



NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 333
OREGON HEALTH AUTHORITY
PUBLIC HEALTH DIVISION

FILED

05/11/2023 7:18 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Repeal of some COVID reporting requirements; and of COVID vaccination requirements in healthcare and schools

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 06/21/2023 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

333-018-0016: COVID-19 was first confirmed in Oregon February 28, 2020. In an effort to identify cases and contain the spread of the disease, COVID-19 cases were made reportable. Subsequently, to ascertain proportion of tests that were positive for COVID-19, all tests, both positive and negative were made reportable. To track disease severity, hospitalizations and deaths associated with COVID-19 became reportable. When it was identified, Multisystem inflammatory syndrome in children (MIS-C) was made reportable. Now, three years into the pandemic, infection has become quite common, many cases are identified by home testing and therefore not reported to public health, and many cases are mild and not diagnosed at all. More efficient systems for tracking the pandemic and severe cases, including wastewater surveillance, sentinel hospital reporting, and electronic death certificate reporting, render universal individual case reporting on the part of laboratories and health care professionals unnecessary. For this reason, the Oregon Health Authority (OHA) is proposing to repeal the mandate in OAR 333-018-0016 to report COVID cases and hospitalizations; and COVID-19-associated deaths in adults; reporting of MIS-C cases and COVID-19-associated deaths in children <18 years of age would still be required, the latter akin to the current reporting requirement for influenza-related deaths in children.

333-019-1010 and 333-019-1030: Since its arrival in Oregon in February 2020, pandemic COVID-19 has caused nearly a million documented cases, more than 41,000 hospitalizations, and more than 9,500 deaths among Oregonians. Vaccines against this disease, authorized by the U.S. Food and Drug Administration in December 2020, initially proved 94%–95% efficacious in preventing COVID-19 illness and were subsequently recommended in stages for all Oregonians 6 months of age or older. One study estimated that the vaccines have prevented more than 18 million hospitalizations and 3 million COVID-19 deaths in the United States.

In accordance with recommendations of the Centers for Disease Control and Prevention in place at the time, and

beginning with a temporary rule effective August 5, 2021, followed by a permanent rule effective January 31, 2022, OAR 333-019-1010 required healthcare providers and staff in healthcare settings, absent a medical or religious exception, to receive a primary COVID-19 vaccination series. For providers and staff granted medical or religious exceptions, employers are required to take reasonable steps to protect the unvaccinated from contracting and spreading COVID-19. Similarly, OAR 333-019-1030 required teachers and school staff to receive a primary series of COVID-19 vaccination, beginning with a temporary rule effective August 25, 2021, and followed by a permanent rule effective January 31, 2022; similar rules regarding medical and religious exceptions pertain.

The rationale for the rules when they were adopted was that COVID-19 was likely to be transmitted in these congregate settings, placing vulnerable persons at risk. Both rules are now proposed for repeal, because immunity from the primary series is known to wane over time, such that 2 booster vaccinations have since been recommended for most persons. Moreover, the virus that causes COVID-19 has mutated such that the original series provides little long-term protection against infection by currently circulating strains. Finally, at this point most people have been infected by the virus (94% by one estimate), giving survivors a degree of immunity at least equivalent to that provided by the original vaccination series for some period of time. The originally recommended and required mRNA vaccine series is no longer authorized by FDA, and newer formulations are available.

Although OHA is proposing to repeal these rules, even in persons previously infected, vaccination with the most up-to-date formulations further reduces the likelihood of severe disease, and the Authority continues to recommend their use; but the requirement for the primary COVID-19 vaccination series is no longer necessary for the control of COVID-19 in Oregon's population.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

