

New York School Vaccine Exemptions

Frequently Asked Questions for Parents — 2026–2027 School Year

Updated August 2026

This FAQ explains what New York law says about school immunization exemptions, what recent court decisions have held, and what the August 2026 federal executive order does and does not change. It is general information, and it does not create an attorney-client relationship. Every child's situation is different. If your child has been denied an exemption or excluded from school, contact an attorney promptly—some deadlines are as short as 30 days.

Part 1. The Basics

What exemptions does New York have?

One. New York allows a medical exemption. There is no religious exemption and no personal or philosophical exemption. New York repealed its religious exemption on June 13, 2019, and a medical certification from a physician is the only exemption that remains. Part 4 of this FAQ covers religious exemptions and the executive order in detail.

What does the medical exemption statute actually say?

"If any physician licensed to practice medicine in this state certifies that such immunization may be detrimental to a child's health, the requirements of this section shall be inapplicable until such immunization is found no longer to be detrimental to the child's health." — N.Y. Public Health Law § 2164(8)

Two words matter most. The Legislature said "any" physician licensed in New York, and it said the requirements "shall be inapplicable." Nothing in the statute conditions the exemption on a school official's agreement, and nothing in it mentions the Department of Health.

What makes a medical exemption complete?

Under 10 NYCRR § 66-1.3(c), the request must be on the form approved by the Department of Health (the DOH-5077), signed by a physician licensed in New York, and must contain sufficient information to identify a medical contraindication to a specific immunization and state the length of time that immunization is contraindicated. It must be reissued each year.

In *Doe v. Oceanside Union Free School District*, No. 2:25-cv-02304 (E.D.N.Y. Aug. 12, 2025), a federal judge walked through what made a submission facially valid. Three things were present: a New York-licensed physician certified that immunization may be detrimental to the child's health; the form contained specific information identifying a medical contraindication to a specific immunization; and it specified the length of time the immunization was contraindicated.

If your submission has those elements, it is complete, and the school may require no more than that.

Who is allowed to sign it?

A physician licensed to practice medicine in New York State—an M.D. or a D.O. The statute uses the word "physician." A nurse practitioner or physician assistant does not satisfy that word, and schools have rejected exemptions on that basis. Legislation to extend this authority to nurse practitioners and physician assistants has been introduced in the Legislature but has not become law. Until it does, have a physician sign the form.

There is no requirement that the physician be a specialist, and no requirement that the physician be your child's primary care doctor.

What kinds of medical reasons qualify?

The regulation defines the standard as a medical contraindication or precaution to a specific immunization "consistent with ACIP guidance or other nationally recognized evidence-based standard of care." 10 NYCRR § 66-1.1. That is written in the alternative—the CDC's ACIP guidance is one recognized basis, and another nationally recognized evidence-based standard of care is an equally valid one.

Bases that fit comfortably within that standard include:

- A documented prior adverse reaction in your child to the specific vaccine or a component of it.
- A diagnosed condition that makes the vaccine unsafe for your child—for example, an immune system disorder, immunosuppressive therapy, or certain neurologic conditions.
- An ACIP-listed precaution, such as a moderate or severe acute illness, which can support a temporary exemption until the illness resolves.
- A contraindication, warning, or precaution stated in the manufacturer's package insert for that specific vaccine.

How long does an exemption last?

A maximum of one school year. Medical exemptions must be reissued annually. Your physician should state a duration appropriate to your child's situation, which may be a full year or a shorter period while your child is being evaluated.

Which vaccines should be listed on the form?

Only the immunizations actually required for your child's grade this year. Do not check every box on the form. Ask the school nurse for the list of what is due for your child's grade level, and have your physician address those. A targeted exemption is stronger and easier for a school to accept than a blanket one.

When should I submit it?

As early as possible, and well before the first day of school. Under Public Health Law § 2164, a school may permit a student to attend for a limited grace period while documentation is being sorted out, but you do not want to be relying on that. Submitting in July or early August gives everyone time.

Part 2. Who Decides, and What They May Ask

Who makes the decision on my child's exemption?

The school. Under 10 NYCRR § 66-1.3(c), the authority rests with "the principal or person in charge of the school." The Second Circuit has described New York law as delegating "to school officials the authority to grant a medical exemption from the State's school immunization requirements." *Goe v. Zucker*, 43 F.4th 19, 33 (2d Cir. 2022).

Does the school have to send my exemption to the Department of Health?

No. Public Health Law § 2164(8) names one thing—a certification by a New York-licensed physician. It does not mention the Department of Health. And 10 NYCRR § 66-1.3(c) vests the review in the principal or person in charge of the school. Neither the statute nor the regulation creates a referral to the Department of Health, a Department review of an individual request, or a Department recommendation.

