

October 27, 2021

Dr. Elizabeth Cuervo Tilson, State Health Director  
Division of Public Health  
1915 Mail Service Center  
Raleigh, North Carolina 27699-1915

Via email:

[Betsey.Tilson@dhhs.nc.gov](mailto:Betsey.Tilson@dhhs.nc.gov); [virginia.niehaus@dhhs.nc.gov](mailto:virginia.niehaus@dhhs.nc.gov) and [kirsten.loudis@dhhs.nc.gov](mailto:kirsten.loudis@dhhs.nc.gov)

Re: Petition for Rulemaking

On October 1, 2021 a petition for administrative review, signed by over 200 UNC faculty members, was submitted requesting that the Commission for Public Health issue a COVID-19 vaccine requirement for all NC college students. Please consider that submission along with what is now being submitted to the Commission as a formal rulemaking petition.

The October 1 submission is attached. In brief, the reasons and supporting data for this proposal are:

- The advent of safe, effective, and available COVID-19 vaccines has created the opportunity for our state's colleges and universities to help curb the pandemic and restore normalcy. Some challenges have centered around questions of legal authority for issuing vaccine requirements. UNC System President Peter Hans, in a [letter dated April 27, 2021](#), provided to Chancellors of the constituent institutions, declared that the UNC system should defer to public health officials, and specifically the Commission, on vaccine requirements.
- The UNC System and its constituent campuses, based on the premise that only the Commission has the authority to require Covid vaccinations, have acted only to increase students' voluntary vaccine uptake. Many other, if not most, NC colleges and universities also chose a voluntary vaccine policy. We are currently five months into this voluntary vaccine uptake endeavor, now with even greater urgency in the need for action to be taken to protect the health of all individuals associated with North Carolina colleges and universities. While voluntary vaccination is a laudable goal, [research is clear](#) about the importance of vaccine requirements for achieving high vaccination rates. [Research shows](#) high vaccination rates to be the single most important means for preventing COVID-19 illness and transmission on college and university campuses.
- The American College Health Association on April 29, 2021 made the formal statement that all U.S. institutions of higher education should [require COVID-19 vaccinations](#) for all on-campus college students in the U.S. by Fall of 2021. Consistent with that recommendation and with data showing the importance of and support for vaccine

requirements to protect campuses and curb the pandemic, colleges and universities in other states are increasingly moving to require that students be vaccinated against COVID-19.

- A call for the Commission to require COVID-19 vaccination among NC college and university students is supported by overwhelming evidence, precedence, law, and the authority of the Commission itself.

As specified below, each of the additional requirements for a formal rulemaking petition, as set forth in [G.S. 150B-20](#) and Rule [10A NCAC 45B .0101](#) are addressed.

Proposed text of the requested rule change:

Amend **10A NCAC 41A .0401 DOSAGE AND AGE REQUIREMENTS FOR IMMUNIZATION**, by adding the following:

(11) COVID-19 vaccine - required for individuals 17 years of age or by entering the 12th grade, whichever comes first, on or after July 1, 2022.

Statutory authority for the Commission for Public Health to make the proposed rule change:

**§ 130A-152. Immunization required.**

**(a)** Every child present in this State shall be immunized against diphtheria, tetanus, whooping cough, poliomyelitis, red measles (rubeola) and rubella. In addition, every child present in this State **shall be immunized against any other disease upon a determination by the Commission that the immunization is in the interest of the public health** (emphasis added). Every parent, guardian, person in loco parentis and person or agency, whether governmental or private, with legal custody of a child shall have the responsibility to ensure that the child has received the required immunization at the age required by the Commission. If a child has not received the required immunizations by the specified age, the responsible person shall obtain the required immunization for the child as soon as possible after the lack of the required immunization is determined.

**(c)** The Commission shall adopt and the Department shall enforce rules concerning the implementation of the immunization program. The rules shall provide for:

**(c) (1)** The child's age at administration of each vaccine;

**(c) (3)** Exemptions from the immunization requirements where medical practice suggests that immunization would not be in the best health interests of a specific category of children

Effect of the proposed rule change on existing rules and statutes:

The Commission should consider the proposed rule change in conjunction with the following additional statutory provisions:

**§ 130A-152 (d)**

Only vaccine preparations which meet the standards of the United States Food and Drug Administration or its successor in licensing vaccines and are approved for use by the Commission may be used.

