[Parent/Guardian Name]
[Address]
[City, NY ZIP]
[Phone] | [Email]

[Date]

VIA EMAIL AND U.S. MAIL

[Principal Name], Principal, [School Name]
[Superintendent Name], Superintendent, [District Name]
[Address] | [City, NY ZIP]

Re: Medical exemption for [Student Name], DOB [00/00/0000], [Grade] — student with [an IEP / a Section 504 plan]

Dear Principal [Last Name] and Superintendent [Last Name]:

Enclosed is a medical exemption for my child, [Student Name], signed by [Physician Name], [M.D./D.O.], licensed to practice medicine in New York State. [Student Name] receives [special education and related services under an IEP / services under a Section 504 plan].

New York law on medical exemptions is often described inaccurately, and schools are frequently given guidance that does not match the statute. I am including this letter so the school has the statute, the regulation, and the controlling decisions in front of it. Because my child receives special education services, there is also a second set of obligations that I address below.

The statute

> *"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)*

The Legislature said "any" physician licensed in New York, and said the requirements "shall be inapplicable." The school's role is to confirm the certification is complete, not to weigh whether it agrees with the physician's conclusion.

The determination is yours to make

I want to be direct about one point, respectfully. Under 10 NYCRR § 66-1.3(c), authority over this decision rests with "the principal or person in charge of the school." Not the Department of Health, and not a district medical director. The Department of Health has itself described its role in reviewing exemption requests as advisory, with the final determination belonging to the school.

The courts have said the same. New York law "delegates 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). School officials are "the state employees ultimately charged with determining whether PHL § 2164(8) has been satisfied," which does not make them free to "decide which reasons for not complying with the policy are worthy of solicitude." *Miller v. McDonald*, 720 F. Supp. 3d 198, 214 (W.D.N.Y. 2024) (quoting *We The Patriots USA, Inc. v. Conn. Office of Early Childhood Dev.*, 76 F.4th 130, 151 (2d Cir. 2023)).

I raise this because families are often told the decision was made somewhere else. If a recommendation arrives from the Department of Health, or from a physician who has never examined my child, that recommendation is advice. The duty under the statute is yours. I would ask that whoever signs the determination be the person the regulation names.

There is no requirement to send this to the Department of Health

Because this is the step that most often delays these decisions, I want to address it specifically. Public Health Law § 2164(8) names one thing: a certification by a physician licensed to practice medicine in New York. It does not mention the Department of Health. And 10 NYCRR § 66-1.3(c), which sets out how a request is reviewed, vests that review in "the principal or person in charge of the school." It creates no referral to the Department of Health, no Department review of an individual request, and no 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—appears only in agency guidance. Guidance is not law. The State Education Department's own Immunization Guidelines for Schools go no further than to say that 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.

So the school is not required to forward this request anywhere. Forwarding it does not move the decision to Albany, does not discharge the school's duty under the statute, and does not insulate the determination. I would ask that the school make the determination the regulation assigns to it, on the submission enclosed.

Where schools are most often misinformed

The comparison below may be useful. The left column reflects positions families are commonly given. The right column is what the statute, the regulation, and the courts actually say.

What schools are often told	What the statute and the courts say
A medical exemption is an application the school approves or denies.	The statute is written in mandatory terms. Once a New York-licensed physician certifies, the immunization requirements "shall be inapplicable." Public Health Law § 2164(8). The Second Circuit has described the exemption as "mandatory" and as applying to an "objectively defined" group. *Miller v. McDonald*, 180 F.4th 420, 431 (2d Cir. 2026).
The school or its medical director may deny the exemption if it disagrees with the treating physician.	School officials "do not have discretion to approve or deny exemptions on a case-by-case basis for *any reason*." *Miller*, 180 F.4th at 431 (emphasis added). A district physician who second-guessed a treating physician was found to have "exceed[ed] the bounds of his statutory authority." *A.A.C. v. Starpoint Cent. Sch. Dist.*, No. 1:24-cv-01047, 2025 U.S. Dist. LEXIS 79314 (W.D.N.Y. Apr. 25, 2025).
The regulation permits the school to require additional information, so it may keep asking until satisfied.	The regulation permits a request only for information necessary to confirm that the requirements of § 2164(8) have been met. It does not confer authority to deny a certification that satisfies the statute. See the discussion under "State guidance is not law" below.
The request must be sent to the Department of Health for review before the school can act.	Neither the statute nor the regulation provides for Department of Health involvement in an individual determination. Section 2164(8) names only a physician's certification. Section 66-1.3(c) vests the review in "the principal or person in charge of the school." The referral practice comes from Department guidance, not from law, and the Department itself describes its recommendation as advisory.

