

DATE: April 25, 2025

TO: Hearing Attendees and Commenters –
Oregon Administrative Rules chapter 333, division 50 –
“School, Child Care and College Immunization Administrative Rule
Reorganization and Update”

FROM: Brittany Hall, Hearing Officer and Administrative Rules Coordinator

cc: Mimi Luther, Section Manager
Oregon Immunization Program

Stacy de Assis Matthews, Policy Analyst
Oregon Immunization Program

SUBJECT: Presiding Hearing Officer’s Report on Rulemaking Hearing and Public
Comment Period

Hearing Officer Report

Date of Hearing: January 16, 2025, via Microsoft Teams

Purpose of Hearing: The purpose of this hearing was to receive testimony regarding the Oregon Health Authority (OHA), Public Health Division, Oregon Immunization Program’s proposed changes to Oregon Administrative Rules (OAR) in chapter 333, division 50, “School Immunization Rules.” These proposed rule changes are a reorganization of existing school immunization rules, in OAR chapter 333, division 50. With this reorganization, existing OAR 333-050 will be repealed and replaced with the reorganized rules. These OARs have been added onto and revised many times since the 1980s, and a clean-up is needed for clarity. The goal of the reorganization is to group sections of related topics together so a reader can more easily find information, to make the rules easier to read, and to use inclusive and equity-focused language. Some language will be shortened or removed from OAR because it is already covered by Oregon Revised Statute. Major substantive changes proposed by these rule changes include:

1. Replacing a letter written by a physician with a form filled out by a physician for a medical exemption.
2. Requiring documentation of history of varicella (chickenpox) disease to be verified by a health care practitioner or titer test and removing the allowance of parent-signed history of varicella disease.
3. Changing the annual exclusion day from the third Wednesday in February to the fourth Wednesday in February.

Additional revisions are also proposed in these rule changes. If approved, changes will be implemented in the 2025-2026 school year. There will be no rule changes for the current school year.

Hearing Officer: Brittany Hall

Testimony Received: One individual provided testimony at the hearing.

Other Comments: Three individuals or organizations submitted written comments to OHA within the period allotted for public comment, which closed at 5:00 PM on January 31, 2025. Written comments are attached to this report as **EXHIBIT 1**.

In oral testimony and written comments, OHA heard concern about the change of the annual exclusion day in February from the third Wednesday to the fourth Wednesday and it was questioned what the extension of the day by one week was going to do and what benefit it would provide. Written comments expressed that a “one week change is not going to make a significant impact on the equity needs in our community.” It was requested that the exclusion date be “moved either into March as the typical respiratory illness season resolves and clinic availability has increased or to move it to the fall prior to the winter months” and require students to be current on their vaccinations closer to the start of the school year.

Agency response: OHA will proceed with this change to give parents/guardians an extra week after notification of missing documentation to get needed immunizations or file for an exemption.

OHA will solicit more input from partners and interested parties about potentially moving Exclusion Day to a different time of year. A change of this magnitude would

require a formal and thorough process for input from impacted partners such as schools, child cares, local public health authorities (LPHAs), Oregon Department of Education (ODE), and medical providers. Major process improvements anticipated in the next few years will help open the door to alternate options for reporting timelines and Exclusion Day. For example, OHA expects to fully replace ALERT IIS by 2029, which would automate many of the manual processes that can be a barrier to having an Exclusion Day earlier in the school year. Currently, schools look up each student in ALERT individually and manually enter vaccine dates into their student information system (SIS). In the interim before completion of the ALERT IIS replacement project, OHA can work with SIS to set up data exchange to alleviate some of the manual burden from schools. With more automated processes, the workload for schools and child cares diminishes, ultimately helping support buy-in for discussion of earlier reporting and Exclusion Day deadlines.

In written comments, OHA heard that the verification of varicella disease “may be tricky for those in underserved populations for the first couple of years,” but “will in fact increase the reporting data integrity.” It was also expressed in written comments that this requirement “would place undue burden on families, specifically the families of our most vulnerable and marginalized students.” It was noted in written comments that “while we appreciate the effort to align with other diseases, we are concerned that this exacerbates pre-existing equity gaps while having minimal impact on public health.” Written comments also expressed concern that the impact of the verification of varicella disease requirement was not considered more in the racial equity impact statement for this rulemaking and noted the need to “continue to monitor data to determine if interventions are needed to prevent a disproportionate impact on marginalized groups in our communities.”

