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FILING CAPTION: COVID-19: elimination of some exclusions from schools, child-care and youth programs

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RULES:

333-019-0010, 333-019-1005

AMEND: 333-019-0010

REPEAL: Temporary 333-019-0010 from PH 22-2022

NOTICE FILED DATE: 06/30/2022

RULE SUMMARY: OAR 333-019-0010 is being amended to eliminate exclusion of students and staff in schools and children's facilities. The requirement to exclude persons with COVID-19 will remain. Definitions (for example, "exposed," "fever," "susceptible") no longer apply.

CHANGES TO RULE:

333-019-0010

Disease Related School, Child Care, and Worksite Restrictions: Imposition of Restrictions ¶¶

(1) For purposes of this rule:¶¶

(a) "Evidence of immunity":¶¶

(A) To measles, mumps or rubella means meeting the criteria for presumptive evidence of immunity specified in the Morbidity and Mortality Weekly Report (MMWR) issue 64, issue RR04, issued June 14, 2013, available at www.cdc.gov/mmwr/preview/mmwrhtml/rr6204a1.htm;¶¶

(B) To diphtheria or pertussis means having documentation of having been immunized as recommended in the Morbidity and Mortality Weekly Report (MMWR) issue 2, dated April 27, 2018, available at www.cdc.gov/mmwr/volumes/67/rr/rr6702a1.htm;¶¶

(C) To hepatitis A means having documentation of detectable serum antibodies directed against this virus; having laboratory documentation of having been immunized as recommended in the Morbidity and Mortality Weekly Report (MMWR) volume 67, issue RR02, issued January 12, 2018, available at www.cdc.gov/mmwr/preview/mmwrhtml/rr5507a1.htm;¶¶

(D) To hepatitis B means having documentation of having been immunized as recommended in the Morbidity and Mortality Weekly Report (MMWR) volume 67, issue RR01, issued January 12, 2018, available at www.cdc.gov/mmwr/volumes/67/rr/rr6701a1.htm; or having documentation of ever having serum of antibodies to hepatitis B surface antigen.¶¶

(E) To COVID-19 means:¶¶

(i) Having received a complete series of COVID-19 vaccine as recommended by the Centers for Disease Control and Prevention; or

(ii) Having had laboratory-confirmed SARS-CoV-2 infection within the preceding 90 days.¶¶

(b) "Exposed" for purposes of being susceptible to COVID-19 means having been:¶¶

(A) A close contact, as that is defined in the Oregon Health Authority's Disease Investigative Guidelines, published at <https://www.oregon.gov/oha/PH/DISEASESCONDITIONS/COMMUNICABLEDISEASE/REPORTINGCOMMUNICABLEDISEASE>

or¶

(B) In contact with the infectious secretions or clinical specimens of a confirmed COVID-19 case or presumptive COVID-19 case.

(c) "Restrictable disease":¶

(A) As applied to food service facilities includes but is not limited to COVID-19, diphtheria, hepatitis A, hepatitis E, measles, pertussis, toxigenic *Escherichia coli* (STEC) infection, shigellosis, infectious tuberculosis, open or draining skin lesions infected with *Staphylococcus aureus* illness accompanied by diarrhea or vomiting.¶

(B) As applied to schools, children's facilities, and health care facilities, includes but is not limited to chickenpox, COVID-19, pertussis, rubella, *Salmonella enterica* serotype Typhi infection, scabies, Shiga-toxicogenic *Escherichia coli* (STEC) infection, streptococcal infection, a communicable stage of hepatitis B infection in a child, who, in the opinion of the local health officer, poses an unusually high risk of uncontainable biting or spitting).¶

(C) Includes any other communicable disease identified in an order issued by the Authority or a local public health administrator.¶

(d) "Susceptible":¶

(A) For a child, means lacking documentation of immunization required under OAR 333-050-0050, or if immunization is not current for the disease.¶

(B) For an employee of a school or child care facility, means lacking evidence of immunity to the disease.¶

(2) To protect the public health, an individual who attends or works at a school or child care facility, or who works at a health care facility or work at a school or facility while in a communicable stage of a restrictable disease, unless otherwise authorized to do so under this rule.

