

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Health Authority- Public Health Division

333

Agency and Division

Administrative Rules Chapter Number

School Immunization Administrative Rule Reorganization and Update

Rule Caption

Statutory Authority: ORS 431.262, 433.004, 433.273, 433.282 & 433.283

Other Authority:

Stats. Implemented: ORS 431.262, 433.001, 433.004, 433.006 & 433.235 - 433.284

Need for the Rule(s):

The Oregon Health Authority, Public Health Division, Oregon Immunization Program is proposing changes to Oregon Administrative Rules in chapter 333, division 50, “School Immunization Rules.” These proposed rule changes are a reorganization of existing school immunization rules, in OAR chapter 333, division 50. With this reorganization, existing OAR 333-050 will be repealed and replaced with the reorganized rules. These OARs have been added onto and revised many times since the 1980s, and a clean-up is needed for clarity. The goal of the reorganization is to group sections of related topics together so a reader can more easily find information, to make the rules easier to read, and to use inclusive and equity-focused language. Some language will be shortened or removed from OAR because it is already covered by Oregon Revised Statute. Major substantive changes proposed by these rule changes include:

1. Replacing a letter written by a physician with a form filled out by a physician for a medical exemption.
2. Requiring documentation of history of varicella (chickenpox) disease to be verified by a health care practitioner or titer test and removing the allowance of parent-signed history of varicella disease.
3. Changing the annual exclusion day from the third Wednesday in February to the fourth Wednesday in February.
4. Changing the wording of “exclusion day” to “immunization day”.

A full description of all changes and the full text of these proposed rules are found below.

Documents Relied Upon, and where they are available:

Oregon Revised Statute Chapter 433 — Disease and Condition Control; Mass Gatherings; Indoor Air, 2024.
https://www.oregonlegislature.gov/bills_laws/ors/ors433.html

Oregon Administrative Rules Chapter 333, Division 50—School Immunization Rules, 1981-2022.

https://secure.sos.state.or.us/oard/displayDivisionRules.action%3bJSESSIONID_OARD=2rAGjMwAFKyKGiwIdp_03oUv7xal6kjlhXdVWS78XLgPdYNa0jj7%21479495115?selectedDivision=1265

Statement Identifying How Adoption of Rule(s) Will Affect Racial Equity in This State:

The proposed rule revisions likely will have minimal effect on racial equity in the state. Reorganizing the rules is administrative in nature and is not anticipated to impact racial equity, as it is an administrative change. Racial equity impacts of the proposed changes are anticipated as follows:

1. Replacing a letter written by a physician with a standardized form filled out by the physician is anticipated to make the process of filing for a medical exemption easier for physicians and local public health staff who review the documentation. It is unknown whether this will impact racial equity, as no data are available on the racial/ethnic breakdown of medical exemptions.
2. Requiring documentation of history of varicella (chickenpox) disease to be verified by a health care practitioner or titer test and removing the allowance of parent-signed history of varicella disease—The majority of children in the U.S. no longer contract varicella disease because of the vaccine. Varicella disease is not reportable in Oregon, but in four states with continuous passive reporting, the incidence of varicella disease has fallen 97% since the vaccine was introduced (Marin et al.). However, a small number of children still get varicella disease, and this change may disproportionately impact communities that have higher rates of history of varicella. Uninsured and under insured communities who need provider verification, or a titer verification, may be impacted due to their lack of access to adequate and affordable healthcare. Newly entering children who come from out of the country, or out of the state, may face challenges in receiving provider verification of their history of disease due to issues accessing out of state/country medical records or difficulty communicating with previous providers. In turn, providers who serve these identified communities may see a disproportionate increase in history of disease verification requests or titer tests.
3. Changing the annual exclusion day from the third Wednesday in February to the fourth Wednesday in February—This change will give parents/guardians an extra week to get immunization or exemption documentation updated with their child’s school or children’s facility. Data from the Oregon Health Authority show American Indian/Alaska Native, Black and Native Hawaiian/Pacific Islander children have lower routine childhood immunization rates compared to Asian, Hispanic, and white children (Oregon Immunization Program). Giving parents and guardians an additional week may allow more children to get caught up on immunizations and may have a positive impact in reducing the racial disparity in childhood immunizations and reducing number of students excluded from school.
4. Changing the wording of “exclusion day” to “immunization day”—The day in which children need to have up to date vaccines for school and child care attendance has been known as Exclusion Day since the 1980’s. This title has historical negative connotation among the African American community in Oregon dating back to 1894 when the Oregon Territorial Legislature enacted an exclusion law that prohibited African American individuals or individuals with African American decent to enter or reside in the territory (Oregon Secretary of State, n.d). Changing “Exclusion Day” to “Immunization Day” will help clarify this day and reduce the use of harmful language.

The additional proposed changes are primarily administrative in nature and little impact on racial equity is anticipated.

References:

Marin M, Leung J, Anderson TC, Lopez AS. "Monitoring Varicella Vaccine Impact on Varicella Incidence in the United States: Surveillance Challenges and Changing Epidemiology, 1995-2019. *J Infect Dis*. 2022 Oct 21;226(Suppl 4):S392-S399. doi: 10.1093/infdis/jiac221. PMID: 36265855.

Oregon secretary of State. (n.d.). *State of Oregon: Black in Oregon - National and Oregon Chronology of Events*. Oregon Secretary of State. <https://sos.oregon.gov/archives/exhibits/black-history/Pages/context/chronology.aspx#:~:text=September%2021%2C%201849,not%20subject%20to%20this%20law>

Oregon Immunization Program. Oregon Early Childhood Immunization Rates.

<https://public.tableau.com/app/profile/oregon.immunization.program/viz/OregonEarlyChildhoodImmunizationRates/StatewideDashboard>

Fiscal and Economic Impact:

These proposed amendments will have fiscal and economic impact to the Oregon Health Authority, Public Health Division; schools; and children's facilities. See below under "Cost of Compliance" for explanation.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): The Oregon Health Authority, Public Health Division will incur promotional costs to notify the public, schools, children's facilities, post-secondary institutions, and public and private health care providers of the rule changes. Costs to the Public Health Division to implement changes to OAR division 50 relating to school immunization law are estimated as follows: One-time \$2000 to notify interested parties, promote awareness of the rule changes, edit materials, provide technical assistance to schools in making changes to immunization tracking systems, and changing the data collection and reporting computer system. The Public Health Division will absorb these costs into the current budget. Public schools will incur costs to make minor changes to immunization tracking systems. There is no anticipated cost of compliance to the public.

2. Cost of compliance effect on small business (ORS 183.336): ORS 183.310(10) defines small business as "a corporation, partnership, sole proprietorship or other legal entity formed for the purpose of making a profit, which is independently owned and operated from all other businesses and which has 50 or fewer employees."

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Approximately 1,796 child care and preschool programs and 333 private schools will be affected by changes to these rules. Some of these sites are small businesses, but the Oregon Health Authority doesn't possess the data to accurately estimate how many are small businesses.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No changes anticipated for compliance with these rule revisions.

c. Equipment, supplies, labor and increased administration required for compliance:

No changes anticipated for compliance with these rule revisions.

How were small businesses involved in the development of this rule?

Representatives for child care facilities, private schools, and student information systems served on the administrative rule advisory committees that provided input during the development of these rules.

Administrative Rule Advisory Committee consulted?: Yes. Committee members included representatives from schools, colleges, child care, medical providers, local public health, and parents.

If not, why?:

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