

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
COMMITTEE REPORT**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

DRAFT

TO: All Councilmembers

FROM: Chairman Phil Mendelson
Committee of the Whole

DATE: December 7, 2021

SUBJECT: Report on Bill 24-423, “Coronavirus Immunization of School Students and Early Childhood Workers Amendment Act of 2021”

The Committee of the Whole, to which Bill 24-423, the “Coronavirus Immunization of School Students and Early Childhood Workers Amendment Act of 2021” was referred, reports favorably thereon, with amendments, and recommends approval by the Council.

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I. BACKGROUND AND NEED

The purpose of Bill 24-423 is to mandate students who are eligible for a fully approved COVID-19 immunization and childcare workers in the District to be fully vaccinated against COVID-19. Additionally, beginning with School Year 2022-2023, the bill directs private physicians who provide both routine childhood immunizations and the COVID-19 vaccine to submit immunization certificates electronically to the District’s Department of Health (DOH) and then for DOH to transmit those immunization certificates to a student’s local education agency (LEA). If DOH is providing the immunization, then DOH is also to transmit the immunization certification to a student’s LEA. Further, while Bill 24-423 requires eligible students to be fully vaccinated by March 1, 2022, enforcement of this requirement does not have to begin until School Year 2022-2023. Since D.C. Official Code § 38-505 indicate that students have 20 days from their first day of school to be immunized – a program known as “No Shot, No School” – this effectively means that students will have until their 20th day of school during School Year 2022-2023 to become fully immunized against COVID-19 if they are not already vaccinated. Given that Mayor’s Order 2021-109 already requires childcare workers to be fully vaccinated against

COVID-19 by November 1, 2021, this bill simply codifies this requirement permanently in the District's childcare regulations.

Since March 2020, the COVID-19 virus has ravaged the District, the United States, and the world. Killing almost 1,200 District residents¹ – many of whom are individuals of color – COVID-19 has upended life for the past 21 months, resulting in students having to learn virtually for over a year, businesses being shuttered, and families devastated. Only after a vaccination against COVID-19 was developed and released has the District been able to start to return, slowly, to life as it was pre-pandemic. Given the importance of the COVID-19 vaccination on slowing the spread of the virus and in saving lives, the Committee believes that students and childcare workers should have to be fully vaccinated against this deadly virus and thus supports adoption of Bill 24-423.

This COVID-19 vaccination mandate is not the first in the District. On August 10, 2021, the Mayor issued Mayor's Order 2021-99, which ordered all District government employees, interns, contractors, and grantees to be fully vaccinated against COVID-19 unless they are exempted or agreed to be tested weekly.² Then on September 20, 2021, the Mayor went a step further, issuing Mayor's Order 2021-109, which requires all District of Columbia Public Schools' and public charter school teachers and staff, all childcare workers who work at an Office of the State Superintendent of Education (OSSE) licensed child development facility, all school bus drivers and aides (except for the Washington Metropolitan Area Transit Authority (WMATA)) who transport students, and all student-athletes 12 years and older to be fully vaccinated against COVID-19.³ Additionally, DOH has issued emergency and proposed rulemaking requiring all persons with health licenses and their staff to also be fully vaccinated against COVID-19.⁴ The Council also required all Councilmembers and staff to be fully vaccinated against COVID-19 by November 1, 2021.⁵

Vaccination mandates for students are also not new in the District. Since 1979 such mandates have existed, requiring students at both public and private schools, as well as colleges and universities in the District, to be vaccinated against diseases such as diphtheria, polio, tetanus, rubella, measles, and mumps.⁶ DOH also requires students to now be vaccinated against the human papillomavirus.⁷ Such mandates exist not only because of the importance of students being vaccinated against such diseases but also because such mandates improve vaccination rates.⁸ Given that the District is currently seeing a disparity in terms of which students are vaccinated and

¹ As of December 2, 2021. See <https://coronavirus.dc.gov/data>.

² See Mayor's Order 2021-99.

³ See Sections II and III of Mayor's Order 2021-109

⁴ See 68 DCR 8964, effective Aug. 23, 2021.

⁵ Add cite.

⁶ See D.C. Official Code §§ 38-501 *et seq.*

⁷ Add cite.

⁸ See e.g., [Impact of school vaccination mandates on pediatric vaccination coverage: a systematic review \(nih.gov\)](#); [Workplace efforts to promote influenza vaccination among healthcare personnel and their association with uptake during the 2009 pandemic influenza A \(H1N1\) - ScienceDirect](#); [Effect of a School-Entry Vaccination Requirement on Racial and Ethnic Disparities in Hepatitis B Immunization Coverage Levels Among Public School Students | Pediatrics | American Academy of Pediatrics \(aap.org\)](#).

which are not,⁹ the Committee is hopeful that a mandate will not only lead to students being safer against COVID-19 because they are vaccinated but also that more students will be vaccinated against this deadly disease.

