



**SPECIAL BOARD (PUBLIC)
Report No. 22-086**

22 November 2022

Information on Mandatory Mask Mandates

Key Contact: Brett Reynolds, Associate Director

Paula Hall, Superintendent of People, Culture and Leadership,

Michele Giroux, Executive Officer, 613-596-8211 ext. 8310

PURPOSE:

1. To provide information on the policy, operational and practical issues associated with the introduction of a mandatory mask mandate for the Ottawa-Carleton District School Board.

STRATEGIC LINKS:

2. The OCDSB strategic plan is built on three culture statements: Culture of Innovation, Culture of Caring, and Culture of Social Responsibility. The introduction of a mandatory mask mandate is rooted in the culture of social responsibility to support the health and safety of students, staff, and the community.

CONTEXT:

3. Over the past several months, there has been a rise in respiratory illness in our community, including Covid-19, RSV, flu and other cold-like viruses. The Children's Hospital of Eastern Ontario (CHEO) has reported an unprecedented surge in viral illness among children and youth necessitating the need for an additional intensive care unit. CHEO and Ottawa Public Health are encouraging everyone in the community to wear a mask in crowded indoor spaces, including schools. That message has been reiterated by Ontario's chief medical officer of health, who has strongly recommended, but not mandated, that Ontarians wear masks in all indoor public settings, including in schools and in childcare settings. A Special Meeting of the Board of Trustees has been called to consider a motion to mandate the wearing of masks by students and staff in OCDSB schools and buildings. This report explains some of the operational issues and considerations associated with a mask mandate which may inform the decision-making process.

KEY CONSIDERATIONS:

4. **Encouraging Mask Use**

On March 21, 2022, the Government of Ontario lifted masking requirements in most indoor settings, including schools. On April 12, 2022, the OCDSB re-imposed a mask mandate in schools, which remained in place until May 30, 2022.

In recent weeks, the province and the City of Ottawa has seen a surge in respiratory infections, including RSV, influenza and COVID-19, resulting in a high degree of pressure particularly on pediatric hospitals. CHEO has reported long wait times for emergency care, and that it is over capacity in its Intensive Care Unit.

The Government of Ontario has recently issued a strong recommendation for masking for individuals and organizations across the province. Dr. Kieran Moore, Ontario's Chief Medical Officer of Health, recommended wearing masks indoors, including at social events to reduce the impact of exposure of RSV and influenza on younger children (aged four and younger).

At the OCDSB, the District has been encouraging the use of masks since the start of the new school year. In recent weeks and in response to Public Health guidance, the messaging was revised to “strongly encourage”. Schools have been provided with signage and asked to ensure that signage is posted on all school doors and around the school.

In preparation for this meeting, staff reached out to a number of school principals in order to get a sense of the current situation in schools with respect to masking. Principals reported that fewer than 10% of students are wearing masks on any given day, and approximately 15% to 20% of staff are wearing masks. Principals have also observed a slight increase in the number of staff wearing masks in recent days.

5. **The Legislative Framework**

District school boards are governed by the *Education Act*, which sets out the responsibilities, duties and powers of boards. There is nothing in the *Education Act* that clearly grants boards the authority to implement mandatory masking on staff or students. While the authority to implement such a mandate for staff is fairly straightforward, there has been considerable debate in Ontario over the legal authority of Boards to implement and enforce a mandate for students.

The considerations for imposing a mask mandate for staff are different from those with respect to students. With respect to staff, employers have the obligation set out in the *Occupational Health and Safety Act* to take all measures reasonable in the circumstances to protect the safety of workers. With respect to students, *OHS Act* considerations are still relevant to the extent that requiring students to wear masks was necessary to protect workers. In addition to this, there are a variety of provisions in the *Education Act* that relate to the health and

well-being of students, and could potentially be relied upon to argue that the board has the authority to implement a mask mandate.

As with all decisions made by the Board, the imposition of a mask mandate could be subject to challenge from a variety of sources. A more fulsome legal opinion regarding the authority of the Board to impose a mask mandate on staff and students, and the potential risks associated with a mandate will be provided to Trustees in camera.

