

Godfrey, Sonora HLTH:EX

From: Henry, Bonnie HLTH:EX
Sent: January 17, 2022 8:50 AM
To: Dix, Adrian HLTH:EX; Brown, Stephen R HLTH:EX
Cc: MacDonald, Alex HLTH:EX; van Baarsen, Amanda HLTH:EX
Subject: FW: School Staff Vaccination Status Information Reporting Order - FOR APPROVAL
Attachments: School Staff Vaccination Status Information Reporting Order Jan 14 FG BE.docx; MHO School District Directive Template Jan 14 .docx

FYI, as discussed yesterday this is the order around vaccination status for school staff that will be posted likely today.
Bonnie

*Dr Bonnie Henry
Provincial Health Officer
Office of the PHO
Ministry of Health
Mailing address:
PO Box 9648, STN PROV GOVT
Victoria, BC
V8W 9P4*

I gratefully acknowledge that I live and work on the traditional unceded territory of the Lekwungen Peoples, specifically the Songhees and Esquimalt First Nations. Hay'sxw'qu Si'em

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From: Emerson, Brian P HLTH:EX
Sent: January 14, 2022 4:42 PM
To: Henry, Bonnie HLTH:EX (Bonnie.Henry@gov.bc.ca) <Bonnie.Henry@gov.bc.ca>
Cc: (Alison.Giles@gov.bc.ca) <Alison.Giles@gov.bc.ca>
Subject: School Staff Vaccination Status Information Reporting Order - FOR APPROVAL

Hi Bonnie.

Attached for your approval is this order enabling MHOs to obtain vaccination status of school staff, which would be implemented by an MHO directive (also attached) to school boards and/or independent school authorities and/or Francophone school authorities.

The purpose of this order is to support MHOs, as they deem necessary, in obtaining information about staff vaccination rates to assess, advise on and respond to the risks arising from exposures, cases, clusters and outbreaks in schools and to assist employers in mitigating the risk of and where necessary, responding to the spread of infection in schools.

A directive issued under this order would:

- require them to collect vaccination status information of staff
- require staff to report vaccination status information
- require staff to update their vaccination status information if their status changes
- provide aggregated vaccination status information by school to the MHO
- consider that staff who do not provide vaccination status are unvaccinated, when implementing control measures

This has been reviewed by the Ministry of Education and School MHO committee and all are good with it.

The plan would be to publish on Monday, subject to the Ministry of Education agreeing with that timing.

Thanks and have a good weekend!

Brian

Health Authority Letterhead

To: All School Boards [and/or Independent School Authorities and/or Francophone Education Authorities] in [geographic area] OR

To: [Named] School Boards and/or Independent School Authorities and/or Francophone Education Authorities OR

To: [Named] School Board or [Named] Independent School Authority and/or [Named] Francophone Education Authority with respect to [Named School(s)]

Re: School Staff Member Vaccination Status Reporting

Further to the ***School Staff Member Vaccination Status Reporting*** Order of the Provincial Health Officer of January xx, 2022 (posted on the Provincial Health Officer website at <https://www2.gov.bc.ca/gov/content/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/current-health-topics/covid-19-novel-coronavirus>) you are now directed by me to comply with this Order immediately.

With respect to section 3 of the Order about reporting vaccination status in the aggregate, you must report this information to me as follows:

[details of reporting here]

You may contact me at:

< Insert name of Medical Health Officer, credentials >
Medical Health Officer, < Insert Health Authority Name >
< Insert Address and Fax number >

DATED THIS: <Insert day> day of <Insert month, year>

SIGNED: _____

Medical Health Officer Signature Block

DELIVERY BY electronic mail.



ORDER OF THE PROVINCIAL HEALTH OFFICER

(Pursuant to Sections 30, 31, 32, 39 (3), 53, 54, 57, 67 (2) and 69 *Public Health Act*, S.B.C. 2008)

SCHOOL STAFF MEMBER VACCINATION STATUS REPORTING – JANUARY 17, 2022

The *Public Health Act* is at:

<http://www.bclaws.ca/civix/content/complete/statreg/08028/?xsl=/templates/browse.xsl>
(excerpts enclosed)

TO: BOARDS OF EDUCATION AND INDEPENDENT SCHOOL AUTHORITIES

**TO: A PERSON EMPLOYED BY A BOARD OF EDUCATION OR AN INDEPENDENT
SCHOOL AUTHORITY**

WHEREAS:

- A. On March 17, 2020, I provided notice under section 52 (2) of the *Public Health Act* that the transmission of the infectious agent SARS-CoV-2, which has caused cases, clusters and outbreaks of a serious communicable disease known as COVID-19 among the population of the Province of British Columbia, constitutes a regional event as defined in section 51 of the *Public Health Act*;
- B. A person infected with SARS-CoV-2 can infect other people with whom the infected person is in contact;
- C. Vaccination is safe, highly effective, and the single most important preventive measure a person can take to protect themselves, their families, and other persons with whom they come into contact from infection, severe illness and possible death from COVID-19. In particular:
 - (a) the vaccines available in British Columbia, in company with other protective and preventive measures, are highly effective and provide protection across all eligible age groups against infection and strong protection against severe illness and death;
 - (b) most British Columbians have strong and durable protection from SARS-CoV-2 resulting from the extended interval between dose one and dose two of vaccine that is being utilized in British Columbia; in addition, a new vaccine is now being offered which only requires one dose to be effective, and booster doses are being implemented in order to reinforce the protection afforded by vaccination;

