

School is in session: An update to the current status of school vaccination laws as COVID-19 vaccines become available to more school-aged children

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Background

While vaccination mandates are commonplace in United States public schools,^{1,2} variety exists between states regarding which diseases require immunization, the schedule of doses, and the use of exemption policies. A January 2021 companion fact sheet provided a snapshot of longstanding vaccine mandates, exemption policies, and a preview of COVID-19 vaccine-related pending bills.³

As of September 1, 2021, one COVID-19 vaccine has received emergency use authorization from the Food and Drug Administration (FDA) for children as young as 12 years old and has received full approval for those 16 years of age or older.⁴ As children across the country return to in-person learning for the 2021-2022 school year, many states have begun the process of revisiting long-standing vaccine mandates that are required for school entry.

This fact sheet will update the data presented in [January](#), and provide additional insight as to COVID-19 specific laws passed as of September 1, 2021.

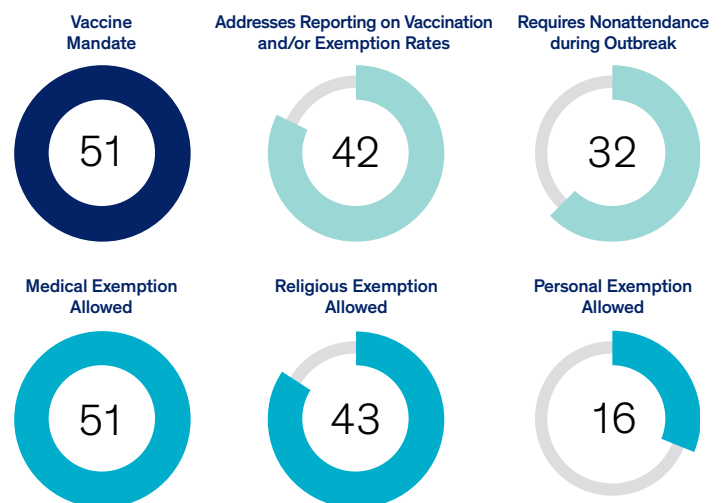
Methods

State law data were compiled through primary legal research conducted by researchers at the University of Illinois Chicago. State laws were compiled using LexisNexis⁵ and Westlaw⁶ by trained legal researchers and analyzed by an attorney and trained analysts. Relevant policies included state statutes and administrative regulations adopted as of September 1, 2021 and pending bills and proposed regulations available on the commercial databases as of September 1, 2021.

Results

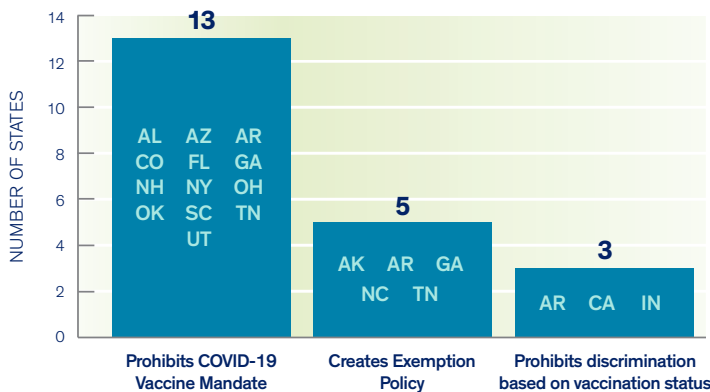
As of September 1, 2021, with the exception of a Massachusetts influenza mandate, no changes were made in state laws as to the lists of mandated diseases or when they are required. Massachusetts had announced a flu vaccine mandate for December 2020, but this was pushed back to February 2021 and then dropped altogether based on a mild flu season.⁷ Exemption policies changed only slightly, as one state (CO) eliminated a religious exemption and expanded to create one, non-medical exemption and two states (KY, NC) created a new personal exemption (Figure 1).

FIGURE 1 Number of States with School-related Vaccination Laws (as of Jan. 2021)



During this legislative session to date, more focus has been on new, COVID-19 specific vaccination policies. As of September 1, 2021, 13 states have passed laws prohibiting a COVID-19 vaccine mandate for school entry. Five states have passed laws that extend or otherwise create personal exemptions specific to any COVID-19 vaccine requirements. Three states have passed laws prohibiting disclosure of or discrimination based on COVID-19 vaccination status (Figure 2).

FIGURE 2 COVID-19 related laws for school entry passed as of Sept. 1, 2021



Pending Updates

On October 1, Governor Newsom of California announced a COVID-19 vaccine mandate for school-aged children in the term following full FDA authorization of a vaccine for each age group.⁸ Many additional bills remain in committee and some legislatures have turned to Departments of Public Health and Education for additional guidance through rulemaking. While most focus on prohibiting the creation of a COVID-19 vaccine mandate, some state proposals even suggest changing all previously required vaccines to recommendations.⁹⁻¹² Still others attempt to rely on an expansion or the creation of new personal exemption policies. Only one bill, in Texas, proposed a requirement that all students who are able to be vaccinated do so prior to school entry for the 2022-2023 school year; though this is unlikely to pass.¹³ Collectively, at least 42 such COVID-19 vaccine-related bills prohibiting mandates, creating exemption policies, or prohibiting discrimination based on vaccination status, remain pending in 19 state legislatures.

Conclusion

Continued traction in this area is expected as COVID-19 vaccines become available to younger school-aged children and/or receive full FDA approval for school-aged children. Policymakers may rely on prior laws related to outbreaks for other vaccine-mandated diseases, or may choose instead to continue to update policies specific to COVID-19.

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SUGGESTED CITATION

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