

ARTICLE 49 SCHOOLS

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§49.01 Scope.

The provisions of this article apply to all schools, and the requirements of this article shall be in addition to the requirements to be met by schools pursuant to Article 45. A nursery school or kindergarten other than a kindergarten conducted as part of an elementary school by the Board of Education shall be maintained pursuant to Article 47. The provisions of §§ 49.05(c), 49.07(d) and 49.15(d) shall also apply to public and private high schools.

§49.03 Building and fire laws.

No school shall be operated or maintained unless it has obtained (1) a certificate of occupancy, or when such certificate is not required by the Administrative Code, a statement from the Department of Buildings that the school premises comply with all applicable building laws and (2) a statement from the Fire Department that the school premises meet all applicable laws and regulations pertaining to fire control.

§49.05 Admissions.

- (a) Immediately prior to admission to school, or as soon as possible after admission, each child shall have a thorough medical examination by a licensed physician or by a physician's associate or specialist's assistant who is duly registered pursuant to §65.31* of the Education Law and is authorized to conduct such examination pursuant to regulations promulgated by the State Commissioner of Health. The examining professional shall furnish to the school a signed statement containing a summary of the results of the examination, the past medical history and, if a disease or abnormal condition is found, recommendations for exclusion or treatment of the child, or modification of his activities, or plans for the health supervision of a handicapped child.
- (b) If a child does not present the statement prescribed by subsection (a) at the time of admission, the person in charge of the school shall promptly notify his parents or guardian that unless the child is examined by a private licensed physician or a duly authorized private physician's associate or a duly authorized private specialist's assistant, and a statement is presented pursuant to subsection (a) of this section within ten days, a

medical examination of the child will be made by the school physician, school physician's associate or school specialist's assistant. If, ten days after the sending of such notice, the required statement is not received, the person in charge shall notify the school physician, physician's associate or specialist's assistant who shall then examine the child.

(c) *Immunizations.*

- (1) All children must be immunized against diphtheria, tetanus, pertussis, poliomyelitis, measles, mumps, rubella, varicella, hepatitis B, pneumococcal disease and haemophilus influenzae type b (Hib), in accordance with New York State Public Health Law § 2164, or successor law. Exemption from specific immunizations may be permitted if the immunization may be detrimental to the child's health, in accordance with New York State Public Health Law § 2164. Documentation of immunizations and exemptions must be kept on site for inspection.
- (2) No principal, teacher, owner, or person in charge of a school shall permit any child to attend such school without appropriate documentation of the immunizations required pursuant to paragraph (1) of this subdivision, except as provided for in this subdivision or pursuant to New York State Public Health Law § 2164 or successor law.
- (3) All children must have such additional immunizations as the Department may require.
- (4) The principal, owner, or person in charge of a school must report to the Department all requests for exemption made pursuant to paragraph (1) of this subdivision in a manner and form prescribed by the Department. Upon submission of an exemption request and pending Department determination, the child may attend school. If upon review of the documents submitted and any additional documentation provided to the Department, the Department determines that the exemption request is not valid insofar as it is not in accordance with the Center for Disease Control's Advisory Committee on Immunization Practices guidelines or other nationally recognized evidence-based guidelines, the principal, owner, or person in charge of a school must not allow the child to attend the school unless appropriate documentation is provided that such child has received the immunizations required pursuant to paragraph (1) of this subdivision.

§49.06 Test for tuberculosis infection.

The Department may require testing for tuberculosis of any persons in a school when such testing is considered by the Department as necessary for epidemiological or other public health purposes.

§49.07 Physical facilities.

- (a) The minimum allowance of space for each child in a classroom shall be 15 square feet of net floor space, that is, available space exclusive of furniture. Children shall not be permitted in a school or in a classroom in excess of the number allowed by this subsection, except in the event of a temporary emergency. Data on the size and capacity of each classroom shall be kept by the person in charge of the school and shall be subject to inspection by the Department.
- (b) A school shall provide, for use by the children, the number of toilets prescribed by §C26-1279.0* of the Administrative Code.
- (c) A school shall have at least two wash basins. There shall be one wash basin for every 50 children or fraction thereof in schools having 300 children or fewer, and in schools having more than 300 children there shall be six wash basins for the first 300 children,

and one additional basin for every 100 additional children or fraction thereof. Urinals may be provided pursuant to §45.11(i).

- (d) Every public or private school where a Department or Department of Education nurse, public health advisor or school health services aide provides health services to school children must have an appropriate medical room where the nurse, public health advisor or school health service aide can carry out their duties. Such school's medical room should be in a dedicated space with no through traffic, wheelchair-accessible, on a lower floor, and in a central building location; and should contain the following:
- (1) a workstation
 - (2) a medical cabinet, a filing cabinet, medication refrigerator, exam table and scale;
 - (3) an appropriate waiting area;
 - (4) a bathroom internal to or adjacent to the medical room;
 - (5) a holding area for a student awaiting transportation or pick-up (80 square feet); and
 - (6) a nursing/treatment area that meets the following requirements:
 - (i) minimum of 200 square feet in buildings for up to 800 students and 300 square feet in larger buildings to accommodate more staff;
 - (ii) sink with hot and cold running water;
 - (iii) floor-to-ceiling walls substantial enough to maintain privacy;
 - (iv) easy to clean surfaces (e.g., no carpeting);
 - (v) internet access and adequate electrical power (multiple outlets) for computers and medical equipment;
 - (vi) telephone line able to make direct calls out of building (e.g., 911 calls) and to send and receive faxes;
 - (vii) adequate heating and air conditioning, lighting and ventilation, including a window;
 - (viii) secure lock that cannot be opened by other school keys (excluding master key); and
 - (ix) safety button to enable nurse to have immediate access to security in the event of an emergency.

