



February 9, 2021

MEMORANDUM

To: Members of the Board of Education

From: Michael J. Martirano, Ed.D.
Superintendent

Subject: Masking in HCPSS Schools and Offices

The purpose of this memorandum is to provide the Board an overview of the state's approved off-ramp options for local school systems to lift the masking mandate locally, a brief analysis of each mandate and a recommendation to make masking options once certain conditions are met. This item is scheduled for Board action during the February 10, 2022 Board of Education meeting. Please note that this memo will be posted to BoardDocs as it is related to a Board meeting agenda item.

The Maryland State Department of Education, and subsequently state lawmakers, approved three possible pathways (complete guidance from MSDE is attached) for local school systems to lift the statewide mask mandate.

These include:

1. That a local Board of Education may lift the requirement by passing a motion or resolution in a public meeting if at least 80 percent of the county population in the county where the schools are located is fully vaccinated; **OR**
2. The superintendent may lift the requirement for a school facility if a principal verifies that 80 percent of the school staff and students in the school facility have been fully vaccinated; **OR**
3. The superintendent may lift the requirement if the county has sustained 14 consecutive days of moderate or low transmission rate of COVID-19 cases, as reported by the CDC. This off-ramp option, per the MSDE regulation, is not necessary if a school district meets the vaccination rates noted in 1 or 2.

Consideration of Off-Ramp Option 1

Considering the first off-ramp option, the Board could lift the requirement because Howard County currently qualifies for the first off-ramp as over 80% of residents have received the primary series of the vaccine. However, there are several considerations regarding this off-ramp option.

- As of this week, only 66% of our children ages 5-11 have received the first dose at this time.
- This off-ramp option does not consider Howard County's current transmission rate:
 - Current daily new case rate is 27 per 100,000 persons and 7-day transmission rate is high, at 208.84 per 100,000 persons.
 - This is over the ≤ 7 new daily cases per 100,000 or <50 total new cases in the past 7 days per 100,000 persons to put Howard County in the moderate/low levels of transmission.
- These options were proposed in early December, before the impact of the Omicron variant. At that time, Howard County's transmission rate was 10.98 daily new cases per 100,000 persons.
- There remains ambiguity related to booster shots which will create some challenges to exercising this option, especially as they are now approved by FDA for children 12-15.
- Further, on December 27, 2021, the Centers for Disease Control (CDC) released Updated Isolation and Quarantine Guidance allowing earlier release from isolation and quarantine only if persons continue mask wearing. This mask requirement allows students/staff to return to school

after 5 days of isolation or quarantine. Without universal masking, this earlier release will be difficult to implement. In addition, since our schools cannot support the necessary social distancing recommended by the CDC, unmasked children must quarantine if they are within 3-6 feet of a case. Without mask use, there will be an increase in staff and students quarantining, with the end result of more schools days missed.

Consideration of Off-Ramp Option 2

While HCPSS has a vaccination or test weekly requirement for all staff, and over 90% of all of our staff meet this threshold, HCPSS has not made vaccination a requirement at this time for students. Further, we are not set-up to collect individual vaccination status data or verify that data for every student. This option is not viable at this time.

Consideration of Off-Ramp Option 3

Just as we have layered multiple mitigation measures in our schools based on data-driven public health guidance, this option uses a more reliable public health data-point to aid the decision. While ambiguity remains regarding the complement of doses required to achieve full vaccination, the local transmission rate provides a more concrete data point that the system and the community can rely upon to lift the mask mandate. As always, these decisions must be in alignment with our local public health agency. HCPSS has consulted with the Howard County Health Officer, Dr. Maura Rossman, regarding this recommendation. In addition, Dr. Rossman's community letter dated February 9, 2022 (attached) states:

“When community transmission remains high or substantial, (>7 daily new cases per 100,000 or >50 total new cases per 100,000 in the past 7 days), masking remains an effective mitigation strategy when indoors, especially when physical distancing is not possible, and outbreaks exist. Schools should continue masking policies until community transmission levels decrease to moderate/low levels, (<7 daily new cases per 100,000 or <50 total new cases per 100,000 in the past 7 days). I am optimistic that our metrics will continue to decline over the next several weeks, allowing for the relaxation of masking policies.”

