

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF LOUDOUN

KRISTEN BARNETT, HEATHER)
 YESCAVAGE, and COLIN DONIGER,)
)
 Plaintiffs,)
)
 v.)
)
 LOUDOUN COUNTY SCHOOL BOARD,)
)
 Defendant.)
)
 SERVE: Loudoun County)
 School Board)
 21000 Education Court)
 Ashburn, VA 20148)

Case No. _____

TESTE: _____
 D.C.
 CIRCUIT COURT
 CLERK'S OFFICE
 LOUDOUN COUNTY, VA

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FILED

VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs Kristen Barnett, Heather Yescavage, and Colin Doniger (collectively, “Plaintiffs”), by counsel, state as follows for their Complaint for Declaratory and Injunctive Relief against Defendant Loudoun County School Board (the “School Board” or “Board”).

Introductory Statement

The Loudoun County School Board is defying a lawful public health directive issued by the Governor pursuant to his well-established authority under the Virginia Code and Constitution and is further ignoring the rights of Virginia parents to make basic decisions about the health and well-being of their children.

The COVID-19 pandemic has taken a terrible toll on society, with children paying a particularly substantial price to preserve public health. The true damage to children from lockdowns and “virtual school” may never be known, but current data suggests that the effects have been severe—learning loss, depression and suicide, alcoholism and drug use, and more.

These costs are real. Some states and school districts sought to mitigate them by insisting on in-person learning during the 2020–2021 school year. Loudoun County did not. Instead, the Loudoun County School Board largely shuttered its school system for over a year, leaving many of the children it is supposed to educate to make do with electronic screens and “virtual learning.” Only when the legislature intervened did the Loudoun County Public Schools resume providing the regular, in-person education that the General Assembly has correctly recognized is essential to a child’s well-being and development.

Despite belatedly allowing children to return to Loudoun County Public Schools, the Board continues to demand that they wear restrictive facemasks for up to seven or eight hours a day—imposing physical, psychological, and developmental consequences that could be severe. This policy ignores current scientific guidance from the Virginia Department of Health, which states plainly: “There is no medical reason for a vaccinated and/or masked teacher to treat an otherwise healthy unmasked student any differently than a healthy masked student.” Ex. A. And this policy has the effect of subjecting children to harsher restrictions than virtually any other demographic in Virginia despite children being at the lowest risk from COVID-19. Virginians are currently free to eat at restaurants, stroll shopping malls, go bowling, watch the NFL playoffs at a local tavern, and engage in innumerable other indoor activities—all without wearing masks. Yet children in Loudoun County’s public schools remain trapped in 2020-era pandemic policies that are increasingly difficult to justify as we approach the two-year anniversary of COVID-19’s arrival in the United States. There is little evidence that forcing children to wear masks all day meaningfully “stops the spread” of a virus that is almost certainly endemic, while there is mounting evidence that such masking requirements can cause children serious physical, psychological, and developmental harm.

This Court need not resolve the debate over masking children to adjudicate this case, though, because the Board’s masking requirement violates the law regardless of its wisdom as a policy. The Board’s masking requirement transgresses Executive Order 2, a public health directive issued by the Governor of Virginia based on his well-established emergency powers; the requirement violates Senate Bill 1303, a statute mandating that the Board provide in-person learning to all students; the requirement is based on legal authority that the Board does not actually possess; and the requirement defies the considered judgment of parents who have struggled for nearly two years to protect their children from the pandemic and the policies the government has adopted to combat it. Plaintiffs Kristen Barnett, Heather Yescavage, and Colin Doniger are all parents of Loudoun County public school students who have carefully considered the available evidence, balanced the relevant considerations, and reasonably concluded that it is in the best interests of their respective children to not wear restrictive face masks for hours on end every day while attending school. They respectfully ask this Court to protect that choice by enjoining the Board’s contrary directive.

PARTIES

1. Plaintiff Kristen Barnett is a supervising nurse in a Virginia hospital’s pediatric intensive care unit, a resident of Loudoun County, Virginia, and the mother of three children. Her two oldest children, both minors who will be identified herein by their initials, A.T. and P.T., are currently enrolled in Steuart Weller Elementary, which is part of Loudoun County Public Schools (“LCPS”) and is subject to the oversight of the Board.

2. Plaintiff Heather Yescavage is a resident of Loudoun County, Virginia and is the mother of four children, all of whom have attended or currently attend public school in Loudoun County. Her youngest child, a minor who will be identified herein by his initials, R.Y., is currently

enrolled in Banneker Elementary School, which is part of LCPS and is subject to the oversight of the Board.

3. Plaintiff Colin Doniger is a resident of Loudoun County, Virginia, and the father of two children who currently attend public school in Loudoun County. Doniger's children, both minors who will be identified herein by their initials, S.D. and T.D., are enrolled in Ball's Bluff Elementary, which is part of LCPS and is subject to the oversight of the Board.

4. Defendant Loudoun County School Board is the public school body that governs, supervises, and operates the Loudoun County Public Schools. *See* Code §§ 22.1-1, 22.1-71; Va. Const. art. VIII, § 7. The School Board is a body corporate located in Loudoun County, Virginia, and can sue or be sued. Code § 22.1-71.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction pursuant to Code §§ 8.01-184, 8.01-620, 17.1-513, and 22.1-87.

6. Venue is proper in this judicial district pursuant to Code § 8.01-261 because the petition is brought in the Circuit Court of the county in which the School Board sits and all events alleged herein transpired in Loudoun County.

7. Plaintiffs bring this suit for declaratory and injunctive relief under Code § 22.1-87, Code § 8.01-184 *et seq.* (Declaratory Judgment Act), Code § 8.01-620 *et seq.* (governing actions for injunctive relief), this Court's inherent and equitable authority, and the laws and Constitution of the Commonwealth of Virginia.

STATEMENT OF FACTS

Virginia Law Guarantees Fundamental Parental Rights and Grants Emergency Powers to the Governor

8. Virginia law guarantees the rights of parents to make critical decisions affecting their children, particularly when those decisions concern their children's education and well-being. Indeed, Virginia law establishes that "[a] parent has a *fundamental right* to make decisions concerning the upbringing, education, and care of the parent's child." Code § 1-240.1 (emphasis added). As the Supreme Court of Virginia has long recognized, such rights are deeply rooted and "essential." *Wyatt v. McDermott*, 283 Va. 685, 692 (2012); see *L.F. v. Breit*, 285 Va. 163, 182 & n.7 (2013).

9. Virginia law also confers broad emergency authorities on the Governor, particularly as to matters involving public health and safety. In 1973, the General Assembly enacted the Virginia Emergency Services and Disaster Law ("VESDL") in order to "to confer upon the Governor ... emergency powers" to "protect the public peace, health, and safety, and to preserve the lives and property and economic well-being of the people of the Commonwealth" during times of disaster or emergency. Code § 44-146.14(a), (a)(2).

10. Accordingly, the VESDL expressly authorizes the Governor to declare that a state of emergency exists and "[t]o proclaim and publish such rules and regulations and to issue such orders as may, in his judgment, be necessary to accomplish the purposes of" the statute. *Id.* § 44-146.17(1), (7). The VESDL further provides that "Executive orders ... shall have the force and effect of law." *Id.* § 44-146.17(1).

COVID-19 and Emergency Actions Taken by Former Governor Northam

11. Following the onset of the COVID-19 pandemic in 2020, former Governor Northam repeatedly exercised his emergency authority under the VESDL.

12. On March 12, 2020, former Governor Northam issued Executive Order 51, which determined that the “anticipated effects of COVID-19 constitute a disaster” and declared a state of emergency under the VESDL. Ex. B. The state of emergency remains in effect.

13. Upon declaring an emergency, Governor Northam issued numerous executive orders pursuant to his emergency authority under the VESDL and Virginia Constitution, including executive orders specifically relating to masking requirements for adults and children in Virginia.

For instance:

- (a) On March 23, 2020, Governor Northam issued Executive Order 53, which prohibited all public and private gatherings of 10 or more people, banned dining at restaurants and bars, and shut down an array of businesses, including gyms, barbershops, salons, theaters, museums, bowling alleys, social clubs, shooting ranges, and indoor sport facilities and entertainment businesses. Ex. C.
- (b) On March 30, 2020, Governor Northam issued Executive Order 55, a “stay at home” order that forbade Virginians from leaving their homes except in limited circumstances, ordered them to maintain social distancing with only a few exceptions, and significantly restricted the use of campgrounds and public beaches. Ex. D.
- (c) On May 26, 2020, Governor Northam issued Executive Order 63, which required Virginians aged 10 and up to wear masks in retail businesses, restaurants, and any indoor place shared by groups of people in close proximity to each other, with the exception of private residences. Ex. E. The Governor specified that masks must comply with CDC recommendations, and he emphasized that the CDC “recommends wearing cloth face coverings.” *Id.*
- (d) On June 30, 2020, Governor Northam issued Executive Order 67, which restricted religious services by requiring social distancing at all times, ordering non-family members to sit six feet apart, and mandating single-serving containers for food and drink. Ex. F.
- (e) On December 10, 2020, Governor Northam issued Executive Order 72, which required Virginians adhere to a curfew between the hours of 12:00 a.m. and 5:00 a.m. during the holiday season. Ex. G.