Changes From the Introduced Version

The Committee has made a few substantive changes to the introduced version of the bill. First, the deadline has been moved from December 15, 2021 to March 1, 2022 or 70 days from the date an individual becomes eligible for a fully-approved vaccination or from when the Food and Drug Administration fully approves a COVID-19 vaccination for a particular age group. Second, the bill makes clear that the new mandate only applies to students eligible for a fully-approved COVID-19 vaccination, including adult public charter school students. Third, enforcement of the mandate is delayed until School Year (SY) 2022-2023 in order to give families the opportunity to vaccinate their children or for adult public charter school students to be vaccinated. Fourth, to decrease the burden on schools this school year and to give DOH plenty of time, the requirement that immunization certificates be transmitted from private physicians to DOH and then to LEAs or from DOH to LEAs, depending on the circumstances, has been moved to SY 2022-2023 for all immunizations. Fifth, the Committee Print clarifies that if a private physician transmit the immunization certification to DOH (or DOH has it if they administered the immunization) then the requirement for a parent or adult student to submit the immunization certification to an LEA is met. Sixth, several technical edits have been included, such as including public charter schools to the definition of “school” with regard to the routine childhood immunizations. Since the immunization law was approved prior to the existence of public charter schools, it did not include them. The Committee Print addresses this issue.

Deadline Changes: The introduced version of Bill 24-423 required students to be fully vaccinated against COVID-19 by December 15, 2021. However, given that Bill 24-423 has not yet been approved by the Council, the Committee felt that individuals should be given time to get fully vaccinated. Thus, the Committee has pushed back the deadline to March 1, 2022. Since the fully approved COVID-19 immunization by Pfizer requires two shots – three weeks apart – and two weeks after the second shot before an individual is fully vaccinated, the Committee believes delaying the deadline to March 1, 2022 will give individuals the requisite time they need to become fully vaccinated and compliant with the law.

Additionally, since the Committee clarifies in the Committee Print that the mandate only applies to individuals eligible for a COVID-19 immunization that has been fully approved by the U.S. Food and Drug Administration (FDA), which is currently only individuals who are 16 years or older, the Committee Print provides 70 days for individuals who become eligible for the COVID-19 immunization to become fully vaccinated against COVID-19. This 70-day window applies both when individuals become of age for a fully approved COVID-19 vaccination and when the FDA fully approves the COVID-19 vaccination for younger age groups. Thus, once the FDA fully approves a vaccination for children ages 12-15 years old, those students will have 70 days from the date of the FDA’s full approval to become fully vaccinated. Likewise, if a student

⁹ Based on the data viewed at coronavirus.dc.gov on December 6, 2021, 80% of District residents aged 12-17 in Ward 2 are vaccinated against COVID-19 versus 28% and 25% in Wards 7 and 8, respectively, for the same age group.

who is currently 15 years old turns 16 before the FDA fully approves a COVID-19 vaccination for 12-15 year olds, the student will have 70 days from his/her 16th birthday to become fully vaccinated.

Fully Approved versus Emergency Authorized: The introduced version of Bill 24-423 is silent as to whether the immunization mandate applies to only those individuals eligible for a fully approved COVID-19 vaccination (i.e. individuals 16 years and older) or also to individuals who are eligible for a COVID-19 immunization that has been granted emergency use authorization (EUA) (i.e. individuals aged 5-15 years old). The Committee Print makes clear that the mandate only applies to individuals eligible for a fully approved COVID-19 immunization. The Committee did not make this decision lightly. While the Committee believes that it has full authority to extend the mandate to those eligible for a EUA COVID-19 vaccination, the Committee understands that many parents are not comfortable having their children vaccinated with an immunization that has not been fully approved yet by the FDA – even if they have been vaccinated themselves with an EUA immunization. At the October 27th hearing much of the opposition to Bill 24-423 centered around whether the Committee should include EUA COVID-19 immunizations in the bill.¹⁰ Moreover, the Committee is hopeful that the immunization for 5-11 and 12-15 year olds will be fully approved by the beginning of SY 2022-2023. Thus, the Committee made the decision to limit the mandate to only fully-approved COVID-19 immunizations.

Notably, the Committee also decided to include adult charter school students in the mandate. While the introduced version of Bill 24-423 was not clear as to whether adult charter school students are included in the mandate, the Committee felt that it was important to clarify their inclusion in the Committee Print. Since it is presumed that adult charter school students were vaccinated against the other diseases laid out in the District’s vaccination laws, they are not included in those requirements. However, because COVID-19 is such a new virus, these students would not have been able to be vaccinated against it when they were younger. Given the deadly nature of COVID-19 and how quickly it spreads amongst unvaccinated individuals, the Committee felt that it was critical that adult public charter school students are included in the mandate. Hence their inclusion in the Committee Print.

