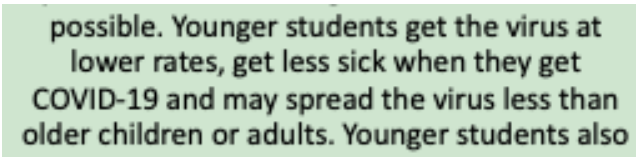
To: Oregon Public Health Professionals
From: Nancy Willard, Embrace Civility http://embracecivility.org and nwillard@embracecivility.org
Re: Concerns Regarding Metrics and Significantly Increased Risk
Date: October 14, 2020

I have been active in the Facebook Oregon Safe Return, which is populated by 13,000+ educators — teachers and support staff — and some parents. Through this participation, I have been able to learn about how the Metrics that I now know many of you collaborated on in the creation, are being implemented. As there is now an effort to revise the Metrics, I dearly hope you will pay heed to the insight I have been able to gain through my participation in this group.

I have, for the record, become very active in this group and am a person who is communicating to state leadership (ad nauseum, likely in their opinion — or cyberbullying them). I am not currently employed by any Oregon district. I focus very strongly on the research and the data and I am a writer. I have worked in bullying and harassment prevention for well over a decade and have a natural tendency to support those with less power — in this case teachers and support staff — who are being abused by those in power — in this case, the Governor, OHA, ODE, and their local districts. I am not adverse to speaking truth to power.

I am also very strongly focused on evidence based in my work in trauma and bullying prevention. Therefore, when I see Metrics that say this …


possible. Younger students get the virus at lower rates, get less sick when they get COVID-19 and may spread the virus less than older children or adults. Younger students also

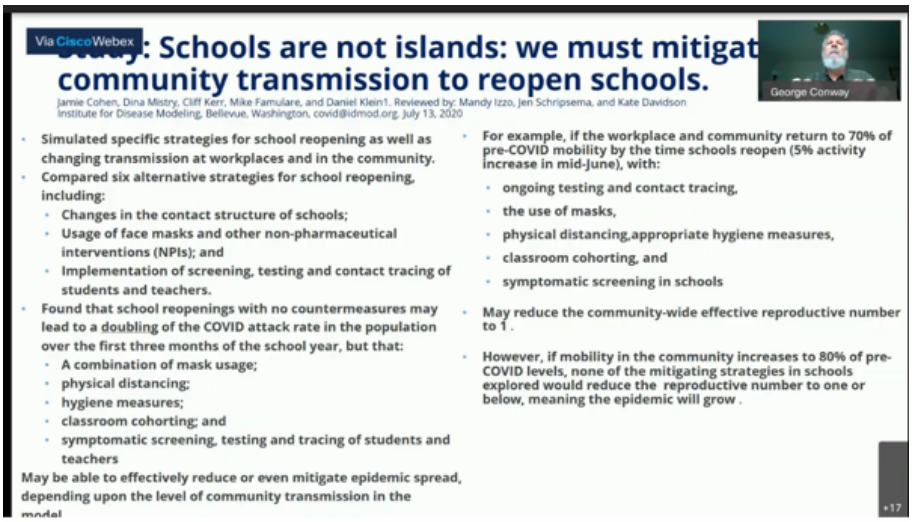
And immediately (that week actually — but also continuing) evidence comes out through compelling research that this statement is not accurate, I do not think it should take so long to make corrections. I know OHA maintains that its work is evidence-based — and is, in fact, required under statute to do so. I have no patience whatsoever with those who ignore the compelling research for so long. So, yes, I have been cyberbullying OHA for months now urging them to proceed in a manner that is evidence based. (For the record, I wrote the first book ever published on cyberbullying — back in 2007.)

I have included a number of documents that I just sent to the State Board of Education. These documents will back up the more brief comments I will include in this memo. After I wrote these documents, I watched a presentation Dr. Conway gave to the Bend School District school board. Through this I learned that there were quite a few of you who were involved in the creation of the Metrics. I also learned more about some of the thinking behind the Metrics.

