IN THE SUPREME COURT OF VIRGINIA

MATTHEW CASTILLO,
CHRISTINE M. THOMPSON.
JESSICA PETERSON,
ANASTASIA GALINTO,
DAVID MCFARLAND,
WERNER I. ROBLES GONZALEZ,
VIRGINIA GNADT,
AMBER BOWMER,
CATHLENE UHL,
KATHRYN KAIN,
JANET HOLSINGER,
JEANNE HANEWICH
and MELANIE CORNELISSE,

Petitioners,

v.

Record Number:_____

GLENN A. YOUNGKIN, in his official capacity as Governor of Virginia,

COLIN GREENE, in his official capacity as Acting State Health Commissioner for the Commonwealth of Virginia,

JILLIAN BALOW, in her official capacity as Acting Superintendent of Public Instruction for the Commonwealth of Virginia,

SCHOOL BOARD OF THE CITY OF CHESAPEAKE,

and

JARED COTTON, in his official capacity as Superintendent of Chesapeake City Public Schools,

Respondents.

VERIFIED PETITION FOR WRITS OF MANDAMUS AND PROHIBITION, AND REQUEST FOR EMERGENCY RELIEF

Petitioners, by counsel, bring this Petition seeking mandamus, prohibition and other appropriate relief pursuant to Va. Const. art. VI, § 1 and Code of Virginia § 8.01-644, and in support thereof, state as follows:

1. Petitioners are all residents of the City of Chesapeake in the Commonwealth of Virginia and all of them are parents of children currently enrolled as students in Chesapeake City Public Schools ("CPS"). Accordingly, the petitioners have constitutionally recognized and protected rights and interests in caring for and protecting their children. L.F. v Breit, 285 Va. 163, 182 (2013). Accordingly, they have standing to bring this Petition.

2. Defendant Glenn A. Youngkin is Governor of Virginia and was sworn in on Saturday, January 15, 2022. Among his enumerated duties is the "'duty to take care that the laws be faithfully executed,' Va. Const. art. V, § 7, which presupposes that the executive does not have the option of being unfaithful to laws with which he

disagrees." Howell v. McAuliffe, 292 Va. 320, 347-48 (2016).

3. The other respondents named herein are made parties to this Petition because they are deemed necessary or proper parties pursuant to applicable provisions of law, and because Governor Youngkin has signed an Executive Order that purports to require that they engage in certain actions that are opposed by petitioners and that petitioners are seeking to restrain, invalidate and prevent, as explained herein.

4. The same day that Governor Youngkin began his term as Governor of Virginia, he signed a series of Executive Orders, among them being "Executive Order Number Two (2022) and Order of Public Health Emergency One", entitled "Reaffirming the Rights of Parents in the Upbringing, Education, and Care of Their Children." A copy of this Executive Order ("Executive Order Number Two") is attached hereto as Exhibit A.

5. The "Directive" section of Executive Order Number Two sets forth the following requirements and directives in numbered paragraphs:

1. The State Health Commissioner shall terminate Order of Public Health Emergency Order Ten (2021).

2. The parents of any child enrolled in a (sic) elementary or secondary school or a school based early childcare and educational program may elect for their children not to be subject to any mask mandate in effect at the child's school or educational program.

3. No parent electing that a mask mandate should not apply to his or her child shall be required to provide a reason or make any certification concerning their child's health or education.

4. A child whose parent has elected that he or she is not subject to a mask mandate should not be required to wear a mask under any policy implemented by a teacher, school, school district, the Department of Education, or any other state authority.

5. The Superintendent of Public Instruction shall rescind the Interim Guidance for COVID-19 Prevention in Virginia PreK-12 Schools, issued January 14, 2021, and updated October 14, 2021, and issue new guidance for COVID-19 Prevention consistent with this Order.

6. School districts should marshal any resources available to improve inspection, testing, maintenance, repair, replacement and upgrades of equipment to improve the indoor air quality in school facilities, including mechanical and non-mechanical heating,

> ventilation, and air conditioning systems, filtering purification, fans, control systems and window and door repair.

6. However, during the 2021 Special Session I of the Virginia General Assembly, an enactment was presented, approved and passed (Chapter 456, "An Act to require each school board to offer in-person instruction to students enrolled in the local school division; exceptions permitted"; copy attached as Exhibit B), and it includes the following language applicable to school boards:

> For the purposes of this act, each school board shall (i) adopt, implement and, when appropriate, update specific parameters for the provision of in-person instruction and (ii) provide such in-person instruction in a manner in which it adheres, to the maximum extent practicable, to any currently applicable mitigation strategies for early childhood care and education programs and elementary and secondary schools to reduce the transmission of COVID-19 that have been provided by the federal Centers for Disease Control and Prevention.

7. As recognized in Executive Order Number Two, "the Center (sic) for Disease Control (CDC) recommends masks...." Indeed, the CDC has published "Guidance for COVID-19 Prevention in

K-12 Schools" (updated January 13, 2022) (copy attached as Exhibit C) that recommends "universal indoor masking" (Id. at p. 1) with only limited, specified exceptions. Yet Executive Order Number Two rejects the recommendations of the CDC and, instead, purports to prohibit any mask mandates.

8. Executive Order Number Two is in direct conflict with the requirements of Chapter 456 of the Virginia Acts of Assembly attached as Exhibit B and, therefore, "runs afoul of the separation-of-powers principle protected by Article I, Section 7 of the Constitution of Virginia. That provision declares: 'That all power of suspending laws, or the execution of laws, by any authority, without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.'" Howell v. McAuliffe, 292 Va. at 344.

9. Further, Governor Youngkin lacks the authority he claims in Executive Order Number Two. Pursuant to Article VIII ("Education"), §1 of the Constitution of Virginia, the "General Assembly shall provide for a system of free public elementary

and secondary schools for all children of school age throughout the Commonwealth and shall seek to ensure that an educational program of high quality is established and continually maintained." Additionally, the "supervision of schools in each school division shall be vested in a school board, to be composed of members selected in the manner, for the term, possessing the qualifications and to the number provided by law." Constitution of Virginia, Article VIII, §7. Accordingly, the General Assembly and local school boards share primary responsibility for public school education. Nowhere in Article VIII of the Constitution of Virginia is the Governor of Virginia vested with the type of authority that would be required to lawfully enact Executive Order Number Two and impose the requirements stated therein.

10. As recognized in Executive Order Number Two, there is "no greater priority than the health and welfare of Virginia's children."

11. It is also beyond debate that COVID-19 has proved to be a deadly and highly destructive virus with high transmissibility and

constantly evolving variants that have made it difficult to control and protect against.

12. Executive Order Number Two purports to sweep aside masking mandates and other protections with little or no consideration of or respect for CDC guidance, actions taken by the Virginia General Assembly, or the powers vested in school boards.

13. Because Executive Order Number Two is designated to become effective at 12:00 a.m. on Monday, January 24, 2022, immediate prohibition, mandamus and other appropriate relief is necessary and appropriate. Petitioners have no adequate remedy at law and no time to spare. They and their children are likely to suffer irreparable harm and damage if this Court declines to grant immediate relief.

14. The Court should declare that Executive Order Number Two is void and unenforceable and should grant prohibition, mandamus and other appropriate relief, initially on an emergency and temporary basis, and ultimately on a permanent, final basis.

15. The taking of evidence is not necessary for proper resolution of this matter, but petitioners will comply with such orders as the Court may enter, including any relating to the presentation of evidence.

WHEREFORE, for the foregoing reasons, petitioners respectfully request that this Honorable Court enter orders and grant relief as follows:

1) Immediately suspending the effective date of Executive Order Number Two and prohibiting respondents from taking any action based thereon while this matter remains pending in the Supreme Court;
2) Directing the parties to file such further pleadings, briefs and materials as deemed appropriate for a full and proper disposition of this matter, and setting this matter for argument, all in accordance with a schedule to be established by the Supreme Court;
3) Inviting and approving any amicus briefing and participation as the Court deems appropriate;
4) Awarding writs of prohibition to prevent and restrain the respondents from taking action based on the "Directive"

commands in Executive Order Number Two or in violation of Exhibit B;

5) Awarding writs of mandamus commanding compliance with the requirements of Exhibit B; and

6) Awarding such other and further relief as deemed appropriate under the circumstances of this matter, to include costs incurred by the petitioners.