Enforcement: The introduced version of Bill 24-423 began enforcement at the deadline included in that version – December 15, 2021. On the other hand, the Committee Print delays enforcement to SY 2022-2023. The Committee feels that this delay is necessary to allow families time to become comfortable vaccinating their children and adult students time to become comfortable with themselves being vaccinated, especially since the current penalty for not being vaccinated is removal from school. Under the District’s “No Shots, No School” policy, individuals who have not received the requisite vaccinations within the first 20 days of attending the school are not allowed to return to school until they are vaccinated.¹¹ Given the disparity in the current COVID-19 vaccination rates, this impact would be felt most by students of color, particularly Black students. As noted above and in the Racial Equity Impact Analysis,¹² individuals of color are currently more hesitant to be vaccinated against COVID-19. To address this disparity, the

¹⁰ See e.g. Jason Parish testimony.

¹¹ See D.C. Official § 38-505.

¹² Add cite.

Committee believes enforcement should be delayed until the beginning of next school year. This will schools to do more outreach with their families and the District to continue to try and persuade individuals to be vaccinated against COVID-19. At the October 27th hearing on Bill 24-423, the Committee requested that the Deputy Mayor for Education submit a plan to the Committee addressing how it will increase COVID-19 vaccination rates, as well as ensuring that the 24% of students who have not either submitted their routine childhood immunization certificates or received their routine childhood immunization do so. While the Committee has not received this plan to date, it is hopeful that more time will lead to higher immunization rates. Moreover, given the severe learning loss that occurred last year because of distance learning,¹³ students cannot afford to miss anymore school. Thus, the Committee believes delayed enforcement is in the best interests of students.

DOH Implementation Timeline: The introduced version of Bill 24-423 requires private physicians to transmit electronically COVID-19 immunization certificates to DOH beginning on December 15, 2021 and to send all other immunization certifications electronically beginning in SY 2022-2023. While the Committee Print keeps the electronic submission requirement, it does require electronic transmission of any immunization certifications to begin until SY 2022-2023. Despite DOH already planning to roll out this initiative in Spring 2022, the Committee wants to give DOH plenty of time to do so. Moreover, during the October 27th hearing, the Committee received testimony that LEAs would prefer any new requirements around this initiative not to begin until SY 2022-2023.¹⁴ This will allow them time to train their personnel and ensure that DOH has worked out all issues before being statutorily required to accept immunization certifications and to pass them on to LEAs.

Responsible Person Immunization Certification Waiver: While the introduced version of Bill 24-423 requires private physicians to transmit immunization certifications to DOH, it also still requires either parents (or adult students where appropriate) to submit immunization certificates to LEAs since they are the enforcement entities. The Committee Print retains this construct as a backstop in case private physicians forget to transmit or DOH fails to send electronically immunization certificates to LEAs. However, the Committee Print also clarifies that if the electronic submission requirements are met, then a parent's or adult student's immunization certification submission requirement is met. The Committee is hopeful that the new electronic submission procedure will lead to greater immunization compliance and lessen the burden on parents, students, and LEAs. Moreover, in order to eliminate duplicity, the Committee has included the aforementioned waiver

COVID-19 has upended life as we know it, and the only way the District can truly return to its pre-pandemic state is for everyone to become vaccinated against this deadly disease. Given that a vaccination mandate has been set for so many other groups of individuals, the Committee believes that requiring it for eligible students and reinforcing the mandate already in place for childcare workers in the District is a necessity. Such a mandate will save lives. Thus, the Committee recommends adoption of Bill 24-423 as amended.

¹³ Add cite.

¹⁴ Add cite.

II. LEGISLATIVE CHRONOLOGY

- October 4, 2021 Bill 24-423, the “Coronavirus Immunization of School Students and Early Childhood Workers Amendment Act of 2021” is introduced by Councilmembers Christina Henderson, Charles Allen, Brianne Nadeau, Elissa Silverman, and Janeese Lewis-George.
- October 5, 2021 Bill 24-423 is “read” at a legislative meeting; on this date the referral of the bill to the Committee of the Whole is official.
- October 8, 2021 Notice of Intent to Act on Bill 24-423 is published in the *District of Columbia Register*.
- October 8, 2021 Notice of a Public Hearing on Bill 24-423 is published in the *District of Columbia Register*.
- October 27, 2021 The Committee of the Whole holds a public hearing on Bill 24-423.
- December 7, 2021 The Committee of the Whole marks-up Bill 24-423.

III. POSITION OF THE EXECUTIVE

Paul Kihn, Deputy Mayor for Education (DME), testified on behalf of the Executive and expressed concern about a mid-year COVID-19 vaccination mandate. Specifically, DME Kihn’s concerns centered around three issues: 1) only full approval by the FDA of a COVID-19 vaccination for individuals 16 years and older; 2) the burden that a mid-year mandate could impose on schools; and 3) imposition of an immediate mandate for all students could discourage some families from sending their children due to vaccine hesitancy or other logistical challenges.

IV. COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS

Advisory Neighborhood Commission 3D submitted a statement in support of Bill 24-423.

V. SUMMARY OF TESTIMONY

The Committee of the Whole held a public hearing on Bill 24-423, on Wednesday, October 27, 2021. The testimony summarized below pertains to Bill 24-423. Copies of all written testimony are attached to this report.