6. **Position of Ottawa Public Health**

Ottawa Public Health was not available to attend the meeting, but did provide a statement for the Board’s consideration. It is available on the agenda for this meeting

7. **Attendance Data**

Questions have been asked about how attendance data could be used to inform decision making. A quick review of employee attendance data this year relative to last year shows mixed results. Leave data is complicated as there are many different types of leave available to employees. When looking specifically at sick leave data, it is important to recognize that the data covers all types of sick leave (Covid, mental health, respiratory, short term illness, injury, etc) and there is no further breakdown of data that allows for determining the nature of the illness.

If we look at the table below, there are mixed differences between Employee sick leave data for September and October 2021 and 2022 based on the employee group. Generally the increases are no greater than 4% however decreases show a drop by up to 17%.

Percentage of Monthly Absences Coded as Sick Leave

Employee Group	September 2022	September 2021	Change 21/22	October 2022	October 2021	Change Between 21/22
Educational Assistants	73.76%	70.11%	+3.65%	77.25%	75.36%	+1.89%
Early Childhood Educators	73.76%	82.57%	-8.81%	72.46%	75.50%	-3.04%
Elementary Teachers	63.59%	61.44%	+2.15%	65.14%	63.20%	+1.94
Secondary Teachers	50.32%	68.24%	-17.92%	48.20%	60.79%	-12.59%

The table below provides information on staff absences coded as Illness in the Immediate Family from September and October 2021 and 2022. During this specific time period, the proportion of total absences reported as Illness in the Immediate Family dropped slightly for Elementary Teachers in September and October 2022 compared to 2021 data. For Secondary Teachers, the coding of Illness in the Immediate Family increased for Secondary teachers in September and October between 2021 and 2022.

Percentage of Monthly Absences Coded as Illness in the Immediate Family Between October 15, 2022 and November 15, 2022

Employee Group	September 2022	September 2021	Change 21/22	October 2022	October 2021	Change Between 21/22
Elementary Teachers	10.31%	13.27%	-2.96%	9.76%	12.80%	-3.04%
Secondary Teachers	17.01%	11.44%	+5.57%	12.28%	11.82%	+0.46%

The table below looks specifically at the time period of October 15 to November 15 2021 and 2022. During this specific time period, the proportion of total absences reported as sick dropped slightly overall with the most significant drop in Secondary Teachers.

Percentage of Monthly Absences Coded as Sick Leave Between October 15, 2022 and November 15, 2022

Employee Group	Oct. 15-Nov. 15, 2022	Oct. 15-Nov. 15, 2021	Change
Educational Assistants	75.95%	76.19%	-0.24%
Early Childhood Educators	76.38%	78.47%	-2.09%
Elementary Teachers	67.28%	67.29%	-0.01%
Secondary Teachers	53.92%	62.70%	-8.78%

The table below provides information on staff absences coded as Illness in the Immediate Family between the period of October 15 to November 15 2021 and 2022. During this specific time period, the proportion of total absences reported

as Illness in the Immediate Family dropped slightly for Elementary Teachers and increased slightly for Secondary teachers.

**Percentage of Monthly Absences Coded as Illness in the Immediate Family
Between October 15, 2022 and November 15, 2022**

Employee Group	Illness in Immediate Family Oct. 15- Nov.15, 2022	Illness in Immediate Family Oct. 15-Nov.15, 2021	Change
Elementary Teachers	10.83%	11.92%	-1.09%
Secondary Teachers	13.46%	11.82%	+1.64

8. **Exemptions**

With previous mask mandates, the District approached this requirement from a learning perspective, recognizing that masks are an important part of a comprehensive strategy to reduce the spread of COVID 19 and other respiratory illnesses.

Students were able to seek an exemption to mask wearing for medical reasons, including sensory or breathing difficulties, and other visible and invisible disabilities; developmental reasons, including cognitive conditions and other special education needs; other Code based reasons, including mental health and religious and creed accommodations. Students seeking exemption were asked to describe their request in an online form.

All employees were required to wear a mask while inside an OCDSB school or building. Requests for exemptions by staff were allowed for medical and other Code based reasons. Depending on the number of exemption requests, this may have an impact on the workload of Employee Wellness staff who are already managing a high case load.

9. **Implementation**

Should the Board adopt a mask mandate, staff will begin implementation immediately, beginning with communication to staff and families, distribution of signage, distribution of masks, guidance to administrators, introduction of mechanisms for exemption, etcetera. Full implementation would be phased in as quickly as possible.