**§ 130A-152 (e)** When the Commission requires immunization against a disease not listed in paragraph (a) of this section, or requires an additional dose of a vaccine, the Commission is authorized to exempt from the new requirement children who are or who have been enrolled in school (K-12) on or before the effective date of the new requirement.

To date, the FDA has given final/full approval to one of the existing COVID-19 vaccines, with minimum age eligibility set at 16 years of age. In the coming weeks/months, the FDA is expected to consider full approval for individuals 11 to 15 years of age and consider approval of other existing vaccines. As such, the Commission should consider the COVID-19 vaccine age-based requirement with existing approval and, as additional approval is granted, expand the requirement for those ages. The proposed implementation date (July 1, 2022) would accommodate the existing age-based FDA approval without requiring current high-school-aged students to comply.

Effect of the proposed rule change on existing practices in the area involved, including cost factors:

Additional costs/cost considerations primarily relate to administrative/record-keeping costs. Should the rule change be adopted, the new vaccine requirement would need to be communicated to schools and colleges/universities responsible for compliance with existing vaccine requirements. Existing practices for ensuring compliance with current vaccine requirements would be employed here as well.

Names and addresses, if known, of those most likely to be affected by the proposed rule change:

Following the proposed implementation date (July 1, 2022), entities affected include NC colleges and universities that are responsible for records and reporting compliance for existing vaccine requirements (under **§ 130A-155.1**) and NC schools (K-12) similarly responsible for compliance (under **§ 130A-155**).

Name and address of the petitioners:

Stella Anderson  
Dept. of  
Management  
Appalachian State  
University  
Boone, NC 28608

Nancy Love  
Dept. of Government  
and Justice Studies  
Appalachian State  
University  
Boone, NC 28608

Martha McCaughey  
Dept. of Sociology  
Appalachian State  
University  
Boone, NC 28608

Emily Dakin  
Dept. of Social Work  
Appalachian State  
University  
Boone, NC 28608

Sept. 24, 2021

Via Electronic Mail

North Carolina Commission for Public Health  
c/o Virginia Niehaus  
Rule-Making Coordinator, Office of Regulatory and Legal Affairs  
1915 Mail Service Center  
Raleigh, North Carolina 27699-1915  
Email: [virginia.niehaus@dhhs.nc.gov](mailto:virginia.niehaus@dhhs.nc.gov)

Cc:

NC Governor Roy Cooper, [website contact](#)  
Secretary of the NC Dept. of Health and Human Services Mandy Cohen, [FAX 919-715-4645](tel:919-715-4645)

**Re: Petition for Administrative Action -- Requiring the COVID-19 vaccine of all students who attend North Carolina colleges or universities**

Dear Ms. Niehaus:

Pursuant to N.C. Gen. Stat. § 150B-1, § 130A-155.1, and 10A NCAC 41A.0401, we are submitting this Petition for Administrative Action as concerned faculty members at Appalachian State University and other campuses in the UNC System to request that the Division of Public Health issue a ruling that the Commission for Public Health will add the COVID-19 vaccine to the current list of vaccinations required of students who attend NC colleges and universities.

The advent of safe, effective, and available COVID-19 vaccines has created the opportunity for our state's colleges and universities to help curb the pandemic and restore normalcy. Some challenges have centered around questions of legal authority for issuing vaccine requirements. UNC System President Peter Hans, in a [letter dated](#) April 27, 2021, provided to Chancellors of the constituent institutions, declared that the UNC system should defer to public health officials around vaccine requirements, stating that, "The University must continue to follow the recommendations of public health officials and not attempt to substitute its own judgment for that of these experts on a matter as significant as mandating the COVID-19 vaccine." President Hans concluded by stating, "the Commission for Public Health is the state agency responsible for weighing the policy and legal implications of mandating a COVID-19 vaccination" for students. Accordingly, as the Commission is surely aware, the UNC System and its constituent campuses, based on the premise that only the Commission has the authority to require covid vaccinations, have acted only to increase students' voluntary vaccine uptake.

We are currently five months into this voluntary vaccine uptake endeavor, now with even greater urgency in the need for action to be taken to protect the health of all individuals associated with North Carolina colleges and universities. While voluntary vaccination is a laudable goal, [research is clear](#) about the importance of vaccine requirements for achieving high vaccination rates. [Research shows](#) high vaccination rates to be the single most important means for preventing COVID-19 illness and transmission on college and university campuses.

