Commission Expires: _____

Provide this Vaccine Exemption Statement to your School, Preschool, or Daycare

IF YOUR CHILD HAS HAD CHICKENPOX
COMPLETE THE FOLLOWING AFFIDAVIT
AND TURN IN TO YOUR SCHOOL WITH YOUR
PAPERWORK.

EVIDENCE OF VARICELLA (CHICKENPOX) IMMUNITY

PURSUANT TO DEPARTMENT OF COMMUNITY HEALTH BUREAU OF EPIDEMIOLOGY COMMUNICABLE AND RELATED DISEASES REGULATIONS

R325.176 Section 6 (J)(iii), Section 7 (I)(iii), Section 8 (I)(iii), Section 9 (I)(iii) states:

Have evidence of varicella immunity as shown by any of the following:

- A parent, guardian, person in loco parentis, or physician statement that the child has had varicella disease.

AFFIDAVIT

STATE OF MICHIGAN

COUNTY OF _____

I, _____ DEPOSE AND STATE:

- I am the mother/father of _____.
- _____ is currently enrolled at _____ school.
- _____ was born on ____/____/____
- _____ had chickenpox and therefore has natural immunity to the disease.

FOR SCHOOLS THAT RECEIVE FEDERAL FUNDING: Pursuant to my rights under the Family Educational Rights and Privacy Act (**FERPA**) (20 U.S.C. § 1232g; 34 CFR Part 99), I **do NOT give consent** for the school to share, or discuss this statement, which is part of the education record, with the local health department, Michigan Department of Health and Human Services, or any other third party.

Date: _____

Signature of Parent/Guardian or Person in loco parentis

ADDITIONAL SUPPLEMENTARY INFORMATION FOR PARENTS
IS INCLUDED IN THE FOLLOWING PAGES

APPLICABLE STATE STATUTES AND REGULATIONS

Michigan Constitution:

Article VIII, Section 2: The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin.

Public Health Code

MCL 333.9205: A parent, guardian, or person in loco parentis of a child shall provide for the child's immunization by an authorized health professional, physician, local health department, clinic, or other agency offering immunizations for diseases and within an age period prescribed by the department.

MCL 333.9208 (1): A parent, guardian, or person in loco parentis applying to have a child registered for the first time in a school in this state and, beginning January 1, 2014, a parent, guardian, or person in loco parentis of a child entering the seventh grade, shall present to school officials, at the time of registration or not later than the first day of school, a certificate of immunization or statement of exemption under section 9215.

MCL 333.9209 (1): Before November 1 of each year, the principal or administrator of each school shall deliver to the state and local health departments a list of the immunization status at the time of school entry of new entering kindergarten and first grade students.

MCL 333.9209 (4): Before the following February 1, the principal or administrator of each school shall update the list to show the additional immunizations received by each child since entering the school. The reports shall be made on forms provided or approved by the department. A child who enters school in September and who has not completed the immunizations required under section 9227 and has not filed an exemption under section 9215 before February 1 shall be excluded from school attendance. A child who enters school at any other time of the school year and who has not completed the immunizations required under section 9227 and has not filed an exemption under section 9215 within 4 months after entrance shall be excluded from school attendance.

MCL 333.9211 (1): A parent, guardian, or person in loco parentis applying to have a preschool aged child registered in a program of group residence, care, or camping shall present to the operator of the program at the time of registration or not later than the first day of the program a certificate of immunization or a statement of exemption under section 9215. The operator of the group program shall not permit a child to attend the group activity unless a minimum of 1 dose of an immunizing agent against each of the diseases specified by the department has been received and certified to by a health professional or local health department. A parent, guardian, or person in loco parentis of a child registered with only these minimum doses of an immunizing agent and continuing enrollment in the group program shall present an updated certificate of immunization within 4 months after initial attendance showing that the immunizations have been completed as prescribed by the department, if the child remains in the program.

MCL 333.9215 (1): A child is exempt from the requirements of this part as to a specific immunization for any period of time as to which a physician certifies that a specific immunization is or may be detrimental to the child's health or is not appropriate.

