



**NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE
BOARD OF HEALTH**

**Notice of Adoption of Amendments to Article 49
of the New York City Health Code**

In accordance with Section 1043 of the New York City Charter (“Charter”) and pursuant to the authority granted to the Board of Health (“Board”) by Section 558 of the Charter, a notice of intention to amend Article 49 of the New York City Health Code (“Health Code”) was published in the City Record on October 15, 2019. Given the similarity and simultaneity of the proposed child safety amendments to Articles 43, 47, 48 and 49, a consolidated public hearing was held for these proposed amendments on November 15, 2019. The public was invited to testify and/or submit written comments on any or all of the proposed amendments to these Articles. Three individuals testified at the public hearing, and a total of 13 written comments were received for all articles. Of the 13 written public comments received, five submissions provided comments related specifically to Article 49.

Minor changes were made to clarify the applicability to high schools of the amendments regarding immunizations and a medical room. Further, the medical room provision was clarified to apply to school nurses staffed by Office of School Health (either by the Department or the Department of Education).

At its meeting on December 17, 2019, the Board adopted the following resolution.

Statement of Basis and Purpose

Article 49 of the New York City Health Code governs health and safety requirements for schools. Children attending Article 49 schools are required to be appropriately immunized pursuant to New York State Public Health Law §2164. On June 13, 2019, New York State Public Health Law § 2164 was amended to remove the availability of a religious exemption from childhood immunization requirements. The Board of Health is amending § 49.05 by establishing a new subdivision (c) for consistency and clarity and to assist in enforcement by providing child immunization requirements that conforms with updated § 2164 of the New York State Public Health Law. This legislative update was in response to two contemporaneous measles outbreaks occurring in Rockland County and New York City. Most of the New York City cases (73%) occurred in the Williamsburg neighborhood and were concentrated among Orthodox Jewish persons. A total of 649 outbreak-associated cases of measles were confirmed in New York City, with rash onsets from September 30, 2018 through July 15, 2019. There were 49 measles-related hospitalizations and 20 admissions to intensive care due to measles complications. Most of the cases (527 or 81%) were diagnosed in people younger than 18. Accordingly, the Board is adopting these amendments to require child immunization requirements to minimize the risk of future vaccine-preventable disease outbreaks.

The Board is also amending § 49.07 by establishing a new subdivision (d) to require schools that are provided a nurse, public health advisor or school health services aide by the Office of School Health (either through the Department or the Department of Education) to have a medical room that complies with certain requirements. Section 17-187 of the New York City Administrative Code requires the Department to provide upon request to schools with a certain student population a nurse, public health advisor or school health services aide when such schools maintain an appropriate medical room where such health professional can carry out their duties. The purpose of this rule amendment is to establish such appropriate medical room requirements in accordance with § 17-187 of the New York City Administrative Code.

Finally, the Board is amending § 49.01 so that these changes concerning child immunizations and requirements regarding a medical room also apply to public and private high schools.

Legal Authority

These amendments to the Health Code are promulgated pursuant to §§ 558 and 1043 of the New York City Charter. Sections 558 (b) and (c) of the Charter empower the Board to amend the Health Code and to include in the Health Code all matters to which the authority of the Department extends. Section 1043 grants the Department rule-making authority.

The amendments are as follows:

New material is underlined.

[Deleted material is in brackets.]

* * * * *

RESOLVED, that section 49.01 of Article 49 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, be amended, to indicate that required child immunizations and requirement for a medical room apply to high schools, and to read as follows:

§49.01 Scope.

The provisions of this article apply to all schools, and the requirements of this article shall be in addition to the requirements to be met by schools pursuant to Article 45. A nursery school or kindergarten other than a kindergarten conducted as part of an elementary school by the Board of Education shall be maintained pursuant to Article 47. The provisions of §§ 49.05(c), 49.07(d) and [§] 49.15(d) shall also apply to public and private high schools.

RESOLVED, that a new subdivision (c) of section 49.05 of Article 49 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, be added, concerning required child immunizations, and to read as follows:

§ 49.05 Admissions.

(c) Immunizations. (1) All children must be immunized against diphtheria, tetanus, pertussis, poliomyelitis, measles, mumps, rubella, varicella, hepatitis B, pneumococcal disease and haemophilus influenzae type b (Hib), in accordance with New York State Public Health Law § 2164, or successor law. Exemption from specific immunizations may be permitted if the immunization may be detrimental to the child's health, in accordance with New York State Public Health Law § 2164. Documentation of immunizations and exemptions must be kept on site for inspection.

(2) No principal, teacher, owner, or person in charge of a school shall permit any child to attend such school without appropriate documentation of the immunizations required pursuant to paragraph (1) of this subdivision, except as provided for in this subdivision or pursuant to New York State Public Health Law § 2164 or successor law.

(3) All children must have such additional immunizations as the Department may require.

(4) The principal, owner, or person in charge of a school must report to the Department all requests for exemption made pursuant to paragraph (1) of this subdivision in a manner and form prescribed by the Department. Upon submission of an exemption request and pending Department

determination, the child may attend school. If upon review of the documents submitted and any additional documentation provided to the Department, the Department determines that the exemption request is not valid insofar as it is not in accordance with the Center for Disease Control's Advisory Committee on Immunization Practices guidelines or other nationally recognized evidence-based guidelines, the principal, owner, or person in charge of a school must not allow the child to attend the school unless appropriate documentation is provided that such child has received the immunizations required pursuant to paragraph (1) of this subdivision.

RESOLVED, that a new subdivision (d) of section 49.07 of Article 49 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, be added, requiring a medical room in schools, and to read as follows:

§49.07 Physical facilities.

(d) Every public or private school where a Department or Department of Education nurse, public health advisor or school health services aide provides health services to school children must have an appropriate medical room where the nurse, public health advisor or school health service aide can carry out their duties. Such school's medical room should be in a dedicated space with no through traffic, wheelchair-accessible, on a lower floor, and in a central building location; and should contain the following:

(1) a workstation

(2) a medical cabinet, a filing cabinet, medication refrigerator, exam table and scale;

(3) an appropriate waiting area;

(4) a bathroom internal to or adjacent to the medical room;

(5) a holding area for a student awaiting transportation or pick-up (80 square feet) ; and

(6) a nursing/treatment area that meets the following requirements:

(i) minimum of 200 square feet in buildings for up to 800 students and 300 square feet in larger buildings to accommodate more staff;

(ii) sink with hot and cold running water;

(iii) floor-to-ceiling walls substantial enough to maintain privacy;

(iv) easy to clean surfaces (e.g., no carpeting);

(v) internet access and adequate electrical power (multiple outlets) for computers and medical equipment;

(vi) telephone line able to make direct calls out of building (e.g., 911 calls) and to send and receive faxes;

(vii) adequate heating and air conditioning, lighting and ventilation, including a window;

(viii) secure lock that cannot be opened by other school keys (excluding master key); and

(ix) safety button to enable nurse to have immediate access to security in the event of an emergency.

Notes: On December 17, 2019, the Board of Health adopted amendments to conform child immunization requirements with applicable state law and to require that schools in which health services are provided to school children by the Department or the Department of Education have a dedicated medical room which complies with specific requirements, and that both of these requirements apply to both public and private high schools.