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11-17-2021

**SB49-21/22-Resolution Expanding ASUM's Stance Regarding COVID-19 Vaccine Requirement Based on UM Student and Faculty/Staff Survey(s)**

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Elizabeth Bowles

Noah Durnell

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1                                   **The Associated Students of the University of Montana**  
2   **Resolution Expanding ASUM's Stance Regarding COVID-19 Vaccine Requirement Based**  
3                                   **on UM Student and Faculty/Staff Survey(s)**

4                                   **November 17, 2021**

5                                   **SB49-21/22**

6   **Authored by: Madison McKenzie, ASUM Senator; Elizabeth Bowles, ASUM Senator;**  
7   **Noah Durnell, ASUM President; Lauren O'Neill, ASUM Senator; Dr. Mark Heirigs,**  
8   **Faculty Advisor, Sociology Assistant Professor and Director of Graduate Studies;**

9   **Sponsored by: Unanimously by the Student Political Action Committee;**

10  
11   Whereas, The Associated Students of the University of Montana ("ASUM") advocates for the  
12   general welfare of all students at the University of Montana ("UM")<sup>1</sup>;

13  
14   Whereas, On September 8, 2021 ASUM passed SB7-21/22: "Resolution Establishing ASUM's  
15   Demands Regarding COVID-19 Vaccine Requirement" for all students, faculty, and staff<sup>2</sup>;

16  
17   Whereas, On September 20, 2021, UM met some of the demands outlined in SB7-21/22, calling  
18   on UM to update their mask policy by expanding the mask requirement to all indoor public  
19   spaces throughout campus<sup>2</sup>;

20  
21   Whereas, While the mask requirement expansion likely contributed to lowering the risk of  
22   contracting and spreading COVID-19 on campus, UM has not taken all proven effective  
23   measures possible to address the public health and safety concerns associated with the COVID-  
24   19 pandemic;

25  
26   Whereas, The COVID-19 pandemic continues to be an unprecedented threat to the public health  
27   and safety of the UM campus;

28  
29   Whereas, During the week of September 13, 2021, the Missoula City County Health Department  
30   ("MCCHD") reported that the county had surpassed previously held records for COVID-19  
31   hospitalizations, total daily new cases, and average daily new COVID-19 cases, warning of the  
32   increased health and safety risk due to a significant increase in community spread<sup>3</sup>;

33  
34   Whereas, Since the end of September, Missoula County has seen an increase from 129 reported  
35   COVID-19 related deaths to 173 deaths as of November 17, 2021—which indicated in the month  
36   of October, Missoula County was reporting an average of at least 1 death per day, or a total of 35  
37   deaths reported in October and 9 (so far) in November<sup>4</sup>;

38  

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<sup>1</sup> Associated Students of the University of Montana Constitution, Art. II §1.

<sup>2</sup> Durnell, Noah; Glueckert, Mary Melissa; Gudmundsson, Tor; Kiefer, Emma; and O'Neill, Lauren, "SB7-21/22: Resolution Establishing ASUM's Demands Regarding COVID-19 Vaccine Requirement" (2021). *Senate Resolutions, 2007-Present*. 916. [https://scholarworks.umt.edu/asum\\_resolutions/916](https://scholarworks.umt.edu/asum_resolutions/916).

<sup>3</sup> Missoula Public Health City-County Health Department. (n.d.). *COVID-19 Data Dashboard*. missoulainfo.com. Retrieved November 13, 2021, from <https://www.missoulainfo.com/copy-of-epidemiological-reports>.

<sup>4</sup> Covid Act Now. (2021, November 12). *U.S. Covid Risk & Vaccine tracker*. Covid Act Now. Retrieved November 13, 2021, from [https://www.covidactnow.org/us/montana-mt/county/missoula\\_county/?s=25461459](https://www.covidactnow.org/us/montana-mt/county/missoula_county/?s=25461459).