MATTHEW CASTILLO, et al.

By _____
Of Counsel

Kevin E. Martingayle, Esquire (VSB #33865)
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CERTIFICATE

I hereby certify that a true copy of this petition has been served on all respondents directly or through counsel via email on this 18th day of January, 2022, and the petition will be served on each respondent via a private process server with the returns to be filed with the Supreme Court forthwith.

Kevin E. Martingayle

Properly signed verification pages follow.

VERIFICATION

Pursuant to Va. Code §8.01-4.3, I verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Date Matthew Castillo

VERIFICATION

Pursuant to Va. Code §8.01-4.3, I verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

01/18/2022 Christine M. Thompson
Date Christine M. Thompson

VERIFICATION

Pursuant to Va. Code §8.01-4.3, I verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

1-18-2022
Date Jessica Peterson

VERIFICATION

Pursuant to Va. Code §8.01-4.3, I verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

01/18/2022 _____
Date Anastasia Galinato

VERIFICATION

Pursuant to Va. Code §8.01-4.3, I verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

1/13/22 _____

Date David McFarland

VERIFICATION

Pursuant to Va. Code §8.01-4.3, I verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

18 JAN 2022 _____

Date Werner I. Robles Gonzalez

VERIFICATION

Pursuant to Va. Code §8.01-4.3, I verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

1/18/2022
Date

Virginia Gnadt

VERIFICATION

Pursuant to Va. Code §8.01-4.3, I verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

18-Jan-2022 Amber Bowmer

Date Amber Bowmer

VERIFICATION

Pursuant to Va. Code §8.01-4.3, I verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

01/18/2022 _____

Date Cathlene Uhl

VERIFICATION

Pursuant to Va. Code §8.01-4.3, I verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

1-18-2022 _____ _____

Date Kathryn Kain

VERIFICATION

Pursuant to Va. Code §8.01-4.3, I verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

1/18/2022 _____ _____

Date Janet Holsinger

VERIFICATION

Pursuant to Va. Code §8.01-4.3, I verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

1-18-2022 Jeanne Hanewich

Date Jeanne Hanewich

VERIFICATION

Pursuant to Va. Code §8.01-4.3, I verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

1/18/19 Melanie Cornelisse

Date Melanie Cornelisse

Commonwealth of Virginia
Office of the Governor

Executive Order

NUMBER TWO (2022)
AND
ORDER OF PUBLIC HEALTH EMERGENCY ONE

REAFFIRMING THE RIGHTS OF PARENTS IN THE UPBRINGING, EDUCATION, AND CARE OF THEIR CHILDREN

By virtue of the authority vested in me as Governor, I hereby issue this Executive Order reaffirming the rights of parents in the upbringing, education, and care of their children.

Importance of the Issue

There is no greater priority than the health and welfare of Virginia's children. Under Virginia law, parents, not the government, have the fundamental right to make decisions concerning the care of their children.

Recent government orders requiring virtually every child in Virginia wear masks virtually every moment they are in school have proven ineffective and impractical. They have also failed to keep up with rapidly changing scientific information. For example, the August 12, 2021 Order of the State Health Commissioner explicitly relates to the Delta variant and not the Omicron variant, which results in less severe illness. The order states children under the age of 12 cannot obtain vaccines. Now children five and older are eligible. The order also states vaccination rates for children that are now out of date. The order notes that "universal and correct mask use" helps reduce transmission. As parents and educators have observed, many children wear masks incorrectly, providing little or no health benefit. The masks worn by children are often ineffective because they are made from cloth material, and they are often not clean, resulting in the collection of impurities, including bacteria and parasites. Additionally, wearing masks for prolonged periods of time, such as for an entire school day, decreases their effectiveness. Masking may be more or less effective dependent on the age of the child.

At the same time that a universal masking requirement in schools has provided inconsistent health benefits, the universal requirement has also inflicted notable harm and proven to be impracticable. Masks inhibit the ability of children to communicate, delay language development, and impede the growth of emotional and social skills. Some children report difficulty breathing and discomfort as a result of masks. Masks have also increased feelings of isolation, exacerbating mental health issues, which in many cases pose a greater health risk to children than COVID-19. Two years into the COVID-19 pandemic, mask mandates in schools have proved demoralizing to children facing these and other difficulties.

While the Center for Disease Control (CDC) recommends masks, its research has found no statistically significant link between mandatory masking for students and reduced transmission of COVID-19. And the CDC has acknowledged that certain masks may be ineffective due to the material from which they are made or how they are worn. A review of CDC, WHO, and other local and international health authorities' recommendations reveals a lack of consensus on the costs and benefits of mask-wearing for children in school for many of the reasons noted above.

In light of the variety of circumstances confronted by students in the Commonwealth, parents should have the ability to decide whether their child should wear masks for the duration of the school day. This approach is consistent with the broad rights of parents. The Commonwealth recognizes in § 1-240.1 of the *Code of Virginia,* that "a parent has a fundamental right to make decisions concerning the upbringing, education, and care of the parent's child." Permitting parents to make decisions on where and when to wear masks permits the Commonwealth's parents to make the best decision for the circumstances confronting each child. Parents can assess the risks and benefits facing their child, consult their medical providers, and make the best decision for their children based on the most up to date health information available.

While parents of some students with conditions that increase the risks of COVID-19 infection might require their children to remained masked during the duration of the school day, other parents may require masks for a more limited duration, if at all.

Masks are not the only method to reduce transmission of COVID-19. Local schools must ensure they are improving inspection, testing, maintenance, repair, replacement and upgrades of equipment to improve the indoor air quality in school facilities, including mechanical and non-mechanical heating, ventilation, and air conditioning systems, filtering, purification, fans, control systems and window and door repair. Other mitigation efforts can be made in consultation with health authorities. The benefit of mitigation efforts must always be weighed against the cost to children's overall wellbeing.

Directive

Therefore, by virtue of the authority vested in me as Governor by Article V of the Constitution of Virginia, by § 44-146.17 of the *Code of Virginia*, by any other applicable law, and by virtue of the authority vested in the State Health Commissioner pursuant to §§ 32.1-13, 32.1-20, and 35.1-10 of the *Code of Virginia*, Executive Order Number Seventy-Nine (2021) is rescinded and the following is ordered:

1. The State Health Commissioner shall terminate Order of Public Health Emergency Order Ten (2021).

2. The parents of any child enrolled in a elementary or secondary school or a school based early childcare and educational program may elect for their children not to be subject to any mask mandate in effect at the child's school or educational program.

3. No parent electing that a mask mandate should not apply to his or her child shall be required to provide a reason or make any certification concerning their child's health or education.

4. A child whose parent has elected that he or she is not subject to a mask mandate should not be required to wear a mask under any policy implemented by a teacher, school, school district, the Department of Education, or any other state authority.

5. The Superintendent of Public Instruction shall rescind the Interim Guidance for COVID-19 Prevention in Virginia PreK-12 Schools, issued January 14, 2021, and updated October 14, 2021, and issue new guidance for COVID-19 Prevention consistent with this Order.

6. School districts should marshal any resources available to improve inspection, testing, maintenance, repair, replacement and upgrades of equipment to improve the indoor air quality in school facilities, including mechanical and non-mechanical heating, ventilation, and air conditioning systems, filtering, purification, fans, control systems and window and door repair.

Effective Date of this Executive Order

This Executive Order shall be effective 12:00 a.m., Monday, January 24, 2022, and shall remain in full force and effect until amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 15th day of January, 2022.

Glenn Youngkin, Governor

Attest:

Kelly Thomasson, Secretary of the Commonwealth

CHAPTER 456

An Act to require each school board to offer in-person instruction to students enrolled in the local school division; exceptions permitted.

[S 1303]

Approved March 30, 2021

Be it enacted by the General Assembly of Virginia:

1. *§ 1. As used in this act:*

"In-person instruction" means any form of instructional interaction between teachers and students that occurs in person and in real time.