- Silk BJ, Scobie HM, Duck WM, et al. COVID-19 surveillance after expiration of the public health emergency declaration—United States, May 11, 2023. *MMWR* early release, May 5, 2023. Available at www.cdc.gov/mmwr/volumes/72/wr/mm7219e1.htm. Accessed 5 May 2023.
- Fitzpatrick MC, Moghadas SM, Pandey A, Galvani AP. Two years of U.S. COVID-19 vaccines have prevented millions of hospitalizations and deaths. *The Commonwealth Fund* December 13, 2022. Available at www.commonwealthfund.org/blog/2022/two-years-covid-vaccines-prevented-millions-deaths-hospitalizations. Accessed 2 May 2023.
- Link-Gelles R. Updates on COVID-19 Vaccine Effectiveness during Omicron. Presentation to CDC's Advisory Committee on Immunization Practices, 1 Sep 2022 (see, e.g., slide #10). Available at www.cdc.gov/vaccines/acip/meetings/downloads/slides-2022-09-01/04-COVID-Link-Gelles-508.pdf. Accessed 2 May 2023
- Altarawneh HN, Chemaitelly Hasan MR, et al. *New Engl J Med* 2022; Available at www.nejm.org/doi/full/10.1056/NEJMc2200133. Accessed 2 May 2023.
- Klaassen F, Chitwood MH, Cohen T, et al. Changes in population immunity against infection and severe disease from SARS-CoV-2 Omicron variants in the United States between December 2021 and November 2022 [preprint]. *MedRxiv* 2022. Available at www.medrxiv.org/content/10.1101/2022.11.19.22282525v1.full.pdf. Accessed 2 May 2023.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

OAR 333-018-0016: COVID-19 has disproportionately affected blacks, Hispanics, American Indians, and Pacific Islanders in Oregon. The development of home tests has resulted in reported data being less representative and therefore less reliable as metrics of nonsevere disease. Sentinel systems for reporting hospitalizations and routine death reporting provide a source of high-quality data, including race and ethnicity, regarding severe cases of COVID-19.

OAR 333-019-1010 and OAR 333-019-1030: vaccination has greatly reduced racial disparities in severe COVID-19 disease in Oregon. OHA continues to recommend vaccination against COVID-19; and widespread prior infection has lent significant protection against severe disease to nearly all vaccinated and unvaccinated Oregonians. For these reasons, repeal of these rules is not expected to affect racial equity regarding COVID-19 outcomes in Oregon.

FISCAL AND ECONOMIC IMPACT:

OAR 333-018-0016: Repeal of requirements to report COVID-19 cases, negative COVID-19 tests, and hospitalizations and deaths associated with COVID-19 is expected to result in savings to OHA, Oregon's local public health authorities, and the laboratories, healthcare providers, and healthcare facilities hitherto required to report.

OAR 333-019-1010 and OAR 333-019-1030: Repeal of requirements for healthcare workers and staff and teachers and school staff to be vaccinated is expected to result in savings to healthcare facilities, schools, OHA, the Oregon Department of Education, and the Early Learning Division, insofar as they will no longer need to maintain records and enforce compliance with these rules.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) OAR 333-018-0016: Amendment of this rule to repeal some reporting requirements is likely to save considerable time and money on the part of Oregon's 33 local public health authorities processing reports, and on the part of OHA in maintaining systems for parsing, housing, analyzing, and reporting on the data.

OAR 333-019-1010 and OAR 333-019-1030: Repeal of these rules is likely to result in modest savings to OHA, the Oregon Department of Education, and the Early Learning Division, insofar as they will no longer need to receive reports of noncompliance and enforce compliance with these rules.

(2)(a) Small businesses affected by the rule include:

OAR 333-018-0016: an unknown number of medical offices qualify as small businesses, and an unknown proportion of them conduct point-of-care laboratory testing for COVID-19. OHA does not possess the data to quantify this.

OAR 333-019-1010 and OAR 333-019-1030: an unknown number of healthcare clinics in various specialties qualify as small businesses. OHA does not possess the data to quantify this. There are 465 private schools in Oregon, many of which employ fewer than 50 persons.

(b) OAR 333-018-0016: Amendment of this rule to repeal some reporting requirements is likely to result considerably reduced reporting, recordkeeping, and related administrative activities needed to comply with COVID-19 reporting requirements.

OAR 333-019-1010 and OAR 333-019-1030: Repeal of these rules is likely to result moderately reduced recordkeeping and related administrative activities needed to comply with COVID-19 vaccination requirements.

(c) Health care facilities will still need to report cases of MIS-C, which to date have numbered 66. Continued reporting will require a small amount of labor. Repeal of other aspects of OAR 333-018-0016 and of OAR 333-019-1010 and

OAR 333-019-1030 will reduce the labor and any associated administration associated with them.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not explicitly involved in discussions of the repeal and amendment of these rules.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

OHA has worked extensively with local partners throughout the pandemic and has discussed these rules through regular meetings with local public health authorities and at regular meetings with health system representatives. OHA has been a partner with ODE on planning and implementation of these rules since the temporary and permanent filing. OHA holds regular meetings with community members and partners and responds to their questions and concerns in those meetings. Finally, OHA has accepted and tracked comments from the public about these rules on numerous occasions including through previous rulemakings and in the context of rulemaking petitions requesting to amend or repeal the vaccination rules.

