



COVID-19 AND THE REOPENING OF SCHOOLS QUESTIONS AND ANSWERS

Prepared for PSEA Members

Current as of July 21, 2020

INTRODUCTION

In March 2020, Gov. Wolf declared a disaster emergency in response to COVID-19, a novel coronavirus declared as a global pandemic by the World Health Organization. This emergency has been and remains unprecedented. Thereafter, Gov. Wolf implemented a tripartite framework for reopening the commonwealth. But as we reopen, COVID-19 cases are increasing in parts of the state, and it is possible that we may still face a second wave of the virus.

In the meantime, public schools are planning for a new school term. It is difficult to predict what the situation might look like at the time schools reopen, or even after they reopen. Federal and state guidance related to school reopening is constantly evolving, and many schools lack sufficient resources to implement all steps and protections recommended to date.

We know that PSEA members have many questions. While it is impossible to have all the answers, this Alert outlines options and considerations for PSEA locals and PSEA members as they deal with the reopening of their schools, based upon the information we have today.

SCHOOL HEALTH AND SAFETY PLANS

1. What must schools do to prepare for reopening?

Prior to reopening, school entities are to prepare health and safety plans pursuant to the CDC's Considerations for K-12 Schools: Readiness and Planning Tool available as of July 1, 2020 at: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/community/School-Admin-K12-readiness-and-planning-tool.pdf>.

The health and safety plans must also comply with Pennsylvania Department of Health (DOH) and Department of Education's (PDE) guidance, available as of July 16, 2020 at: <https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/SchoolReopeningGuidance/ReopeningPreKto12/PublicHealthGuidance/Pages/default.aspx>.

School entities should also comply with the Preliminary Guidance for School Reopening issued by the PDE on June 3, 2020 at:

<https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/SchoolReopeningGuidance/K12/Pages/HealthSafetyConsiderations.aspx>.

Finally, school plans are to be designed with input from diverse groups and submitted to the PDE using a template prepared by PDE at:

<https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/SchoolReopeningGuidance/K12/Pages/HealthSafetyConsiderations.aspx>.

2. What other information exists for school entities in preparing their plans?

School entities can be further informed by a report commissioned by PDE and the Mid-Atlantic Regional Educational Laboratory dated June 23, 2020 at:

<https://ies.ed.gov/ncee/edlabs/regions/midatlantic/pdf/ReopeningPASchools.pdf>.

As well, a Task Force Report submitted to PDE on June 18, 2020 by education organizations in the state, including PSEA, provides detailed recommendations at:

https://www.psea.org/globalassets/issues--action/key-issues/files/covid/school_reopening_task_force_report_final_061820.pdf.

3. What is PSEA doing to influence the design of school plans?

The majority of schools have not yet submitted their plans. PSEA and its local associations are working with districts to influence these plans. While approaches to reopening will vary, schools can reduce health risks by following federal and state guidance.

We must make sure that schools have the resources they need to pay for the cleaning supplies, face coverings, protective equipment, and staff required to keep facilities clean and to minimize exposure to COVID-19. We need to ensure that students and staff can physically distance and that schools enforce best hygiene practices to deter any spread of COVID-19. Employees at risk should be provided reasonable accommodations under the law. Schools need to be ready to transition to online learning if they cannot provide a safe environment for their employees and students.

PSEA succeeded in securing more than \$250 million in state safety grants that can be used to implement school health and safety plans. NEA and PSEA are lobbying the federal government for an additional \$175 billion for schools across the nation. That could mean as much as \$3 billion for Pennsylvania's K-12 schools and colleges and universities.

4. Will my school's health and safety plan change if the county transitions from the "green phase" back to the "yellow phase"?

Probably not. For all practical purposes, there is little difference between the phases concerning the operation of schools. While there are different procedures for businesses open to the public in the yellow versus the green phase, the rules for schools remain the same. Schools in yellow and green phase areas can conduct in-person lessons. Regardless of the phase, students and staff must wear face coverings as directed by the Secretary of Health and PDE. Pursuant to PDE's

order, schools must implement social distancing in both phases, but only to the maximum extent possible.

One discernible difference is that, in the yellow phase, there are more stringent guidelines for the monitoring of symptoms and the use of congregate settings such as cafeterias. Otherwise, the school environment will remain practically the same in both phases.

5. Where can I find additional information about the federal and state directives and guidance?

PSEA has prepared Advisories on all guidance and orders referenced above.

See <https://www.psea.org/issues-action/key-issues/key-issue-school-safety/covid-19-coronavirus-pandemic2/>.

FEDERAL AND STATE MANDATES

6. What mandates are imposed by the federal government to protect school employees?

There are only limited protections afforded by the federal government. The CDC guidance is only that – guidance. Laws that relate to the safe operation of private sector businesses, for example the Occupational Safety and Health Act (OSHA), do not apply to the public sector.