Conclusion

We must contend with the fact that our county's transmission rate is still high, and we continue to see cohort outbreaks in our schools. Throughout this pandemic, we have made data-informed decisions with the goal we articulated last summer to re-open our schools to in-person instruction and to remain open for the entire school year. For this reason, the Howard County Public School System had implemented a mask requirement as a mitigation measure in schools well before the statewide mask requirement. It is critical to do everything possible to keep students and staff safe and look for opportunities to provide relief from being required to wear a mask as soon as possible. While our rates may seem high right now and may not decline daily, we have noticed that there are periods of time where the rates often drop significantly so this could occur sooner than most might think.

Recommended Action: It is recommended that the Board of Education endorse Off-Ramp Option 3 which enables the Superintendent to lift the mask mandate once Howard County can sustain 14 consecutive days of moderate or low transmission rate of COVID-19.

Once this is achieved, masking in school facilities will be made optional. Should the Board support this recommendation, we will be able to make masks optional as soon as we reach this data threshold and will not require any additional action by the Board. We will review data daily and provide community updates as necessary.

Please contact Jahantab Siddiqui, Chief Administrative Officer, with any questions.

Copy to: Executive Staff
Board of Education Office



Mohammed Choudhury
State Superintendent of Schools

TO: Members of the State Board of Education

FROM: Mohammed Choudhury

DATE: December 7, 2021

SUBJECT: COMAR 13A.01.07, *Face Coverings in School Facilities*
PERMISSION TO PUBLISH – EMERGENCY AND PROPOSED ACTIONS

PURPOSE:

Request permission to publish emergency and proposed actions to repeal and replace immediately COMAR 13A.01.07 which expires February 25, 2022.

This proposed regulation extends the protection needed against COVID-19 and its variants by extending the face coverings in schools beyond the February 25, 2022, deadline, as needed. This proposed regulation also implements procedures to end face coverings in schools based upon vaccination status within the school facility or county or county transmission rates.

REGULATION PROMULGATION PROCESS:

Under Maryland law, a State agency, such as the State Board, may repeal and replace a regulation whenever the circumstances arise to do so. After the State Board votes to propose such a regulation, the proposed regulation is sent to the Administrative, Executive, and Legislative Review (AELR) Committee for a 15-day review period. If the AELR Committee does not hold up the proposed regulation for further review, it is published in the Maryland Register for a 30-day public comment period. At the end of the comment period, the Maryland State Department of Education (MSDE staff) reviews and summarizes the public comments. Thereafter, MSDE staff present a recommendation to the State Board to either: (1) adopt the regulation in the form it was proposed; or (2) revise the regulation and adopt it as final because suggested revision is not a substantive change; or (3) revise the regulation and re-propose it because the suggested revision is a substantive change. At any time during this process, the AELR Committee may stop the promulgation process and hold a hearing. Thereafter, it may recommend to the Governor that the regulation not be adopted as a final regulation or the AELR Committee may release the regulation for final adoption.

This regulation is also being proposed as an emergency regulation because the regulation is necessary to continue beyond the February 25, 2022, expiration date, to mitigate the spread of COVID-19 and its variants in Maryland public schools, prevent public school closures, and limit the number of students required to quarantine out of the classroom due to coronavirus pandemic. The adoption of a standard regulation, which requires a notice and comment period, cannot be completed in the timeframe required to prevent public school closures and limit necessary quarantines during the 2021-22 school year when the current emergency regulation expires on February 25, 2022. Thus, an emergency

regulation is being proposed to fill any gaps in masking requirements pending approval of a standard regulation.