RULES PROPOSED:

333-018-0016, 333-019-1010, 333-019-1030

AMEND: 333-018-0016

RULE SUMMARY: Amend OAR 333-018-0016: This rule currently requires healthcare providers and laboratories to report several COVID-19-related diagnoses: cases, negative laboratory reports, hospitalizations, deaths in persons of any age, and the Multisystem Inflammatory Syndrome in Children (MIS-C); and prescribes methods through which they must be reported. The Oregon Health Authority (OHA) proposes to remove requirements for all but MIS-C reporting and COVID-19-associated deaths in persons <18 years of age, because case-based reporting has become an unreliable indicator of the incidence of disease, given widespread mild infection and home testing. Moreover, other systems have been developed for monitoring severe disease, including hospitalizations and deaths associated with COVID-19. The requirement to report COVID-19-associated deaths in children is akin to the current rule requiring reporting of influenza-associated deaths in children (OAR 333-018-0015).

CHANGES TO RULE:

333-018-0016

~~Reporting of COVID-19-Related Test Results, Cases and Deaths~~

(1) Health care providers or other individuals described in OAR 333-018-0000(1) shall report, in accordance with section (2) of this rule and other applicable rules in OAR chapter 333, division 18, the following ~~w:~~

~~(a) Within 24 hours (including weekends and holidays):~~

~~(a) All human cases of COVID-19.~~

~~(b) All, any human cases of MIS-C; and~~

~~(c) The hospitalization of any individual with COVID-19, whether or not the case was previously reported.~~

~~(d) The death of any individual due to COVID-19, whether or not the case was previously reported~~Within one local public health authority working day, the death of any person less than 18 years of age with laboratory-confirmed SARS-CoV-2 infection.

(2) Health care providers shall report the information required in section (1) of this rule, in one of two ways, in order of preference, in addition to complying with other applicable rules in OAR chapter 333, division 18:

(a) Submission of an Electronic Initial Case Report (eICR) in accordance with the Authority's Electronic Case Reporting (ECR) Manual; or

(b) Through the Online Morbidity Report System, which can be found at: www.healthoregon.org/howtoreport.

~~(3) When more than one health care provider may know the information that is required to be reported under section (1) of this rule, they may establish policies and procedures to ensure that the information is reported to the local public health administrator or Authority as required, but duplicate reporting is minimized.~~

(4) Licensed laboratories shall report, in accordance with OAR 333-018-0013 and other applicable rules in OAR chapter 333, division 18:

~~(a) All test results indicative of and specific for COVID-19 within 24 hours (including weekends and holidays).~~

~~(b) All negative test results for COVID-19 within one local public health authority working day.¶~~
~~(5) Any laboratory that performs genomic sequencing of SARS-CoV-2 from a human specimen shall, within one local public health authority working day of completion of the genomic sequence analysis, report to the Authority electronically in accordance with the Authority's Electronic Laboratory Reporting (ELR) Manual, the following, except laboratories described in section (6) of this rule:¶~~
~~(a) Required elements in the electronic reports as specified in the ELR Manual;¶~~
~~(b) The identity of any SARS-CoV-2 sequence designated by the federal Centers for Disease Control and Prevention as a variant being monitored, variant of interest, variant of concern or variant of high consequence; and¶~~
~~(c) The GISAID Accession ID, if known.¶~~
~~(6) Notwithstanding section (5) of this rule, a laboratory performing genomic sequencing of SARS-CoV-2 human specimens under an agreement with the Authority for the purpose of core public health surveillance may report results within 10 working days to the Authority, in a manner approved by the Authority.~~
Statutory/Other Authority: ORS 413.042, ORS 433.004, ORS 433.006
Statutes/Other Implemented: ORS 433.004

REPEAL: 333-019-1010

RULE SUMMARY: Repeal OAR 333-019-1010: This rule currently requires healthcare providers and healthcare staff in healthcare settings, absent a medical or religious exception, to receive a primary COVID-19 vaccination series; and employers of such persons to take reasonable steps to prevent COVID-19 infection of and transmission from those unvaccinated. This rule is now proposed for repeal because immunity from the primary series is known to wane over time, such that 2 booster vaccinations have since been recommended for most persons. Moreover, the virus that causes COVID-19 has mutated such that the original series provides little long-term protection against infection by currently circulating strains. Finally, at this point most people have been infected by the virus (94% by one estimate), giving survivors a degree of immunity at least equivalent to that provided by the original vaccination series for some period of time.