The CDC guidance provides that schools should protect students and staff who are at higher risk for severe illness from COVID-19 and put basic protections in place to mitigate the spread of COVID-19 in schools. The CDC stresses the following:

- Physical distancing (including hybrid schedules)
- Deterrence (including practicing good hygiene and wearing face coverings)
- Disinfection (of schools, buses, and equipment)
- Detection (daily health checks including temperature screening)

See <https://www.cdc.gov/coronavirus/2019-ncov/downloads/community/School-Admin-K12-readiness-and-planning-tool.pdf>.

7. What mandates are imposed by the state government to protect school employees?

Pennsylvania does not have a state law equivalent to OSHA that would apply to public sector employees. We do have a General Safety Law that might provide some basic protections (i.e., adequate lighting, heat, and ventilation and clean bathrooms).

State agencies have issued limited mandates. PDE specifically recognizes that it is impossible for schools to eliminate any risk of COVID-19 exposure. PDE only requires social distancing of students “to the maximum extent feasible.” PDE requires that schools implement the mitigation efforts listed below.

- Clean, sanitize, disinfect, and ventilate learning spaces, surfaces, and any other areas used by students. Disinfections should meet OSHA and CDC standards.
- Restrict the use of cafeterias and other congregate settings and serve meals in other areas.
- Implement hygiene practices (e.g., handwashing) for students and staff.
- Limit the sharing of materials among students.
- Stagger the use of communal spaces and hallways.
- Limit the number of individuals in classrooms and other learning spaces and limit interactions between groups of students.
- Monitor students and staff for symptoms or history of exposure and isolate or quarantine anyone who is sick or who has a history of exposure.
- Adjust transportation schedules and practices to create social distance between students.
- Align sporting activities for recess and physical education to be consistent with CDC Considerations for Youth Sports.
- Coordinate with local childcare providers.
- Restrict non-essential visitors.
- Train students and staff on protocols for cleaning and social distancing and other safety protocols.
- Protect students and staff who are at higher risk for severe illness.

See <https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/SchoolReopeningGuidance/K12/Pages/HealthSafetyConsiderations.aspx>.

DOH and PDE’s guidance issued on July 16, 2020 provides further clarifications. The guidance is summarized in Appendix A to this Alert.

See <https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/SchoolReopeningGuidance/ReopeningPreKto12/PublicHealthGuidance/Pages/default.aspx>.

8. Must school health and safety plans require staff and students to socially distance?

Pursuant to PDE’s preliminary guidance, social distancing is required, but only “to the maximum extent feasible.”

See <https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/SchoolReopeningGuidance/K12/Pages/HealthSafetyConsiderations.aspx>.

The DOH and PDE guidance issued on July 16, 2020 provides further details (see the summary in Appendix A) but still provides that physical distancing occur only “to the maximum extent feasible.” See <https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/SchoolReopeningGuidance/ReopeningPreKto12/PublicHealthGuidance/Pages/default.aspx>.

9. Must school health and safety plans require staff and students to wear face coverings?

On July 1, 2020, the state Secretary of Health issued an order mandating the wearing of face coverings by all individuals, subject to certain exceptions. See <https://www.governor.pa.gov/wp-content/uploads/2020/07/20200701-SOH-Universal-Face-Coverings-Order.pdf>.

On July 6, 2020, PDE issued guidance via its website directing the wearing of face coverings in schools, subject to certain exceptions. See <https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/Waivers/MaskWearing/Pages/default.aspx>.

On July 16, 2020, the DOH and PDE further clarified the requirement that students and staff wear face masks during the school day. This latest guidance states that children two years and older are required to wear a face covering unless they have a medical or mental health condition or disability, documented in accordance with Section 504 of the Rehabilitation Act or IDEA, that precludes the wearing of a face covering in school. Accommodations for such students should be made in partnership with the student’s health care provider, school nurse, and IEP/504 team. See <https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/SchoolReopeningGuidance/ReopeningPreKto12/PublicHealthGuidance/Pages/default.aspx>.

PDE offers additional guidance related to face coverings which may apply in certain circumstances (i.e., a special education setting):

Individuals who are communicating or seeking to communicate with someone who is hearing impaired or who has another disability, ***where the ability to see the mouth is essential to communication***, are not required to wear a mask; however, individuals should consider using another type of face covering such as a plastic face shield. (Emphasis added.)

If masks are not feasible in these circumstances, PSEA advises that educators and students use clear faces shields.

Students are permitted to remove face coverings when engaged in any activity (e.g., face covering breaks, recess, eating or drinking, or seated at desks or assigned workspaces) ***if students are at least 6 feet apart***.

Student athletes are not required to wear face coverings while actively engaged in workouts and competition that prevent the wearing of face coverings, but must wear face coverings when on the sidelines, in the dugout, etc. and anytime 6 feet of social distancing is not possible.

