

School Vaccination Activities

Executive Summary

This document provides a brief overview of important concepts related to school-located vaccination activities. Additional details on these and other concepts are contained in the [ASTHO Public Health & Schools Toolkit](#).

Using a School Site—School-located vaccination (SLV) activities are among the most efficient ways to reach a large number of school-age students and other members of a community in a short time. The site may be used to vaccinate a range of persons: the students attending the school; students at neighboring schools and home-schooled children; school staff; students' younger siblings and other family members; and other members of the community. The decision to use a school as a site for a vaccination clinic involves a number of considerations, including the legal authority and permissions required to use the site, staffing availability and possible collective bargaining requirements, and liability and immunity concerns. Logistical considerations such as the suitability of the site to host the intended event are also important planning factors. Ultimately, the planning decision to conduct SLV activities at a school is generally a joint one between school and health officials. A state or local declaration of emergency can also affect the legal authorities related to siting (and other aspects) of an SLV clinic.

Staffing the Site—Staffing will likely involve a mix of medical and non-medical personnel from the individual school, school district, and public health agencies, as well as contractors and volunteers. Persons staffing vaccination clinics or otherwise involved in emergency response activities frequently voice concerns about potential liabilities including malpractice, negligence, premise liability, and other forms of tort liability. However, many liability concerns have been addressed in a range of state and federal laws passed over the last decade. An emergency declaration by a governor may activate additional legal protections for persons involved in responding to an emergency event.

Consents—Obtaining consents to perform vaccinations and sharing data about the vaccinees are critical elements in SLV activities. Most vaccine consent is based on an "opt-in" framework in which a parent, guardian, or person to be vaccinated affirmatively elects to receive the vaccine for themselves or their child. This is contrasted to an "opt-out" framework in which a parent, guardian, or person must provide written consent stating they do not want the vaccination. The decision to use an opt-out or opt-in approach can be a controversial one and involves weighing factors such as individual rights, community health, individual health, and the nature of the health threat being addressed. States have school-entry immunization requirements for vaccine-preventable diseases; however, states may recognize temporary or permanent medical, religious, or philosophical exemptions. Should a vaccine or other medical countermeasure be mandated for students and others in response to a public health emergency, it would likely contain similar medical and other exemptions. However, depending on the severity of the disease, those electing the exemption over the vaccine may be subject to exclusion from school, quarantine, or isolation until the incubation or infectious period ends. State law specifies the format and content of the consent. The consent form is accompanied by a vaccine information statement (VIS) prepared by the CDC, which addresses eligibility and vaccine risks and benefits. Consent to vaccinate forms also generally include a separate consent to share data about the vaccination.

Records and Privacy Considerations—Federal privacy protections for student education and health records have resulted in difficulties in public health efforts to collect data from SLV activities. The Family Educational Rights and Privacy Act (FERPA) prevents the disclosure of a student's education record without the consent of a parent or eligible student. Under the act, a student's health records, including immunization information, are part of the student's education record protected from disclosure. FERPA applies to educational institutions that receive funds from the U.S. Department of Education (ED). Schools that do not receive ED funds, such as private elementary and secondary schools, are not subject to FERPA. FERPA contains exceptions that allow schools to disclose information from an education record without consent; however, ED narrowly construes the exceptions to err on the side of protecting students' privacy and thus they may be of limited use in SLV activities. FERPA also only applies to records made or maintained by a person under the direct control or working on behalf of a school. If a health agency conducts an SLV clinic and maintains the records afterwards, then the data is not subject to FERPA. Student health records that are not covered under FERPA may be covered under the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule or any applicable state privacy laws. The health records from an SLV event at a private school would not be covered by FERPA, but the records may be subject to HIPAA requirements if the school is a covered entity under the act. Health agencies would need to invoke one of the Privacy Rule's exceptions, such as the public health exception, to access records from the private school or from the healthcare provider who administered the vaccinations.

This document was compiled from June–December 2011 and reflects the laws and programs current then. It reflects only portions of the laws relevant to public health emergencies and is not intended to be exhaustive of all relevant legal authority. This resource is for informational purposes only and is not intended as a substitute for professional legal or other advice. The document was funded by CDC Award No. 1U38HM000454 to the Association of State and Territorial Health Officials; Subcontractor PI Elliott, Logan Circle Policy Group LLC.