

Frequently Asked Questions for House Bill 14-1288

Below are Frequently Asked Questions (FAQ) the Colorado Department of Public Health and Environment (CDPHE) has received regarding various components of House Bill 14-1288 (HB-1288). These FAQs will be updated periodically. If you have HB-1288 questions, please email: cdphe.dcdimmunization@state.co.us.

Basics

- What is HB-1288 and what does it say?

In May 2014, the Colorado General Assembly passed HB-1288, which took effect on July 1, 2014. This legislation contains several key components:

- Schools/childcares are required to make the immunization and exemption rates of their enrolled students publicly available, upon request. Furthermore, the law directs CDPHE to provide assistance to schools/childcares with the analysis and interpretation of the immunization data.
- Colorado Board of Health (BOH) is directed to make rules regarding an online education module including the benefits and risks of immunization, evidence-based research, resources and information from credible scientific and public health organizations, and peer-reviewed studies. CDPHE anticipates this module may be used by parents, providers or other interested parties.
- Colorado BOH is directed to make rules regarding the frequency of submitting immunization exemption forms.
- CDPHE is directed to work with other state departments to develop joint immunization data collection and sharing policies.

- What HB-1288 does NOT say?

- This law does not direct CDPHE to collect, publish, or report immunization and exemption rates from schools/childcares.
- It does not direct schools/childcares to report their immunization and exemption data to either CDPHE, the Colorado Department of Education (CDE), nor the Colorado Department of Human Services (CDHS).
- It does not give deadlines for the creation of the educational module, nor does it tell the BOH by when it must make rules regarding the frequency of immunization exemption forms.
- Finally, the law does not define a timeline, format, or mechanism by which schools/childcares have to make immunization or exemption rates available.

- Who does HB-1288 apply to?

- CDPHE and the BOH for the creation and content of the online education module and the frequency of submitting immunization exemption forms.
- CDPHE for the provision of technical assistance to schools/childcares regarding how to analyze and interpret immunization data, and the direction to work with other state departments to develop joint immunization data sharing policies.
- Schools/childcares for the requirement to make the immunization and exemption rates of their enrolled students publicly available, upon request. Schools/childcares are defined as a public, private, or parochial nursery school, day care center, child care facility, school-age child care center, day camps, resident camps, day treatment centers, family child care home, foster care home, Head Start program, kindergarten, or elementary or secondary school through grade twelve, or a college or university. Schools/childcares do not include a public services short-term

child care facility as defined in section 26-6-102 (6.7), C.R.S., a guest child care facility as defined in section 26-6-102 (5), C.R.S., a ski school as defined in section 26-6-103.5 (6), C.R.S., or college or university courses which are offered off-campus; or are offered to nontraditional adult students, as defined by the governing board of the institution; or are offered at colleges or universities which do not have residence hall facilities.

- Will CDPHE, CDE or CDHS ask or require schools/childcares to report their rates to the state?
 - At this time, CDPHE, CDE nor CDHS is asking nor requiring schools/childcares to report their immunization and exemption rates to the state.
- Will CDPHE, CDE or CDHS have rates for schools/childcares on their website?
 - At this time, CDPHE, CDE nor CDHS will have school/childcare-level data posted on our websites. Individual schools/childcares will need to have their immunization and exemption rates readily available to anyone who requests the information.
- What is the timing for implementation of the requirements of HB-1288?
 - The requirements of this law took effect July 1, 2014. Schools/childcares should expect requests for immunization and exemption rates at any time.
 - The BOH is scheduled to address the frequency of submitting exemptions forms and content of the educational module on the following dates in 2015. The request for rulemaking will occur in February 2015 and rulemaking will occur in April 2015.
 - CDPHE expects to have the educational module developed and made available in spring 2015.
- Are schools required to use a certain methodology to calculate immunization or exemption rates?
 - No, schools/childcares may use any method to calculate their immunization or exemption rates. CDPHE has developed materials to assist with this process and continues to provide technical assistance to schools/childcares that request it.

The *Child Care and School Immunization Rates Guide* provides guidance on how to manually generate immunization and exemption rates. It directs facilities to compare each student's current immunization record with the number and type of vaccines they should have for their current age and provides a worksheet with guidance on how to determine the aggregate immunization and exemption rate for the entire school or childcare center. Please note that this method is not consistent with all of the requirements of the Advisory Committee on Immunization Practices (ACIP)-recommended schedule of immunizations and only takes into account the number of doses a student has received; not whether the doses were given at the correct age or meets minimum interval requirements. For questions or suggestions on how to improve this guidance, please email us at: cdphe.dcdimmunization@state.co.us.