The American College Health Association on April 29, 2021 made the formal statement that all U.S. institutions of higher education should [require COVID-19 vaccinations](#) for all on-campus college students in the U.S. by Fall of 2021. Consistent with that recommendation and with data showing the importance of and support for vaccine requirements to protect campuses and curb the pandemic, colleges and universities are increasingly moving to require that students be vaccinated against COVID-19. Included among these are large public universities such as [The Ohio State University](#), all [public universities in Virginia](#), and the [University of Louisiana system](#). As of September 20, 1,049 colleges and universities [require students or employees](#) to be vaccinated against COVID-19. Furthermore, the [majority of Americans](#) support COVID-19 vaccine requirements.

Finally, a determination by the Division that the COVID-19 vaccine be included among the required vaccinations for college students is consistent with North Carolina law ([§ 130A-155.1](#)) requiring individuals attending a college or university to receive certain immunizations.

In short, our call for the Commission to require COVID-19 vaccination among NC college and university students is supported by overwhelming evidence, precedence, law, and the authority of the Commission itself. Thus, we respectfully request that the Commission issue an order declaring that the COVID-19 vaccine be required of all college students attending NC colleges and universities.

Sincerely,

1. Laura Ammon, Appalachian State University
2. Stella Anderson, Appalachian State University
3. Michael Behrent, Appalachian State University
4. Emily Dakin, Appalachian State University
5. Martha McCaughey, Appalachian State University
6. Colin Ramsey, Appalachian State University
7. Gregory Reck, Appalachian State University
8. Nancy Love, Appalachian State University
9. Cary Fraser, Appalachian State University
10. Jill Ehnenn, Appalachian State University
11. Leigh Dunston, Appalachian State University
12. Kim Hall, Appalachian State University
13. Gayle Turner, Appalachian State University
14. Randy Reed, Appalachian State University
15. Scott Relyea, Appalachian State University
16. Joseph Bathanti, Appalachian State University

17. Clark Maddux, Appalachian State University
18. Andrew Polonsky, Appalachian State University
19. Pete Soule, Appalachian State University
20. Jason Lynch, Appalachian State University
21. Mira Rai Waits, Appalachian State University
22. Kyle Stevens, Appalachian State University
23. Kirstin Morgan, Appalachian State University
24. Katherine Ledford, Appalachian State University
25. Beth Davison, Appalachian State University
26. Matthew Robinson, Appalachian State University
27. Louis Gallien, Appalachian State University
28. Kelly Thames, Appalachian State University
29. Catherine Altice, Appalachian State University
30. Başak Çandar, Appalachian State University
31. Belinda Walzer, Appalachian State University
32. Fred Hay, Appalachian State University
33. Henry Wansker, Appalachian State University
34. Samantha Deal, Appalachian State University
35. Anne Fanatico, Appalachian State University
36. Jessica Martell, Appalachian State University
37. Zackary Vernon, Appalachian State University
38. John Stephenson, Appalachian State
39. Kathleen Schroeder, Appalachian State University
40. Mike Hambourger, Appalachian State University
41. Carol Kline, Appalachian State University
42. Jay M. Smith, University of North Carolina-Chapel Hill
43. Mary A. Valante, Appalachian State University
44. Susan Lappan, Appalachian State University
45. Susan C. Staub, Appalachian State University
46. Elizabeth Shay, Appalachian State University
47. Matthew Ruble, Appalachian State University
48. Rodney K. Duke, Appalachian State University
49. Rick Elmore, Appalachian State University
50. Deborah Phillips, Appalachian State University
51. Kelly A. Williams, Appalachian State University
52. Jenny Tonsing, Appalachian State university
53. Kristin Harmon, Appalachian State University
54. Tony Calamai, Appalachian State University
55. Christina May, Appalachian State University
56. Maureen MacNamara, Appalachian State University
57. Cara Fiore, Appalachian State University
58. Donna L. Lillian, Appalachian State University
59. Leslie Cook, Appalachian State University
60. Katherine Abrams, Appalachian State University
61. Susan Weinberg, Appalachian State University

