

ORDINANCE OF THE OGLALA SIOUX TRIBAL COUNCIL
OF THE OGLALA SIOUX TRIBE
(An Unincorporated Tribe)

ORDINANCE OF THE OGLALA SIOUX TRIBAL COUNCIL OF THE OGLALA SIOUX TRIBE AMENDING ORDINANCE NO. 21-55 TO INCLUDE 5-11 YEAR OLDS IN THE OGLALA SIOUX TRIBE MANDATORY STUDENT COVID-19 VACCINATION POLICY.

WHEREAS, the Oglala Sioux Tribe adopted its Constitution and By-Laws by referendum vote on December 14, 1935, in accordance with Section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. § 5123), and under Article III of the Constitution, the Oglala Sioux Tribal Council is the governing body of the Oglala Sioux Tribe, and

WHEREAS, Article IV, Sections 1(f), 1(k), 1(m), and 1(w) empower the Tribal Council to manage the economic affairs of the Tribe, protect and preserve the property of the Tribe, adopt laws governing the conduct of persons on the Pine Ridge Indian Reservation, and adopt laws protecting and promoting the health and general welfare of the Oglala Sioux Tribe and its membership, and

WHEREAS, the COVID-19 pandemic has wreaked havoc on the Oglala Sioux Tribe and its members, including by inflicting death, the loss of loved ones, physical health problems, and mental and behavioral health problems associated with trauma, forced isolation, social distancing, stay-at-home measures, stress, anxiety, depression, working from home pressures, compounded child care difficulties, and exacerbated economic struggles on top of the pre-pandemic economic struggles of our people, and

WHEREAS, the COVID-19 pandemic and necessary public health measures enacted by the Tribe in response to the pandemic, including policies and orders relating to sheltering-in-place, self-quarantining, social distancing, and the closure of tribal programs, businesses, and public parks, have caused extraordinary negative economic impacts for the Tribe and its members, and

WHEREAS, the best defense that the Tribe is aware of against medical dangers posed by COVID-19 is vaccination, and there is a need for the Tribe to establish a mandatory student COVID-19 vaccination policy to ensure that all in-school, face-to-face students five (5) years and older within the exterior boundaries of the Pine Ridge Indian Reservation get vaccinated to stop the spread of COVID-19 in the schools and to protect all students, employees, and members of the public who interact with students from the dangers of COVID-19, and

WHEREAS, the Oglala Sioux Tribal Council has considered the need to require all in-school, face-to-face students five (5) years and older to receive the COVID-19 vaccination to provide the Tribe and its employees and members with the best defense against the ravages of COVID-19, and

WHEREAS, on September 17, 2021, the Oglala Sioux Tribal Council met in Special Session and approved Ordinance No. 21-55 that establishes mandatory COVID-19 vaccinations for all in-school, face-to-face students twelve (12) years and older, and

WHEREAS, following the adoption of Ordinance No. 21-55, the U.S. Food and Drug Administration approved the COVID-19 vaccine for 5-11 year old persons, and

WHEREAS, on January 31, 2022, the Oglala Sioux Tribe Education Committee met and approved a recommendation to amend Ordinance No. 21-55 to include 5-11 year old students, and

WHEREAS, the Tribal Council finds that it is necessary to amend Ordinance No. 21-55 to include 5-11 year old students in the mandatory COVID-19 vaccinations and the amendment is a reasonable measure that is necessary for the public health and public safety of the Tribe and its members; now

THEREFORE BE IT ORDAINED, that the Oglala Sioux Tribal Council hereby amends and restates Ordinance No. 21-55, the Oglala Sioux Tribe Mandatory Student COVID-19 Vaccination Policy, to include 5-11 year old students:

**Oglala Sioux Tribe Mandatory
Student COVID-19 Vaccination Policy**

Section 1. Introduction

- (a) The Oglala Sioux Tribe is committed to maintaining safe and healthy schools within the exterior boundaries of the Pine Ridge Indian Reservation, and during the COVID-19 pandemic, the Tribe is taking additional measures to protect in-school, face-to-face students from contracting and spreading COVID-19.