39 Whereas, In October 2021, MCCHD reported that a majority of recent COVID-19 related deaths  
40 were people who had not received a COVID-19 vaccine<sup>5</sup>;

41  
42 Whereas, With the leadership of ASUM's Student Political Action Committee ("SPA") Chair,  
43 Senator McKenzie, ASUM, and Faculty Supervisor, Dr. Mark Heirigs, UM's Institutional  
44 Review Board ("IRB") granted approval for ASUM to distribute a COVID-19 vaccination  
45 requirement opinion survey to students and faculty/staff currently enrolled or employed at UM;

46  
47 Whereas, The student version of the survey was distributed to UM students via email on October  
48 22, 2021, and recruitment for the student survey continued on ASUM social media platforms, by  
49 word of mouth, and at UM-related tabling events until November 5, 2021;

50  
51 Whereas, The faculty/staff version of the survey was distributed to UM faculty/staff via email  
52 within a newsletter known as "UM Today" on October 25, 2021 and was also shared via flyers,  
53 by word of mouth, and at UM-related tabling events until November 5, 2021;

54  
55 Whereas, Each survey asked the respondents to answer up to 9 questions depending on the  
56 survey type (student or faculty/staff), and the answers to specific questions;

57  
58 Whereas, Each respondent was asked if they supported a COVID-19 vaccine requirement for in  
59 person-attendance/instruction/work at UM, as well as vaccination status, and a series of  
60 demographic questions for generalizability based on age, gender identity, and race;

61  
62 Whereas, If a respondent indicated "no" to supporting a COVID-19 vaccine requirement they  
63 were taken to a question that asked if they would get the vaccine if it was required,  
64 if they indicated "no" to that question they were taken to an additional question that asked if they  
65 would leave the university if the COVID-19 vaccine were required;

66  
67 Whereas, Differences between the two versions of the survey only accounted for  
68 one additional question that was asked in which students indicated their status as an  
69 undergraduate, graduate (Masters or PhD), or Juris Doctor ("J.D.") students;

70  
71 Whereas, The response rates for both of the surveys were significant; an unprecedented number  
72 of students responded to the survey (n=2,668 students), about 26% of the student population at  
73 UM and, in comparison, a significant, yet smaller number of faculty/staff responded to the  
74 survey (n=338 faculty/staff), about 11.5% of the faculty/staff population at UM;

75  
76 Whereas, The analysis of the student survey alone is indicated as follows:

77  
78 *58.04% of UM students support a COVID-19 vaccination requirement for in-person*  
79 *attendance and 41.96% of UM students do not support a COVID-19 vaccination*  
80 *requirement for in-person attendance; of the 41.96% of students who indicated they do*  
81 *not support it, 19.11% of them indicated that they would get the COVID-19 vaccine if*

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<sup>5</sup> MTN News. (2021, October 19). 8 additional COVID-19 related deaths reported in Missoula County. KPAX. Retrieved November 18, 2021, from <https://www.kpax.com/news/coronavirus/8-additional-covid-19-related-deaths-reported-in-missoula-county>.

82 *they were required to and 80.89% indicated that they would not get the COVID-19*  
83 *vaccine; of the 80.89% of students who said they would not get the COVID-19 vaccine,*  
84 *83.35% indicated that they would leave UM, and 16.65% indicated that they would not*  
85 *leave UM;*

86  
87 *Of the student respondents, 73.42% indicated that they were fully vaccinated against*  
88 *COVID-19, 15.52% indicated that they were not, and 11.06% preferred not to say if they*  
89 *were fully vaccinated; of the 73.42% of students who indicated that they were fully*  
90 *vaccinated, 25.66% indicated that they received the Moderna vaccine, 67.34% indicated*  
91 *that they received the Pfizer-BioNTech vaccine, 5.63% indicated that they received the*  
92 *Johnson and Johnson (Janssen) vaccine, and 1.37% preferred not to say;*

93  
94 Whereas, The analysis of the faculty staff survey alone is indicated as follows:

95  
96 *82.84% of UM faculty/staff support a COVID-19 vaccination requirement for in-*  
97 *person attendance and 17.16% of UM faculty/staff do not support a COVID-19*  
98 *vaccination requirement for in-person attendance; of the 17.16% of faculty/staff who*  
99 *indicated they do not support it, 24.14% of them indicated that they would get the*  
100 *COVID-19 vaccine if they were required to and 75.86% indicated that they would not get*  
101 *the COVID-19 vaccine; of the 75.86% of faculty/staff who said they would not get the*  
102 *COVID-19 vaccine, 72.73% indicated that they would leave UM and 27.27% indicated*  
103 *that they would not leave UM;*

