

ILLINOIS REGISTER

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF EMERGENCY RULE

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

PART 6

MANDATORY VACCINATIONS FOR SCHOOL PERSONNEL

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AUTHORITY: 105 ILCS 5/2-3.6 and Executive Order 2021-22 and any future Executive Order that reissues and extends Executive Order 2021-22.

SOURCE: Adopted by emergency rulemaking at 45 Ill. Reg. _____, effective _____, for a maximum of 150 days.

Section 6.10 Definitions

EMERGENCY

"School Personnel" means any person who:

is employed by, volunteers for, or is contracted to provide services for a school or school district serving students in pre-kindergarten through grade 12, or who is employed by an entity that is contracted to provide services to a school, school district, or students of a school; and

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is in close contact (fewer than 6 feet) with students of the school or other school personnel for more than 15 minutes at least once a week on a regular basis, as determined by the school.

The term "School Personnel" does not include any person who is present at the school for only a short period of time and whose moments of close physical proximity to others on-site are fleeting (e.g., contractors making deliveries to a site where they remain physically distanced from others or briefly entering a site to pick up a shipment).

"School" means any public or nonpublic elementary or secondary school, including charter schools, serving students in pre-kindergarten through grade 12, including any State-operated residential schools such as the Philip J. Rock Center and School, the Illinois School for the Visually Impaired, the Illinois School for the Deaf, and the Illinois Mathematics and Science Academy. For purposes of this Part, the term "School" does not include the schools operated by the Illinois Department of Juvenile Justice.

"School Code" means 105 ILCS 5.

"Fully Vaccinated" means an individual who is vaccinated against COVID-19 two weeks after receiving the second dose in a two-dose series of a COVID-19 vaccine authorized for emergency use, licensed, or otherwise approved by the U.S. Food and Drug Administration ("FDA"), or two weeks after receiving a single-dose COVID-19 vaccine authorized for emergency use, licensed, or otherwise approved by the FDA.

"Proof of Vaccination Against COVID-19" means:

a Centers for Disease Control and Prevention (CDC) COVID-19 vaccination record card or photograph of that card;

documentation of vaccination from a health care provider or an electronic health record; or

state immunization records.

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"Outbreak" has the meaning given to that term under 77 Ill. Admin. Code 690.10 and any applicable guidance or recommendations issued by the Illinois Department of Public Health.

Section 6.20 Purpose and Applicability
EMERGENCY

- a) This Part implements Executive Order 2021-22 and any future Executive Order that reissues and extends Executive Order 2021-22. This Part shall become inoperative upon expiration or rescission of Executive Order 2021-22 or upon expiration or rescission of any future Executive Order reissuing and extending Executive Order 2021-22, whichever is later.
- b) Nothing in this Part prohibits any school from implementing vaccination or testing requirements for school personnel that exceed the requirements under this Part, consistent with applicable law.

Section 6.30 Required COVID-19 Vaccination
EMERGENCY

- a) Each school shall require all school personnel to be fully vaccinated against COVID-19 in accordance with the timelines under this subsection or to be tested in a manner consistent with the requirements of Section 6.40.
 - 1) School personnel acting in their school-based role on or before the effective date of Executive Order 2021-22 must receive, at a minimum, the first dose of a two-dose vaccine series or a single-dose vaccine by September 19, 2021, and, if applicable, the second dose of a two-dose COVID-19 vaccine series within 30 days following the administration of their first dose.
 - 2) School personnel first starting in their school-based role after the effective date of Executive Order 2021-22 must receive, at a minimum, the first dose of a two-dose vaccine series or a single-dose vaccine within 10 days of their start date in the school-based role, and, if applicable, the second dose of a two-dose COVID-19 vaccine series within 30 days following administration of their first dose.

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- b) Schools shall require school personnel who are fully vaccinated against COVID-19 to provide proof of vaccination against COVID-19 to the school by September 19, 2021, or immediately upon becoming fully vaccinated.
- c) School personnel are exempt from the requirement to be fully vaccinated under this Section if:
 - 1) the vaccination is medically contraindicated, which includes any individual who is entitled to an accommodation under the federal Americans with Disabilities Act or any other law applicable to a disability-related reasonable accommodation; or
 - 2) the vaccination would require the individual to violate or forgo a sincerely held religious belief, practice, or observance.

School personnel who demonstrate they are exempt from the vaccination requirement under this subsection are, at a minimum, subject to the testing requirements under Section 6.40.

- d) Schools shall exclude from the school premises and/or refuse admittance to the school premises any school personnel who are acting in their school-based role and are not fully vaccinated against COVID-19 unless such school personnel comply with the testing requirements specified in Section 6.40.

**Section 6.40 Required COVID-19 Testing for School Personnel who Decline Vaccination
EMERGENCY**

- a) Beginning September 19, 2021, schools shall require all school personnel who are not fully vaccinated against COVID-19 for any reason, including, but not limited to, a religious exemption or medical contraindication, to undergo testing for COVID-19 at least weekly. If a school is experiencing an outbreak of COVID-19 and school personnel who are not fully vaccinated may be part of the outbreak, as determined after consultation with public health authorities, such school personnel must be tested two times per week for the duration of that outbreak. Schools shall exclude from the school premises and/or refuse admittance to the school premises school personnel who are acting in their school-based role and who are not fully vaccinated against COVID-19 unless such school personnel comply with the testing requirements specified in this Section.

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- 1) The testing must be done using a test that either has Emergency Use Authorization by the FDA or be implemented per the Laboratory Developed Test requirements by the U.S. Centers for Medicare and Medicaid Services.
 - 2) Testing for school personnel who are not fully vaccinated against COVID-19 must be conducted on-site at the school or the school must obtain proof or confirmation from the school personnel of a negative test result obtained elsewhere.
- b) School personnel who are not fully vaccinated may be permitted to enter or work at the school while they are awaiting the results of their weekly test. Notwithstanding any provision of this Part, schools must refuse to admit school personnel to the school while acute symptoms of an infectious disease are present. Schools shall also handle contacts of infectious disease cases as prescribed by 77 Ill. Admin. Code 690.30(c), or as recommended by the local health authority.

**Section 6.50 School Personnel Not Employed by the School or School District
EMERGENCY**

Beginning September 19, 2021, for school personnel who are not employed by the school or school district but are providing services through another entity (e.g., a contractor or service provider of the school), the school may determine that such school personnel are compliant with this Part by requiring the entity to:

- a) collect proof of vaccination against COVID-19 from the school personnel or proof of compliance with the testing requirements under Section 6.40; and
- b) submit an attestation to the school that they will collect this proof for any school personnel they provide to the school.

**Section 6.60 Required Record Keeping
EMERGENCY**

- a) All schools must maintain a record for school personnel employed by the school or school district that identifies them as one of the following: fully vaccinated; unvaccinated and compliant with the testing requirements set forth in Section 6.40; or excluded from school premises in accordance with Section 6.30(d), 6.40(a), or 6.40(b).

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- b) Each school shall maintain the following documentation for each school personnel employed by the school or school district, as applicable:
 - 1) Proof of vaccination against COVID-19.
 - 2) The results of COVID-19 tests.
- c) Schools shall maintain any school personnel medical records in accordance with applicable law.