

# ASSEMBLY, No. 3818

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED APRIL 5, 2018

**Sponsored by:**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Co-Sponsored by:**

**Assemblywoman Jasey**

**SYNOPSIS**

Clarifies statutory exemptions from mandatory immunizations for students.

**CURRENT VERSION OF TEXT**

As introduced.



A3818 CONAWAY

2

1 AN ACT concerning exemptions from mandatory immunizations for  
2 students and amending P.L.1974, c.150, P.L.2002, c.58, and  
3 P.L.2003, c.284.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. Section 6 of P.L.1974, c.150 (C.26:1A-9.1) is amended to  
9 read as follows:

10 6. a. Provisions in the State Sanitary Code in implementation  
11 of **[this act]** P.L.1947, c.177 (C.26:1A-1 et seq.), or provisions  
12 otherwise set forth in statute or regulation, which require the  
13 immunization of students in a preschool program, or at an  
14 elementary or secondary school or an institution of higher  
15 education, shall provide for an exemption **[for pupils]** from such  
16 mandatory immunization **[if the parent or guardian of the pupil**  
17 objects thereto in a written statement signed by the parent or  
18 guardian upon the ground that the proposed immunization interferes  
19 with the free exercise of the pupil's religious rights. This  
20 exemption**]** based upon one of the following:

21 (1) a written statement submitted to the preschool program,  
22 elementary or secondary school, or institution of higher education,  
23 as applicable, by a licensed physician, doctor of osteopathy,  
24 advanced practice nurse, or physician assistant indicating that the  
25 vaccine is medically contraindicated for a specific period of time  
26 and the reasons for the medical contraindication, based upon valid  
27 medical reasons as determined by regulation of the Commissioner  
28 of Health, which shall exempt the student from the vaccination for  
29 the stated period of time; or

30 (2) documentation, as set forth in subsection b. of this section,  
31 which is submitted to the preschool program, elementary or  
32 secondary school, or institution of higher education, as applicable,  
33 by the student, or the student's parent or guardian if the student is a  
34 minor, explaining how the administration of the vaccine conflicts  
35 with the bona fide religious tenets or practices of the student, or the  
36 parent or guardian, as appropriate; except that: a general  
37 philosophical or moral objection to the vaccination shall not be  
38 sufficient for an exemption on religious grounds; and an exemption  
39 on religious grounds may be suspended by the **[State]**  
40 Commissioner of Health during the existence of an emergency as  
41 determined by the **[State Commissioner of Health]** commissioner.

42 b. The documentation required pursuant to paragraph (2) of  
43 subsection a. of this section shall include a written statement, which  
44 shall be notarized, signed, and sworn by the person submitting the  
45 statement, and which shall include:

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1       (1) an explanation of the nature of the person's religious tenet or  
2 practice that is implicated by the vaccination and how  
3 administration of the vaccine would violate, contradict, or otherwise  
4 be inconsistent with that tenet or practice;

5       (2) information that indicates that the religious tenet or practice  
6 is consistently held by the person, which may include, but need not  
7 be limited to, expression of the person's intent to decline any  
8 vaccination;

9       (3) a statement that the religious tenet or practice is not solely  
10 an expression of that person's:

11       (a) political, sociological, philosophical, or moral views; or

12       (b) concerns related to the safety or efficacy of the vaccination;  
13 and

14       (c) a statement that the person understands the risks and benefits  
15 of vaccination to the student and the public health and  
16 acknowledges that the student may be excluded from attendance at  
17 the student's preschool, school, or institution of higher education, as  
18 applicable, in the event of the occurrence of a communicable  
19 disease or condition or threat of a communicable disease or  
20 condition, which in the opinion of the Commissioner of  
21 Commissioner of Health requires such exclusion from attendance of  
22 unvaccinated students.

23       c. A preschool program, elementary or secondary school, or  
24 institution of higher education shall not exempt a student from a  
25 mandatory immunization unless the student, or the student's parent  
26 or guardian if the student is a minor, complies with all of the  
27 applicable requirements set forth in subsections a. and b. of this  
28 section.

29       d. The Commissioner of Health, pursuant to the  
30 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
31 seq.), shall adopt rules and regulations to effectuate the purposes of  
32 this section; except that, notwithstanding any provision of P.L.1968,  
33 c.410 (C.52:14B-1 et seq.) to the contrary, the commissioner may  
34 adopt, immediately upon filing with the Office of Administrative  
35 Law, such regulations as the commissioner deems necessary to  
36 implement the provisions of this section, which shall be effective  
37 for a period not to exceed six months and may thereafter be  
38 amended, adopted, or re-adopted by the commissioner in  
39 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1  
40 et seq.).

