

## Article 43 Revisions: What School-Based Child Care Programs Need to Know

The Board of Health has revised [Article 43](#) of the New York City Health Code to better protect children’s health and safety and to align with new state and local laws. This document provides information about many of the new requirements and how to comply. The changes take effect immediately, with the New York City Health Department issuing violations subject to fines to programs that fail to comply — except as noted below.

### Changes to Childhood Immunization Requirements (§43.17)

- Children are no longer exempt from vaccination requirements due to religious beliefs.
- Children may be exempt from vaccination requirements for medical reasons, but only if the medical exemption is approved by the Health Department. The child care program must submit medical exemption requests to the Health Department for review and approval. These requests can be emailed to **School\_Immunizations@health.nyc.gov** or faxed (include staff contact name and phone number on fax) to 347-396-8839. Maintain a copy of the email or fax. While the request is under Health Department review, the child **may** attend the child care program. If the request is denied, the child cannot attend the program until they are fully vaccinated.
- Programs must maintain vaccination records for all enrolled children and make the records immediately available to the Health Department on request. The records may be kept electronically so long as the child care program can make the electronic records immediately accessible to the Health Department.

### Clarification of Staff and Volunteer Immunization Requirements (§43.11)

The Health Department is providing heightened technical assistance around these requirements through June 30, 2020, and will not begin issuing violations subject to fines until July 1, 2020.

- Staff and volunteers must have received **two** doses of measles-containing vaccine; **two** doses of mumps-containing vaccine; **one** dose of rubella-containing vaccine; **two** doses of varicella-containing vaccine (chicken pox); and **one** dose of tetanus, diphtheria and acellular pertussis (Tdap) vaccine. For exceptions, review [Article 43](#).
- Programs must maintain vaccination records for all staff and volunteers and make the records immediately available to the Health Department on request. The records may be kept electronically so long as the child care program can make the electronic records immediately accessible to the Health Department.
- Programs cannot allow staff or volunteers to be present without appropriate documentation of required immunizations.

**Clarification of Illness Exclusion Requirements (§43.19, §43.11)**

- Programs must isolate or exclude any children or adults who are suspected or confirmed with, or have been exposed to, a communicable disease that requires isolation or exclusion under [Article 11](#) of the Health Code. All prior reporting rules still apply.

**Changes to Staff Training Requirements (§43.14)**

The Health Department is providing heightened technical assistance around these requirements through June 30, 2020, and will not begin issuing violations subject to fines until July 1, 2020.

- All teaching and supervisory staff must complete these trainings:
  - Child abuse, maltreatment and neglect prevention, identification and reporting
  - Infection control, administration of medication, protection from hazards and other safety issues
  - Emergency procedures, including those related to loss of a child; lockdown situation; emergencies involving gas, electrical, sewer or water main break; and extreme weather
- New staff must receive these trainings within three months of hire. Staff who provide proof that they received the first two trainings described above while employed at a different school-based child care program have met these training requirements; however, the third training in emergency procedures is site-specific and must be completed by the program.
- Programs must keep training certificates on site and make these available to the Health Department upon request.
- The Health Department will soon release guidance about approved trainers and training frequency.

**New Personal Hygiene Requirements (§43.20)**

The Health Department is providing heightened technical assistance around these requirements through June 30, 2020, and will not begin issuing violations subject to fines until July 1, 2020.

A new section describing personal hygiene requirements has been added. These requirements include:

- Staff and children must wash hands before and after using the toilet, after diaper changes, after contact with a child in ill health, prior to handling or preparing any food, and after playing outdoors. Handwashing signs, provided by or approved by the Health Department, must be posted in each bathroom and by each sink.
- Programs cannot provide hairbrushes or cloth towels. If toothbrushes, combs or washcloths are provided, each child must have their own items, stored in an individually labeled container.

- Programs must maintain on-site at least one change of weather-appropriate clothing so that a child who soils clothing can be outfitted in clean clothes.
- Programs must not bathe children on premises unless necessary because of accidents. If a child needs to be bathed, the program must report the incident to the parent or guardian within an hour of bathing.
- Programs must implement safety precautions related to exposure to blood:
  - Disposal gloves must be available and worn whenever contact with blood is possible (e.g., treating cuts, changing diapers with blood in the stool). Gloves must be discarded after each use.
  - A child's safety and well-being must take priority. If a child is bleeding and gloves are not immediately available, the child cannot be denied care.
  - If staff accidentally come in direct contact with blood, they must wash exposed skin thoroughly with soap and running water.
  - If a child's clothes become contaminated with blood, staff must place soiled clothes in a plastic bag, securely tied, and return it to parents.
  - Any surfaces that are bloodstained must be cleaned and disinfected with a germicidal solution.

#### **Changes to Written Safety Plan (§43.07)**

The Health Department is providing heightened technical assistance around these requirements through June 30, 2020, and will not begin issuing violations subject to fines until July 1, 2020.

- Programs must review their written safety plan each year and update it, as needed. If the program has used the safety plan of the school, the program must now develop a program-specific safety plan. The school's plan can no longer fulfill this requirement.
- In the fire safety component of the safety plan, the program must indicate that it will report to the Health Department, within 24 hours, any fire that led to notifying the Fire Department or another state or federal agency, or that damaged any program facilities or was life- or health-threatening.

#### **New Fire Safety Requirements (§43.22)**

The Health Department is providing heightened technical assistance around these requirements through June 30, 2020, and will not begin issuing violations subject to fines until July 1, 2020.

- Programs must have exits with clear and illuminated exit signs. All exit signs and emergency lighting must be well-maintained.
- Programs must maintain working, approved and inspected fire extinguishers.

- Programs must conduct monthly fire drills and maintain an on-site log of when these drills were held. The logs must be made available to the New York City Health Department and Fire Department upon request.
- Heating apparatuses, such as radiators, must have adequate protective guards. Space heaters are prohibited.
- Programs must keep the premises free of electrical, chemical, mechanical and all other types of hazards.
- Programs must install and maintain smoke and carbon monoxide detectors with audible alarms.

**Changes to lead-based paint requirements (§43.23) can be found [here](#).**

### **Changes to Equipment and Furnishings Requirements (§43.24)**

Programs must secure, with angle braces, anchors or other anchoring devices, large furniture and electronic appliances that could be tipped over. If any such items cannot be secured, programs must remove them.

### **New Food Service Requirements (§43.16)**

A new section describing food service requirements has been added. These requirements include:

- Programs that prepare or process food that is served to children in their care must maintain a Health Department permit for a food service establishment, as described in [§81.05](#) of the Health Code.
- Unless a program has a waiver application pending with the New York City Department of Sanitation (DSNY) or DSNY has issued a waiver, programs cannot use single-use foam containers, such as cups, plates, bowls or storage containers.

### **Clarification of Emergency Closing and Reopening Procedures (§43.29)**

- If the Health Department determines that a program is operating unsafely, and the unsafe condition or conditions cannot be immediately corrected, the Health Commissioner may order the program to close temporarily as an emergency measure to protect children's health and safety. The Health Department will advise the program of the corrections it must make in order to reopen.
- If the Health Department closes a program, the program can contest the closing order at a hearing at the New York City Office of Administrative Trials and Hearings (OATH).
- The Health Department can authorize the reopening of a program once the Department determines that the risk to health and safety has been addressed.