See <https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/Waivers/MaskWearing/Pages/default.aspx>.

10. What if students refuse to wear face coverings?

The order of the Secretary of Health requiring face coverings was issued on July 1, 2020 and effective immediately. It remains in effect until further notice. PDE's clarification for schools, issued on July 6, 2020, indicates that the Secretary's order must be implemented "immediately." PDE directs school entities to revise their health and safety plans to reflect this order and to have plan approval occur at the next board meeting.

School employees should make sure they are familiar with any implementation procedures that may be set forth in their employer's health and safety plan. If there are no specific implementation procedures, school employees should follow the steps they would take in ensuring that any school policy is enforced. Because there are exceptions for certain students, school staff should ask to be informed as to which students will not be required to wear masks. Staff can verify this information by reviewing IEPs and 504 plans as appropriate. Local associations can assist in ensuring that information is provided and updated.

Your local association can also assist you in raising any issues with school administration related to students' failure to wear face coverings. If your school administration refuses to enforce the Secretary and PDE's directives, contact your local association leaders and PSEA UniServ for assistance.

11. Can employers take temperatures of students and employees?

The July 16, 2020 Guidance from PDE and DOH recommends that any staff or student with a fever of 100.4 degrees or higher or the symptoms of possible COVID-19 infection should not be in school. Students and parents/guardians are to perform a symptom screening using DOH's symptom screening tool prior to arriving at the bus stop or at school each day. See <https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/SchoolReopeningGuidance/ReopeningPreKto12/PublicHealthGuidance/Pages/default.aspx#s>.

PDE's Considerations for Reopening Pennsylvania Schools report states that schools "might be better served by quickly intervening on students with COVID-19-consistent symptoms rather than by attempting to screen all students daily" as "the lack of evidence that systematic fever testing is an accurate indicator of infection raises questions about whether this is a useful allocation of school time and resources."

See <https://ies.ed.gov/ncee/edlabs/regions/midatlantic/pdf/ReopeningPASchools.pdf>, at p. 14.

Generally, measuring an employee's temperature is a medical examination. But recent EEOC guidance has recognized that, due to the pandemic, employers may take employees' temperatures. If an employer keeps a log of its employees' temperatures, it must be kept in a confidential medical file separate from employees' personnel files. The employer may avoid creating medical records by simply recording that an employee's temperature was checked. See

What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws (June 17, 2020) at:

<https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>.

EMPLOYEES WHO HAVE UNDERLYING MEDICAL CONDITIONS PLACING THEM AT RISK FOR COMPLICATIONS DUE TO COVID-19

12. What if I am at “high risk” for severe illness related to COVID-19?

If you have an underlying medical condition that is defined as a disability by the Americans with Disabilities Act, you may be eligible for a reasonable accommodation so that you may still perform the essential functions of your job. Accommodations can range from additional mitigation efforts to temporary leaves of absence.

PSEA has prepared a separate Q&A for persons explaining the application of the Americans with Disabilities Act during the pandemic.

See <https://www.psea.org/globalassets/issues--action/key-issues/files/covid/alert-ada.pdf>.

If, after reviewing this Q&A, you believe you have an underlying medical condition that may make you eligible for a reasonable accommodation, please contact your PSEA UniServ for assistance.

13. What if I do not want to report to work due to my fear of exposure to COVID-19?

We know that PSEA members want to get back to their schools and students, but we also know that members are concerned about their own safety and well-being. This is one of the most challenging situations ever faced by public education.

With the assistance of your local association, you can raise your apprehensions with your employer. Your local association can help you in making sure that your school addresses the concerns of its staff. PSEA also has resources available. See Questions 29 and 30.

EMPLOYEES WHO ARE EXPOSED TO OR HAVE CONTRACTED COVID-19

14. What should happen if I am exposed to a student who has COVID-19?

In the case of exposure, school administrators, nurses, and other health care providers should work together to identify an isolation room or area to separate any student who exhibits COVID-19 symptoms. Students who are infected, or show COVID-19 symptoms, should be transported home in accordance with the employer’s safety procedures, and anyone exposed should be directed to leave the building. School officials should notify local health officials, staff, and families of exposure or confirmed case while maintaining confidentiality.

Employers should close off the areas used by a sick person, and those areas should not be reopened until cleaned and disinfected. All disinfectant products used should be CDC-approved.

Any employee who was exposed should be quarantined for 14 days. Employers should implement flexible leave policies and practices so the individual can continue to receive pay. Leave may be available under the Families First Coronavirus Response Act. *See* Question 17. Contact your local association and PSEA UniServ for assistance.

15. Is my employer required to notify me if I am exposed to a student or another staff person who tests positive for COVID-19?

