

Name
Street
City
Email
Date

Certified Receipt # XXXX XXXX XXXX XXXX

School/District
Street
City, State, Zip

Attn: XXXXX, Principal

Re: (Your Childs' Name) Valid Medical Exemption

Dear Principal XXXX,

(Your Own Story: Here is an Example)

On Date, your school's Health Technician NAME left me a voicemail stating that I needed to submit a new medical exemption from vaccination for my son/daughter CHILD'S NAME and that I should contact my doctor to get such an updated medical exemption, implying that my exiting filed medical exemption is somehow invalid.

Apparently, Mr/Ms. XXXX may be unfamiliar with the requirements of Senate Bills, SB 277, SB 276 and SB 714 as regards vaccine mandates. My child's existing medical exemption is valid under current legislation based on the following facts.

1. On December 27, 2017, licensed physician PHYSICIAN'S NAME, from CITY, California, issued a medical exemption to vaccination for my child for all SB 277-required vaccines for school-age children, on a permanent basis and indefinitely, based on his/her profession opinion that due to our family history any such vaccines where unsafe and detrimental to my child's health.
2. On or around July 2019 I submitted CHILD'S NAME's medical exemption, together with other required documentation, at your school to enroll my son in 7th grade and all documents were accepted by your school staff as satisfying all requirements for enrollment, and as a result my child started attending school at the beginning of the school year.

Presently applicable legislation regarding medical exemptions to vaccination for school children is Senate Bill SB 714, which specifically states the following:

"120370. (a) (1) Prior to January 1, 2021, if the parent or guardian files with the governing authority a written statement by a licensed physician and surgeon to the effect that the

*physical condition of the child is such, or **medical circumstances relating to the child** are such, **that immunization is not considered safe**, indicating the specific nature and probable duration of the medical condition or circumstances, including, but not limited to, **family medical history, for which the physician and surgeon does not recommend immunization, that child shall be exempt from the requirements of this chapter**, except for Section 120380, and exempt from Sections 120400, 120405, 120410, and 120415 to the extent indicated by the physician and surgeon's statement."*

Because my child's medical exemption was submitted to your school prior to January 1, 2021, submitted around **DATE**, my submission was done in accordance with section 120370 (a)(1) of the California Health and Safety Code.

Further, 120370 (a)(2) reads as follow:

*"(a)(2) **Commencing January 1, 2020, a child who has a medical exemption issued before January 1, 2020, shall be allowed continued enrollment** to any public or private elementary or secondary school, child care center, day nursery, nursery school, family day care home, or developmental center within the state **until the child enrolls in the next grade span.**"*

For purposes of this subdivision, 'grade span' means each of the following:

*(C) **Grades 7 to 12, inclusive.**"*

As noted above, I enrolled my child in **7th** grade on **DATE**, and he started the **7th** grade in **DATE**, which was prior to January 1, 2020, as referenced in (a)(2) above. Therefore, my child is not considered to be entering a new *grade span* in 2020, as he entered it prior to that time.

Based on the application of 120370 et sec to my child's existing medical exemption to vaccination, it is clear that there is no need, and I am not required to file any new medical exemption, making the existing submitted exemption valid under current legislation.

Additionally, neither SB 277, SB 276 or SB 714 give any authority to any school personnel to judge the professional opinion of a registered and practicing physician as to his/her medical expertise in issuing medical exemptions as he/she may deem necessary to protect a child's well-being.

Finally, be advised that I am against and prohibit your schools and or your school district from sharing any of my or my son's/daughter's medical-related documents and information in any form, in written or oral form, with any person, government agency or entity, or any organization, news media, corporation, etc. without my prior written consent, for any reason, based on federally protected rights to privacy, as described herein.

Attached you will find a copy of my **son/daughter NAME**'s lawful medical exemption to vaccination, which was submitted to your school as indicated above, as well as my "Objection to Release Medical and Immunization Data", "Objection to Release of Medical and Immunization Data – State and Federal Privacy Laws", and related information.

