

# *In Brief*

## **RECENT IDPH AND ISBE PUBLICATIONS ADD NEW GUIDANCE, RESTRICTIONS, AND A FAIR AMOUNT OF CONFUSION**

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As the 2020–2021 school year draws closer or, for some, is already here, ISBE and IDPH continue to publish new and updated COVID-19 guidance directed at Pre-K through 12 schools. The recent guidance provides a variety of “non-negotiables” and recommendations, while adding a fair amount of confusion about isolation/quarantine protocols and return to school/work. The following is our analysis highlighting some key points from the various guidance *as of August 20, 2020*.

Notably, according to the [August 20, 2020 message](#) from State Superintendent Ayala, there are six “non-negotiables” when it comes to the return to in-person instruction: (1) appropriate PPE, (2) increased cleaning/disinfecting, (3) social distancing, (4) no more than 50 individuals gathering in one space, (5) symptom screenings/temperature checks, and (6) the option for remote learning. Dr. Ayala clarifies that the remainder of the resources and materials provided are intended to be supplemental recommendations, not mandates or requirements. Presumably, this refers to the IDPH [COVID-19 Exclusion Guidance Decision Tree \(“Decision Tree”\)](#) and the [IDPH FAQ for Schools](#), which appear to change on a daily basis. Given the fluidity of COVID-19, as well as the inconsistencies between the guidance documents, school districts should consult with their local health departments on COVID-19 related health decisions to ensure the safety of students and staff.

Our firm published a [“Return to School/Work Flowchart Following a COVID-19 Related Absence”](#) (last updated August 3, 2020), which aligns with an [existing](#) IDPH guidance document titled [“Releasing COVID-19 Cases and Contacts from Isolation and Quarantine”](#) and current CDC guidance. Since our Flowchart also generally aligns with the Decision Tree, which is described as a supplemental recommendation, we do not plan to make changes to our Flowchart at this time. Rather school districts may refer to both documents and consult with their local health department. At the end of the day, the key is to ensure that the applicable quarantine/isolation timeframes have been followed before returning to school.

### **Consistent Guidance**

#### **1. *Who Should be Sent Home or Denied Entry from School Property due to COVID-19 Concerns?***

An individual with one or more COVID-19 symptoms should be immediately isolated from the school community. IDPH recommends medical evaluation and testing for all persons experiencing COVID-19 symptoms. Individuals should remain home until they fulfill the applicable requirements for returning. If a student is sent home with suspected COVID-19 symptoms, all their siblings or household members should also be sent home for quarantine until requirements for returning are fulfilled (this will vary).

#### **2. *How Should Schools Approach Face Coverings and the Use of PPE in their Facilities?***

All individuals on school grounds or traveling by bus or other district transportation must wear a face covering at all times unless a specific exemption exists. Face coverings can be temporarily removed at school when: (1) eating/drinking, (2) outdoors when 6 feet of physical distancing is maintained, (3) when

playing a musical instrument; (4) using a face shield when other methods of protection are not available or appropriate; and (5) teachers and staff are alone in their classroom/office with the door closed.

When a school offers in-person instruction, it cannot deny in-person instruction to students with IEPs or 504 plans, even if those students cannot medically wear a face covering or face shield. Instead, if a student with an IEP or 504 plan cannot tolerate a face covering, schools should attempt to determine and use alternative forms of appropriate PPE, in consultation with their local health department.

For nurses or others responsible for assessing COVID-19 symptoms and custodial/maintenance staff responsible for cleaning areas where a confirmed or probable COVID-19 case has been, it is safest for them to be wearing: fit-tested N95 respirators (the local health department can provide information about fit-testing locations), eye protection (i.e., face shields or goggles), gowns and gloves.

### 3. *Are Individuals Returning from Travel Subject to any Restrictions?*

Any individual who has travelled internationally should remain away from school and monitor their health for a period of fourteen (14) days after returning. While certain counties or municipalities may have travel restrictions relative to certain domestic travel locations, at present there is no statewide quarantine protocol for domestic “hot spots.”

### 4. *How Does IDPH Define “Outbreak” in the School Setting?*

A COVID-19 outbreak occurs in the school setting if there are two (2) confirmed cases of COVID-19 within fourteen (14) calendar days involving individuals in the same classroom. If an outbreak occurs in a school, the local health department will investigate to determine appropriate next steps. Note that this does not necessarily mean the school will need to close (see below).

### 5. *Are Schools Required to Close Following a Case of COVID-19?*

Decisions regarding school closures following confirmed cases of COVID-19 are to be made by school leaders in consultation with their local health department. Assess alternate strategies to school closure such as:

- Quarantine the affected classroom where social distancing is challenging.
- Suspend affected classes or close playgrounds.
- Cancel (or hold virtually) non-essential activities and meetings.
- Keep students in cohorts/classrooms and move teachers routinely between cohorts/classrooms.
- Increase spacing between students in classes.
- Shorten the school week.
- Stagger school start and lunch/break times across year groups or classes.

### 6. *How Should a School Respond if a Student-Athlete is Diagnosed with COVID-19 and Competed Against Other Schools?*

The student-athlete’s school should provide general notification of the confirmed diagnosis to all schools that the individual competed against, but not identify the student by name.

## Inconsistent Guidance

### 1. *What does “Close Contact” Actually Mean?*

In the guidance for schools, IDPH defines “close contact” as being within six (6) feet of a confirmed case of COVID-19 (with or without a face covering), for at least fifteen (15) minutes *throughout the course of a day* (i.e. cumulative vs. consecutive). Not only will this be difficult to ascertain, but this definition is inconsistent with the definition listed in other currently posted IDPH guidance (“Releasing COVID-19 Cases and Contacts from Isolation and Quarantine”) and in CDC publications.