The referral practice—forwarding a request to the Bureau of School Immunizations, review by a public health nurse, and a recommendation from a Department Medical Director—comes from agency guidance, not from law. The State Education Department's own Immunization Guidelines for Schools go no further than to say schools "are encouraged to consult with their medical director to review requests for medical exemptions and to determine if additional documentation is required." Immunization Guidelines for Schools at 10 (NYSED, last updated June 2024). Encouraged, not required—and a school's own medical director is not the Department of Health.

A referral does not move the decision to Albany and does not discharge the school's duty. What it reliably produces is delay, which is why it is worth addressing in writing at the outset.

Can the school's doctor overrule my child's doctor?

No. This is the most consistent holding in this area. The Second Circuit has held that school officials "do not have discretion to approve or deny exemptions on a case-by-case basis" for *any reason*. *Miller v. McDonald*, 180 F.4th 420, 431 (2d Cir. 2026). And in *A.A.C. v. Starpoint Central School District*, No. 1:24-cv-01047, 2025 U.S. Dist. LEXIS 79314 (W.D.N.Y. Apr. 25, 2025), a federal court found that a district physician "took numerous steps that amounted to second-guessing" the treating physician's medical opinion, and that doing so "exceeds the bounds of his statutory authority in reviewing a request."

Can the school ask for more information?

It can ask for information necessary to confirm that the statutory requirements have been met. It cannot use that authority to re-decide the medical question or to deny a certification that satisfies the statute. The federal court that reviewed New York's scheme addressed this directly:

"Nothing in the language of 10 NYCRR § 66-1.3 suggests that school officials may request information other than that necessary to confirm that the requirements of PHL § 2164(8) have been satisfied, or that a school official has any discretion to deny an exemption that complies with the statutory requirements. And, even were there some ambiguity in 10 NYCRR § 66-1.3, under New

York law, 'in the event of a conflict between a statute and a regulation, the statute controls.' . . . Here, the statute is clear and mandatory."

Miller v. McDonald, 720 F. Supp. 3d 198, 214 (W.D.N.Y. 2024) (quoting *Sciara v. Surgical Assocs. of W. N.Y., P.C.*, 104 A.D.3d 1256, 1257 (4th Dep't 2013)), *aff'd*, 180 F.4th 420 (2d Cir. 2026).

The school is asking for my child's complete medical records. Do I have to hand them over?

Generally no. The completed DOH-5077 and your physician's supporting letter are the supporting information the regulation calls for. A demand for the entire medical file goes beyond what is "necessary to confirm that the requirements of PHL § 2164(8) have been satisfied."

You can decline politely and firmly, and offer a reasonable alternative. Something like:

"The completed DOH-5077 and the supporting letter from my child's licensed physician contain the information the regulation requires. I am not able to provide the entire medical file, but if the school has a specific question about the certification, please tell me in writing what information is needed and I will obtain it from my physician promptly. My child's physician is also available to speak with the school health office directly with my written consent."

That protects your child's privacy, keeps the exchange in writing, and still offers a path forward.

The school says it is following state guidance. Does that settle it?

Guidance is not law. The joint guidance issued by the State Education Department and the Department of Health on September 24, 2025 was not adopted through rulemaking. It cannot amend Public Health Law § 2164(8), and it cannot create authority the courts have said school officials do not have. Where guidance and the statute point in different directions, the statute controls.

Part 3. Things Schools Commonly Say

These are positions families are given regularly. Each is followed by what the law actually provides.

"The contraindication has to be on the CDC or ACIP list."

The regulation states the standard in the alternative: a contraindication or precaution "consistent with ACIP guidance or other nationally recognized evidence-based standard of care." 10 NYCRR § 66-1.1. Treating the ACIP list as the only permissible basis applies a narrower rule than the regulation contains. *The manufacturer's package insert and published clinical practice guidelines are other recognized standards.*

"The certification has to come from an allergist" (or an immunologist, or a neurologist).

The statute says "any physician licensed to practice medicine in this state." Neither the statute nor the regulation contains a specialty requirement, and neither permits a school to condition the exemption on a second opinion from a specialty of its choosing.

"Your child tolerated earlier doses of this vaccine, so there is no contraindication."

The statutory question is whether immunization "may be detrimental to a child's health"—a forward-looking clinical judgment about this child now. Prior tolerance does not answer that question, and it is not a ground the statute or the regulation recognizes.

"We need medical records from the time of the reaction."

The regulation requires the Department-approved form, sufficient information identifying a contraindication to a specific immunization, and the length of time it applies. It prescribes no particular form of proof and does not require contemporaneous documentation of a past event.

"Only live vaccines are contraindicated for a child on immunosuppressive therapy."