What schools are often told	What the statute and the courts say
The contraindication must appear 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. The manufacturer's package insert and published clinical guidelines are other recognized standards.
The certification must come from an allergist, immunologist, neurologist, or other specialist.	The statute says "any physician licensed to practice medicine in this state." § 2164(8). Neither the statute nor the regulation contains a specialty requirement, and neither permits conditioning the exemption on a second opinion from a specialty of the school's choosing.
Because the student tolerated earlier doses of the same vaccine, 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 it, and it is not a ground the statute or the regulation recognizes.
Records from the time of the reaction are required before the exemption can be accepted.	The regulation requires the Department-approved form, sufficient information identifying a contraindication to a specific immunization, and the length of time it applies. 10 NYCRR § 66-1.3(c). It prescribes no particular form of proof and does not require contemporaneous documentation. The court in *Oceanside* was clear that the form itself is sufficient medical proof.

State guidance is not law

If the school is relying on the joint guidance issued by the State Education Department and the Department of Health on September 24, 2025, that guidance was not adopted through rulemaking and cannot amend Public Health Law § 2164(8) or create authority the courts have said school officials do not have.

The federal court that reviewed New York's scheme addressed the additional-information provision 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 same court addressed the argument that differing exemption rates between schools show the decision is discretionary: "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." *Id*. at 214 n.7.

If my child is excluded, services do not stop

This is the point I most want to be clear about, because families are often told the opposite. Exclusion from the building and the delivery of services are two separate obligations, and New York has answered this directly. The State Education Department's 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)*

I am therefore asking that the CSE convene before any exclusion takes effect, so that if my child is kept out of the building the delivery of his or her IEP services is arranged rather than simply stopped.

The federal picture, and the State's response to it

On August 10, 2026, Executive Order 14420 was issued. 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 obligations relating to parental authority, disability accommodations, and equal protection, including obligations to provide medical exemptions from childhood and adolescent immunization requirements. Section 4(a) directs the Attorney General to pursue actions against state laws that conflict with those obligations.

I am aware that 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." As to New York's requirements, that is right, and I am not suggesting otherwise. But the Commissioner was answering a different question than the one facing this school. The order

is addressed to federal agencies and to the entities that receive federal funds, and this school district is a federal grantee. Nothing in the Commissioner's statement speaks to the District's obligations under federal law, and it would not be a defense to a federal complaint.

I would much rather resolve this with you than anywhere else. But if the exemption is denied, I understand I may file administrative complaints 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, and the Civil Rights Division of the U.S. Department of Justice, each of which has authority over recipients of federal funds. I mention it only so that the decision is made with full information.

What is enclosed, and why nothing further is required

Enclosed are the New York State medical exemption form (DOH-5077), signed by [Physician Name], [M.D./D.O.], New York license no. [number], on [date]; the physician's supporting letter; and [Student Name]'s immunization record; along with [Student Name]'s [IEP / Section 504 plan] dated [date]. The form identifies [vaccine(s)]—only those immunizations actually required for [Student Name]'s grade this year—states the contraindication as [one or two sentences], and states that the immunization is contraindicated [until [date] / for [period]].

In *Doe v. Oceanside Union Free School District*, No. 2:25-cv-02304 (E.D.N.Y. Aug. 12, 2025), the court was clear about what makes a request sufficient. Ruling on the record, it found the submission facially valid because 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. On that basis the court found that the plaintiff had shown a likelihood of success on the merits, granted a preliminary injunction, and stated that "the school district is directed to grant the exemption for this year."

The enclosed submission contains each of those three elements. Under 10 NYCRR § 66-1.3(c), nothing further is required of me, and the school may require no more than that.

What I am asking for

I am asking that the enclosed exemption be accepted in writing, and that [Student Name] attend school without interruption while any review is pending. If the school does not accept it, I am asking for a written determination signed by the principal or person in charge of the school, identifying which requirement of § 66-1.3(c) is believed to be missing and naming everyone who took part, including any physician who reviewed the file and whether that physician examined my child. I am also asking that the [CSE / Section 504 team] convene before any exclusion takes effect, and that if [Student Name] is kept out of the building for any period, the school tell me in writing what instruction and related services will be provided, by whom, and beginning when. If something

specific is missing from the enclosed submission, please tell me what it is and I will obtain it promptly. I would appreciate a response by [date], before the first day of instruction.

I am glad to speak by phone, and my child's physician can speak directly with the school health office with my written consent. Please reach me at [phone] or [email].

Respectfully,

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[Parent/Guardian Printed Name], parent/guardian of [Student Name]