"In-person instruction" does not include the act of proctoring remote online learning in a classroom.

§ 2. Each school board shall offer in-person instruction to each student enrolled in the local school division in a public elementary and secondary school for at least the minimum number of required instructional hours and to each student enrolled in the local school division in a public school-based early childhood care and education program for the entirety of the instructional time provided pursuant to such program. For the purposes of this act, each school board shall (i) adopt, implement, and, when appropriate, update specific parameters for the provision of in-person instruction and (ii) provide such in-person instruction in a manner in which it adheres, to the maximum extent practicable, to any currently applicable mitigation strategies for early childhood care and education programs and elementary and secondary schools to reduce the transmission of COVID-19 that have been provided by the federal Centers for Disease Control and Prevention.

§ 3. Notwithstanding the provisions of § 2 of this act:

1. If a local school board determines, in collaboration with the local health department and in strict adherence to "Step 2: Determine the Level of School Impact" in the Department of Health's Interim Guidance to K-12 School Reopening or any similar provision in any successor guidance document published by the Department of Health, that the transmission of COVID-19 within a school building is at a high level, the local school board may provide fully remote virtual instruction or a combination of in-person instruction and remote virtual instruction to the at-risk groups of students indicated as the result of such collaboration or, if needed, the whole student population in the school building, but in each instance only for as long as it is necessary to address and ameliorate the level of transmission of COVID-19 in the school building.

2. Any local school board may, for any period during which the Governor's declaration of a state of emergency due to the COVID-19 pandemic is in effect, provide fully remote virtual instruction to any enrolled student upon the request of such student's parent, guardian, or legal custodian.

3. Any local school board may permit any teacher who is required to isolate as the result of a COVID-19 infection and any teacher who is required to quarantine as the result of exposure to another individual with a COVID-19 infection to teach from a remote location and in a fully virtual manner for the duration of such period of isolation or quarantine, consistent with the mitigation strategies as set forth in § 2 of this act.

4. Any teacher or other school staff member who is permitted to perform any job function from a remote location or in a fully virtual manner as a reasonable accommodation pursuant to Title I of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12111 et seq.) shall be permitted to continue to perform any such job function in such a manner.

§ 4. The Department of Education shall establish benchmarks for successful virtual learning and guidelines for providing interventions to students who fail to meet such benchmarks and for transitioning such students back to in-person instruction.

§ 5. All teachers and school staff shall be offered access to receive an approved COVID-19 vaccination through their relevant local health district.

2. That in order to facilitate the implementation of § 3 of the first enactment of this act, the Department of Health shall maintain a guidance document for K-12 school reopening that contains metrics for determining whether transmission of COVID-19 within public school buildings is at a low, medium, or high level.

3. That the provisions of this act shall expire on August 1, 2022.

Guidance for COVID-19 Prevention in K-12 Schools

Updated Jan. 13, 2022

Key Takeaways

- Students benefit from in-person learning, and safely returning to in-person instruction continues to be a priority.
- 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.
- CDC recommends universal indoor masking by all* students (ages 2 years and older), staff, teachers, and visitors to K-12 schools, regardless of vaccination status.
- New CDC guidance has reduced the recommended time for isolation and quarantine periods to five days. For details see CDC's page on Quarantine and Isolation.
- In addition to universal indoor masking, CDC recommends schools maintain at least 3 feet of physical distance between students within classrooms to reduce transmission risk. When it is not possible to maintain a physical distance of at least 3 feet, such as when schools cannot fully re-open while maintaining these distances, it is especially important to layer multiple prevention strategies, such as screening testing.
- Screening testing, ventilation, handwashing and respiratory etiquette, staying home when sick and getting tested, contact tracing in combination with quarantine and isolation, and cleaning and disinfection are also important layers of prevention to keep schools safe.
- Students, teachers, and staff should stay home when they have signs of any infectious illness and be referred to their healthcare provider for testing and care.
- This guidance emphasizes implementing layered prevention strategies to protect students, teachers, staff, visitors, and other members of their households and support in-person learning.
- Localities should monitor community transmission, vaccination coverage, screening testing, and occurrence of outbreaks to guide decisions on the level of layered prevention strategies (e.g., physical distancing, screening testing).

Summary of Recent Changes

Updates as of January 13, 2022

- Added a footnote to clarify language in the screening testing table.
- Clarified that to allow time for students to catch up with the latest recommendations and to minimize disruption to in-person learning, schools may consider forgoing quarantine for students ages 12-17 years who completed their primary vaccine series but have not yet received all eligible boosters.

Updates as of January 6, 2022

- Updated guidance to reflect new recommendations for isolation for people with COVID-19 and recommendations for people who have come into close contact with a person with COVID-19.

Updates as of November 5, 2021

- Updated guidance to reflect authorization of COVID-19 vaccines for children ages 5-11.

Updates as of October 22, 2021

- Updated recommendation for fully vaccinated people who have a known exposure to someone with suspected or confirmed COVID-19 to be tested 5-7 days after exposure, regardless of whether they have symptoms.

Updates as of August 4, 2021

- Updated to recommend universal indoor masking for all students, staff, teachers, and visitors to K-12 schools, regardless of vaccination status.
- Added recommendation for fully vaccinated people who have a known exposure to someone with suspected or confirmed COVID-19 to be tested 3-5 days after exposure, regardless of whether they have symptoms.

Updates as of July 9, 2021

- Added information on offering and promoting COVID-19 vaccination.
- Updated to emphasize the need for localities to monitor community transmission, vaccination coverage, screening testing, and occurrence of outbreaks to guide decisions on the level of layered prevention strategies.
- Revised to emphasize the COVID-19 prevention strategies most important for in-person learning for K-12 schools.
  - Added language on the importance of offering in-person learning, regardless of whether all of the prevention strategies can be implemented at the school.
  - For example, because of the importance of in-person learning, schools where not everyone is fully vaccinated should implement physical distancing to the extent possible within their structures (in addition to masking and other prevention strategies), but should not exclude students from in-person learning to keep a minimum distance requirement.
- Updated to align with guidance for fully vaccinated people.
- Updated to align with current mask guidance.
  - In general, people do not need to wear masks when outdoors.
- Added language on safety and health protections for workers in K-12 schools.

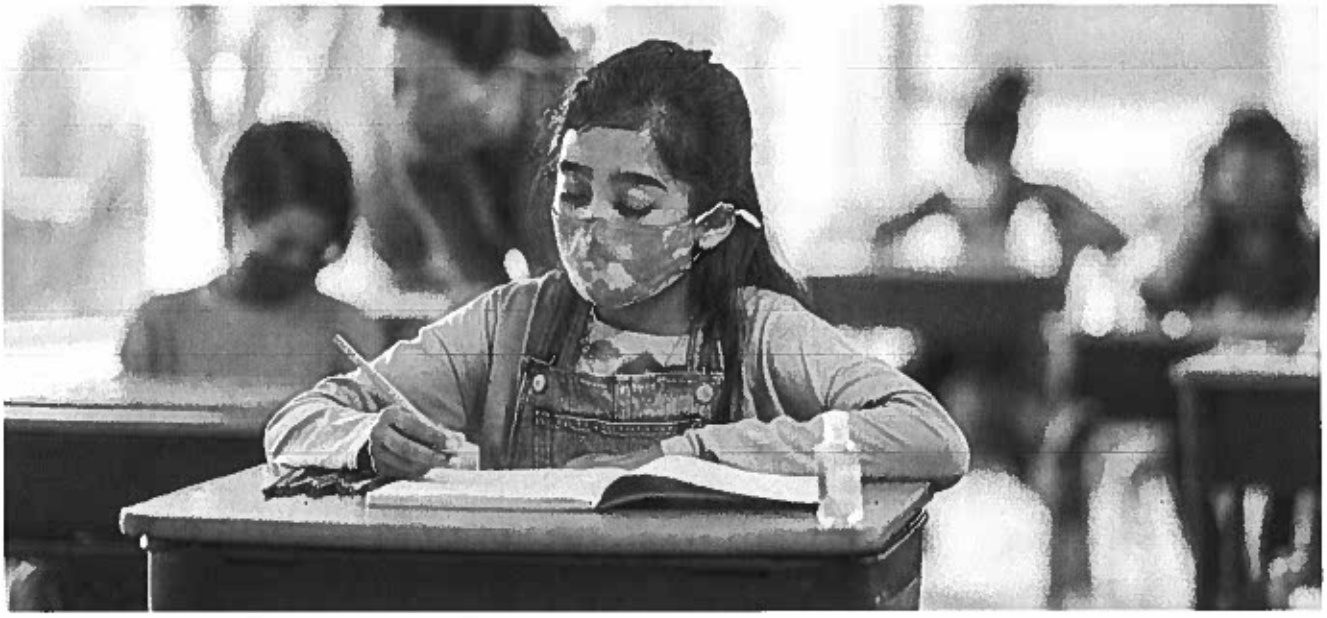
This updated version of COVID-19 guidance for school administrators outlines strategies for K-12 schools to reduce the spread of COVID-19 and maintain safe operations.