14. Governor Northam also exercised his emergency authority under the VESDL to regulate education, including the opening and closing of Virginia schools. On March 23, 2020, as

part of Executive Order 53, Governor Northam prohibited in-person education at all Virginia K–12 schools, public and private, for the remainder of the 2019–2020 school year. Ex. C. A week later, Executive Order 55 similarly shut down in-person education at institutions of higher education, Ex. D. At the close of the 2019–2020 school year, on June 9, 2020, Governor Northam announced that Virginia schools would open for students in the upcoming 2020–2021 school year, and he subsequently took additional actions to regulate education, discussed further below.

In Response to COVID-19, the School Board Implemented Policies that Imposed Enormous Costs On Children

15. In the summer of 2020, the Loudoun County School Board decided to continue virtual learning or a hybrid learning system for the entire 2020–2021 school year.

16. Loudoun County Public Schools did not return all of their students to an in-person learning environment until the fall of 2021 for the 2021–2022 academic year. *See LCPS First Day Of School Returns More Than 80,000 Students To In-Person Learning*, Loudoun County Public Schools (Aug. 26, 2021), <https://tinyurl.com/mucub4rx>.

17. Public reports and studies have indicated that the absence of in-person classroom learning has taken a toll on students in Virginia and across the country. According to these sources, grades have dropped and children’s mental health has suffered.

18. One Virginia school board’s internal analysis revealed that the number of its middle school and high school students “earning F’s in at least two classes jumped by 83 percent” between the 2019–2020 school year and the 2020–2021 school year. Hannah Natanson, *Failing grades spike in Virginia’s largest school system as online learning gap emerges nationwide*, The Washington Post (Nov. 24, 2020). And “[h]istorically low-performing students are seeing an explosion of C’s, D’s and F’s this semester, far more than would have been expected based on their pattern of achievement in past years.” *Id.*

19. Sources indicate that younger Virginians have struggled even more than older students. According to the same analysis, “[t]he percentage of middle-schoolers receiving at least two F’s quadrupled, while the percentage of high-schoolers scoring at least two F’s increased by 50 percent.” *Id.*

20. Across the United States, mental-health-related emergency department visits among children ages 12–17 reportedly increased 31% in 2020 compared to 2019. Ellen Yard, PhD, et al., *Emergency Department Visits for Suspected Suicide Attempts Among Persons Aged 12–25 Years Before and During the COVID-19 Pandemic — United States, January 2019–May 2021*, 70 *Morbidity & Mortality Weekly Report* 888 (June 18, 2021), <https://tinyurl.com/y66ef5vm>. The U.S. Surgeon General also reports that “[r]ecent research covering 80,000 youth globally found that depressive and anxiety symptoms doubled during the pandemic” and that “[i]n early 2021, emergency department visits in the United States for suspected suicide attempts were 51% higher for adolescent girls and 4% higher for adolescent boys compared to the same time period in early 2019.” Vivek H. Murthy, *Protecting Youth Mental Health, The U.S. Surgeon General’s Advisory*, HHS (2021), <https://tinyurl.com/3avjj4am>.

21. While there is mounting evidence that school closures imposed tremendous costs on children, the data shows that school-age children are the lowest-risk demographic for COVID-19. For example, “[a]mong states reporting, children ranged from 1.7%–4.4% of their total cumulated hospitalizations,” “0.1%–1.5% of all their child COVID-19 cases resulted in hospitalization,” and “0.00%–0.02% of all child COVID-19 cases resulted in death.” *See, e.g., Children and COVID-19: State-Level Data Report*, American Academy of Pediatrics (Jan. 31, 2022), <https://tinyurl.com/nhzmyjyv>.

22. In an affidavit filed in litigation over masking policies in other Virginia school districts, Dr. Colin M. Greene, the Acting State Health Commissioner for the Commonwealth of Virginia, former Health Director for the Loud Fairfax Health District, and former deputy commander of the 28th Combat Support Hospital in Iraq, explains that “[i]n Virginia, as of January 27, 2022, there have been recorded 16,088 deaths associated with [COVID-19]. Of those, eight were in children aged 0–9, and 10 in persons aged 10–19, so persons under age 20 accounted for 0.1% of total COVID deaths.” Ex. H (Dr. Greene Affidavit). “Viewed another way, there are approximately 2,134,000 persons in Virginia under age 20, yielding a 2-year risk of death from COVID-19 for that age group of 0.0008%, or about 1/125,000. It is apparent that the risk of death from COVID-19 in children, while not zero, is extremely low.” *Id.*

The General Assembly Enacted Senate Bill 1303 To Ensure Students Receive In-Person Learning in Virginia Public Schools

23. As evidence mounted that school closures and remote learning can cause grave harm to students, the Virginia General Assembly took action.

24. In March 2021, the General Assembly passed—and Governor Northam signed—Senate Bill 1303, which requires schools to “offer in-person instruction to each student enrolled in the local school division in a public elementary and secondary school” Ex. I (S. 1303, Spec. Sess. I, ch. 456 (Va. 2021)).

25. Senate Bill 1303 also directs that the required in-person instruction must be provided in a manner that adheres to the guidance issued by the U.S. Centers for Disease Control and Prevention (“CDC”) “to the maximum extent practicable.” *Id.* Current CDC guidance does *not* require that all students wear masks at all times while attending school in-person. Rather, current CDC guidance states that: “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.” *Guidance for COVID-19 Prevention in K-12 Schools*, CDC (Jan. 13, 2022) (emphasis added), <https://tinyurl.com/2p9dt2k6>. The CDC guidance explains that exceptions to masking requirements can be made for a person who cannot wear a mask due to a disability and for a person for whom wearing a mask would create a risk to workplace health, safety, or job duty. *Id.*

After Virginia Schools Reopened, the Former Governor and the School Board Imposed School Mask Mandates

26. Following the enactment of Senate Bill 1303, on May 14, 2021, former Governor Northam again exercised his emergency authority under the VESDL by issuing Executive Order 79, which imposed a mask mandate on children in Virginia schools. Ex. J. Like Governor Northam’s earlier directives, this order again directed children to use “cloth masks.” *Id.*

27. In compliance with the Governor’s order, on August 2, 2021, LCPS announced a policy requiring all students to wear masks while attending school indoors during the upcoming 2021–2022 school year. *See* Ex. K. LCPS subsequently issued a “Mask and Mitigation Plan,” in fall 2021, which requires all students to wear masks “at all times” while in school, subject to limited exceptions when students are eating or drinking, receiving medical attention, or actively participating in activities during outdoor physical education class (though no exception applies during such classes when students are waiting in line or receiving instruction). Ex. L. Further, the Mask and Mitigation Plan specified that “[d]isposable or cloth face coverings” satisfy the mask requirement. *Id.* Pursuant to the Mask and Mitigation Plan, if a student persists in refusing to wear a mask, “disciplinary consequences may be given and the student may be removed from participation in classroom activities.” *Id.* Plaintiffs refer to the masking policies imposed by LCPS as the “Universal Mask Mandate.”

**The Governor Issued Executive Order Two to
Safeguard Parental Rights and the Well-Being of Children in Virginia**

28. Upon taking office on January 15, 2022, Governor Youngkin reconsidered whether school mask mandates remain warranted based on current conditions in Virginia as well as up-to-date scientific evidence, discussed further below, regarding the effects of such mandates on children. After making a considered policy judgment that weighed the questionable benefits of universal masking against the significant hardships and negative health, educational, and developmental effects of mandatory universal masking on children, the Governor exercised his emergency authority to confront the COVID-19 pandemic by issuing Executive Order 2 on January 15, 2022. Ex. M. The order, which has the “force and effect of law” in Virginia, Code § 44-146.17(1), revoked the former Governor’s school mask mandate (Executive Order 79) and allowed parents to decide whether their children wear masks during the school day. Ex. M.

29. In explaining this policy, Executive Order 2 emphasized that parents have “broad rights” under Virginia law, particularly a “fundamental right to make decisions concerning the upbringing, education, and care of the parent’s child.” *Id.* (quoting Code § 1-240.1). And Executive Order 2 further explained that “rapidly changing scientific information” and various other developments supported the Governor’s decision to revisit mitigation strategies. *Id.* In particular, Executive Order 2 made the following findings:

- (a) “Recent government orders requiring virtually every child in Virginia wear masks virtually every moment they are in school have proven ineffective and impractical.” *Id.*
- (b) “[M]any 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.” *Id.*
- (c) “[T]he 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.” *Id.*

- (d) “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.” *Id.*
- (e) CDC “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.” *Id.*
- (f) “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.” *Id.*
- (g) “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 nonmechanical heating, ventilation, and air conditioning systems, filtering, purification, fans, control systems and window and door repair.” *Id.*

30. In light of this assessment of current conditions, Executive Order 2 ordered that:

- (a) “The parents of any child enrolled in a[n] elementary or secondary school ... may elect for their children not to be subject to any mask mandate in effect at the child’s school or educational program.” *Id.*
- (b) “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.” *Id.*
- (c) “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.” *Id.*

31. Executive Order 2 does not ban children or teachers from wearing masks in school, nor does it prohibit school boards from recommending or suggesting mask-wearing in their respective districts. Rather, it provides that parents have the right to decide whether or not their

children will wear a mask, and it ensures that schools will not deny an in-person education to a child on the basis of his or her parents' decision.