104  
105 *Of the faculty/staff respondents, 91.72% indicated that they were fully vaccinated*  
106 *against COVID-19, 2.66% indicated that they were not, and 5.62% preferred not to say if*  
107 *they were fully vaccinated; of the 91.72% of faculty/staff who indicated that they were*  
108 *fully vaccinated, 30.10% indicated that they received the Moderna vaccine, 64.40%*  
109 *indicated that they received the Pfizer-BioNTech vaccine, 4.213% indicated that they*  
110 *received the Johnson and Johnson (Janssen) vaccine, and 1.29% preferred not to say;*

111  
112 Whereas, While the number of individuals who responded to both surveys that indicated that  
113 they would not get the COVID-19 vaccine *and* would leave UM if it were required for in-person  
114 attendance should be considered, the significance in the response rate for both of the surveys in  
115 addition to the majority of students who indicated support and the overwhelming number of  
116 faculty/staff that indicated support for a vaccine requirement sends a message to UM's  
117 administration that the majority of faculty, staff, and students would support this action;

118  
119 Whereas, In addition to the support indicated, while ASUM does recognize the Administration's  
120 concerns over students potentially leaving UM, it should be considered that taking steps to  
121 ensure the safety of the faculty/staff and students at a university that advertises itself as an "in-  
122 person" institution<sup>6</sup>, should consider that in order to do so safely during a pandemic, UM is  
123 responsible for taking all possible measures to ensure the not only the students are safe, but all  
124 faculty and staff are ensured a safe working environment;

125  

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<sup>6</sup> The University of Montana. (n.d.). *About UM*. The University of Montana. Retrieved November 13, 2021, from <https://www.umt.edu/about/>.

126 Whereas, The Pfizer-BioNTech vaccine has been approved by the U.S Food and Drug  
127 Administration (“FDA”) since August 23, 2021<sup>7</sup>;  
128  
129 Whereas, COVID-19 vaccinations are readily available on campus and in the Missoula  
130 community through the Curry Health Center, the MCCHD Immunization Clinic, CVS Pharmacy,  
131 Walgreen’s Pharmacy, OSCO Pharmacy, and Granite Pharmacy, among others<sup>8</sup>;  
132  
133 Whereas, Continuing Center for Disease Control and Prevention (“CDC”) guidance advises  
134 individuals to be fully vaccinated against COVID-19 as soon as possible without exemption<sup>9</sup>;  
135  
136 Whereas, There are 536 reported public universities that have reported their COVID-19 vaccine  
137 mandate status, of which, 344 require employees to be vaccinated, and 467 require students to be  
138 vaccinated to attend<sup>10</sup>;  
139  
140 Whereas, UM would be following suit in joining a large portion of reputable post-secondary  
141 public universities in requiring a COVID-19 vaccination status for enrollment or employment;  
142  
143 Whereas, The 67<sup>th</sup> Montana Legislature passed House Bill 702 (“HB 702”)<sup>11</sup> which was  
144 codified as Montana Code Annotated § 49-2-312, “Discrimination Based on  
145 Vaccination Status or Possession of Immunity Passport Prohibited – Definitions”<sup>12</sup>;  
146  
147 Whereas, HB 702 recognized the importance of adhering to COVID-19 vaccine guidance issued  
148 by the CDC<sup>13</sup>;  
149  
150 Whereas, The Montana Department of Labor states:  
151

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<sup>7</sup> FDA. (2021, August 23). *FDA approves first COVID-19 vaccine*. U.S. Food and Drug Administration. Retrieved November 13, 2021, from <https://www.fda.gov/news-events/press-announcements/fda-approves-first-covid-19-vaccine>.