MCL 333.9215 (2): A child is exempt from this part if a parent, guardian, or person in loco parentis of the child presents a written statement to the administrator of the child's school or operator of the group program to the effect that the requirements of this part cannot be met because of religious convictions or other objection to immunization.

The Revised School Code

MCL 380.10: It is the natural, fundamental right of parents and legal guardians to determine and direct the care, teaching, and education of their children. The public schools of this state serve the needs of the pupils by cooperating with the pupil's parents and legal guardians to develop the pupil's intellectual capabilities and vocational skills in a safe and positive environment.

MCL 380.1177 (1b): A child enrolling in a public or nonpublic school for the first time or, beginning in the 2014-2015 school year, enrolling in grade 7 for the first time shall submit 1 of the following:

(b) A statement signed by a parent or guardian to the effect that the child has not been immunized because of religious convictions or other objection to immunization.

The State School Aid Act

MCL 388.1767 (2): Each district or intermediate district shall report to the local health department in which it is located by November 1 of each fiscal year, in a manner prescribed by the department of community health, the immunization status of each pupil in grades K through 12 who enrolled in the district or intermediate district for the first time or, beginning in 2014-2015, who enrolled in grade 7 in the district or intermediate district for the first time, between January 1 and September 30 of the immediately preceding fiscal year. Not later than December 31 of each fiscal year, the department of community health shall notify the department by district or intermediate district of the percentage of entering pupils and, beginning in 2014-2015, of pupils who enrolled in grade 7 for the first time who do not have a completed, waived, or provisional immunization record in accordance with section 1177 of the revised school code, MCL 380.1177. If a district or intermediate district does not have a completed, waived, or provisional immunization record in accordance with section 1177 of the revised school code, MCL 380.1177, for at least 90% of the district's or intermediate district's entering pupils, as recorded in the November 1 reports required under this subsection, the district or intermediate district is subject to subsection (4) until the district or intermediate district has such an immunization record for at least 90% of its pupils who enrolled in the district or intermediate district for the first time.

MCL 388.1767 (3): Each district or intermediate district shall again report to the local health department in which it is located by February 1 of each fiscal year, in a manner prescribed by the department of community health, the immunization status of each pupil in grades K through 12 who enrolled in the district or intermediate district for the first time or, beginning in 2014-2015, who enrolled in grade 7 in the district or intermediate district for the first time, between January 1 of the immediately preceding fiscal year and December 31 of the current fiscal year. Not later than March 31 of each fiscal year, the department of community health shall notify the department by district or intermediate district of the percentage of entering pupils and, beginning in 2014-2015, of pupils who enrolled in grade 7 for the first time who do not have a completed, waived, or provisional immunization record in accordance with section 1177 of the revised school code, MCL 380.1177. If a district or intermediate district does not have a completed, waived, or provisional immunization record in accordance with section 1177 of the revised school code, MCL 380.1177, for at least 95% of the district's or intermediate district's entering pupils, as recorded in the February 1 reports required under this subsection, the district or intermediate district is subject to subsection (4) until the district or intermediate district has such an immunization record for at least 95% of its pupils who enrolled in the district or intermediate district for the first time. If the department of community health is not able to report to the department by March 31 because a district or intermediate district fails to submit a report as required in this subsection, or submits an incomplete, inaccurate, or late report, the district or intermediate district is subject to subsection (4) until the report is submitted in a complete and accurate form.

MCL 388.1767 (4): If a district or intermediate district does not comply with this section, the department shall withhold 5% of the total funds due to the district or intermediate district under this act after the date the department of community health reports a district's or intermediate district's noncompliance with this section to the department until the district or intermediate district complies with this section. If the district or intermediate district does not comply with this section by the end of the fiscal year, the district or

intermediate district forfeits the total amount withheld.

MDHHS Regulations – Communicable and Related Diseases

R325.176 (1d): "Religious or other exemption" means a written statement which is signed by the parent, guardian, or person in loco parentis of a child, which certifies that immunization is in conflict with religious or other convictions of the signer, and which includes the name and date of birth of the child.