§49.09 Equipment.

In classrooms other than art rooms, laboratories, gymnasiums, and workrooms, the seats shall be provided with backs. Seats and desks shall be of such size and design as to encourage good posture.

§49.11 Boarding of children on school premises.

- (a) No child under six years of age shall be boarded on school premises. Children six years and over and under sixteen years of age shall not be boarded on school premises unless the school receives the written approval of the Department. The Department shall not grant such approval unless such occupancy is approved by the Department of Buildings and the Fire Department. The person in charge of the school shall submit to the Department (1) a copy of the certificate of occupancy, or, when such certificate is not required by the Administrative Code, a statement from the Department of Buildings that the premises comply with all applicable buildings laws and (2) a statement from the Fire Department that the premises meet the requirements of all applicable laws and

regulations pertaining to fire control. The number of children boarded at a school shall not be more than the maximum number prescribed by the Department.

- (b) When a child who is boarded at a school presents a health problem, is injured, or becomes ill and requires medical care, he shall be examined and treated by a physician, and, if possible, his parents or guardian shall be notified immediately. If the necessary medical care or facilities cannot be provided at the school, the child shall be removed to a hospital or other facility which can provide the proper care.
- (c) When children are boarded at a school, the sleeping accommodations and facilities required by §51.11 shall be provided.
- (d) Except during day rest periods, no classroom shall be used for sleeping or living purposes.

§49.13 Recreation; outdoor play.

Children kept on the school premises for more than five hours a day shall not be required to devote more than five hours a day to classroom work and study, except for religious training. They shall be permitted to spend the excess time in play, rest or recreation. Except during inclement weather, the outdoor play space shall be used for this purpose whenever possible.

§49.15 Health and medical care.

- (a) A school shall have a licensed physician who shall be in charge of the health care services for the children. The Department shall provide the services of such a physician in public schools and in other schools which request such service.
- (b) When a child is injured or becomes ill under such circumstances that immediate medical care is needed, the person in charge shall obtain necessary emergency medical care and shall notify the parents or guardian of the child.
- (c) When the Department is of the opinion that any child who is attending school is in need of medical attention, the person in charge of the school shall promptly notify his parents or guardian of the fact, and may also notify them that a medical examination of the child will be made by the school physician on a date not less than ten days after the sending of the notice. If, ten days after the sending of such notice, the parent or guardian has not registered an objection to such an examination, and has not presented a statement by a private, licensed physician that the child has been recently examined and is currently under care, the person in charge shall notify the school physician who shall then examine the child. When the Department is of the opinion that any child attending school is in need of immediate medical attention and that delay would be dangerous to health, the child may be examined immediately, and the child's parents or guardian shall be notified.
- (d) The person in charge of a school or public or private high school shall not permit a child who is a case, contact or carrier of communicable disease to attend when required to be isolated or excluded by Article 11 of this Code. A child who has been a case, contact or carrier shall not be permitted to return to a school until:
 - (1) He presents a certificate of recovery issued by the Department, if he was a case of tuberculosis, a case or carrier of typhoid or paratyphoid A or B fever, or a case, carrier or household contact of diphtheria or smallpox; or,
 - (2) After the period of isolation, if he was a case of measles, mumps, German measles, chicken pox, whooping cough, streptococcal sore throat including scarlet fever, meningitis or poliomyelitis; or,

- (3) He presents a certificate of recovery issued by the Department or a physician's written statement that he is free from disease in communicable form, if he was a case or carrier of any other disease reportable pursuant to §11.03. The statement shall indicate that he is free from disease in communicable form and that the period of isolation or exclusion required by Article 11 of this Code has ended.

§49.17 Medical records.

The school physician or nurse shall keep a current cumulative medical record for each child. The record shall contain the following: the information required by §45.19; all defects and data disclosed by the medical examination given pursuant to §49.05(a) and by all subsequent examinations; and a history of all illnesses, accidents and other health data. The record shall be the property of the Department but shall be kept in the custody of the school. When a child is transferred to another school in the City, whether elementary school, junior high school or high school, his medical record shall be forwarded to his new school. When a child is transferred to a school outside the City, his medical record shall be forwarded to his new school, if known, to the attention of the physician in charge of the school health service. When a child is admitted to a college, junior college, university or other school of higher education, his school health record shall be forwarded, upon receipt of the written request or consent of such child's parents or guardian, to the physician in charge of the health service of such school of higher education. A medical record which is not required to be forwarded to another school pursuant to this section shall be kept for at least five years after the child to whom the record relates leaves the school.