
Coates' Canons Blog: May Unimmunized Children be Excluded from School in North Carolina?

By Jill Moore

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A serious measles outbreak is underway in the United States. The outbreak began in late December in California and has since spread to other states. As of this morning, the [Centers for Disease Control and Prevention \(CDC\) reported](#)⁸⁴ confirmed cases in 14 states.

Public health officials have [attributed this and other outbreaks in recent years to declining vaccination rates](#) in some parts of the United States, especially when [underimmunized children are concentrated in particular geographic areas](#).

Marin county, California, is an example of an area that has a large population of underimmunized children. Earlier this week, the parents of a boy in Marin county made [national news](#) when they asked their child's school to exclude some unvaccinated children for the duration of the outbreak. Their son is a cancer survivor whose treatments have compromised his immunity, making him more susceptible to infections but also medically unable to take the vaccine himself. The parents' request is focused on the [6.45% of Marin county kindergarteners](#) who are unvaccinated for reasons that aren't medical.

What would happen if this situation arose in North Carolina? Could school or public health officials exclude unvaccinated children from school?

Vaccination Requirements in North Carolina

North Carolina law requires "[e]very child present in this state" to be immunized against certain diseases. [G.S. § 130A-152](#). A state administrative rule specifies which vaccines are required, when, and in what doses. [10A N.C.A.C. 41A .0401](#). Measles is one of the diseases for which vaccination is required.

A child is exempt from these requirements only if she qualifies for one of two statutory exemptions: a medical exemption, or a religious objection exemption.

To qualify for a medical exemption, a child must have a medical contraindication to the vaccine that is certified by a licensed physician. [G.S. 130A-156](#); [10A N.C.A.C. 41A .0404](#). In most cases the contraindication must be one that is recognized by the federal [Advisory Committee on Immunization Practices](#) (ACIP). A contraindication usually is an enduring medical condition, such as a severe allergy to a vaccine component, that means the vaccine should not be administered to that child. (The ACIP recommendations also recognize precautions. A precaution is usually a temporary condition, such as an acute illness, that does not preclude vaccination but makes it prudent to administer the vaccine at a later date.) The North Carolina Immunization Branch provides a [form](#) that a licensed physician may use to certify a child's medical contraindication.

A child qualifies for a religious exemption if his parent or guardian has bona fide religious beliefs that are contrary to the immunization requirements. [G.S. 130A-157](#). This exemption is not available to parents or guardians who object to vaccinations for reasons that are not religious in nature. [10A N.C.A.C. 41A .0403](#).

Many of the news articles about the present measles outbreak refer to a "personal belief exemption" from vaccination requirements. [Eighteen states, including California, allow K-12 school children to be exempted from vaccination requirements for personal beliefs](#) that are not founded in religion. This is sometimes called a personal exemption or philosophical exemption (the term "personal belief exemption" usually encompasses both religious and non-religious

exemptions). There is no personal or philosophical exemption in North Carolina. State law permits non-medical exemption only when the parent or guardian has bona fide religious objections.

Exclusion of Children from School

All fifty states impose vaccine requirements on children before they enter school. In North Carolina, state law actually requires every child present in the state to be immunized according to the state's schedule, regardless of whether the child is enrolled or planning to enroll in school. As a practical matter, however, school enrollment may be the first time a child who is out of compliance with this law is identified, because North Carolina law also expressly requires certification of immunization upon school entry.

There are two circumstances in which a child may be excluded from school for being unvaccinated. First, the school's principal or operator must exclude a child if the child's parent, guardian, or responsible person does not provide proof that the child is in compliance with the state's immunization laws. The proof should be provided by the first day of school. However, the law provides for a grace period of 30 calendar days before the child must actually be denied permission to attend. Second, an unvaccinated child may be excluded from school by public health officials, if the state health director or a local health director determines immunization is required to control an outbreak.

Exclusion by school officials for non-certification

When a child enrolls in school—public or private—the child's parent, guardian, or other responsible person must certify that the child has received the immunizations required by law. [G.S. 130A-155](#). If the child qualifies for an exemption, the parent may instead present documentation of the exemption. A parent of a child with a medical exemption should present a licensed physician's certification of the exemption. For a religious exemption, the child's parent or guardian must provide a [written statement](#) of his or her bona fide religious beliefs and objection to the state's immunization requirements.

If neither proof of immunization nor documentation of an exemption has been presented by the first day of school, the school principal must give the parent or guardian a notice of deficiency and allow the parent or guardian 30 calendar days to obtain the required immunizations. (Some vaccinations require more than one dose at designated intervals. For those vaccinations, the 30-day period may be extended to allow for the series to be completed.) At the end of the 30-day period, a child who remains unvaccinated must be excluded from school.

Exclusion by public health officials to control an outbreak

In North Carolina, the State Health Director and local health director may exercise quarantine authority. [G.S. 130A-145](#). What does that have to do with excluding unimmunized children from school? The statutory definition of quarantine authority includes the authority "to limit the freedom of movement or action of persons who have not received immunizations against a communicable disease when the State Health Director or a local health director determines that the immunizations are required to control an outbreak of that disease." [G.S. 130A-2](#).

