

December 10, 2021

**NOTICE OF THIRD AMENDED JCPH ORDER 21-002 REQUIRING  
REGULAR TESTING FOR UNVACCINATED INDIVIDUALS IN PRE-K  
THROUGH GRADE 12 SCHOOL AND CHILDCARE SETTINGS (JCPHO 21-002)**

Pursuant to Colorado Revised Statutes (“C.R.S”) §§25-1-506, 508, and 509, Jefferson County Public Health (“JCPH”) issues this Jefferson County Public Health Order 21-002 Requiring Regular Testing for Unvaccinated Individuals in Pre-K Through Grade 12 School and Childcare Settings.

The Jefferson County Public Health Department (“JCPH”) is working to stop the spread of Coronavirus 2019 (“COVID-19”). To support this effort, I find it necessary to implement emergency measures to require Unvaccinated individuals working or providing services in schools and childcares, and Unvaccinated students and adults participating in school-based extracurricular activities, to undergo regular testing for COVID-19.

This Third Amended JCPH Order 21-002 changes the end date of the order, based on the reasons set out below.

**FINDINGS AND NECESSITY OF ORDER**

**A. Jurisdiction and Authority**

JCPH has public health jurisdiction over Jefferson County, Colorado (“Jefferson County”), including all cities and towns therein. In furtherance of its jurisdiction, JCPH has the power and duty to investigate and control the causes of epidemic or communicable diseases and conditions affecting the public health within Jefferson County, as well as the power and duty to close schools and public places and to prohibit gatherings of people when necessary to protect public health, and to establish, maintain, and enforce isolation and quarantine, and in pursuance thereof, to exercise physical control over property and over persons within Jefferson County as JCPH may find necessary for the protection of public health.

**B. The COVID-19 Virus and the Delta Variant**

COVID-19 was first detected in Wuhan, China in late 2019, and since then has spread to over 213 countries, including the United States.

COVID-19 is a respiratory illness transmitted like other respiratory illness primarily through person-to-person contact via respiratory droplets or aerosols.<sup>1</sup> Persons infected with COVID-19 may become symptomatic anywhere from 2 to fourteen 14 days after exposure. Symptoms include fever, cough or shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache,

<sup>1</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, *Transmission* (July 12, 2021), available at, <https://www.cdc.gov/coronavirus/2019-ncov/transmission/index.html>

new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, diarrhea, and other symptoms.<sup>2</sup> Persons infected with COVID-19 may be asymptomatic yet still able to transmit the virus. Individuals with serious chronic health conditions and older adults are most at risk for becoming very ill with this disease but unvaccinated individuals of all ages are at high risk of infection.

The Colorado Department of Public Health and Environment (“CDPHE”) first detected the Delta variant of the SARS-CoV-2 virus in Colorado the week of April 18, 2021. As of September 19, 2021, the Delta variant constituted 100% of all COVID-19 tests sampled for the variant in Colorado.<sup>3</sup>

Due to the recent surge of Delta variant COVID-19 cases, it is now estimated that more than 80% of the population must be vaccinated to achieve herd immunity due to the high rate of transmissibility of the Delta variant.<sup>4</sup> The Centers for Disease Control and Prevention (“CDC”) reports that the Delta variant is twice as contagious as previous variants and the greatest risk of transmission is among unvaccinated people who are much more likely to contract, and therefore transmit, the virus.<sup>5</sup> Some data suggests that the Delta variant may cause more severe illness than previous strains of the virus in unvaccinated persons.<sup>6</sup> Immunocompromised individuals are at an increased risk of serious, prolonged illness due to COVID-19, even after vaccination.<sup>7</sup> Moreover, fully vaccinated people with Delta variant breakthrough infections can spread the virus to others, although vaccinated people appear to be infectious for a shorter period of time.<sup>8</sup>

Certain areas of the United States have now exceeded, or are close to exceeding, hospital and ICU capacity in light of the surge of cases. The current 7-day average of hospitalizations for patients with confirmed cases of COVID-19 for November 9 through November 15, 2021 is 1,440.<sup>9</sup> This is a 7.6% increase over the previous 7-day average for the period of November 2 through November 8, 2021, which was 1,338.<sup>10</sup> In Jefferson County, the 14-day average hospitalization

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<sup>2</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, *Symptoms of COVID-19* (February 22, 2021), available at <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>

<sup>3</sup> COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, *Colorado COVID-19 Data*, available at, <https://covid19.colorado.gov/data> (last visited September 23, 2021).

<sup>4</sup> INFECTIOUS DISEASES SOCIETY OF AMERICA, *Media Briefing: Vaccines, the Delta Variant, and Chasing Herd Immunity* (August 3, 2021), available at <https://www.idsociety.org/multimedia/videos/idsa-media-briefing-vaccines-the-delta-variant-and-chasing-herd-immunity/>

<sup>5</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, *Delta Variant: What We Know About the Science* (August 26, 2021), available at <https://www.cdc.gov/coronavirus/2019-ncov/variants/delta-variant.html>

<sup>6</sup> *Id.*

<sup>7</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, *COVID Data Tracker Weekly Review: Easy as 1-2-3* (August 27, 2021), available at <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/covidview/past-reports/08272021.html>