R325.176 (12): When presented with a medical exemption, religious or other exemption, the administrator of a child's school or operator of a child's group program shall recognize the exemption status of the child. Each nonmedical exemption filed at the child's school or group program of a child entering a program after December 31, 2014 shall be certified by the local health department that the individual received education on the risks of not receiving the vaccines being waived and the benefits of vaccination to the individual and the community. All waivers shall be submitted using the waiver form prescribed by the department.

R325.176 (13): A standard record of the immunizations required by this rule and exemptions shall be maintained by every school for every pupil on forms supplied by the department. When a pupil transfers to another school or school district, the record of immunization, or a true copy of the record, shall be sent to the new school by the original school.

R325.176 (14): All of the following information shall be provided to fulfill the requirements of section 9209 (1) of the code:

- (a) A listing, by child, of the number of doses of each vaccine received.
- (b) The date of each immunization for each vaccine received in the series.
- (c) A listing, by type of exemption granted, of the children who have exemptions.

R325.176 (16): A principal of a school or operator of a group program shall make immunization records available for inspection by authorized representatives of the department or the appropriate local health department. The local health officer shall also make public clinic immunization records available to local schools or group programs for the purpose of verifying pupil immunizations.

Licensing Rules for Daycares

R 400.8143 (3b): A copy of a waiver addressed to the department of community health and signed by the parent stating immunizations are not being administered due to religious, medical, or other reasons.

GENERAL VACCINE INFORMATION

Making Informed Decisions

Your decision to vaccinate or not should be an informed decision. Vaccines can cause severe injuries including seizures, death, anaphylaxis, brain damage or minor reactions, which may include fever. The type and severity of reactions may vary from vaccine to vaccine. The effects of the vaccine injury may be temporary or permanent. If you notice any changes in your child's condition after the shot, you should contact your doctor immediately or go to a hospital. No vaccine is one hundred percent effective and you or your child may contract the disease even if you are vaccinated. The reaction rates and effectiveness of vaccines vary from vaccine to vaccine. You may even contract the disease from the vaccine if the vaccine contains a live virus like measles. The immunity provided by a vaccine decreases with time and you may need to be re-vaccinated periodically to continue immunity. You may choose to vaccinate your child with all available vaccines, some vaccines or no vaccines at all. Because the risks and benefits of each vaccination vary you should research as to each vaccine what the risks and benefits are.

You should provide a detailed history to the health provider of any health abnormalities your child may have prior to vaccinating especially if your child has had reactions to vaccines in the past, has a pre-existing neurological condition or is immune deficient. Under certain conditions the manufacturer or health care provider may recommend that your child not receive the vaccine or delay vaccination. You should also find out at what ages the vaccine is recommended to be administered.

Risks of Non-Vaccination

If you do not vaccinate your child, your child may be at a higher risk of contracting the disease than a vaccinated person. The disease may result in minor symptoms or severe complications including death. The nature and severity of complications will vary depending on the particular disease. The risks of contracting diseases may vary over time or by locality. The disease and some or all of the complications from the disease may be treatable by alternative methods like antibiotics or may resolve without treatment. Because the risks from each disease vary you should research the risks associated with the disease, the likelihood of contracting the disease and alternative methods of treating the disease.

For More Information

To make an informed decision there are numerous sources of information on the risks and benefits of the vaccine and the risks involved from the disease. Sources of information to determine if the risks associated with the vaccine outweigh the benefits include the package insert, physician desk reference, U.S. Centers for Disease Control and Prevention, public and medical libraries, state and local health agencies, the Food and Drug Administration, your health care providers, Michigan for Vaccine Choice at (586) 447-2418 or www.michiganvaccinechoice.org and the National Vaccine Information Center at (703) 938-0342 or www.nvic.org.

Reporting Reactions

You should report vaccine reactions to the Vaccine Adverse Event Reporting System (VAERS) at (800) 822-7967 or online at www.vaers.hhs.gov. If you do choose to vaccinate, make sure you receive the name of the vaccine manufacturer and the lot number. If your child has a vaccine injury, your child may be eligible for compensation under the National Vaccine Injury Compensation Act. You can find out more information at www.hrsa.gov/vaccinecompensation.