Executive Order 2 Is Supported by Growing Scientific Evidence that the Costs of School Mask Mandates Outweigh Their Benefits

32. The Governor's decision to issue Executive Order 2 is a lawful exercise of his broad emergency authority under the VESDL and his executive authority under the Constitution of Virginia that is supported by up-to-date evidence on the costs and benefits of universal mandatory masking in schools.

33. As Dr. Greene, the Acting State Health Commissioner, has explained: "[S]trict masking in school imposes hardship while provid[ing] only questionable benefit toward reducing the transmission of COVID-19." Ex. H (Dr. Green Affidavit).

34. This is especially true in the age of the "Omicron" variant of the COVID-19 virus, which "has in many ways behaved quite differently from previous variants." *Id.* Specifically, findings about Omicron "may be taken to suggest that (1) previously applicable mitigation strategies, including universal masking, may be less effective against Omicron than previous variants, and (2) that the risk of severe disease from Omicron is significantly less than with Delta and its predecessors." In Dr. Greene's view, this means "that assumptions tied to those prior variants, including the benefits of universal masking, may need to be re-examined." *Id.*

35. According to scientific studies and public reports, when schools reopened in fall 2021, they did not become significant sources of COVID-19 transmission, with one source even pointing out that "the level of school transmission is sometimes lower than that of the surrounding community." Aaron E. Carroll, *We Opened the Schools and ... It Was Fine*, *The Atlantic* (Dec. 2, 2021), <https://tinyurl.com/39jtm5t8>.

36. Studies also have found that no correlation exists between student COVID-19 cases and requiring the entire student population to wear masks. *See, e.g.,* Len Cabrera, *Data shows school mask policy in Alachua County has no impact on COVID-19 cases*, Alachua Chronicle (Oct. 31, 2021), <https://tinyurl.com/2sm3w55k> (analyzing COVID-19 cases in Alachua County, Florida, and finding no differences in the data between mask-required versus mask-optional schools).

37. For example, the United Kingdom conducted a study that found no statistically significant difference in absences due to COVID-19 between schools with mask mandates and those without. *See Covid: Evidence on face masks in schools 'inconclusive,'* BBC News (Jan. 6, 2022), <https://tinyurl.com/4brh4stj>.

38. This comports with the CDC's own study published in May 2021, which analyzed around 90,000 Georgia elementary school students and found that masking children in schools was not associated with a statistically significant decrease in COVID-19 transmission. *See* Margery Smelkinson et al., *The Case Against Masks at School*, The Atlantic (Jan. 26, 2022), <https://tinyurl.com/mr45buh5>.

39. “[D]uring the Omicron outbreak, urban regions in Virginia with more restrictive masking policies and practices have shown similar or greater rates of transmission as rural regions with less restrictive mask policies and practices.” Ex. H (Dr. Green Affidavit).

40. According to reports, an additional problem with universal masking in schools is that—whatever the utility of well-fitted masks—school-age children often do not wear their mask properly over their nose and mouth. *See, e.g.,* Anya Kamenetz, *After 2 years, growing calls to take masks off children in school*, NPR (Jan. 28, 2022), <https://tinyurl.com/5r8529nx>.

41. Even for students who wear their masks properly, there is growing scientific evidence that cloth masks—the most common masks for students, and the masks that the CDC and former Governor Northam directed students to wear—are ineffective. An epidemiologist who served on “the Biden transition team’s Covid task force” explained that “[m]any of the face cloth covers ... are not very effective in reducing any of the virus movement in or out.” Marty Makary & H. Cody Meissner, Opinion, *The Case Against Masks for Children*, Wall Street Journal (Aug. 8, 2021), <https://tinyurl.com/2s42msd2>. And one study found that wearing “[c]loth masks had no advantage over” being maskless. Vinay Prasad, MD, MPH, *Are We Wearing the Wrong Masks?*, MedPage Today (Sept. 8, 2021), <https://tinyurl.com/5n7zj69f>.

42. As Dr. Greene has accordingly explained: “The benefits [of masking in schools] may include reduced transmission of the virus. However, masks made of plain cloth, masks that are soiled or poorly fitting, and masks that are not worn properly provide reduced or no benefit. These types of masks are often observed in the school environment.” Ex. H (Dr. Green Affidavit).

43. Pointing out additional reasons that “masking in school imposes hardship,” Dr. Greene states that “even under strict masking requirements, children typically do not wear masks in school while eating meals, playing sports, and engaging in other activities where masking is not feasible. They do not wear goggles or face shields to protect their eyes from virus particles. And, of course, children are not required to wear masks outside of school or at home. Additionally, their parents and most other adults are not required to mask while engaging in their daily activities and are thus not masking consistently.” *Id.*

44. Although the benefits of mandatory masking in schools are questionable, the harmful effects are not.

45. For example, “children with asthma may have trouble breathing in masks,” and “[c]hildren with glasses may have trouble seeing as masks fog their glasses.” *Id.* Further, a growing number of studies have found evidence that masking is a barrier to communication, hearing, and the recognition of speech, facial expressions, and emotion—the basic ingredients of academic learning and human development. *See, e.g.,* Marco Marini et al., *The impact of facemasks on emotion recognition, trust attribution and re-identification*, 11 *Sci. Reports* 5577 (2021), <https://tinyurl.com/zzeazp24>; Felix Grundmann et al., *Face masks reduce emotion-recognition accuracy and perceived closeness*, *PLoS One* (Apr. 23, 2021), <https://tinyurl.com/yc4ymfsw>; Anya Kamenetz, *After 2 years, growing calls to take masks off children in school*, *NPR* (Jan. 28, 2022), <https://tinyurl.com/5r8529nx>.

46. These challenges have been especially serious for children who are hearing-impaired, who have cognitive delays, who have speech issues, or who have autism. *See, e.g.,* Kamenetz, *supra*; *The Challenges of Face Masks*, Organization for Autism Research (Nov. 12, 2020), <https://researchautism.org/the-challenge-of-face-masks/>.

47. While there is little evidence that mask mandates prevent COVID-19 transmission and there is mounting evidence that mask mandates harm children—there is also strong evidence that adults can protect themselves with measures that do not require the universal masking of children. As Dr. Greene explains, adults “can protect themselves through vaccination, proper masking, good hygiene, such as frequent hand washing, [and] requirements that sick children stay home.” Ex. H (Dr. Greene Affidavit).

48. Dr. Greene has further explained that “[m]uch has changed since 2020, but many health authorities have not updated their guidance accordingly. For example, effective vaccines are widely available for COVID-19, even for children as young as five years old. Medical

providers have identified numerous effective treatments for COVID-19. How COVID-19 spreads and therefore effective mitigation efforts are better understood.” *Id.*

49. For instance, “[f]or anyone who fears moving away from universal masking, the great news is that they can continue to wear an N95 mask—along with being vaccinated and boosted—and live a low-risk life regarding of what others around them are doing.” Joseph G. Allen, Opinion, *Our playbook to fight covid-19 is outdated. Here are 10 updates for 2022*, The Washington Post (Dec. 15, 2021). N95 masks are high-grade masks that are used in hospitals and that have been shown to prevent wearers from contracting COVID-19 more effectively than the universal wearing of surgical masks. *Id.* As one expert recently explained: “N95 masks—now widely available—offer better protection than universal surgical mask use, which is the approach used in hospitals.” *Id.*

50. Scientists have stated that COVID-19 is likely an endemic virus that will never be completely eradicated. *See, e.g.,* Scott Neuman, *Fauci says COVID-19 won’t go away like smallpox, but will more likely become endemic*, NPR (Jan. 18, 2022). Some officials have responded to this reality by doubling down on universal masking, acknowledging that they plan to require students to wear masks forever. For instance, the CEO of Prince George’s County Public Schools has stated: “The only off-ramp [to masking in schools] I want is the one where COVID no longer exists ... I don’t think that that off-ramp will exist.” John Domen, *‘We stopped the spread of COVID’: Prince George’s schools CEO says unpopular decisions paying off*, WTOP News (Jan. 24, 2022). Others, like the Governor, have adopted an optional-masking policy that is based on the most up-to-date scientific evidence.