Although the Oregon Health Authority (OHA) is proposing to repeal this rule, even in persons previously infected, vaccination with the most up-to-date formulations further reduces the likelihood of severe disease, and OHA continues to strongly recommend their use.

CHANGES TO RULE:

~~333-019-1010~~

~~COVID-19 Vaccination Requirement for Healthcare Providers and Healthcare Staff in Healthcare Settings~~

~~(1) It is vital to this state that healthcare providers and healthcare staff be vaccinated against COVID-19. COVID-19 undergoes frequent mutations as it replicates, which over time has resulted in variants that are more transmissible or cause more severe disease. Unvaccinated individuals exposed to COVID-19 are very likely to become infected in the absence of mitigation measures and may then transmit the virus to others. Fully vaccinated people get COVID-19 (known as vaccine breakthrough infections) much less often than unvaccinated people. Being vaccinated is critical to prevent spread of COVID-19. Healthcare providers and healthcare staff have contact with multiple patients over the course of a typical day and week. The CDC recommends vaccination against COVID-19 for all eligible individuals. This rule is necessary to help control COVID-19, protect patients, and to protect the state's healthcare workforce.~~

~~(2) For purposes of this rule, the following definitions apply:~~

~~(a) "Contractor" means a person who has healthcare providers or healthcare staff on contract to provide services in healthcare settings in Oregon.~~

~~(b) "COVID-19" means a disease caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).~~

~~(c) "Documentation of a medical exception" means a form prescribed by the Oregon Health Authority (OHA), or a similar form, that contains all of the information required in the OHA form, signed by a medical provider who is not the individual, certifying that the individual has a physical or mental impairment that limits the individual's ability to receive a COVID-19 vaccination based on a specified medical diagnosis, and that specifies whether the impairment is temporary in nature or permanent.~~

~~(d) "Documentation of a religious exception" means a form prescribed by the Oregon Health Authority (OHA), or a similar form, that contains all of the information required in the OHA form, signed by the individual, stating that the individual is requesting an exception from the COVID-19 vaccination requirement on the basis of a sincerely held religious belief and includes a statement describing the way in which the vaccination requirement conflicts with the religious observance, practice, or belief of the individual.~~

~~(e) "Fully vaccinated" means having received both doses of a two-dose COVID-19 vaccine or one dose of a single-dose COVID-19 vaccine and at least 14 days have passed since the individual's final dose of COVID-19 vaccine.~~

~~(f) "Healthcare providers and healthcare staff":~~

~~(A) Means individuals, paid and unpaid, working, learning, studying, assisting, observing or volunteering in a healthcare setting providing direct patient or resident care or who have the potential for direct or indirect exposure to patients, residents, or infectious materials, and includes but is not limited to any individual licensed by a health regulatory board as that is defined in ORS 676.160, unlicensed caregivers, and any clerical, dietary, environmental services, laundry, security, engineering and facilities management, administrative, billing, student and volunteer personnel.~~

~~(B) Does not mean parents, family members, guardians or foster parents residing in the home and providing care to a child or foster child in the home.~~

~~(g) "Healthcare setting":~~

(A) Means any place where health care, including physical, dental or behavioral health care is delivered and includes, but is not limited to any health care facility or agency licensed under ORS chapter 441 or 443, such as hospitals, ambulatory surgical centers, birthing centers, special inpatient care facilities, long-term acute care facilities, inpatient rehabilitation facilities, inpatient hospice facilities, nursing facilities, assisted living facilities, residential facilities, residential behavioral health facilities, adult foster homes, group homes, pharmacies, hospice, vehicles or temporary sites where health care is delivered or is related to the provision of health care (for example, mobile clinics, ambulances) outpatient facilities, such as dialysis centers, health care provider offices, dental offices, behavioral health care offices, urgent care centers, counseling offices, offices that provide complementary and alternative medicine such as acupuncture, homeopathy, naturopathy, chiropractic and osteopathic medicine, and other specialty centers.¶¶

