

**CLEAR CREEK COUNTY BOARD OF HEALTH
RESOLUTION 22-02**

[THE FOLLOWING IS THE LANGUAGE FROM RESOLUTION 21-05, WHICH THE BOARD OF HEALTH WILL CONSIDER AMENDING OR RESCINDING, IN PART OR IN WHOLE, DURING ITS PUBLIC DISCUSSION ON FEBRUARY 15, 2022. REDLINE EDITS SHOWN HEREIN ARE MINISTERIAL, NON-SUBSTANTIVE CHANGES.]

A RESOLUTION PERTAINING ONLY TO SCHOOL AND CHILDCARE SETTINGS, REQUIRING FACE COVERINGS FOR ALL INDIVIDUALS AGES THREE (3) AND OLDER, AND REGULAR TESTING FOR UNVACCINATED FACULTY AND STAFF, IN PRE-K THROUGH GRADE 12, IN SCHOOL AND CHILDCARE SETTINGS, AND ALL STUDENTS AND ADULTS PARTICIPATING IN CERTAIN EXTRA-CURRICULAR ACTIVITIES; AND REQUIRING THAT SCHOOLS PROVIDE AND ALLOW FOR VOLUNTARY TESTING OF INDIVIDUAL FACULTY, STAFF AND STUDENTS, WHEN REQUESTED BY THE INDIVIDUAL IF AGE 18 OR OLDER, OR WHEN REQUESTED BY A PARENT OR LEGAL GUARDIAN OF THE INDIVIDUAL IF UNDER AGE 18

February 15, 2022~~September 2, 2021~~

The Clear Creek County Board of Health (“BOH”) and the Clear Creek County Public and Environmental Health Department (“CCCPEH”) are working to stop the spread of Coronavirus 2019 (“COVID-19”). To support this effort, we find it necessary to implement emergency measures that require all individuals aged three (3) and older to wear Face Coverings while indoors at pre-kindergarten through grade 12 in school and childcare settings within Clear Creek County (the “County”). Additionally, we find it necessary to implement emergency measures to require Unvaccinated faculty and staff in schools and childcare facilities, and all students and adults participating in certain school-based extracurricular activities, to undergo regular testing for COVID-19. We also find it necessary to require that all schools provide and allow for voluntary testing of individual faculty, staff and students when requested by the individual if the individual is age 18 or older; or, when requested by, or with the permission of, a parent or legal guardian of the individual if the individual is under age 18.

FINDINGS AND NECESSITY OF ORDER

WHEREAS, the BOH, through CCCPEH, has public health jurisdiction over the County, including all municipalities therein. In furtherance of its jurisdiction, CCCPEH has the power and duty to investigate and control the causes of epidemic or communicable diseases and conditions affecting the public health within the County, as well as the power and duty to close schools and public places and to prohibit gatherings of people when necessary to protect public health, and to establish, maintain, and enforce isolation and quarantine, and in pursuance thereof, to exercise physical control over property and over persons within the County as the BOH and CCCPEH may find necessary for the protection of public health; and

WHEREAS, COVID-19 is a respiratory illness transmitted like other respiratory illness primarily through person-to-person contact. Persons infected with COVID-19 may become symptomatic anywhere from two to fourteen days after exposure. Symptoms include fever, cough or shortness of breath or difficulty breathing. Persons infected with COVID-19 may be asymptomatic yet still able to transmit the virus. Individuals with serious chronic health conditions and older adults are most at risk for becoming very ill with this disease but Unvaccinated individuals of all ages are at high risk of infection; and

WHEREAS, The Colorado Department of Public Health and Environment (“CDPHE”) first detected the Delta variant of the COVID-19 virus in Colorado the week of April 18, 2021. As of July 25, 2021, the Delta variant constituted 99.0% of all COVID-19 tests sampled for the variant in Colorado. (See <https://covid19.colorado.gov/data>.) Due to the recent surge of Delta variant COVID-19 cases, it is now estimated that more than 80% of the population must be vaccinated to achieve herd immunity due to the high rate of transmissibility of the Delta variant. (See <https://www.idsociety.org/multimedia/videos/idsa-media-briefing-vaccines-the-delta-variant-and-chasing-herd-immunity/>.)