What I think it will be most helpful for you to know:

There are ample examples from staff in schools that have opened either remote, K-3, or Limited In Person Instruction that indicate that the safety precautions of masks, social distancing, cohorts, and implementation of screening, testing, and contact tracing is not occurring.

The graphic in a slideshow Dr. Conway used was this:

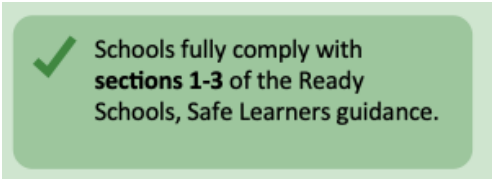


Assuming that your understanding is that schools will do this is the foundation for your thinking the Metrics will be safe, please look at the numerous comments from educators from throughout this state that this is not what is happening on the ground.

There was a recent study done in Maryland that indicated that only 1 in five conservatives thought that the safety protections of masks and social distancing were important. Most of the schools that have opened are those in more rural — more conservative — regions of the state. It appears that in many of these schools there are members of the staff who are not of the opinion that these protections are necessary.

The only way public health officials will learn of these kinds of concerns is if the staff who witness the concerns report. It is IMPOSSIBLE for the staff members in schools who witness the concerns to report. They would clearly be subjected to retaliation. They know this, so they will not report.

This Metric is impossible to enforce:



This is what it says on the ODE page related to reporting:

Feedback and Input

We have received the input of more than 15,000 Oregonians as we have iterated Ready Schools, Safe Learners guidance. There are no more planned changes to the guidance until after school starts. If you have concerns your school is not complying with RSSL guidance, please let us know. Note that ODE does not have the ability to keep your identity confidential. If you would like to file a confidential complaint you may file your complaint with the Occupational Safety and Health Administration (OSHA). On the OSHA form, you will need to select "yes" in response to the question "Do you want to keep your identity confidential?" OSHA will process your complaint and then refer the complaint to ODE for follow-up and technical assistance.

ODE does not have whistleblower protections. OSHA does. OHA does. Reportedly, what happens if a teacher or support staff person files a complaint at ODE is that this complaint, with the person's name, is sent to the superintendent and ask the superintendent to make sure that the protections are being followed. There is no independent verification. There is no protection for the staff person. The issues that OSHA can address under their authority are extremely limited.

How well do you think this is going to work to ensure that the protective actions you all think are the foundation for safe reopening of schools are being followed?

Just after Labor Day, there was a mysterious change in what I think you all thought was the agreement related to Transitioning back to Comprehensive Distance Learning (CDL) Metric.

I think you all thought that if the the infection rates in your county went over 30 per 100,000 and were clearly on a trajectory up, this meant your county was headed into a dangerous situation and all in person learning needed to be stopped.

What appears to have happened is outlined in full in the document for the State Board of Education. It appears that sometime between September 14 and 24, there was an elimination of the application of the Transition to CDL Metric to any in-person instruction under the Exceptions, along with the creation of two new Metrics that were never included in the original Metrics that it appears you all agreed to.

Basically, this is what the Metrics Examiner document said on September 22:

This was the day I received an email from Mr. Gill telling me that the Transition to CDL did not apply to the Exceptions and that there was a new Metric for Transitioning for schools that opened under the Exceptions. This newly announced Metric, curiously, did not appear in the original statement of Metrics.

This is what Metric Examiner document was changed to say as of September 24 — coincidentally just after my email to Dr. Sidelinger, Mr. Capps and Mr. Gill suggesting that their new interpretation of the Metrics was rebutted by this Examiner document.

Further, On September 24, Mr. Gill sent out a second version of the mysterious new Metric to all superintendents in the state — a version that was different from the one he shared with Mr. Hamilton at Springfield School district on September 21 and me on September 22.