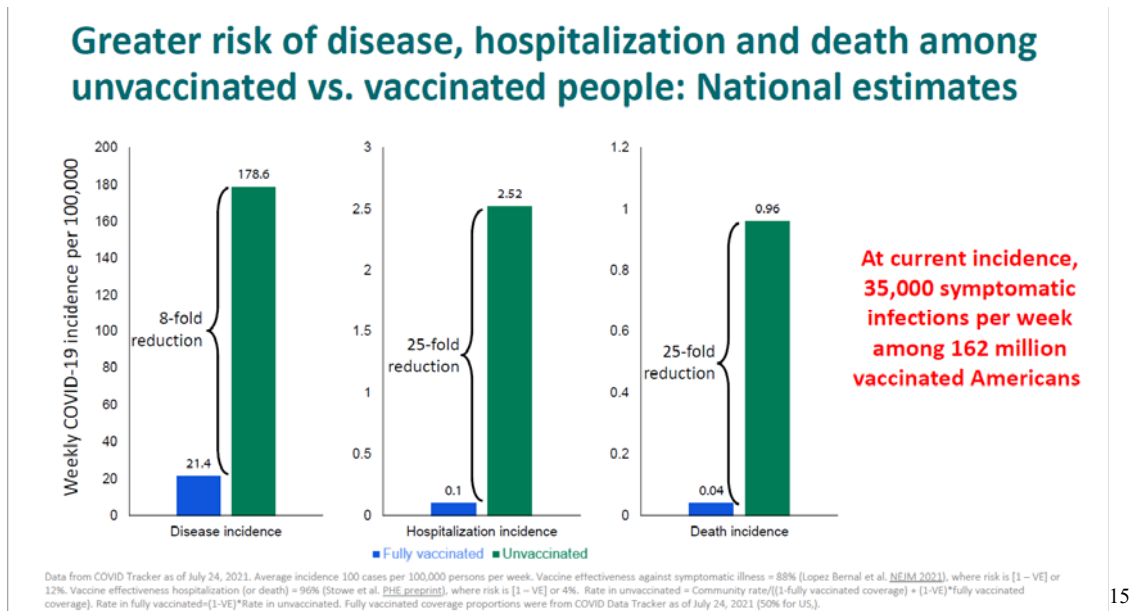
<sup>8</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, *Delta Variant: What We Know About the Science* (August 26, 2021), available at <https://www.cdc.gov/coronavirus/2019-ncov/variants/delta-variant.html>

<sup>9</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, *COVID Data Tracker: Prevalent Hospitalizations of Patients with Confirmed COVID-19, Colorado* (Aug 01, 2020 – November 15, 2021), available at, <https://covid.cdc.gov/covid-data-tracker/#hospitalizations> (last visited November 18, 2021).

<sup>10</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, *COVID Data Tracker: Prevalent Hospitalizations of Patients with Confirmed COVID-19, Colorado* (Aug 01, 2020 – November 15, 2021), available at, <https://covid.cdc.gov/covid-data-tracker/#hospitalizations> (last visited Nov. 18, 2021).

rate for the period of November 1 through November 15, 2021 is 2.41 per 100,000.<sup>11</sup> This is a substantial increase from the period of June 28 through July 12, 2021, when the 14-day average hospitalization rate was 0.26 per 100,000.<sup>12</sup>

In Colorado, as of November 18, 2021, fully vaccinated individuals were 3.9 times less likely to become a COVID case, 10 times less likely to be hospitalized for COVID, and 13.4 times less likely to die from COVID than unvaccinated individuals.<sup>13</sup> Additionally, the median age of unvaccinated hospitalizations was 58 compared to the median age of vaccinated hospitalizations which was 73.<sup>14</sup>



Comparison of Transmissibility of Diseases by Basic Reproductive Number ( $R_0$ ) <sup>16</sup>		
Disease	Transmission	$R_0$
Measles	Airborne	12-18
COVID-19 Delta	Airborne Droplet	5-9
Diphtheria	Saliva	6-7

<sup>11</sup> JEFFERSON COUNTY PUBLIC HEALTH, *COVID-19 Case Summary* (Nov. 15, 2021), available at <https://www.jeffco.us/4007/Case-Summary>

<sup>12</sup> JEFFERSON COUNTY PUBLIC HEALTH, *OPR COVID19 Indicators 27* (July 19, 2021).

<sup>13</sup> COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, *Vaccine Breakthrough*, available at <https://covid19.colorado.gov/vaccine-breakthrough> (last visited Nov. 18, 2021).

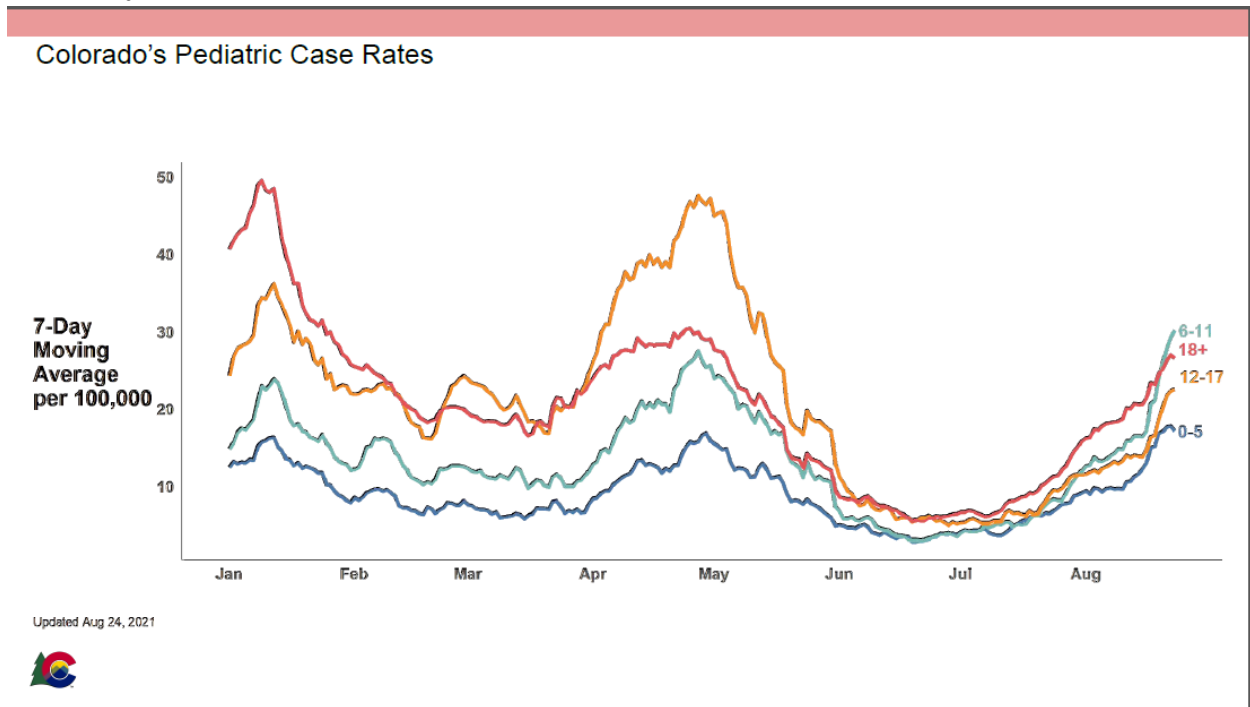
<sup>14</sup> COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, *Vaccine Breakthrough*, available at <https://covid19.colorado.gov/vaccine-breakthrough> (last visited Nov. 18, 2021).