An emergency regulation, which bypasses the normal public notice and comment period, remains in effect for a limited period of time - not to exceed 180 days - to meet exigent circumstances. Although an emergency regulation is not published in the Maryland Register before adoption, notice of the AELR Committee's receipt of the regulation is posted on the Maryland General Assembly's website. In addition, the State agency must post the text of the proposed emergency regulation on the agency website within three business days of submission to the AELR Committee. If a member of the AELR Committee requests a public hearing on the emergency adoption of a regulation, the Committee must hold the hearing. If no public hearing is requested, staff to the Committee may poll the Committee members on the emergency regulation as soon as 10 business days after receipt of the regulation. Approval by the AELR Committee is required for an emergency regulation to take effect. Unless it is approved as a standard regulation, the emergency regulation will expire 180 days after filing or upon withdrawal by the promulgating agency.

BACKGROUND:

To support the return to safe, full-time in-person learning with minimal disruptions for the 2021-2022 school year due to the COVID-19 pandemic, the State Board passed an emergency regulation to require masks inside all public school facilities at its August 26, 2021, meeting. On September 14, 2021, the AELR Committee held a public hearing and the emergency regulation was approved. Since that time, the masking regulation has helped minimize quarantines and ensure a safe learning environment for Maryland students and staff. Without any further action, the existing emergency regulation will expire February 25, 2022.

At its October 26, 2021, meeting the State Board received reports regarding the reopening logistics and COVID-19 transmission rates in schools. On November 16, 2021, the State Board collected public input regarding face coverings in school from stakeholders and panelists and offered parents, students and educators across the state an opportunity to share multiple perspectives, experiences and thoughts on masking in schools. The meeting featured several panels that included parents and students, key education stakeholders and national public health experts on the topic. Additionally, the Maryland Department of Health (MDH) and MSDE provided an update on COVID-19 matters, including school metrics. MDH, the U.S. Centers for Disease Control and Prevention (CDC), the U.S. Food and Drug Administration (FDA) and the American Academy of Pediatrics, recommend vaccinating children aged 5 years and older who are eligible.

This proposed regulation incorporates and responds to the information gathered by the State Board and extends the protection needed against COVID-19 and its variants by extending the face coverings in schools beyond the February 25, 2022, deadline, as needed. This proposed regulation also implements procedures to end face coverings in schools based on vaccination status within the school facility or county or county COVID-19 transmission rates.

PROPOSED REGULATIONS:

The proposed regulation for COMAR 13A.01.07 will apply to county boards of education and public schools in Maryland. It will require any person inside a school facility to wear a face covering, subject to certain exemptions. The proposed regulation includes newly defined terms and exemptions from the face covering requirement for certain individuals. The regulation requires county boards of education and public schools to implement policies and procedures to ensure face coverings are worn in school facilities. The proposed regulation does not prevent these entities from establishing and

implementing policies and procedures that establish face covering requirements in addition to those set forth in the proposed regulation.

The proposed regulation includes provisions and procedures to lift face coverings in schools if 80 percent of the students and school staff of a school facility are fully vaccinated or the county where a school is located has at least 80 percent of the county population fully vaccinated, as reported by MDH. If neither of the 80 percent thresholds are met, the proposed regulation includes provisions and procedures for the local superintendent to lift the face covering in schools if the county has sustained 14 consecutive days of moderate or low transmission rate of COVID-19 cases, as reported by the CDC. Furthermore, the proposed regulation includes provisions and procedures for the local superintendent to reinstate the face covering requirements if transmission rates of COVID-19 cases are substantial or higher for 14 consecutive days, as reported by the CDC. If the 80 percent thresholds are met, the transmission rate provisions and procedures do not apply. The proposed regulation provides that any decision to lift the face covering requirement is not appealable to the State Board. The proposed regulation also requires the confidentiality of vaccination status consistent with federal and State law. The proposed regulation by its own terms expires on June 30, 2023, without further action by the State Board.

If approved by the State Board and the AELR Committee, the emergency regulation will be in effect for 180 days after filing or upon withdrawal by the promulgating agency unless it is approved as a standard regulation. If approved as a standard regulation, the regulation expires by its own terms on June 30, 2023.