This guidance emphasizes implementing layered prevention strategies (using multiple prevention strategies together) to protect students, teachers, staff, and other members of their households, and to support in-person learning. This guidance considers current scientific evidence and lessons learned from schools implementing COVID-19 prevention strategies.

This CDC guidance is meant to supplement—not replace—any federal, state, tribal, local, or territorial health and safety laws, rules, and regulations with which schools must comply. The adoption and implementation of this guidance should be done in collaboration with regulatory agencies and state, tribal, local, and territorial public health departments, and in compliance with state and local policies and practices.

COVID-19 Prevention Strategies Most Important for Safe In-Person Learning in K-12 Schools

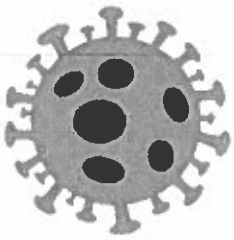
To get kids back in-person safely, schools should monitor



Community Transmission

Vaccination Coverage

Testing



Outbreaks

to help prevent the spread of COVID-19

cdc.gov/coronavirus

CS325431A 07/06/2021

Schools are an important part of the infrastructure of communities. They provide safe and supportive learning environments for students that support social and emotional development, provide access to critical services, and improve life outcomes. They also employ people, and enable parents, guardians, and caregivers to work. Though COVID-19 outbreaks have occurred in school settings, multiple studies have shown that transmission rates within school settings, when multiple prevention strategies are in place, are typically lower than—or similar to—community transmission levels. CDC's science brief on Transmission of SARS-CoV-2 in K-12 Schools and Early Care and Education Programs summarizes evidence on COVID-19 among children and adolescents and what is known about preventing transmission in schools and Early Care and Education programs.

However, with the burden of COVID-19 transmission, protection against exposure remains essential in school settings. Because of the highly transmissible nature of SARS-CoV-2, along with mixing of vaccinated and unvaccinated people in schools, CDC recommends universal indoor masking for all* students (ages 2 years and older), teachers, staff, and visitors to K-12 schools, regardless of vaccination status.

Schools should work with local public health officials, consistent with applicable laws and regulations, including those related to privacy, to determine the additional prevention strategies needed in their area by monitoring levels of community transmission (low, moderate, substantial, or high) and local vaccine coverage, and use of screening testing to detect cases in K-12 schools. For example, with a low teacher, staff, or student vaccination rate, and without a screening testing program, schools might decide that they need to continue to maximize physical distancing or implement screening testing in addition to mask wearing.

Schools should communicate their strategies and any changes in plans to teachers, staff, and families, and directly to older students, using accessible materials and communication channels, in a language and at a literacy level that teachers, staff, students, and families understand.

Health Equity

Schools play critical roles in promoting equity in learning and health, particularly for groups disproportionately affected by COVID-19. People living in rural areas, people with disabilities, immigrants, and people who identify as American Indian/Alaska Native, Black or African American, and Hispanic or Latino have been disproportionately affected by COVID-19; these disparities have also emerged among children. For these reasons, health equity considerations related to the K-12 setting are a critical part of decision-making and have been considered in CDC's updated guidance for schools. School administrators and public health officials can ensure safe and supportive environments and reassure families, teachers, and staff by planning and using comprehensive prevention strategies for in-person learning and communicating those efforts. Schools can work with parents to understand their preferences and concerns for in-person learning.

School administrators can promote health equity by ensuring all students, teachers, and staff have resources to support physical and mental health. School administrators may offer modified job responsibilities for staff at higher risk for severe illness while protecting individual privacy. Federal and state disability laws may require an individualized approach for working with children and youth with disabilities consistent with the child's Individualized Family Service Plan (IFSP), Individualized Education Program (IEP), or Section 504 plan. Administrators should consider adaptations and alternatives to prevention strategies when serving people with disabilities, while maintaining efforts to protect all children and staff from COVID-19.

Section 1: Prevention Strategies to Reduce Transmission of SARS-CoV-2 in Schools

CDC recommends that all teachers, staff, and eligible students be vaccinated as soon as possible. However, schools have a mixed population of both people who are fully vaccinated and people who are not fully vaccinated. This requires K-12 administrators to make decisions about the use of COVID-19 prevention strategies in their schools and is why CDC recommends universal indoor masking regardless of vaccination status at all levels of community transmission.

Together with local public health officials, school administrators should consider multiple factors when they make decisions about implementing layered prevention strategies against COVID-19. Since schools typically serve their surrounding communities, decisions should be based on the school population, families and students served, as well as their communities. The primary factors to consider include:

- Level of community transmission of COVID-19
- COVID-19 vaccination coverage in the community and among students, teachers, and staff
- Strain on health system capacity within the community
- Accessibility of SARS-CoV-2 testing resources for students, teachers, and staff
- Use of a SARS-CoV-2 screening testing program for students, teachers, and staff. Testing provides an important layer of prevention, particularly in areas with substantial to high community transmission levels
- COVID-19 outbreaks or increasing trends in the school or surrounding community
- Ages of children served by K-12 schools and the associated social and behavioral factors that may affect risk of transmission and the feasibility of different prevention strategies

Prevention Strategies

- Promoting vaccination
- Consistent and correct mask use
- Physical distancing
- Screening testing to promptly identify cases, clusters, and outbreaks
- Ventilation
- Handwashing and respiratory etiquette
- Staying home when sick and getting tested
- Contact tracing, in combination with quarantine
- Cleaning and disinfection

CDC recommends universal indoor masking, physical distancing to the extent possible, and additional prevention strategies to protect students, teachers, and staff. Schools should not exclude students from in-person learning to keep a minimum distance requirement; layering multiple prevention strategies is essential when physical distancing of at least 3 feet is not possible at all times.

1. Promoting Vaccination

COVID-19 vaccination among all eligible students as well as teachers, staff, and their respective household members is the most critical strategy to help schools safely resume full operations.

Vaccination is the leading public health prevention strategy to end the COVID-19 pandemic. A growing body of evidence suggests that people who have completed the primary series (and a booster when eligible) are at substantially reduced risk of severe illness and death from COVID-19 compared with unvaccinated people.

When infections occur among vaccinated people, they tend to be milder than among those who are unvaccinated. Even vaccinated people who are infected can be infectious and can spread the virus to others. To reduce the risk of becoming infected with SARS-CoV-2 and spreading the virus to others, students, teachers, and school staff should continue to use layered prevention strategies.

Schools can promote vaccinations among teachers, staff, families, and eligible students by providing information about COVID-19 vaccination, encouraging vaccine trust and confidence, and establishing supportive policies and practices that make getting vaccinated as easy and convenient as possible.

When promoting COVID-19 vaccination, consider that certain communities and groups have been disproportionately affected by COVID-19 illness and severe outcomes, and some communities might have experiences that affect their trust and confidence in the healthcare system. Teachers, staff, students, and their families may differ in their level of vaccine confidence. School administrators can adjust their messages to the needs of their families and community and involve trusted community messengers as appropriate, including those on social media, to promote COVID-19 vaccination among people who may be hesitant to receive it.