That is a statement about ACIP's guidance, and it is offered as though ACIP were the only permissible standard. It is not—see above. It also substitutes the school's reading of a guidance document for the treating physician's clinical judgment about a specific child, which is what the courts have said school officials may not do.

"Exemption rates vary between schools, which shows this involves judgment."

The court in *Miller* addressed that argument: "even if some school officials in New York are not complying with their duties under PHL § 2164(8), that does not mean the statute is not mandatory — it means those school officials are not performing their statutory duties." 720 F. Supp. 3d at 214 n.7.

Part 4. Religious Exemptions and the Executive Order

The short version: New York has no religious exemption, and the August 2026 executive order did not create one. Anyone telling you otherwise is giving you information that will not hold up with your school, and acting on it can cost your child school days.

Does New York have a religious exemption from school immunization requirements?

No. New York repealed its religious exemption on June 13, 2019 (Chapter 35 of the Laws of 2019). Since then, a medical certification under § 2164(8) has been the only exemption available for school attendance.

Didn't the President's executive order restore religious exemptions?

No. Executive Order 14420, issued August 10, 2026, does not create a religious exemption in New York and could not do so by itself. Requirements for school attendance are set by state law, and the order does not amend Public Health Law § 2164. The order also states expressly that it does not create any right or benefit enforceable by any party. That means no family can go to a school or a court and claim an exemption "under the executive order."

Then what does the executive order actually do?

It sets federal policy and directs federal agencies to act. Two provisions matter most:

- **Section 4(a)** directs the Attorney General to pursue meritorious legal actions challenging state laws that conflict with obligations relating to parental authority, religious freedom, disability accommodations, and equal protection—including, to the extent applicable under federal law, obligations to provide religious and medical exemptions. New York has been publicly identified as one of four states in view.
- **Section 4(b)** directs the Departments of Justice, Education, and Health and Human Services to ensure that their contractors and grantees including states and localities—comply with those same obligations. Your school district receives federal funds, which makes it a grantee.

So the order changes the posture of federal agencies. It does not change what New York requires today, and it is not a defense to non-compliance with § 2164.

New York's health commissioner said the order changes nothing. Is that right?

As to New York's own requirements, yes. On August 11, 2026, State Health Commissioner Dr. James McDonald said the "Executive Order doesn't change New York State's immunization requirements or recommendations." That is accurate—the order does not amend the statute.

But it answers a narrower question than it appears to. The order is addressed to federal agencies and to entities that receive federal funds. Nothing in the Commissioner's statement speaks to a school district's obligations under federal law, and it would not be a defense to a federal civil rights complaint.

What is happening in the Amish case, *Miller v. McDonald*?

It is the leading challenge to New York's repeal, and it is still moving. The history matters if you are trying to judge where this is headed:

- A federal district court dismissed the Free Exercise challenge. *Miller v. McDonald*, 720 F. Supp. 3d 198 (W.D.N.Y. 2024).
- The Second Circuit affirmed. 130 F.4th 258 (2d Cir. 2025).
- The Supreme Court granted review, vacated that decision, and sent the case back for reconsideration in light of *Mahmoud v. Taylor*, its 2025 decision on parental religious rights in schools. No. 25-133 (Dec. 8, 2025).
- On remand, the Second Circuit affirmed again on June 30, 2026, holding that *Mahmoud* did not change the result. 180 F.4th 420 (2d Cir. 2026).

So the Supreme Court has shown interest, but the Second Circuit has now twice upheld New York's repeal, and the most recent word is against the families. The Second Circuit also upheld Connecticut's repeal in *We The Patriots USA, Inc. v. Connecticut Office of Early Childhood Development*, 76 F.4th 130 (2d Cir. 2023). A further appeal in *Miller* is possible, and this may change. As of today, a religious objection is not a lawful basis for exemption from school immunization requirements in New York.

Can I submit a religious objection on the medical exemption form?

No, and please do not. A religious objection described as a medical contraindication is not a medical contraindication, and reviewers recognize the difference. It invites a denial that is easy for the school

to defend, it can undermine your credibility on any later appeal, and it exposes the physician who signed it to professional scrutiny. If your objection is religious, say so honestly and get advice about your options rather than routing it through the medical exemption.

Can I keep my child home and point to the executive order?

That is a risky path, and you should get advice before taking it. The executive order does not excuse compliance with § 2164, and a school can treat an unimmunized child without a valid exemption as ineligible to attend. Schools also face their own penalties under the Public Health Law for permitting non-compliant attendance, which is part of why they act as they do. If you are considering keeping your child out of school, talk to a lawyer first.

Part 5. Students with an IEP or a Section 504 Plan

Is the exemption process different for a student with a disability?

No. The same statute, the same regulation, and the same form apply, and the same limits on the school's role apply. Your child's IEP or Section 504 plan does not change what makes a medical exemption complete.

