

ADMINISTRATIVE REPORT

DATE:	December 29, 2021
TOPIC:	#7.4 - Vaccination, Testing and Face Covering Policy
PRESENTER:	Julie Nielsen, Superintendent
REFERENCE TO POLICY/STATUTE:	Policy 208: Development, Adoption and Implementation of Policies and Occupational Safety and Health Administration's Emergency Temporary Standard on Vaccination & Testing (29 CFR Part 1910, Subpart U)

1. PURPOSE OF REPORT

- a. In November 2021, the Federal Occupational Safety and Health Administration ("OSHA") announced an Emergency Temporary Standard ("ETS") mandating that employers with 100 or more employees require employees to be vaccinated against COVID-19 or undergo weekly testing and wear face coverings. Since Minnesota has an OSHA-approved occupational safety and health program ("MNOSHA"), the adopted standard will cover state and local government employers with 100 or more employees, including school districts. Minn. Stat. § 182.651, subd. 7. (raswlaw)
- b. The OSHA ETS has been subject to ongoing litigation. After the Fifth Circuit Court of Appeals temporarily halted the ETS requirement on November 6, 2021, effectively stopping enforcement of the ETS, similar challenges to the ETS quickly arose in federal circuits throughout the United States. Pursuant to court rules designed to prevent inconsistent legal rulings across the country, all of the legal challenges to the ETS were assigned to the Sixth Circuit Court of Appeals. On December 17, 2021, the Sixth Circuit Court of Appeals dissolved the stay issued by the Fifth Circuit. This decision effectively allowed OSHA to continue with its plans to enforce the ETS. (raswlaw)



- c. Those parties objecting to the ETS asked the Supreme Court of the United States to prevent OSHA from enforcing the ETS. The Supreme Court will now hear oral arguments about the stay on January 7, 2022. The Supreme Court may not release a decision until the following week or later.

- d. Minnesota school districts with 100 or more employees will need to comply with this OSHA requirement.

2. **RECOMMENDATION**

- a. Administration is seeking approval according to Policy 208 – Section C.