- (c) a full course of vaccine provides more effective and durable protection against infection and severe illness than natural immunity from prior COVID-19 infection alone, or natural immunity in combination with a single-dose of vaccine (of those vaccines that require two doses to be effective); and
 - (d) a full course of vaccine provides highly effective and durable protection from severe illness resulting in hospitalization or death from COVID-19, with illness being mostly milder in vaccinated people who become infected than in unvaccinated people;
- D. Vaccines, which prevent or reduce the risk of infection with SARS-CoV-2, have been and continue to be readily available in British Columbia and while substantial progress has been made in vaccinating the population of British Columbia 12 years of age and older, and children aged 5 to 11 years of age are now being vaccinated, a portion of the public remains unvaccinated and there are communities where vaccination rates are low;
 - E. Communities with low vaccination rates have experienced more serious illness and increases in hospitalizations and intensive care admissions, primarily in unvaccinated people. By contrast, communities with high vaccination rates have seen corresponding less serious illness and hospitalizations;
 - F. Unvaccinated people are at greater risk than vaccinated people of being infected with SARS-CoV-2, and those who are infected, experience significantly higher rates of hospitalization, ICU-level care and invasive mechanical ventilation, complications and death when compared with vaccinated people. Unvaccinated people are also at higher risk of transmitting SARS-CoV-2 to other people, including vaccinated people;
 - G. People who are vaccinated can be infected with SARS-CoV-2, but experience less severity of illness than unvaccinated people, especially in younger populations. Vaccinated persons who contract COVID-19 can transmit SARS-CoV-2 but are also generally contagious for shorter periods of time, are less symptomatic, and are less likely to transmit SARS-CoV-2, when compared to unvaccinated infected persons;
 - H. This situation has been exacerbated over time, first by the arrival of the highly transmissible Delta variant of SARS-CoV-2, which continues to circulate in British Columbia and which causes significantly more rapid transmission and increased severity of illness, particularly in younger unvaccinated people, than earlier variants, and now by the arrival of the even more transmissible Omicron variant, which is responsible for a surge in infections in the province, and is the dominant strain of SARS-CoV-2 circulating in the province;
 - I. Absent vaccination, British Columbia would be in a far more challenging situation than the fragile balance our current immunization rates have provided, but the transmissibility of the Delta and now the Omicron variant means that higher vaccination rates than previously expected are now required to maintain this balance, control transmission, reduce case numbers and serious outcomes, and reduce the burden on the healthcare system, particularly hospital and intensive care admissions;

- J. The appearance of the Omicron variant, which is causing significant surges in infection with SARS-CoV-2 in other provinces and other parts of the world in addition to British Columbia, underlines the importance of vaccination in protecting the population, and in removing the conditions which foster the development of variants which pose ever greater threats to public health;
- K. Preserving the ability of the public health and health care systems to protect and care for the health needs of the population, including providing care for health needs other than COVID-19, is critical. High incidence of transmission and illness in one or more regions have spillover effects on health care delivery across the Province, including in critical care and surgical services. Our public health and health care systems are currently experiencing severe stress, and are stretched beyond capacity in their efforts to prevent and respond to illness resulting from the transmission of COVID-19 in the population, primarily among unvaccinated people;
- L. Both the public health and the health care systems are using disproportionate amounts of their resources in their efforts to prevent and respond to the transmission of SARS-CoV2, and to provide care for those who become ill with COVID-19, primarily unvaccinated people who comprise the majority of hospitalizations and ICU admissions;
- M. While people who have contracted SARS-CoV-2 may develop some natural immunity for a period of time following infection, the strength and duration of that immunity varies depending on a multitude of factors, including severity of infection. The risk of reinfection and hospitalization is significantly higher in people who remained unvaccinated after contracting SARS-CoV-2 than in those who were vaccinated post-infection. Vaccination, even after infection, remains an important measure to protect against reinfection. It does so by providing a stronger immune response that is known to be effective for a longer period of time than immunity arising from infection.
- N. Vaccination is the single most important preventive measure a member of a community can take to protect themselves and other members of the community from infection, severe illness and possible death from COVID-19;
- O. People over 70 years of age, and people with chronic health conditions or compromised immune systems, are particularly vulnerable to severe illness and death from COVID-19, even if they are vaccinated;
- P. Included among the members of the community who are more likely to be infected are children aged 5 to 11 years. This is because children in this age group have only recently become eligible for vaccination and it will take some time before the members of this group can be fully vaccinated;
- Q. Adults and children who are either particularly vulnerable to infection with SARS-CoV-2 or too young to have received two doses of COVID-19 vaccine depend upon the people with whom they come into contact to protect them from the risk of infection;
- R. Unvaccinated people in close contact with other people can promote the transmission of SARS-CoV-2 and increase the number of people who develop COVID-19 and become seriously ill;

- S. Attendance at school in person fosters the educational, social, emotional and physical wellbeing of students, provides a secure source of nutrition for many and enables parents who cannot work from home to continue working, thereby ensuring a continuing source of family income;
- T. Schools provide a structured environment for students which in many cases provides greater protection to students from the risk of transmission of SARS-CoV2 than other environments in which they might be;
- U. Protecting and supporting the ability of boards of education and independent school authorities to continue to provide in person schooling is critical to the well-being of children and their families.
- V. Cases of COVID-19 among school staff members can contribute to clusters of infection and lead to the isolation of a large number of children who are identified as close contacts, adversely affecting their well-being by preventing them from attending school and other social activities;
- W. Unvaccinated staff members pose a health hazard to students and other staff members due to the higher risk that they can transmit SARS-CoV-2 to others;
- X. Information about staff members vaccination rates will assist boards of education, independent school authorities, superintendents and principals in mitigating the risk of and, where necessary, responding to the spread of infection in schools, and will assist the medical health officer in assessing, advising on and responding to the risks arising from exposures, cases, clusters and outbreaks in schools;
- Y. Various options for establishing vaccine status, including in paper and online format, are readily available;
- Z. The Omicron variant has introduced more uncertainty into the course of the pandemic, and the rapid rise in infection rates in British Columbia and the experience in other places have led me to conclude that additional measures are necessary in order to permit the school and public health systems to plan for and respond to clusters and outbreaks of Omicron in schools;
- AA. I recognize that constitutionally protected interests include the rights and freedoms guaranteed by the Canadian Charter of Rights and Freedoms, including specifically freedom of religion and conscience, freedom of thought, belief, opinion and expression, and the right not to be deprived of life, liberty or security of the person, other than in accordance with the principles of fundamental justice. I understand that making decisions about whether to get vaccinated may engage these rights and freedoms. However, these rights and freedoms are not absolute and are subject to such reasonable limits, prescribed by law as can be demonstrably justified in a free and democratic society, which include proportionate, precautionary and evidence-based measures, including vaccination, to prevent loss of life, serious illness and disruption of our health system and society. When exercising my powers to protect the health of the public from the risks posed by COVID-19, I am aware of my obligation to choose measures that limit the Charter rights and freedoms of British Columbians less intrusively, and balance these rights and interests in a way that is consistent with the protection of public health. I have concluded that the measures which I am putting in place in this Order are proportionate, rational and tailored to address the risk, and are neither arbitrary,