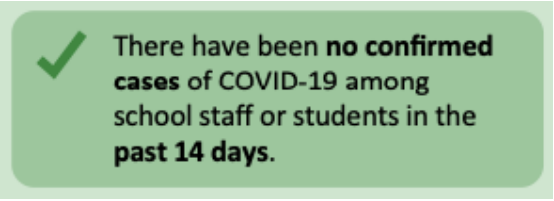
The sense I got from watching Dr. Conway was that if infection rates start to rise and are clearly on a trajectory going up and are over 30 per 100,000, this is the time to Transition all learning back to CDL — for all in person instruction, including under the Metrics.

I really think someone need to figure out what happened. Because I think something happened that should not have — especially as I now know that a lot of you were involved in the original creation of the Metrics.

Some school districts appear to now be using the Limited In Person Instruction Exception (LIPI) very broadly — essentially to get as many students as possible back into school but for only 2 hours. They are using LIPI — in counties with rates well over 30 per 100,000 to achieve close to Hybrid.

This is resulting in many students coming to school — and these students appear to be congregating in a manner that is not safe in times outside of the 2 hours they are in class.

In addition, this Metric for the LIPI is not possible to verify:

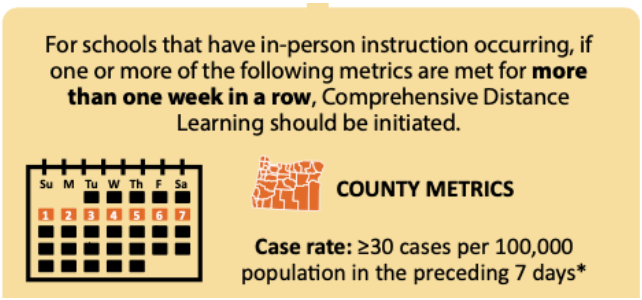


Oregon does not have a sufficient number of tests and it takes too long to get test results. So if someone thinks they may have Covid-19, but does not appear to have severe symptoms, they are most often told by their doctor to simply stay in quarantine for 14 days. There would be no confirmation one way or the other. Also parents frequently send their children to school when sick. Children have fewer symptoms. Most pediatricians are not testing children with cold, flu, or Covid symptoms for Covid. If you increase use of the rapid tests, you are going to have lots of false negatives.

Also, in communities that really want their schools to open, there is now a testing backlash. Reportedly, there was an outbreak in a church in Coos County. The county public health set up a testing station. On social media, reportedly, people were being encouraged not to get tested because this would increase the county rates and prevent schools from opening or force them to close.

The Metrics for all of the Exceptions are workable if, and only if, the requirement to Transition back to CLD if the county goes over 30 per 100,000 for one or to weeks (that Metric is incomprehensible). But not otherwise.

What does this mean? One week? Two weeks? 7 days?



By the way, I know of a district in one county that just went back on the Watch List that is discussing opening their school under LIPI, with a very broad interpretation of that Exception.

The ventilation systems in many schools present a HUGE risk factor.

Especially as we now know that Covid-19 is airborne, the quality of ventilation in school buildings is a huge concern. There is no requirement that school districts have their ventilation systems independently assessed. This presents a huge risk factor.

Teachers are reporting that they have been directed that they must teach from the school building. Sometimes they are in rooms with no windows in buildings they know to have problems with ventilation. So they always feel they are at risk.

My Thoughts

It is not going to be possible to have any significant in-person instruction in schools until after the first of the year. We need to convince Governor Brown that this simply is not going to happen. We need to convince ODE to do what it should have done ages ago — focus on providing the best and most effective distance learning possible.

Looking at who is getting infected now. We have Halloween coming soon. Party time! This will be followed by Thanksgiving. Then, holiday gatherings. All during cold and flu season. The infection rate is not going to go down in most counties. The rapid tests you just got were the ones that the Whitehouse was using to keep folks safe. Are there any better ones coming along?

Any school that intends to have students or staff required to be present in the building should be required to have an independent assessment of the HVAC system.

Presenting an independent assessment of the HVAC should be a new requirement under the Metrics, given the new insight into the nature of transmission.

