



Port Allegany School District

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September 14, 2021

Dear Parents and Community,

During the previous school year and the start of this current school year, it was and continues to be the goal of the district to keep our doors open for in-person learning. We know from our own experience that many of the students we serve struggled when they were not in a classroom with their teachers and other students.

Last year Port Allegany was fortunate only having missed 7 instructional days at our high school. Our elementary school was open for the entire school year for in-person instruction.

We had hoped to open the school buildings this year with a balanced return to normalcy. In July the Port Allegany School District Board of Directors approved a health and safety plan that allowed for parent choice to determine if/when their child(ren) would wear a face covering in school. Pennsylvania Governor Tom Wolf throughout the summer and as late as mid-August continued to say that masking would be a local decision. Unfortunately, that is no longer the case. On August 31, 2021 acting Secretary of Health Alison Beam issued the most recent face covering order requiring masking of students and staff in public school buildings.

Up until today, the Port Allegany School District had accepted parent exceptions to the mask requirement. Many families from our two buildings had taken advantage of this interpretation of that order and the district had respected that parent choice.

Last week the Pennsylvania Department of Education threatened school districts with substantial consequences, penalties, and potential liabilities for violating the mask order. This would include the acceptance of parent exceptions to the order.

These consequences shared with the school districts included:

1. *“Failure to implement and follow the control measures under the Order subjects each board member (superintendent) 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 (superintendent) 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 (superintendent) 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 (superintendent) 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."*

Unfortunately, given the potential for substantial liability exposure to the school district, the resulting impact on short term and long term programming, and after consultation with the school solicitor, beginning Wednesday, September 15, 2021, Port Allegany can no longer accept face covering exception requests written by parents. Exceptions will only be accepted if signed by a medical doctor that sees, or has seen the student as a patient. Student exceptions should also be tied to an existing IEP or 504 plan.

In order to continue in-person teaching and learning, and in accordance with the face covering order, Port Allegany must require all teachers, staff members, students, parents, and visitors to wear a face mask/shield when:

- On the school bus or using other district transportation
- Indoors at the elementary school, high school, or Seneca Highlands CTC
- Attending athletic events or other activities while indoors at the school

In the event that the Acting Secretary of Health lifts the mandate or a court intervenes with an injunction, the district will revert back to our current health and safety plan.

These ever changing state mandates continue to be very frustrating. Port Allegany, like all of the public schools in Pennsylvania, is in a 'no-win' situation. Threatening independently elected school boards and board members does not help.

We appreciate your continued support and understanding.

Please feel free to contact your child's school or my office if you have any questions.

Respectfully,

A handwritten signature in black ink, appearing to read 'G. Buchsen', with a long horizontal flourish extending to the right.

Gary Buchsen, Superintendent