The School Board Exceeded Its Authority and Violated the Law By Deciding to Maintain the Universal Mask Mandate

51. Despite Executive Order 2 and this growing body of evidence, the School Board decided to maintain the Universal Mask Mandate requiring all children in Loudoun County Public Schools to wear masks while in school, and the School Board has refused to permit children—including Plaintiffs’ children—to obtain an in-person education if they do not comply with the Universal Mask Mandate by wearing a mask while in school.

52. On January 18, 2022, three days after the Governor issued Executive Order 2, the School Board voted 8-1 in a closed session to maintain the Universal Mask Mandate, as recommended by the Superintendent. Ex. N; *see also* Justin Hinton, *Mask mandates, banned books headline heated Loudoun Co. school board meeting*, ABC 7 News (Jan. 25, 2022).

53. Pursuant to this decision, the LCPS Mask and Mitigation Plan, as updated on January 19, 2022, continues to mandate that all students must wear masks “at all times,” subject to limited exceptions. Ex. O. And in a “Mask Statement” issued on January 24, 2022, the day Executive Order 2 took effect, the Superintendent reiterated that the LCPS Mask and Mitigation Plan “remains in place” and that “our school community” must follow the Universal Mask Mandate. Ex. P. On January 26, 2022, the Superintendent again emphasized that “masks are not optional.” Ex. K; *see also* Ex. Q.

54. On January 29, 2022, some Loudoun County public schools appear to have sent parents a letter—copies of which have been posted online—reiterating that masks are required for all students while attending Loudoun County Public Schools and threatening disciplinary action for students that do not comply with the Universal Mask Mandate. Specifically, the letter stated: “[M]asks are not optional for any individual who enters an LCPS school campus building,” and “[b]eginning on Wednesday, February 2, 2022, students who willfully continue to refuse to follow

COVID mitigation measures as required by Loudoun County Public Schools will be suspended from school.” Ex. R. The letter also states that “[a] student who is suspended because of non-compliance with COVID-mitigation measures may return to school only when they agree to follow COVID-mitigation measures throughout the entire school day and at all indoor school-related events. Suspension will continue if COVID-mitigation measures are not followed.” *Id.* As the source for this authority, the letter cites School Board Policy 8210, Section F, which provides that students may be disciplined for violating school policies.

55. The School Board has thus expressly conditioned students’ ability to obtain an in-person education on compliance with the Universal Mask Mandate, in clear contravention of Executive Order 2. The School Board’s intransigence and defiance of the law leaves parents who want to send their child to school unmasked in an impossible position: either exercise their right to make this decision as provided by Executive Order 2 and risk that their child will be barred from school or otherwise disciplined, or forfeit their legal right and comply with a Universal Mask Mandate that they reasonably believe will expose their children to physical, psychological, and developmental harms. The School Board’s continuation of the Universal Mask Mandate in violation of Executive Order 2 is thus causing Plaintiffs, their children, and other LCPS parents and students ongoing and irreparable harm.

The School Board’s Unlawful Universal Mask Mandate Directly Harms Each Plaintiff

56. The School Board’s actions have directly interfered with the right of each parent here—Plaintiffs Barnett, Yescavage, and Doniger—to make educational decisions for their children, all of whom have been directly and irreparably harmed by the unlawful Universal Mask Mandate and would attend their respective Loudoun County Public Schools mask-free if it were not for the Mandate. Accordingly, and as discussed further herein, Plaintiffs are aggrieved by the

School Board's actions and this case presents an actual and concrete controversy between Plaintiffs and the School Board.

Kristen Barnett, A.T., and P.T.

57. Kristen Barnett is a supervising nurse in a hospital's pediatric intensive care unit in Northern Virginia. She has earned a Bachelor of Science in Nursing, a Registered Nurse license, and a Critical Care Nursing certification. She has served Northern Virginia as a nurse for seven years, has been a pediatric nurse for four years, and a supervisor for two years. She is also the mother of two students, A.T. and P.T., who are currently enrolled in Steuart Weller Elementary, which is subject to the Board's Universal Mask Mandate.

58. Barnett believes that parents should have the right to weigh the benefits and drawbacks of children wearing masks during school and to make the best decision for the individual needs of their children. For her children, she has determined that any benefits provided by masking do not outweigh the costs, including the discomfort of wearing masks and the disruptions masks cause to her children's ability to learn and socialize. She also questions the effectiveness of masking children in school because, despite the Universal Mask Mandate, there are multiple times throughout the school day when children are in close proximity but do not wear masks—including lunch, recess, and physical education.

59. After Governor Youngkin issued Executive Order 2 on January 15, 2022, Barnett explained to her children that the new Governor had enabled parents to decide whether their children must wear masks in school, and that because of the Order, they no longer were required to wear a mask to school. Barnett later informed them of the School Board's decision to continue the Universal Mask Mandate despite Executive Order 2. She explained that she would not require them to wear a mask but that declining to wear one could result in school discipline. A.T., her

nine-year-old son, asked not to wear a mask; P.T., Barnett's seven-year-old daughter, did not want to wear a mask but asked to wear one because she feared possible discipline for violating the Universal Mask Mandate. Barnett decided to permit A.T. not to wear a mask and to allow P.T. to wear one.

60. On Monday, January 24, 2022, A.T. and P.T. attended class at Steuart Weller Elementary. In accordance with Barnett's decision, A.T. did not wear a mask, while P.T. did. Within 30 minutes of school starting on Monday, January 24, 2022, Barnett received a telephone call from the principal at Steuart Weller Elementary about A.T. The principal informed Barnett that, because A.T. was not masked, he could not attend class and needed to be picked up from school. No alternative was offered. A.T. was removed from Steuart Weller Elementary later that morning.

61. After A.T. returned home on January 24, 2022, Barnett received another call from the principal at Steuart Weller Elementary. The principal informed Barnett that P.T. was in the principal's office because she had removed her mask. Barnett was later informed that P.T.—who had initially worn her mask to school that day—later removed it because, during a class activity, she could not breathe with the mask covering her mouth and nose. The principal said that P.T. would stay in the principal's office or would be sent home. Barnett decided to remove P.T. from school for the remainder of the day, instead of requiring P.T. to wear a mask.

62. A.T. and P.T. now wear their masks to school, but only because they are required to do so as a condition of attendance at Steuart Weller Elementary pursuant to the School Board's Universal Mask Mandate. As a parent, Barnett has made the decision that A.T. and P.T. should not wear masks while attending school. She would send A.T. and P.T. to school without masks if permitted to opt out of the Universal Mask Mandate in accordance with Executive Order 2.

Plaintiff Barnett is thus suffering irreparable harm as a result of the School Board's continuation of the unlawful Universal Mask Mandate.

Heather Yescavage and R.Y.

63. Plaintiff Heather Yescavage is the mother of R.Y., a ten-year-old boy who struggles with focus. R.Y. loves learning—especially hands-on and interactive learning. He is an extrovert who thrives on interpersonal relationships and connection with others. Besides his home, the main place where R.Y. interacts with others is at school.

64. For about a year in 2020, R.Y. attended school remotely in Arizona after his family temporarily moved for work-related reasons. During his time in remote learning, R.Y. struggled to focus on lessons from teachers on a computer screen. His grades declined.

65. The Yescavage family returned to Loudoun County at the end of 2020. Other than the few months his family spent in Arizona, R.Y. has attended an LCPS school since kindergarten. R.Y. and his mother were eager for him to return to school in person, and that opportunity came in January 2021.

66. When R.Y. returned to school, however, life did not return to normal, because he was forced to wear a mask. Although Yescavage was skeptical about the benefits of masking her child, she did not initially object. In her view, there were still many unknowns about the COVID-19 pandemic at the time, including how serious the virus was for children and how effective masks were at preventing its spread.

67. Yescavage became increasingly troubled by the effects of masking on her son. For R.Y., masking causes dizziness, lightheadedness, and facial irritation. While these physical consequences are serious on their own, masking is also extremely distracting for R.Y., a child who already struggles to focus. He has complained that masks—which can muffle sound—make it

harder for him to hear his teachers and friends, and to communicate with them. R.Y. has told Yescavage that he almost never sees his school friends smile and they cannot see him smile.

68. On the morning of Monday, January 24, 2022, Yescavage took R.Y. to school at Banneker Elementary School. Yescavage had previously determined, as R.Y.'s parent and in accordance with Executive Order 2, that he should not wear a mask while attending school. Accordingly, R.Y. did not wear a mask to school that morning.

69. When R.Y. and Yescavage walked together to the entrance of Banneker Elementary School on Monday, January 24, 2022, they thought that mandatory masking had come to an end as a result of Executive Order 2. Neither knew that the School Board had defied the Governor's order and reaffirmed its Universal Mask Mandate. As soon as R.Y. entered school, he and another maskless student were sent to the cafeteria and separated from the rest of the student body.

