

# Legal Update

September 2020

## Masks Required

The Ohio Department of Health issued an order requiring K-12 students to wear face coverings. The mandate applies to any indoor school location, outdoor school property when unable to maintain six feet of distance, and when waiting for a school bus outdoors and unable to maintain six feet distance.

The requirement does not apply when:

- an individual has a medical condition that restricts breathing
- an individual has a mental health condition or disability that contraindicates the wearing of a face covering
- an individual is communicating with someone hearing impaired
- the individual is participating in outdoor recess or activity and is able to maintain 6 feet of distance
- the individual is seated consuming food/beverage
- students and staff can maintain 6 feet distance and the removal of the face covering is necessary for instructional purposes, including foreign language or playing an instrument
- during mask breaks deemed necessary by an educator
- alone in an enclosed space such as an office
- sincerely held religious beliefs that do not permit facial coverings



## This Issue

Fall Reminders

State Assessment Waiver

## COVID Case Reporting

Toward the end of last month Governor DeWine announced that the Ohio Department of Health will be issuing an order requiring K-12 schools to establish a mechanism for parents and guardians to report confirmed cases of COVID-19 among their students.

Schools will be required to notify parents/guardians in writing about each case and include as much information as possible without disclosing protected health information. Schools will also need to make non-identifying information about positive COVID-19 cases publicly available.

"Prompt reporting will help prevent potential further spread among students and staff," said Governor DeWine. "Knowing this information can help parents make informed decisions in regard to risks and exposure for their families."

The systems could be similar to what schools already have in place for parents reporting a child's absence, or for schools reporting illnesses such as a lice outbreak to the school community, such as a hotline. Reporting of staff member cases will also be required. "We just feel that the more information that's available out there, the better," the governor said.

The forthcoming order will also direct all K-12 schools to report confirmed cases to their local health department, which will then report new cases and cumulative case data for students and teachers to the Ohio Department of Health.

The aggregate data will be published at [coronavirus.ohio.gov](https://coronavirus.ohio.gov) each Wednesday.



## Attendance Considerations

Brick and mortar charter schools that will be implementing remote learning must be mindful of attendance considerations as they do so. Schools should track attendance for all students, regardless of the mode or location of learning. ODE has stated that unlike e-schools, brick and mortar schools' attendance tracking "does not have to be so precise as to know what every student is doing at every moment with regard to the student's educational experience" but the attendance information collected must be *reported* in hourly increments.

Community schools must continue to ensure remote learning attendance procedures are in place that reflect the "72 hour rule" which requires automatically with-drawing a student if the student without a legitimate excuse fails to participate in seventy-two consecutive hours of the learning opportunities offered.

As such, schools may want to consider revising their attendance policies to address:

- Temporary internet outages
- Technical difficulties with software and passwords
- Absence due to COVID-19 illness, exposure, and related family matters

- Updating the definition of medically excused absences, perhaps waiving doctor's note requirements and/or accounting for quarantine
- Redefining the process and timeline by which an excuse must be received
- Prescribing procedures for tracking attendance under different modes of learning
- Allowing otherwise healthy students who may be under quarantine or isolation to continue to participate in education
- Ensuring as much as practicable that policies do not penalize staff or students who contract COVID-19

**Q: With the COVID-19 pandemic affecting how Ohio students are participating in school this year, will schools still be required to administer state assessments?**

**A:** As of the date of this publication, the answer remains to be seen. The US Secretary of Education granted states waivers last school year to bypass assessment and accountability measures required by Every Student Succeeds Act.

Recently, members of the Ohio Senate proposed a resolution that urges the US Secretary of Education to extend those same waivers through the 2020-2021 school year.

The resolution cites the ongoing burden of the pandemic, the priority of the health and safety of students and staff, and the digital divide and information gap's disproportionate disadvantage to high-poverty students and schools.

## Fall Reminders

### Constitution Day

Schools that receive federal funding must plan an education program celebrating Constitution Day each year, observing the day in 1787 that the nation's leaders signed the U.S. Constitution. This year's Constitution Day observation will be Thursday, September 17th.

### Annual Budget & 5-Year Forecast

Each fall community school boards must work with their fiscal officer to develop an annual budget in the format established by the state.

The budget must be adopted by the board and provided to your sponsor for submission to the state by October 31<sup>st</sup>.

Additionally, a 5-year forecast which includes this year's budget and projections of the ensuing 4 fiscal years must be submitted by November 30th.

### Annual Reports

Each year by October 31<sup>st</sup> every community school is required to prepare an annual report including information on the activities of the school, the progress in meeting the academic goals and state standards, and the school's financial status.

This publication is provided for informational purposes only.

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