Sandra Moscoso, Parent, District of Columbia Public Schools, testified in support of Bill 24-423. Ms. Moscoso also testified in her capacity as Vice President of the Ward 2 Education

Council and Secretary of the Ward 6 Public Schools Parent Organization and noted their support of the bill and of a COVID-19 vaccine mandate.

Heather Schoell, PTO President Eastern High School, testified in support of Bill 24-423. She stated that teachers at Eastern High School are exhausted and can only take high fatigue and intensity for so long. In her opinion, without a vaccine mandate, nothing will change, and change was needed over a year ago.

Shannon Hodge, Executive Director, DC Charter School Alliance, testified about careful considerations that she hoped the Council would contemplate before imposing a vaccine mandate. Specifically, Ms. Hodge noted that coordination and clarity would be critical to implementing a vaccine mandate successfully and that schools cannot bear the burden of enforcing student vaccine mandates.

Sharra Greer, Policy Director, DC Children's Law Center, testified in strong support of Bill 24-423. However, while Ms. Greer strongly supports a vaccine mandate, she did indicate that she is worried of the disparate impact on Black families who do not want to vaccinate their children and urged the Council to mitigate this impact.

Jason Parish, Parent, DCPS, testified in opposition to Bill 24-423. He indicated that if the bill pertained to students who were eligible for a COVID-19 vaccination that was approved under emergency use authorization, he believes the bill would run afoul of federal law and regulations. While he is vaccinated, he does not believe a mandate should be in place for small children when the only vaccination that would be immediately available is one that is authorized under emergency use.

Nikki D'Angelo, Democrats for Education Reform DC, testified in support of Bill 24-423. However, Ms. D'Angelo did articulate a few concerns: 1) the impact on students who did not become vaccinated and whether they would be removed from school this school year; 2) whether the mandate would pertain to children ages 5-11 years old; and 3) who would bear the responsibility of providing vaccinations – schools, pediatricians, or DOH.

Dr. Claire Boogaard, Medical Director, COVID-19 Vaccine Program, Children's National Hospital, testified in support of the COVID-19 vaccination and about Children's National's efforts to vaccinate children against COVID-19. She did enumerate three items that she believes the Council needs to consider in drafting Bill 24-423: 1) capacity of the healthcare system to meet the vaccination demand; 2) the need for families to be able to access trusted experts in making their decisions about vaccinating their children; and 3) the need for the COVID-19 vaccination to be added to the already existing immunization registry to ensure all those who care for children have access to accurate and up-to-date information.

Kelly Smith, Chief Operating and Finance Officer, Perry Street Preparatory Public Charter School, testified in support of Bill 24-423 but urged the Council to reconsider the timeline outlined in the bill. She indicated that for the bill to be effective, schools need access to clinicians and health educators for families to consult and that the burden cannot fall solely on schools' shoulders.

David Sipose, Sophomore, School Without Walls High School, testified in support of Bill 24-423. He indicated that he believes that vaccine mandates are the most powerful and effective tools to fight COVID-19 and are needed in the District.

Valerie Jablow, Public Witness, testified in support of Bill 24-423. She testified as to the need for a COVID-19 vaccination and requested that a vaccine be mandated for all eligible students.

Scott Goldstein, Executive Director, EmpowerEd, testified in support of Bill 24-423. He stated that it a moral imperative to ensure that all children have access to the vaccine in all parts of the city as soon as possible. Additionally, he urged creativity in messaging to parents to convince them vaccinate their children.

Claudia Silva-Ruschel, Director of Family & Community Engagement, Latin American Montessori Bilingual (LAMB) PCS, testified that schools need to be included in the system and the need to vaccinate students should be seen as a city issue and not just a school issue. She noted that she did not want a mandate to stand in the way of school success.

Benjamin Bergmann, Commissioner, Public Witness, testified in strong support of Bill 24-423. Additionally, he noted that while ANC 3D had not yet taken a position on Bill 24-423 at the time of the hearing, it had unanimously approved a resolution in September that asked the Mayor to amend her August 10th order to require public school teachers and childcare workers to be fully vaccinated against COVID-19.

Dr. Sarah Raskin, Public Witness, offered corrective testimony (in response to earlier testimony from another witness) on VAERS. Additionally, she testified the need for the city to have a plan to roll out the COVID-19 vaccine for children ages 5-11 years old before focusing on a vaccine mandate.

Matthew Grace, Public Witness, testified in opposition to Bill 24-423. He enumerated several reasons that he is opposed to the vaccine mandate, particularly for children for which only a EUA vaccine is available.