<sup>15</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, *Improving Communications Around Vaccine Breakthrough and Vaccine Effectiveness* (July 29, 2021).

<sup>16</sup> COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, *Hot Topics in Communicable Disease Epidemiology* (Originally presented on February 13, 2021), Updated on August 15, 2021.

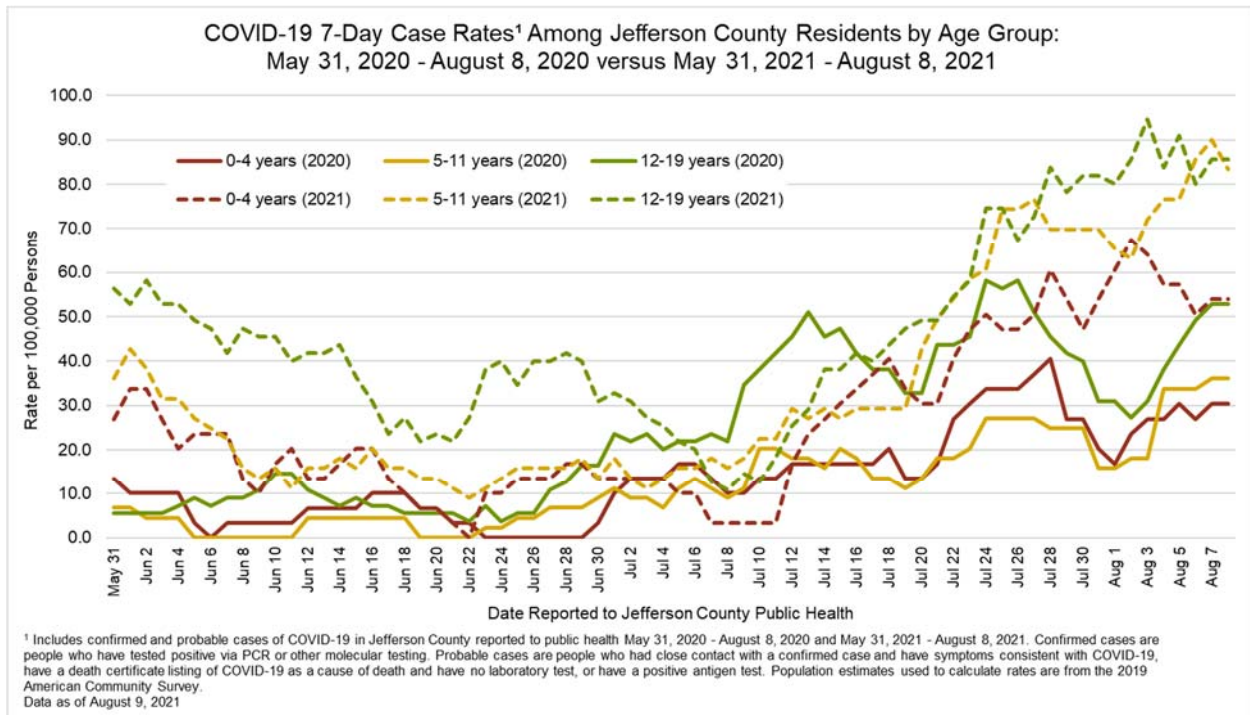
Smallpox	Airborne Droplet	5-7
Polio	Fecal-Oral route	5-7
Rubella	Airborne Droplet	5-7
Mumps	Airborne droplet	4-7
HIV/AIDS	Sexual Contact	2-5
Pertussis	Airborne Droplet	5.5
SARS	Airborne Droplet	2-5
Influenza (1918 Pandemic)	Airborne Droplet	2-3
COVID-19 Ancestral	Airborne Droplet	1.5-3.0
Ebola (2014 outbreak)	Bodily Fluids	1.5-2.5

Children are impacted by COVID-19 as shown in the chart below comparing the fourteen (14)-day incident rates for children ages 0-4, 5-11, and 12-19 for two time periods, summer of 2021 (dashed lines) and summer of 2020 (solid line).<sup>17</sup> The graph demonstrates that the spread of the virus was accelerating rapidly among the 5-11 and 12-19 age groups. Further, among all age groups of children, rates were higher as we entered the 2021 Fall semester than they were at that point in time last year. Additionally, at the end of August, the COVID-19 7-day average case rate among 6-11 year olds was higher than the rate among any other age group, including adults, for the first time in 2021.<sup>18</sup>



<sup>17</sup> Includes confirmed and probable cases of COVID-19 in Jefferson County reported to public health. Confirmed cases are people who have tested positive via PCR or other molecular testing. Probable cases are people who had close contact with a confirmed case and have symptoms consistent with COVID-19, have a death certificate listing COVID-19 as a cause of death and have no laboratory test of have a positive antigen test. Population estimates used to calculate rates are from the 2019 American Community Survey. Data accessed August 9, 2021.

<sup>18</sup> COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT Aug. 25, 2021 LPHA Director's Epi Update at p.5.



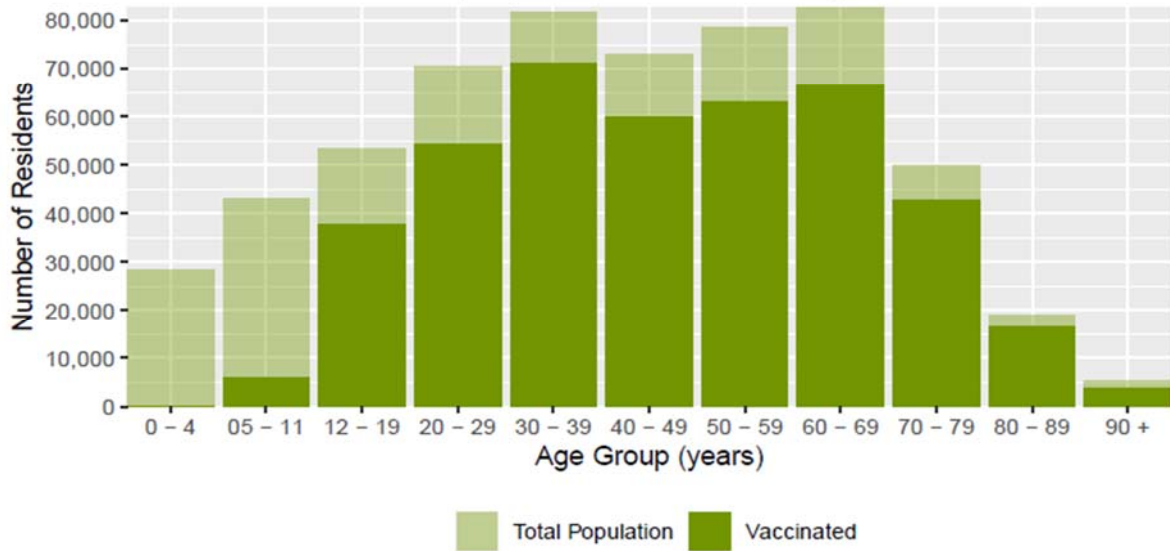
Age Range	COVID-19 7-Day Case Rate August 8, 2020	COVID-19 7-Day Case Rate August 8, 2021	Percentage Increase 2021 v. 2020
0-4 years	30.3	53.9	<b>77.8%</b>
5-11 years	36.0	83.3	<b>131.3%</b>
12-19 years	52.8	85.5	<b>62.1%</b>