The CDC continues to define “close contact” as any individual who was within 6 feet of an infected person for at least 15 minutes, starting from 2 days before illness onset (or, for asymptomatic patients, 2 days prior to positive specimen collection) until the time the patient is isolated. We believe that schools may still rely upon the CDC definition and, when gathering information to identify close contacts, consider the following factors: duration of exposure and whether the exposure was to a person with symptoms.

### 2. *Currently What are the Steps that Need to be Taken Before a Person who was Sent Home or Denied Entry can Return?*

The IDPH Decision Tree does not track the IDPH FAQ for Schools in all respects or the IDPH’s “Releasing COVID-19 Cases and Contacts from Isolation and Quarantine”. The Decision Tree addresses various situations including those where individuals are:

- a. confirmed or probable cases of COVID-19;
- b. symptomatic individuals with negative test results;
- c. symptomatic individuals with an alternative diagnosis, but without a negative test;
- d. symptomatic individuals without diagnostic testing or clinical evaluation; and
- e. asymptomatic individuals who are a close contact to a confirmed or probable COVID-19 case.

One of the more notable deviations in the Decision Tree is the documentation “required” for return to school for (a) and (e) above. Namely, a “Release from Isolation” letter issued by the local health department to the parent/guardian or employee. Such release letters may prove problematic given unknown logistical considerations and already overburdened local health departments. In turn, this could delay a student or employee’s ability to return to school after they have completed the designated quarantine/isolation period.

Our firm is currently seeking clarification on this process and will provide updates relative to what we learn. In the meantime, we recommend that when reporting a COVID-19 case to the local health department, ask if the school district is permitted to return the individual and close contacts after the applicable quarantine period or if a letter from their office must be issued. If a letter is required, ask how that can be expedited in an effort to reduce the student’s or employee’s time away from school after the quarantine period has ended.

Again, we believe the key is to ensure that the applicable period for quarantine/isolation has ended prior to return – the quarantine timeframes remain unchanged in all of the guidance, including our Robbins Schwartz flowchart for (a) above: at least 10 days have passed since symptom onset **and** 24 hours fever-free (w/out medicine) **and** improvement of symptoms; and for (e) above: 14 days from last contact with COVID-19 case.

Another significant deviation is that the Decision Tree omits the category for individuals that test positive for COVID-19 but have no symptoms. Per other guidance published by the IDPH and the CDC, and as noted in our flowchart, the quarantine protocol is 10 days from first positive COVID-19 test.

For (b) and (c) above, the individual should stay home until symptoms have improved/resolved for the non-COVID illness as outlined in the [IDPH Communicable Diseases in Schools](#), and until they submit a note from a healthcare provider indicating the negative test or the alternative diagnosis. This generally aligns with our Robbins Schwartz flowchart.

Finally, for (d) above, the quarantine protocol is the same as it is for (a) above, except that the Decision Tree “requires” a note from the parent/guardian indicating that the ill student and/or household contacts are 24 hours fever-free and have improvement in symptoms. There is no similar requirement for employees.

### *3. Are there Exceptions to Quarantine if a Close Contact Previously Tested Positive for COVID-19?*

As of August 20, 2020, the IDPH says that individuals who tested COVID-19 positive within the past 3 months by Polymerase Chain Reaction (PCR) or Antigen test should not have a suspicion of COVID-19 reinfection and, therefore, do not need to be excluded, isolated or quarantined during the three month period since their positive test, even if they are in close contact with someone who has a confirmed case of COVID-19. However, if that individual becomes symptomatic or tests positive for COVID-19 again, they would again be subject to isolation quarantine. This exception is not listed in the Decision Tree.

### *4. Have the COVID-19 Symptoms Changed?*

A long list of symptoms still exist for COVID-19, including: fever (100.4 or higher), cough, shortness of breath or difficulty breathing, sore throat, vomiting, diarrhea, abdominal pain, congestion or runny nose, new loss of sense of taste or smell, nausea, fatigue, muscle or body aches. However, the Decision Tree appears to focus on symptoms of fever, shortness of breath, cough, sore throat, vomiting, diarrhea and abdominal pain, and begs the question of whether exclusion is required if only the other symptoms are present. In one publication, the IDPH omitted “runny nose” as a symptom, but we confirmed with IDPH that this is still a COVID-19 symptom. At this time, we recommend that send home and/or deny entry decisions be based on consideration of any COVID-19 symptom.

### *5. How are Schools Supposed to Address Face Covering Usage during Band Activities?*

The IDPH FAQ for schools contains an internal conflict allowing for indoor music activities without face coverings in one segment (provided 6 feet physical distancing is maintained), yet in another segment, limiting face covering removal for musical activities to the outdoors when 6 feet physical distancing is maintained. Recognizing that indoor musical activities may be necessary, to the extent possible, schools should adhere to mitigation strategies identified by IDPH, such as: opening windows or holding music activities in a well-ventilated area, ensuring at least 6 feet or more physical distancing, not having students face one another, and using instrument covers.

In closing, we recognize that school districts would benefit from clear, concise and more permanent guidance from IDPH. Given the fluidity of COVID-19 and the disparity in the guidance, we recommend that school districts adhere to the “non-negotiable” items identified by Dr. Ayala. In other cases, namely a

COVID-19 positive case and the impact on schools/community, we recommend that school districts consult with their local health department and legal counsel to determine the then-appropriate response, notice and return to school protocols.

For further COVID-19 assistance in the school setting, please contact any Robbins Schwartz attorney.