In the event of a potential exposure, schools should contact the appropriate agency, either the local DOH or the county and municipal health department, before acting in response to a known or suspected COVID-19 infection. If the agency learns that a person with a confirmed or probable case of COVID-19 was present at the school or a school event while infectious, the agency will notify the school. The agency will assist the school with risk assessment, isolation and quarantine recommendations, and other infection control recommendations. The agency will inform close contacts of their possible exposure and give instructions to those involved regarding self-quarantine and exclusions. Be aware that an employer is not permitted to identify the name of the individual who potentially has the virus to other employees. The employer may tell you where in the building you were potentially infected and can also ask you questions about areas of the building you have occupied since the potential exposure.

16. Can my employer ask me if I have or have had COVID-19?

Yes, under certain circumstances, although the EEOC guidance is not clear on this point and most employers will likely shy away from asking such a question. More likely, your employer will ask if you are experiencing COVID-19 symptoms. According to the CDC, during a pandemic, employers may, consistent with the ADA, ask employees if they are experiencing symptoms of the pandemic virus, such as fever, chills, cough, shortness of breath, or sore throat. *See* <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>.

17. If I am told not to report to work for two weeks due to a COVID-19 exposure, must I use my own sick leave?

In PSEA's opinion, sick leave that you are entitled to under the School Code or bargained-for in a collective bargaining agreement is generally to be used at the behest of the employee, not the employer. If you are not ill, you should not be required to use your sick leave.

You may be eligible for up to two weeks (80 hours) of emergency paid sick leave offered by the Families First Coronavirus Response Act (FFCRA) if you are subject to a government quarantine or isolation order related to COVID-19, or have been advised by a health care provider to self-quarantine due to concerns related to COVID-19. Emergency sick leave under FFCRA is paid at your regular rate of pay, not to exceed \$511/day or \$5,110 in total. This leave expires as of Dec. 31, 2020. It applies to all government employers and private employers who have fewer than 500 employees, although certain provisions may not apply to employers with fewer than 50 employees. *See* <https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave>.

If you are directed not to report to school due an exposure, notify your local association and contact your PSEA UniServ for assistance. If necessary, your local association may file a grievance to resolve any pay or leave issues.

See <https://www.dol.gov/agencies/whd/pandemic/ffera-employee-paid-leave>, <https://www.psea.org/>, and <https://www.psea.org/about-psea/regionsandlocals/>.

18. What if I am ill with COVID-19?

The FFCRA requires government and certain private sector employers to provide employees with up to two weeks of paid sick leave at the employee’s regular rate of pay if the employee is experiencing COVID-19 symptoms and seeking a diagnosis or if the employee is subject to a quarantine or isolation order or has been advised to self-quarantine by a medical professional. This leave expires as of Dec. 31, 2020. See <https://www.dol.gov/agencies/whd/pandemic/ffera-employee-paid-leave>.

Employees may also use any sick leave they are entitled to under the School Code or a collective bargaining agreement. Up to 12 weeks of unpaid leave under the Family and Medical Leave Act (FMLA) may be available if the employee meets eligibility requirements and is suffering from a “serious health condition” as defined by the FMLA.

See <https://www.dol.gov/general/topic/benefits-leave/fmla>.

19. Can I file a worker’s compensation claim if I contracted COVID-19 at school?

You are entitled to worker’s compensation benefits if you are injured at work, meaning that you contracted COVID-19 at work. This will require a doctor’s statement that, to a reasonable degree of medical certainty, you were infected while at work.

If you believe you became ill at work, you should notify your local association and seek assistance from your PSEA UniServ. You should take care to document as many facts as possible related to your exposure including information as to your symptoms and the date of onset, possible sources and dates of exposure, and the persons you were in contact with during the period of exposure. Make sure to get copies of any medical records as well as COVID-19 test results. If needed, your PSEA UniServ can refer you to a worker’s compensation attorney.

20. What if one of my family members is ill with COVID-19?

You may be eligible for two weeks (80 hours) of paid sick leave under the FFCRA if you are unable to work because you are caring for someone who is subject to a quarantine or isolation order or who has been advised to self-quarantine. The leave is paid at two-thirds of your regular rate of pay, not to exceed \$200 per day or \$2,000 in total. This leave expires as of Dec. 31, 2020. It must be offered by all government employers and certain private sector employers.

Twelve weeks of unpaid leave under the Family and Medical Leave Act (FMLA) may be available if you meet eligibility requirements and you are caring for an immediate family

member (i.e., spouse, child, or parent) who suffers from a “serious health condition” as defined by the FMLA. See <https://www.dol.gov/general/topic/benefits-leave/fmla>.

21. What if my childcare facility shuts down due to COVID-19?

The FFCRA also included extended FMLA leave for employees who have to care for a child (under age 18) whose school or daycare has closed due to a COVID-19 emergency. The first 10 days are not paid, although you may be able to use FFCRA emergency sick leave (which is available for the same reason).