Also related to the verification of varicella disease requirement, written comments requested “clarity around how OHA will expect schools to manage students that have a current parent-signed history of varicella disease” and request that a “phase-in be used to prevent schools from having to retroactively meet this new requirement”.

Agency response: Based on this feedback, OHA gathered additional information on the size and impact of this change. It was found that Quest labs charges \$49 and LabCorp charges \$55 for a varicella titer. To put this in perspective, the Multnomah Education Service District (MESD) supports eight school districts that cover over 86,000 students. In that population, 259 students have immunity documentation for varicella, which includes students with parent-signed history of disease, health care practitioner

documentation of disease, or a titer showing immunity. Of these students with immunity documentation, 199 speak a language other than English at home or have a birthplace outside the US. We do not know how many of those students with immunity documentation have received a titer, since that information is not currently required or collected, and how many have only a parent-provided history of disease. If these numbers are evenly distributed across grade levels and the numbers hold constant from year to year, this change would impact about 22 students per year for MESD. If these numbers are similar throughout the rest of Oregon, then approximately 167 new children per year across the state would need to provide documentation of immunity exemption.

As a result of the comments received, OHA will make a revision to the final rule text to allow documentation from ALERT IIS and clarify that this change in documentation requirement applies only to immunity documentation received on or after August 1, 2025.

In written comments, OHA heard support for the standardized form for medical exemptions. A request was also made to pursue future statutory changes that would allow other providers to also provide verification of medical exemption, such as Advanced Practice Registered Nurses and Physician Associates.

Agency response: OHA will proceed with this change to move to a standardized form for new medical exemptions. Statutory changes are outside the scope of these rule changes. OHA will work on gathering input to explore support for a statutory change that would allow additional provider types to complete documentation for medical exemptions.

In written comments, OHA heard support for the “subsequently removed proposal to remove the ‘Exclusion Day’ language” and hope that “the conversation can continue to consider how to remove this exclusionary language in the future while also ensuring that the importance of the process is conveyed to families, school staff and community partners.”

Agency response: OHA paused this proposed change after input from the Rules Advisory Committee, as concerns were raised about changing the term “Exclusion Day” and what language would be used instead. OHA will work on gathering more input to determine how best to balance the removal of exclusionary language with the needs of the community and providing clarity around the immunization documentation deadline.

From: [Danielle Shannon](#)
To: [Public Health Rules](#)
Subject: School Exclusion Proposed changes comments
Date: Friday, January 10, 2025 3:02:19 PM
Attachments: [image002.png](#)

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I do not speak of my organization or the providers that are associated with our organization. I have been an immunizing pharmacist in the state of Oregon for almost 12 years now. I have for the past 5 years been a part of a VFC/VAP program which has collaborated closely with the second largest school district in Oregon for school exclusion day. While halfway through the school year seems like a good amount of time to create a cutoff for vaccine exclusion it does not take into account the peak of respiratory illnesses and inclement weather concerns that have created significant barriers to getting vaccinations for students. While the hope is for students to stay up-to-date on vaccines year round with their provider, this has not been the case with many of the underserved populations within Marion and Polk counties (where I serve). Many students struggle to get access for vaccinations and well-child visits during the winter months and our health care offices and health departments are overrun with increased illness visits and decreased available staff. We have even gone as far as providing a drive-thru vaccination clinic during peak COVID closures, but was thwarted by the ice storms. I appreciate the conversation around adjusting the exclusion date to ensure equitable access and care, however, I believe that one week change is not going to make a significant impact on the equity needs in our community. Typical respiratory season tends to not start resolving until March, while I do not believe that there should be a delay further in getting vaccinations for students, I do believe that taking into account accessibility is least during the winter months and ask for the exclusion date to be moved either into March as the typical respiratory illness season resolves and clinic availability has increased or to move it to the fall prior to the winter months.

As far as a standardized form for medical exemptions, I fully stand by that idea and appreciate the need.

Varicella disease verification may be tricky for those in the underserved populations for the first couple of years with this potential change. However, this will in fact increase the reporting data integrity. With the significant decrease in vaccination rates across Oregon it is in the best interest of the state to be able to properly verify varicella disease history. Many of these I anticipate as being the need for a titre to be drawn or vaccination, which will continue to reduce the risk of chicken pox in our communities. While refugees are required to show either vaccination history or disease (through titre) this process is in place for other vulnerable

communities and would just need to have some forethought and anticipation in the health departments and providers that this would impact.