62. William Atkinson, Appalachian State University
63. Carl Eby, Appalachian State University
64. Bruce Dick, Appalachian State University
65. Alison Gulley, Appalachian State University
66. Catherine Turner, Appalachian State University
67. Mark Powell, Appalachian State University
68. Linda Gail York Appalachian State University
69. John Abbott, Appalachian State University
70. David Travis, Appalachian State University
71. Lynn Siefferman, Appalachian State University
72. Kim Wangler, Appalachian State University
73. Ashlea Green, Appalachian State University
74. Christine Leist, Appalachian State University
75. Breanne Crumpton, Appalachian State University
76. Nimet Degirmencioglu, Appalachian State University
77. Kristen Travis, Appalachian State University
78. L.A. Middlesteadt, Appalachian State University
79. Keith T. Martin, Appalachian State University
80. Dakota Corbliss, Appalachian State University
81. Victor Mansure, Appalachian State University
82. David Russell, Appalachian State University
83. Whitney Bevill, Appalachian State University
84. Elaine J. O'Quinn, Appalachian State University
85. Xiaorong Shao, Appalachian State University
86. Tynecca Lynch, Appalachian State University
87. Paulette Marty, Appalachian State University
88. R. Mitchell Parry, Appalachian State University
89. Rahman Tashakkori, Appalachian State University
90. Michael Rall, Appalachian State University
91. Timothy Ludwig, Appalachian State University
92. Stefan Frisch, Appalachian State University
93. Robert Hill, Appalachian State University
94. Ben Good, Appalachian State University
95. Lynn Mosteller, Appalachian State University
96. Reagan Breitenstein, Appalachian State University
97. Jamie Brown, Appalachian State University
98. Greta Knigga-Daugherty, Appalachian State University
99. Kenneth M. Steele, Appalachian State University
100. Patricia Johann, Appalachian State University
101. Jason Gardner, Appalachian State University
102. Douglas A. Waring, Appalachian State University
103. Timothy J. Huelsman, Appalachian State University
104. Sherry Street-Tobin, Appalachian State University
105. Kelly Tezaken, Appalachian State University



106. Michael Eng, Appalachian State University
107. Laura Chapman, Appalachian State University
108. Lisa Abbott, Appalachian State University
109. Barbara Zaitzow, Appalachian State University
110. Alexander D. Schwab, Appalachian State University
111. Cindy Norris, Appalachian State University
112. Susan Mills, Appalachian State University
113. Cece Conway, Appalachian State University
114. Beth Buchholz, Appalachian State University
115. Junie Cho, Appalachian State University
116. Anna Smith, Appalachian State University
117. Denise Martz, Appalachian State University
118. Will Canu, Appalachian State University
119. Benjamin Morris, Appalachian State University
120. Gina Grandi, Appalachian State University
121. Chelsea Helms, Appalachian State University
122. Hall Beck, Appalachian State University
123. Heather Childress Custer, Appalachian State University
124. Kevin Warner, Appalachian State University
125. Germán Campos-Muñoz, Appalachian State University
126. Elisabeth Bokhoven, Appalachian State University
127. Kristina Groover, Appalachian State University
128. [Josh Broman-Fulks](#), Appalachian State University
129. Sarah Beth Hopton, Appalachian State University
130. Michael Turner, Appalachian State University
131. René Harder Horst, Appalachian State University
132. Martha Marking, Appalachian State University
133. Alisha Farris, Appalachian State University
134. Lynn Stallworth, Appalachian State University
135. Ellen Lamont, Appalachian State University
136. Fabio Andres Tellez, Appalachian State University
137. Benjamin Anderson Russell, Appalachian State University
138. Brent Boland, North Carolina State University
139. Trude Bennett, UNC-Chapel Hill
140. Karen Flint, UNC-Charlotte
141. Christine Haynes, UNC-Charlotte
142. Sherryl Kleinman, UNC-Chapel Hill
143. Rita Johnston, UNC Charlotte
144. Tina Katsanos, UNC Charlotte
145. Cat Warren, NC State University
146. Mark Wilson, UNC Charlotte
147. Danny Doucette, North Carolina State University
148. Todd Lu, UNC-Chapel Hill
149. Laura Cox, UNC-Chapel Hill