<sup>8</sup> Durnell, Noah; Glueckert, Mary Melissa; Gudmundsson, Tor; Kiefer, Emma; and O’Neill, Lauren, “SB7-21/22: Resolution Establishing ASUM’s Demands Regarding COVID-19 Vaccine Requirement” (2021). *Senate Resolutions, 2007-Present*. 916, citing <https://www.vaccines.gov/results/?zipcode=59801&medications=779bfe52-0dd8-4023-a183-457eb100fcc, a84fb9ed-deb4-461c-b785-e17c782ef88b, 784db609-dclf-45a5-bad6-8db02e79d44f&radius=25&appointments=true>; <https://covid19.missoula.co/get-vaccinated/>.

<sup>9</sup> Centers for Disease Control and Prevention. (2021, November 5). *Benefits of getting a COVID-19 vaccine*. Centers for Disease Control and Prevention. Retrieved November 13, 2021, from <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/vaccine-benefits.html>.

<sup>10</sup> Datawrapper data on University’s Covid-19 Vaccines Requirements. (n.d.) Retrieved November 12, 2021, from [https://www.datawrapper.de/\\_/7G1ie/](https://www.datawrapper.de/_/7G1ie/).

<sup>11</sup> An Act Prohibiting Discrimination Based on a Person's Vaccination Status or Possession of an Immunity Passport; Providing an Exception and an Exemption; Providing an Appropriation; and Providing Effective Dates, HB702, 67th Legislature. (2021). From <https://leg.mt.gov/bills/2021/billpdf/HB702.pdf>.

<sup>12</sup> Mont. Code Ann. § 49-2-312 (2021).

<sup>13</sup> An Act Prohibiting Discrimination Based on a Person's Vaccination Status or Possession of an Immunity Passport; Providing an Exception and an Exemption; Providing an Appropriation; and Providing Effective Dates, HB702, 67th Legislature. (2021). From <https://leg.mt.gov/bills/2021/billpdf/HB702.pdf>.

152 *HB 702 applies to all vaccines and is not limited to COVID-19 vaccines*<sup>14</sup>;

153  
154 Whereas, Montana Code Annotated (“MCA”) § 49-2-312(2) provides:

155  
156 *This section does not apply to vaccination requirements set forth for schools pursuant*  
157 *to Title 20, chapter 5, part 4*<sup>15</sup>;

158  
159 Whereas, MCA § 20-5-403(2)(b) provides:

160  
161 *The governing authority of a postsecondary school may, as a condition of attendance,*  
162 *impose immunization requirements that are more stringent than those required by this*  
163 *part, subject to the exemptions provided for in 20-5-405*<sup>16</sup>;

164  
165 Whereas, MCA § 20-5-402(2) defines “governing authority” to mean:

166  
167 *The board of trustees of a school district or the administrator of a private school,*  
168 *preschool, or postsecondary school*<sup>17</sup>;

169  
170 Whereas, President Seth Bodnar is, for actual and legal purposes, the leading administrator of  
171 UM, a Montana University System (“MUS”) postsecondary school, and thusly is responsible for  
172 the general welfare of the UM student body and accountable for any imposition of immunization  
173 requirements more stringent than those required by MCA § 20-5-403(2)(b);

174  
175 Whereas, Board of Regent (“BOR”) Policy 301(I)(E) states:

176  
177 *Before enrolling for an initial term, all post-secondary students must comply with*  
178 *immunization requirements of ARM 37.114.701-721:*

- 179       1. *Students born in 1957 or later must provide evidence that they have*  
180       *received two measles and two rubella immunizations...*  
181       2. *Under ARM 37.114.711, a student may be conditionally enrolled for*  
182       *an initial term if the student has not received the second dose at least*  
183       *28 days after the first dose and before the beginning of the succeeding*  
184       *school term*<sup>18</sup>;

185  
186 Whereas, BOR Policy 301(I)(E)(5) states:

187  

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<sup>14</sup> *House Bill 702: Frequently asked questions.* Department of Labor & Industry. (2021, July 26). Retrieved November 13, 2021, from <https://erd.dli.mt.gov/human-rights/human-rights-laws/employment-discrimination/hb-702>.

<sup>15</sup> Mont. Code Ann. § 49-2-312(2).

