

Vaccinations

Court to determine whether NYS must reinstate religious exemptions

By the New York State Association of School Attorneys

New York State eliminated the religious exemption to vaccine requirements in 2019, but that change is the subject of litigation.

In December, the U.S. Supreme Court considered a claim involving Amish children and remanded the case to the U.S. Circuit Court for the Second Circuit for further consideration.

The case presents a novel legal argument: Do First Amendment rights override the requirements of a state law designed to protect public health? If the Second Circuit finds that New York’s refusal to grant religious exemptions constitutes an unconstitutional burden, school districts may soon be required to reinstate religious exemptions that were abolished six years ago.

Is New York’s elimination of the religious exemption consistent with First Amendment religious rights?

One of the worst measles outbreaks in state history occurred during 2018 and 2019, including nearly 650 cases reported in New York City. This prompted passage of a law, signed by then-Gov. Andrew Cuomo, that eliminated religious exemptions from required vaccines for school-age children. A lawsuit by Amish families in Western New York ensued.

In *Miller v. McDonald*, the Amish families alleged that their rights were violated under the First and Fourteenth Amendments’ guarantee of free exercise of religion. The U.S. District Court for the Western District of New York granted the state’s motion to dismiss, concluding that the Amish parents failed to allege a constitutional violation. The plaintiffs appealed.



In March 2025, the U.S. Court of Appeals for the Second Circuit upheld New York’s prohibition on religious exemptions. In its decision, the Second Circuit noted that section 2164 of New York State Public Health Law is a neutral statute that applies to all school children, and does not target or affirmatively prohibit religious practices.

The Second Circuit noted further that the state had a rational basis in requiring immunization from the spread of diseases. Finally, the Second Circuit held that New York’s medical exemption was similar to other state statutes that were constitutionally permissible in applying an objective criterion to a school district’s approval of an exemption request.

The issue appeared settled until June 2025, when the U.S. Supreme Court issued a ruling in *Mahmoud v. Taylor*. In *Mahmoud*, a group of parents in Montgomery County, Maryland, sued the local Board of Education for requiring their elementary school children to receive classroom instruction on sexuality and gender, without any ability to opt-out based on religious beliefs. In a 6-3 decision written by Justice Samuel Alito, the court majority held that the First Amendment requires public schools to provide religious opt-outs to school instruction that violates the religious beliefs of parents in the upbringing of their children.

After the Supreme Court handed down *Mahmoud*, the plaintiffs in *Miller* claimed the same reasoning

protected them. They asked the Supreme Court to review the ruling by the Second Circuit. In an unsigned order in December 2025, the Supreme Court vacated the decision and remanded it back to the Second Circuit Court of Appeals for reconsideration in light of the *Mahmoud* decision.

The Supreme Court instructed the Second Circuit to determine if New York’s law prohibiting religious exemptions without any opt-outs, but permitting secular medical exemptions, violated the free exercise clause under the First Amendment.

Requests for medical exemptions must indicate a contraindication

Currently, the only exemption available to parents is an exemption for medical reasons. Across New York State, many school districts have experienced an increase in requests for these exemptions. Parental views on immunization have been influenced by many factors including recent changes in the childhood immunization schedule recommended by the U.S. Centers for Disease Control and Prevention (CDC) (see chart).

Under section 2164 of New York State Public Health Law and the applicable DOH regulations, parents who submit medical exemption requests must follow a prescribed procedure. First, they must submit the request on the DOH prescribed form, and it must be signed by a physician who is licensed in New York State. The submitted form must identify the specific vaccines to which the exemption would apply, and the date the exemption from immunization ends.

The physician must certify on the exemption form that the specific immunization “may be detrimental to the child’s health.” The physician must identify a

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Federal vaccine guidance differs from state immunization requirements

On Jan. 5, 2026, the U.S. Centers for Disease Control and Prevention (CDC) overhauled its childhood immunization schedule, reclassifying six of 17 vaccinations that were previously universally recommended for all children. The CDC’s new guidance contains three categories for vaccines: universally recommended vaccines for all children; vaccines for high-risk groups; and vaccines recommended based on shared clinical decision-making between patients and their doctors.

The New York State Department of Health (DOH) immediately issued a statement rejecting the CDC’s recommended changes, stating that there was no new science or safety data to justify the change in the immunization schedule. As such, DOH did not alter the immunizations that are required to attend school in New York.

NEW YORK STATE IMMUNIZATION REQUIREMENTS
Vaccines required for day care and pre-K <ul style="list-style-type: none"> Haemophilus influenzae type b conjugate (HiB) Pneumococcal conjugate (PCV)
Vaccines required for day care, pre-K and school attendance <ul style="list-style-type: none"> Diphtheria, tetanus, pertussis (DTaP or Tdap) Hepatitis B Measles, mumps and rubella (MMR) Polio Varicella (chickenpox)
Additional vaccines required for middle school and high school <ul style="list-style-type: none"> Tdap vaccine for Grades 6-12 Meningococcal conjugate vaccine (MenACWY) for Grades 7-12* <p>* Students in Grade 12 need an additional booster dose of MenACWY on or after their 16th birthday</p>