Thank you for your considerations and allowing me to share my experiences and thoughts on a subject near to my heart and impact to my work,



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Upcoming PTO:



January 16, 2025

Oregon Health Authority, Public Health Division
Brittany Hall, Administrative Rules Coordinator
800 NE Oregon St. - Suite 930
Portland, OR 97232

Re: Proposed permanent rulemaking - OAR chapter 333, Division 50 - "School, Child Care and College Immunization Administrative Rule Reorganization and Update"

Dear Brittany,

I am writing to provide written testimony on behalf of the School Health Services Department at Multnomah ESD (SHS) in response to the proposed reorganization and updates to OAR Chapter 333, Division 50. SHS provides health services and support to 8+ school districts in Multnomah County and beyond, serving approximately 100,000 pre-K-12 students. Health services includes, but is not limited to, school nursing support, health screening, providing state-mandated health education trainings for school staff and support with immunization compliance.

We appreciate the efforts to clean up and modernize the OARs that outline the state-mandated vaccine requirements for Oregon's students. We believe that vaccination is an important public health strategy to maintain and improve the health of the school and greater community. While we generally support the proposed changes, we wanted to take the opportunity to highlight a few considerations:

- Proposal 1 - *replacing a letter written by a physician with a form filled out by a physician for a medical exemption*
 - We support this proposal. However, we would advocate that updated statutes also be pursued that will allow other providers to also provide verification of the medical exemption, i.e. Advanced Practice Registered Nurses and Physician Associates.
- Proposal 2 - *requiring documentation of history of varicella disease to be verified by a health care practitioner or titer and removing the allowance of parent-signed history*
 - We are concerned that this requirement would place undue burden on families, specifically the families of our most vulnerable and marginalized students. Adding this requirement would require parents/guardians to seek out documentation from health care providers, often necessitating an office and/or lab visit to provide this verification or to order/perform the titer



test. These additional steps are burdensome and cause undue financial and logistical barriers, especially our un/under-insured populations, those eligible for McKinney-Vento services and new enterers from out of country or state. As you mention, the incidence of varicella disease has fallen dramatically. Therefore, the disproportionate impacts of these changes land on those still affected by the disease including un- and underinsured communities and newly arriving families already facing language and access barriers. The burden is not only on the providers who serve them, as you mention, but truly lands on these communities. While we appreciate the effort to align with other diseases, we are concerned that this exacerbates pre-existing equity gaps while having minimal impact on public health.

- We would also like clarity around how OHA will expect schools to manage students that have a current parent-signed history of varicella disease. If this updated rule was accepted, we would advocate that some sort of phase-in be used to prevent schools from having to retroactively meet this new requirement.
- Proposal 3 - *changing the annual exclusion day*
 - We don't have any concerns about the change to the 4th Wednesday in February instead of the 3rd Wednesday.

From an equity angle, we were disappointed that the impact of Proposal #2 was not considered more when OHA included a statement that these proposals will have 'minimal effect on racial equity in the state'. We hope that turns out to be true and are confident that OHA will continue to monitor data to determine if interventions are needed to prevent a disproportionate impact on marginalized groups in our communities.

In addition, we were in favor of the subsequently removed proposal to remove the 'Exclusion Day' language. We are hopeful that the conversation can continue to consider how to remove this exclusionary language in the future while also ensuring that the importance of the process is conveyed to families, school staff and community partners.

Thank you,

Jamie Smith

Jamie Smith, MPH, BSN, RN, NCSN

Senior School Health Services Administrator

jsmith2@mesd.k12.or.us

From: [Trey Parker](#)
To: [Public Health Rules](#)
Subject: Immunization rules changes
Date: Friday, January 10, 2025 8:17:34 AM

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I'm responding to some proposed changes in state immunization law:

It seems fine to me to require evidence of immunity or a current immunization instead of allowing parents to simply sign that their children have had chickenpox at a prior date.

A form to claim medical exemption is fine - it's rare to get a doctor's office to include the required information anyway, even when they're provided the template. Giving parents another week seems to me a change with little to recommend it. If parents can't get their children's immunizations updated by February, I don't see that another week's time is of any real value. The real value, and that the state has been dodging for years, is to require the vaccines upfront, and then make a date in October the cutoff day for students to be current on their shots.

Please call the day what it is - an exclusion is just that. Pretending that it is traumatic to be required to be vaccinated to remain in school is pretty silly.

image



Trey Parker

District RN

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