EXECUTIVE SUMMARY:

The proposed regulation for COMAR 13A.01.07 will apply to county boards of education and public schools in Maryland. It will require any person inside a school facility to wear a face covering, subject to certain exemptions. The proposed regulation includes newly defined terms and exemptions from the face covering requirement for certain individuals. The proposed regulation requires county boards of education and public schools to implement policies and procedures to ensure face coverings are worn in school facilities. The proposed regulation does not prevent these entities from establishing and implementing policies and procedures that establish face covering requirements in addition to those set forth in the proposed regulation.

The proposed regulation includes three off-ramps from the face covering requirements in schools:

1. If at least 80 percent of the county population in the county where the schools are located is fully vaccinated, as reported by MDH, a county board or the governing authority of a public school that is not in a local school system, may lift the face covering requirements by passing a motion or resolution in a public meeting.

2. The local superintendent may lift the face covering requirement for a school facility or facilities after a principal or designated school official verifies that 80 percent of the school staff and students in the school facility have been fully vaccinated. The principal or designated school official submits a signed Department approved attestation form to the local superintendent, and the local superintendent then signs and submits the attestation form affirming the 80 percent vaccination rate to the State Superintendent of Schools.

If either the 80 percent vaccination thresholds are achieved, the following transmission rate provisions and procedures for lifting and reinstating the face covering requirements do not apply.

3. The local superintendent may lift the face covering in schools requirements if the county has sustained 14 consecutive days of moderate or low transmission rate of COVID-19 cases, as reported by the CDC. The local superintendent is required to reinstate the face covering requirements if transmission rates of COVID-19 cases are substantial or higher for 14 consecutive days, as reported by the CDC.

The proposed regulation provides that any decision to lift the face covering requirement is not appealable to the State Board. The proposed regulation also requires the confidentiality of vaccination status consistent with federal and State law. The proposed regulation by its own terms expires on June 30, 2023, without further action by the State Board.

ACTION:

Request permission to publish emergency and proposed actions to repeal and replace COMAR 13A.01.07, *Face Coverings in School Facilities*.

Attachment

Title 13A

STATE BOARD OF EDUCATION

Subtitle 01 STATE SCHOOL ADMINISTRATION

Chapter 07 Face Coverings in School Facilities

Authority: Education Article, §1-101, 2-205, and 2-303, Annotated Code of Maryland; Federal Statutory References: 20 U.S.C. §1232 et seq., 20 U.S.C. §1400 et seq., 29 U.S.C. §794 et seq., 42 U.S.C. §12101 et seq.

.01 Scope.

This chapter applies to county boards of education including Baltimore City and all public schools in Maryland to support the return to safe, full-time in-person learning and to protect the health, welfare and safety of students due to the COVID-19 pandemic.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Face covering" means a material that covers the nose and mouth to prevent respiratory droplets from being expelled into the air and that:

- (a) Is secured to the head, including with ties or ear loops;
- (b) Fits snugly but comfortably against the side of the face; and
- (c) Is either manufactured or homemade and is a solid piece of material without slits, exhalation valves, or punctures.

(2) "Fully vaccinated" means 14 days after receiving the last required dose of an FDA-authorized COVID-19 vaccine as monitored and publicly reported by the Maryland Department of Health.

(3) "Local superintendent" means the county superintendent of a local school system or the chief executive officer of a public school that is not in a local school system.

(4) "Person with a disability" means any individual with a disability pursuant to:

- (a) The Individuals with Disabilities Education Act, 20 U.S.C. §1400, et seq.;
- (b) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794 et seq.; or
- (c) The Americans with Disabilities Act, 42 U.S.C. §12101, et seq.

(5) "Public school" means the schools in the public elementary and secondary education system of Maryland as defined in Education Article, § 1-101(k), Annotated Code of Maryland.