overbroad, nor grossly disproportionate in light of the need to protect public health, including the well-being of children, at this time. In my view, any limits on constitutionally protected rights and freedoms arising from this Order are proportionate and reasonable in the interests of protecting public health and there are no other reasonable alternatives that would provide the same level of protection; and

BB. In addition, I recognize the privacy interests of board of education and independent school authority staff members and the interests protected by the Human Rights Code, and have taken these into consideration when exercising my powers to protect the health interests of children and their families from the risk of infection created by children being in contact with unvaccinated staff in schools, and the well-being of children and their families from the risks arising from classroom or school closures;

THEREFORE, I have reason to believe and do believe that:

- (a) increasing numbers of persons in the province are being infected with the Omicron variant of SARS-CoV-2;
- (b) a lack of information on the part of school boards and independent school authorities and the medical health officer about the vaccination status of staff members in school settings interferes with the suppression of SARS-CoV-2 and constitutes a health hazard under the *Public Health Act*;
- (c) in some health regions or parts of health regions of the province there is an immediate and urgent need for focused action to reduce the risk of transmission of SARS-CoV-2 in schools and to ensure the continuity of school services; and
- (d) for these reasons, it is in the public interest for me to exercise the powers in sections 30, 31, 32, 39 (3), 53, 54, 57, 67 (2) and 69 of the *Public Health Act* **TO ORDER** as follows:

AS AND WHEN DIRECTED BY THE MEDICAL HEALTH OFFICER

Definitions

In this Order:

“board of education” means a board of education as defined in section 1 of the *School Act*, and includes a francophone education authority;

“employer” means a board of education or an independent school authority which is subject to this Order by direction of the medical health officer;

“independent school authority” means

- (a) a society within the meaning of the *Societies Act* which operates an independent school,
- (b) a company within the meaning of the *Business Corporations Act*, or a corporation incorporated under a private Act, which operates an independent school, or

- (c) a person designated by regulation made pursuant to the *Independent School Act* as an authority that operates an independent school, but
- (d) does not include a person that operates a First Nation school certified as an independent school under the *Independent School Act*;

"independent school" means an independent school as defined in section 1 of the *Independent School Act*;

"proof of vaccination" means a vaccine card;

"staff member" means a person employed by a board of education or an independent school authority which is subject to this Order by direction of the medical health officer;

"unvaccinated" means that a person does not meet the definition of "vaccinated";

"vaccinated" means to have received, at least 7 days previously, all doses of a vaccine or a combination of vaccines as recommended by

- (a) the provincial health officer, with respect to vaccines approved for use in Canada by the department of the federal government responsible for regulating drugs, or
- (b) the World Health Organization, with respect to vaccines approved by the World Health Organization but not approved for use in Canada;

"vaccination status" means whether a staff member is vaccinated or is unvaccinated and includes

- (a) how many doses of vaccine a staff member has received; and
- (b) when a staff member has received a dose of vaccine.

"vaccine" means a vaccine intended for use in humans against SARS-CoV-2;

"vaccine card" means proof in one of the following forms that the holder is vaccinated:

- (a) electronic proof or a printed copy of an electronic proof,
 - (i) issued by the government in the form of a QR code, accessible through the Health Gateway online platform, and
 - (ii) showing the name of the holder;
- (b) proof in writing, issued by the government for the purpose of showing proof of vaccination in accordance with orders of the provincial health officer made under the *Public Health Act*;
- (c) proof, whether electronic or in writing, issued
 - (i) by the government of Canada or of a province of Canada, and
 - (ii) for the purpose of showing proof of vaccination in accordance with an order made in the exercise of a statutory power with respect to the protection of public health or the facilitation of international travel;
- (d) in the case of an international visitor,
 - (i) proof, whether electronic or in writing, relied upon to enter Canada, and
 - (ii) the person's passport or photo identification;

EMPLOYER TO COLLECT AND REPORT THE VACCINATION STATUS OF ALL STAFF MEMBERS

1. An employer must request proof of vaccination from each staff member and must keep a record of each staff member's vaccination status.
2. A staff member must provide their employer with proof of vaccination on the request of their employer and by the date directed by their employer, and if the vaccination status of the staff member changes the staff member must provide this information and their vaccine card to their employer without delay, and the employer must update the record of the staff member's vaccination status.
3. An employer must report the vaccination status of its staff members on an aggregate, non-individually identifying basis by school as required by the medical health officer and by the date directed by the medical health officer.
4. When putting in place measures to prevent, mitigate or respond to the spread of infection in a school, the employer must proceed on the basis that a staff member who has not provided proof of vaccination is unvaccinated.