Therefore, based on all of the above, I respectfully request the following:

1. Please advise Health Technician NAME and all personnel in such department, of the following, to wit:

(a) That my son/daughter CHILD'S NAME's existing medical exemption to vaccination meets the requirements of SB 277, SB 276 and SB 714;

(b) That there is no need for a new medical exemption to vaccination for my son/daughter CHILD'S NAME, as the existing medical exemption submitted conforms to all requirements of the senate bills noted above; and that therefore my child cannot be denied schooling based on this;

(c) That neither Health Technician NAME nor any school's personnel has the medical expertise, knowledge of my son's/daughter's medical history, or the legal authority or jurisdiction to question the validity of the medical decision and conclusions of my son's/daughter's medical physician as to the content of such exemption;

(d) That no school or related school district personnel is authorized to share any medical or vaccination data, in any form, with any individual or entity, governmental, private or otherwise, without my prior written consent, as noted herein; and

(e) I request that you or your authorized staff contact me by email at YOUR EMAIL to advise and confirm that,

- (1) This letter has been received by you;
- (2) That all necessary school staff have been advised that my son's/daughter's medical exemption to vaccination is valid, and;
- (3) That no further action is required on my part, and that therefore my son/daughter CHILD'S NAME will continue to be allowed to attend school classes at your school as required by law.

Respectfully Submitted,

YOUR NAME

cc: Attorney

OBJECTION TO RELEASE OF MEDICAL AND IMMUNIZATION DATA

To all YOUR CHILD'S SCHOOL and YOUR CHILD'S SCHOOL DISTRICT Personnel:

This is to inform you, on behalf of our minor child, CHILD'S FULL NAME, that we do not consent to the release of records regarding our child's medical information, including immunization records and/or immunization medical exemption records (herein referred to as "Medical and Immunization Data") in any format including, via email or other electronic transmission services, facsimile, U.S. mail, physical hard-copy collection, and/or in person review, with any County Health Department, any County Public Health Officer, the California Department of Public Health ("CDPH"), the California Medical Board or any other state or federal entity and/or any other third-party entity or individual, including news or media outlets, pursuant to the state and federal privacy laws outlined herein.

Furthermore, in the event the School or related School District receives a Public Records Act request, or an administrative or judicial subpoena requesting our child's Medical and Immunization Data, whether the requested information is in un-redacted or redacted form, and regardless of whether the Medical and Immunization Data is requested in part, in whole or in summarized format, we further require the School and or School District to:

- (1) Refuse to produce our child's records based on state and federal privacy grounds, unless the School and/or School District has either received written, affirmative consent by all parties signed below or have been ordered to do so by a judge and exhausted all appeals available; and
- (2) Give us at least thirty (30) business days' notice of the production date referenced in the subpoena, by the way of certified mail, signature required, delivered to our address below.

Health & Safety Code Section 120440 (e)(3-4) cites that a parent "has the right to examine any immunization related information shared." We hereby request an immediate, in-person examination of our student's Medical and Immunization Data retained by the School and/or School District, and request a recounting of all releases of our child's Medical and Immunization Data, prior to current date, including the name of the recipient and nature of exact medical data released.

The itemization of all prior releases of our child's data shall also be mailed, certified return receipt signature, within fifteen (15) business days to the address at the end of this document.

We further require the school principal, administrative staff, nurses, superintendent and any other school or district medical personnel attending to health matters and records to be made aware of our refusal under state and federal law to permit our child's Medical and Immunization Data to be shared or released.

This document constitutes notice to the School, school personnel, School District, school district personnel, and other related administrative staff of our intent to pursue all civil remedies available for any breaches of law with respect to our child's Medical and Immunization Data.

This document serves as a revocation of any earlier documents that were signed which would have permitted disclosure of Medical and Immunization Data by the School or School District.

YOUR NAME

Date

(SPOUSE'S NAME – IF APPLICABLE)

Date

Street
Address

**OBJECTION TO RELEASE OF MEDICAL AND IMMUNIZATION DATA
STATE AND FEDERAL PRIVACY LAWS**

Laws that govern confidentiality of minor school children’s medical information include, but are not limited to the Family Educational Rights and Privacy Act of 1974 (FERPA), as amended (20 U.S.C. § 1232g; 34 CFR Part 99), Individuals with Disabilities Act of 1974 (“IDEA”), 20 U.S.C. § 1400, et seq., the California Information Practices Act (California Civil Code Section 1798 et seq.), California Education Code Section 49062 et seq., Student Online Personal Information Protection Act (SOPIPA), HIPAA, Cal. Health & Safety Code section 120440, California Education Code 49073.6, California Education Code 49073.1, Article 1, and Section 1 of the California Constitution.