<sup>16</sup> Mont. Code Ann. § 20-5-403(2)(b) (2021).

<sup>17</sup> Mont. Code Ann. § 20-5-402(2) (2021).

<sup>18</sup> Montana Board of Regents of Higher Education Policy and Procedures, Policy 301(I)(E)(1-2), from <https://mus.edu/borpol/bor300/301.pdf>.

188 *Individual campuses or programs may have additional immunization/testing*  
189 *requirements*<sup>19</sup>;

190  
191 Whereas, ASUM continues to advocate that the public health and safety of the student body  
192 significantly outweighs unfounded arguments against COVID-19 mitigation<sup>20</sup>;

193  
194 Whereas, Montana Courts have traditionally valued established scientific information and data  
195 over the political leanings of the body of any Legislative session in the area of laws  
196 encompassing a person's bodily autonomy, liberty, and privacy;

197  
198 Whereas, The Supreme Court of the United States (the "Supreme Court") has stated:

199  
200 *The right to practice religion freely does not include liberty to expose the community or*  
201 *the child to communicable disease or the latter to ill health or death*<sup>21</sup>;

202  
203 Whereas, The Supreme Court has similarly stated:

204  
205 *The liberty secured by the Constitution of the United States to every person within its*  
206 *jurisdiction does not import an absolute right in each person to be, at all times and in all*  
207 *circumstances, wholly freed from restraint. There are manifold restraints to which every*  
208 *person is subject for the common good*<sup>22</sup>;

209  
210 Therefore, Let It Be Resolved, That ASUM calls on UM to consider the significance of this data  
211 and implement a COVID-19 vaccination requirement (with exemptions, alternatives e.g., weekly  
212 COVID-19 testing, vaccination incentives, and/or other similar measures that align with  
213 University policy, decision making, and MCA § 20-5-405) for all students, faculty, and staff at  
214 UM to be implemented on January 18, 2022;

215  
216 Therefore, Let It Be Further Resolved, That ASUM calls on UM to also consider the significance  
217 of the overwhelming support of the COVID-19 vaccine requirement on behalf of the faculty/staff  
218 at UM, and allow further autonomy for the faculty in making decisions to plan for remote  
219 learning if/when they feel it is necessary for the general health and safety of themselves and/or  
220 students/staff against COVID-19;

221  
222 Therefore, Let It Be Further Resolved, That ASUM again calls for UM to represent the student  
223 demand for the aforementioned COVID-19 mitigation efforts alongside the demands of other  
224 shared governance bodies at UM to BOR and the Office of the Commissioner of Higher  
225 Education ("OCHE") in order to honestly reflect the demands of UM;

226  

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<sup>19</sup> Montana Board of Regents of Higher Education Policy and Procedures, Policy 301(I)(E)(5), from <https://mus.edu/borpol/bor300/301.pdf>.

<sup>20</sup> Durnell, Noah; Glueckert, Mary Melissa; Gudmundsson, Tor; Kiefer, Emma; and O'Neill, Lauren, "SB7-21/22: Resolution Establishing ASUM's Demands Regarding COVID-19 Vaccine Requirement" (2021). *Senate Resolutions, 2007-Present*.

<sup>21</sup> *Prince v. Commonwealth of Massachusetts*, 312 U.S. 158, 88 L.Ed 645 (1943).

<sup>22</sup> *Jacobson v. Commonwealth of Massachusetts*, 197 U.S. 11, 49 L.Ed 643 (1905).

227 Therefore, Let It Be Further Resolved, That ASUM again calls for institutional support for any  
228 potential litigation efforts proposed by OCHE and/or BOR against HB 702 in order to secure the  
229 authority to mandate COVID-19 vaccination for all students, faculty, and staff at UM;  
230


231 Therefore, Let It Be Further Resolved, That this resolution be sent to Seth Bodnar, President of  
232 UM; Sarah Swager, UM Vice Provost of Student Success; Paula Short, UM Associate Vice  
233 President of Campus Preparedness and Response; Kimber McKay, Chair of UM Faculty Senate;  
234 Amanda Dawsey, President of University Faculty Union; Brady Schwertfeger, Chair of UM  
235 Staff Senate; Jeff Adams, Director of Curry Health Center; Loren Bough, Regent; Todd  
236 Buchanan, Regent; Joyce Dombrowski, Regent; Casey Lozar, Board of Regents Chair; Robert  
237 A. Nystuen, Regent; Brianne Rogers, Regent; Amy Sexton, Student Regent; Clayton Christian,  
238 Commissioner of Higher Education.  
239