MEDICAL HEALTH OFFICER DIRECTIONS AND ORDERS

Recognizing that the risk differs in different regions of the Province, and that medical health officers are in the best position to assess local circumstances with respect to the risk of the transmission of communicable diseases in school settings, **I FURTHER ORDER:**

1. A medical health officer may implement this Order by way of a direction with respect to a board of education or an independent school authority in the geographic area of the Province for which the medical health officer is designated;
2. A medical health officer may make an order subsequent to this Order for the purpose of requiring the collection or reporting of further information by a board of education or an independent school authority, the provision of further information by a staff member, or imposing limitations or conditions with respect to a school, a board of education or an independent school authority in the geographic area of the Province for which the medical health officer is designated;
3. While it is in force, a provision in an order made by a medical health officer subsequent to this Order which requires the collection or reporting of further information by a board of education or an independent school authority, the provision of further information by a staff member, or imposes limitations or requirements with respect to a school, a board of education or an independent school authority, applies in the whole or part of the geographic area of the Province for which the medical health officer is designated, according to the terms of the order, despite the provisions of this Order.

DELEGATION TO MEDICAL HEALTH OFFICER FOR THE PURPOSE OF MAKING A DIRECTION

Pursuant to section 69 of the *Public Health Act*, I delegate to the medical health officer the authority

1. to implement this Order by means of a direction with respect to a board of education or an independent school authority within the geographic area of the Province for which the medical health officer is designated, and
2. to determine when a direction issued by the medical health officer will expire.

This Order does not affect the rights, powers and duties of a school medical officer, who is designated pursuant to the *School Act*.

This Order has no expiry date, but a medical health officer may provide in a direction for the expiry of a direction.

You are required under section 42 of the *Public Health Act* to comply with this Order.

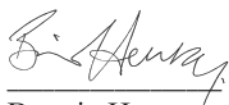
Failure to comply with this Order is an offence under section 99 (1) (k) of the *Public Health Act*.

If you fail to comply with this Order, I have the authority to take enforcement action against you under Part 4, Division 6 of the *Public Health Act*.

Pursuant to section 54 (1) (h) of the *Public Health Act*, and in accordance with the emergency powers set out in Part 5 of the *Public Health Act*, I will not be accepting requests for reconsideration of this Order.

DATED THIS: 17th day of January 2022

SIGNED:



Bonnie Henry
MD, MPH, FRCPC
Provincial Health Officer

DELIVERY BY: Posting to the BC Government and the BC Centre for Disease Control websites.

Enclosure: Excerpts of the *Public Health Act*.

ENCLOSURE

Excerpts of the *Public Health Act* [SBC 2008] c. 28

Definitions

1 In this Act:

"health hazard" means

- (a) a condition, a thing or an activity that
 - (i) endangers, or is likely to endanger, public health, or
 - (ii) interferes, or is likely to interfere, with the suppression of infectious agents or hazardous agents, or
- (b) a prescribed condition, thing or activity, including a prescribed condition, thing or activity that
 - (i) is associated with injury or illness, or
 - (ii) fails to meet a prescribed standard in relation to health, injury or illness;

When orders respecting health hazards and contraventions may be made

30 (1) A health officer may issue an order under this Division only if the health officer reasonably believes that

- (a) a health hazard exists,
- (b) a condition, a thing or an activity presents a significant risk of causing a health hazard,
- (c) a person has contravened a provision of the Act or a regulation made under it, or
- (d) a person has contravened a term or condition of a licence or permit held by the person under this Act.

(2) For greater certainty, subsection (1) (a) to (c) applies even if the person subject to the order is complying with all terms and conditions of a licence, a permit, an approval or another authorization issued under this or any other enactment.

General powers respecting health hazards and contraventions

31 (1) If the circumstances described in section 30 [*when orders respecting health hazards and contraventions may be made*] apply, a health officer may order a person to do anything that the health officer reasonably believes is necessary for any of the following purposes:

- (a) to determine whether a health hazard exists;
- (b) to prevent or stop a health hazard, or mitigate the harm or prevent further harm from a health hazard;
- (c) to bring the person into compliance with the Act or a regulation made under it;

(d) to bring the person into compliance with a term or condition of a licence or permit held by that person under this Act.

(2) A health officer may issue an order under subsection (1) to any of the following persons:

- (a) a person whose action or omission
 - (i) is causing or has caused a health hazard, or
 - (ii) is not in compliance with the Act or a regulation made under it, or a term or condition of the person's licence or permit;
- (b) a person who has custody or control of a thing, or control of a condition, that
 - (i) is a health hazard or is causing or has caused a health hazard, or
 - (ii) is not in compliance with the Act or a regulation made under it, or a term or condition of the person's licence or permit;
- (c) the owner or occupier of a place where
 - (i) a health hazard is located, or
 - (ii) an activity is occurring that is not in compliance with the Act or a regulation made under it, or a term or condition of the licence or permit of the person doing the activity.

Specific powers respecting health hazards and contraventions

32 (1) An order may be made under this section only

- (a) if the circumstances described in section 30 [*when orders respecting health hazards and contraventions may be made*] apply, and
- (b) for the purposes set out in section 31 (1) [*general powers respecting health hazards and contraventions*].

(2) Without limiting section 31, a health officer may order a person to do one or more of the following:

- (a) have a thing examined, disinfected, decontaminated, altered or destroyed, including
 - (i) by a specified person, or under the supervision or instructions of a specified person,
 - (ii) moving the thing to a specified place, and
 - (iii) taking samples of the thing, or permitting samples of the thing to be taken;
- (b) in respect of a place,
 - (i) leave the place,
 - (ii) not enter the place,
 - (iii) do specific work, including removing or altering things found in the place, and altering or locking the place to restrict or prevent entry to the place,
 - (iv) neither deal with a thing in or on the place nor dispose of a thing from the place, or deal with or dispose of the thing only in accordance with a specified procedure, and