(6) "School facility" means a building or enclosed structure that is owned, leased, or operated by an entity identified in Regulation .01 of this chapter.

(7) "School staff" means all school employees, volunteers, and contractors who provide services within a school facility.

.03 Face Covering Requirements.

A. All individuals shall cover their nose and mouth with a face covering while inside a school facility unless exempt under §B of this regulation or the face covering requirements have been lifted under Regulation .05 of this chapter.

B. The following individuals are exempt from the requirements to wear a face covering while inside a school facility:

- (1) Children who are younger than 2 years old;
- (2) Any person with a disability whose disability prevents the person from wearing a face covering;
- (3) Any person with a physical or mental impairment documented by a physician as preventing the person from safely wearing a face covering;
- (4) Any person while communicating with a person who is hearing impaired when the ability to see the mouth is essential for communication;
- (5) Any person for whom wearing a mask would create a risk to workplace health, safety, or job duty as determined by the relevant workplace safety guidelines or federal regulations;
- (6) Any person who is seated and actively consuming food or beverage;
- (7) Any person who is swimming in a swimming pool;
- (8) Any person who is actively engaged in exercise;
- (9) Any person who is actively playing a musical instrument requiring the removal of the face covering;
- (10) Any student who is engaged in authorized sleep time;
- (11) Any person who is required to temporarily remove the face covering to confirm their identity for security or screening purposes;
- (12) Any person who is receiving services requiring access to the face, mouth, or head; and
- (13) Any student who is participating in a school approved fine arts dress rehearsal or performance.

.04 Implementation.

A. Entities identified in Regulation .01 of this chapter shall implement policies and procedures to ensure face coverings are worn in school facilities as required by this chapter.

B. The State Superintendent of Schools is authorized to enforce this chapter consistent with Education Article §2-303(b).

C. This chapter may not prevent an entity identified in Regulation .01 of this chapter from establishing and implementing policies and procedures in addition to those set forth in this chapter.

.05 Lifting Face Covering Requirements.

A. The face covering requirements under Regulation .03 of this chapter may be lifted when:

(1) The county where an entity in Regulation .01 of this chapter is located has at least 80 percent of the county population fully vaccinated as reported by the Maryland Department of Health; or

(2) At least 80 percent of the students and school staff of a school facility are fully vaccinated.

B. County Provisions. When 80 percent of the population of the county is fully vaccinated as reported by the Maryland Department of Health, a county board or the governing authority of the entity identified in Regulation .01 of this chapter may lift face covering requirements set forth in Regulation .03 of this chapter by motion or resolution adopted during a public meeting.

C. Fully Vaccinated Students and School Staff.

(1) Except as exempted in §C(2) of this regulation, calculation of the 80 percent fully vaccinated threshold includes all enrolled students in the school facility and any school staff regularly providing services in the school facility.

(2) Students and school staff who are exempt from vaccination because of medical contraindication or religious exemption may not be counted towards the 80 percent threshold.

(3) The principal or designated school official of the school facility shall verify the vaccination status of the school staff and students by reviewing a copy of the completed vaccination record card for the school staff and students included in the 80 percent threshold and submit a signed Department approved attestation form in writing to the local superintendent.

(4) The local superintendent shall submit a signed Department approved attestation form in writing to the State Superintendent of Schools verifying that a school facility has achieved the 80 percent fully vaccinated threshold and may lift the school facility face covering requirements set forth in Regulation .03 of this chapter.

D. County Transmission Rate.

(1) This section only applies if face covering requirements have not been lifted under §A of this regulation.

(2) A local superintendent may lift the face covering requirements set forth in Regulation .03 of this chapter if:

(a) The county where the entity identified in Regulation .01 of the chapter is located has sustained 14 consecutive days of moderate or low transmission rates of COVID-19 cases, as reported in Centers for Disease Control data;

(b) The local superintendent has notified school staff, students and their parents or guardians of the date and time that face covering requirements will be lifted; and

(c) The date and time when face coverings are lifted is not before the first school day following the local superintendent's notification.