While the COVID-19 vaccines are currently available to all Coloradoans aged 5 and older, as of November 15, 2021, in Jefferson County, 75.6% of the eligible population and 72.0% of the total population has received at least 1 vaccine dose as of November 14, 2021; this is still short of the percentage of the population needed to reach herd immunity.<sup>19</sup>

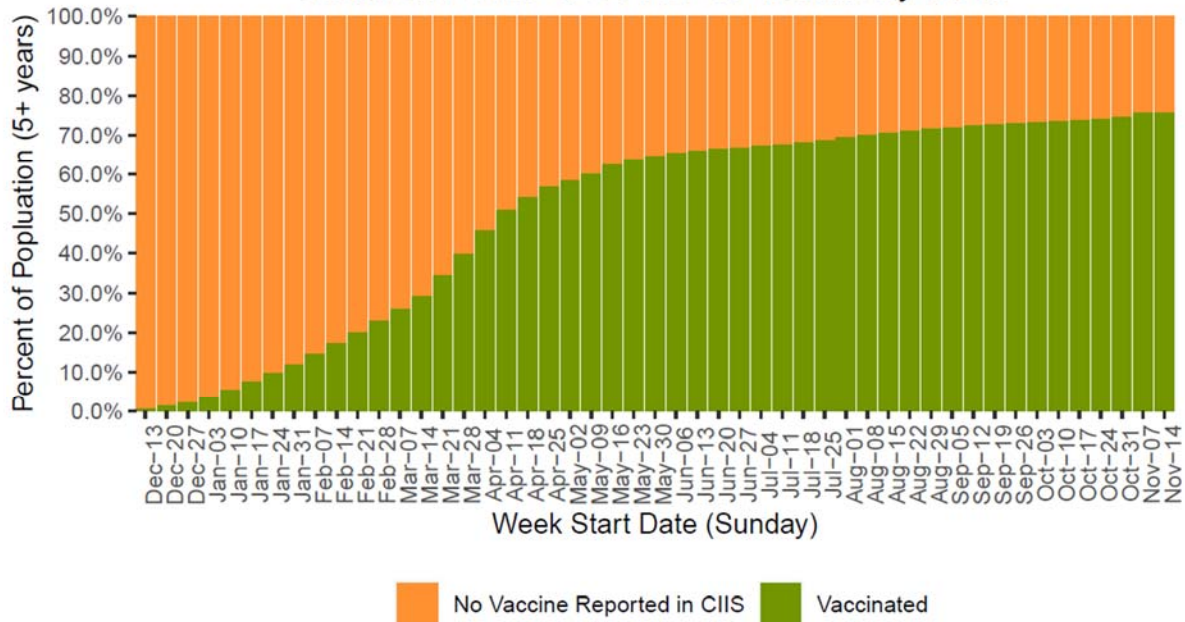
<sup>19</sup> JEFFERSON COUNTY PUBLIC HEALTH, *Jefferson County COVID-19 Vaccine Report* (Nov. 15, 2021).



Total Number of Jefferson County Residents Who Have Received at Least One Dose of COVID-19 Vaccine by Age Group (12/14/2020 - 11/14/2021)



Percent of Jefferson County Residents, Age 5+, Who Have Received at Least One Dose of COVID-19 Vaccine by Week

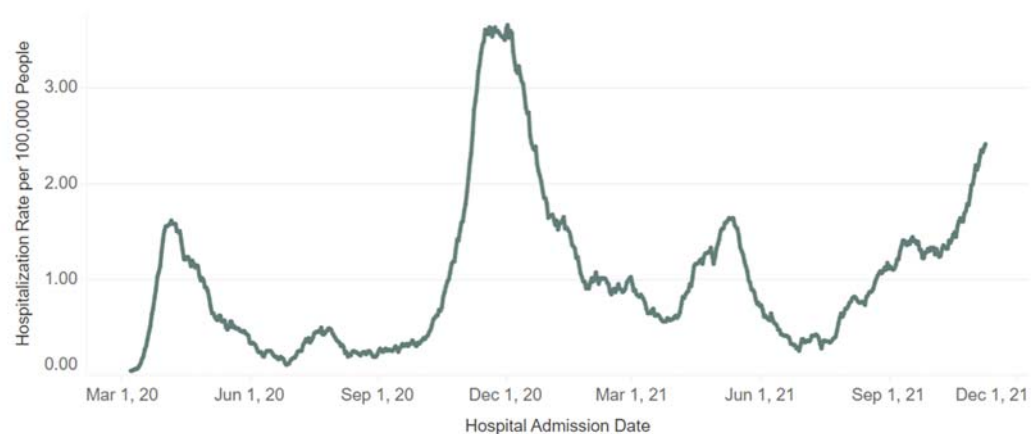


According to the CDC, COVID-19 continues to pose a serious risk, especially to individuals who are not fully vaccinated, and certain viral mitigation measures remain necessary to protect against COVID-19 cases, hospitalizations, and deaths. On July 28, 2021, the CDC updated its guidance and recommended that all individuals, including those who are fully vaccinated, wear a face covering in all public indoor settings in [areas of substantial or high transmission](#).<sup>20</sup>

The CDC created a “transmission tracker” to monitor the transmission of COVID-19 in each county and identifies the transmission status of COVID-19 as “low,” “moderate,” “substantial,” or “high.”<sup>21</sup> As of November 18, 2021, the CDC identifies Jefferson County as an area with high transmission at a 7-day new COVID-19 case rate of 370.92 per 100,000.<sup>22</sup> As of November 18, 2021, there were 796,412 known presumptive positive cases of COVID-19 statewide in Colorado, and 68,753 known presumptive positive cases in Jefferson County, Colorado, as well as 9,027 deaths due to COVID-19 statewide and 1,021 deaths in Jefferson County.<sup>23</sup>

The hospitalization rate per 100,000 for COVID-19 in Jefferson County rose sharply over the summer and early fall in a 5<sup>th</sup> wave of COVID-19 as demonstrated in the graph below.<sup>24</sup>

14-Day Rolling Average COVID-19 Hospitalization Rate per 100,000 people



Note: Due to delays in identifying and reporting of hospitalizations related to COVID-19, the data displayed above do not include the most recent seven days of hospitalizations.