After the first 10 days, you receive paid leave of two-thirds of your regular rate of pay, not to exceed \$200 per day or \$10,000 in total. If you work part time, you receive two-thirds of your normal part-time pay.

If you need to utilize extended FMLA leave, contact your PSEA UniServ for assistance.

22. Will my use of leave affect my calculation of service for purposes of retirement credit?

Use of regular sick leave will count in PSERS, as will a medical sabbatical assuming the employee either returns to work or is too disabled to return. It is possible that emergency sick leave under FFCRA will not count. If you are notified by PSERS that your FFCRA sick leave is not retirement-covered compensation or advised that you have a fractional year of credit due to the use of FFCRA emergency sick leave, contact your PSEA UniServ for assistance.

Payments under the Workers’ Compensation Act or pursuant to a disability policy are not retirement-covered compensation, but you are able to purchase credit for the time as a “special leave of absence.” Your school board must have approved the leave. The leave may not exceed one year, and you must have received at least half-salary through worker’s compensation or a school-sponsored insurance program.

See <https://www.psers.pa.gov/Active-Members/Pages/PurchasingServiceCredit.aspx>.

If you are placed on administrative leave with pay due to quarantine (in other words, you are paid but not working during a shutdown), that time may not count as well.

Time spent not working but receiving unemployment compensation is not creditable, and FMLA leave has never been credited by PSERS.

TRAVEL RESTRICTIONS AFFECTING EMPLOYMENT

23. What if my employer requires me to quarantine for 14 days when I return from traveling to one of the states designated by the governor as an area with high amounts of COVID-19 cases?

Currently, the governor has designated the following states as having high amounts of COVID-19 cases: Alabama, Arizona, Arkansas, California, Florida, Georgia, Idaho, Iowa, Kansas,

Louisiana, Mississippi, Nevada, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Utah.

The Pennsylvania Department of Health’s website provides that quarantine is *recommended* upon return to Pennsylvania and that, “If you travel to the following states, it is *recommended* that you quarantine for 14 days upon return.” (Emphasis added.)

See <https://www.health.pa.gov/topics/disease/coronavirus/Pages/Travelers.aspx>.

If your employer requires quarantine, you should notify your local association and request assistance from your PSEA UniServ. You may be able to make arrangements to work remotely. Some school solicitors have interpreted the state’s language as a government order which would permit the use of emergency leave under FFCRA. Other districts may choose to exercise discretion and inquire about your activities while out of state to determine whether quarantine is necessary.

The use of FFCRA leave may have implications for salary and PSERS credit as described above.

24. Should I notify my employer about planned travel to a state designated by the governor as an area with a high amount of COVID-19 cases?

If you have such travel plans, contact your PSEA UniServ for assistance. Some school entities may have developed policies that require employee disclosure of travel to certain areas. Even if disclosure is not required, you should consider whether discussing your plans and any ramifications with your employer ahead of time might be of benefit.

SCHOOL CLOSURE

25. If my school is closed on a short-term basis due to a COVID-19 exposure, will I still be paid?

If a COVID-19 exposure affects your school building, the school or affected areas of the school will be closed for a short period for cleaning and disinfecting. Your school may have plans for remote instruction in the event of a closure, and if you are working remotely your wages should not be affected.

If you are a “teacher” (defined by Section 1141 of the School Code to include “all professional employes and temporary professional employes, who devote fifty per centum (50%) of their time, or more, to teaching or other direct educational activities,” you will still be paid even if you are not working remotely. Section 1153 of the School Code provides that “[w]hen a board of school directors is compelled to close any school or schools on account of contagious disease, the destruction or damage of the school building by fire or other causes, the school district shall be liable for the salaries of the teachers of said school or schools for the terms for which they were engaged.”

While Act 13 of 2020 waived the requirement that schools provide 180 days of education, that waiver does not apply for the 2020-21 school year. Therefore, your school will need to make up any necessary days in order to provide 180 days of education.

Because Act 13 expired as of June 30, 2020, there is no obligation in the School Code that school entities pay educational support staff who are not working if school buildings are closed. Your CBA may have relevant language related to wages and work year. It is possible that work may be rescheduled at a later point in time. In the meantime, you may be eligible for unemployment compensation. Until Dec. 31, 2020, the CARES Act temporarily eliminates the one-week waiting period that normally applies before an individual can receive unemployment compensation. You should notify your local association and contact your PSEA UniServ for assistance.

26. If the governor orders an indefinite school closure due to COVID-19, will I still be paid?

A closure ordered by the governor is likely to be of longer duration. As explained above, the special measures included in Act 13 do not continue into the 2020-21 school year. Therefore, absent new legislative action, public schools must offer 180 days of instruction as required under Section 1501 of the School Code. In this case, schools probably will need to provide some amount of remote instruction. Professional employees will likely be able to work remotely, and their days of remote work will count toward the 180-instructional-day requirement. Again, as in the case of a short-term closure, support professionals who report to work to clean a building, prepare and serve meals to families, or perform some other work will be paid, but those who cannot perform work during the closure will most likely have to apply for unemployment compensation.