- (v) if the person has control of the place, assist in evacuating the place or examining persons found in the place, or taking preventive measures in respect of the place or persons found in the place;
 - (c) stop operating, or not operate, a thing;
 - (d) keep a thing in a specified place or in accordance with a specified procedure;
 - (e) prevent persons from accessing a thing;
 - (f) not dispose of, alter or destroy a thing, or dispose of, alter or destroy a thing only in accordance with a specified procedure;
 - (g) provide to the health officer or a specified person information, records, samples or other matters relevant to a thing's possible infection with an infectious agent or contamination with a hazardous agent, including information respecting persons who may have been exposed to an infectious agent or hazardous agent by the thing;
 - (h) wear a type of clothing or personal protective equipment, or change, remove or alter clothing or personal protective equipment, to protect the health and safety of persons;
 - (i) use a type of equipment or implement a process, or remove equipment or alter equipment or processes, to protect the health and safety of persons;
 - (j) provide evidence of complying with the order, including
 - (i) getting a certificate of compliance from a medical practitioner, nurse practitioner or specified person, and
 - (ii) providing to a health officer any relevant record;
 - (k) take a prescribed action.
- (3) If a health officer orders a thing to be destroyed, the health officer must give the person having custody or control of the thing reasonable time to request reconsideration and review of the order under sections 43 and 44 unless
- (a) the person consents in writing to the destruction of the thing, or
 - (b) Part 5 [*Emergency Powers*] applies.

Contents of orders

- 39** (3) An order may be made in respect of a class of persons.
- (6) A health officer who makes an order may vary the order
- (a) at any time on the health officer's own initiative, or
 - (b) on the request of a person affected by the order, following a reconsideration under section 43 [*reconsideration of orders*].

Duty to comply with orders

- 42** (1) A person named or described in an order made under this Part must comply with the order.
(2) Subsection (1) applies regardless of whether the person leaves the geographic area for which the health officer who made the order is designated.

Part applies despite other enactments

53 During an emergency, this Part applies despite any provision of this or any other enactment, including

- (a) in respect of the collection, use or disclosure of personal information, the *Freedom of Information and Protection of Privacy Act* and the *Personal Information Protection Act*, and
- (b) a provision that would impose a specific duty, limit or procedural requirement in respect of a specific person or thing,

to the extent there is any inconsistency or conflict with the provision or other enactment.

General emergency powers

54 (1) A health officer may, in an emergency, do one or more of the following:

- (h) not reconsider an order under section 43 [*reconsideration of orders*], not review an order under section 44 [*review of orders*] or not reassess an order under section 45 [*mandatory reassessment of orders*];
- (k) collect, use or disclose information, including personal information,
 - (i) that could not otherwise be collected, used or disclosed, or
 - (ii) in a form or manner other than the form or manner required.

Emergency powers respecting reporting

57 (1) The provincial health officer may, in an emergency, order that a specified infectious agent, hazardous agent, health hazard or other matter be reported under this section.

(2) If an order is made under this section, a person required by the order to make a report must promptly report, to the extent of his or her knowledge, to a medical health officer the information required by the order.

(3) If a person is required to make a report under this Act, the provincial health officer may in an emergency order the person exempt from the requirement, or vary the requirement.

Provincial health officer may act as health officer

67 (2) During an emergency under Part 5 [*Emergency Powers*], the provincial health officer may exercise a power or perform a duty of a health officer under this or any other enactment, and, for this purpose, subsection (1) does not apply.

Delegation by provincial health officer

69 The provincial health officer may in writing delegate to a person or class of persons any of the provincial health officer's powers or duties under this Act, except the following:

- (a) a power to further delegate the power or duty;
- (b) a duty to make a report under this Act.

Offences

99 (1) A person who contravenes any of the following provisions commits an offence:

- (k) section 42 [*failure to comply with an order of a health officer*], except in respect of an order made under section 29 (2) (e) to (g) [*orders respecting examinations, diagnostic examinations or preventive measures*];

Godfrey, Sonora HLTH:EX

From: Prov Hlth Office HLTH:EX
Sent: January 18, 2022 3:01 PM
To: Henry, Bonnie HLTH:EX
Cc: Thompson, Laurel HLTH:EX
Subject: FW: Implementation of the School Staff Member Vaccination Status Reporting Order
Attachments: Letter Dr. Daly Vancouver Coastal Health January 18 2022.pdf; Operations Procedure Proof of Vaccination Regarding COVID 19 v FINAL DRAFT!.pdf; BCTF Letter of Agreement on Proof of Vaccinations Regarding COVID 19 (signed).pdf

Importance: High

Hi Bonnie

We've received this letter (and the same letter, separately, to all MHO's) from the President of BCTF, as a cc. We just thought you should be aware of them.

Thank you
Kristin

From: Teri@bctf.ca <teri@bctf.ca>
Sent: January 18, 2022 2:09 PM
To: XT:HLTH Daly, Patty Patty.Daly@vch.ca
Cc: Bruce L. Anderson <Brucea@bcpsea.bc.ca>; kranalletta@cupe.bc.ca; Prov Hlth Office HLTH:EX <ProvHlthOffice@gov.bc.ca>
Subject: Implementation of the School Staff Member Vaccination Status Reporting Order
Importance: High

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Hello,
Please see the attached letter from Teri Mooring regarding concerns related to the implementation of the School Staff Member Vaccination Status Reporting Order.
Thank you.
TM:vw:tfeu

Teri Mooring

President
British Columbia Teachers' Federation
100-550 West 6th Avenue
Vancouver, BC V5Z 4P2
Phone: 1-800-663-9163, 604-871-2159
Fax: 604-871-2290
Email: teri@bctf.ca



Letter of Agreement
Between
The British Columbia Teachers' Federation ("BCTF")
and
The British Columbia Public School Employers' Association ("BCPSEA")
Re: Operations Procedure - Proof of Vaccination Regarding COVID-19
("Procedure")

Whereas if a K-12 School District ("District") determines that it should implement a proof of vaccination requirement for its employees, the parties are supportive of a common sector-wide approach regarding such implementation and application of a Procedure.