(B) Does not include a person's private home if the home is not otherwise licensed, registered or certified as a facility or home listed in paragraph (A) of this subsection.¶¶

(h) "Medical exception" means that an individual has a physical or mental impairment that prevents the individual from receiving a COVID-19 vaccination.¶¶

(i) "Proof of vaccination" means documentation provided by a tribal, federal, state or local government, or a health care provider, that includes an individual's name, date of birth, type of COVID-19 vaccination given, date or dates given, depending on whether it is a one-dose or two-dose vaccine, and the name or location of the health care provider or site where the vaccine was administered. Documentation may include but is not limited to a COVID-19 vaccination record card or a copy or digital picture of the vaccination record card, a print-out from the Oregon Health Authority's immunization registry, or a Quick-Response (QR) code from a verified digital vaccine record.¶¶

(j) "Religious exception" means that an individual has a sincerely held religious belief that prevents the individual from receiving a COVID-19 vaccination.¶¶

(k) "Responsible party" means a person or persons who have control or responsibility for the activities of healthcare providers or healthcare staff in a healthcare setting.¶¶

(3) After October 18, 2021:¶¶

(a) Health care providers and healthcare staff may not work, learn, study, assist, observe, or volunteer in a healthcare setting unless they are fully vaccinated or have provided documentation of a medical or religious exception.¶¶

(b) An employer of healthcare providers or healthcare staff, a contractor, or a responsible party may not employ, contract with, or accept the volunteer services of healthcare providers or healthcare staff persons who are working, learning, studying, assisting, observing or volunteering at a healthcare setting unless the healthcare providers or healthcare staff persons are fully vaccinated against COVID-19 or have an approved or accepted medical or religious exception.¶¶

(4) Employers of healthcare providers or healthcare staff, contractors and responsible parties who grant a medical or religious exception to the vaccination requirement in this rule must take reasonable steps to ensure that unvaccinated healthcare providers and healthcare staff are protected from contracting and spreading COVID-19.¶¶

(5) Nothing in this rule is intended to prohibit employers of healthcare providers or healthcare staff, contractors and responsible parties from:¶¶

(a) Complying with the Americans with Disabilities Act and Title VII of the Civil Rights Act, and state law equivalents, for individuals unable to be vaccinated due to a medical condition or a sincerely held religious belief.¶¶

(b) Having more restrictive or additional requirements, including but not limited to requiring healthcare providers and healthcare staff to have documentation of an additional or booster dose of a COVID-19 vaccine if that is recommended by the U.S. Centers for Disease Control and Prevention.¶¶

(6) Proof of vaccination documentation and documentation of medical and religious exceptions described in this rule must be:¶¶

(a) Maintained in accordance with applicable federal and state laws;¶¶

(b) Maintained for at least two years; and¶¶

(c) Provided to the Oregon Health Authority upon request.¶¶

(7) Employers of healthcare providers or healthcare staff, contractors and responsible parties who violate any provision of this rule are subject to civil penalties of \$500 per day per violation.¶¶

(8) In addition to the imposition of civil penalties under section (9) of this rule, a violation of this rule may also be grounds for a licensing action authorized under the following statutes or rules:¶¶

(a) ORS 443.045; OAR chapter 333, division 27 (home health agencies, to the extent staff are providing services or care in healthcare settings).¶¶

(b) ORS 443.864, 443.869; OAR chapter 333, division 35 (hospice programs, to the extent staff are providing services or care in healthcare settings).¶¶

(c) ORS 441.030; OAR chapter 333, division 71 (special inpatient care facilities).¶¶

(d) ORS 441.030; OAR chapter 333, division 76 (ambulatory surgical centers, extended stay centers and birthing

centers).¶¶

(e) ORS 441.030; OAR chapter 333, division 501 (hospitals).¶¶

(f) ORS 443.325; OAR chapter 333, division 536 (in-home care agencies, to the extent caregivers are providing care in healthcare settings).¶¶

(g) ORS 441.030; OAR chapter 333, division 700 (outpatient renal dialysis facilities).¶¶

(h) ORS 426.415; OAR chapter 309, division 22 (psychiatric residential treatment facilities).¶¶

(i) ORS 435.415, 443.421, 443.455; OAR chapter 309, division 35 (residential treatment facilities, community based residential treatment homes, secure residential treatment facilities).¶¶

(j) ORS 443.745, 443.790; OAR chapter 309, division 40 (adult foster homes).