WHEREAS, the Centers for Disease Control and Prevention (“CDC”) reports that the Delta variant is twice as contagious as previous variants and the greatest risk of transmission is among Unvaccinated people who are much more likely to contract, and therefore transmit, the virus. (See <https://www.cdc.gov/coronavirus/2019-ncov/variants/delta-variant.html>.) Some data suggests that the Delta variant may cause more severe illness than previous strains of the virus in Unvaccinated persons. Moreover, fully vaccinated people with Delta variant breakthrough infections can spread the virus to others, although vaccinated people appear to be infectious for a shorter period of time. As observed with higher rates of transmission, the Delta variant appears to have a greater impact on children ages 19 and under as compared to past strains of the virus, such as the ancestral type and prior variants.

WHEREAS, While the County’s one-week incident rates have dropped from the peaks of November and December, 2020, case counts and hospitalizations have recently increased rapidly due to the presence of variants in Colorado and insufficiently high vaccination rates to achieve herd immunity. As of July 28, 2021, the 7-day new COVID-19 case rate was 133/100,000 persons and as of August 28, 2021, that rate had risen to 287/100,000 persons. As of August 14, 2021, there were 589,526 known presumptive positive cases of COVID-19 statewide in Colorado, and 555 known presumptive positive cases in the County, as well as 7,284 deaths due to COVID-19 statewide and 3 in the County; and

WHEREAS, the intent of this Order is ensure that the maximum number of people wear Face Coverings in School and Childcare Settings to slow the spread of COVID-19 to the greatest extent possible in order to minimize disruptions to in-person learning and childcare. Except as provided below, all individuals in the County aged three (3) and older must wear a Face Covering while indoors at any School or Childcare Setting. All provisions of this Order should be interpreted to effectuate this intent. Failure to comply with any of the provisions of this Order constitutes an imminent threat and creates an immediate menace to public health.

ORDER

Pursuant to the authority granted CCCPEH in C.R.S. §§ 25-1-506(3)(b) and 25-1-509(1)(c), and consistent with CDPHE guidance, American Academy of Pediatrics guidance, and the CDC's guidance, the following is ordered:

1. **Definitions.**

- a. **Childcare Setting** means all childcare facilities in Clear Creek County.
- b. **Close Contact** means an individual who was within three (3) feet for a total of fifteen (15) minutes or more of a person who has tested positive for COVID-19.
- c. **Face Covering** as used in this Order, means a covering made of cloth, fabric, or other soft or permeable material, without holes, that covers only the nose and mouth and surrounding areas of the lower face. A Face Covering may be factory-made or may be handmade and improvised by using ordinary household materials. The Face Covering should fit snugly but comfortably against the side of the face; allow for breathing without restriction; and either be constructed of disposable mask materials or include multiple layers of fabric that can be laundered and machine dried without damage or change to shape. Face Coverings must cover the nose and mouth at all times and should remain in place until taken off safely. If a Face Covering moves during regular activity exposing the nose or mouth, it must be replaced with one that does not need to be frequently adjusted in order to reduce touching of the face. A Face Covering should be replaced when it becomes dirty, wet, and/or difficult to breathe through.

Note that any mask that incorporates a one-way valve (typically a raised plastic cylinder about the size of a quarter on the front or side of the mask) that is designed to facilitate easy exhaling is not a Face Covering under this Order and is not to be used to comply with this Order's requirements. Valves of that type permit droplet release from the mask and can put others nearby at risk.

A video showing how to make a Face Covering and additional information about how to wear and clean Face Coverings may be found on the CDC's website at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-facecoverings.html>.

- d. **Fully Vaccinated** means two (2) calendar weeks after an individual has received all required doses of the prescribed COVID-19 vaccine. Unless an individual is fully vaccinated, they are considered **Unvaccinated**.
- e. **School Setting** means any indoor facility used for instruction of academic or extracurricular activities for pre-kindergarten through 12th grade. School Setting includes public, private, and charter schools. School Setting includes all buildings on school property where individuals aged 3-19 may be present for any reason, as well as any place in the County where school-based or sponsored activities are performed, even if such activities are not performed on school property.

2. Face Coverings Required for all Individuals Aged 3+ in School Settings and Childcare Settings.

- a. Except as specifically exempted by Paragraphs 4 and 5 below, all individuals aged three (3) and older must wear a Face Covering while indoors at any School or Childcare Setting, including for purposes of extracurricular activities, regardless of the individual’s vaccination status.