Source: www.health.ny.gov/prevention/immunization/schools/school_vaccines

UPDATED VACCINE RECOMMENDATIONS FROM FEDERAL GOVERNMENT (2026)										
Vaccines recommended for all children <table border="1"> <tr> <td>Diphtheria, tetanus, acellular pertussis (DTaP < 7 yrs)</td> <td>Human papillomavirus (HPV)</td> </tr> <tr> <td>Tetanus, diphtheria, acellular pertussis (Tdap ≥ 7 yrs)</td> <td>Measles, mumps and rubella (MMR)</td> </tr> <tr> <td>Haemophilus influenzae type B (Hib)</td> <td>Pneumococcal conjugate</td> </tr> <tr> <td></td> <td>Polio</td> </tr> <tr> <td></td> <td>Varicella (chickenpox)</td> </tr> </table>	Diphtheria, tetanus, acellular pertussis (DTaP < 7 yrs)	Human papillomavirus (HPV)	Tetanus, diphtheria, acellular pertussis (Tdap ≥ 7 yrs)	Measles, mumps and rubella (MMR)	Haemophilus influenzae type B (Hib)	Pneumococcal conjugate		Polio		Varicella (chickenpox)
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Vaccines recommended for high-risk groups or populations <table border="1"> <tr> <td>Dengue</td> <td>Meningococcal B</td> </tr> <tr> <td>Hepatitis A</td> <td>Respiratory syncytial virus (RSV)</td> </tr> <tr> <td>Hepatitis B</td> <td></td> </tr> <tr> <td>Meningococcal ACWY</td> <td></td> </tr> </table>	Dengue	Meningococcal B	Hepatitis A	Respiratory syncytial virus (RSV)	Hepatitis B		Meningococcal ACWY			
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Vaccines recommended based on shared clinical decision-making <table border="1"> <tr> <td>Influenza</td> <td>Hepatitis B</td> </tr> <tr> <td>Bacterial meningitis (meningococcal disease)</td> <td>Meningococcal ACWY</td> </tr> <tr> <td>COVID-19</td> <td>Meningococcal</td> </tr> <tr> <td>Hepatitis A</td> <td>Rotavirus</td> </tr> </table>	Influenza	Hepatitis B	Bacterial meningitis (meningococcal disease)	Meningococcal ACWY	COVID-19	Meningococcal	Hepatitis A	Rotavirus		
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Source: U.S. Centers for Disease Control & Prevention (bit.ly/4tIUbZU)

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medical contraindication or precaution to a specific immunization consistent with guidance from the CDC’s Advisory Committee on Immunization Practices (ACIP) or other nationally recognized evidence-based standard of care.

It is not unusual for a school district to receive medical exemption requests that are signed by doctors who reside and practice outside New York State. These doctors may have never personally met or evaluated the child for whom they are writing. The relevant legal requirement is that the physician be licensed to practice in New York State.

Especially when receiving a form signed by an out-of-state doctor, districts should ensure there is no erroneous information on the form, such as what diagnoses the child has received. Claims on some exemption request forms have been found to contradict information previously provided to the school by a local pediatrician and contained in medical records on file in the school’s health office.

To aid them in their decision-making process, school principals may request that additional information be submitted by the parents to support their exemption request. Also, school principals have the authority to consult with their district’s medical director and/or the New York State Department of Health to review and assist them in rendering a determination whether a proffered request appropriately meets the exemption criteria. This is highly recommended.

State law and regulations require a physician’s rationale for a medical exemption to be specific regarding the nature of the precaution or contraindication, with reference to ACIP or another nationally recognized evidence-based standard of care. Courts in New York have generally found

that expressions of general concerns, without an indicated precaution or contraindication to a specific immunization by the child, do not meet the requirements for an exemption under New York State Public Health Law and regulations.

Best practices for school leaders

School districts should ensure that parents are made aware of which immunizations are required for enrollment. When districts receive medical exemption requests, the building principal should review the exemption request to confirm that it:

- Specifies which immunizations for which the child should be exempted.
- Contains a date when the exemption should end.
- Was signed by a physician licensed to practice in New York State as indicated on the form. Districts can confirm the physician’s licensing information on the New York State Physician Profile website at www.nydoctorprofile.com.

Also, principals should ensure that the submitted form alleges a precaution or contraindication in accordance with guidance from ACIP or a nationally recognized standard of care. To make that determination, principals should consult with the district’s medical director and the New York State Department of Health for written opinions as to whether the student’s alleged medical condition meets the medical guidance for a precaution or contraindication.

Building principals should request, in writing, that parents provide additional information if they view a request for a medical exemption as vague or lacking specificity as to the child’s medical condition. As noted by the State Education Department and Department of Health in a joint letter issued on Sept. 24, 2025,

“[s]chools are not required or expected to blindly accept every medical exemption request presented to them, even if signed by a New York-licensed physician and on the appropriate form.”

Any phone calls with parents who request an exemption should be memorialized in writing either as personal notes summarizing the call or in an email to the parents summarizing the nature of conversation.

If a school denies a request for an exemption, the parents can seek to overturn the school district’s decision by filing an appeal with the commissioner of education.

There has been an uptick in such litigation in recent years in which parents bypass the commissioner and go directly to court seeking restraining orders. Arguably, seeking court intervention without a review by the commissioner of education is a legal error known as failure to exhaust administrative remedies.

To minimize the chances of error and possible litigation, school boards should ensure that school principals are able to consult with their school district’s attorney about requests for medical exemptions. Also, school boards and superintendents should monitor state and federal updates from NYSSBA or their school attorneys regarding immunization to ensure compliance with current laws and regulations.



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All About Schools



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