To promote vaccination, schools can:

- Visit vaccines.gov to find out where teachers, staff, students, and their families can get vaccinated against COVID-19 in the community and promote COVID-19 vaccination locations near schools.
- Encourage teachers, staff, and families, including extended family members that have frequent contact with students, to get vaccinated as soon as they can.
- Consider partnering with state or local public health authorities to serve as COVID-19 vaccination sites, and work with local healthcare providers and organizations, including school-based health centers. Offering vaccines on-site before, during, and after the school day and during summer months can potentially decrease barriers to getting vaccinated against COVID-19. Identify other potential barriers that may be unique to the workforce and implement policies and practices to address them. The Workplace Vaccination Program has information for employers on recommended policies and practices for encouraging COVID-19 vaccination uptake among workers.
- Find ways to adapt key messages to help families, teachers, and staff become more confident about the vaccine by using the language, tone, and format that fits the needs of the community and is responsive to concerns.
- Use CDC COVID-19 Vaccination Toolkits to educate members of the school community and promote COVID-19 vaccination. CDC's Workers COVID-19 Vaccine Toolkit is also available to help employers educate their workers about COVID-19 vaccines, raise awareness about vaccination benefits, and address common questions and concerns. HHS also has an On-site Vaccination Clinic Toolkit to help community groups, employers, and other host organizations work directly with vaccine providers to set up vaccination clinics in locations that people know and trust.
- Host information sessions to connect parents and guardians with information about the COVID-19 vaccine. Teachers, staff, and health professionals can be trusted sources to explain the safety, efficacy, and benefits of COVID-19 vaccines and answer frequently asked questions.
- Offer flexible, supportive sick leave options (e.g., paid sick leave) for employees to get vaccinated or who have side effects after vaccination. See CDC's Post-vaccination Considerations for Workplaces.
- Promote vaccination information for parents and guardians, siblings who are eligible for vaccines, and other household members as part of kindergarten transition and enrollment in summer activities for families entering the school system.
- Provide students and families flexible options for excused absences to receive a COVID-19 vaccination and for possible side effects after vaccination.
- Work with local partners to offer COVID-19 vaccination for eligible students and eligible family members during pre-sport/extracurricular activity summer physicals.

2. Consistent and Correct Mask Use

When teachers, staff, and students consistently and correctly wear a mask, they protect others as well as themselves. Consistent and correct mask use is especially important indoors and in crowded settings, when physical distancing cannot be maintained.

- Indoors: CDC recommends indoor masking for all* individuals ages 2 years and older, including students, teachers, staff, and visitors, regardless of vaccination status.
- Outdoors: In general, people do not need to wear masks when outdoors. CDC recommends that people who are not fully vaccinated wear a mask in crowded outdoor settings or during activities that involve sustained close contact with other people. Fully vaccinated people might choose to wear a mask in crowded outdoor settings, especially if they or someone in their household is immunocompromised.

*Exceptions can be made for the following categories of people:

- A person who cannot wear a mask, or cannot safely wear a mask, because of a disability as defined by the Americans with Disabilities Act (ADA) (42 U.S.C. 12101 et seq.). Discuss the possibility of reasonable accommodation with workers who are unable to wear or have difficulty wearing certain types of masks because of a disability.
- A person for whom wearing a mask would create a risk to workplace health, safety, or job duty as determined by the relevant workplace safety guidelines or federal regulations.

Masks should meet one of the following criteria:

- CDC mask recommendations
- NIOSH Workplace Performance and Workplace Performance Plus masks

During school transportation: CDC's Order applies to all public transportation conveyances including school buses. Passengers and drivers must wear a mask on school buses, including on buses operated by public and private school systems, regardless of vaccination status, subject to the exclusions and exemptions in CDC's Order. Learn more about CDC's Requirements for Face Masks on Public Transportation Conveyances and at Transportation Hubs.

Schools should provide masks to those students who need them (including on buses), such as for students who forgot to bring their mask or whose families are unable to afford them. No disciplinary action should be taken against a student who does not have a mask, as described in the U.S. Department of Education COVID-19 Handbook, Volume 1 .

3. Physical Distancing

Because of the importance of in-person learning, schools should implement physical distancing to the extent possible within their structures but should not exclude students from in-person learning to keep a minimum distance requirement. In general, CDC recommends people who are not fully vaccinated maintain physical distance of at least 6 feet from other people who are not in their household. However, several studies from the 2020-2021 school year show low COVID-19 transmission levels among students in schools that had less than 6 feet of physical distance when the school implemented and layered other prevention strategies, such as the use of masks.

Based on studies from the 2020-2021 school year, CDC recommends schools maintain at least 3 feet of physical distance between students within classrooms, combined with indoor mask wearing to reduce transmission risk. When it is not possible to maintain a physical distance of at least 3 feet, such as when schools cannot fully re-open while maintaining these distances, it is especially important to layer multiple other prevention strategies, such as screening testing, cohorting, improved ventilation, handwashing and covering coughs and sneezes, staying home when sick with symptoms of infectious illness including COVID-19, and regular cleaning to help reduce transmission risk. A distance of at least 6 feet is recommended between students and teachers/staff, and between teachers/staff who are not fully vaccinated. Correct and consistent mask use by all* students, teachers, staff, and visitors is particularly important when physical distance cannot be maintained.

Cohorting: Cohorting means keeping people together in a small group and having each group stay together throughout an entire day. Cohorting can be used to limit the number of students, teachers, and staff who come in contact with each other, especially when it is challenging to maintain physical distancing, such as among young children, and particularly in areas of moderate-to-high transmission levels. The use of cohorting can limit the spread of COVID-19 between cohorts but should not replace other prevention measures within each group. Cohorting people who are fully vaccinated and people who are not fully vaccinated into separate cohorts is not recommended. It is a school's responsibility to ensure that cohorting is done in an equitable manner that does not perpetuate academic, racial, or other tracking, as described in the U.S. Department of Education COVID-19 Handbook, Volume 1 .

4. Screening Testing

Screening testing identifies infected people, including those with or without symptoms (or before development of symptoms) who may be contagious, so that measures can be taken to prevent further transmission. In K-12 schools, screening testing can help promptly identify and isolate cases, initiate quarantine, and identify clusters to help reduce the risk to in-person education. Decisions regarding screening testing may be made at the state or local level. Screening testing may be most valuable in areas with substantial or high community transmission levels, in areas with low vaccination coverage, and in schools where other prevention strategies are not implemented. More frequent testing can increase effectiveness, but feasibility of increased testing in schools needs to be considered. Screening testing should be done in a way that ensures the ability to maintain confidentiality of results and protect student, teacher, and staff privacy. Consistent with state legal requirements and Family Educational Rights and Privacy Act (FERPA) , K-12 schools should obtain parental consent for minor students and assent/consent for students themselves.

Screening testing can be used to help evaluate and adjust prevention strategies and provide added protection for schools that are not able to provide optimal physical distance between students. At a minimum, screening testing should be offered to students who have not been fully vaccinated when community transmission is at moderate, substantial, or high levels (Table 1). At any level of community transmission, screening testing should, at a minimum, be offered to all teachers and staff who have not been fully vaccinated. To be most effective, the screening program should test at least once per week, and rapidly (within 24 hours) report results. Screening testing more than once a week might be more effective at interrupting transmission. Schools may consider multiple screening testing strategies such as conducting pooled testing of cohorts. Testing in low-prevalence settings might produce false positive results, but testing can provide an important prevention strategy and safety net to support in-person education.

To facilitate safe participation in sports, extracurricular activities, and other activities with elevated risk (such as activities that involve singing or shouting, band participation, and vigorous exercise that could lead to forceful or increased exhalation), schools should consider implementing screening testing for participants. Schools can routinely test student athletes, participants, coaches, trainers, and other people (such as adult volunteers) who could come into close contact with others during these activities. Schools should consider implementing screening testing of participants up to 24 hours before sporting, competition, or extracurricular events. Schools can use different screening testing strategies for lower-risk sports. High-risk sports and extracurricular activities should be virtual or canceled in areas of high community transmission unless all participants are fully vaccinated.