- (b) Now that COVID-19 vaccines have been approved for Emergency Use Authorization by the US Food and Drug Administration (FDA) and are recommended for children ages five (5) and older and are readily available on the Pine Ridge Indian Reservation, the Tribe is implementing this mandatory student vaccination policy, subject to the exceptions in this policy.
- (c) Compliance with this policy is mandatory.

Section 2. Application

This mandatory student vaccination policy applies to all in-school, face-to-face students five (5) years and older in all schools within the exterior boundaries of the Pine Ridge Indian Reservation.

Section 3. Information About COVID-19 Vaccines

- (a) The Oglala Sioux Tribe recommends that all individuals ages five (5) and over who can safely do so get vaccinated against COVID-19.
- (b) The CDC has promoted the benefits and safety of approved COVID-19 vaccines. According to the Centers for Disease Control and Prevention (CDC):
- COVID-19 vaccines currently approved in the United States do not contain the COVID-19 virus and will not make you sick with COVID-19.
 - Getting the COVID-19 vaccine will not make you test positive for COVID-19 or change your DNA.
 - COVID-19 vaccinations have been shown to be highly effective at preventing you from getting sick with COVID-19 and experiencing the most severe consequence of the disease.
 - COVID-19 vaccines reduce the risk of spreading COVID-19.
 - COVID-19 vaccinations are an important tool in helping to stop the pandemic.
 - COVID-19 vaccines will be free to you, though some charges may be billed to your insurance company.

Section 4. Vaccination Requirements

- (a) To prevent the infection and spread of COVID-19, and as an integral part of its public health and safety measures, the Oglala Sioux Tribe hereby requires that all in-school, face-to-face students five (5) years and older get vaccinated against COVID-19 and show proof to the school's administration or its designee on or before April 8, 2022, unless an exemption from this policy has been granted as an accommodation or otherwise. For more on the accommodation and exemption process, see Section 7 (Accommodation and Exemption Requests), below.
- (b) Students who fail to comply with these requirements will be barred from entering the school and may be subject to disciplinary measures.
- (c) This policy applies to any and all schools within the exterior boundaries of the Pine Ridge Indian Reservation, including but not limited to Tribally chartered schools, Bureau of Indian Education operated schools, state operated schools, parochial schools, and private schools.

Section 5. Vaccine Administration

- (a) In-school, face-to-face students five (5) years and older or their parents/legal guardians are responsible for scheduling and obtaining all recommended doses of an FDA-approved COVID-19 vaccine or a COVID-19 vaccine granted Emergency Use Authorization by the FDA.
- (b) In-school, face-to-face students five (5) years and older may get the COVID-19 vaccine during school hours without being subject to discipline. Students must obtain prior approval from their school's administration before leaving school and no school administrator shall unreasonably withhold such consent.
- (c) The Oglala Sioux Tribe will reimburse all students or their parents/legal guardians for vaccine costs not fully covered by insurance.

Section 6. Proof of Vaccination

In-school, face-to-face students five (5) years and older must provide written proof to their school's administration or its designee of vaccination from a COVID-19 vaccine administrator or a CDC-issued COVID-19 Vaccination Record Card, including the vaccination place, date(s), and name, on or before April 8, 2022. Schools shall keep vaccination information confidential. The Tribe asks students not to provide any genetic information to the school when providing proof of vaccination or responding to a request for information in compliance with this policy.

Section 7. Accommodation and Exemption Requests

- (a) Disability Accommodation. Schools shall provide reasonable accommodations, absent undue hardship, to qualified individuals with disabilities. Reasonable accommodation may include appropriate adjustment or modifications of school policies. If a student believes he or she needs an accommodation regarding this policy because of a disability, the student is responsible for requesting a reasonable accommodation from the school's administration or its designee.

- (b) Religious Accommodation. Schools shall provide reasonable accommodations, absent undue hardship, to students with sincerely held religious beliefs, observances, or practices that conflict with getting vaccinated or receiving the type of vaccine currently available. If a student believes he or she needs an accommodation regarding this policy because of his or her sincerely held religious belief, the student is responsible for requesting a reasonable accommodation from the school's administration or its designee.

