

DISEASE CONTROL IN SCHOOLS

433.235 Definitions for ORS 433.235 to 433.284. As used in ORS 433.235 to 433.284:

- (1) "Administrator" means the principal or other person having general control and supervision of a school or children's facility.
- (2) "Children's facility" or "facility" means:
 - (a) A certified child care facility as described in ORS 657A.030 and 657A.250 to 657A.450, except as exempted by rule of the Department of Human Services;
 - (b) A program operated by, or sharing the premises with, a certified child care facility, school or post-secondary institution where care is provided to children, six weeks of age to kindergarten entry, except as exempted by rule of the department; or
 - (c) A program providing child care or educational services to children, six weeks of age to kindergarten entry, in a residential or nonresidential setting, except as exempted by rule of the department.
- (3) "Local health department" means the district or county board of health, public health officer, public health administrator or health department having jurisdiction within the area.
- (4) "Parent" means a parent or guardian of a child or any adult responsible for the child.
- (5) "Physician" means a physician licensed by the Board of Medical Examiners for the State of Oregon or by the Naturopathic Board of Examiners or a physician similarly licensed by another state or country in which the physician practices or a commissioned medical officer of the Armed Forces or Public Health Service of the United States.
- (6) "School" means a public, private, parochial, charter or alternative education program offering kindergarten through grade 12 or any part thereof, except as exempted by rule of the Department of Human Services. [Formerly 433.263; 1991 c.255 §1; 1995 c.278 §55; 2001 c.900 §156]

433.240 Parental responsibility.

- (1) In adopting ORS 433.235 to 433.284, the Legislative Assembly recognizes the obligation of parents to have their children properly immunized and to provide to schools and facilities accurate records of immunization.
- (2) Notwithstanding ORS 339.030, nothing in ORS 433.235 to 433.284 operates to remove parental liability under compulsory attendance laws. [1981 c.78 §§9,10; 1985 c.579 §5; 1989 c.619 §6]

433.245 Advisory committee; membership.

(1) The Director of Human Services shall appoint a committee to advise the Department of Human Services on the administration of the provisions of ORS 433.235 to 433.284, including the adoption of rules pursuant to ORS 433.269 (2), 433.273, 433.282 and 433.283.

(2) Members of the committee appointed pursuant to subsection (1) of this section shall include, but need not be limited to, representatives of the Department of Human Services, the Department of Education, public, private and parochial schools, children's facilities, institutions of post-secondary education, education service districts, local health departments, the boards of county commissioners or county courts and the public. [1981 c.78 §8; 1991 c.255 §2]

433.255 Persons with or exposed to restrictable disease excluded from school or children's facility.

Except in strict conformity with the rules of the Department of Human Services, no child or employee shall be permitted to be in any school or children's facility when:

- (1) That child or employee has any restrictable disease;
- (2) That child or employee comes from any house in which exists any restrictable disease; or
- (3) That child has been excluded as provided in ORS 433.267 (5) or (7). [Amended by 1973 c.259 §18; 1981 c.78 §2; 1989 c.224 §88; 1991 c.67 §115; 1991 c.255 §4]

433.260 Exclusion of persons exposed to or having restrictable disease from school or children's facility; certificate for readmission.

(1) Whenever any administrator has reason to suspect that any child or employee has or has been exposed to any restrictable disease and is required by the rules of the Department of Human Services to be excluded from a school or children's facility, the administrator shall send such person home and, if the disease is one that must be reported to the department, report the occurrence to the local health department by the most direct means available.

(2) Any person excluded under subsection (1) of this section shall not be permitted to be in the school or facility until the person presents a certificate from a physician, local health department nurse or school nurse stating that the person does not have or is not a carrier of any restrictable disease. [Amended by 1973 c.259 §19; 1979 c.731 §7; 1981 c.78 §3; 1989 c.224 §89; 1991 c.255 §5; 2001 c.900 §157]

433.263 [1973 c.566 §1; 1979 c.731 §8; 1981 c.78 §1; renumbered 433.235]

433.265 [Repealed by 1973 c.259 §20]

433.267 Immunization of school children; rules; exceptions; effect of failure to comply.

(1) As a condition of attendance in any school or children's facility in this state, every child through grade 12 shall submit to the administrator one of the following statements unless the

school or facility which the child attends already has on file a record which indicates that the child has received immunizations against the restrictable diseases prescribed by rules of the Department of Human Services as provided in ORS 433.273:

(a) A statement signed by the parent, a practitioner of the healing arts who has within the scope of the practitioner's license the authority to administer immunizations or a representative of the local health department certifying the immunizations the child has received;

(b) A statement signed by a physician or a representative of the local health department that the child should be exempted from receiving specified immunization because of indicated medical diagnosis; or

(c) A statement signed by the parent that the child has not been immunized as described in paragraph (a) of this subsection because the child is being reared as an adherent to a religion the teachings of which are opposed to such immunization;

(2)(a) A newly entering child or a transferring child shall be required to submit the statement described in subsection (1) of this section prior to attending the school or facility.

(b) Notwithstanding paragraph (a) of this subsection, a child transferring from a school within the United States must submit the statement required by subsection (1) of this section not later than the exclusion date set by the rule of the department.

(3) Persons who have been emancipated pursuant to ORS 419B.558 or who have reached the age of consent for medical care pursuant to ORS 109.640 may sign those statements on their own behalf otherwise requiring the signatures of parents under subsection (1) of this section.

(4) The administrator shall conduct a primary evaluation of the records submitted pursuant to subsection (1) of this section to determine whether the child is entitled to begin attendance by reason of having submitted a statement that complies with the requirements of subsection (1) of this section.

(5) If the records do not meet the initial minimum requirements established by rule, the child may not be allowed to attend until the requirements are met. If the records meet the initial minimum requirements, the child shall be allowed to attend.

(6) At the time specified by the department by rule, records for children meeting the initial minimum requirements and records previously on file shall be reviewed for completion of requirements by the administrator to determine whether the child is entitled to continue in attendance. If the records do not comply, the administrator shall notify the local health department and shall transmit any records concerning the child's immunization status to the local health department.

(7) The local health department shall provide for a secondary evaluation of the records to determine whether the child should be excluded for noncompliance with the requirements stated

in subsection (1)(a) or (b) of this section. If the child is determined to be in noncompliance, the local health department shall issue an exclusion order and shall send copies of the order to the parent or the person who is emancipated or has reached the age of majority and the administrator. On the effective date of the order, the administrator shall exclude the child from the school or facility and not allow the child to attend the school or facility until the requirements of this section have been met.

(8) The administrator shall readmit the child to the school or facility when in the judgment of the local health department the child is in compliance with the requirements of this section.

(9) The administrator shall be responsible for updating the statement described in subsection (1)(a) of this section as necessary to reflect the current status of the immunization of the child and the time at which the child comes into compliance with immunizations against the restrictable diseases prescribed by rules of the department pursuant to ORS 433.273.

(10) Nothing in this section shall be construed as relieving agencies, in addition to school districts, which are involved in the maintenance and evaluation of immunization records on April 27, 1981, from continuing responsibility for these activities.

(11) All statements required by this section shall be on forms approved or provided by the department.

(12) In lieu of signed statements from practitioners of the healing arts, the department may accept immunization record updates using practitioner documented immunization records generated by electronic means or on practitioner letterhead but unsigned, if the department determines such records are accurate.

(13) As used in this section:

(a) "Newly entering child" means a child who is initially attending:

(A) A facility in this state;

(B) A school at the entry grade level;

(C) Either a school at any grade level or a facility from homeschooling; or

(D) A school at any grade level or a facility after entering the United States from another country.

(b) "Transferring child" means a child moving from:

(A) One facility to another facility;

(B) One school in this state to another school in this state when the move is not the result of a normal progression of grade level; or

(C) A school in another state to a school in this state.[1973 c.566 §2; 1977 c.457 §1; 1981 c.78 §4; 1991 c.255 §3; 1993 c.546 §139; 2001 c.900 §158]

433.269 Immunization by local health departments; rules; records and reports.

(1) Local health departments shall make available immunizations to be administered under the direction of the local health officer in convenient areas and at convenient times. No person shall be refused service because of inability to pay.

(2) The local health department and all schools and children's facilities shall report annually to the Department of Human Services as specified in the rules of the Department of Human Services on the number of children in the area served and those children who are susceptible to restrictable disease as prescribed by rules of the Department of Human Services pursuant to ORS 433.273 by reason of noncompliance. A child exempted under ORS 433.267 shall be considered to be susceptible.