Statutory/Other Authority: ORS 413.042, ORS 431A.010, ORS 431.110, ORS 433.004, ORS 426.415, ORS 443.085, ORS 443.315, ORS 443.450, ORS 443.745, ORS 443.790, ORS 443.860, ORS 441.025

Statutes/Other Implemented: ORS 431A.010, ORS 431.110, ORS 433.004, ORS 426.415, ORS 443.045, ORS 443.325, ORS 443.421, ORS 443.455, ORS 443.745, ORS 443.790, ORS 443.864, ORS 441.030

REPEAL: 333-019-1030

RULE SUMMARY: Repeal OAR 333-019-1030: This rule currently requires teachers and school staff, absent a medical or religious exception, to receive a primary COVID-19 vaccination series; and employers of such persons to take reasonable steps to prevent COVID-19 infection of and transmission from those unvaccinated. This rule is now proposed for repeal, because immunity from the primary series is known to wane over time, such that 2 booster vaccinations have since been recommended for most persons. Moreover, the virus that causes COVID-19 has mutated such that the original series provides little long-term protection against infection by currently circulating strains. Finally, at this point most people have been infected by the virus (94% by one estimate), giving survivors a degree of immunity at least equivalent to that provided by the original vaccination series for some period of time.

Although the Oregon Health Authority (OHA) is proposing to repeal this rule, even in persons previously infected, vaccination with the most up-to-date formulations further reduces the likelihood of severe disease, and OHA continues to recommend their use.

CHANGES TO RULE:

~~333-019-1030~~

~~COVID-19 Vaccination Requirements for Teachers and School Staff~~

~~(1) Children are required to attend school, which is a congregate setting where COVID-19 can spread easily if precautions are not taken. COVID-19 undergoes frequent mutations as it replicates, which over time has resulted in variants that are more transmissible or cause more severe disease. Being vaccinated is critical to prevent the spread of COVID-19. COVID-19 variants have and can run through the state's unvaccinated population and cause an increase in breakthrough cases for those who are fully vaccinated. This rule is necessary to help control COVID-19, and to protect students, teachers, school staff, and volunteers.¶¶~~

~~(2) For purposes of this rule, the following definitions apply:¶¶~~

~~(a) "COVID-19" means a disease caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).¶¶~~

~~(b) "Documentation of a medical exception" means a form prescribed by the Oregon Health Authority, signed by a medical provider who is not the individual, certifying that the individual has a physical or mental impairment that limits the individual's ability to receive a COVID-19 vaccination based on a specified medical diagnosis, and that specifies whether the impairment is temporary in nature or permanent.¶¶~~

~~(c) "Documentation of a religious exception" means a form prescribed by the Oregon Health Authority, signed by the individual, stating that the individual is requesting an exception from the COVID-19 vaccination requirement on the basis of a sincerely held religious belief and includes a statement describing the way in which the vaccination requirement conflicts with the religious observance, practice, or belief of the individual.¶¶~~

~~(d) "Fully vaccinated" means having received both doses of a two-dose COVID-19 vaccine or one dose of a single-dose COVID-19 vaccine and at least 14 days have passed since the individual's final dose of COVID-19 vaccine.¶¶~~

~~(e) "Medical exception" means that an individual has a physical or mental impairment that prevents the individual from receiving a COVID-19 vaccination.¶¶~~

~~(f) "Religious exception" means that an individual has a sincerely held religious belief that prevents the individual from receiving a COVID-19 vaccination.¶¶~~

~~(g) "Proof of vaccination" means documentation provided by a tribal, federal, state or local government, or a health care provider, that includes an individual's name, date of birth, type of COVID-19 vaccination given, date or dates given, depending on whether it is a one-dose or two-dose vaccine, and the name/location of the health care provider or site where the vaccine was administered. Documentation may include but is not limited to a COVID-19 vaccination record card or a copy or digital picture of the vaccination record card, a print-out from the Oregon Health Authority's immunization registry, or a Quick-Response (QR) code from a verified digital vaccine record.¶¶~~

~~(h) "School":¶¶~~

~~(A) Means a public, private, parochial, charter or alternative educational program offering kindergarten through grade 12 or any part thereof.¶¶~~

