



TEXAS HOUSE of REPRESENTATIVES

Gary Gates

State Representative, District 28

June 25, 2025

The Honorable Ken Paxton
Attorney General of Texas
Office of the Attorney General
ATTN: Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

Re: Request for Attorney General Opinion Regarding Immunization Exclusions During Emergencies or Epidemics

Dear General Paxton,

This letter serves as a formal request for your opinion concerning what authority the Department of State Health Services Executive Commissioner has to empower school administrators and instruct them that they "shall" exclude children during an "outbreak" when statute uses the words "may" and "epidemic"? Additionally, how do school administrators distinguish between those who are exempted and unimmunized and those who are fully or partially immunized but exempted from further vaccination?

Background

In Education Code §38.001(f), the statute states:

(f) A person who has not received the immunizations required by this section for reasons of conscience, including because of the person's religious beliefs, may be excluded from school in times of emergency or epidemic declared by the commissioner of public health.

However, 25 Texas Administrative Code §97.7(a) states:

(a) The school administrator shall exclude from attendance any child having or suspected of having a communicable condition. The conditions and readmission criteria are as follows:

(15) measles (rubeola)--exclude until four days after rash onset or in the case of an outbreak, exclude unimmunized child for at least 21 days after the last date the unimmunized child was exposed.

Thank you for your time and assistance in this matter. Please do not hesitate to contact my office should you require additional information or clarification regarding this request.

Sincerely,

A handwritten signature in black ink, appearing to be "Gary Gates", written over a horizontal line.

Gary Gates
State Representative, House District 28

Enclosure: 1

cc: George Lane, Director of Government Relations, Office of the Attorney General



Interim Guidance for Measles in Schools, March 2025

This document provides information for schools on proactive measures they may take now and steps to follow if a case of measles is identified within a school. Measles is a serious health concern and can disrupt learning due to students being out of school for illness and exclusion from school. The best protection against measles is vaccination.

Actions for Schools to Consider Taking Now

1. Identify and Notify At-Risk Individuals

- Maintain an up-to-date list of students without documentation of two (2) doses of the MMR (measles-mumps-rubella) vaccine. This includes those with medical, religious, or philosophical exemptions.
- Inform these families that measles has been identified in the community, emphasizing the importance of vaccination.

2. Promote Vaccination

- Regularly communicate with parents and staff about the importance of staying up to date on immunizations.
- Reinforce that two doses of the MMR vaccine are 97% effective at preventing measles.
- Consider offering a vaccination clinic for interested families.

3. Strengthen General Health Messaging

- Encourage proper respiratory hygiene, including covering coughs and sneezes.
- Promote frequent handwashing with soap and water; if unavailable, use hand sanitizer.
- Remind families and staff to stay home when sick.

4. Enhance Cleaning Protocols

- Regularly disinfect high-touch surfaces, such as doorknobs, tables, and counters.

5. Monitor for Symptoms and Prepare for Action

- Educate staff on measles symptoms, including fever, cough, runny nose, red eyes, and rash.
- Identify a private room where symptomatic students can wait for parental pickup.
- If measles is suspected, advise families to contact their healthcare provider, urgent care, or emergency room before arriving to prevent further spread.

Actions to Take Immediately if a Student or Staff Member Has Measles

1. Immediately Isolate Any Person Suspected of Having Measles

2. Notify your Local Health Department

- If a student or staff member is confirmed or suspected to have measles, immediately contact the local health department.
- Public health officials will assist in identifying and notifying those who may have been exposed.

3. Isolate the Infected Individual

- The infected person must stay home away from others and avoid all public spaces, including school, daycare, work, social gatherings, sports, and recreational activities.
- Isolation should continue until they are no longer contagious, 4 days after the onset of the rash.

4. Identify Exposed, Unvaccinated Students

- If a case is identified in your school, the school administrator is required to exclude from attendance all exposed unimmunized students.
- Exposure is defined as sharing airspace with a measles case or being in that space within two hours after the infected person left.
- Exclusion means the student may not attend school, childcare, clubs, sports, or any school-related activities.

5. Exceptions to Exclusion of Exposed, Unvaccinated Individuals (Post Exposure Prophylaxis)

- Students with zero doses of MMR vaccine may return to school immediately if they receive their first documented dose within 72 hours of exposure. A second dose of MMR vaccine is strongly recommended, at minimum 28 days after the first dose of the vaccine.
- Students with one documented MMR dose may remain in school with no exclusion. However, students are strongly recommended to receive their second dose of MMR vaccine, at minimum 28 days after the first dose of the vaccine.
- Best practices indicate that this could be applied to both exposed students and staff.