(3) A school administrator shall exclude a susceptible child who attends a school or children's facility or a susceptible employee of a health care facility unless the administrator has reason to suspect that the child or employee has been exposed to measles, mumps, rubella, diphtheria, pertussis, or work at a school or facility while in a communicable stage of a restrictable disease, unless the local health officer determines, in accordance with section (5) of this rule, that exclusion is not necessary to protect the public health.

(4) A school administrator may request that the local health officer determine whether an exclusion under section (3) of this rule is appropriate.

(5) If a local health officer receives a request from a school administrator to determine whether an exclusion is appropriate under section (3), the officer shall consult with the school administrator, and may consult with the Authority as needed with the Authority, may consider the following non-exclusive factors in making the determination:¶

(a) The severity of the disease;¶

(b) The means of transmission of the disease;¶

(c) The intensity of the child's or employee's exposure; and¶

(d) The exposed child's or employee's susceptibility to the disease, including having initiated a vaccination series for the disease.

(6) The length of exclusion under this rule is one incubation period following the child or employee's most recent exposure to a restrictable disease, consistent with current Oregon Health Authority guidance related to isolation or quarantine, as applicable. Guidance may be found at <https://www.oharegistry.org/ohahome/guidance>.

(7) A susceptible child may be excluded under this rule notwithstanding any claim of exemption under ORS 433.267(1).¶

(8) The infection control committee at each health care facility shall adopt policies to restrict employees with restrictable diseases consistent with the principles of infection control.¶

(9) Nothing in these rules prohibits:¶

(a) A school or children's facility from adopting more stringent exclusion standards under ORS 433.284.¶

(b) A health care facility or food service facility from adopting additional or more stringent rules for exclusion of employees.
Statutory/Other Authority: ORS 624.005, ORS 413.042, 431.110, 433.004, 433.255, 433.260, 433.284, 433.329, 433.332, 433.407
Statutes/Other Implemented: ORS 433.255, 433.260, 433.407, 433.411, 433.419

AMEND: 333-019-1005

REPEAL: Temporary 333-019-1005 from PH 22-2022

NOTICE FILED DATE: 06/30/2022

RULE SUMMARY: OAR 333-019-1005 is being amended to eliminate exclusion of child care providers and children and staff in youth programs because of exposure to COVID-19; the requirement to exclude persons with COVID-19 will remain. Definitions no longer needed are also eliminated, as are requirements to inform individuals not to enter the child care or youth program if they are unvaccinated and have been exposed to COVID-19; and to notify and coordinate with local public health authorities if there has been a case of COVID-19 in someone on the premises.

CHANGES TO RULE:

333-019-1005

Public Health and Safety Requirements for Child Care Providers and Youth Programs

(1) The requirements in this rule remain in effect unless the State Public Health Director or State Public Health Officer issues an order stating that the requirements in this rule are no longer necessary to control COVID-19. If such an order is issued the Oregon Health Authority must provide notice to interested parties and otherwise take reasonable steps to ensure notice of the order is provided to those affected by this rule, in accordance with ORS 183.335. The State Public Health Director or State Public Health Officer may also rescind such an order, and such a rescission must also be noticed as provided in this section. In determining whether this rule should remain in effect the State Public Health Director or State Public Health Officer will take into consideration as least the following information:¶

(a) The degree of COVID-19 transmission, as measured by case rates, percent positivity, and any other objective metrics indicative of current or potential transmission in Oregon.¶

(b) COVID-19 related hospitalizations and deaths.¶

(c) Disparate COVID-19 related health impacts on communities of color and tribal communities.¶

(d) Guidance from the Centers for Disease Control and Prevention.¶

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

(a) "Child care providers" includes but is not limited to certified child care, child care programs operated by political subdivisions or governmental agencies caring for children under 13 years of age, unlicensed temporary emergency child care, recorded programs, and registered family providers.¶

(b) "Certified child care" means programs with an active certification as defined in ORS 329A.250(2).¶

(c) "Day camp" means a defined setting or facility that youth (K-12) attend for an established period of time, leaving at the end of the program day, which may or may not be licensed under ORS chapter 446.¶

(d) "Enrichment programs" mean programs that provide care for school-age children (K-12), primarily for a single enrichment activity for eight hours or less a week.¶

~~(e) "Exposed" has the meaning given that term in OAR 333-019-0010.¶~~

~~(f) "Fever" means a temperature of 100.4 degrees Fahrenheit or higher.¶~~

~~(g) "Local public health authority" or "LPHA" has the meaning given that term in ORS 431.003.¶~~