27. What if I return to work and believe my working conditions to be unsafe?

Under Section 401 of Act 195, employees have the right to engage in concerted activity for mutual aid and protection. You will be best protected by contacting your local association and PSEA UniServ to discuss the steps needed to protect you and your employment and allowing the local association to speak or act on your behalf. If you are at risk, it is likely other employees may be as well, and collective action is the best approach.

With the assistance of the local association and UniServ, you should:

- Document the unsafe condition. The employee generally will shoulder the burden of establishing a reasonable belief that working conditions are unsafe and that the employee is placed at risk of exposure to COVID-19 at his or her specific work location.
- If possible, do not leave your place of employment. If you cannot stay in the specific location of your assignment, leave that area but remain in the school building.
- Advise school administration of the concern and ask for specific action or assurances that the school will undertake any necessary sanitization efforts or other actions. Inform the

employer you are not refusing to work but are asking for certain mitigation efforts. Document your request.

- If the response of the employer is insufficient, document the reply and why it was insufficient.

While the rule of thumb is that employees cannot be required to work in a dangerous environment (i.e., a burning building), COVID-19 presents unique challenges. It is impossible to eliminate all risk of exposure, whether at work or at home. Individuals will have different approaches to assessing the risk, or tolerance for risk. While guidance explains to schools how to best mitigate risk, there is no requirement that schools take the most conservative approach and the guidance is not mandatory. There is conflicting research related to the ability of children to contract or transmit the virus. Where schools can be perceived to have responded reasonably, employees who refuse to work may be deemed insubordinate, face discipline, or reduced in pay.

If you believe you are at extra risk due to underlying health conditions, make sure your employer knows of those conditions, and work with your local association and PSEA UniServ to see if you are entitled to a reasonable accommodation under the ADA.

If you withhold services with little to no notice to your employer, you are more likely to face adverse employment action. While your local association can file a grievance and represent you at arbitration, there is no guarantee of success. To best protect yourself, ask for the help of your local association and PSEA UniServ.

28. Can my local association go out on strike to protect unsafe working conditions?

Under Section 401 of Act 195, the bargaining unit represented by the local can engage in lawful concerted activity for mutual aid and protection. That concerted activity could take the form of a refusal to provide services due to dangerous conditions. The withholding of services would not constitute a “strike” under an expired contract which would result in non-binding arbitration or be preceded by mediation and possibly factfinding.

Such action should be taken as a last resort after all the consequences are considered by the bargaining unit and should be done with the full support of the bargaining unit. Your PSEA UniServ and PSEA Region Attorney should be consulted and included in any discussions about this approach.

WHAT IS PSEA DOING TO ADDRESS CONCERNS RELATED TO SCHOOL REOPENINGS, AND HOW CAN I HELP?

29. How is PSEA ensuring that school employers are meeting members’ concerns?

School employers need to know that employees are concerned with what will happen at the beginning of the school year. Employers can help address this anxiety by explaining their mitigation efforts, the timelines for implementation, and how such mitigation efforts will be

monitored and enforced. In addition, since we are in a rapidly evolving situation, employers should explain how they will update protocols and processes as guidance and orders change.

Your local association can assist in representing the concerns of members and can help ensure that the employer's mitigation strategies are transparent, and that information is communicated to employees in a timely manner. Your local association can ask your employer to be as flexible as possible in addressing employee concerns and remind the employer to pay attention to all aspects of its employees' well-being – physical, mental, and emotional health – during this time. Your local association may provide opportunities for employees to re-engage and network with colleagues for informal support.

PSEA is providing opportunities for PSEA members to engage in wellness and mindfulness practices to support good emotional health through the pandemic. In addition, PSEA has been supporting members' needs to learn additional skills and apps to support online learning. Resources are available on the internet at [PSEA's Center for Professional Learning](#) and also on [PSEA's COVID-19 information site](#).

30. Is PSEA lobbying to extend Act 13?

PSEA is lobbying the General Assembly for passage of new legislation that will extend many of those measures into the 2020-21 school year and hopefully address additional concerns that have arisen since Act 13 was signed into law. Currently, the General Assembly is not scheduled to return to session to vote on any new legislation until September, but that schedule could change if the General Assembly realizes the need to move quickly to provide public schools and their employees with protections and assurances for the coming school year.

31. Is PSEA partnering with other state education organizations?

PSEA is working closely with school administrations and statewide associations representing administrators, principals, intermediate unit directors, and school boards. This work has been focused on providing guidance for school entities as they develop required reopening plans and working directly with school entities as they complete their individual reopening plans. PSEA continues to emphasize the importance of developing individual school reopening plans that include the elements included in PDE-required mitigation efforts for school entities. Key elements include ensuring that facilities are properly sanitized, social distancing is enforced, and face coverings are worn.