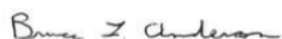
Whereas if a District determines that it should implement a Procedure, the parties support implementation of the template Procedure attached to this Letter of Agreement as Appendix A.

Whereas as if a District approves the template Procedure, the parties additionally agree to the following:

1. **Extraordinary Leave Without Pay for Employees Not Fully Vaccinated against COVID-19 ("Extraordinary Leave")** will be provided as follows:
 - a) An employee who does not comply with the employer's requirement that they be fully vaccinated against COVID-19, will be offered and shall select, from the following options:
 - i. Extraordinary Leave;
 - ii. Rapid Testing provided by the employer – the Rapid Testing kit and cost of administration is at no cost to the employee; however, the employee takes the test(s) on their own time and is not remunerated for taking the test(s).
 - b) In order to be able to continue working, any employee undertaking rapid testing shall perform the test on their own time i.e. unpaid time.
 - c) During the Extraordinary Leave, the employee will accrue seniority (including for any TTOC who has pre-scheduled assignments prior to commencement of the Extraordinary Leave) and the employee's benefits will continue only if the employee pays the full cost of benefit premiums.
 - d) The Extraordinary Leave will come to an end when the employee:
 - i. complies with the requirement that they provide proof of vaccination, or
 - ii. complies with the requirement for rapid testing, or
 - iii. the requirement is no longer in effect
 - e) Upon return from Extraordinary Leave, the employee shall be assigned to the same position, or when the position is no longer available, a similar position.
 - f) Placing an employee on Extraordinary Leave or requiring rapid testing under this Letter of Agreement is not disciplinary and no Employee's employment shall be terminated for choosing not to provide proof of vaccination.
2. Notwithstanding 1f) above, an employee who fails to comply with the Procedure or provides incorrect information may be subject to discipline.

3. The BCTF is supportive of mandatory proof of vaccination for all employees provided that employees are offered rapid testing or Extraordinary Leave and that any measures taken are not unreasonable and are not contrary to medical/human rights accommodation requirements.
4. This Letter of Agreement expires June 30, 2022, unless mutually extended or terminated by the parties.
5. The parties agree that if the Provincial Health Officer (PHO) issues a mandatory vaccination order for the K-12 Sector, the parties will review this Letter of Agreement; if the parties cannot or choose not to reach agreement on an amendment to this Letter of Agreement will expire the effective date of the PHO order.
6. BCPSEA and the BCTF have engaged in extensive discussions on this matter since October 13, 2021, and the parties agree, on a without prejudice or precedent basis, that such discussions satisfy any and all applicable obligations under s. 54 of the Labour Relations Code respecting the adoption or implementation of the Procedure.

Dated:



CEO, BCPSEA



President, BCTF



BCTF

British Columbia Teachers' Federation A Union of Professionals
100-550 West 6th Avenue, Vancouver, BC V5Z 4P2 bctf.ca
604-871-2283 1-800-663-9163 

By email: patty.daly@vch.ca

January 18, 2021

Dr. Patty Daly, Chief Medical Health Officer
Vancouver Coastal Health Authority
Suite 800-601 West Broadway
Vancouver, BC V5Z 4C2

Dear Dr. Daly:

I am writing today to follow up on some concerns related to the implementation of the School Staff Member Vaccination Status Reporting Order that was issued by the Provincial Health Officer, Dr. Bonnie Henry, on January 17, 2022.

It is imperative that any directive that is issued under this order to collect vaccination status and/or implement a vaccination mandate follows the attached Letter of Agreement *Operations Procedure - Proof of Vaccination Regarding COVID-19* between the BC Teachers' Federation (BCTF) and the BC Public School Employers' Association (BCPSEA). The related *Operations Procedure: Proof of Vaccination Regarding COVID-19* document, that was agreed to by the BCTF, BCPSEA, and the Canadian Union of Public Employees (CUPE) is also attached for your reference.

The BCTF is supportive of mandatory proof of vaccination for all employees, provided that employees who are not fully vaccinated are offered the options of rapid testing or extraordinary leave, and that any measures taken are not unreasonable, are not contrary to medical/human rights accommodation requirements, and protects workers' medical privacy as set out in the *Freedom of Information and Protection of Privacy Act*.

There are many other steps that can be taken to ensure the health and safety of school district employees, including BCTF members, and students from COVID-19, taking into account the particular risks of transmission in schools. There is an immediate and urgent requirement for focused action to reduce the risk of transmission of SARS-CoV-2 in schools and to ensure the continuity of school services. This can be achieved through stronger enforcement of the existing guidelines contained in the Provincial COVID-19 Communicable Disease Guidelines for K-12 Settings and the December 29, 2021, Addendum to this document.

A major area of concern being expressed by the Federation's membership regards mask mandate exemptions. There are no clear provincial guidelines as to what should and should not qualify a student for a particular mask exemption. In many schools, there are a significant number of exemptions being permitted and this is undermining the purpose of the mask mandate and increasing the risk of SARS-CoV-2 transmission within the school community. In many school districts, especially outside of the Lower Mainland, the use of mask exemptions is clearly much broader than was the intent of the BCCDC and Ministry of Education guidelines. This is of great concern, especially as those areas often correlate with the regions exhibiting lower vaccination rates. The provision of N95 masks for all staff and students, upon request, would also help prevent transmission of the virus.

Dr. Patty Daly, Chief Medical Health Officer
January 18, 2022

The lack of effective school ventilation systems continues to be a concern in many school classrooms. This is even more of a concern during the winter months when it may not be practical, even if it is possible, to have windows open to ensure a good supply of fresh air. Where there are issues, it is our expectation that school districts employ mitigation strategies including HEPA filters, windows that open, and increased air circulation.