<sup>20</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, *Interim Public Health Recommendations for Fully Vaccinated People* (Sept 1, 2021) available at, <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html> (last visited September 23, 2021).

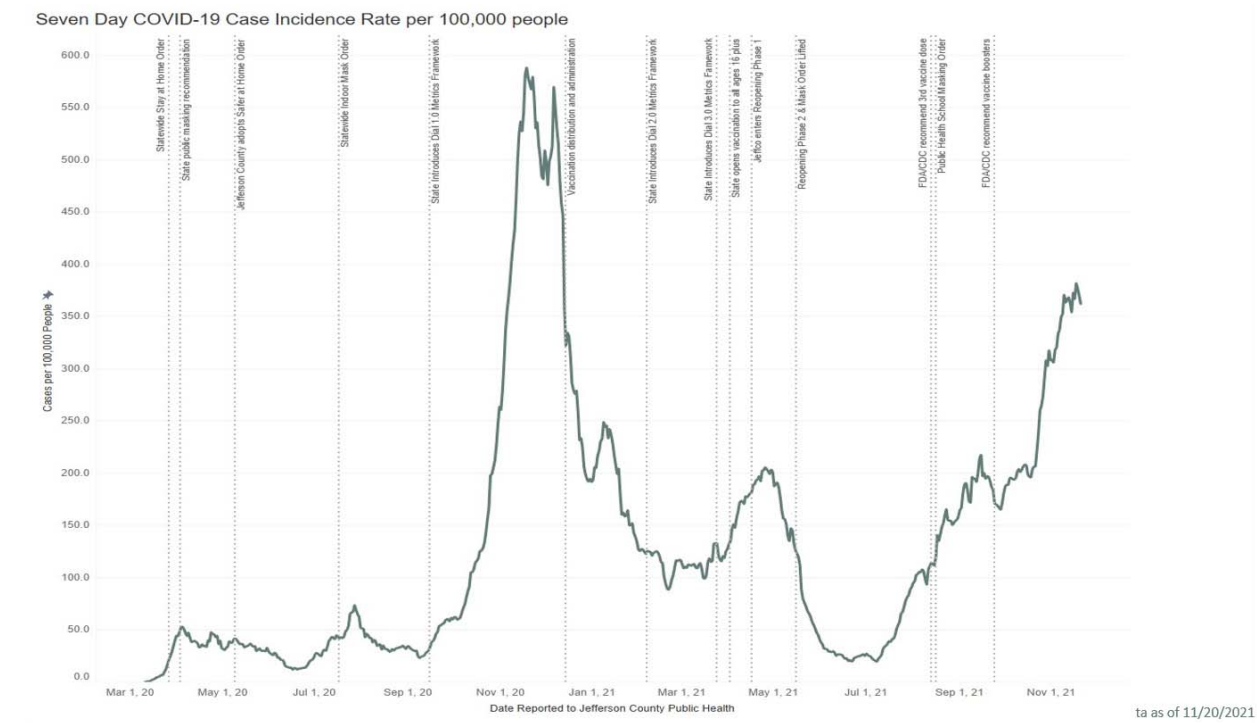
<sup>21</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, COVID Data Tracker, available at <https://covid.cdc.gov/covid-data-tracker/#county-view> (last visited November 18, 2021).

<sup>22</sup> *Id.*

<sup>23</sup> Includes confirmed and probable cases of COVID-19 in Jefferson County reported to public health. Confirmed cases are people who have tested positive via PCR or other molecular testing. Probable cases are people who had close contact with a confirmed case and have symptoms consistent with COVID-19, have a death certificate listing COVID-19 as a cause of death and have no laboratory test of have a positive antigen test. Data accessed September 16, 2021. COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, Colorado COVID-19 Data, available at <https://covid19.colorado.gov/data> (last visited November 18, 2021).

<sup>24</sup> <https://www.jeffco.us/4007/Case-Summary> (last accessed November 19, 2021).

The 7-day case incidence rate per 100,000 also rose sharply in summer and early fall as demonstrated in the graph below.<sup>25</sup>



Vaccination is the most effective way to prevent transmission of COVID-19, to limit COVID-19 hospitalizations and deaths and to prevent the health care system from becoming overwhelmed. When vaccination is not possible a layered viral mitigation strategy including wearing face coverings, testing, social distancing, hand hygiene, and ventilation decreases risk of transmission of COVID-19.

### C. Childcare, Pre-K – 12 Schools, and COVID-19

On August 5, 2021, the CDC updated its Guidance for COVID-19 Prevention in K-12 Schools, noting specifically as its first three (3) key takeaways:

1. Students benefit from in-person learning, and safely returning to in-person instruction in the fall of 2021 is a priority.
2. Vaccination is the leading public health prevention strategy to end the COVID-19 pandemic. Promoting vaccination can help schools safely return to in-person learning as well as extracurricular activities and sports.