240  
241 Passed by Committee: November 14, 2021  
242

243 Passed by ASUM Senate: November 17, 2021  
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247 Madison McKenzie  
248 Chair of Student Political Action Committee  
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247 Canyon S. Lock,  
248 Chair of the Senate  
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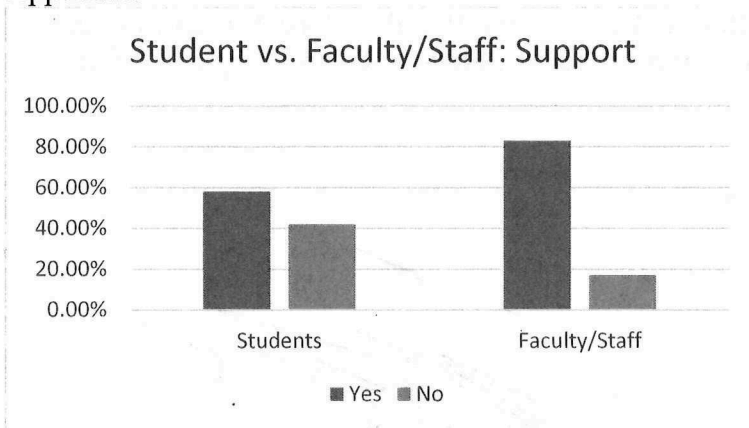
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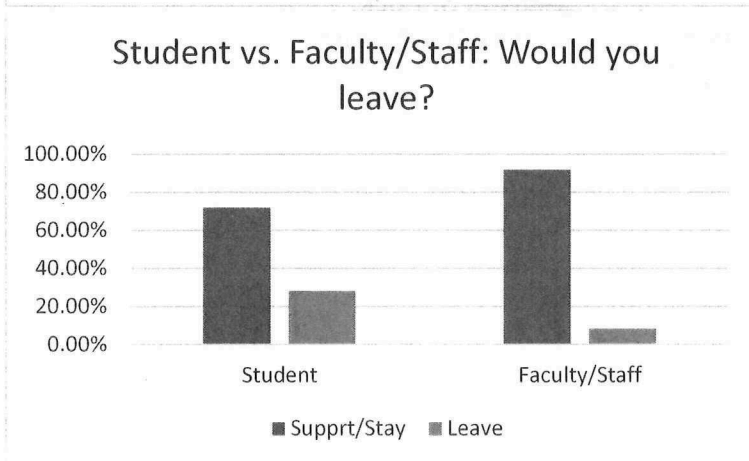


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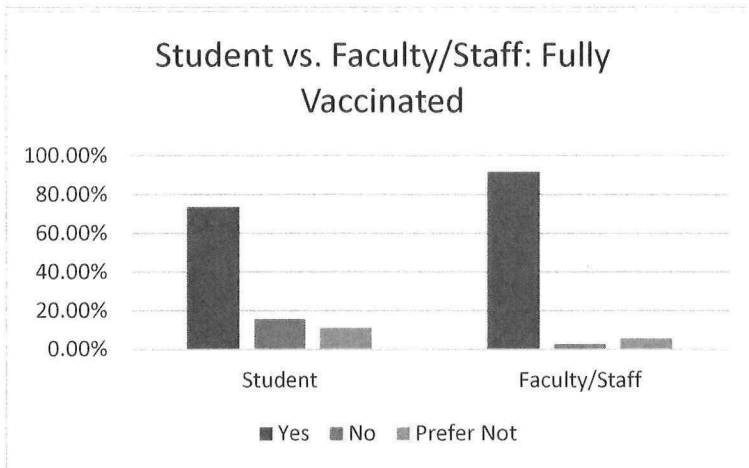
Appendix:



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### Student Type

