



## TEXAS HOUSE of REPRESENTATIVES

**Gary Gates**

State Representative, District 28

*September 17, 2025*

The Honorable Ken Paxton  
Attorney General of Texas  
Office of the Attorney General  
ATTN: Opinion Committee  
P.O. Box 12548

**Re: Request for Attorney General Opinion Regarding Applicability of State Vaccination Exemption Laws to Private Schools that Accept Certain State Funds**

Dear Attorney General Paxton,

This letter serves as a formal request for your opinion regarding whether private schools that accept funds through Education Savings Accounts are required to comply with state law related to vaccination exemptions.

Background

Senate Bill 2 from the 89th Legislature, Regular Session, is now law and establishes an education savings account program for Texas students. Under this new program, parents are empowered to choose the school setting that best suits their children by allowing the money that would otherwise be allocated for public school to instead follow the child.

Previously, the question of private schools' acceptance of vaccine exemptions has relied on a 2006 AG Opinion that concluded, "A private school that does not accept state tax funds is not required to accept for enrollment a child who has received an exemption from the immunizations required by the Texas Health and Safety Code." Tex. Att'y Gen. Op. No. GA-0420 (2006). Conversely, K-12 private schools that accept any state funding **must** accept the Reasons of Conscience Affidavit and medical exemptions, as provided by Texas Health and Safety Code 161.004.

SB 2 states that "Education Service Providers" that are private schools must be accredited by either the Texas Private School Accreditation Commission (TPSAC) or the Texas Education Agency (TEA). Providers accredited through TEA ostensibly must comply with Texas Education Code, including TEC 38.001(c). TPSAC includes within its listed expectations that schools comply with

Health and Safety Code 161.004, though it provides schools with the option to “accept or reject” these affidavits.

Request

Considering that these private schools, whether accredited through TPSAC or TEA, are voluntarily accepting taxpayer money in the form of Education Savings Accounts:

1. Are these private schools required to be compliant with Texas Education Code 38.001(c) and Health and Safety Code 161.004?
2. Are these private schools therefore compelled to accept vaccine exemptions?

Thank you for your time and assistance in this matter. Please do not hesitate to contact my office should you require additional information or clarification regarding this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Gates", with a stylized flourish at the end.

Gary Gates  
State Representative, House District 28  
Chair, House Committee on Land and Resource Management