VI. IMPACT ON EXISTING LAW

Bill 24-423 amends the Immunization of School Students Act of 1979, effective September 28, 1979 (D.C. Law 3-20; D.C. Official Code § 38-501 *et seq.*). This bill amends several sections of D.C. Law 3-20. Specifically, it mandates students who are eligible for a fully approved COVID-19 immunization and childcare workers in the District be fully vaccinated against COVID-19. Additionally, beginning with School Year 2022-2023, the bill directs private physicians who provide both routine childhood immunizations and the COVID-19 vaccine to submit immunization certificates electronically to the District's Department of Health (DOH) and then for DOH to transmit those immunization certificates to a student's local education agency (LEA). If DOH is providing the immunization, then DOH is also to transmit the immunization certification to a student's LEA. Further, while Bill 24-423 requires eligible students to be fully vaccinated by

March 1, 2022, enforcement of this requirement does not have to begin until School Year 2022-2023. Given that Mayor's Order 2021-109 already requires childcare workers to be fully vaccinated against COVID-19 by November 1, 2021, this bill simply codifies this requirement permanently in the District's childcare regulations.

VII. FISCAL IMPACT

VIII. SECTION-BY-SECTION ANALYSIS

<u>Section 1</u>	Short title.
<u>Section 2</u>	<i>Subsection (a)</i> amends Section 2 (D.C. Official Code § 38-501) to add the definitions of "COVID-19" and to update the definition of "school" to include public charter schools. <i>Subsection (b)</i> includes the requirement for private physicians to transmit immunization certifications electronically beginning with School Year 2022-2023 to the Department of Health (DOH) and then for DOH to transmit those certificates to local education agencies (LEA). If DOH provides the immunization, then it must transmit the immunization certificates to LEAs. <i>Subsection (c)</i> adds a new subsection (3a), which requires eligible students to be vaccinated against COVID-19 beginning in March 1, 2022. However, it delays enforcement until SY 2022-2023. It also clarifies that electronic submission of immunization certificates in accordance with Section 3(b) satisfies the responsible person's obligation to submit a COVID-19 immunization certificate. <i>Subsection (d)</i> notes that the Mayor cannot issue regulations that conflict with the requirements of section 3a.
<u>Section 3</u>	Amends Chapter 1 of Subtitle A of the District of Columbia Municipal Regulations (5-A DCMR § 100 <i>et seq.</i>) to require childcare providers to be fully vaccinated against COVID-19. It also requires childcare licensees to maintain records demonstrating their employees' compliance with this requirement or the reason for their exemption. Further, it adds the definitions of "certification of COVID-19 immunization," "COVID-19 immunization" and "public health authorities" to the childcare regulations.
<u>Section 4</u>	Fiscal Impact Statement
<u>Section 5</u>	Effective date

IX. COMMITTEE ACTION

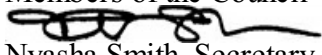
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X. ATTACHMENTS

1. Bill 24-423 as introduced.
2. Written Testimony.
3. Fiscal Impact Statement for Bill 24-423.
4. Legal Sufficiency Determination for Bill 24-423.
5. Comparative Print for Bill 24-423.
6. Committee Print for Bill 24-423.

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington D.C. 20004

Memorandum

To : Members of the Council
From :  Nyasha Smith, Secretary to the Council
Date : Monday, October 4, 2021
Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Office of the Secretary on Monday, October 04, 2021. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Coronavirus Immunization of School Students and Early Childhood Workers Amendment Act of 2021", B24-0423

INTRODUCED BY: Councilmembers Henderson, Allen, Cheh, Nadeau, Silverman, and Lewis George

CO-SPONSORED BY: Councilmember Pinto

The Chairman is referring this legislation to Committee of the Whole.

Attachment
cc: General Counsel
Budget Director
Legislative Services

Statement of Introduction
Coronavirus Immunization of School Students and
Early Childhood Workers Amendment Act of 2021
Councilmember Christina Henderson
October 4, 2021

Today, along with Councilmembers Brianne Nadeau, Charles Allen, Elissa Silverman, Janeese Lewis George and Mary Cheh, I am introducing the Coronavirus Immunization of School Students and Early Childhood Workers Amendment Act of 2021. This bill will require all eligible school students and employees of licensed child development facilities in the District of Columbia to be vaccinated against COVID-19, with an allowable religious or medical exemption. Further, the legislation allows for the electronic submission of certification of all required childhood immunizations, including COVID-19.

The start of the 2021-2022 school year has been met with anxiety among many students, parents, and school communities given concerns about in-person learning and the spread of COVID-19. There are also concerns about the efficacy of the District's COVID school testing program—during the week of September 21, 2021, only 8.7% of students were tested, below the District's goal of testing between 10% and 20% of the student population each week.

As of September 30, 2021, 184 District of Columbia Public Schools (DCPS) personnel had tested positive and 182 were in quarantine. Additionally, 506 students have tested positive, with 633 currently in quarantine. These numbers understandably contribute to family and community anxiety about in-person learning, particularly since testing remains below target.

On September 20, 2021, the mayor issued Mayor's Order 2021-109 which, among other things, includes a vaccination requirement for all student athletes 12 years old and older. While this is a step in the right direction, many students participate in non-athletic extra-curricular activities that involves close contact with peers, or spend extended periods of time in confined spaces. Students who do not participate in sports or extra-curricular activities are just as much at risk of contracting the coronavirus as those who do, which requires a broader vaccination mandate. We already require minors to receive a number vaccines against various diseases as a condition of attending public school and childcare centers in the District. This would simply be an extension of that practice.

