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TITLE 216 – DEPARTMENT OF HEALTH

CHAPTER 30 – INFECTIOUS DISEASES

SUBCHAPTER 05 – INFECTIOUS DISEASES

PART 4 – Protocol to Consider Before Requiring Masking in School

4.1 Authority and Purpose

These Regulations are promulgated pursuant to the authority conferred under R.I. Gen. Laws §§ 23-1-17 and 23-1-18, for the purpose of publicly setting forth the rationale for a masking requirement in the event a future masking requirement is promulgated by the Rhode Island Department of Health for students in grades Kindergarten through twelve in Rhode Island.

4.2 Definitions

A. In this Part, the following terms shall mean as stated:

1. “Department” means the Rhode Island Department of Health.
2. “Director” means the Director of the Rhode Island Department of Health or designee.
3. “Scientific Evidence” means the results of clinical trials or other studies published in peer-reviewed articles, as well as medical literature generally recognized by the relevant medical specialty community.
4. “School” means any school for students in grades Kindergarten through twelve in Rhode Island.
5. “Student” means any individual who is enrolled in grades Kindergarten through twelve at a school.

4.3 Masking in School

A. Protecting Rhode Island’s individuals and population against the effects of an infectious pathogen often requires the implementation of multi-faceted measures designed to prevent morbidity and mortality associated with the transmission of the pathogen. Such measures may include, but not be limited to, testing, treatment, vaccination, quarantine and isolation, handwashing, physical distancing, barrier protections, face masking, and improved ventilation. Before RIDOH recommends or requires any measures to protect the health and safety of the public, RIDOH reviews the current scientific evidence available for each

considered measure and weighs the risks and benefits to both individuals and the community associated with each measure being considered, recognizing that the current evidence is constantly evolving as new research becomes available. When there is no or limited scientific evidence, RIDOH makes decisions based on expert opinions of the medical and public health community with what data may be available at the time.

- B. An absence of scientific evidence regarding the effectiveness of face masks against a specific pathogen will not prevent the Department from considering a face mask requirement.
- C. In the event that the Department requires face masks for students in school to prevent the spread of an infectious disease, the Department shall set forth the rationale for a masking requirement through a statement. This statement shall be made publicly available on the Department's website.
- D. Any decision regarding whether to implement a face mask requirement for students will consider scientific evidence as well as the feasibility of such a requirement. The factors considered in this decision may include, but not be limited to:
 - 1. The transmissibility and infectiousness of the specific pathogen;
 - 2. Facilitators of the specific pathogen (including how it is spread);
 - 3. Students' ages;
 - 4. Infection control in school, which may include, but not be limited to:
 - a. The ability to separate students into smaller groups,
 - b. The availability of other prevention options for similarly situated students (including vaccinations), and
 - c. The availability of treatment options for similarly situated students.
 - 5. The ability of students with disabilities, as defined by the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, to comply with the requirements;
 - 6. The effectiveness of any available prevention and treatment approaches;
 - 7. Whether the effectiveness referenced in § 4.3(D)(6) of this Part varies among the different ages and age ranges represented by school;
 - 8. Whether the prevention and treatment options are Emergency Use Authorizations (EUA) or FDA-approved;

9. Scientific evidence of the effectiveness, disadvantages, and side effects of masks on the pathogen (including an assessment of the availability and quality of such evidence);
 10. Input from various stakeholders which may include, but are not limited to, the Rhode Island Department of Education, the Office of the Governor, school districts, students, and parents or guardians of students, as well as other expert groups and institutions (e.g., Centers for Disease Control and Prevention, Infectious Disease Epidemiology Advisory Committee);
 11. The concentration and spread of the disease among students;
 12. The immediate discomfort and long-term effects of the disease on students and variations in the effects from those experienced by the general population;
 13. How masking could form part of a comprehensive approach to addressing the disease in students;
 14. The concentration of the disease in the general population (and any data that correlates estimates/expectations of concentration among students and how that impacts the general population concentration); and
 15. The contribution of students to the transmission of the disease to other vulnerable populations.
- E. Scientific evidence will be utilized in connection with evaluation of § 4.3(B) of this Part; provided, however, that some evidence may be given more weight than other evidence, and this balancing of evidence requires the exercise of judgment based on the facts and circumstances that exist at any given time as well as the experience and expertise of those engaged in the decision-making process. The Director shall have the final decision within the Department regarding face masking for students.

4.4 Severability

If any provision of these regulations or the application thereof shall be held invalid, such invalidity shall not affect the provisions or application of the regulations which can be given effect, and to this end the provisions of the regulations are declared to be severable.