In other words, either the state health director or a local health director could use the quarantine authority to exclude unvaccinated children from school if necessary to control an outbreak of a vaccine-preventable disease—such as measles. An exercise of quarantine authority in this circumstance would most likely apply to children who qualified for exemptions from vaccination. However, it could also apply to a student whose immunization status was uncertified but was still within the 30-day grace period described above—the school principal could not exclude a student in that circumstance, but the health director could, if necessary to control an outbreak.

Quarantine authority is subject to some limitations. Among other things, it may be exercised only when the public health is endangered, and only if "all other reasonable means for correcting the problem have been exhausted." [G.S. 130A-145\(a\)](#). However, it is a tool that public health may use to control an outbreak of a vaccine-preventable disease in schools.

More information about the law of quarantine in North Carolina is available in the [communicable disease section](#) of my public health law website.

Conclusion

The measles outbreak that began in California in December has rapidly spread to a number of other states. Measles is a highly contagious, vaccine-preventable disease that has been increasing in frequency in the United States in recent years. Unvaccinated children can get the disease themselves and can spread it to others. The risk of an outbreak appears to be particularly high in locations that have clusters of children who are unvaccinated. North Carolina law requires children to be vaccinated against measles, but permits exemptions for medical contraindications and religious objections.

There are two circumstances in which unvaccinated children may be excluded from school:

- Unvaccinated children who do not qualify for an exemption must be excluded from school if they do not obtain the immunizations that are required by law within 30 calendar days of enrolling. School officials are responsible for excluding children in this circumstance.
- Unvaccinated children—including those who qualify for an exemption—may be excluded from school by public health officials if the state health director or a local health director determines immunization is necessary to control the spread of disease in an outbreak.

Resources for More Information

For more information about measles, including updates about the current outbreak, see the [CDC's measles webpage](http://www.cdc.gov/measles/) [http://www.cdc.gov/measles/]. Additional information about North Carolina communicable disease control law may be found on the School of Government's public health law website, www.ncphlaw.unc.edu. Click on Legal Information by Topic, then Communicable Disease.

Three School of Government law bulletins address various issues associated with North Carolina's childhood immunization requirements:

- [*Immunizations for Children and Adolescents: Frequently Asked Questions about North Carolina's Laws*](#), by Jill Moore (Health Law Bulletin No. 91, July 2009).
- [*Religious Exemptions to North Carolina's Childhood Immunization Requirements: What Constitutes a Bona Fide Religious Belief?*](#), by Anne L. Knight, School Law Bulletin Vol. 35 No. 4 (Fall 2004).
- [*Childhood Immunizations and the Role of a County Department of Social Services*](#), by Sara DePasquale (Juvenile Law Bulletin No. 2015/01, January 2015).

NEW BLOG! Earlier this week, the School of Government launched a new blog, [On the Civil Side](#). Today's post addresses Sara DePasquale's Juvenile Law Bulletin on immunizations and the role of county departments of social services. On the Civil Side will focus on issues of interest to court personnel and lawyers working in a variety of civil court proceedings, including those in general civil district, superior, and small claims court, domestic relations matters, juvenile cases, and hearings before clerks. Regular contributors will include Chery Howell (family law), Sara DePasquale (child welfare law); Ann Anderson (civil procedure); Meredith Smith (hearings before the Clerk of Court); LaToya Powell (juvenile justice); Austine Long (indigent defense civil matters); and Dona Lewandowski (small claims law). Be sure to check out [On the Civil Side](#).

Links

- www.cdc.gov/measles/cases-outbreaks.html
- emergency.cdc.gov/han/han00376.asp
- pediatrics.aappublications.org/content/early/2015/01/13/peds.2014-2715.full.pdf+html
- www.npr.org/blogs/health/2015/01/27/381888697/to-protect-his-son-a-father-asks-school-to-bar-unvaccinated-children
- www.cdph.ca.gov/programs/immunize/Documents/2014-15%20CA%20Kindergarten%20Immunization%20Assessment.pdf
- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=130a-152
- reports.oah.state.nc.us/ncac/title%2010a%20-%20health%20and%20human%20services/chapter%2041%20-%20epidemiology%20health/subchapter%20a/10a%20ncac%2041a%20.0401.pdf
- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=130a-156



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- reports.oah.state.nc.us/ncac/title%2010a%20-%20health%20and%20human%20services/chapter%2041%20-%20epidemiology%20health/subchapter%20a/10a%20ncac%2041a%20.0404.pdf
 - www.cdc.gov/vaccines/recs/vac-admin/contraindications-vacc.htm
 - www.immunize.nc.gov/schools/pdf/physician_medical_exemption.pdf
 - www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=130a-157
 - reports.oah.state.nc.us/ncac/title%2010a%20-%20health%20and%20human%20services/chapter%2041%20-%20epidemiology%20health/subchapter%20a/10a%20ncac%2041a%20.0403.pdf
 - www.ncsl.org/research/health/school-immunization-exemption-state-laws.aspx
 - www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=130a-155
 - www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=130a-145
 - www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=130a-2
 - www.sog.unc.edu/resources/microsites/north-carolina-public-health-law/overview-nc-communicable-disease-control-law-additional-resources-topic
 - www.cdc.gov/measles/
 - www.ncphlaw.unc.edu
 - sogpubs.unc.edu/electronicversions/pdfs/hlb91.pdf
 - sogpubs.unc.edu/electronicversions/slb/slbfal04/article2.pdf
 - sogpubs.unc.edu/electronicversions/pdfs/jvlb1501.pdf
 - civil.sog.unc.edu/