70. Yescavage saw that teachers had redirected her son away from other students. When she asked why he was sent to the cafeteria, the school principal explained that R.Y. would be separated from the other students and offered a mask. Yescavage repeatedly told the principal not to offer her child a mask because she had decided that he should not wear a mask and had not consented to his wearing one. Ignoring Yescavage's explicit instruction, school personnel offered R.Y. a mask anyway—at least twice. R.Y. refused.

71. A few hours later, the principal called Yescavage to tell her that R.Y. had been sent to in the principal's office because he would not put on a mask. Soon after, Yescavage picked R.Y. up from school. He has not been in school since January 24.

72. As explained above, as R.Y.'s parent, Yescavage has determined that any benefits of wearing a mask are outweighed by the negative effects that doing so has on him. Accordingly, Yescavage has decided that R.Y. should not wear a mask while attending school. Yescavage

would send R.Y. to school without a mask if permitted to opt out of the Universal Mask Mandate in accordance with Executive Order 2. Plaintiff Yescavage is thus suffering irreparable harm as a result of the School Board's continuation of the unlawful Universal Mask Mandate.

Colin Doniger, S.D., and T.D.

73. Plaintiff Colin Doniger, a yoga instructor and a federal government employee, has lived in Loudoun County for 15 years. He is the father of two children in Ball's Bluff Elementary, a part of LCPS. His daughter, S.D. is in third grade; his son, T.D. is in first grade. Both children have attended LCPS since kindergarten.

74. Since the beginning of the COVID-19 pandemic, Doniger has raised concerns about covering people's mouths and noses with masks. As a yoga instructor with deeply held religious views on masks, Doniger teaches the importance of focused and deep breathing as a means of maintaining bodily equanimity for healthy immune system function, self-control, and calm, rational thinking. In his view, masks inhibit this process by blocking airflow.

75. Doniger has been especially opposed to the mandatory masking of his children while attending Ball's Bluff Elementary. Masks irritate their faces, make it difficult for them to breathe, and inhibit their class participation. Doniger has observed that his daughter, who had previously developed and then broken a habit of chewing on her clothes, constantly gnaws on her mask. Doniger has also noticed that symptoms of his son's chronic sinus infections grow worse during school days (when he is required to be masked) but abate over the weekend (when he is not); this difference is especially marked over long weekends.

76. When the Governor issued Executive Order 2, Doniger promptly emailed his children's principal to notify her that he was exercising his parental rights to opt out of the Universal Mask Mandate.

77. On Monday, January 24, 2022, Doniger brought S.D. and T.D. to school at Ball's Bluff Elementary without masks. However, the principal intercepted them before they could enter the school building and explained that, under the School Board's Universal Mask Mandate, S.D. and T.D. would be required to cover their noses and mouths, or else they would be sent to an "alternate location" away from other students. Although Doniger explained that the Universal Mask Mandate was unlawful in light of Executive Order 2, the principal nevertheless refused to permit S.D. and T.D. to attend Ball's Bluff Elementary without masks on January 24, 2022. Doniger decided to take his children home and kept them out of Ball's Bluff Elementary until January 26, 2022.

78. S.D. and T.D. currently wear masks to school at Ball's Bluff Elementary. However, they wear masks only because they are required to do so pursuant to the School Board's Universal Mask Mandate and against the express wishes of their father, Doniger.

79. As explained above, as S.D. and T.D.'s parent, Doniger has determined that any benefits of wearing a mask are outweighed by the negative effects that doing so has on his children. Accordingly, Doniger has decided that S.D. and T.D. should not wear a mask while attending school. Doniger would send S.D. and T.D. to school without a mask if permitted to opt out of the Universal Mask Mandate in accordance with Executive Order 2. Plaintiff Doniger is thus suffering irreparable harm as a result of the School Board's continuation of the unlawful Universal Mask Mandate.

CLAIMS FOR RELIEF

Count I:

The School Board's Universal Mask Mandate Violates Executive Order 2

80. Plaintiffs incorporate by reference the allegations contained in the previous paragraphs as though set forth fully herein.

81. Executive Order 2 is a lawful exercise of the Governor’s emergency authority under the VESDL, and it has the “force and effect of law.” Code § 44-146.17(1).

82. Executive Order 2 provides that parents “may elect for their children not to be subject to any mask mandate in effect at the child’s school or educational program.” Ex. M. Further, Executive Order 2 directs that “[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, [or] school district.” *Id.*

83. In contravention of Executive Order 2, the School Board has decided to continue to impose the Universal Mask Mandate, which requires that all students in Loudoun County Public Schools, including Plaintiffs’ children, wear masks while attending school and which does not allow parents, including Plaintiffs, to opt their children out of the mandate.

84. As a result of the School Board’s unlawful Universal Mask Mandate, Plaintiffs are suffering irreparable harm because they are not able to exercise their right as parents under Executive Order 2 to decide that their children will not wear masks at school.

85. Thus, the School Board has violated and continues to violate Executive Order 2 and to cause irreparable harm to Plaintiffs and their children.

Count II:
The School Board Is Denying Plaintiffs’ Children an In-Person Education in Violation of Senate Bill 1303

86. Plaintiffs incorporate by reference the allegations contained in the previous paragraphs as though set forth fully herein.

87. Senate Bill 1303 requires Virginia school boards to “offer in-person instruction to each student enrolled in the local school division in a public elementary and secondary school,” and it does not impose a universal mask mandate or authorize or require school boards to impose such mandates. Ex. I (S. 1303, Spec. Sess. I, ch. 456, § 2 (Va. 2021)).

88. Contrary to Senate Bill 1303, the School Board has denied and continues to deny in-person instruction to children whose parents exercise their rights under Executive Order 2 to elect that such children not be subject to the School Board’s Universal Mask Mandate.

89. As a result of the School Board’s Universal Mask Mandate, Plaintiffs’ children have been denied in-person instruction, or threatened with the denial of in-person instruction.

90. Thus, the School Board has violated and continues to violate Senate Bill 1303, causing irreparable harm to Plaintiffs and their children.

Count III: The School Board Lacks Authority to Impose the Universal Mask Mandate

91. Plaintiffs incorporate by reference the allegations contained in the previous paragraphs as though set forth fully herein.

92. The School Board’s authority is strictly construed and includes only those powers that are expressly granted, necessarily implied from expressly granted powers, or essential and indispensable.

93. The Constitution and laws of Virginia do not authorize the School Board to impose or maintain the Universal Mask Mandate. To the contrary, interpreting the School Board’s powers broadly enough to authorize the Universal Mask Mandate would put those powers in conflict with parents’ “fundamental right to make decisions concerning the upbringing, education, and care” of their children, Code § 1-240.1, as well as Executive Order 2, which has the force and effect of law in Virginia under the VESDL.

94. By imposing the Universal Mask Mandate, the School Board has exceeded its authority under Virginia law and has harmed Plaintiffs by subjecting them to unauthorized government action.

95. Thus, the School Board has exceeded its authority—causing irreparable harm to Plaintiffs and their children—by imposing the Universal Mask Mandate.

Count IV: The School Board Has Acted Arbitrarily and Capriciously and Abused Its Discretion in Continuing the Universal Mask Mandate

96. Plaintiffs incorporate by reference the allegations contained in the previous paragraphs as though set forth fully herein.

97. Under Code § 22.1-87, the School Board may not take action that is arbitrary and capricious or an abuse of discretion.

98. A school board necessarily acts arbitrarily and capriciously or abuses its direction when it takes action that is contrary to law or *ultra vires*.

99. The School Board has taken action that is contrary to law and/or *ultra vires* for the reasons delineated in Counts I–III, *i.e.*, by imposing the Universal Mask Mandate in contravention of Executive Order 2, denying or threatening to deny Plaintiffs’ children an in-person education based on Plaintiffs’ decisions regarding masks in violation of Senate Bill 1303, and imposing the Universal Mask Mandate without authority to do so.

100. By taking this unlawful action, the School Board has acted arbitrarily and capriciously and abused its discretion, and its action in continuing to impose the Universal Mask Mandate may not be sustained.