We also support the deployment of rapid antigen tests (RATs) to education workers, we anticipate that when more tests become available more will be deployed, not only to education workers but also to families. Currently, there is a great deal of confusion as to how long children should isolate when they either test positive for COVID-19 or exhibit symptoms, the availability of RATs will help support family decision-making. We also strongly recommend that the BCCDC document, "I Tested Positive for COVID-19," be used as the primary guidance for everyone in schools including students. This document clearly lays out the isolation expectation based on vaccination status. It is this type of clear guidance that is much needed in K–12 schools during this pandemic.

We thank you for all the critical work you are doing to protect us all during the pandemic and the Federation would welcome your assistance in working with school districts to ensure stronger enforcement of the existing Provincial COVID-19 Communicable Disease Guidelines for K–12 Settings and would welcome further dialogue on these concerns.

Sincerely,



Teri Mooring
President

pc: Dr. Bonnie Henry, Provincial Health Officer
Bruce L. Anderson CEO, BCSPEA
Karen Ranalletta, President, CUPE

TM:vw:tfu

Attachments

Operations Procedure: Proof of Vaccination Regarding COVID-19

Background

K-12 School Districts in British Columbia are committed to ensuring the health, welfare and safety of all employees and students through providing safe working and learning environments. Despite intensive vaccination efforts, COVID-19 continues to circulate in BC communities.

Public health officials have been clear that vaccines are the most effective way to reduce the risk of COVID-19 transmission in schools and communities. The vaccines used in BC are highly effective against COVID-19, including among variants of concern. Most COVID-19 cases, hospitalizations, and deaths are now among unvaccinated adults. Unvaccinated individuals are nine times more likely to become a COVID-19 case and 40 times more likely to be hospitalized or die. The most effective means to protect students from COVID-19 is for adults in their community, including their school community, to be vaccinated.

Purpose

The purpose of this Operations Procedure (“Procedure”) is:

- to safeguard the health and safety of our employees and students from COVID-19, taking into account the particular risks of transmission in schools, which will be reduced by vaccination;
- to reduce the impacts to in-person learning by minimizing school closures and disruptions;
- to reduce absenteeism;
- to improve safety plan implementation in the event of an outbreak of COVID-19;
- to enhance employee, student and parent confidence in the safety of schools; and
- to increase vaccination rates at schools in a manner that balances the Districts’ needs to evaluate risk and plan, while ensuring compliance with applicable laws, including the British Columbia *Human Rights Code*, the British Columbia *Freedom of Information and Protection of Privacy Act* and the *Canadian Charter of Rights and Freedoms*.

This Procedure supplements, and does not replace, the public health measures set out in Provincial Health Officer orders, public health guidance, the Provincial COVID-19 Communicable Disease Guidelines for K-12 Settings, or the BCCDC Public Health Communicable Disease Guidance for K-12 Schools.

This Procedure supplements the District’s Communicable Disease Prevention Plan, which has been amended to cross reference this Procedure.

Scope

This Procedure applies to all Employees of the District and Individual Contractors (as defined below).

Effective Date

This Procedure is in effect commencing XXXXXXXX XX, 2021, until June 30, 2022, subject to review and extension.

Consultation

This Procedure addresses the recent guidelines issued by the Advisory Committee on K-12 Sector Guidelines for Vaccination Policies established by the Ministry of Education.

The District has consulted with public health officials, employee group representatives, local First Nations, Metis and Inuit communities, Indigenous employee organizations, parent advisory committees, and joint health and safety committees.

Definitions

Approved “Extraordinary Leave” Without Pay: Means an Employee is not eligible to work but may remain employed on unpaid leave. Health and welfare benefits may continue subject to the terms of the plans if the Employee pays the full cost of benefit premiums.

Approved Vaccine: COVID-19 vaccines that have been approved for use by Health Canada.

District Site: Any building or property at which District operations are carried out, including school, administrative or operational buildings and property.

Employees: Means all employees of the District (i.e. teachers, support staff, management and exempt staff)

Fully Vaccinated: An individual is considered Fully Vaccinated under this Procedure fourteen (14) days after they have received the full series of an Approved Vaccine or a combination of Approved Vaccines as determined by public health officials in British Columbia.

Individual Contractors: Means all individuals contracted directly by the District to provide services at District Sites.

Modified Work: Means modified job duties.

Proof of Vaccination: The following constitute “Proof of Vaccination” for the purposes of this Procedure:

- BC vaccination card;
- BC Health Gateway's electronic Vaccination Card;
- BC's digital vaccination card QR code that properly displays the employee's correct legal name / identity and vaccination status;
- proof in writing issued by the government for the purpose of showing proof of vaccination in accordance with orders made under the Public Health Act;
- a type of proof, whether electronic or in writing, that is issued by the Government of Canada or of a province or territory of Canada for the purpose of showing proof of vaccination for public health or travel purposes; or
- a type of proof, whether electronic or in writing, where the employee obtained their vaccination while resident in another country, that is issued by a governmental authority of that country that provides confirmable and reliable proof of vaccination for public health purposes, and is deemed an Approved Vaccine and proof by Health Canada.

Rapid Testing: A protocol for regular asymptomatic COVID-19 testing (rapid antigen test), with a reasonable testing and reporting schedule, established by the District. The Rapid Testing kit and cost of administration of the tests is as at no cost to the employee; however, the employee takes the test(s) on their own time and is not remunerated for taking the test(s).

Remote Work: An Employee's existing duties performed at a location other than a District Site.

Procedure

A. Requirement to Provide Proof of Vaccination – Employees represented by the BCTF

1. The following requirements are subject to the Accommodation provisions set out below.
2. Employees must provide Proof of Vaccination showing they are Fully Vaccinated by [date], or, if they are on leave of absence at the time this Procedure comes into effect, by the date their leave ends. Those employees who fail to do so will be considered not Fully Vaccinated will be offered Rapid Testing as a condition of work. Employees who are not Fully Vaccinated and have not agreed to Rapid Testing by [date] will be placed on Extraordinary Leave.
3. After the date this Procedure comes into force, only individuals who provide Proof of Vaccination showing they are Fully Vaccinated are eligible to be hired or if they agree to Rapid Testing.
4. An Employee who is subject to Rapid Testing, may also be required to follow additional health and safety protocols, including enhanced safety measures.

