



# *Akron Central School District*

## *In Pursuit of Excellence*

*Patrick D. McCabe*  
*Superintendent of Schools*

November 16, 2021

Dear ACS Community:

For over a year and a half, all of us have been living with COVID-19 and the government mandates that have been put in place in response to the virus. It is safe to say that all of us have grown weary of COVID-19 and its impact on our daily lives particularly the impact it has had on students and schools.

Despite the collective challenges we have faced, people all across the District have worked together to offer opinions, craft solutions, and provide feedback on those solutions. That input has been invaluable to the District as we have responded to COVID-19. As a Board of Education, we welcome everyone's input as the District works to give our students the best education and overall student experience we can under the mandates and requirements placed upon the District by New York State.

In light of this and with full appreciation for the significant complexity of these matters, the Board wishes to update the community by answering a few fundamental questions that have been asked by community members. Therefore, the purpose of this communication is to:

1. Address the issue of vaccinations and the request for advocacy against a possible vaccination mandate for school aged children.
2. Explain the Board's authority relative to Commissioner of Health Regulations (masks).
3. Share information on how the Board and District has demonstrated a commitment to keep children in school to the greatest extent possible while supporting decisions and practices that we believe will benefit our children in the future.

### **Question 1a:**

**What is the Board's position on a vaccine mandate, and what has it done to communicate parental concerns over vaccination of school age children with policy makers?**

- The District is not considering a vaccine mandate for students or staff.
- Recently, Board members attended a meeting with local and state legislators and shared parental concerns about the possibility of mandatory vaccinations. In response to this concern being communicated to them, local State Senate and Assembly members -- from both political parties -- indicated that while they support vaccinations, they would not support a mandatory COVID-19 vaccinations as a requirement for school attendance.
- The Board will continue to communicate parental concerns to our elected State representatives, and ask parents to contact the representatives directly as well.
- The Superintendent has confirmed that the ECDOH is aware of vaccination data and surveillance/proximal participation data within our district and has expressed parental concerns to ECDOH leadership.

### **Question 1b:**

**Why hasn't the Board of Education publicly advocated on behalf of parents on the issue of a possible vaccine mandate for school age children?**

As was previously stated, the Board values and respects the opinions of all of our community members. It also understands that its legal authority is limited to matters of educational policy, governance and finance. The Board as a whole, its members and the District's administrators are obligated by law to follow the laws of the State of New York, and not doing so could result in the State imposing very significant financial penalties against the District, and those penalties would negatively impact our students.

Moreover, the Board recognizes its role within the community and school district and must be mindful not to use its positional authority to overstep and/or infringe on the freedoms and rights of individuals to make personal decisions.

## **Question 2:**

### **Why Must the Akron Central School District Comply with New York State's Mask Mandate?**

People have asked why a school district is obligated to have its students, employees and others wear masks within its buildings, and why a school district cannot simply make its own determination whether to require mask wearing in its schools. This issue has remained in the forefront of public debate since the New York State Department of Health's Guidance that stipulated mandatory mask wearing in schools.

There are a number of reasons that the Akron Central School District must comply with the State's mask mandate. Three of the most prevalent reasons are listed below.

1. The District is a political subdivision of the State, and has only those powers and duties assigned to it by the State.
2. Board Members' Oath of Office requires each member to follow NY State Law.
3. The NY Education Law and the Commissioner of Education's written decisions note the District's obligations to follow NY statutes and regulations.

Given the obligations the District's Board of Education Members and the schools' administrators have to follow New York statutes and regulations, and given the lack of legal authority (in the form of a court decision) finding that the Commissioner of Health exceeded his authority by issuing a mask mandate, the District would risk substantial penalties under Education Law Section 306 if the District willfully violates New York State law by not requiring the wearing of masks in its school buildings. As noted above, these penalties would be significant, and would cause the District to have fewer resources for our students.

## **Question 3:**

### **What has the Akron Central School District done to keep students in school and what are the next steps?**

The Board of Education takes seriously its constitutional obligation to educate students and understands the critical role it plays in the academic, social, physical, and emotional well-being of our children. The Board has supported every effort to minimize disruptions to learning and keep children in school. In addition to the comprehensive plan to mitigate the spread of the coronavirus, through its actions, the Board and District have:

- Worked aggressively to fill staff vacancies in transportation, cleaning and maintenance.
- Hired instructional staff to address students' academic and social-emotional needs.
- Responded quickly to positive cases through contact tracing.
- Made changes to physical spaces to increase social distancing.
- Worked with the ECDOH to offer screening and proximal testing.
- Provided daily updates on the number of positive cases.
- Kept community members informed of changes to guidance.
- Worked in collaboration with other area schools to ensure that periodic masks breaks continue to be provided to all P-12 students in Erie County.

### **Next Step – Keeping Kids in School Via “Test to Stay”:**

- Members of the Board of Education met with our elected State representatives to encourage them to support “**Test to Stay**” legislation. This legislation would allow asymptomatic students and staff members that have been identified as close contacts of someone with COVID-19 to remain in school, provided that they have a daily negative COVID-19 test for 7 days after exposure.
- The Board endorses the Test to Stay efforts of the Erie-Niagara School Superintendents Association and the New York State Council of School Superintendents.
- Members of the Board have spoke in favor of a Test to Stay model with fellow members of the Erie County Association of School Board.
- Moving forward, the District intends to collaborate with other area school districts, elected leaders, and local health officials to develop a regional model for a Test to Stay program that can be supported by the NYSDOH.

- In addition, the Board will advocate for full funding of this program including the making COVID-19 tests readily available to students and staff.

**Next Step- Supporting a Pathway Forward:**

- No members of the Board of Education or school administration wants students to be wearing masks indefinitely. The Board of Education supports the development of a data-based plan to eliminate COVID-19 related restrictions in schools, including the reduction of masking requirements and the unnecessary quarantines for healthy children.
- The Board of Education intends to ask elected officials to require greater collaboration between the ECDOH and school districts, and families.

Each member of the Akron Board of Education has an unwavering commitment to the students of this district and will remain responsive to the ever changing conditions created by Covid-19. We will continue to address the challenges before us and invite all members of our community to work collaboratively in addressing them.

Sincerely yours,

James Grant, Board of Education President  
Erik Polkowski, Board of Education Vice President  
Jody Brege, Board of Education Trustee  
Heather Cayea, Board of Education Trustee  
Deborah Forrestel, Board of Education Trustee  
Phillip Kenline, Board of Education Trustee  
Robert Masse, Board of Education Trustee