The *CIIS Immunization Rates Report for Child Care and School* provides guidance on how to use the Colorado Immunization Information System (CIIS) to generate immunization rates for the entire school or childcare center. Please note that CIIS follows the current ACIP-recommended immunization schedule, including minimum intervals between doses and age requirements. CIIS does not take into account the ACIP catch-up schedules for 0 - 18 year olds. Currently, there is no way for schools or child cares to calculate exemption rates in CIIS. However, a simple formula to calculate exemption rates is included at the bottom of the tutorial. For questions or suggestions on how to improve this guidance, please contact Lorin Scott-Okerblom, CIIS School Coordinator, at 303-691-4073 or lorin.scott-okerblom@state.co.us.

- Has the BOH determined the frequency with which exemption forms will be submitted?
 - The BOH has not yet determined the frequency with which exemption forms will be required to be submitted. The current requirement is that an exemption form needs to be signed once by the parent/emancipated student, and kept on file by the school. The future frequency of

submitting exemption forms will be determined in 2015. The request for rulemaking is scheduled in February 2015 and rulemaking is scheduled for April 2015.

- What will the education module include?
 - The module will cover vaccine preventable diseases, including the risk of the disease and the impact on the community when parents choose not to vaccinate their children.
 - The module will explain the immunizations recommended for children and adolescents including the ACIP-recommended schedule for each vaccine and information about the safety, side effects and potential risks of each vaccine.
 - The module will contain safety information available on the Centers for Disease Control and Prevention (CDC) [website](#), and information from credible, peer-reviewed, published research studies. Where studies acknowledge research gaps, those gaps will be noted in the module.
 - The module will cover vaccine efficacy and document vaccine effectiveness for each vaccine.

Student Privacy:

- What is the Family Educational Rights and Privacy Act (FERPA)?
 - FERPA is a Federal Law that protects the privacy of students' education records. The law applies to all educational agencies including schools that receive funds under an applicable program of the U.S. Department of Education/ A student's health records, including immunization records, that are maintained by the school are considered to be "education records" and are subject to FERPA. The Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule specifically excludes from its coverage any records that are protected by FERPA.
- Does FERPA impact the ability of a school to provide immunization and exemption rates?
 - Aggregating student-level data into a school level report is permissible under FERPA since risk of disclosure is minimized if there would be no direct identifiers in the school aggregate report. Some risk of disclosure may occur if there are situations where a small number of students may have a unique identifier (e.g. medical exemption), which would cause them to be identified when reporting exemption rates. Schools will be responsible for protecting personally identifiable information (PII) when aggregating immunization and exemption rates to minimize the risk of revealing information about an individual student.
- In order to protect student privacy, is there a minimum number of students a school or childcare center must have before releasing immunization and exemption rates?
 - FERPA nor HIPAA identifies a minimum number of students required in regards to aggregate reporting. However, both indicate that the selected number should serve to preserve the privacy of student-level data. In other words, the reporting size should not be so small that a person in the community could reasonably determine the identity of the students. Given this standard, the appropriate minimum number of students will need to be determined on a school by school basis.
 - Schools: If you believe your school has too few students such that their privacy would be compromised, please contact Kathy Patrick, Assistant Director of Health and Wellness, Colorado Department of Education (patrick_k@cde.state.co.us).
 - Childcares: Please refer to the Child Care Regulations - 7.701 General Rules for Child Care Facilities for guidance on how to maintain privacy when sharing immunization information.

Board of Health Rule-making Process

- What is the process the BOH follows for rule-making?
 - Rules are like a "mini-statute" that the state legislature asks an agency or board to create. Rules are enforceable law, and often provide details or requirements not specified in statute.
 - Rulemaking is a process for developing and issuing rules. The rulemaking process can lead to the issuance of a new rule, an amendment to an existing rule, or the repeal of an existing rule.
 - CDPHE generally follows a specified process (See Appendix A) when developing rules. The major steps of this process include:
 - Rule Development

- Request for a Rulemaking hearing
- Provide Notice of rulemaking hearing
- Hold rulemaking hearing
- After deliberation, rule adopted
- Rulemaking hearings provide an opportunity for interested individuals and advocates to give a firsthand account of the potential impact of proposed rules. Stakeholders may become aware of rulemaking hearing through direct communication from CDPHE, CDPHE's [website](#) or through the Secretary of State's [website](#).
- Public comments will be accepted during the official rule-making process. The BOH will conduct the public rule-making hearing and encourages formal participation during this process by accepting oral comments during the public rule-making hearing, or written comments.
- Written comments may be submitted to the Colorado Board of Health, ATTN: Jamie Thornton:
 - Mail: Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South (EDO-A5), Denver, CO 80246-1530
 - Fax: 303-691-7702
 - Email: jamie.thornton@state.co.us
- Informal questions or comments may be addressed to the Colorado Immunization Branch at: cdphe.dcdimmunization@state.co.us.