41 (cf: P.L.1974, c.150, s.6)

42  
43       2. Section 4 of P.L.2002, c.58 (C.18A:61D-10) is amended to  
44 read as follows:

45       4. A student shall not be required to receive a vaccination  
46 pursuant to section 2 or 3 of **【**this act based upon one of the  
47 following:

1 a. a written statement submitted to the secondary school or  
2 institution of higher education, as applicable, by a licensed  
3 physician indicating that the vaccine is medically contraindicated  
4 for a specific period of time and the reasons for the medical  
5 contraindication, based upon valid medical reasons as determined  
6 by regulation of the Commissioner of Health and Senior Services,  
7 which shall exempt the student from the vaccination for the stated  
8 period of time; or

9 b. a written statement submitted to the secondary school or  
10 institution of higher education, as applicable, by the student, or the  
11 student's parent or guardian if the student is a minor, explaining  
12 how the administration of the vaccine conflicts with the bona fide  
13 religious tenets or practices of the student, or the parent or guardian,  
14 as appropriate; except that a general philosophical or moral  
15 objection to the vaccination shall not be sufficient for an exemption  
16 on religious grounds】 P.L.2002, c.58 (C.18A:61D-9 or C.18A:40-  
17 21.1) if the student qualifies for an exemption as provided in section  
18 6 of P.L.1974, c.150 (C.26:1A-9.1).  
19 (cf: P.L.2002, c.58, s.4)

20

21 3. Section 3 of P.L.2003, c.284 (C.18A:62-15.2) is amended to  
22 read as follows:

23 3. a. A student shall not be required to receive a vaccination  
24 pursuant to subsection a. of section 2 of 【this act based upon one of  
25 the following:

26 (1) a written statement submitted to the institution of higher  
27 education by a licensed physician indicating that the vaccine is  
28 medically contraindicated for a specific period of time and the  
29 reasons for the medical contraindication, based upon valid medical  
30 reasons as determined by regulation of the Commissioner of Health  
31 and Senior Services, which shall exempt the student from the  
32 vaccination for the stated period of time; or

33 (2) a written statement submitted to the institution of higher  
34 education by the student, or the student's parent or guardian if the  
35 student is a minor, explaining how the administration of the vaccine  
36 conflicts with the bona fide religious tenets or practices of the  
37 student, or the parent or guardian, as appropriate; except that a  
38 general philosophical or moral objection to the vaccination shall not  
39 be sufficient for an exemption on religious grounds】 P.L.2003,  
40 c.284 (C.18A:62-15.1) if the student qualifies for an exemption as  
41 provided in section 6 of P.L.1974, c.170 (C.26:1A-9.1).

42 b. In the event of an actual or threatened outbreak of meningitis  
43 at a public or private institution of higher education in this State,  
44 the institution may exclude from attendance a student who has been  
45 exempted from the vaccination requirement of this act pursuant to  
46 subsection a. of this section, as determined by the Commissioner of  
47 Health 【and Senior Services】.  
48 (cf: P.L.2003, c.284, s.3)

1       4. This act shall take effect immediately.

2

3

4

STATEMENT

5

6       This bill clarifies the State policy governing exemptions from  
7 mandatory student immunizations.

8       Under the bill, provisions in the State Sanitary Code, or  
9 provisions otherwise set forth in statute or regulation, which require  
10 the immunization of students at a preschool program, an elementary  
11 or secondary school, or an institution of higher education, are to  
12 provide for an exemption from such mandatory immunization based  
13 on medical or religious reasons.

14       In the case of a medical exemption, the bill requires a written  
15 statement submitted to the school by a physician, doctor of  
16 osteopathy, advanced practice nurse, or physician assistant that  
17 indicates: (1) the vaccine is medically contraindicated for a specific  
18 period of time; and (2) the reasons for the medical contraindication,  
19 which are to be based on a valid medical reason as determined by  
20 the Commissioner of Health (Commissioner) by regulation. The  
21 student will be exempt from the immunization requirement for the  
22 period of time indicated in the written statement.

23       In the case of a religious exemption, the bill requires the student  
24 or the student's parent or guardian, if the student is a minor, to  
25 submit documentation explaining how the administration of the  
26 vaccine conflicts with the bona fide religious tenets or practices of  
27 the student, parent, or guardian. A religious exemption may not be  
28 based on general philosophical or moral objections, and a religious  
29 exemption may be suspended by the Commissioner during an  
30 emergency as determined by the Commissioner. The bill requires  
31 the documentation for a religious exemption to specifically include  
32 a signed, notarized, and sworn written statement that includes:

33       -- an explanation of the nature of the person's religious tenet or  
34 practice that is implicated by the vaccination, and how  
35 administration of the vaccine would violate, contradict, or otherwise  
36 be inconsistent with that tenet or practice;

37       -- information that indicates that the religious tenet or practice is  
38 consistently held by the person, which may include, but need not be  
39 limited to, expression of the person's intent to decline any  
40 vaccination;

41       -- a statement that the religious tenet or practice is not solely an  
42 expression of that person's political, sociological, philosophical, or  
43 moral views, or the person's concerns related to the safety or  
44 efficacy of the vaccination; and

45       -- a statement that the person understands the risks and benefits  
46 of vaccination to the student and the public health, and  
47 acknowledges that the student may be excluded from attendance at  
48 the student's preschool, elementary or secondary school, or

**A3818 CONAWAY**

6

1 institution of higher education, as applicable, in the event of a threat  
2 or occurrence of a communicable disease or condition that, in the  
3 opinion of the Commissioner, requires unvaccinated students be  
4 excluded from attendance.

5 The bill prohibits a preschool, elementary or secondary school,  
6 or institution of higher education from exempting a student from a  
7 mandatory immunization unless the student, or the student's parent  
8 or guardian, if the student is a minor, complies with all of the  
9 applicable requirements set forth in the bill.

10 The bill provides the Commissioner with expedited rulemaking  
11 authority in order to provide such guidance to school and public  
12 health authorities as they will need to implement its provisions on a  
13 timely basis.