**REFUSAL TO PERMIT IMMUNIZATION DATA RECORD-SHARING
UNDER CALIFORNIA HEALTH & SAFETY CODE 120440(e)(4)**

While California Health & Safety Code Section 120440 (c) allows schools to collect and disclose certain types of Medical and Immunization Data in some instances, it expressly forbids it under Health & Safety Code Section 120440 (e)(4), if “the parent” or guardian “refuse[s] to allow this information to be shared”, the child’s physician will maintain access to the child’s health records “for the purposes of patient care or protecting the public health.”

**REFUSAL TO PERMIT IMMUNIZATION DATA RECORD-RELEASE PURSUANT TO PUBLIC
RECORDS ACT REQUESTS UNDER GOVERNMENT CODE §6252(e), §6254(c), AND §6254(k)**

Under Government Code § 6252(e), the medical and school files of schoolchildren do not constitute a public record subject to disclosure because they do not relate “to the conduct of the public’s business.”

California courts held that “communications that are primarily personal containing no more than incidental mentions of agency business” do not “constitute public records.” City of San Jose v. Superior Court, 2 Cal. 5th, 608, 618-619 (2017). Government Code § 6252(e); Regents of the University of California v. Superior Court, 222 Cal.App.4th 383, 403-405 (2018); Braun v. City of Taft, 154 Cal.App.3d 332, 340 (1984); San Gabriel Tribune v. Superior Court, 143 Cal.App.3d 762, 774 (1983).

Due to the sensitive nature of private medical information, the California Constitution protects a person’s right to privacy in his or her medical records, and it is upon such basis that the Government Code § 6254(c) specifically exempt from PRA disclosure “personal, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.”

In addition, Government Code § 6254(k) pertaining to the California Public Records Act exempts from PRA disclosure records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, those described in the Confidentiality of Medical Information Act, physician/patient privilege, the Health Data and Advisory Council Consolidation Act, and the Health Insurance Portability and Accountability Act.

OBJECTION TO RELEASE OF MEDICAL AND IMMUNIZATION DATA PREVENTION OF INFORMATION SHARING UNDER FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT

Under the federal Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C Section 1232g (b)(1) and 34 C.F.R. Section 99.31 (a)(l)(i)(A), according to the U.S. Dept. of Education, Joint Guidance on the Application of the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to Student Health Records, page 6 (November 2008), the United States Department of Education, at the “elementary or secondary school level,” considers “students’ immunization and other health records that are maintained by a school district or individual school,” to be “educational records subject to FERPA.”

Schools may only share medical records of their students if it is necessary to meet a “legitimate educational interest.” U.S. Department of Education, Letter to University of New Mexico re: Applicability of FERPA to Health and Other State Reporting Requirements, Nov. 29, 2004, states “When the State Department of Health has determined that the specified disease or condition does not constitute an imminent danger or threat or that emergency reporting or other action is necessary to address the concern, then consequently, the school may not disclose information from a student’s education records to meet these ‘routine’ health reporting requirements unless it has made a specific, case-by-case determination that a health or safety emergency exists.” Federal Register, Vol. 73, No. 237, Dec. 9, 2008 (re 34 CFR Part 99) discussing “Disclosure in Nonemergency Situations” states that “this exception does not cover routine, non-emergency disclosures of students’ Immunization Data to public health authorities.”

**REMEDIES FOR VIOLATIONS UNDER STATE & FEDERAL LAW
AND NOTICE TO SCHOOL OF INTENT TO PURSUE REMEDIES FOR BREACHES**

FERPA mandates penalties and violations of FERPA can cause a cessation of all federal funding to involved schools and districts. Sanctions under state statutes (CMIA) range from prosecution, to private rights of action, to monetary sanctions: \$2,500 for first breach/violation, \$10,000 for second violation, and \$25,000 for third and subsequent violations, up to a quarter million dollars for knowing and willful violations under certain circumstances. Health & Safety Code 120440(d)(1-2), states that the School and District “shall maintain the confidentiality of information ... in the same manner as the other client, patient and pupil information they possess” and schools are “subject to civil action and criminal penalties for the wrongful disclosure of the information listed.”