

Texas Administrative Code **CHAPTER 21** Student Services

**SUBCHAPTER T** THE VACCINATION AGAINST BACTERIAL MENINGITIS FOR ENTERING STUDENTS AT PUBLIC AND PRIVATE OR INDEPENDENT INSTITUTIONS OF HIGHER EDUCATION

**21.610 Purpose**

Pursuant to the Jamie Schanbaum and Nicolis Williams Act, this subchapter creates the procedure by which an entering student of an institution of higher education or private or independent institution of higher education will show evidence of being immunized against bacterial meningitis.

**21.611 Authority**

Texas Education Code, §51.9192, Subchapter Z, establishes the requirement for bacterial meningitis vaccination for certain students and identifies exceptions to that requirement. This subchapter applies only to entering students enrolling in public, private or independent institutions of higher education on or after January 1, 2012.

**21.612 Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Entering student includes:

- (A) New student--A first-time student of an institution of higher education or private or independent institution of higher education, including a student who transfers to the institution from another institution; or
- (B) Returning student--A student who previously attended an institution of higher education or private or independent institution of higher education before January 1, 2012, and who is enrolling in the same or another institution of higher education or private or independent institution of higher education following a break in enrollment of at least one fall or spring semester.

(2) Evidence of Vaccination--Acceptable evidence of vaccination or receiving a booster dose includes:

- (A) the signature or stamp of a physician or his/her designee, or public health personnel on a form which shows the month, day, and year the vaccination dose or booster was administered;
- (B) an official immunization record generated from a state or local health authority; or
- (C) an official record received from school officials, including a record from another state.

(3) Health practitioner--Any person authorized by law to administer a vaccination.

(4) Institution of Higher Education--Any public technical institute, public junior college, public senior college or university, medical or dental unit or other agency of higher education as defined in Texas Education Code, §61.003(8).

(5) Private or independent institution of higher education--Includes only a private or independent college or university as defined in Texas Education Code §61.003(15).

(6) Online and other distance education course--A course in which the instructor and students are not in the same location. An online course typically involves web-based instruction, but might also include correspondence instruction. An online or other distance education course that includes a face-to-face component, including meeting in a testing laboratory with other students, or meeting in a classroom to receive interactive video instruction, does not qualify as an online or other distance education course for the purposes of this subchapter.

### **21.613 Immunization Requirement**

- (a) An entering student who has been admitted to an institution of higher education or private or independent institution of higher education, must show evidence of receipt of an initial bacterial meningitis vaccination dose or booster during the five-year period preceding and at least 10 days prior to the first day of the first semester in which the student initially enrolls at an institution, or following a break in enrollment of at least one fall or spring semester at the same or another institution.
- (b) Each institution of higher education or private or independent institution of higher education must designate a department or unit to receive from the student evidence of receipt of an initial bacterial meningitis vaccination dose or booster during the five-year period preceding and at least 10 days prior to the first day of the first semester in which the student initially enrolls at an institution, or following a break in enrollment of at least one fall or spring semester at the same or another institution.
- (c) Evidence of the student having received the vaccination from an appropriate health practitioner must be received by the designated department or unit at the institution of higher education or private or independent institution of higher education. This information shall be maintained in accordance with Family Education Rights and Privacy Act Regulations, and with Health Insurance Portability and Accountability Act.
- (d) Each institution of higher education or private or independent institution of higher education must provide to a student, with the registration materials that the institution provides to a student before the student's initial enrollment in the institution, the following:
  - 1. written or electronic notice of the right of the student or of a parent or guardian of a student, to claim an exemption from the vaccination requirement, as specified in §21.614 of this title (relating to Exceptions); and
  - 2. written or electronic notice of the importance of consulting a physician about the need for the immunization against bacterial meningitis to prevent the disease.
- (e) Under justifiable circumstances, an administrative official of the designated department or unit of an institution of higher education, or private or independent institution of higher education, may grant extensions to individual students to extend the compliance date to no more than 10 days after the first day of the semester or other term in which the student initially enrolls.

### **21.614 Exceptions**

- (a) A student is not required to submit evidence of receiving the vaccination against bacterial meningitis or evidence of receiving a booster dose if:
  - (1) the student is 30 years of age or older by the first day of the start of the semester;  
or
  - (2) the student is enrolled only in online or other distance education courses; or
  - (3) the student is enrolled in a continuing education course or program that is less than 360 contact hours, or continuing education corporate training; or
  - (4) the student is enrolled in a dual credit course which is taught at a public or private K-12 facility not located on a higher education institution campus; or
  - (5) the student is incarcerated in a Texas prison.

- (b) A student, or a parent or guardian of a student, is not required to submit evidence of receiving the vaccination against bacterial meningitis if the student, or a parent or guardian of a student, submits to the institution:
- (1) an affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine in the United States, in which it is stated that, in the physician's opinion, the vaccination required would be injurious to the health and well-being of the student; or
  - (2) an affidavit signed by the student stating that the student declines the vaccination for bacterial meningitis for reasons of conscience, including a religious belief. A conscientious exemption form from the Texas Department of State Health Services must be used.
- (c) The exception noted in subsection (b)(2) of this section does not apply during a disaster or public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency declared by an appropriate official or authority from the Texas Department of State Health Services and is in effect for the location of the institution the student attends.

**Source Note:** The provisions of this §21.614 adopted to be effective November 30, 2009, 34 TexReg 8527; amended to be effective November 29, 2011, 36 TexReg 8024