In the same Mayor's Order, a provision was included to require the vaccination of employees of childcare facilities in the District of Columbia to help minimize the exposure of students and children not yet eligible for a vaccine, and reduce the need for quarantine. This legislation provides additional legal support for that provision of the Mayor's Order through an annual staff vaccination certification requirement. The District currently requires all childcare workers to receive an annual physical and tuberculosis (TB) test as a condition of employment. This would simply expand upon those requirements.

Additional points to highlight from the Mayor's Order:

- The District's new daily case rate rose from under five (5) cases per 100,000 in May, June and July to over thirty (30) in mid-September, 2021.

- Unvaccinated persons are much more likely to contract COVID-19 than vaccinated persons and are more likely to spread COVID-19 to other persons. Therefore, the presence of unvaccinated persons in schools, childcare centers, and on the athletic fields creates substantial risks to the health of students, and is a particularly acute risk for children under 12, who are not yet eligible to receive a COVID-19 vaccine. The presence of unvaccinated persons also threatens the confidence of parents and guardians to send their children to schools, childcare centers and to register their children for sports, which add to healthy physical and social development. The presence of unvaccinated persons, who are more likely to contract COVID-19, also leads to an increased need to quarantine students due to COVID-19 exposures, and to provide remote learning, impairing educational attainment and hampering the efficient and effective operation schools and childcare centers.
- Children in states with low vaccination rates are four times more likely to be hospitalized than their peers in states with high vaccination rates. Still, over 50% of District youth ages 12-17 years old who are eligible for vaccination have not yet received their first shot and 20% of District adults ages 18 and up have not yet received their first shot and coverage in young Black residents is lower than in other ages and races.

School and early childcare communities are understandably concerned about uncertainties surrounding the Delta variant, unvaccinated peers, and the scale of the testing program. A vaccination mandate will help advance the goals stated in the Mayor's order to decrease exposures, the need for quarantine, and provision of remote learning, while increasing the efficient and effective operation of schools and child care centers.

The legislation also reduces a bureaucratic burden on parents and legal guardians by allowing physicians to directly submit certification of immunization electronically to the DC immunization database. This would start with the vaccine for the 2019 novel coronavirus (SARS-CoV-2) and expands to all required immunizations at the start of the 2022-2023 school year. This streamlines this annual reporting requirement, utilizes modern technology, and reduces stress on our families and students.

I look forward to working with my colleagues to quickly move this legislation and protect our students and school communities from further spread of COVID-19 and protect the health of DC residents.

1 Brianne K. Nadeau

2 Councilmember Brianne K. Nadeau

3 Christina Henderson

4 Councilmember Christina Henderson

5 Elissa Silverman

6 Councilmember Elissa Silverman

7 Charles Allen

8 Councilmember Charles Allen

9 Janeese Lewis George

10 Councilmember Janeese Lewis George

11 Mary M. Cheh

12 Councilmember Mary M. Cheh

13
14
15 A BILL

16
17 _____
18
19 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
20
21 _____
22
23

24 To amend the Immunization of School Students Act of 1979 to require vaccination against
25 the 2019 novel coronavirus (SARS-CoV-2) for all eligible students in the District of
26 Columbia, and to allow for electronic submission of certification of immunization by
27 private physicians; and to amend Chapter 5-A1 of Title 5 of the District of Columbia
28 Code of Municipal Regulations to require all employees of licensed Child Development
29 Facilities to submit annual certification of vaccination against the 2019 novel coronavirus
30 (SARS-CoV-2).
31

32 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
33 act may be cited as the “Coronavirus Immunization of School Students and Early Childhood
34 Workers Amendment Act of 2021”.

35 Sec. 2. The Immunization of School Students Act of 1979, effective September 28, 1979
36 (D.C. Law 3-20; D.C. Official Code § 38-501 *et seq.*) is amended as follows:

37 (a) Section 2(d) (D.C. Official Code § 38-501(4)) is amended by striking the phrase
38 “rubella, measles, and mumps” and inserting the phrase “rubella, measles, mumps, and novel
39 coronavirus (SARS-CoV-2)” in its place.

40 (b) Inserting new sections 3a and 3b to read as follows:

41 “Sec. 3a. Vaccination of school students against COVID-19.

42 “(a) Beginning December 15, 2021, and every school year thereafter, the responsible
43 person for a student who attends a District public, public charter, independent, private, or
44 parochial school and is deemed eligible to receive a vaccine for the 2019 novel coronavirus
45 (SARS-CoV-2) by the Food and Drug Administration shall be required to submit a certification
46 of immunization:

47 “(1) That the child has received a full course of vaccination against the 2019
48 novel coronavirus (SARS-CoV-2); or

49 “(2) That the child has not received a full course of vaccination against 2019
50 novel coronavirus (SARS-CoV-2) because:

51 “(A) The responsible person has objected in good faith and in writing
52 pursuant to procedures established by the Mayor or his or her designee, at which the child
53 intends to enroll, that the vaccination would violate sincerely held religious beliefs; or

54 “(B) The child’s private physician, his or her representative, or the public
55 health authorities have provided written certification that the vaccination is medically
56 inadvisable.