While there are some central workload implications associated with the initial roll-out, the more substantive impact is at the school level. Based on previous experience, mask mandates require considerable time for educators and administrators addressing protocols, compliance, behavioural issues, etc.

Enforcement of a mask mandate for students engages some complex considerations. School principals have the authority to exclude students from the

school pursuant to section 265(1)m of the *Education Act*, subject to a right to an appeal to the Board. Schools may also be able to suspend students for non-compliance in accordance with section 306(1)7 of the *Education Act*. This power is also subject to appeal to the Board, and is not available for students in Junior Kindergarten to Grade 3. The legal implications of removing students from school for failure to comply with a mask mandate are more fully set out in the confidential Memorandum and appended legal opinion provided to Trustees in camera.

Given the experience to date, it is reasonable to expect a high number of accommodation requests from students, which would create a significant workload for principals and other district staff.

In past mandates, where a student without an exemption refused to comply with the masking requirements, staff were asked to show understanding, promote awareness and use trauma-informed practices in order to make efforts to understand the reason for the lack of compliance and see if a resolution can be reached. If there is a decision to send students home for non-compliance, it will be important to consider the disproportionate impact that learning loss could have for different groups of students.

Employees who did not comply with the mandate were subject to progressive discipline leading up to suspension without pay.

10. **Mask Mandates and Staff Absences**

Assessing the potential impact of mandatory masking on staffing is complex and difficult to predict. In theory, mandatory mask mandates may reduce the spread of illness and staff absences. However, the short-term implications are less clear.

Across many jurisdictions, including Ontario, school boards are experiencing an unprecedented shortage of casual staff, including, but not limited, to Occasional Teachers (OTs), Educational Assistants (EAs) and Early Childcare Educators (ECEs). At this point in the school year, classroom closures due to the inability to secure casual staff to fill these critical positions have happened on a number of occasions. While it is difficult to quantify how staff might respond to a mask mandate from the perspective of compliance, it is reasonable to assume that some will resist a directive without an opt out mechanism. Should staff be removed from their positions for non-compliance with a mask mandate, we can anticipate an additional strain on the system and a possible increase in class closures impacting students.

11. **End of Mandate**

With previous mask mandates, there was some uncertainty about how decisions regarding the end of the mask mandate would be made. It will be important that there is clarity in the criteria and responsibility for decision-making.

RESOURCE IMPLICATIONS:

12. Through the pandemic, the provincial government established a centralized approach to the procurement and distribution of personal protective equipment (PPE), including masks (medical and N95s) on behalf of school boards. This system remains in place and school boards are still able to place orders, as required through the central procurement system.

The demand for PPE, including masks and N95s has declined so far this school year, relative to last year. There is currently a relatively healthy inventory of medical masks and N95s in stock at the central depot for distribution to schools and central departments. Based on the previous distribution patterns (i.e. two medical masks per day per employee; N95s provided on request), the current inventory should be sufficient for approximately four to five weeks.

The District does not currently have any supply of child-sized medical masks on hand, but has submitted an order for masks in anticipation of making them available to students as required or requested. The N95 masks available through the provincial distribution centre are currently only available in one size.

Additional PPE which continues to be made available to staff for infection control purposes, as required, includes face shields or goggles, gloves and gowns.

COMMUNICATION/CONSULTATION ISSUES:

13. Currently, the District has signage in all schools strongly encouraging mask wearing. Parents, students and staff have been notified about this meeting and the process for appearing as a delegation in-person or in writing. In addition, staff has reached out to the Federation representatives to ensure they are aware and are able to share their perspective on this issue.
14. Should a mask mandate be approved, communication will be shared immediately with staff, parents and students. The communications resources and tools used for previous mask mandates will assist in quick distribution of information.

DISCUSSION QUESTIONS:

- Does the establishment of a mandatory mask mandate help to support the Board's goals of improving student achievement and well-being?
- Does a mask mandate have an impact on social emotional learning and development, student well-being and the early acquisition of language?
- Will communities who experience poverty, racialized communities and communities where English or French are not the primary language used experience any disproportionate impact as a result of a mandate?
- What supports can be made available to school administrators to address the issues that may be experienced in schools?

Michele Giroux
Executive Officer, Corporate Services
(ext. 8607)

Camille-Williams Taylor
Director of Education and
Secretary of the Board