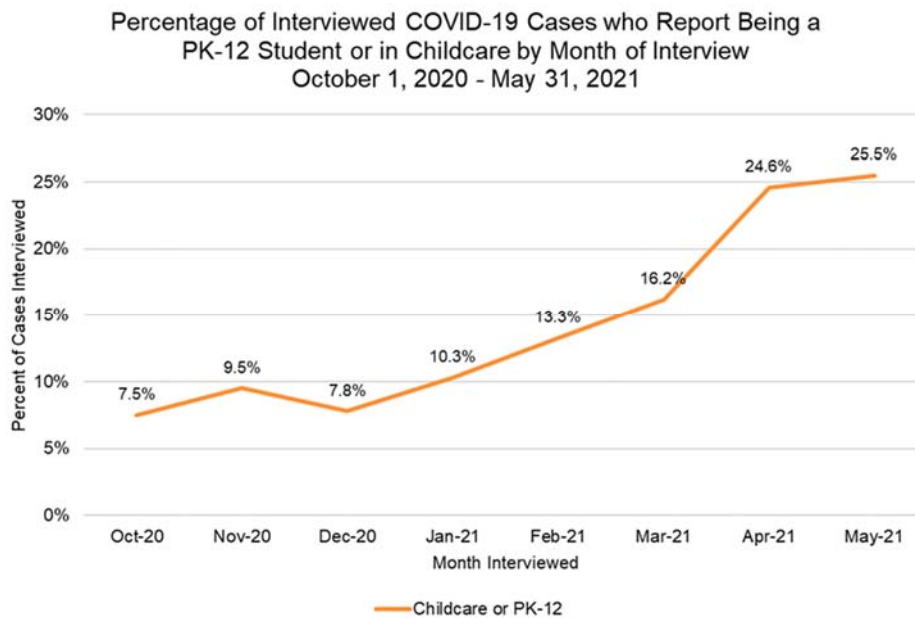
<sup>25</sup> <https://www.jeffco.us/4007/Case-Summary> (last accessed November 20, 2021).



3. Due to the circulating and highly-contagious Delta variant, the CDC recommends universal indoor masking by all students aged two (2) and older, staff, teachers, and visitors to K-12 schools regardless of vaccination status.<sup>26</sup>

Roughly 28.6% of all confirmed Jefferson County outbreaks reported in the fall of 2020 were either in childcare or pre-K through grade 12 school settings, and there were approximately 7,215 diagnosed infections during the Fall 2020 and Spring 2021 semesters in the childcare/pre-K through grade 12 age group (ages 0 to 19).

The percentage of interviewed COVID-19 cases who reported being in a pre-K through grade 12 school or a childcare increased during the 2020-2021 school year to a maximum of 25.5%. Exposures within school settings included classrooms, extracurricular activities, and spillover from students who engaged in private extracurricular activities and attended school during their infectious period.



According to the CDC, children and adolescents with COVID-19 can spread the disease to others,<sup>27</sup> become sick, become hospitalized, and die from COVID-19.<sup>28</sup> Of the children who have contracted the virus in the U.S., as of July 29, 2021 17,079 have been hospitalized and 358 have

<sup>26</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, *Guidance for COVID-19 Prevention in K-12 Schools* (August 5, 2021), available at, <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-guidance.html>

<sup>27</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, *Science Brief: Transmission of SARS-CoV-2 in K-12 Schools and Early Care and Education Programs – Updated* (July 9, 2021), available at, [https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/transmission\\_k\\_12\\_schools.html](https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/transmission_k_12_schools.html)

<sup>28</sup> CHILDREN’S HOSPITAL COLORADO, *Children and COVID-19: Debunking the Number One Myth*, available at, <https://www.childrenscolorado.org/conditions-and-advice/parenting/parenting-articles/child-health-impacts-covid/> (last visited October 13, 2021).

died.<sup>29</sup> This constitutes 2.3% of all hospitalizations for COVID-19 and 0.07% of deaths.<sup>30</sup> While these numbers are low in the context of all hospitalizations and deaths from COVID-19, the numbers are troublingly high for this population given that deaths of children in the U.S. are rare in a typical year.<sup>31</sup> Moreover, some children are at greater risk of severe illness from COVID-19 than others, in particular those with underlying health conditions such as congenital heart disease, obesity, diabetes, asthma, chronic lung disease, sickle cell disease, immunosuppression, or other genetic, neurologic, or medical conditions.<sup>32</sup> In addition to wearing face coverings, it is important to engage in additional layered mitigation strategies, including regular testing, to help preserve in-person education for all children and to protect those who are particularly vulnerable to COVID-19.

#### **D. Public Health Emergency Declarations and Orders**

On January 31, 2020, then-Secretary of Health and Human Services Alex Azar declared a Public Health Emergency under the Public Health Services Act for the COVID-19 pandemic.<sup>33</sup> The current Secretary of Health and Human Services, Xavier Becerra, most recently renewed the Public Health Emergency on July 19, 2021.<sup>34</sup>

On March 11, 2020, the Governor of the State of Colorado, Jared Polis (“Governor”) declared a State of Emergency related to the presence of COVID-19 in the State of Colorado, and this disaster declaration was extended on July 8, 2021 through Executive Order D 2021-122 and most recently on October 31, 2021 through Executive Order D2021-136.

On March 13, 2020, by Proclamation 9994, President Trump declared a national emergency concerning the coronavirus disease 2019 (COVID-19) pandemic. Because the COVID-19 pandemic continues to cause significant risk to the public health and safety of the Nation, on February 24, 2021, President Biden gave notice that he was continuing the national emergency declaration. That Proclamation remains in effect today.<sup>35</sup>

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<sup>29</sup> AMERICAN ACADEMY OF PEDIATRICS, *Children and COVID-19: State Data Report* (July 29, 2021), available at, <https://downloads.aap.org/AAP/PDF/AAP%20and%20CHA%20-%20Children%20and%20COVID-19%20State%20Data%20Report%207.29%20FINAL.pdf>

<sup>30</sup> AMERICAN ACADEMY OF PEDIATRICS, *Children and COVID-19: State Data Report* (July 29, 2021), available at, <https://downloads.aap.org/AAP/PDF/AAP%20and%20CHA%20-%20Children%20and%20COVID-19%20State%20Data%20Report%207.29%20FINAL.pdf>

<sup>31</sup> CHILDREN’S HOSPITAL COLORADO, *Children and COVID-19: Debunking the Number One Myth*, available at, <https://www.childrenscolorado.org/conditions-and-advice/parenting/parenting-articles/child-health-impacts-covid/> (last visited October 13, 2021).