3. School and Childcare Guidance.

- a. All School and Childcare Settings must follow the following CCCPEH Guidance for Public and Private K-12 Schools and Child Care Settings (“Guidance”):
 - i. Implement a COVID-19 testing policy with the following elements:
 - (1) Parents/guardians must report their child’s positive COVID-19 test results to the school health office.
 - (2) All individuals experiencing symptoms of illness, regardless of their vaccination status, must leave School and Childcare Settings and take a molecular/PCR COVID-19 test and present a negative test result, or quarantine for an amount of time specified by CCCPEH, before being allowed to return.
 - (3) All Unvaccinated individuals quarantined due to exposure (i.e., identification as a Close Contact of a case) must take a COVID-19 test and present a negative result, or quarantine for an amount of time specified by CCCPEH, before being allowed to return to school or the childcare facility.
 - (4) Implement a monitoring system which requires all Unvaccinated faculty and staff to be tested twice weekly throughout the 2021-2022 school year and to present negative test results to continue attending school or childcare in person. The monitoring system must be implemented no later than September 7, 2021.
 - (5) Implement a monitoring system which requires all students and adults participating in school-based extracurricular activities that involve travel or intermingling with students and adults from schools outside of Clear Creek County, to be tested twice weekly throughout the 2021-2022 school year and to present negative test results each time to continue participation in the extracurricular activity. This subsection does not apply to spectators at extracurricular competitions or performances. The monitoring system must be implemented no later than September 7, 2021.

- a. School and Childcare Settings are encouraged to utilize the CDPHE Free Testing Program. Details are available at <https://covid19.colorado.gov/free-testing-schools>.

- (6) Provide and allow for voluntary testing of individual faculty, staff and students when requested by the individual if the individual is age 18 or older; or, when requested by, or with the permission of, a parent or legal guardian of the individual if the individual is under age 18.
- ii. Regardless of vaccination status, all individuals who test positive for COVID-19 are required to follow isolation instructions from CCCPEH.
- iii. Unvaccinated individuals who were unmasked at the time of their exposure are required to quarantine if identified as a Close Contact of a COVID-19 case in both outbreak settings and in exposures involving only one (1) case.
- iv. Unvaccinated individuals who were masked at the time of their exposure are required to quarantine if identified as a Close Contact of a COVID-19 case in an outbreak setting.

To the extent that the Guidance and this Order conflict, the provisions of this Order shall control.

- b. All School and Childcare Settings are strongly encouraged to follow the Guidance, including those provisions not explicitly required by this Order.

4. **Exemptions.** The following individuals who are exempt from the Face Covering requirements of this Order:

- a. Individuals under age three (3).
- b. Individuals who, based on a clinical diagnosis, cannot medically tolerate a Face Covering.
- c. Individuals who require special educational service needs that cannot be conducted while wearing a Face Covering.

5. **Exceptions.** Individuals performing any of the following activities are exempt from the Face Covering requirements of this Order while the activity is being performed:

- a. Individuals who are hearing impaired or otherwise disabled or who are communicating with someone who is hearing impaired or otherwise disabled and where the ability to see the mouth is essential to communication.
- b. Individuals seated within pods during meal and snack time and who are actively eating or drinking. However, individuals within pods should still practice physical distancing, to the extent possible, individual pods must be spaced at least six (6) feet apart during meal and snack time, or these activities must occur outdoors.