(3) The administrator shall maintain immunization records of children, including children in attendance conditionally because of incomplete immunization schedules and children exempted under ORS 433.267. [1973 c.566 §3; 1981 c.78 §5; 1991 c.255 §6]

433.270 [Repealed by 1973 c.259 §20]

433.271 Thimerosal prohibited in school entry immunizations provided by Department of Human Services; exceptions.

The Department of Human Services may not purchase or distribute a pediatric vaccine necessary for school entry immunization requirements if the vaccine contains thimerosal, unless thimerosal is detectable only in trace amounts or no other vaccine for the same purpose is commercially available in a form that does not contain thimerosal. The department may purchase and distribute a pediatric vaccine that contains thimerosal if no other vaccine for the same purpose is commercially available in a form that does not contain thimerosal. [2001 c.720 §2]

433.273 Rules of department.

The Department of Human Services shall adopt rules pertaining to the implementation of ORS 433.235 to 433.284, which shall include, but need not be limited to:

- (1) The definition of "restrictable" disease;
- (2) The required immunization against diseases, including rubella, considered to be dangerous to the public health under ORS 433.267;
- (3) The time schedule for immunization;
- (4) The approved means of immunization;

(5) The procedures and time schedule whereby children may be excluded from attendance in schools or facilities, including service of notice to parents;

(6) The manner in which immunization records for children are established, evaluated and maintained;

(7) The exempted schools and children's facilities; and

(8) The implementation of ORS 433.282 and 433.283. [1973 c.566 §4; 1977 c.457 §2; 1981 c.78 §6; 1991 c.255 §7]

433.275 [1973 c.566 §5; repealed by 1981 c.78 §15]

433.280 Status of immunization records as public records.

Nothing in ORS 179.505, 192.525, 192.530, 326.565, 326.575 or 336.187 operates to prevent:

(1) Inspection by or release to administrators by local health departments of information relating to the status of a person's immunization against restrictable diseases without the consent of the person, if the person has been emancipated or has reached the age of majority, or the parent of a child.

(2) Local health departments from releasing information concerning the status of a person's immunization against restrictable diseases by telephone to the parent, administrators and public health officials. [1981 c.78 §11; 1991 c.255 §8]

433.282 Immunizations against measles at certain post-secondary educational institutions; rules.

(1) The Department of Human Services may require each post-secondary educational institution, except a community college or a career school, to require that each entering full-time student has current immunizations, as required for children attending school pursuant to rules adopted by the department under 433.273 prior to the student's second quarter or semester of enrollment on an Oregon campus, using procedures developed by the institution.

(2) Notwithstanding subsection (1) of this section, the department may require each post-secondary educational institution, except a community college or a career school, to document, using procedures developed by the institution, that each entering full-time student has current immunizations, as required for children attending school pursuant to rules adopted by the department under ORS 433.273, prior to the student attending classes if the student will be attending the institution pursuant to a nonimmigrant visa.

(3) The Department of Human Services by rule shall establish immunization schedules and may further limit the students and programs to which the requirement applies.

(4) The Department of Human Services may conduct validation surveys to ensure compliance with this section. [1991 c.255 §10; 1995 c.343 §48]

433.283 Immunizations against measles for certain students at community colleges; rules.

(1) The Department of Human Services may require each community college to require that students involved in clinical experiences in allied health programs, practicum experiences in education and child care programs and membership on intercollegiate sports teams have current immunizations for measles prior to each student's participation. The requirement shall apply only to those students born on or after January 1, 1957.

(2) The State Board of Education by rule shall define clinical experiences in allied health programs, practicum experiences in education and child care programs and membership on intercollegiate sports teams at the community colleges. The Department of Human Services by rule shall establish immunization schedules and may further limit the students and programs to which the requirement applies. Each community college shall develop procedures to implement and maintain this requirement.

(3) The Department of Human Services may conduct validation surveys to insure compliance with this section. Community colleges shall be required to keep immunization records only while the student is involved in the program. [1991 c.255 §11]

433.284 Adoption of more stringent measles immunization requirements.

Private schools, children's facilities and post-secondary educational institutions may adopt additional or more stringent requirements as long as medical and religious exemptions are included and the requirements are in compliance with the United States Public Health Service Advisory Committee on Immunization Practices recommendations. [1991 c.255 §12]