57 “(b) The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure
58 Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue
59 rules to implement the provisions of subsection (a).”

60 “Sec. 3b. Electronic certification of immunization.

61 “(a) Beginning December 15, 2021:

62 “(1)(A) Certification of immunization for the 2019 novel coronavirus (SARS-
63 CoV-2) for a student provided by a private physician shall be submitted electronically to the
64 public health authorities; and

65 “(B) The public health authorities shall electronically transmit the
66 certification of immunization to the student’s local education agency.

67 “(2) Certification of immunization for the 2019 novel coronavirus (SARS-CoV-2)
68 for a student provided by the public health authorities shall be electronically transmitted to the
69 student’s local education agency.

70 “(b) Beginning with the start of school year 2022-2023:

71 “(1)(A) All certification of immunizations provided by a private physicians shall
72 be submitted electronically to the public health authorities; and

73 “(B) The public health authorities shall electronically transmit the
74 certification of immunization to the student’s local education agency.

75 “(2) All certification of immunization for a student provided by the public health
76 authorities shall be electronically transmitted to the student’s local education agency.”

77 Sec. 3. Section 137 of Subtitle A of Title 5 of the District of Columbia Municipal
78 Regulations (5-A DCMR § 137) is amended by adding a new subsection 5-A137.5 to read as
79 follows:

80 “137.5 A Licensee’s staff members shall provide written certification at least annually:

81 “(a) That the staff member has received a full course of vaccination against the 2019
82 novel coronavirus (SARS-CoV-2); or

83 “(b) That the staff member has not received a full course of vaccination against the 2019
84 novel coronavirus (SARS-CoV-2) because the staff member has requested an exemption for
85 either of the following reasons:

86 “(1) The staff member has objected in good faith and in writing pursuant to
87 procedures established by OSSE that the vaccination would violate his or her sincerely held
88 religious beliefs; or

89 “(2) The staff member’s private physician, or his or her representative, or the
90 Department of Health has provided written certification that the vaccination is medically
91 inadvisable.”.

92 Sec. 4. Fiscal impact statement.

93 The Council adopts the fiscal impact statement in the committee report as the fiscal
94 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
95 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

96 Sec. 5. Effective date.

97 This act shall take effect following approval by the Mayor (or in the event of veto by the
98 Mayor, action by Council to override the veto), a 30-day period of congressional review as
99 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
100 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
101 Columbia Register.

10
11 A BILL

12
13 24-423
14

15 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
16
17 _____
18
19

20 To amend the Immunization of School Students Act of 1979 to allow for electronic submission
21 of immunization certifications by private physicians or the public health authorities and
22 to require that eligible students in the District of Columbia receive a vaccination that is
23 fully approved in the United States to prevent against COVID-19; and to amend Chapter
24 1 of Subtitle A of Title 5 of the District of Columbia Municipal Regulations to require all
25 licensed Child Development Facilities to maintain a record of COVID-19 immunization
26 for their staff.
27

28 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
29 act may be cited as the “Coronavirus Immunization of School Students and Early Childhood
30 Workers Regulation Amendment Act of 2021”.

31 Sec. 2. The Immunization of School Students Act of 1979, effective September 28, 1979
32 (D.C. Law 3-20; D.C. Official Code § 38-501 *et seq.*), is amended as follows:

33 (a) Section 2 (D.C. Official Code § 38-501) is amended as follows:

34 (1) A new paragraph (2A) is added to read as follows:

35 “(2A) The term “COVID-19” means the disease caused by the novel coronavirus
36 SARS-CoV-2.”.

37 (2) Paragraph 8(A) is amended to read as follows:

38 “(A) A District of Columbia Public Schools school or a public charter school
39 serving any grades pre-K through 12;”.

40 (b) Section 3 (D.C. Official Code § 38-502) is amended as follows:

41 (1) Designate the undesignated text as subsection (a).

42 (2) A new subsection (b) is added to read as follows:

43 “(b) Beginning with School Year 2022-2023:

44 “(1) All certifications of immunization provided by a private physician shall
45 be submitted electronically to the public health authorities, which shall electronically transmit
46 the certifications of immunization to the student’s local education agency.

47 “(2) All certifications of immunization for a student provided by the public health
48 authorities shall be electronically transmitted to the student’s local education agency.”.

49 (c) A new section 3a is added to read as follows:

50 “Sec. 3a. Certification of COVID-19 immunization.

51 “(a)(1) Beginning March 1, 2022, and every school year thereafter, a responsible person
52 for a student shall be required to submit to the school to which the student is admitted or is
53 seeking admission:

54 “(A) A certification of COVID-19 immunization for the student; or

55 “(B) The documentation required pursuant to section 7 demonstrating that
56 the student is exempt from COVID-19 immunization.