~~(B) Does not mean stand-alone preschool program that goes up through kindergarten.¶¶~~

~~(i) "School-based program" means a program serving children or students that takes place at or in school facilities.¶¶~~

~~(j) "School-based program staff and volunteers":¶¶~~

~~(A) Means anyone age 16 and older.¶¶~~

~~(i) Who is employed by a school-based program or who is not employed but is otherwise engaged to provide goods or services to a school-based program through any formal or informal agreement, whether compensated or~~

uncompensated, and includes but is not limited to teachers, administrative staff, child care staff, cleaning staff, coaches, school-based program drivers, family volunteers; and¶

(ii) Providing goods or services at or for a school-based program that includes direct or indirect contact with children or students.¶

(B) Does not mean short-term visitors or individuals making deliveries.¶

(k) "Teachers, school staff and volunteers":¶

(A) Means anyone age 16 and older:¶

(i) Who is employed at a school or anyone who is not employed but is otherwise engaged to provide goods or services to or at a school through any formal or informal agreement, whether compensated or uncompensated, and includes but is not limited to teachers, administrative staff, cleaning staff, coaches, school bus drivers, family volunteers and substitute teachers; and¶

(ii) Providing goods or services at or for a school that includes direct or indirect contact with students.¶

(B) Does not mean short-term visitors, individuals making deliveries, or school board members unless they are also volunteering in a school.¶

(3) After October 18, 2021:¶

(a) Teachers, school staff and volunteers may not teach, work, learn, study, assist, observe, or volunteer at a school unless they are fully vaccinated or have provided documentation of a medical or religious exception and the exception has been approved or accepted.¶

(b) A school may not employ, contract with, or accept the volunteer services of teachers, school staff or volunteers who are teaching, working, learning, studying, assisting, observing, or volunteering at a school unless the teachers or school staff are fully vaccinated against COVID-19 or have an approved or accepted medical or religious exception.¶

(4) Schools that grant a medical or religious exception to the vaccination requirement must take reasonable steps to ensure that unvaccinated teachers, school staff and volunteers are protected from contracting and spreading COVID-19.¶

(5) After October 18, 2021:¶

(a) School-based program staff and volunteers may not teach, work, provide care, learn, study, assist, observe, or volunteer for a school-based program unless they are fully vaccinated or have provided documentation of a medical or religious exception and the exception has been approved or accepted.¶

(b) A school-based program may not employ, contract with, or accept the volunteer services of school-based program staff or volunteers who are teaching, working, providing care, learning, studying, assisting, observing, or volunteering at a school-based program unless the staff or volunteers are fully vaccinated against COVID-19 or have an approved or accepted medical or religious exception.¶

(6) School-based programs that grant a medical or religious exception to the vaccination requirement must take reasonable steps to ensure that unvaccinated school-based program staff and volunteers are protected from contracting and spreading COVID-19.¶

(7) A school may request that a school-based program operating at that school, attest to whether it is, or is not, in compliance with this rule. If a school-based program receives such a request from a school, it must respond.¶

(8) A school-based program may request that a school at which it intends to operate, attest to whether it is, or is not, in compliance with this rule. If a school receives such a request from a school-based program, it must respond.¶

(9) Nothing in this rule is intended to prohibit schools or school-based programs from:¶

(a) Complying with the Americans with Disabilities Act and Title VII of the Civil Rights Act, and state law equivalents, for individuals unable to be vaccinated due to a medical condition or a sincerely held religious belief.¶

(b) Having more restrictive or additional requirements, including but not limited to requiring teachers, school staff and volunteers, and school-based program staff and volunteers to have documentation of an additional or booster dose of a COVID-19 vaccine if that is recommended by the U.S. Centers for Disease Control and Prevention.¶

(c) Allowing a school district or other governing body to collect the vaccination and exception documentation required under this rule.¶

(10) Proof of vaccination documentation and documentation of medical and religious exceptions must be:¶

(a) Maintained in accordance with applicable federal and state laws;¶

(b) Maintained for at least two years; and¶

(c) Provided to the Oregon Health Authority upon request.¶

(11) Schools and school-based programs that violate any provision of this rule are subject to civil penalties of \$500 per day per violation.

Statutory/Other Authority: ORS 413.042, ORS 431A.010, ORS 431.110, ORS 433.004

Statutes/Other Implemented: ORS 431A.010, ORS 431.110, ORS 433.004