(3) The local superintendent shall:

(a) Reinstate the face covering requirements set forth in this chapter if county transmission rates of COVID-19 cases are substantial or higher for 14 consecutive days, as reported in Centers for Disease Control data;

(b) Promptly notify school staff, students and their parents or guardians of the date and time that face covering requirements under Regulation .03 of this chapter will be reinstated; and

(c) Reinstate face covering requirements under Regulation .03 of this chapter not later than the first school day following the local superintendent's notification.

E. The local superintendent's and the county board's decision to lift the face covering requirements set out in this chapter may not be appealed under COMAR 13A.01.05.

.06 Confidentiality of Vaccination Status.

A. A student's vaccination status is a student record as defined in COMAR 13A.08.02.03 and the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g.

B. An individual student's vaccination status is confidential and may only be disclosed subject to the requirements of COMAR 13A.08.02, 20 U.S.C. §1232g.

C. A staff member's vaccination status is confidential and may only be disclosed as permitted by law.

.07 Expiration.

Without further action by the State Board of Education, this chapter will expire on June 30, 2023.

MOHAMMED CHOUDHURY
State Superintendent of Schools

Maura J. Rossman, M.D., Health Officer

February 9, 2022

Dear Community,

According to Punxsutawney Phil, there are only five more weeks of winter. Warmer days are ahead of us and Howard County is now on the other side of the Omicron surge. We peaked about a month ago with a case rate of 189 daily new cases per 100,000 and a test positivity rate of 28%. Last month, hospitalizations dramatically increased requiring Howard County General Hospital to implement crisis standards of care. In addition, deaths related to COVID were among the highest in the past two years. Today's metrics are improved with 27 daily new cases per 100,000, 6% test positivity rate and declining hospitalizations. Although these numbers are improving, per CDC guidelines, these metrics indicate Howard County remains a community with high levels of transmission.

When [community transmission remains high](#) or substantial, (>7 daily new cases per 100,000 or >50 total new cases per 100,000 in the past 7 days), masking remains an effective mitigation strategy when indoors, especially when physical distancing is not possible, and outbreaks exist. Schools should continue masking policies until community transmission levels decrease to moderate/low levels, (<7 daily new cases per 100,000 or <50 total new cases per 100,000 in the past 7 days). I am optimistic that our metrics will continue to decline over the next several weeks, allowing for the relaxation of masking policies.

Vaccination efforts continue among residents, especially among 5 -11-year-old children and those eligible for boosters. The Omicron surge showed us the importance of boosters in preventing hospitalizations and deaths. Unfortunately, 33% of eligible adults have not received their booster. Vaccination remains our best defense against COVID-19 and I urge everyone to complete their vaccination series, including getting a booster. Vaccine is widely available in pharmacies, retail supermarkets, provider offices and HCHD. Currently, 95% of residents 12 and older have completed their primary series, and 66% of children 5 -11 have received at least one dose. Pfizer has submitted data to the FDA for emergency use authorization of vaccine for children ages 6 months – 4 years. The data review may take a few weeks. In the meantime, planning is underway with community pediatricians to establish clinics for our youngest residents once vaccine is authorized. Go to howardcountymd.gov/health/covid-19 for information on testing and vaccine sites.

Over time, and with every new surge and variant, we learn more about this virus. The health department continues to monitor emerging data and carefully reviews federal/state guidance to provide recommendations to our community for COVID-19 prevention.

Thank you for doing your part to help us control the spread of COVID-19. Please remember:

- **Get vaccinated** as soon as you can and get a **Booster** when eligible.
- **Mask** if you are indoors in public places, around those whose vaccine status you don't know.
- **Stay home** if you are not feeling well.
- **Test** if you have been exposed or have symptoms.
- **Isolate** if you test positive.
- **Quarantine** if you are identified as a close contact [following CDC guidelines](#).
- **Take care** of yourself, so you can take care of others.



Maura J. Rossman, MD