- (c) Interactive Process. The school's administration or its designee shall engage in an interactive dialogue with a student who requests an accommodation to determine the precise limitations of the student's ability to comply with this mandatory vaccination policy and the school's administration or its designee shall explore potential reasonable accommodations that could overcome those limitations. The Oglala Sioux Tribe encourages students to suggest specific reasonable accommodations. However, schools are not required to make the specific accommodation requested and may provide an alternative effective accommodation, to the extent any reasonable accommodation can be made without imposing an undue hardship on the school or posing a direct threat to the student or others in the school.
- (d) Exemptions for Other Medical Reasons. Exemptions for other medical reasons may be available on a case-by-case basis for conditions such as pregnancy, breastfeeding, history of certain allergic reactions, and any other medical condition that is a contraindication to the COVID-19 vaccine, even if they do not qualify as a disability under federal, state, or tribal law. The school's administration or its designee shall engage in an interactive dialogue with a student who requests an exemption to determine whether an exemption is appropriate and can be granted without imposing an undue hardship on the school or posing a direct threat to the student or others in the school.
- (e) How to Request an Accommodation or Other Exemption. A student may request a reasonable accommodation or other exemption from this policy by submitting a written request to their school's administration or its designee. The request must include all relevant information, including: a description of the accommodation or exemption requested; and the reason for the requested accommodation or exemption. The Oglala Sioux Tribe reserves the right to review exemption requests and request additional documentation supporting the need for an accommodation or request for any other exemption. The Oglala Sioux Tribe will keep confidential any medical information obtained in connection with a student's request for a reasonable accommodation or other exemption.

- (f) Determinations. The school's administration or its designee shall make determinations about requested accommodations and exemptions on a case-by-case basis considering various factors and based on an individualized assessment in each situation. The school administration shall consult with the Oglala Sioux Tribe Human Resources Director regarding any uncertainties as to the application of this policy including exemption determinations. The Oglala Sioux Tribe Human Resources Director will strive to make these determinations expeditiously and in a fair and nondiscriminatory manner and will inform the school administration and student after a determination is made.

Section 8. Policy Administration and Questions

- (a) The Oglala Sioux Tribe Human Resources Director is responsible for administering and enforcing this policy.
- (b) All Human Resources staff, including the Director, shall receive training in health information privacy.

Section 9. Policy Modification

Government and public health guidelines and restrictions and school best practices regarding COVID-19 and COVID-19 vaccines may change as new information becomes available and further research is conducted. The Oglala Sioux Tribe reserves the right to modify this policy at any time in its sole discretion to adapt to changing circumstances and needs, consistent with its commitment to maintaining safe and healthy schools within the exterior boundaries of the Pine Ridge Indian Reservation.

Section 10. Enforcement and Non-Retaliation

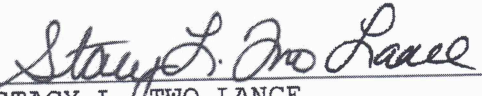
- (a) Any school who fails to comply with this Ordinance may be subject to penalty, up to and including monetary fines.
- (b) The Oglala Sioux Tribe prohibits any form of discipline, reprisal, intimidation, or retaliation for reporting a violation of this policy or any other health and safety concern.

and,

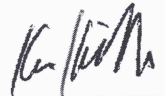
BE IT FURTHER ORDAINED, that this Ordinance shall take effect immediately and shall supersede, repeal, and replace all prior, inconsistent laws of the Oglala Sioux Tribe.

C-E-R-T-I-F-I-C-A-T-I-O-N

I, as the undersigned Secretary of the Oglala Sioux Tribal Council, of the Oglala Sioux Tribe hereby certify that this Ordinance was adopted by a vote of: 16 For; 2 Against; 0 Abstain; and 1 Not Voting; during a REGULAR SESSION held on the 23RD day of FEBRUARY, 2022.


STACY L. TWO LANCE
Secretary
Oglala Sioux Tribe

A-T-T-E-S-T:



KEVIN KILLER
President
Oglala Sioux Tribe