PRAYER FOR RELIEF

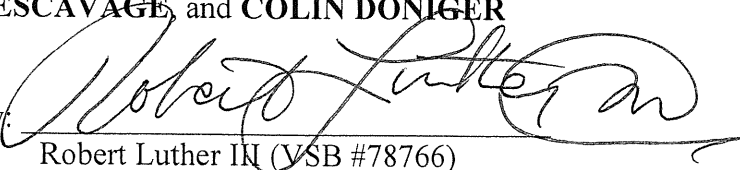
WHEREFORE, Plaintiffs respectfully request that this Court issue the following declaratory and injunctive relief:

- (a) A declaration that the Governor lawfully issued Executive Order 2 under the laws and Constitution of Virginia, that Executive Order 2 has the force and effect of law, and that its provisions are valid, enforceable, and binding on the School Board;
- (b) A declaration that the School Board has violated Executive Order 2 by maintaining the Universal School Mandate after January 24, 2022, without providing Plaintiffs with an opportunity to opt their children out;

- (c) A declaration that the School Board has violated Senate Bill 1303 by refusing to permit Plaintiffs' children to attend Loudoun County Public Schools in-person unless they comply with the Universal Mask Mandate;
- (d) A declaration that the School Board's decision to continue the Universal Mask Mandate after the issuance of Executive Order 2 on January 24, 2022, exceeded the School Board's lawful authority and was *ultra vires*, arbitrary and capricious, and an abuse of discretion;
- (e) A declaration that the School Board's Universal Mask Mandate is void, unenforceable, and of no effect;
- (f) Preliminary and permanent injunctive relief prohibiting the School Board from enforcing the Universal Mask Mandate or any other policy regarding facial masking in Loudoun County Public Schools that does not comply with Executive Order 2;
- (g) Preliminary and permanent injunctive relief requiring the School Board to permit students to attend Loudoun County Public Schools without wearing a facial mask if their parents decide that they should not wear one;
- (h) Preliminary and permanent injunctive relief prohibiting the School Board from denying students in-person educational instruction in Loudoun County Public Schools on the basis of their parents' decision that they should not wear a facial mask while in attendance; and
- (i) Any and all other relief that the Court deems proper and just.

Respectfully submitted,

**KRISTEN BARNETT, HEATHER
YESCAVAGE, and COLIN DONIGER**

By: 

Robert Luther III (VSB #78766)

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Counsel for Plaintiffs

**Motion for admission pro hac vice concurrently filed*

^oAdmitted in Georgia. Not admitted in D.C. (directly supervised by James Burnham, a licensed D.C. Bar member).

Date: February 1, 2022

VERIFICATION UNDER PENALTY OF PERJURY

Pursuant to Virginia Code § 8.01-4.3, I, Kristen Barnett, a citizen of the United States and resident of the Commonwealth of Virginia, declare and verify under penalty of perjury that the allegations in the foregoing Verified Complaint for Declaratory and Injunctive Relief are true and correct to the best of my knowledge.

Dated this 1st day of February, 2022 in Loudoun County, Virginia.



Kristen Barnett

VERIFICATION UNDER PENALTY OF PERJURY

Pursuant to Virginia Code § 8.01-4.3, I, Heather Yescavage, a citizen of the United States and resident of the Commonwealth of Virginia, declare and verify under penalty of perjury that the allegations in the foregoing Verified Complaint for Declaratory and Injunctive Relief are true and correct to the best of my knowledge.

Dated this 1st day of February, 2022 in Loudoun County, Virginia.


Heather Yescavage

VERIFICATION UNDER PENALTY OF PERJURY

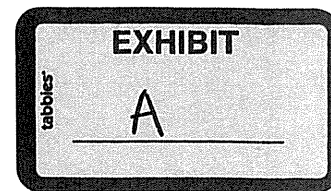
Pursuant to Virginia Code § 8.01-4.3, I, Colin Doniger, a citizen of the United States and resident of the Commonwealth of Virginia, declare and verify under penalty of perjury that the allegations in the foregoing Verified Complaint for Declaratory and Injunctive Relief are true and correct to the best of my knowledge.

Dated this 1st day of February, 2022 in Loudoun County, Virginia.

A handwritten signature in black ink, appearing to read 'Colin Doniger', is written over a horizontal line.

Colin Doniger

EXHIBIT A



Interim Guidance for COVID-19 Prevention in Virginia PreK-12 Schools

EXECUTIVE SUMMARY

There is no greater priority than the health and welfare of Virginia’s children, and parents have the fundamental right to make decisions concerning the care of their children.

These three core principles found in Executive Order 2 reaffirm:

1. Parents are in charge of their children’s health, wellbeing and education,
2. Schools must be open five days a week for in-person learning, and
3. The Commonwealth and school divisions must provide a safe and healthy school environment.

With freedom comes responsibility. This guidance clarifies the roles of parents, educators and the schools. The Virginia Department of Health and the Virginia Department of Education will continue to provide quality, actionable and up-to-date information on the pandemic so that parents can continue to make educated health decisions that are best for their child and family.

The virus that causes COVID-19 continues to evolve and the tools to fight the virus have expanded. As new variants emerge, the epidemiology may change; therefore, prevention strategies may need to be adjusted. This public health guidance has been updated to align with the current risk. A key lesson learned from early in the pandemic is that many students and families suffer when schools are not open to in-person learning. Keeping students in school, while also providing a safe environment to students, teachers and staff in K-12 schools, is the goal.

Mitigation strategies that reduce COVID-19 transmission can be reduced now that effective vaccines are available, and the current predominant variant (Omicron) is causing less severe disease. Foundational prevention strategies in schools, such as testing and improving ventilation, combined with common-sense actions of personal responsibility, such as staying home when sick, getting vaccinated, and hand-washing, can help reduce transmission in schools. Following public health recommendations to isolate at home after testing positive is also an important layer of safety for our school communities. For those who have tested positive or have been recommended to quarantine, wearing masks for the recommended time period and testing at appropriate intervals can help keep kids in school and keep everyone safe.

While children can be infected with COVID-19, experience illness, and spread the virus to others, cases in healthy children are usually mild with a low risk of developing severe illness. Children and adults with certain underlying medical conditions are at increased risk for severe illness. However, effective COVID-19 vaccines and treatments are available and have been shown to greatly reduce the risk of hospitalization and death. People ages 5 and up are eligible for COVID-19 vaccination, which reduces risks for the individual and, as coverage rates improve, for the entire community.

Students, staff, and teachers infected with COVID-19 may go on to transmit the virus to other high-risk individuals in their households and the community. This is an important consideration especially when the healthcare system and resources to care for these individuals is under strain. In this way, containing the spread of the virus in the school setting can help protect our healthcare system and its ability to care for the most high-risk and sick members of our community. There are many ways to reduce the spread outside of masking and social distancing.

This guidance provides further details for local health and school officials and parents to inform their decision making around COVID-19. The benefit of mitigation efforts must always be weighed against the cost to children’s overall wellbeing. Mitigation efforts should be made in consultation with VDH and local health authorities.

Strategies to Prevent Transmission of COVID-19 in Schools

When the following prevention model has been implemented, studies have shown that infections and outbreaks in schools were reduced. Factors to guide decision-making about prevention strategies and school operations include:

1. Consult public health to understand local transmission and disease trends
2. Understand community level vaccination coverage
3. Consider the level of impact to a school by identifying, monitoring and reporting outbreaks to public health
4. Understand community and school capacity and needs
5. Determine and implement a layered approach with multiple prevention strategies, in consultation with VDH and the local health department

Consult with VDH and other public health authorities to understand local transmission and disease trends

Working with VDH and the local health department can help school officials understand how the virus is spreading, who is being affected, and whether the current circulating variant is causing severe illness. Data on COVID-19 cases, testing, hospitalizations and deaths are helpful in understanding disease trends and can be found on [VDH data dashboards](#).

Understand Community Level Vaccination Coverage

To understand community or locality level vaccination coverage, review locality level vaccination coverage data on the [VDH Vaccine Data Dashboards](#). Age-group vaccination coverage at the locality level can be viewed on the “Demographics” tab.

For school-level data, VDH has developed a COVID Coverage Rate Report that provides those with access to Virginia Immunization Information System (VIIS) with a school-level vaccination coverage rate based on an uploaded school roster. Schools may contact the VIIS Help Desk at 804-864-7028 for assistance with a coverage rate report.

Consider the Level of Impact to a School

| Criteria to Consider | Level of Impact to a School* | | |
|----------------------------|---|---|--|
| | Low | Medium | High |
| Transmission within school | Zero or sporadic cases with no evidence of transmission in school | Single outbreak or sporadic outbreaks in school. Sizes of outbreaks remain small. | Several outbreaks in school within a short time period; sizes of outbreaks are large or scope of outbreak is significant (e.g., multiple classrooms or grade levels are impacted). |
| Student absenteeism | At baseline/Low | Slightly above baseline | High |
| Staff Capacity** | Normal | Strained | Critical |

*Schools should collaborate with local health departments on outbreak investigations and contact tracing. Depending on the level of COVID-19 transmission in the school and outbreak status, public health may recommend adjustment to prevention strategies. If a school is conducting a COVID-19 testing program, screening testing data can also be helpful.

**This subjective assessment should factor in a school's ability to maintain adequate staff for facility operations, transportation, teaching, and administrative functions. It should include input from teachers/staff regarding their availability to provide in-person instruction.