- c. Individuals who are asked to temporarily remove their Face Covering for identification purposes in furtherance of a particular service requiring legal identification.
 - d. Individuals who are actively engaged in a public safety role, such as law enforcement personnel, firefighters, or emergency medical personnel.
 - e. Individuals who are receiving a medical service where the temporary removal of a Face Covering is necessary to perform the service.
 - f. Individuals who are in a swimming pool and actively engaged in a pool activity in which their Face Covering might become wet.
 - g. When a student in a School Setting for academic credit is actively playing an instrument that cannot otherwise be played while wearing a Face Covering and such student is at least six (6) feet from all other individuals in the room.
 - h. Individuals who are actively napping or resting pursuant to state licensing requirements.
 - i. Individuals who are alone in an enclosed room.
 - j. Individuals who are officiating or participating in a religious service or practice where the temporary removal of a Face Covering is necessary to complete or participate in the religious service or practice.
6. **Supervision.** Teachers, caregivers, and parents should supervise the use of Face Coverings by children to avoid misuse. Additionally, nothing in this Order advises or requires that children under the age of two (2) years wear a Face Covering.
7. **Recommendations.** CCCPEH continues to recommend that all individuals aged two (2) and older who have not been vaccinated practice social distancing of six (6) feet from non-household members, and practice good hygiene including frequent handwashing.
8. **Americans with Disabilities Act.** The requirements of this Order shall be applied in a manner consistent with the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.), Title VII of the Americans with Disabilities Act (42 U.S.C. § 2000e et seq.), the Colorado Anti-Discrimination Act (C.R.S. §24-34-401 et seq.), and any other relevant federal or State law.
9. **Signage Requirements.** All facilities covered by this Order shall post on all entrances a sign which states that, pursuant to Clear Creek County Board of Health Resolution 21-05 and Public Health Order, no individual may enter the facility without wearing a Face Covering unless a specific exception applies.

10. Conflict and Preemption.

- a. Nothing in this Order should be construed to preempt any State of Colorado regulations (including CDPHE Orders and Executive Orders) concerning Face Coverings or that impose Face Covering requirements beyond those contained in this Order.
- b. Nothing in this Order should be construed to preempt any federal orders or laws, including the CDC Order requiring all individuals aged three (3) and older to wear masks on conveyances and transportation hubs, including school buses.
- c. Nothing in this Order should be construed to preempt any local public health orders.
- d. Nothing in this Order shall be construed to prevent a municipality from adopting more protective standards than those contained in this Order.
- e. Nothing in this Order shall be construed to prevent any business or other entity from requiring its employees, staff, customers, or other staff to wear a Face Covering while engaging with that entity or on the entity's property.

11. Refusal of Service. Except for the limited exemptions and exceptions provided in Paragraphs 4 and 5 above, no school (including public, private, and charter schools) or childcare that serves children age three (3) or older, through and including the 12th grade, may allow an individual to enter or be within their indoor space unless the individual is wearing a Face Covering as required by this Order.

12. Reasonable Accommodations. CCCPEH recommends that schools and childcare facilities review the State of Colorado's Civil Rights Guidance.

13. Legal Recourse. Any school or childcare facility that is in violation of this Order may be subject to a civil action including, but not limited to, injunctive relief pursuant to C.R.S. § 25-1-514 and reimbursement of expenses pursuant to C.R.S. §25-1-516(3), reporting to the appropriate licensing agency for suspension or revocation of its license, or an immediate closure order issued by CCCPEH.

Along with CDPHE, CCCPEH is tasked with protecting the health and welfare of the citizens of the County by investigating and controlling cases of epidemic and communicable disease. This Order is necessary to control the transmission of disease to others. Immediate issuance of this Order is necessary for the preservation of public health, safety, or welfare.

If you have questions regarding this Order, please contact CCCPEH at: <https://www.clearcreekcounty.us/1210/Public-Health-Orders-Guidance>.

This BOH Resolution ~~224-025~~ and CCCPEH Public Health Order shall **be in effect from September 2, 2021, at 11:59 p.m. and shall remain in effect until rescinded, superseded or amended in writing by the BOH.**

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FAILURE TO COMPLY WITH THIS ORDER IS SUBJECT TO PENALTIES CONTAINED IN C.R.S. §§ 25-1-114 and 25-1-516, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000.00) AND IMPRISONMENT IN THE COUNTY JAIL FOR UP TO ONE YEAR. If any provision of this Order, or its application to any person or circumstance, is held to be invalid, then the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

If you have questions regarding this Order, please contact CCCPEH at 303-670-7528.

ADOPTED this ~~15th 2nd~~ day of ~~February~~~~September~~, 2022~~1~~, at a ~~regular~~ ~~special~~ meeting of the Clear Creek County Board of Health.

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~~Sean C. Wood~~~~George Marlin~~, Chairman

~~Randall Wheelock~~~~Sean C. Wood~~, ATTEST:
Commissioner

~~Randall Wheelock~~~~George Marlin~~, Deputy Clerk and Recorder
Commissioner For Brenda L. Corbett
Clear Creek County Clerk and Recorder

Received and Approved

Timothy Ryan, PhD.
Public & Environmental Health Director

Date