Funding provided through the Epidemiology Laboratory Capacity (ELC) Reopening Schools award is primarily focused on providing needed resources to implement screening testing programs in schools aligned with CDC recommendations. Learn more at ELC Reopening Schools: Support for Screening Testing to Reopen & Keep Schools Operating Safely Guidance ■ . Resources are available to support school testing – see Appendix 2: Testing Strategies for COVID-19 Prevention in K-12 Schools.

Table 1. Screening Testing Recommendations for K-12 Schools by Level of Community Transmission

	Low Transmission[1] Blue	Moderate Transmission Yellow	Substantial Transmission Orange	High Transmission Red
Students	Do not need to screen students.	Offer screening testing for students[4] at least once per week.		
Teachers and staff	Offer screening testing for teachers and staff[4] at least once per week.			
High risk sports and activities	Recommend screening testing for high-risk sports[2] and extracurricular activities[3] at least once per week.		Recommend screening testing for high-risk sports and extracurricular activities twice per week.	Cancel or hold high-risk sports and extracurricular activities virtually to protect in-person learning.
Low- and intermediate-risk sports	Do not need to screen students participating in low- and intermediate-risk sports.[2]	Recommend screening testing for low- and intermediate-risk sports at least once per week.		

[1] Levels of community transmission defined as total new cases per 100,000 persons in the past 7 days (low, 0-9; moderate 10-49; substantial, 50-99, high, ≥100) and percentage of positive tests in the past 7 days (low, <5%; moderate, 5-7.9%; substantial, 8-9.9%; high, ≥10%.)

[2] Examples of low-risk sports are diving and golf; intermediate-risk sport examples are baseball and cross country; high-risk sport examples are football and wrestling.

[3]High-risk extracurricular activities are those in which increased exhalation occurs, such as activities that involve singing, shouting, band, or exercise, especially when conducted indoors.

[4]At a minimum, screening testing should be offered to people who are not fully vaccinated.

5. Ventilation

Improving ventilation is an important COVID-19 prevention strategy that can reduce the number of virus particles in the air. Along with other preventive strategies, including wearing a well-fitting mask, bringing fresh outdoor air into a building helps keep virus particles from concentrating inside. This can be done by opening multiple doors and windows (taking into consideration any safety concerns), using child-safe fans to increase the effectiveness of open windows, and making changes to the HVAC or air filtration systems.

During transportation, open or crack windows in buses and other forms of transportation, if doing so does not pose a safety risk. Keeping windows open a few inches improves air circulation.

For more specific information about maintenance, use of ventilation equipment, actions to improve ventilation, and other ventilation considerations, refer to:

- CDC's Ventilation in Schools and Child Care Programs
- CDC's Ventilation in Buildings webpage
- CDC's Ventilation FAQs
- CDC's Improving Ventilation in Your Home

Additional ventilation recommendations for different types of school buildings can be found in the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) schools and universities guidance document ■ ↗.

Funds provided through the Elementary and Secondary Schools Emergency Relief Programs and the Governor's Emergency Education Relief Programs can support improvements to ventilation. Please see question B-7 of the U.S. Department of Education Uses of Funds ■ ↗ guidance for these programs.

6. Handwashing and Respiratory Etiquette

People should practice handwashing and respiratory etiquette (covering coughs and sneezes) to keep from getting and spreading infectious illnesses including COVID-19. Schools can monitor and reinforce these behaviors and provide adequate handwashing supplies.

- Teach and reinforce handwashing with soap and water for at least 20 seconds.
- Remind everyone in the facility to wash hands frequently and assist young children with handwashing.
- If handwashing is not possible, use hand sanitizer containing at least 60% alcohol (for teachers, staff, and older students who can safely use hand sanitizer). Hand sanitizers should be stored up, away, and out of sight of young children and should be used only with adult supervision for children under 6 years of age.

7. Staying Home When Sick and Getting Tested

Students, teachers, and staff who have symptoms of infectious illness, such as influenza (flu) or COVID-19, should stay home and be referred to their healthcare provider for testing and care, regardless of vaccination status. Staying home when sick with COVID-19 is essential to keep COVID-19 infections out of schools and prevent spread to others.

In the K-12 school setting, CDC recommends ending isolation based on timing after symptom onset or positive test result (if asymptomatic). For more information, visit Overview of COVID-19 Isolation for K-12 Schools.

Everyone with COVID-19 should stay home and isolate away from other people for at least 5 full days (day 0 is the first day of symptoms or the day of the positive viral test for asymptomatic persons). They should wear a well-fitting mask when around others at home and in public for an additional 5 days. People who have symptoms can end isolation after 5 full days only if they are fever-free for 24 hours without the use of fever-reducing medication and if other symptoms have improved. They should continue to wear a well-fitting mask around others at home and in public for 5 additional days.

Schools should also allow flexible, non-punitive, and supportive paid sick leave policies and practices that encourage sick workers to stay home without fear of retaliation, loss of pay, or loss of employment level and provide excused absences for students who are sick. Employers should ensure that workers are aware of and understand these policies. If a student

becomes sick at school, see Responding to COVID-19 Cases in K-12 Schools: Resources for School Administrators. If a school does not have a routine screening testing program, the ability to do rapid testing on site could facilitate COVID-19 diagnosis and inform the need for quarantine of close contacts and isolation.

Schools should educate teachers, staff, and families about when they and their children should stay home and when they can return to school. During the COVID-19 pandemic, it is essential that parents keep children home if they are showing signs and symptoms of COVID-19 and get them promptly tested and notify the school if they test positive.

Getting tested for COVID-19 when symptoms are compatible with COVID-19 will help with rapid contact tracing and prevent possible spread at schools, especially if key prevention strategies (masking and distancing) are not in use.

8. Contact Tracing in Combination with Quarantine

Schools should continue to collaborate with state and local health departments, to the extent allowable by privacy laws and other applicable laws, to confidentially provide information about people diagnosed with or exposed to COVID-19. This allows identifying which students, teachers, and staff with positive COVID-19 test results should isolate, and which close contacts should quarantine.

People who had close contact with someone with COVID-19 should follow CDC recommendations to protect themselves and others. Recommendations for close contacts to quarantine and get tested will vary depending on vaccination status and prior COVID-19 diagnosis within the past 90 days. People who have come into close contact with someone diagnosed with COVID-19 should follow the recommendations outlined on the COVID-19 Quarantine and Isolation webpage.

To allow time for students to catch up with the latest recommendations and to minimize disruption to in-person learning, schools may consider forgoing quarantine for students ages 12-17 years who completed their primary vaccine series but have not yet received all eligible boosters.

Everyone who is a close contact should wear a well-fitting mask around others and watch for COVID-19 symptoms for 10 days from the date of their last close contact with someone with COVID-19 (the date of last close contact is considered day 0). They should also get tested at least 5 days after having close contact with someone with COVID-19 unless they had confirmed COVID-19 in the last 90 days and subsequently recovered. Those who test positive or develop COVID-19 symptoms should follow recommendations for isolation.

See the added exception in the close contact definition for the exclusion of students in the K-12 indoor classroom who are within 3 to 6 feet of an infected student with masking.

Schools should report, to the extent allowable by applicable privacy laws, new diagnoses of COVID-19 to their state or local health department as soon as they are informed. School officials should notify, to the extent allowable by applicable privacy laws, teachers, staff, and families of students who were close contacts as soon as possible (within the same day if possible) after they are notified that someone in the school has tested positive. See the Department of Education's Protecting Student Privacy FERPA and the Coronavirus Disease 2019 for more information.

9. Cleaning and Disinfection

In general, cleaning once a day is usually sufficient to remove potential virus that may be on surfaces. Disinfecting (using disinfectants on the U.S. Environmental Protection Agency COVID-19 list) removes any remaining germs on surfaces, which further reduces any risk of spreading infection.

For more information on cleaning a facility regularly, when to clean more frequently or disinfect, cleaning a facility when someone is sick, safe storage of cleaning and disinfecting products, and considerations for protecting workers who clean facilities, see Cleaning and Disinfecting Your Facility.

If a facility has had a sick person or someone who tested positive for COVID-19 within the last 24 hours, clean AND disinfect the space.

