

# N.Y. court: Vaccine requirements don't abridge religious freedom

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A New York law requiring all of the state's children to be vaccinated before entering school—except those who qualify for a medical exemption—protects the public's health and does not prevent anyone from freely exercising their religion, an appellate court recently ruled.

In an amicus brief, the Litigation Center of the American Medical Association and State Medical Societies, the Medical Society of the State of New York and the New York State American Academy of Pediatrics urged the court to dismiss a lawsuit that challenged the state law that eliminated religious objections to vaccines. The brief noted that the law was “clearly in the best interest of public health” after a measles outbreak consumed parts of the state.

And the ruling from the State of New York Supreme Court, Appellate Division Third Judicial Department, relied on the medical organizations' input as it determined that the legislation to remove the religious objection to vaccines was inspired by a “prescient public health concern” and was not politically or ideologically motivated.

“As to the public health concerns, the American Medical Association, the Medical Society of the State of New York, the American Academy of Pediatrics and the New York State American Academy of Pediatrics, as amici curiae in support of defendants' position, offered their conclusion that eliminating religious exemptions is in the best interest of public health,” the court said in its ruling in the case, *F.F. v. State of New York*. “They describe the highly contagious nature of measles, noting that prevention will occur when 93% to 95% of the population becomes immune, requiring that ‘the vaccine be given to virtually everyone who can safely receive it.’”

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“This court decision is an important victory for public health,” said Bonnie Litvack, MD, president of the Medical Society of the State of New York. “As we are seeing in the current COVID pandemic,

vaccinations are an absolutely essential component to combatting communicable diseases. Physicians across the state will continue to work on the front lines to ensure they protect their patients' health, and make sure the public is educated about the importance of vaccinations in protecting everyone's health."

## **No discrimination based on religion**

A group of parents sued the state on behalf of their children after lawmakers eliminated the nonmedical religious exemption to the state's vaccination law. The three COVID-19 vaccines authorized for emergency use by the Food and Drug Administration are not mandated under the law, which was enacted in 2019 before the global pandemic struck in 2020.

The families, who previously had religious exemptions from vaccines, argued that when lawmakers changed the exemption they violated the families' state and federal constitutional rights that allow them to exercise their religion freely. They also argued the repeal violates the U.S. Constitution's Equal Protection Clause and forces them to engage in compelled speech or otherwise violate New York's compulsory education laws.

The New York appellate court said there wasn't plausible evidence for the case to move forward and upheld a lower-court decision to dismiss the case.

The court's opinion noted that as lawmakers were debating repealing religious objections, the AMA and other amici were joined by 26 other medical and public health organizations in submitting statements to lawmakers supporting the change. The court's opinion quoted the AMA Litigation Center brief, which described the lawmakers' decision a "sound, evidence-based decision in the interest of public health."

"Given the foregoing, the timing of the repeal fails to demonstrate any neutrality infraction by the legislature and instead reveals a reasonably prompt deliberation and targeted response to a very serious public health issue," the appellate court opinion says.

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## **Protecting public health**

Claims that the legislature failed to hold a hearing was unpersuasive because lawmakers relied on data from the Centers for Disease Control and Prevention and other public health officials, including the amici, the court opinion says. Lawmakers had "spirited floor debate" where representatives expressed concerns about the impact the bill could have on religion. Moreover, legislators received

and considered several hundred letters regarding the legislative change.

The court also concluded that it would “be irrational to sacrifice the physical health of some children in the pursuit of protecting public health. In attempting to address the vulnerabilities in its current immunization scheme, the legislature was permitted to exercise such ‘broad discretion required for the protection of the public health.’”