150. Dante Strobino, UE Local 150, NC Public Service Workers Union
151. Will Raby, UNC-Chapel Hill
152. María DeGuzmán, UNC-Chapel Hill
153. Patricia Sawin, UNC-Chapel Hill
154. Tina Katsanos, UNC Charlotte
155. Mary A. Valante, Appalachian State University
156. Jennifer Wilson, Appalachian State University
157. Don Nonini, UNC Chapel Hill
158. Leon Lewis, Appalachian State University
159. Joseph Jakubek, Appalachian State University
160. Kathryn Birgel, Appalachian State University
161. Jon Beebe, Appalachian State University
162. Jamie Griffin, Appalachian State University
163. Belle Boggs, NC State University
164. David Ambaras, NC State University
165. David Auerbach, NC State University
166. Douglas James, Appalachian State University
167. Marc Lange, UNC-Chapel Hill
168. Melody Moezzi, UNC Wilmington
169. Emily Baragwanath, UNC-Chapel Hill
170. Imran Arif, Appalachian State University
171. Sharon L. James, UNC Chapel Hill
172. Christopher Bartel, Appalachian State University
173. Ram Neta, UNC Chapel Hill
174. Thomas Pegelow Kaplan, Appalachian State University
175. Alan Nelson, UNC Chapel Hill
176. Beth Grabowski, UNC Chapel Hill
177. James Fenwick, Appalachian State University
178. Michael Pendlebury, North Carolina State University
179. Wendy Brenner, UNC Wilmington
180. Jamie Yarbrough, Appalachian State University
181. C. D. C. Reeve, UNC Chapel Hill
182. Glenn Hinson, UNC-Chapel Hill
183. Jeanne Dubino, Appalachian State University
184. Hassan Melehy, UNC Chapel Hill
185. Amy Hudnall, Appalachian State University
186. Gwendolyn Zugarek, Appalachian State University
187. Karalee Cole, Appalachian State University
188. Alex Worsnip, UNC-Chapel Hill
189. Andrea Burns, Appalachian State University
190. Rebecca Hutchins, Appalachian State University
191. Michael O'Hara, Appalachian State University
192. Mary Stolberg, Appalachian State University
193. Zofia Knorek, UNC-Chapel Hill

194. Kevin Gamble, Appalachian State University
195. John Arrowood, Appalachian State University
196. Daniel Muñoz, UNC-Chapel Hill
197. Joyce Hill-Powers, Appalachian State University
198. Lucila Vargas, UNC-CH
199. Anthony Rossodivito, UNC-CH
200. Miranda Elston, UNC-CH
201. Bethany Wiese, Appalachian State University
202. Suzanna Brauer, Appalachian State University
203. Andrew Bellemer, Appalachian State University
204. Krissy Johnson, Appalachian State University
205. Ray S Williams, Appalachian State University
206. Jason Bivins, North Carolina State University
207. K. Steven Vincent, NCSU
208. Erin Meachum, NC State University
209. Adriana de Souza e Silva, NC State University
210. David F. Austin, NC State University
211. Dylan Fehl, Appalachian State University
212. Mark Driscoll, UNC, Chapel Hill
213. Cynthia Levine, NC State University
214. Cortney Bouldin, Appalachian State University
215. Jillian S. Haeseler, NC State University
216. Michael Wilson, Appalachian State University
217. Marianne Adams, Appalachian State University
218. S. Coleman McCleneghan, ASU
219. Sarah S. Donovan, Appalachian State University
220. Beth Moracco, UNC-CH
221. Chris Dickinson, Appalachian State University
222. Mary Kinkel, Appalachian State University
223. Melissa Medaugh, Appalachian State University
224. Paul Maney, Appalachian State University
225. Beth Bee, East Carolina University
226. Jennifer Geib, Appalachian State University
227. Lisa Russell-Pinson, UNC Charlotte
228. Cameron Van Dyke, Appalachian State University
229. Jenna R. Valley, Appalachian State University
230. François Amet, Appalachian State University
231. John Stehlin, UNC Greensboro
232. Peter Nelsen, Appalachian State University
233. Alecia Jackson, Appalachian State University
234. Howard S. Neufeld, Appalachian State University
235. Andrew Jenkins, Appalachian State University
236. Vachel Miller, Appalachian State University
237. Amy Cheney, Appalachian State University

238. Michael Palm, UNC-Chapel Hill
239. Robin Moeller, Appalachian State University
240. Shea R Tubety, Appalachian State University
241. Kyle Stevens, Appalachian State University
242. Casey M. Theriot, NC State University
243. Erik Rabinowitz, Appalachian State University
244. Michael Gangloff, Appalachian State University
245. John Janowiak, Appalachian State University
246. Kimberly Sims, Appalachian State University
247. Kristen Baldwin Deathridge, Appalachian State University
248. Chauntee Thrill, Appalachian State University
249. Laura England, Appalachian State University
250. Philip Armstrong, Appalachian State University
251. Rebecca Witter, Appalachian State University
252. Renée Alexander Craft, UNC-Chapel Hill
253. April Flanders, Appalachian State University
254. Joseph Bigley, Appalachian State University
255. Travis Donovan, Appalachian State University