Section 2: Additional Considerations for K-12 Schools

Disabilities or Other Health Care Needs

Consistent with applicable laws, provide accommodations, modifications, and assistance for students, teachers, and staff with disabilities and other health care needs when implementing COVID-19 safety protocols:

- Work with families to better understand the individual needs of students with disabilities.
- Remain accessible for students with disabilities:
  - Help provide access for direct service providers (DSP) (paraprofessionals, therapists, early intervention specialists, mental health and healthcare consultants, and others). If DSPs who are not fully vaccinated provide services at more than one location, ask whether any of their other service locations have had COVID-19 cases.
  - Ensure access to services for students with disabilities when developing cohorts.
- Adjust strategies as needed
  - Be aware that physical distancing and wearing masks can be difficult for young children and people with certain disabilities (for example, visual or hearing impairments) or for those with sensory or cognitive issues.
  - For people who are only able to wear masks some of the time for the reasons above, prioritize having them wear masks during times when it is difficult to separate students and/or teachers and staff (e.g., while standing in line or during drop off and pick up).
  - Consider having teachers and staff wear a clear or cloth mask with a clear panel when interacting with young students, students learning to read, or when interacting with people who rely on reading lips.
  - Use behavioral techniques (such as modeling and reinforcing desired behaviors and using picture schedules, timers, visual cues, and positive reinforcement) to help all students adjust to transitions or changes in routines.

Please see Guidance for Direct Service Providers for resources for DSPs serving children with disabilities or other health care needs during COVID-19.

Visitors

Schools should review their rules for visitors and family engagement activities.

- Schools should limit nonessential visitors, volunteers, and activities involving external groups or organizations, particularly in areas where there is moderate-to-high COVID-19 community transmission.
- Schools should not limit access for direct service providers, but can ensure compliance with school visitor polices.
- Schools should continue to emphasize the importance of staying home when sick. Anyone, including visitors, who have symptoms of infectious illness, such as flu or COVID-19, should stay home and seek testing and care, regardless of vaccination status.

Food Service and School Meals

- Staff should wear masks at all times during meal preparation and service, and during breaks except when eating or drinking.
- Students should wear masks when moving through the food service line.
- Maximize physical distance as much as possible when moving through the food service line and while eating (especially indoors). Using additional spaces outside of the cafeteria for mealtime seating such as the gymnasium or outdoor seating can help facilitate distancing. Students should not be excluded from in-person learning to keep a minimum distance requirement, including during mealtimes.
- Given very low risk of transmission from surfaces and shared objects, there is no need to limit food service approaches to single use items and packaged meals.
- Clean frequently touched surfaces. Surfaces that come in contact with food should be washed, rinsed, and sanitized before and after meals.
- Promote hand washing before, after, and during shifts, before and after eating, after using the toilet, and after handling garbage, dirty dishes, or removing gloves.
- Improve ventilation in food preparation, service, and seating areas.

- U.S. Department of Agriculture has issued several Child Nutrition COVID-19 Waivers .
- Please visit What School Nutrition Professionals Need to Know About COVID-19 for more guidance on mealtime and food service.

Recess and Physical Education

In general, people do not need to wear masks when outdoors (e.g., participating in outdoor play, recess, and physical education activities). CDC recommends people wear a mask in crowded outdoor settings or during activities that involve sustained close contact with other people. People may choose to wear a mask in crowded outdoor settings, especially if they or someone in their household is immunocompromised. Universal masking is recommended during indoor physical education or recess.

Sports and Other Extracurricular Activities

School-sponsored sports and extracurricular activities provide students with enrichment opportunities that can help them learn and achieve, and support their social, emotional, and mental health. Due to increased and forceful exhalation that occurs during physical activity, some sports can put players, coaches, trainers, and others at increased risk for getting and spreading COVID-19. Close contact sports and indoor sports are particularly risky. Similar risks might exist for other extracurricular activities, such as band, choir, theater, and school clubs that meet indoors.

Prevention strategies in these activities remain important and should comply with school day policies and procedures. Students should refrain from in-person learning, sports, and extracurricular activities when they have symptoms consistent with COVID-19 and should be tested. Schools are strongly encouraged to use screening testing (Table 1) for student athletes and adults (e.g., coaches, teachers, advisors) who participate in and support these activities to facilitate safe participation and reduce risk of transmission – and avoid jeopardizing in-person education due to outbreaks.

Coaches and school sports administrators should also consider specific sport-related risks:

- **Setting of the sporting event or activity.** In general, the risk of COVID-19 transmission is lower when playing outdoors than in indoor settings. Consider the ability to keep physical distancing in various settings at the sporting event (fields, benches/team areas, locker rooms, spectator viewing areas, spectator facilities/restrooms, etc.).
- **Physical closeness.** Spread of COVID-19 is more likely to occur in sports that require sustained close contact (such as wrestling, hockey, football).
- **Number of people.** Risk of spread of COVID-19 increases with increasing numbers of athletes, spectators, teachers, and staff.
- **Level of intensity of activity.** The risk of COVID-19 spread increases with the intensity of the sport.
- **Duration of time.** The risk of COVID-19 spread increases the more time athletes, coaches, teachers, staff, and spectators spend in close proximity or in indoor group settings. This includes time spent traveling to/from sporting events, meetings, meals, and other settings related to the event.
- **Presence of people more likely to develop severe illness.** People at increased risk of severe illness might need to take extra precautions.

Section 3: School Workers

Workers at increased risk for severe illness from COVID-19 may include older adults and people of any age with certain underlying medical conditions if they are not fully vaccinated. Workers who have an underlying medical condition or are taking medication that weakens their immune system may NOT be fully protected even if fully vaccinated and may need to continue using additional prevention measures. Policies and procedures addressing issues related to workers at higher risk of serious illness should be made in consultation with occupational medicine and human resource professionals, keeping in mind Equal Employment Opportunity concerns and guidance . Employers should also understand the potential mental health strains for workers during the COVID-19 pandemic. CDC recommends that school administrators should educate workers on mental health awareness and share available mental health and counseling services. Employers should provide a supportive work environment for workers coping with job stress, seeking to build resilience, and managing workplace fatigue.

As part of each school's response plan, administrators should conduct workplace hazard assessments periodically to identify COVID-19 transmission risks and prevention strategies, when worksite conditions change, or when there are instances of COVID-19 transmission within the workplace. Strategies to prevent and reduce transmission are based on an approach that prioritizes the most effective practices, known as the hierarchy of controls. School employers should engage and train all workers on potential workplace hazards, what precautions should be taken to protect workers, and workplace policies for reporting concerns. Schools should ensure communication and training for all workers are frequent and easy to understand. Additionally, schools should ensure communication and training are in a language, format, and at a literacy level that workers understand.

Workers in K-12 schools have the right to a safe and healthful workplace. The Occupational Safety and Health Administration (OSHA) has issued Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace. This guidance contains recommendations to help employers provide a safe and healthy workplace free from recognized hazards that are causing, or are likely to cause, death or serious physical harm. It also contains descriptions of mandatory safety and health standards. If a worker believes working conditions are unsafe or unhealthful, they or a representative may file a confidential safety and health complaint with OSHA at any time. In states where public sector employers and workers are not covered by OSHA-approved State Plans, there may be agencies that provide public worker occupational safety and health protections and enforce such workers' rights to safe workplaces. Workers should contact state, county, and/or municipal government entities to learn more.

Appendix 1: Planning and Preparing

Emergency Operations Plans

Each school district and school should have an Emergency Operations Plan (EOP) in place to protect students, teachers, staff, and families from the spread of COVID-19 and other emergencies. The EOP should:

- Describe COVID-19 prevention strategies to be implemented.
- Describe steps to take when a student, teacher, or staff member has been exposed to someone with COVID-19, has symptoms of COVID-19, or tests positive for COVID-19.
- Document policy or protocol differences for people who are fully vaccinated for COVID-19 versus those who are not fully vaccinated.
- Be developed in collaboration with regulatory agencies and state, tribal, local, and territorial public health departments and comply with federal, state, and local laws and licensing regulations.
- Be developed with involvement of teachers, staff, parents and guardians, and other community partners (for example, health centers).

Utilize the Whole School, Whole Community, Whole Child (WSCC) model to outline EOP policies and protocols across each component. Tools and resources from the U.S. Department of Education can be used by K-12 administrators to develop and update their EOP.

