

OREGON STATE PUBLIC HEALTH DIVISION

Office of the State Public Health Director

Kate Brown, Governor



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December 9, 2022

MacKensey Pulliam
18751 Pacific Avenue
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SENT VIA EMAIL AND REGULAR MAIL

Re: Petition to Repeal Administrative Rule OAR 333-019-1030

Dear MacKensey Pulliam,

On September 12, 2022, the Oregon Health Authority (OHA) received your petition to repeal administrative rule OAR 333-019-1030 – Vaccination Requirements for Teachers and School Staff. The basis for your petition is that requiring the COVID-19 vaccine for school staff and volunteers has negatively affected school staffing and volunteer supports and is not necessary because the vaccination does not prevent either COVID-19 disease or transmission of COVID-19. Your petition suggests that while there is a continued need for public safety, efforts should be made to address underlying conditions for severe COVID-19 disease rather than continuing implementation of OAR 333-019-1030.

After receiving your petition, OHA invited public comment on the rule and specifically solicited comments as to whether options exist for achieving the substantive goals of the rule in a way that reduces the negative economic impact on businesses. The public comment period opened on September 16, 2022 and closed on September 30, 2022 at 5:00pm PDT. Following the conclusion of the comment period, OHA reviewed the public comments and considered your petition in accordance with the six factors in ORS 183.390(3).

Having reviewed the public comment and the factors OHA must consider when making a decision on whether to deny or grant a petition, OHA is denying your petition.

- The continued need for the rule:

Attending school is a compulsory activity, unlike other activities that we choose to participate in. Being fully vaccinated against COVID-19 is one of the most effective ways to reduce the potential for severe illness, hospitalization and death from COVID-19. The risk of hospitalization and death from COVID-19 is rare in individuals who are fully vaccinated and is even rarer in those who are up to date with all recommended COVID-19 vaccinations.¹ Vaccine efficacy against COVID-19 infection has fallen significantly, but there is still protection from severe illness, hospitalization and death. Schools continue to be places that gather a largely unvaccinated population and are places where students who are immunosuppressed or medically complex attend to learn as well as experience belonging and connection with peers. Schools have a responsibility to provide a safe and healthy learning environment for every student. Staff and volunteers spend several hours per day, most days per week in close contact with mostly unvaccinated children. That, along with the fact that universal masking is not currently required means the risk of transmission in schools is high when transmission in communities is high. Staff and volunteers who are vaccinated are better protected against severe disease and thus will have less time out of school. This promotes more consistent in-person instruction. OHA is aware of worker shortages across the nation and does not have evidence that these shortages are caused by vaccine requirements. Senator Dembrow's Education Workforce Work Group² has not identified vaccine requirements as having an impact on education workforce shortages. Therefore, staff shortages are not a factor that weighs in favor of repealing the rule.

OHA continually monitors COVID-19 variants, disease trends and vaccine effectiveness and believes the rule is still necessary to control COVID-19.

- The nature of complaints or comments received concerning the rule from the public:

¹ Oregon's COVID-19 Cases, Hospitalizations and Deaths by Vaccination Status. Access: <https://public.tableau.com/app/profile/oregon.health.authority.covid.19/viz/OregonCOVID-19CasesbyVaccinationStatus/Statewide>

² Report on Subgroup Recommendations. Education Workforce Work Group. January 7, 2022. Prepared by the Legislative Policy Research Office. Access: https://www.oregon.gov/tspe/Commission/Meetings/2022FEB/Item_2.3a.pdf

OHA received about 1200 public comments. OHA reviewed and considered the comments when making the decision on the petition. OHA reviewed the comments in the context of OHA's responsibility to the people of Oregon to provide public health protections under its authority.

A few themes were present in the comments. Themes include concerns related to personal choice, shortages of school staff, natural immunity and vaccine safety and efficacy.

COVID-19 does not respect county borders and has disrupted the lives of all people in Oregon. However, COVID-19 has not affected all people in Oregon in the same way. People in tribal communities and communities of color have experienced the greatest burden of COVID-19. COVID-19 exacerbated health inequities that have been present in the health system from the start. Reducing the spread and burden of communicable disease relies on all of us to work together to implement protections that benefit individuals, as well as the entire community, including those in the community who may be more vulnerable to severe illness or death from disease.

As stated above, the risk of hospitalization and death from COVID-19 is rare in individuals who are fully vaccinated and is even rarer in those who are up to date with all recommended COVID-19 vaccinations, thus minimizing staff time out of work and improving consistency in in-person school instruction. Even when cases rise sharply, hospitalizations and deaths among fully vaccinated individuals have remained low. Vaccine efficacy against infection has fallen significantly, but there is still protection. COVID-19 vaccines are safe. They have undergone multiple clinical trials and have been administered to millions of people in the United States and in other countries. Serious complications from COVID-19 vaccine are rare.

Studies show that COVID-19 vaccine in addition to prior COVID-19 infection provides another layer protection from hospitalization and death resulting from COVID-19. However, there is currently no routine method for determining the level of protection following recovery from COVID-19 using antibody testing as this only examines one measure of an individual's immune response, nor is it clear how long this level of protection lasts.

OHA understands that people who have been fully vaccinated can still transmit COVID-19. Vaccines for children, and very young children have rolled out within the last year and many children are not yet fully vaccinated. As mentioned above, a population that is largely unvaccinated along with mask requirements being lifted

means the opportunity for COVID-19 transmission is high when community transmission is high. Again, as stated above, staff and volunteers who are up-to-date on their COVID-19 vaccine are better protected against severe disease and thus will have less time out of school. This promotes more consistent in-person instruction.

- The degree to which technology, economic conditions or other factors have changed in the subject area affected by the rule:

OHA recognizes that certain conditions related to COVID-19 disease have changed since the rule was adopted. Currently there are more transmissible variants circulating in communities in Oregon. In addition, cases of COVID-19 and hospitalizations due to COVID-19 have risen recently. Some of this increase is exacerbated by the lifting of mask requirements in schools and in public places in early March 2022. The current rise in the spread of COVID-19 weighs in favor of keeping the vaccination requirement in place.

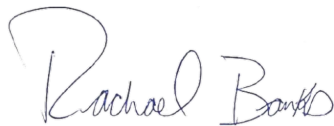
- The statutory citation or legal basis for the rule:

The statutes under which OHA promulgated this rule are ORS 413.042, ORS 431A.010, ORS 431.110 & ORS 433.004.

Sincerely,



Dean E. Sidelinger, MD, MSED
Health Officer and State Epidemiologist
Public Health Division
Oregon Health Authority



Rachael Banks, MPA
Director
Public Health Division
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