# Guidelines for medical examination of children under section 125 of the Health Act

## Purpose

These guidelines are for the use of persons authorised under section 125 of the Health Act 1956 to undertake simple external medical examinations of a child at a school or child care centre without the child’s or their parent/guardian’s consent (Authorised Persons).

Persons who are not automatically authorised under section 125 can apply to the Ministry of Health (the Ministry) to be granted an authorisation. If granted, this authorisation will be issued for a maximum period of three years, aligned to the expiry of a Children’s Act 2014 and the Children’s (Requirements for Safety Checks of Children's Workers) Regulations 2015 (CA) safety check. Requests for authorisation can be emailed to the Ministry address certification@health.govt.nz, with section 125 in the subject line.

The Ministry wishes to minimise the instances of medical examinations of children without consent. Authorised Persons should, wherever possible, seek consent in accordance with Right 7 of the Health and Disability Commissioner (Code of Health and Disability Services Consumers' Rights) Regulations 1996 (Code of Health and Disability Services Consumers’ Rights). In particular, refer to Rights 7(1) and 7(4).

Authorised Persons should act within the confines of these guidelines to ensure that powers issued pursuant to section 125 are used appropriately.

## Powers to be used in agreement with education service

All health services should be provided with the agreement of the management committee of the child care centre, or the Board of Trustees of the school concerned. Powers under section 125 should never be used to override the requirement to arrange the provision of services in agreement with the school or child care centre concerned.

Powers under section 125 can be used only when the examination is carried out at the school or child care centre.

## When to use authorisations

Where possible, consent should always be sought prior to the examination from the child and/or his or her parent or guardian (depending on the competency of the child to consent). Section 125 should only be relied upon where:

1. the requirement for parental consent would prevent (and not just delay) the carrying-out of routine screening; or
2. the delay involved in obtaining informed consent would pose a risk to the health or well-being of the child or others and:
	1. the examination must be performed as a matter of urgency; or
	2. all reasonable efforts have been made to obtain consent from the parent/guardian but the Authorised Person has been unable to contact the parent/guardian; or
3. abuse is suspected and seeking informed consent from the child’s parent/guardian could put the child at risk of further abuse.

Section 125 relates to medical examinations only. Except for emergency first aid, no treatment is to be given without the specific consent of a parent or guardian.

Consent for immunisation must be obtained in all cases.

No Authorised Person should carry out an examination beyond their technical competence and experience. Referrals must be made to other organisations where required (ie, if child abuse is suspected).

The person who performs the medical examination should:

* be the person who normally delivers health services to the school or child care centre concerned
* be appropriately qualified and experienced for the examination undertaken.

## Efforts to seek parental consent

It is the responsibility of the health service provider either to seek consent or to ensure that consent has been sought. At a practical level, consent for health services delivered in schools and child care centres is often sought by or through the school or centre concerned.

### In cases of suspected health problems

Before medically examining the child, the health service provider should either:

* endeavour to contact the parent or guardian
* ensure that the school/child care centre has attempted to contact the parent, to advise them what is to be done and seek their consent.

If the parent or guardian cannot be contacted to give consent, the health service provider can examine the child.

### In cases of suspected abuse or neglect

In the case of suspected physical or sexual abuse or neglect, the health service provider should, after consulting with the appropriate school staff, make a judgment as to whether it is appropriate to seek consent.

## Examinations that can be performed

The following list is intended to indicate the type of examinations that may be provided by persons using powers authorised under section 125.

* 1. Medical Officers of Health not employed in the Ministry may provide:
* examinations required as part of routine health screening, such as national screening programmes or examinations conducted for the Ministry or district health board.
* medical examinations of children, to initially identify suspected abuse, neglect or medical problems, on referral from teachers, public health nurses and others.
	1. Public Health Nurses may provide:
* new entrant and other routine health screening.
* initial assessment (not diagnostic examination) for suspected health problems which require nursing expertise, on referral from teachers and others where a health problem is suspected.

The following list gives examples of the types of suspected health problems that could prompt an examination by a Public Health Nurse or Medical Officer of Health:

* scabies
* school sores
* skin conditions
* head lice
* meningococcal disease
* rheumatic fever
* acute ear infections
* initial examination in cases where abuse or neglect or self-harm is suspected.
	1. Vision hearing technicians employed by district health boards to provide screening according to the National Vision and Hearing Screening Protocols may only perform routine vision hearing screening, including tympanometry and pure audiometry.
	2. Other health service providers may only perform the medical examinations specified in their authorisation.

## Notifying parents/or guardians after examination

Parents or guardians must be informed that their child has been medically examined and the outcome of the examination. An exception is where the examination appears to confirm abuse or neglect. In this case, a decision on the information to be given to parents should be made in consultation with Oranga Tamariki – Ministry for Children.

## Evidence of authorisation

All Authorised Persons must be able to produce evidence of their authorisation on request.

## Health Act 1956

This Act is administered by the Ministry of Health

Section 125

Medical examination of children

**(1)** In this section—

**early childhood education and care centre** has the same meaning as in [section 310(1)](http://www.legislation.govt.nz/act/public/1956/0065/latest/link.aspx?id=DLM187093" \l "DLM187093) of the Education Act 1989

**private school** means a school registered under section [**186**](http://www.legislation.govt.nz/act/public/1956/0065/latest/link.aspx?search=ts_act_Health+Act+1956&id=DLM358887#DLM358887) of the [**Education Act 1964**](http://www.legislation.govt.nz/act/public/1956/0065/latest/link.aspx?search=ts_act_Health+Act+1956&id=DLM356731#DLM356731) and any premises, not being so registered and being neither a child care centre nor a public school, which are or purport to be mainly for the care or training of children, whether for reward or not

**public school** means a school established under Part [**3**](http://www.legislation.govt.nz/act/public/1956/0065/latest/link.aspx?search=ts_act_Health+Act+1956&id=DLM357828#DLM357828) of the [Education Act 1964](http://www.legislation.govt.nz/act/public/1956/0065/latest/link.aspx?search=ts_act_Health+Act+1956&id=DLM356731#DLM356731); and includes a kindergarten or other institution providing pre-school education recognised under regulations made pursuant to section [**70**](http://www.legislation.govt.nz/act/public/1956/0065/latest/link.aspx?search=ts_act_Health+Act+1956&id=DLM357830#DLM357830) of that Act.

**(2)** Any medical officer employed in the Ministry or other person authorised by the Minister to exercise the powers conferred by this section on an officer so authorised, or any nurse employed by the Royal New Zealand Society for the Health of Women and Children (Incorporated) engaged in work pursuant to a contract in that behalf between the said Society and the Minister, may at all reasonable times enter any public school or child care centre and examine the children attending the school or centre, and may notify the parent or guardian of any such child, or any other person whom he reasonably believes to be concerned with the welfare of the child, of any condition which in his opinion is affecting the health or normal development of the child or of any disease or defect from which in his opinion the child may be suffering.

**(3)** The powers conferred by subsection [**(2)**](http://www.legislation.govt.nz/act/public/1956/0065/latest/whole.html?search=ts_act_Health+Act+1956#DLM308462#DLM308462) of this section may be exercised in respect of any private school, and in respect of the children attending there, if application in that behalf is made in writing to the Medical Officer of Health by the controlling authority thereof. Any such application may be revoked in like manner at any time.