Specific questions already received about the educational module:

- How does the CDC collect information about vaccine safety?
 - CDC is committed to ensuring that vaccines provided to the public are safe and effective. Once vaccines are licensed in the United States, CDC actively monitors the safety of these vaccines through several systems:
 - [Vaccine Adverse Event Reporting System \(VAERS\)](#) - an early warning public health system where people can report vaccine concerns, that helps CDC and FDA detect possible side effects or adverse events following vaccination.
 - [Vaccine Safety Datalink \(VSD\)](#) - a collaboration between CDC and several healthcare organizations which uses de-identified health records to monitor and evaluate adverse events following vaccination.
 - [Clinical Immunization Safety Assessment \(CISA\)](#) - a collaboration between CDC and several medical research centers in the United States to conduct research into how adverse events might be caused by vaccines.
 - Vaccine safety monitoring continues to become more important with the development and use of new vaccines, expanded vaccine recommendations, and new global immunization initiatives. Reporting systems and vaccine safety activities, such as VAERS, VSD, and CISA, will continue to be used to monitor and study adverse events, so vaccines can continue to be held to very high standards of safety.
- How will the differences between recommended and required vaccines be handled?

The education module will provide information for all vaccines recommended for children and adolescents per the ACIP as well as which vaccines are required for school per the BOH.
- Who will provide input to guide the development of the education module?
 - The education module will be developed by CDPHE staff with input from the current school immunization taskforce, which includes pediatric, and family practice providers, local public health staff, school health staff, and parents. The module will also be reviewed by the Vaccine Advisory Committee of Colorado (VACC) and a member of the current BOH.
 - As the BOH is required to make rules regarding the content of the education module, any individual may contribute to rule development by providing written or oral comments during the rulemaking period, as described above.

Appendix A - Colorado Administrative Procedure Act

The Colorado Administrative Procedure Act (APA) governs the legal and procedural requirements that the state must follow when promulgating rules and regulations. The APA applies to all state departments, agencies, and boards required or permitted by law to make rules, including CDPHE and the Board of Health. Rulemaking procedures provide the public with an opportunity to provide input prior to the requirement taking effect.

CDPHE generally follows a specified process when developing rules. The major steps of this process include:

- Rule Development (often with stakeholder engagement). CDPHE staff will develop a proposed rule to take before the State Board of Health.
- Request a Rulemaking hearing at least 2 months prior to rulemaking hearing. A Request for Rulemaking Hearing is a brief discussion of the proposed rule and an official request from staff to the Board of Health to set a date for the rulemaking hearing. At this time, the Board of Health will be given a draft of the proposed rule and other required documents (cover memo, statement of basis and purpose and specific statutory authority, regulatory analysis, stakeholder comment).
- Provide Notice of rulemaking hearing. Prior to our planned rulemaking, CDPHE will submit a notice of rulemaking to the office of the Colorado Secretary of State for publication in the Colorado Register. The Notice will include: the time, place and nature of the public rulemaking hearing, the authority under which the rule is proposed, and the text of the proposed rule or a description of the subjects and issues involved in the rule. The Colorado Register is published on the 10th and 25th of each month. In addition to publication in the Colorado Register, CDPHE will inform all stakeholders of the upcoming rulemaking hearing.
- Hold rulemaking hearing. The rulemaking hearing is when the public and interested stakeholders have the opportunity to testify in support of or opposition to the department proposal. The hearing chair will open the rulemaking hearing and ask for the staff presentation. Staff will describe the proposed rule, any changes that have occurred between the request for rulemaking and the rulemaking hearing, and any outstanding issues. Next, public comment on the proposal is taken from persons that have signed up to testify. Depending on the number of people wanting to testify, the Board may limit each person to three minutes. In some instances the Board may receive written comments rather than permitting testimony.
- After all testimony and board questions are responded to, the Board will move into deliberations. During deliberations, the Board will discuss the issues and proposed rule. After the deliberations are completed, the hearing chair will ask for a motion and a second regarding the proposal, and a vote is taken regarding adoption of the rule.
- Rule passed, and becomes effective on a specific date.