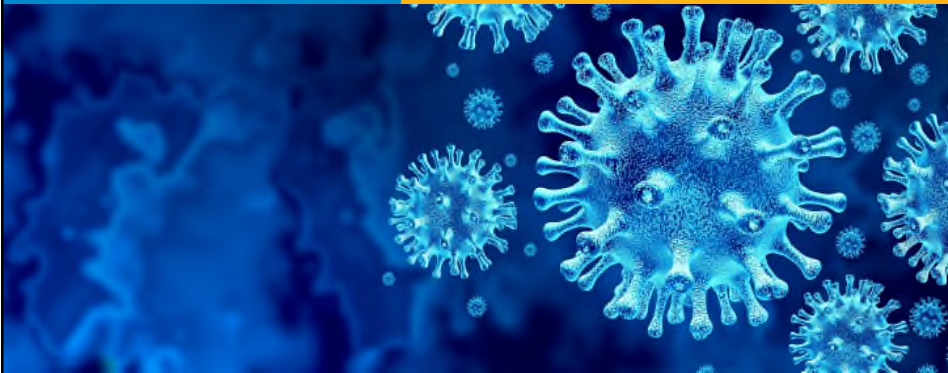



Bond

Questions and Answers About DOH and NYSED Reopening Guidance July 20, 2020



 **BOND** SCHOENECK
& KING ATTORNEYS

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Presenters

			
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Agenda

- Overview of main points
- Prepared questions
- Your questions



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Factors to keep in mind during this Q & A

- Answers based on our analysis of the information currently available
- Changing legal landscape – new guidance may be issued; current laws and regulations may be amended
- Please consult with your school attorney regarding specific questions



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Relevant Documents

NYS Department of Health (DOH) Interim Guidance for In-Person Instruction at Pre-K to Grade 12 Schools During the COVID-19 Public Health Emergency

- Interim Guidance for Office Based Work
- Interim Guidance for Public Transportation Activities
- Interim Guidance for Sports and Recreation
- Interim Guidance for Food Services



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NYSED Relevant Documents

New York State Education Department (NYSED) “Recovering, Rebuilding, and Renewing: The Spirit of New York’s Schools”

- All prior DOE and NYSED COVID-19 special education guidance
- CDC: Discontinuation of Isolation for Persons with COVID - 19 Not in Healthcare Settings
- CDC: Symptoms of Coronavirus
- NYS Travel Advisory
- CDC: Healthcare Facilities: Managing Operations During the COVID-19 Pandemic
- CDC: Guidance for Cleaning and Disinfecting, Public Spaces, Workplaces, Businesses, Schools, and Homes

School Reopening FAQ



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What if the guidance conflicts?

- Conflict between NYSED and DOH
 - Health and Safety → DOH applies
- Prior NYSED guidance
 - Overridden by July 16, 2020 NYSED guidance and any more recent guidance



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Social Distancing/Face Coverings

- DOH
 - Defined – 6 feet in all directions or appropriate physical barriers (12 feet for certain activities)
 - Required
 - “Unless safety or the core activity (e.g. instruction, moving equipment, using an elevator, traveling in common areas) requires a shorter distance or individuals are of the same household.”
- NYSED FAQ -
 - Schools must ensure that students and staff are protected by requiring at least one of the following:
Social distancing of Six Feet OR Barriers OR Face Masks/Coverings



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Screening

- Temperature checks
 - Required daily for anyone entering a school building
 - Preference is to have completed at home
 - Daily checks must be documented but cannot save health data (can save pass/fail or cleared/not cleared)
- Health screenings
 - Daily for employees
 - As practicable, visitors, contractors and vendors
 - “Periodically” for students
- Designated staff member to review



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Positive Cases/Screening

- Inconsistencies in guidance
- Any individual who screens positive → immediately sent home... but also
 - NYSED – send to health office for screening by School Nurse
 - Sent home for symptoms that, “are not explained by a chronic health condition”
 - Return per CDC and DOH guidance ...but
 - NYSED – guidelines “strongly recommend” that schools do not require testing
 - If not tested for COVID-19 → cannot return
 - 10 days from start of symptoms
 - 3 days after last fever or symptoms improved



10

Vulnerable Populations

- NYSED
 - Those with underlying conditions
 - People 65 or older
 - Pregnant individuals
 - Students who have family members who are at high risk
- DOH
 - Students, faculty and staff at “increased risk for severe COVID-19 illness”
 - “Individuals who may not feel comfortable returning to an in-person educational environment”



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Prioritized In-Person Instruction

- “Early grades”
- Students with Disabilities
- English Language Learners



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Question

Schools must complete and submit a plan with an in-person schedule, remote learning schedule, and a hybrid schedule. Does a school have the option of implementing any one of those three schedules?



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Question

Does the guidance prioritize in-person schedules over remote learning or hybrid schedules?



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Question

Is it sufficient for student temperature checks to be performed by parents at home, or must a school independently perform temperature checks of each student on each school day?



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Question

Is a school required to provide remote-instruction to a student if the student is not medically vulnerable but the student's parent does not feel comfortable sending the child to school?



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Question

Can schools take steps to increase available space to allow for more social distancing?



17

Question

Do reopening plans need to be approved by a district's Board of Education?



18

Question

Must special education services be delivered in person?



19

Question

May a district choose to provide 100% remote instruction if schools are not closed by a State or local order?



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Question

Do schools have an obligation to accommodate personnel who do not wish to work in person because they fear COVID-19 or because a member of the staff person's household is at heightened risk for COVID-19?



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Question

If an employee fails the health screening, is the employee entitled to paid time off?



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Question

What flexibility will schools have to meet the 180 day and “seat time” requirements?



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Your questions??



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Links to Secondary Guidance

- PreK-12
https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Pre-K_to_Grade_12_Schools_MasterGuidance.pdf
- Office Environments
<https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/offices-interim-guidance.pdf>
- Public Transportation
<https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/PublicTransportationMasterGuidance.pdf>
- Return to work (after exposure)
https://coronavirus.health.ny.gov/system/files/documents/2020/06/doh_covid19_public_private_employee_return_to_work_053120.pdf
- Sports and Recreation
<https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/SportsAndRecreationMasterGuidance.pdf>
- Food Service
https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Indoor_and_Outdoor_Food_Services_Detailed_Guidelines.pdf
- NYS Travel Advisory L: <https://coronavirus.health.ny.gov/covid-19-travel-advisory>



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Links to Secondary Guidance

- CDC Healthcare Facilities: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-hcf.html>
- CDC Guidelines for Return: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/disposition-in-home-patients.html>
- CDC COVID-19 Symptoms: <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>
- CDC Guidance for Cleaning and Disinfecting:
https://www.cdc.gov/coronavirus/2019-ncov/community/pdf/Reopening_America_Guidance.pdf



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