Vaccination Verification

Existing laws and regulations require certain vaccinations for children attending school. K-12 administrators regularly maintain documentation of people's immunization records. Administrators who maintain documentation of students' and workers' COVID-19 vaccination status can use this information, consistent with applicable laws and regulations, including those related to privacy, to inform prevention strategies, school-based testing, contact tracing efforts, and quarantine and isolation practices. Schools that plan to request voluntary submission of documentation of COVID-19 vaccination status should use the same standard protocols that are used to collect and secure other immunization or health status information from students. The protocol to collect, secure, use, and further disclose this information should comply with relevant statutory and regulatory requirements, including Family Educational Rights and Privacy Act (FERPA) statutory and regulatory requirements. Policies or practices related to providing or receiving proof of COVID-19 vaccination should comply with all relevant federal, state, tribal, local, or territorial laws and regulations.

As part of their workplace COVID-19 vaccination policy, schools should consider applicable disability laws (e.g., the Americans with Disabilities Act or ADA) and other employment-related laws. For more information on what you should know about COVID-19 and the ADA, the Rehabilitation Act and other Equal Employment Opportunity Laws visit the Equal Employment

Opportunity Commission website.

Appendix 2: Screening Testing for COVID-19 Prevention in K-12 Schools

Testing Benefits

School testing gives communities, schools, and families added assurance that schools can open and remain open safely for all students. By identifying infections early, testing helps keep COVID-19 transmission low and students in school for in-person learning, sports, and extracurricular activities.

Collaboration between Education and Public Health

Before implementing COVID-19 testing in their schools, K–12 school leaders should coordinate with public health officials to develop a testing plan and build support from students, parents, teachers, and staff and must ensure that such screening testing is administered consistent with applicable law, including the Protection of Pupil Rights Amendment (PPRA). COVID-19 testing introduces challenges that schools may not have considered in the past (for example, requirements to perform on-site tests and to refer people for confirmatory testing), and public health officials can provide guidance on federal, state, and local requirements for implementing testing. Both school leaders and public health officials should assure the testing plan has key elements in place, including:

- Protocols for screening testing frequency based on community transmission rates, vaccination levels, and prevention strategies implemented at the school.
- Protocols for providing or referring to diagnostic testing for students, teachers, and staff who come to school with symptoms and for students, teachers, and staff following exposure to someone with COVID-19.
- Physical space to conduct testing safely and privately.
- Ability to maintain confidentiality of results and protect student, teacher, and staff privacy.
- Ways to obtain parental consent for minor students and assent/consent for students themselves.
- A mechanism to report testing results, to the extent required by, allowable by, and consistent with applicable federal, state, or local laws and regulations, including privacy laws such as FERPA, as required by the state or local health department.
- Roles and responsibilities for contact tracing for each party, including identification of close contacts.

If these elements are not in place, schools may consider referring students, teachers, and staff to community-based testing sites.

Collaboration among local counsel, education officials, and public health officials is recommended to ensure appropriate consent is obtained and maintained and results are maintained, used, and further disclosed with appropriate privacy and confidentiality in accordance with the Americans with Disabilities Act (ADA), Family Educational Rights and Privacy Act (FERPA), the Protection of Pupil Rights Amendment (PPRA), and other applicable laws and regulations. School administrators who have questions about FERPA (or PPRA) may contact the Department of Education's Student Privacy Policy Office (SPPO) at https://studentprivacy.ed.gov.

Testing Strategies

Schools may consider conducting pooled testing for COVID-19. Pooled testing increases the number of people who can be tested at once and reduces testing resources used. Pooled testing works best when the number of positives is expected to be very low. Ideally, specimens should be pooled at the laboratory rather than in the classroom. If the pooled test result is positive, each of the samples in the pool will need to be tested individually to determine which samples are positive. This allows for faster isolation of cases and quarantine of close contacts.

More frequent testing may be needed for students, teachers, staff, and adult volunteers engaged in school athletics and other extracurricular activities. Testing at least once per week is recommended for high-risk sports and extracurricular activities (those that cannot be done outdoors or with masks) at all community transmission levels. In areas of substantial-to-high

community transmission levels, testing twice per week is recommended for participation in these activities.

Choosing a Test

When considering which tests to use for screening testing, schools or their testing partners should choose tests that can be reliably supplied and provide results within 24 hours. If available, saliva tests and nasal tests that use a short swab may be more easily implemented and accepted in schools. A viral test tells a person if they have a current infection. Two types of viral tests can be used: Nucleic acid amplification tests (NAATs) and antigen tests. Frequency of testing should be determined by the performance characteristics of the test being used. The intended use of each test, available in the Instructions for Use and in the Letter of Authorization for each test, defines the population in which the test is intended to be used, the acceptable specimen types, and how the results should be used.

Reporting Results

Schools performing on-site tests (i.e., that are not sent to a laboratory) must apply for a Clinical Laboratory Improvement Amendments (CLIA) certificate of waiver, and report test results to the extent allowable by or consistent with applicable privacy laws to state or local public health departments and as may be mandated by the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136 ■). Schools should work closely with their local health department when establishing on-site testing so that their performance of CLIA-waived or FDA-authorized point-of-care tests for SARS-CoV-2 is done in accordance with regulations and should work closely with local counsel to ensure the reporting of test results is done in accordance with applicable privacy laws and regulations.

Parents, guardians, and caregivers should be asked to report new diagnoses of COVID-19 to schools and public health authorities to facilitate contact tracing and communication planning for cases and outbreaks. In addition, school administrators should notify teachers, staff, families, and emergency contacts or legal guardians immediately of any case of COVID-19 while maintaining confidentiality in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Americans with Disabilities Act (ADA), the Family Educational Rights and Privacy Act (FERPA) and other applicable laws and regulations. Notifications must be accessible for all students, teachers, and staff, including those with disabilities or limited English proficiency (for example, through use of interpreters or translated materials).

Ethical Considerations for School-Based Testing

- Testing should be conducted with informed consent from the person being tested (if an adult) or the person's parent or guardian (if a minor), consistent with applicable state laws related to consent. Informed consent requires disclosure, understanding, and free choice, and is necessary for teachers, staff (who are employees of a school), students, and their families, to act independently and make choices according to their values, goals, and preferences.
- Consider distributing consent forms with the other paperwork for returning to school and making them easily accessible.
- Differences in position and authority (i.e., workplace hierarchies), as well as employment and educational status, can affect a person's ability to make free decisions. CDC provides guidance and information related to consent for COVID-19 testing among employees.
- The benefits of school-based testing need to be weighed against the costs, inconvenience, and feasibility of such programs to both schools and families. These challenges must be considered carefully and addressed as part of plans for school-based testing developed in collaboration with public health officials.

Resources to Support School Screening Testing Programs

- CDC ELC Cooperative Agreement Reopening Schools Award ■ provides $10 billion to support COVID-19 screening testing in schools for safe, in-person learning.
- Community-Based Testing Sites provides COVID-19 testing resources and support to underserved school districts.
- CDC's Operation Expanded Testing (OpET) program increases access to testing nationwide, especially for communities that have been disproportionately affected by the COVID-19 pandemic. OpET provides no-cost testing to child care centers, K-12 schools, historically black colleges and universities (HBCUs), under-resourced communities, and congregate settings, such as homeless shelters, domestic violence and abuse shelters, non-federal correctional facilities, and other qualified sites. National Institutes of Health RADx Initiative rapidly scales up testing across the country to enhance access to those most in need and provides a When to Test impact calculator which illustrates how different mitigation strategies can minimize the spread of COVID-19.

- Shah Family Foundation Open and Safe Schools toolkit provides school leaders resources and tools to implement COVID-19 screening testing.
- Rockefeller Foundation has created a playbook with detailed, step-by-step guidance to help design and implement effective testing programs in schools. It addresses the operational challenges and everyday realities of implementing a complex, logistical program in an easy-to-understand, practical guide.
- The U.S. Department of Education's COVID-19 Resources for Schools, Students, and Families provides up-to-date guidance and policies to support life-long learning while addressing challenges presented by COVID-19.

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