<sup>32</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, *Information for Pediatric Healthcare Providers* (December 30, 2020), available at, <https://www.cdc.gov/coronavirus/2019-ncov/hcp/pediatric-hcp.html>

<sup>33</sup> CONGRESSIONAL RESEARCH SERVICE, *Federal Emergency and Major Disaster Declarations for the COVID-19 Pandemic* (June 4, 2021), available at, <https://sgp.fas.org/crs/homesec/R46809.pdf>

<sup>34</sup> U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, *Renewal of Determination That a Public Health Emergency Exists* (July 19, 2021), available at, <https://www.phe.gov/emergency/news/healthactions/phe/Pages/COVID-19July2021.aspx>

<sup>35</sup> THE WHITE HOUSE, *National Emergency Concerning the Coronavirus Disease 2019 (COVID-19) Pandemic* (February 24, 2021), available at, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/24/notice-on-the-continuation-of-the-national-emergency-concerning-the-coronavirus-disease-2019-covid-19-pandemic/#:~:text=On%20March%2013%2C%202020%2C%20by.and%20safety%20of%20the%20Nation.>

On May 21, 2020, the Governor issued [Guidance to Employers and Places of Public Accommodation](#) regarding equal opportunity employment and reasonable accommodations due to the presence of COVID-19.

On February 5, 2021, CDPHE issued Public Health Order 21-01, concerning vaccine access and data reporting for COVID-19. CDPHE most recently extended Public Health Order 21-01 on November 14, 2021.

On April 15, 2021, CDPHE issued [Public Health Order 20-38](#), continuing requirements for medical-grade face coverings in homeless shelters, prisons, jails, community corrections programs and facilities, and emergency medical and other healthcare settings. CDPHE most recently extended Public Health Order 20-38 on November 14, 2021

The CDC's Order, [Requirement for Persons to Wear Masks While on Conveyances and at Transportation Hubs](#), remains in effect for indoor areas.<sup>36</sup>

On August 16, 2021, JCPH issued Jefferson County Public Health Order 21-002 Requiring Face Coverings for all Individuals Ages 2+ and Regular Testing for Unvaccinated Individuals in Pre-K Through Grade 12 School and Childcare Settings ("JCPHO 21-002"). JCPH amended JCPHO 21-002 on August 28, 2021 to raise the age at which individuals are required to wear a face covering from 2 to 3 and to allow individuals to be unmasked indoors during meal or snack times and while playing instruments, provided that all individuals maintained a distance of 6 feet from one another.

On October 8, 2021, JCPH issued Jefferson County Public Health Order 21-004 Requiring Face Coverings for All Individuals Ages 2+ in Indoor Spaces in All Local Government Buildings ("JCPHO 21-004"). JCPH amended JCPHO 21-004 on October 12, 2021, to clarify which local government entities are subject to the face covering requirements of the order.

On October 29, 2021, the U.S. Food and Drug Administration ("FDA") authorized the emergency use of the Pfizer BioNTech COVID-19 Vaccine to include children 5 years of age and older.<sup>37</sup>

On November 22, 2021, JCPH issued Jefferson County Public Health Order 21-006 Requiring Face Coverings for All Individuals Ages 3+ in Public Indoor Spaces ("JCPHO 21-006"). Upon issuance of JCPHO 21-006, the Board of Health directed the Executive Director of Jefferson County Public Health to rescind JCPHO 21-004 and to amend JCPHO 21-002 to remove its face covering requirements because schools and childcares are now subject to the face covering requirements of JCPHO 21-006. JCPH issued the Second Amended JCPHO 21-002 on November 30, 2021.

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<sup>36</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, *Requirement for Persons to Wear Masks While on Conveyances and at Transportation Hubs* (January 29, 2021), available at, <https://www.cdc.gov/coronavirus/2019-ncov/travelers/face-masks-public-transportation.html> (last visited September 23, 2021).

<sup>37</sup> U.S. Food and Drug Administration, *FDA Authorizes Pfizer-BioNTech COVID-19 Vaccine for Emergency Use in Children 5 Through 11 Years of Age* (October 29, 2021), available at, <https://www.fda.gov/news-events/press-announcements/fda-authorizes-pfizer-biontech-covid-19-vaccine-emergency-use-children-5-through-11-years-age>

## INTENT

The intent of this Order has been ensure that Unvaccinated Staff, and all students and adults participating in extracurricular activities in School and Childcare Settings are routinely tested for COVID-19 to slow the spread of COVID-19 to the greatest extent possible in order to minimize disruptions to in-person learning and childcare.

Except as provided below, all Unvaccinated Staff in School and Childcare Settings and all students and adults participating in extracurricular activities are routinely tested for COVID-19. All provisions of this Order should be interpreted to effectuate this intent. Failure to comply with any of the provisions of this Order constitutes an imminent threat and creates an immediate menace to public health.

The intent of this Third Amended JCPHO 21-002 is to establish an ending date for this Order. When this Order was originally enacted, the vaccine was not available for all children ages 5 and older and the requirements under this Order were necessary to protect children unable to obtain the vaccine and protect in-person learning and childcare. On October 29, 2021, vaccines were made available for children ages 5 and older. When the vaccine first became available to this population, doses of the children's version of the vaccine were not readily available. However, by the time K-12 school resumes in January 2022, every family that so desires should have had the opportunity to fully vaccinate their child aged 5 and over. In addition, on December 9, 2021, FDA amended the emergency use authorization for the Pfizer-BioNTech vaccine to authorize a booster dose for individuals 16 and 17 years of age. Given the significant increase in vaccine authorization and availability for children, as outlined below, JCPH will rescind JCPH Order 21-002 at the end of the Fall 2021 school semester.

## ORDER

Pursuant to the authority granted the Executive Director of Jefferson County Public Health in C.R.S. §§ 25-1-506(3)(b) and 25-1-509(1)(c), and consistent with CDPHE guidance, American Academy of Pediatrics guidance, and the CDC's guidance, the following is ordered:

### 1. Definitions.

- a. **Childcare Setting** means all licensed childcare facilities in Jefferson County.
- b. **Close Contact** means an individual who was within three (3) feet for a total of fifteen (15) minutes or more of a person who has tested positive for COVID-19.
- c. **Full Vaccination or Fully Vaccinated** means two (2) calendar weeks after an individual has received all required doses of the prescribed COVID-19 vaccine. Unless an individual is fully vaccinated, they are considered **Unvaccinated**.
- d. **Moderate or Low Transmission** means moderate or low transmission as measured by the [CDC Transmission Tracker](#).
- e. **School Setting** means any indoor facility used for instruction of academic or school-

- based or sponsored extracurricular activities for pre-kindergarten through 12<sup>th</sup> grade. School Setting includes public, private, and charter schools. School Setting includes all buildings on school property where individuals aged 3 – 19 may be present for any reason, as well as any place in Jefferson County where school-based or sponsored activities are performed, even if such activities are not performed on school property.
- f. **Staff** means all individuals working or otherwise providing services indoors at a School Setting or Childcare Setting including, but not limited to, employees, contractors, and volunteers.
- g. **Substantial or High Transmission** means substantial or high transmission as measured by the [CDC Transmission Tracker](#).

