
**Report to
The Vermont Legislature**

Report Concerning the Mandatory Immunization of School Personnel

In Accordance with Act 37 (2015), Section 11
An Act Relating to Reportable Disease Registries and Data.

Submitted to: House Committees on Health Care
Senate Committee on Health and Welfare

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**Report Concerning the Mandatory Immunization of School Personnel
Act 37 (2015), Section 11**

Executive Summary

In accordance with Act 37 (2015), (see Appendix A) the Vermont Department of Health (VDH), assessed whether it is appropriate from a legal, policy, and medical perspective to require school personnel to be immunized against those diseases addressed by the Department’s list of required immunizations for school attendance.

The Department recommends adopting a recommended schedule of vaccinations for school personnel and for all adults who interact with children in school and child care settings.

Routine immunization of adults is the best means of preventing vaccine-preventable diseases in general. Adults with prolonged contact with children, like teachers and coaches, are a source of transmission of infections. Several of the vaccines recommended for adults will prevent diseases that can be transmitted to children in the school setting including pertussis, varicella, measles, mumps, rubella and influenza.¹²³ The Department of Health has seen success with starting with voluntary compliance as a starting point for such measures. Monitoring/Tracking will allow policy makers the necessary information to determine in the years to come whether mandatory vaccinations are necessary.

¹ Advisory Committee on Immunization Practices. 2011. Recommended adult immunization schedule – United States, 2011. *Ann Intern Med* 154:168-73.

² Centers for Disease Control and Prevention. 2011. General recommendations on immunization: Recommendations of the Advisory Committee on Immunization Practices. *MMWR* 60 (RR02). <http://www.cdc.gov/mmwr/pdf/rr/rr6002.pdf>

³ Centers for Disease Control and Prevention. 2015. Recommended adult immunization schedule – United States, 2015. <http://www.cdc.gov/vaccines/schedules/easy-to-read/adult.html>.

Report Concerning the Mandatory Immunization of School Personnel
In accordance with Act 37 (2015), Section 11
January 8, 2016

Introduction

Background

In 1979, the General Assembly passed Act 40 that made immunizations mandatory for children entering schools in Vermont. The law was designed to protect children from common communicable childhood diseases – rubella, measles, diphtheria, tetanus, pertussis, and polio. Following the enactment of the law, there was a dramatic decrease in the number of cases of rubella and measles in Vermont. Diphtheria, tetanus, and polio cases had already diminished to a very small number even before 1979 due to widespread vaccinations.

The law has been amended several times since 1979, including in 1981, 2007, and 2011. Significantly, in 2015 the legislature passed Act 37 that removed the philosophical exemption to mandatory immunization that allows student to attend school and child care without receiving the vaccination schedule. That exemption will be repealed on July 1, 2016. This action was taken, in part, over concerns about low vaccination rates in schools, recent outbreaks of preventable diseases,⁴ and the concern that low vaccination rates might give rise to new outbreaks.⁵

Today, all 50 states require certain vaccinations, with legal exemptions, for children entering public schools. Routine immunization is the best means of preventing vaccine-preventable diseases. In addition to students and children in day care, health care providers, especially those coming into direct contact with patients, also present a potential vector for disease.

⁴ <https://www.cdph.ca.gov/HEALTHINFO/DISCOND/Pages/Measles.aspx>;
http://healthvermont.gov/prevent/pertussis/documents/confirmed_cases_graph.pdf;
http://www.cfr.org/interactives/GH_Vaccine_Map/index.html#map;

⁵ Lieu TA, Ray GT, Klein NP, Chung C, Kulldorff M. Geographic clusters in underimmunization and vaccine refusal. *Pediatrics*. 2015;135:280-9.

Omer SB, Enger KS, Moulton LH, Halsey NA, Stokley S, Salmon DA. Geographic clustering of nonmedical exemptions to school immunization requirements and associations with geographic clustering of pertussis. *Am J Epidemiol*. 2008;168:1389-96.

May T, Silverman RD. 'Clustering of exemption' as a collective action threat to herd immunity. *Vaccine*. 2003;21:1048-51.

Some states require that health care providers have certain immunization and the Centers for Disease Control (CDC) maintains a recommended schedule of vaccinations for healthcare personnel.^{6,7} In addition, Vermont’s own Immunization Rule requires that students enrolled in a “health science programs” be vaccinated.