The level of impact that COVID-19 transmission is having within a school itself should be evaluated per the framework above and should consider whether the currently circulating variant causes severe illness in children or adults. VDH and/or the local health department should be consulted for advice on how to interpret data on cases and outbreaks. If the level of impact to a school is worsening, or if medium or high levels of transmission within a school are ongoing and the circulating variant is causing more serious or severe illness, changes to current strategies may need to be considered. To inform these decisions, school officials should work with local health departments to assess and consider:

- the number of outbreaks experienced and their proximity in time to each other;
- the size of any outbreak(s) (number of cases and close contacts identified);
- the level of spread within the school (e.g., whether cases are confined to a particular classroom or grade level);
- the severity of illness caused by the circulating variant;
- the level of student and/or staff absenteeism due to illness or necessary isolation/quarantine and the staff capacity

Understand the Capacity and Needs of your Community and School

Students benefit from in-person learning; maintaining in-person instruction is a priority. This guidance aims to balance the goal of disease prevention and the goal of providing in-person educational instruction. The absence of in-person educational options may disadvantage all children but has particular impact on certain types of learners. The negative impacts of remote learning for some children should be an integral part of planning. State law requires in-person options be made available to all students in Virginia during the 2021-2022 school year.

The feasibility of certain prevention strategies, including any harmful impacts a strategy may have, should be assessed to help decide what combination of strategies is best. For example, if a school cannot maintain operations while maintaining distances of 3 feet between students in classrooms, it would be especially important to focus on and layer other prevention strategies such as, testing programs, adequate or increased ventilation, ensuring appropriate hand hygiene opportunities, staying home when sick, supporting parents who choose to send their child to school with a mask, and regular cleaning and disinfecting.

The needs of special populations within a school community such as English learners, students who need special education or mental health services, or students who may not have reliable internet access at home should be understood if a school needs to temporarily convert to virtual learning or if individual students need to temporarily convert to virtual learning during necessary quarantine periods. Offering staff, students, and families the opportunity to ask questions and share concerns can provide meaningful input to help shape decisions on the right combination of prevention strategies.

Determine and Implement a Layered Approach with Multiple Prevention Strategies

All schools/school divisions should work with VDH and their local public health departments to assist in determining the layered prevention strategies that are appropriate. The selection of strategies should be informed by the levels of community transmission, the severity of illness caused by currently circulating variant(s), local vaccine coverage, advantages and disadvantages of potential strategies, and the level of impact to a school, including the use of screening testing data to detect cases in schools if available.

Prevention Strategies

Implementing prevention strategies to reduce risk associated with COVID-19 is a shared responsibility between parents and families, school officials and staff, and local public health authorities.

Parents:

- Keeping children home when sick and seeking care and testing as appropriate
- Vaccination
- Masks

School Officials and Staff:

- Adequate and appropriate ventilation
- Physical distancing
- Encourage students, teachers and staff to stay home from work when sick, and to seek care and testing as appropriate. Make decisions about excluding children or staff from school or work due to illness.
- Educate staff regarding their choices pertaining to masking
- Offer COVID-19 Testing programs (Screening Testing, Diagnostic Testing, Test to Stay)
- Ensure handwashing and respiratory etiquette
- Clean and maintain healthy facilities
- Notify students and staff of known cases and/or exposures in combination with isolation and quarantine.

- Notify public health of outbreaks in a timely manner.

Public Health:

- Provide data and information to inform parent and family decisions
- Respond to reports of outbreaks at school
- Provide technical assistance on outbreak investigations, prevention strategies, and testing programs

Preventive Actions:

Prevention is most effective when appropriate strategies are layered together, and is especially important in areas experiencing substantial to high levels of community transmission and the severity of illness caused by the circulating variant(s) is increased or high. However, the need for layering specific strategies may vary. When considering adjustments in prevention strategies, data should be monitored closely (with adequate testing through the school or community) for any increases in COVID-19 cases or outbreaks.

VDH recommends the following key prevention strategies be considered, after taking into account local and school level data and information as described above.

1. Vaccination. Vaccination is the leading public health prevention strategy to end the COVID-19 pandemic. Vaccinating teachers, school staff, and students (and encouraging boosters when eligible) is a critical layer of prevention and protection for all. Achieving high levels of vaccination and boosters among eligible students, teachers and staff is one of the most critical strategies to help schools safely operate.

2. Staying home when sick and getting tested. Aside from vaccination, one of the most important ways to reduce transmission in schools is to keep sick children, teachers, and staff at home.

- Instruct any students, teachers, and staff who have symptoms of infectious illness, such as influenza (flu) or COVID-19 to stay home from school and see a healthcare provider for testing and care.
- Allow flexible, non-punitive, and supportive paid sick leave policies that encourage sick workers to stay home.
- Provide excused absences for students who are sick.
- If a student becomes sick at school, arrange for the student to be picked up, while the student waits in a separate isolation room/area. If a school does not perform routine screening testing, rapid testing on site could facilitate COVID-19 diagnosis and inform the need for quarantine of close contacts and isolation.
- At all levels of community transmission, when it becomes known to them, schools should continue to offer referrals to diagnostic testing to any student, teacher, or staff member who exhibits symptoms of COVID-19 at school or who meets VDH's close contact definition for exposure to COVID-19

3. Physical distancing. Similar to masking, physical distancing carries costs and benefits and is not always practicable. Given the relatively low risk of severe illness to children from COVID-19, schools should take reasonable measures to ensure physical distancing where possible.

During times of substantial or high transmission of variant(s) that cause serious illness, VDH may recommend additional measures to optimize distancing such as:

- Cohorting
- Close or stagger the use of communal spaces.
- Limit assemblies and other school gatherings.
- Limit non-essential interactions among teachers and staff during meetings, lunches, or other situations that can lead to adult-to-adult transmission.

There is no medical reason for a vaccinated and/or masked teacher to treat an otherwise healthy unmasked student any differently than a healthy masked student.

4. Prioritize disease investigations and/or notifications of disease to school community

Identifying cases and notifying close contacts remains an important shared function between schools and public health.

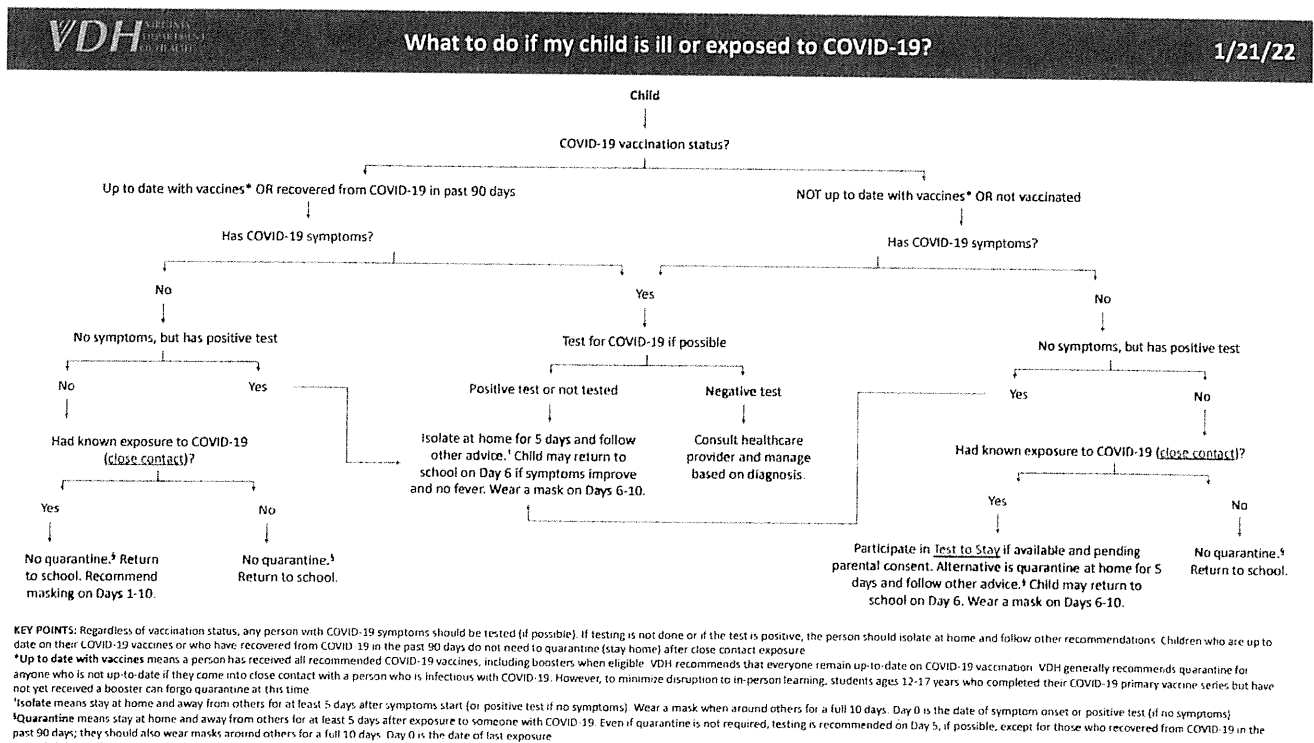
- Monitor reports of cases of COVID-19 in the school community in partnership with public health
- Support and implement testing programs (This is important to maintain so that new variants that emerge that could cause more severe illness can be detected and asymptomatic disease transmission can be reduced)
- Notify families and staff of known cases and potential risk of exposure, while ensuring confidentiality of known cases
- Report suspected outbreaks to public health and situations where the school has identified multiple cases comprising at least 10% of students, teachers, or staff within a specified core group. Public health epidemiologists can assist with determining if there is an outbreak and/or if there is in-school transmission.
- In partnership with public health, and based on review of school cases, outbreaks and trends, implement contact tracing as needed to reduce sustained transmission in the school setting.
- Schools have the authority to make decisions regarding when to exclude children from school due to COVID-19, as they do for many other illnesses.