## 2. Routine Testing.

- a. All School and Childcare Settings must follow the following provisions of JCPH's [Guidance for Public and Private K-12 Schools and Child Care Settings](#) ("Guidance"):
- i. Implement a COVID-19 testing policy with the following elements:
- (1) Parents/guardians must report their child's positive COVID-19 test results to the school health office.
  - (2) All individuals experiencing symptoms of illness, regardless of their vaccination status, must leave School and Childcare Settings and take a molecular/PCR COVID-19 test and present a negative test result before being allowed to return if testing is specified by the CDPHE's Return to Learn Guidance document (<https://drive.google.com/file/d/1nhgGIbakyAJY3XJ2TW44sw7btXXqISBR/view>).
  - (3) All Unvaccinated individuals quarantined due to exposure (i.e., identification as a Close Contact of a case) must be:
    - a. asymptomatic and take a COVID-19 test and present a negative result before being allowed to return to school or the childcare facility if choosing the shortened seven (7)-day quarantine period; or
    - b. asymptomatic before being allowed to return to school or the childcare facility if choosing the shortened ten (10)-day quarantine period over the preferred fourteen (14)-day quarantine period.
  - (4) The facilities that are subject to this Order are responsible for determining whether one of the children in their care or one of their Staff meets the definition of a Close Contact.
- ii. Implement a monitoring system which requires all Unvaccinated Staff to be tested at least weekly throughout the 2021-2022 school year and to present negative test results to continue attending school or childcare in person. The monitoring system must be implemented no later than



September 7, 2021. This provision shall not apply to Staff who are otherwise subject to a routine testing program by their employer that requires documentation of testing at least once per week.

- iii. Implement a monitoring system which requires all Unvaccinated students and adults participating in school-based extracurricular activities, other than spectators at extracurricular competitions or performances, to be tested at least weekly throughout the 2021-2022 school year and to present negative test results each week to continue participation in the extracurricular activity. The monitoring system must be implemented no later than September 7, 2021.
  - (1) School and Childcare Settings are encouraged to utilize the CDPHE Free Testing Program. Details are available at <https://covid19.colorado.gov/free-testing-schools>
- iv. Regardless of vaccination status, all individuals who test positive for COVID-19 are required to follow isolation instructions from JCPH and isolate for 10 days.
- v. Unvaccinated individuals who were unmasked at the time of their exposure to either a masked or unmasked individual are required to quarantine if identified as a Close Contact of a COVID-19 case in both outbreak settings and in exposures involving only one (1) case.
  - (1) Asymptomatic individuals may quarantine for ten (10) days
  - (2) Asymptomatic individuals may quarantine for seven (7) days if they test negative for COVID-19 after day five (5) of the quarantine period and must present negative test results to return to school or childcare in person.
  - (3) Symptomatic individuals must quarantine for fourteen (14) days and should be tested for COVID-19.
- vi. Unvaccinated individuals who were masked at the time of their exposure to either a masked or unmasked individual are required to quarantine if identified as a Close Contact of a COVID-19 case in an outbreak setting.
  - (1) Asymptomatic individuals may quarantine for ten (10) days
  - (2) Asymptomatic individuals may quarantine for seven (7) days if they test negative for COVID-19 after day five (5) of the quarantine period and must present negative test results to return to school or childcare in person.
  - (3) Symptomatic individuals must quarantine for fourteen (14) days and should be tested for COVID-19.

To the extent that the Guidance and this Order conflict, the provisions of this Order shall control.

- b. All School and Childcare Settings are required to follow the provisions of the Guidance listed above, and are strongly encouraged to follow those provisions of the Guidance not explicitly required by this Order.
- 3. Americans with Disabilities Act.** The requirements of this Order shall be applied in a manner consistent with the Americans with Disabilities Act (42 U.S.C. § 12101 *et seq.*), Title VII of the Americans with Disabilities Act (42 U.S.C. § 2000e *et seq.*), the Colorado Anti-Discrimination Act (C.R.S. §24-34-401 *et seq.*), and any other relevant federal or State law.
- 4. Conflict and Preemption.**
  - a. Nothing in this Order should be construed to preempt any State of Colorado regulations (including CDPHE Orders and Executive Orders) concerning testing for COVID-19 or that impose testing requirements beyond those contained in this Order.
  - b. Nothing in this Order should be construed to preempt any local public health orders.
  - c. Nothing in this Order shall be construed to prevent a municipality from adopting more protective standards than those contained in this Order.
- 5. Reasonable Accommodations.** JCPH recommends that schools and licensed childcare facilities review the State of Colorado's [Civil Rights Guidance](#).
- 6. Legal Recourse.** Any school or licensed childcare facility that is in violation of this Order may be subject to a civil action, including but not limited to injunctive relief pursuant to C.R.S. § 25-1-514, reporting to the appropriate licensing agency for suspension or revocation of its license, or an immediate closure order issued by JCPH.
- 7. Duration.** This Third Amended JCPH Public Health Order 21-002 shall be in effect from December 11, 2021, at 12:01 a.m. and shall remain in effect until December 22, 2021 at 12:01 a.m.

Along with CDPHE, JCPH is tasked with protecting the health and welfare of the citizens of Jefferson County by investigating and controlling cases of epidemic and communicable disease. This Order is necessary to control the transmission of disease to others. Immediate issuance of this Order is necessary for the preservation of public health, safety, or welfare.

If you have questions regarding this Order, please contact the JCPH at [HealthEPR@jeffco.us](mailto:HealthEPR@jeffco.us) or view the COVID-19 information on JCPH's website at [www.jeffco.us/coronavirus](http://www.jeffco.us/coronavirus).

If any provision of this Order, or its application to any person or circumstance, is held to be invalid, then the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

**Issued by:**

*R. Dawn Comstock*

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**R. Dawn Comstock, Ph.D**  
**Executive Director**  
**Jefferson County Public Health**

**December 10, 2021**  
**Date**