As of this date, no state requires that school personnel, such as teachers and coaches, or child care workers to be vaccinated. Some states, such as Massachusetts and Utah have a recommended vaccination schedule for teachers and day care staff.⁸ It is notable that the two states do not track vaccination rates of teachers and there is no formal follow-up to determine if the recommendation has resulted in higher rates or vaccination or has resulted in lower rates of the spread of vaccine-preventable diseases.



Legal and Policy Perspective

Legislative

As a matter of law, it is well settled that, under the State’s police powers, the legislature has the authority to require that certain persons be vaccinated.⁹ It is likely that the imposition of vaccination for the school personnel, for the purposes of protecting the public health in general, and school-aged children in particular, is legal. This could be accomplished in three principle ways.

⁶[http://www.cdc.gov/mmwr/preview/mmwrhtml/rr6007a1.htm?s_cid=rr6007a1;](http://www.cdc.gov/mmwr/preview/mmwrhtml/rr6007a1.htm?s_cid=rr6007a1)

<http://healthvermont.gov/hc/imm/documents/HealthcarePersonnelVaccineRecommendations.pdf>

⁷ The New York State Health Department promulgated a rule requiring flu vaccination for health care workers, though it was withdrawn , <http://www.nytimes.com/2009/10/23/nyregion/23flu.html>

⁸ <http://www.mass.gov/eohhs/docs/dph/cdc/immunization/guidelines-adult.pdf>

⁹ See, *Jacobson v Massachusetts*, 197 US 11, 25 and generally (1905); http://www.immunize-utah.org/pdf/Utah_School_Childcare_Employee_Imm_Rec.pdf

First, the legislature could pass an Act that requires school personnel, as defined within the Act itself, and tailored for this purpose, to be vaccinated.

It could adopt an immunization schedule that would specify what vaccinations would be required in order to be employed in schools and child care centers or be otherwise engaged in activities that met the definition of “school personnel.”¹⁰ This has the benefit of having of all decision-making taking place within the context of the legislative process.

Second, the legislature could provide the Department of Health, in consultation with the Agency of Education, with the explicit authority to adopt rules requiring school personnel to be vaccinated. While both entities have general rulemaking authority that could be utilized, for such an important policy decision, a legislative mandate is appropriate.¹¹ This approach would have the benefit of allowing experts in the Department and the Agency to consult with stakeholders and would have the value of the public process required by the Administrative Procedures Act.

Lastly, a hybrid of the two listed approaches could be pursued. That is, the legislature could pass a law setting forth some elements of an intended rule and leave other elements to the administrative agencies.

Non-Legislative

The Department of Health could adopt a schedule of vaccinations that is adult-specific and tailored to the needs of school personnel. As noted above, this is already being done in the State of Utah and Commonwealth of Massachusetts. This approach has the benefit of informing school personnel, as well as parents and guardians, what vaccinations they should receive if they are going to interact with school-age children.

Vermont, however, could take an additional step. Where Utah and Massachusetts simply publishes a schedule, the Department could develop a tracking system or survey questions through existing lines of communication. Having aggregated data would allow the Commissioner of Health to recommend to the legislature any additional steps that might be needed.

¹⁰ The definition of “school personnel” could be defined in a such a way that would encompass more than persons “employed” by a school or school system, i.e. volunteers or independent contractors.

¹¹ Though both entities have general rulemaking authority. See 18 V.S.A. § 102 and 16 V.S.A. § 164.

Medical Perspective

Routine immunization of adults is the best means of preventing vaccine-preventable diseases. Vaccine-preventable diseases of adults represent a continuing cause of morbidity and mortality and a source of transmission of infectious organisms. Vaccines, which are safe and effective in preventing these diseases, need to be used in adults to minimize disease and to eliminate potential sources of transmission to school age children.

Recommendations

Recommendation 1. The Department of Health on its own, or at the direction of the General Assembly, should adopt a voluntary recommend schedule of vaccinations for adult school personnel.

Recommendation 2.) The Department of Health should survey school nurses and administrators biannually to determine levels of compliance with the published recommended schedule.

Appendix A: statutory reference for pilot

No. 37. An act relating to reportable disease registries and data.

Sec. 11. REPORT; MANDATORY IMMUNIZATION OF SCHOOL PERSONNEL

(a) On or before January 15, 2016, the Department, in consultation with the Agency of Education, shall submit a report to the Senate Committee on Health and Welfare and the House Committee on Health Care assessing whether it is appropriate from a legal, policy, and medical perspective to require school personnel to be immunized against those diseases addressed by the Department's list of required immunizations for school attendance.