In addition, PSEA continues work with state and national education associations to encourage Congress to approve \$175 billion in federal emergency aid for K-12 schools and colleges and universities to be used to support reopening plans and pay for the equipment and staff necessary to reopen schools in a way that reduces health risks.

32. Is PSEA making its members' concerns known to the governor and PDE?

On July 16, 2020, PSEA President Rich Askey sent a letter to Gov. Tom Wolf and Secretary Pedro Rivera, encouraging them to immediately direct all school entities to begin planning for

providing online instruction to students so that every school entity is prepared to do this if delivering in-person instruction becomes impossible because of increases in cases of COVID-19.

In public education, planning is absolutely essential. That is why every school entity needs to be ready to provide online instruction if the spread of the coronavirus continues to increase in Pennsylvania.

President Askey has asked the governor to use his executive authority to require this planning to begin immediately.

PSEA is in close contact with PDE and has been a leader in making members' concerns and ideas known to department officials so that they can be included in guidance the department has produced to help schools to operate in a way that reduces health risks. PSEA will continue to do this and continue to do everything possible to protect the health and safety of PSEA members, students, and their families.

33. What other information and updates are available from PSEA?

From the very beginning of the COVID-19 emergency, PSEA has provided members with frequent updates on state and school policies and information about how PSEA has acted to protect their paychecks, benefits, retirement, and health.

In addition, PSEA has provided regular legal guidance and has offered an expanded menu of continuing professional development opportunities members can access online. Many of these new offerings are specific to providing the very best online learning experiences for students.

PSEA will continue to provide these regular updates on www.psea.org/covid19, on social media, and in Association publications. Updates will also be available from your PSEA UniServ.

APPENDIX A

PSEA's SUMMARY OF STATE AGENCY GUIDANCE REGARDING PHASED REOPENING OF PRE-K TO 12 SCHOOLS

July 21, 2020

On July 16, 2020, the state's Department of Health and Department of Education issued additional guidance to assist schools in preparing the health and safety plans for returning to in-person instruction.

See <https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/SchoolReopeningGuidance/ReopeningPreKto12/PublicHealthGuidance/Pages/default.aspx#screenin>.

The guidance contains sections addressing: 1) communication and awareness; 2) symptom screening tools; 3) face coverings and masks; 4) hand hygiene, cleaning, and disinfection; 5) immunizations; 6) individuals with disabilities or other chronic conditions; 7) responding to confirmed or probable cases; 8) school health and safety plans; 9) social/physical distancing measures; and 10) symptom monitoring.

The guidance reflects updates concerning the face-covering mandate but contains no new requirements. It also provides additional information as explained below.

Social/Physical Distancing Measures

The guidance provides recommendations regarding social distancing as it relates to staff interactions, busing/transportation, desks/seating, alternative spaces, hallways, outdoor playground spaces, gatherings/field trips, and meals/cafeterias. However, most of these items are only recommended to the maximum extent feasible.

Highlights include the following:

Adult/Staff Interaction: Adults should maintain a distance of at least 6 feet from other adults (to the maximum extent feasible) and from students (whenever possible and when not disruptive to the educational process). Group meetings should be held virtually, there should be staggered student drop-off and pick-up times, and physical barriers such as plexiglass can be used in reception areas and employee workspaces where physical distancing is not possible.

Busing/Transportation: Parents or guardians should screen students for fever or other COVID-19 symptoms before allowing them on the bus. Bus drivers and passengers must wear face coverings while on the bus. Windows should be open when weather allows. Minimize the number of people on the bus at one time within reason and to the greatest extent possible. Do not allow individuals, including parents, guardians, and other caregivers, on the bus, unless absolutely necessary (i.e., to assist a student with a disability). The bus should be loaded back to front, do not seat students in the front row of the bus, and cohorts or family members should be seated together. Disinfect buses after each run. Thoroughly clean and disinfect buses daily.

APPENDIX A

Classrooms and Other Spaces: Desks should be least 6 feet apart and facing the same direction, to the maximum extent feasible. If possible, hold classes in gyms, auditoriums, other large spaces, or outdoors, where physical distancing can be maintained. Stagger class times to limit numbers of students in hallways at any time. When feasible, keep students in the classroom and rotate teachers instead. Limit the size of groups using the playground at any one time.

Gatherings/Field Trips: Limit gatherings, events, and extracurricular activities to those that can maintain physical distancing.