If my child is excluded, do IEP services stop?

They should not. Exclusion from the school building and the delivery of services are two different things, and the State Education Department has addressed this directly. Its Immunization Guidelines for Schools provide:

"Students with IEPs can be excluded for lack of immunizations, though the services outlined in their IEP should be provided." — Immunization Guidelines for Schools at 9 (NYSED, last updated June 2024)

Some districts take the position that no services are owed during an exclusion. That position is contrary to the State Education Department's own guidance, and it is worth putting the guidance in front of them in writing.

What should I ask for if exclusion looks likely?

Two things, in writing, before any exclusion takes effect:

- That the CSE or the Section 504 team convene, so that the delivery of your child's services is arranged rather than simply stopped.
- A written statement of what instruction and related services the district will provide during any exclusion, who will deliver them, and when they will begin.

Getting this in writing before an exclusion is far easier than reconstructing it afterward, and it makes clear that you are asking the district to plan rather than to improvise.

My child has a Section 504 plan rather than an IEP. Does that matter?

The State Education Department guidance quoted above speaks to students with IEPs. If your child has a Section 504 plan, ask for the Section 504 team to convene and make the same written requests. Talk to a lawyer about your particular situation, because the analysis differs depending on your child's circumstances.

Part 6. If the Exemption Is Denied

What is the first thing to do?

Get the denial in writing, with reasons. Ask which requirement of § 66-1.3(c) the school believes is unmet, who participated in the decision, and—if a physician reviewed the file—whether that physician examined your child. A written decision starts your appeal clock cleanly and forces the school to commit to a stated ground. An indefinite silence is worse for you than a denial.

What are my options after a denial?

There are three general paths, and they are not interchangeable. Which fits depends on your facts, and this is the point at which you should be talking to a lawyer.

An appeal to the Commissioner of Education under Education Law § 310. This is the state administrative appeal, and it is usually the required first step. The deadline is short: an appeal must be brought within 30 days of the decision or the act complained of, though the Commissioner may excuse a late filing for good cause shown if the reasons are set out in the petition. 8 NYCRR § 275.16.

A proceeding in state court under CPLR Article 78. This asks a court to review the school's determination as arbitrary and capricious. Courts generally expect the § 310 appeal to be pursued first. Courts have made exceptions where a child has already been out of school for an extended period and the harm is severe.

A federal administrative complaint. Complaints may be filed with the Office for Civil Rights at the U.S. Department of Education, the Office for Civil Rights at the U.S. Department of Health and Human Services, or the Civil Rights Division of the U.S. Department of Justice. These are free and do not require an attorney. Education's Office for Civil Rights generally requires a complaint within 180 days of the act complained of.

Will a federal complaint get my child back in school?

Not by itself, and it is important to be realistic about this. A federal civil rights complaint asks an agency to investigate. It cannot order a school to accept your exemption, and it cannot order your child readmitted while the matter is pending. These offices have also been operating with substantially reduced staff, and a large share of complaints are closed without an investigation.

That does not make a complaint pointless. It creates a record, it can produce an agreement requiring reconsideration or a policy change, and the executive order has directed these agencies to look at

exactly this subject. But if your child is out of school right now, a federal complaint is not the tool that fixes that quickly. Talk to a lawyer about court relief in parallel.

How quickly do I need to act?

Quickly. Thirty days for a Commissioner's appeal is the shortest deadline and the easiest to miss, and it can run from the date of the decision—not from the date you finish trying to persuade the school informally. If you are going back and forth with the district by email, the clock may already be running. Do not let a friendly-sounding exchange consume your appeal window.

Part 7. Practical Points

- **Submit early, and submit completely.** Well before the first day of school, on the DOH-5077, with only the vaccines actually required for your child's grade.
- **Put everything in writing.** Email the principal and the superintendent, and follow with a mailed copy. Keep the sent emails.
- **Log every conversation.** Date, who you spoke with, and what was said. This matters later.
- **Ask for specifics, not general reassurance.** If the school says something is missing, ask it to identify the item in writing, then get it from your physician promptly.
- **Do not let it go quiet.** Silence past the start of school is a problem, not a good sign. Follow up in writing and ask for a determination.
- **Keep your physician in the loop.** Offer to have your physician speak with the school health office directly, with your written consent. That is often more productive than letters between the school and you.
- **Call a lawyer when you get a denial, or when your child is excluded.** Not weeks later. The deadlines are short.

This FAQ is general information about New York law as of August 2026. It is not legal advice and does not create an attorney-client relationship. Court decisions and agency guidance in this area are changing quickly, and the law described here may have changed by the time you read it. If your child has been denied a medical exemption or excluded from school, consult an attorney about your specific circumstances promptly.