~~(h) "Overnight camp" means a youth program with youth staying overnight at accommodations on site, which may or may not be licensed under ORS chapter 446.¶~~

~~(i) "Recorded programs" means programs with an active record issued pursuant to ORS 329A.255 or 329A.257.¶~~

~~(j) "Registered family providers" means programs with an active registration as defined in ORS 329A.250(11).¶~~

~~(k) "Susceptible" has the meaning given that term in OAR 333-019-0010.¶~~

~~(l) "Unlicensed temporary emergency child care" means programs approved to provide emergency child care pursuant to Executive Order 20-19 and who remain in operation and unlicensed pursuant to Executive Order 21-15.¶~~

~~(m) "Youth programs" means:¶~~

~~(A) Day camps;¶~~

~~(B) Summer camps;¶~~

~~(C) Overnight camps;¶~~

~~(D) Enrichment programs serving children 0 to 18 years of age;¶~~

~~(E) Programs operated by political subdivisions or governmental entities that offer programming only for middle school-age children ages 11 years and older; and¶~~

~~(F) Any enrolled gathering of children from primarily ages 13 to 18 years for a defined period of daytime hours with teen or adult supervision. These gatherings can include children as young as age 11, provided they are part of a mixed-age cohort.¶~~

(3) Child care providers and youth programs must:¶¶

(a) Develop and follow a written communicable disease management plan for preventing and controlling communicable disease, including COVID-19, that includes:¶¶

~~(A) A protocol to~~ Policies and procedures for notifying the LPHA of any confirmed COVID-19 cases among children or staff, families, and other relevant individuals of potential exposure to a communicable disease within the program or facility, should a need for such notification arise.¶¶

~~(B) A protocol for exclusion of individuals with COVID-19 or susceptible to COVID-19 consistent with OAR 333-019-0010.~~¶¶

~~(C) A protocol to end program activities if cases warrant or if recommended by the Oregon Health Authority or LPHA.~~¶¶

~~(D) A process for keeping daily logs and record-keeping to assist the Oregon Health Authority or LPHA contact tracing, consistent with subsection (2)(h) of this rule.~~¶¶

~~(E) A designated COVID-19 Point of Contact to facilitate communication, maintain healthy operations, and respond to COVID-19 questions from state or local public health authorities, state or local regulatory agencies, families and staff.~~¶¶

~~(b) Provide to all staff and families the contact information for the COVID-19 Point of Contact.~~¶¶

~~(c) Exclude from the program any child or staff member who has COVID-19, regardless of vaccination status, for at least 10 days after onset of illness or, if the individual is asymptomatic, at least 10 days after they tested positive, or as otherwise directed by the LPHA or health care provider. If after 10 days the individual still has a fever, they may not return until 24 hours after the fever is gone, without use of fever-reducing medication.~~¶¶

~~(d) Exclude from the program any child or staff member who is susceptible and who is exposed to COVID-19. Exclusion for individuals who are susceptible must be for 14 days after the last exposure to a person with COVID-19 unless the LPHA authorizes a shortened period for individuals without symptoms.~~¶¶

~~(e) Inform all families, staff, and individuals who enter the child care or youth program that they should not enter if they are unvaccinated and have been exposed to a COVID-19 case.~~¶¶

~~(f) Notify the LPHA immediately if anyone who has been on the premises of the program is diagnosed with COVID-19.~~¶¶

~~(g) Notify as soon as possible, in coordination with the LPHA, all families and other individuals if there has been a case of COVID-19 on the premises.~~¶¶

~~(h) Log the following information on a daily basis, to assist with contact tracing, and provide the information to the Oregon Health Authority or LPHA, upon request:~~¶¶

~~(A) Name and phone number of adult completing drop-off and pick-up.~~¶¶

~~(B) Name of child attending program and arrival and departure date and times.~~¶¶

~~(C) Name and phone number of any staff or person coming in contact with program children, and their arrival and departure date and times.~~¶¶

~~(D) If transportation is provided by the program, name and phone number of all rider consistent with the requirements in OAR 333-019-0010.~~¶¶

(d) Notify as soon as possible all families and other individuals if there has been a case of COVID-19 on the premises.

Statutory/Other Authority: ORS 413.042, ORS 431.110, ORS 433.004

Statutes/Other Implemented: ORS 433.004