6. Monitor the School Community

- All students and staff should monitor for measles symptoms for 21 days after the last known exposure (see table below).
- Schools should remind families and staff to remain vigilant in recognizing symptoms early to prevent further spread.

Measles Symptoms:

Fever, cough, runny nose, and red, watery eyes

Small, bluish-white spots inside the mouth (Koplik spots)

Rash that starts at the hairline and spreads downward

Possible complications: diarrhea, pneumonia, ear infections, brain inflammation, convulsions, deafness, intellectual disability, or death

Texas 2025 Measles Outbreak -INTERIM Recommended School Guidance
(This guidance is only applicable for the ongoing 2025 Texas measles outbreak and subject to change)

Exclusion Scenarios	Recommendations
Isolation of <u>Measles Positive</u> Individuals	<ul style="list-style-type: none"> Infected individuals must stay at home and avoid all public places (school, daycare, work, social activities, etc.) until 4 days after the rash begins.
Students with <u>Zero</u> Doses of MMR Vaccine	<ul style="list-style-type: none"> Exclusion continues until they receive 1 dose of MMR vaccine within 72 hours after exposure. If 1 dose of MMR vaccine is received within 72 hours, individuals can return to school immediately. A second dose of MMR vaccine is strongly recommended, at minimum 28 days after the first dose.
Students with Zero Doses <u>Refusing/Unable</u> to Receive MMR Vaccine	<ul style="list-style-type: none"> Exclusion continues for 21 days after the last date the unimmunized child was exposed. Exclusion period may be extended if the unimmunized child is exposed to another measles case.
Students with <u>1 Dose</u> of MMR Vaccine	<ul style="list-style-type: none"> Exposed individuals/contacts can remain in school and no exclusion is recommended at this time. However, individuals are strongly recommended to receive their second dose of MMR vaccine immediately, at minimum 28 days after the first dose.
Exposed Students and Staff (Monitoring Symptoms)	<ul style="list-style-type: none"> Monitor symptoms (fever, cough, rash, etc.) for 21 days after exposure.

Additional Information

The [Texas Administrative Code \(TAC\)](#) Rule §97.7 requires the school administrator to exclude from attendance all exposed unimmunized students for at least 21 days after the last date the unimmunized individual was exposed.

Individuals without proof of immunity may develop measles after exposure and must stay home to prevent spreading the virus. Students who do not receive an MMR dose within 72 hours, including those with medical or other exemptions, should remain excluded until 21 days after the last date the unimmunized child was exposed.

If multiple measles cases occur in the school, the 21-day exclusion period resets with each new exposure, potentially extending the exclusion period.



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Gary Gates

State Representative, District 28

June 25, 2025

The Honorable Ken Paxton
Attorney General of Texas
Office of the Attorney General
ATTN: Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

Re: Request for Attorney General Opinion Regarding Vaccine Exemptions in Statute Versus Rule

Dear Attorney General Paxton,

This letter serves as a formal request for your opinion regarding whether the Department of State Health Services or an individual institute of higher education has the authority to deny a Reasons of Conscience Affidavit from a college student pursuing a healthcare-related course of study wishing to exempt themselves from vaccine requirements.

Background

In Education Code Section 51.933, the law states the following:

(a) An institution of higher education may require applicants for admission to be immunized against diphtheria, rubeola, rubella, mumps, tetanus, and poliomyelitis, except as provided in Subsection (d).

(b) The executive commissioner of the Health and Human Services Commission may require immunizations against the diseases listed in Subsection (a) and additional diseases for students at any institution of higher education who are pursuing a course of study in a human or animal health profession, and the executive commissioner may require those immunizations for any students in times of an emergency or epidemic in a county where the commissioner of state health services has declared such an emergency or epidemic.

(d) No form of immunization is required for a person's admission to an institution of higher education if the person applying for admission: (1) submits to the admitting official:

(B) an affidavit signed by the applicant or, if a minor, by the applicant's parent or guardian stating that the applicant declines immunization for reasons of conscience, including a religious belief.

However, 25 Texas Administrative Code §97.64 states the following:

(a) Students enrolled in (non-veterinary) health-related courses. This section applies to all students enrolled in health-related higher education courses which will involve direct patient contact with potential exposure to blood or bodily fluids in educational, medical, or dental care facilities.