57 “(2) No student shall be admitted by a school unless the school has certification of
58 COVID-19 immunization for that student, or unless the student is exempted pursuant to section
59 7; provided that this paragraph shall not be enforced until the start of School Year 2022-2023.

60 “(3) Sections 5 and 6 shall apply to a student for whom a school does not have a
61 certification of COVID-19 immunization; provided, that section 6 shall not be enforced with
62 respect to certification of COVID-19 immunization until the start of School Year 2022-2023.

63 “(b) Notwithstanding subsection (a) of this section, if a student has not attained an age for
64 which a COVID-19 vaccine is available, a responsible person for the student shall have 70 days
65 from the date the COVID-19 vaccine becomes available to the student, either by action of the
66 U.S. Food and Drug Administration or the occurrence of the student’s birthday, to submit
67 certification of COVID-19 immunization.

68 “(c) Electronic submission of a student’s certification of COVID-19 immunization by a
69 private physician or a public health authority in accordance with section 3(b) of this act shall
70 satisfy the requirement, in subsections (a) and (b) of this section, that a responsible person for the
71 student submit the certification.

72 “(d) For the purposes of this section the term:

73 “(1) “Certification of COVID-19 immunization” means written certification by a
74 private physician, his or her representative, or the public health authorities that the student has
75 received COVID-19 immunization, which may include a copy of the student’s Centers for
76 Disease Control and Prevention COVID-19 Vaccination Record Card reflecting COVID-19
77 immunization.

78 “(2) “COVID-19 immunization” means initial immunization and any boosters or
79 reimmunization required to maintain immunization against COVID-19, in accordance with the
80 immunization standards issued by the public health authorities pursuant to this chapter.

81 “(3) “COVID-19 vaccine” means a vaccine against COVID-19 for which the U.S.

82 Food and Drug Administration has granted full approval as opposed to emergency use
83 authorization.

84 “(4) “School” means:

85 “(A) A District of Columbia Public Schools school;

86 “(B) A public charter school; or

87 “(C) An independent, private, or parochial school serving any grades pre-
88 K through 12.

89 “(4) “Student” means an individual who is 3 years of age or older who seeks
90 admission to a school or for whom admission is sought by a responsible person.

91 (d) Section 4 (D.C. Official Code § 38-505) is amended by striking the period and
92 inserting the phrase “; provided, that the Mayor may not issue regulations that conflict with the
93 requirements of section 3a.”.

94 Sec. 3. Chapter 1 of Subtitle A of Title 5 of the District of Columbia Municipal
95 Regulations (5-A DCMR § 100 *et seq.*), is amended as follows:

96 (a) Section 137 (5-A DCMR § 137) is amended by adding a new subsection 137.5 to read
97 as follows:

98 “137.5 A Licensee shall maintain, and update at least annually, a record of COVID-19
99 immunization for each of its staff members, which shall consist of a written certification of
100 COVID-19 immunization or a written determination, with supporting documentation, that the
101 Licensee granted the staff member an exemption from COVID-19 immunization based on one of
102 the following reasons:

103 “(a) the staff member objected, in good faith and in writing pursuant to
104 procedures established by OSSE, that the vaccination would violate his or her sincerely held
105 religious beliefs; or

106 “(b) the staff member’s private physician, or his or her representative, or the
107 Department of Health has provided written certification that COVID-19 vaccination is medically
108 inadvisable for the staff member.”.

109 (b) Section 199.1 (5-A DCMR § 199.1) is amended as follows:

110 (1) The definition “Certification of COVID-19 immunization” is added to read as
111 follows:

112 ““Certification of COVID-19 immunization” -- written certification by a private
113 physician, his or her representative, or the public health authorities that an individual has
114 received COVID-19 immunization, which may include a copy of the individual’s Centers for
115 Disease Control and Prevention COVID-19 Vaccination Record Card reflecting COVID-19
116 immunization.”.

117 (2) The definition “COVID-19 immunization” is added to read as follows:

118 ““COVID-19 Immunization” -- initial immunization and any boosters or
119 reimmunization required to maintain immunization against the disease caused by the novel
120 coronavirus SARS-CoV-2 (COVID-19) in accordance with the immunization standards issued
121 by the public health authorities.”.

122 (3) The definition “public health authorities” is added to read as follows:

123 ““Public Health Authorities” -- the official or officials of the executive branch of
124 the government of the District of Columbia designated by the Mayor pursuant to the

125 Immunization of School Students Act of 1979, effective September 28, 1979 (D.C. Law 3-20;
126 D.C. Official Code § 38-501 *et seq.*).”.

127 Sec. 4. Fiscal impact statement.

128 The Council adopts the fiscal impact statement in the committee report as the fiscal
129 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
130 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

131 Sec. 5. Effective date.

132 This act shall take effect following approval by the Mayor (or in the event of veto by the
133 Mayor, action by Council to override the veto), a 30-day period of congressional review as
134 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
135 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
136 Columbia Register.