



Office of the Director

Kate Brown, Governor

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To Oregon School Stakeholders:

I understand your organization may have questions regarding the Oregon Health Authority's (OHA) legal ability to require masks, vaccinations, or other means to control communicable diseases.

On August 2, 2021, OHA adopted a temporary rule requiring masking in schools. That rule has been amended twice, with the most recent version adopted on September 3, 2021. On August 25, 2021, OHA adopted a temporary rule requiring vaccinations for school and school-based program staff.

OHA has broad authority to adopt rules to control communicable diseases. Oregon Revised Statute (ORS) 431.110 gives OHA "full power in the control of all communicable diseases." OHA is also specifically authorized to prescribe, by rule, "measures and methods for \* \* \* controlling reportable diseases." ORS 433.004(1)(d). COVID-19 is a reportable disease. OAR 333-018-0016. Masks and COVID-19 vaccinations have been proven to help slow and stop the spread of COVID-19 and therefore are measures for controlling COVID-19. In addition to the specific rulemaking authority in ORS 433.004, OHA has been authorized to adopt rules, in accordance with the Administrative Procedures Act, that are necessary to administer the laws that OHA is charged with administering. ORS 413.042. Finally, OHA is authorized to impose civil penalties for violations of public health laws, such as the masking and vaccination requirements that it adopted. ORS 431A.010(1)(d).

OHA's lawfully adopted temporary rules apply in the settings, and to the individuals specified in the rules. There is nothing in ORS 431.110 or ORS 433.004 that indicates OHA's authority is limited in some manner and that the rules cannot be applied to schools and school settings. Please share this with your members or others who may have similar questions.

Please let me know if you have further questions.

Sincerely,

Patrick M. Allen  
Director