(b) Vaccines Required. Students must have all of the following vaccinations before they may engage in the course activities described in subsection (a) of this section:

- (1) Tetanus-Diphtheria Vaccine*
- (2) Measles, Mumps, and Rubella Vaccines*
- (3) Hepatitis B Vaccine.*
- (4) Varicella Vaccine.*

(c) Limited Exceptions:

(3) The immunization requirements in subsections (b) and (d) of this section are not applicable to individuals who can properly demonstrate proof of laboratory confirmation of immunity or laboratory confirmation of disease. Vaccines for which this may be potentially demonstrated, and acceptable methods for demonstration, are found in §97.65 of this title (relating to Exceptions to Immunization Requirements (Verification of Immunity/History of Illness)). Such a student cannot participate in coursework activities involving the contact described in subsection (a) of this section until such time as proper documentation has been submitted and accepted.

Additionally, 25 Texas Administrative Code §97.65 states, “Exceptions to Immunization Requirements” does not include language referencing the Reasons of Conscience Affidavit allowed for in Education Code §51.933.

I have also enclosed a letter from Ms. Imelda Garcia, Chief Deputy Commissioner, Department of State Health Services, to Senator Kelly Hancock on May 13, 2025, that outlines previous and current agency interpretation of the existing statutes and rules. In her letter, Ms. Garcia states, “It has come to her attention that there is some confusion regarding the applicability of vaccine exemptions in certain higher education settings.” She later stated, “It is our interpretation that the exemption provisions included in Section 51.933(d) apply both to the general vaccine requirement in (a), as well as health-related and veterinary course work options authorized in (b) and (b-1).”

Request

Therefore, I respectfully request that the Attorney General provide his opinion on the following question:

Does the Department of State Health Services or an individual institute of higher education have the authority to deny a Reasons of Conscience Affidavit from a college student pursuing a healthcare-related course of study wishing to exempt themselves from vaccine requirements?

I have also enclosed recent guidance as of March 2025 from the Department of State Health Services to Texas school districts regarding the exclusion of students who are exempt from the MMR vaccine.

Request

I respectfully request that the Attorney General provide his opinion on the following questions:

1. What authority does the Department of State Health Services Executive Commissioner have to empower school administrators and instruct them that they “shall” exclude children during an “outbreak” when statute uses the words “may” and “epidemic”?
2. How do school administrators distinguish between those who are exempted and unimmunized and those who are fully or partially immunized but exempted from further vaccination?

Thank you for your time and assistance in this matter. Please do not hesitate to contact my office should you require additional information or clarification regarding this request.

Sincerely,



Gary Gates
State Representative, House District 28

Enclosure: 1

cc: George Lane, Director of Government Relations, Office of the Attorney General



TEXAS
Health and Human
Services

Texas Department of State Health Services

Jennifer A. Shuford, M.D., M.P.H.
Commissioner

May 13, 2025

The Honorable Kelly Hancock
Member, Texas Senate
State Capitol, Room 1E.12
Austin, TX 78701

Dear Senator Hancock:

Thank you for meeting with me recently regarding current vaccine exemptions authorized in law. It has come to my attention that there is some confusion regarding the applicability of vaccine exemptions in certain higher education settings. This letter outlines previous and current agency interpretation of the existing statutes and rules.

Texas Education Code, Section 51.933, authorizes institutions of higher education to require applicants to submit proof of vaccination for specific types of vaccines. Additionally, the statute authorizes the Executive Commissioner of the Health and Human Services Commission to include additional vaccines for health-related and veterinary course work. For courses in which there is a likelihood of exposure to bodily fluids and/or blood, vaccination against Hepatitis B may also be required.

It is our interpretation that the exemption provisions included in Section 51.933(d) apply both to the general vaccine requirement in (a), as well as health-related and veterinary course work options authorized in (b) and (b-1).

Thank you again for reaching out to DSHS about the confusion concerning existing statute and rules. DSHS intends to update the existing rules after the legislative session to provide additional clarity regarding the applicability of the exemptions in all higher education settings outlined in Section 51.933.

Please let me know if you have any questions or need additional information. Jordan Hill-Shepherd, Director of Government Affairs, serves as the lead staff on this matter and she can be reached by telephone at (512) 221-3755 or by email at Jordan.Hill@dshs.texas.gov.

The Honorable Kelly Hancock

May 13, 2025

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Sincerely,

A handwritten signature in cursive script that reads "Imelda Garcia". The signature is written in dark ink and is positioned above the printed name and title.

Imelda Garcia, MPH
Chief Deputy Commissioner
DSHS