5. In all circumstances, Extraordinary Leave or Rapid Testing are not disciplinary measures and no Employee shall be terminated because they choose not to provide Proof of Vaccination showing they are Fully Vaccinated.
6. An Employee subject to Rapid Testing who tests positive on a rapid antigen test, is considered a preliminary positive; therefore, they must:
 - a. notify the District's designated rapid test administrator;
 - b. self-isolate immediately and follow public health guidance;
 - c. take a laboratory-based PCR test within 48 hours; and
 - d. not come to work until the Employee is authorized to do so by public health officials.

B. Requirement to Provide Proof of Vaccination – Employees represented by Support Staff Unions, Exempt Staff and Independent Contractors

7. The following requirements are subject to the Accommodation provisions set out below.
8. Employees must provide Proof of Vaccination showing they are Fully Vaccinated by [date], or, if they are on leave of absence at the time this Procedure comes into effect, by the date their leave ends; those employees who fail to do so will be considered not Fully Vaccinated and will be offered Rapid Testing as a condition of work. Employees who are not Fully Vaccinated and have not agreed to Rapid Testing by [date], may be offered one of the alternative options below, if feasible and available, on a temporary basis:
 - a. Remote Work; or
 - b. Modified Work.
9. Should none of the above alternative options prove feasible, the Employee will be placed on Extraordinary Leave.
10. After the date this Procedure comes into force, only individuals who provide Proof of Vaccination showing they are Fully Vaccinated are eligible to be hired or engaged as Employees or Individual Contractors, except the District, in its sole discretion, may decide that they may be hired or engaged if they agree to Rapid Testing.
11. An Employee who is subject to Rapid Testing or one of the alternative options in paragraph 8 above, may also be required to follow additional health and safety protocols including enhanced safety measures.
12. In all circumstances, Rapid Testing, Remote Work, Modified Work, and Extraordinary Leave are not disciplinary measures and no Employee shall be terminated because they choose not to provide Proof of Vaccination showing they are Fully Vaccinated.
13. Where the District determines that an alternative option in paragraph 8 above is feasible in a particular circumstance but implementation of that option requires the modification of a collective

agreement provision, the District will engage the applicable union to determine if the Union will agree to the modification prior to implementation.

14. Where the District determines one of the alternative options in paragraph 8 is feasible in a particular circumstance but implementation of that option requires the modification or amendment to an exempt employee's employment contract, the employee will provide written acceptance of such amendment prior to any implementation. Should no agreement be reached, that alternative option will not be available.
15. Individual Contractors who do not provide Proof of Vaccination showing they are Fully Vaccinated by XXXXXXXX XX, 202X, are no longer eligible to and may not provide services to the District as of that date.
16. An Employee subject to Rapid Testing who tests positive on a rapid antigen test, is considered a preliminary positive; therefore, they must:
 - a. notify the District's designated rapid test administrator;
 - b. self-isolate immediately and follow public health guidance;
 - c. take a laboratory-based PCR test within 48 hours; and
 - d. not come to work until the Employee is authorized to do so by public health officials.

Accommodations

17. Individuals seeking medical accommodation from the requirement to provide Proof of Vaccination showing they are Fully Vaccinated under this Procedure on the basis that they are entitled to protection under the *Human Rights Code* of British Columbia must apply to Human Resources expeditiously.
18. Accommodation requests will be considered in accordance with applicable legal requirements, collective agreement provisions, and District policies and procedures.
19. Approved accommodations will be confirmed in writing and will be subject to periodic review.
20. Individuals with an approved accommodation may be required to follow other health and safety protocols, including enhanced safety measures, Remote Work, Modified work, and Rapid Testing.

Support for Vaccination

21. Employees requiring a vaccine appointment time during regular work hours will be granted leave without loss of pay for up to three hours to attend their appointment. To facilitate attending a vaccine appointment with minimal disruption, Employees must notify their manager in advance to arrange time away from work during working hours.

False Disclosures and Failure to Comply

22. Employees who falsify their Proof of Vaccination or otherwise fail to comply with this Procedure may be subject to disciplinary action, up to and including termination.
23. Individual Contractors who falsify their Proof of Vaccination or otherwise fail to comply with this Procedure will be ineligible to continue in their capacity with the District.

Privacy Statement

24. The attached Vaccination Data Collection applies to this Procedure.
25. The District will collect, use, disclose and store personal health information including Proof of Vaccination ("Personal Health Information"), in accordance with the District's Privacy Policy and any applicable privacy legislation, including the B.C. *Freedom of Information and Protection of Privacy Act* and the B.C. *Public Health Act*.
26. Personal information collected under or in connection with this policy is collected under the authority of sections 26(c) and (e) of the *Freedom of Information and Protection of Privacy Act*.
27. The District is collecting Personal Health Information under this Procedure for the Purposes set out above.
28. The District will limit access to Personal Health Information on a strictly need-to-know basis and only for the purposes described above. This information will be shared externally only where permitted or required under applicable laws, such as where it is requested or required by public health officials or other government agencies.

References

Advisory Committee's K-12 Sector Guidelines for Vaccination Policies

Provincial COVID-19 Communicable Disease Guidelines for K-12 Settings

Public Health Communicable Disease Guidance for K-12 Schools

Public Health Act

Human Rights Code

Workers Compensation Act

Freedom of Information and Protection of Privacy Act

District Communicable Disease Prevention Plan

District Accommodation Policy/Procedure [name]

NOTE:

Communicable Disease Prevention Plans must be updated to include a reference to this Procedure.

http://www.bccdc.ca/schools/Documents/Health_Safety_Checklist.pdf