If the infection rates in the county are over 30 per 100,000 and the county is showing signs of an upward trajectory or hovering right around 30 per 100,000, there should be no significant in person instruction.

However, there really is a need for some really limited LIPI even if the counts are somewhat higher than 30 per 100,000. But this Metric needs to be redone. This should be really limited to students with disabilities, English Language Learners, K-3 students, and any students who are having significant difficulties with the CDL. Smaller groups — only up to 6. More limited times — twice a week for students with disabilities and ELL students. Once a week for K-3 or any others. STRICT compliance with protective measures. For some students with disabilities, the staff likely will need to have more significant protective clothing.

If the rate is between 10 and 30 per 100,000 the rural schools should be able to open and LIPI should be able to be expanded somewhat. But there will need to be more strict measures to ensure compliance with the safety measures.

I noted this from Washington: https://www.doh.wa.gov/Portals/1/Documents/1600/coronavirus/DecisionTree-K12schools.pdf?utm_medium=email&utm_source=govdelivery

Note specifically:

> Local health officers are responsible for controlling the spread of communicable disease like COVID-19 in the community. County-level COVID-19 activity is measured by the number of cases per 100,000 people over a 14-day period, along with other key health indicators such as the percentage of positive tests and trends in cases or hospitalizations. The local health officer should inform the school administrator of significant changes in indicators. You can also find county and statewide indicators on Washington's Risk Assessment Dashboard (cases per 100K over 14 days and percentage of positive tests) and Department of Health's COVID-19 Dashboard (epidemiologic curves for cases and hospitalizations). The local health jurisdiction may further disaggregate these indicators, or use other data to guide recommendations for in-person learning.
>
> If a local health officer determines that the opening of a school or the continuation of in-person learning poses an imminent public health threat to the community, they have the legal power and duty to direct or order an interruption of in-person learning (WAC 246-110-020). School administrators must cooperate with investigations, directives, and orders made by the local health officer (WAC 246-101-420).

Look at the underlying statute WAC 246-110-020:
What is the possibility of getting Governor Brown to call for this in an Executive Action?

Look at all of those reports of concerns that are not going to ODE because there is no whistleblower protection. OHA, and I presume its agency affiliates in the counties, have whistleblower protection. You also have the ability to conduct local investigations.

It seems to me, based on the comments I am seeing from educators, that the only way that the safety precautions in sections 1-3 are truly implemented is if there is a process to ensure accountability — with the authority to close the school if those precautions are not being met.

Control of contagious disease.

(1) When a school or childcare center becomes aware of the presence of a contagious disease at the facility, as defined in WAC **246-110-010**, the officials at the school or childcare center shall notify the appropriate local health officer for guidance.

(2) When there is an outbreak of a contagious disease, as defined in WAC **246-110-010**, and there is the potential for a case or cases within a school or childcare center, the local health officer, after consultation with the secretary of health or designee if appropriate, shall take all appropriate actions deemed to be necessary to control or eliminate the spread of the disease within their local health jurisdiction including, but not limited to:

(a) Closing part or all of the affected school(s) or childcare center(s);

(b) Closing other schools or childcare centers;

(c) Canceling activities or functions at schools or childcare centers;

(d) Excluding from schools or childcare centers any students, staff, and volunteers who are infectious, or exposed and susceptible to the disease.

(3) Prior to taking action the health officer shall:

(a) Consult with and discuss the ramifications of action with the superintendent of the school district, or the chief administrator of the childcare center or their designees on the proposed action; and

(b) Provide the superintendent of the school district or the chief administrator of the childcare center or their designees a written decision, in the form and substance of an order, directing them to take action. The order must set the terms and conditions permitting;

(i) Schools or childcare centers to reopen;

(ii) Activities and functions to resume; and

(iii) Excluded students, staff and volunteers to be readmitted.

(c) Pursue, in consultation with the secretary of health or designee if appropriate, and school or childcare officials, the investigation of the source of disease, or those actions necessary to ultimately control the disease.