



MOSHANNON VALLEY SCHOOL DISTRICT
DISTRICT OFFICE

Dr. John W. Zesiger, Superintendent

September 17, 2021

Moshannon Valley Families, Students, and Staff,

As we operate with the current mask mandate, I want to first say, thank you to our families for your support and cooperation. We are all aware that no one likes wearing masks, but I wanted to share some important information with you.

As of the date of this letter, we notice the substantial level of transmission in Clearfield County continues to rise and the District has as many positive COVID-19 cases among students and staff in the first 17 days as we did in the first 88 days last year, when masking was in place for the entire year. We are concerned that the increase in case counts could force the District into virtual instruction much earlier in the school year, and I am confident that no one wants to see that. This week alone, nearly 7% of our student population was in quarantine. One positive aspect is that masking has decreased the overall number of students who would have been required to quarantine.

In addition, we currently do not have any students at the high school who are electing to not wear their mask, and five students at the elementary school. With 800 students, the community largely has been understanding of the District and this mandate from the DOH. We appreciate that as it lets us focus on educating students.

With regard to the mandate, we want the families to know that the District does not have the power to ignore the Order. The following information was sent from the Deputy Secretary of the Department of Education to all school districts recently.

- *On Wednesday, September 8, 2021, PDE issued a communication to a school district that has exhibited noncompliance with the Acting Secretary of Health's Face Coverings Order. While this letter responded to a specific set of circumstances in a single school entity, the cautions and conditions are broadly applicable to all school entities – both public and nonpublic and are outlined below in this communication.*
- *Relatedly, this Order is not a mask optional policy. Any school entity simply permitting a parent's sign-off without evidence that the student has a medical or mental health condition or disability that precludes the wearing of a face covering is not in compliance with the Order. Under the Order, and as set forth in PDE's Answers to FAQs, school entities must require all individuals, two years of age and older, to wear face coverings unless the individual has a medical or mental health condition or disability that precludes the wearing of a face covering. In accordance with Section 3 of the Order, before an individual is excepted from the Order, all alternatives to a face covering, including a face shield, are to be exhausted. It is recommended that any*

exception be in accordance with eligibility under Section 504 of the Rehabilitation Act or IDEA for such medical or mental health condition or disability. School entities should follow their established processes for determining student eligibility under those laws, including any medical documentation that they would normally require. There are exceptions to the Order; however, a parent's opposition to the Order is not one of them.

The following cautions/conditions can be part of the communication issued to school boards that do not comply with the Order:

- 1. Failure to implement and follow the control measures under the Order subjects each board member to the penalty provisions of the Disease Prevention and Control Law of 1955. A violation occurs each day that the Order is not enforced and each board member may be charged a financial penalty for each student or staff member attending the school.*
- 2. Failure to implement and follow the control measures under the Order exposes each board member to personal liability under 42 Pa.C.S. §8550 (relating to willful misconduct), as well as other remedies and actions as provided by law. PDE is serving notice to each board member that failure to comply with the mask order is a violation of law. A knowing violation may be used by a plaintiff to establish personal liability in a negligence action per 42 Pa.C.S. § 8550.*
- 3. Each board member may face lawsuits from those who may be affected by noncompliance with the Order, including children who may become ill as a result of the district's violation, or disabled children who are unable to attend school because of the district's failure to follow the order.*
- 4. Each board member may bear potential liability with no indemnification or protection.*
- 5. School districts' liability insurers are exploring cancelling coverage as a result of those districts' possible illegal conduct and potential purposeful violations of law.*
- 6. School districts' violations of law may negatively affect workers' compensation claims coverage and premium calculations.*
- 7. Districts that do not comply with or elect to violate the law may be referred to the United States Department of Education's Office for Civil Rights for investigation. In particular, failure to comply with the Order may prevent immunocompromised and other susceptible students from attending class in violation of the IDEA, ADA, and Rehabilitation Act.*
- 8. Employees who report non-compliance may be entitled to protection under the state whistleblower law.*

We know there are families who believe the School Board or Administration have the authority to ignore the mandate, and this is simply not true. There are those who would like to have their opinions heard, and we encourage them to contact Representative Tommy Sankey's Office in

Osceola Mills (814) 765-0609 and Senator Wayne Langerholc's Office in Clearfield (814) 765-0555. They are our direct connection to Harrisburg and since this Order stems from the Capitol, specifically the Secretary of Health, that is where it will have to be addressed.

As I have stated from the first day of the pandemic, our top priorities are keeping students and staff safe, and keeping our children in school. That focus has not changed.

Again, I thank our families, students, and staff for their understanding and support.

Sincerely,

John W. Zesiger, Ed.D.
Superintendent of Schools