Meals/Cafeterias: The best option is to serve individual meals and have students eat in classrooms or other spaces as an alternative to the cafeteria. Utilize outdoor space, when possible. If meals are served in a cafeteria setting, students should sit in cohorts at least 6 feet apart (in staggered arrangements) and wear face coverings when walking to and from the cafeteria as well and when getting their food. Serve individually plated meals/box lunches. Avoid buffets, self-serve meals, or family-style service. Avoid sharing of food and utensils. Do not allow snacks to be shared for classroom activities or events.

Face Coverings and Masks

All students and staff must wear a face covering (cloth mask or face shield) that covers their nose and mouth inside the school and while outside when physical distancing is not feasible. Children two years and older are required to wear a face covering unless they have a medical or mental health condition or disability, documented in accordance with Section 504 of the Rehabilitation Act or IDEA, that precludes the wearing of a face covering in school. Accommodations for such students should be made in partnership with the student's health care provider, school nurse, and IEP/504 team.

Staff with Chronic Conditions

The guidance advises that staff at higher risk should avoid group gatherings and common work areas. It also recommends that schools consider providing alternate work options or duties that minimize exposure risk, including telework options, where feasible.

Immunizations

The guidance suggests that all children should receive recommended vaccinations on time and that schools work with stakeholders to promote childhood vaccinations. Students, families, and staff should be encouraged to get the influenza vaccination.

Responding to Confirmed or Probable Cases

Schools should contact the appropriate agency, either the local DOH or the county and municipal health department, before acting in response to a known or suspected COVID-19 infection.

APPENDIX A

If the agency learns that a person with a confirmed or probable case of COVID-19 was present at the school or a school event while infectious, the agency will notify the school.

The agency will assist the school with risk assessment, isolation and quarantine recommendations, and other infection control recommendations. The agency will inform close contacts of their possible exposure and give instructions to those involved regarding self-quarantine and exclusions.

In the event of exposure, the school should immediately, but discreetly, take the person believed to be infected to the COVID-19 related isolation space for pick up (if a student) or asked to return home (if staff).

The school should close off areas used by the sick person. The entire building does not need to be evacuated. The school should wait at least 24 hours, or as long as possible, before cleaning and disinfecting the exposed area. The school should follow CDC Cleaning and Disinfecting protocols. If seven days have passed since the sick individual was in the affected area, cleaning is not needed.

The school should create a communication system to self-report symptoms and to notify staff and families of exposures and closures. Schools should, however, take every measure to maintain the confidentiality of the affected individual.

Contact Tracing

Information on contact tracing and case investigation can be found in [DOH'S Contact Tracing Plan](#). Agency staff will assist a school with contact tracing and may request information regarding potential close school contacts from school nurses/health staff. Decisions to track additional health information (i.e., quarantine timeframes) will be made at the local school level.

Schools should take measures that allow for exposed individuals to be more easily traced:

- Use assigned seating for each class when feasible.
- Take attendance for every class and include all individuals (staff and contractors) who were in the classroom.
- Use sign-in sheets for in-person meetings to document staff attendees.
- Keep accurate records of any persons other than students and staff that enter the building, their reason for being there, the locations in the building they visit, and the names of close contacts they visit in the building if possible.

APPENDIX A

Attendance Policies for Quarantined Students

Students who are quarantined may present attendance challenges. A student may be quarantined when he or she is in “close contact” with a COVID-19 case for 15 or more minutes. Close contact can occur while caring for, living with, visiting, or sharing a health care waiting area or room with a COVID-19 case, or having direct contact with infectious secretions of a COVID-19 case (e.g., being coughed on). See the [Department of Health Case vs. Contact](#) for more information on these distinctions.

Schools should refer symptomatic individuals or those who have a known exposure to a confirmed case to an appropriate health care provider or testing site. Refer to DOH information on [Coronavirus Symptoms and Testing](#) for details on current testing locations throughout the commonwealth.

Schools should support students and staff who are quarantined by allowing for leniency in absenteeism from in-person instruction and extracurricular activities and transitioning to remote learning and work.

Returning to Pre-K to 12 School

Staff and students with fever or symptoms that may be associated with COVID-19 and no known direct exposure to a person with COVID-19 may return to school when they are asymptomatic and have been fever free for at least 24 hours without the use of fever-reducing medicine or have confirmation of an alternative diagnosis from a health care provider that explains the COVID-19-like symptom(s).

Staff or students with symptoms who have had a direct exposure to a person with COVID-19 will be considered probable cases and should remain excluded from school/work until [release from isolation criteria](#) has been met.

A student or staff member who is quarantined following close contact with a case may not return to school until cleared to do so by the DOH or local health department. A negative test obtained prior to the end of quarantine does not clear an individual for return. The entire quarantine period must be completed. See CDC guidance on [Quarantine if You Might be Sick](#).

Closing School

The DOH will continue to monitor community transmission rates and other surveillance metrics across the commonwealth, including school specific outbreaks of COVID-19. The DOH may, in close coordination with PDE, issue guidance related to targeted school closures as part of a wider public health mitigation strategy.