The definition of close contact includes an exception for K-12 settings for the purposes of case investigation and contact tracing. In general, VDH uses proximity of within 6 feet for a total of 15 minutes or more within 24 hours to determine the need for quarantining persons who have had close contact exposure to someone with suspected or confirmed COVID-19. In K-12 settings, a student who is within 3 to 6 feet of an infected student is not considered a close contact as long as both students wore well-fitting masks the entire time. This exception may also be applied to school buses when the following criteria are met:

- Seating charts are documented and
- Assurance that masks are worn and students remain in assigned seats, either via video monitoring if available, or attestation from the bus driver or monitor

Students who were less than 3 feet apart for a total of 15 minutes or more are considered close contacts, even if both students wore masks. The K-12 exception does not apply to teachers, staff, or other adults. It also does not apply to Pre-K students. Having direct exposure to respiratory secretions of someone with COVID-19 (e.g., being coughed or sneezed on) is also considered close contact in any setting.

The infographic below can help guide parental decision related to sick children or children who have been exposed to COVID-19.



More detailed recommendations for people who have been exposed are available at VDH’s [What do if you were potentially exposed to coronavirus disease \(COVID-19\)](#). Persons who are up to date with COVID-19 vaccines do NOT need to quarantine. For others, CDC and VDH recommend people stay home (quarantine) for at least 5 days, get tested on or soon after day 5 if possible. A person can end quarantine after day 5 if they have no symptoms and can wear a mask when around others through day 10 after their last contact with someone with COVID-19. VDH recommends a 10-day isolation or quarantine period for students who are not willing to wear a mask in school on days 6-10 after quarantine or isolation.

*To allow time for students to catch up with the quarantine recommendations that were recently updated in early January, and to minimize disruption to in-person learning, students ages 12-17 years who completed their primary vaccine series but have not yet received all eligible boosters can forgo quarantine at this point in time. These students should continue to monitor symptoms and take other precautions such as masking for the 10 days following known exposure. These students are encouraged to attend school, but if possible, these students should avoid higher risk school activities (e.g. high contact sports where distancing is not feasible) during the 10 days following exposure. Schools may also consider Test to Stay as an alternative to traditional quarantine.

5. Screening Testing and Test to Stay. Screening testing can help promptly identify and isolate cases, quarantine those who may have been exposed to COVID-19 and are not fully vaccinated, and identify clusters. This can help reduce the risk to students, teachers and staff, and controlling outbreaks before they expand can help limit any disruption to in-person education.

Screening testing can also 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. If utilized, screening testing should, at a minimum, 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.

If screening testing is not feasible, schools can adopt a referral-based diagnostic testing approach or utilize VDH supplied antigen test kits for at-home testing as resources allow. VDH has a testing site locator which may be helpful for schools to use for testing referrals. Schools may also consider implementing Test to Stay programs which offer an alternative to traditional quarantine for those who are recommended to do so. Considering the degree to which the currently circulating variant(s) may cause serious illness may influence decision making about scale and frequency of testing programs.

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 who are not fully vaccinated at least once per week. | | |
| Teachers and staff | Offer screening testing for teachers and staff who are not fully vaccinated 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 for participants who are not fully vaccinated. | Recommend screening testing for high-risk sports and extracurricular activities twice per week for participants who are not fully vaccinated. | Recommend screening testing for high-risk sports and extracurricular activities twice per week for participants who are not fully vaccinated. | Cancel or hold high-risk sports and extracurricular activities virtually to protect in-person learning, unless all participants are fully vaccinated. |
| 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 for participants who are not fully vaccinated. | | |

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. The NCAA has developed a risk stratification for sports. See https://ncaaorg.s3.amazonaws.com/ssi/COVID/SSI_ResocializationDevelopingStandardsSecondEdition.pdf

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.

6. Ventilation. Ventilation systems clean and disperse air, decreasing the likelihood that students will inhale particles suspended in the air that are contaminated with the virus that causes COVID-19.

- Per Executive Order Two, schools should marshal available resources to improve inspection, testing, maintenance, repair, replacement and upgrades of equipment to improve the indoor air quality in school facilities, including mechanical and nonmechanical heating, ventilation, and air conditioning systems, filtering, purification, fans, control systems and window and door repair.
- In consultation with an HVAC expert, ensure the school building’s HVAC system is operating properly. The damper should be adjusted to increase the amount of exterior air that is brought in,

and filters should be improved to better remove respiratory particles from the air. Exhaust fans should be run to further improve air exchange. Consider additional ways to improve ventilation, such as opening doors and windows, using window fans to direct air out of windows, or using portable room air cleaners using a HEPA filter. If doors and windows are opened, eliminate any safety hazards (e.g., do not open windows if a child could fall out).

- Reduce the risk of exposure of children and school bus drivers to the virus that causes COVID-19 by opening bus windows when possible. Consider upgrading school bus filters to a higher efficiency filter. While MERV-4 is typically used in buses, MERV-8 and even MERV-13 are available. Make sure that the filters chosen are compatible with your bus's ventilation system.
- Refer to CDC's information on [Ventilation in Schools and Child Care Programs](#).

7. Implement Hand Hygiene and Respiratory Etiquette

- Teach [correct handwashing](#) to students and staff (wash with soap and water for at least twenty seconds).
- Ensure frequent access to handwashing facilities, or hand sanitizer that contains at least 60% alcohol.

8. Clean and maintain healthy facilities

- Perform regular cleaning of frequently-touched surfaces.
- SARS-CoV-2, the virus that causes COVID-19, can be reduced and killed from surfaces, objects, and hands if the right products are used correctly.
- The Environmental Protection Agency (EPA) has compiled a [list of disinfectant products](#) that can be used against the virus that causes COVID-19, including ready-to-use sprays, concentrates, and wipes.
- If there has been a sick person or someone who tested positive for COVID-19 in the school within the last 24 hours, you should clean AND disinfect the space.

9. Masks as prevention.

There are benefits and costs to mask wearing in the school environment. The benefits may include reduced transmission of the virus, but with limitations. Masks made of plain cloth, masks that are soiled or poorly fitting, and masks that are not worn properly provide reduced or no benefit; mask-wearing may cause discomfort, skin irritation, anxiety, and otherwise impact a child's emotional state; children may have difficulty communicating, perceiving emotion, or making social connections when wearing masks. The CDC presently recommends the use of N95 or KN95 masks to reduce COVID transmission, but such masks are very tight and uncomfortable, and may be poorly tolerated by children.

During the Omicron outbreak, regions with restrictive masking policies and practices have shown similar rates of transmission as regions with less restrictive mask policies. There is presently a lack of consensus among health experts regarding the costs and benefits of mask-wearing for children in school. Parents should consult with their medical providers if they have questions about whether or not their child should mask and for how long; this is especially true if a child is at increased risk of severe illness from COVID-19, or lives with individuals at higher risk for severe illness.

In situations where a child is returning from isolation due to COVID, or was subject to a close contact exposure, the benefit of temporary masking is likely to outweigh the risks. The section on disease investigation and notifications about exposures provides more information on how the decision to wear a mask impacts the length of time a student must isolate or quarantine after illness or exposure.

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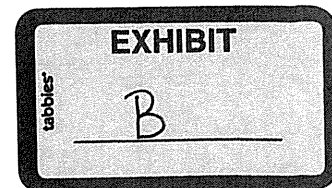
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EXHIBIT B



36 Va. Regs. Reg. 2114

Volume 36, Issue 17, April 13, 2020

EXECUTIVE ORDER

Reporter

36 Va. Regs. Reg. 2114

VA - Virginia Register of Regulations > 2020 > April > April 13, 2020 > EXECUTIVE ORDER > GOVERNOR

Agency

GOVERNOR

Text

GOVERNOR EXECUTIVE ORDER NUMBER FIFTY-ONE (2020)

Declaration of a State of Emergency Due to Novel Coronavirus (COVID-19)

Importance of the Issue

The Commonwealth of Virginia is monitoring an outbreak of a respiratory illness referred to as the coronavirus (COVID-19), which has spread from Wuhan, Hubei Province, China to more than 80 other locations internationally, including the Commonwealth. The Virginia Department of Health (VDH) has been working with local, state, and federal officials, healthcare and emergency management experts, and various state agencies to form a COVID-19 Taskforce to prepare for and respond to this threat. Given recent confirmed occurrences of COVID-19 within the Commonwealth and in neighboring states, as well as information from the Centers for Disease Control and Prevention, it is anticipated that the disease will spread.

Therefore, on this date, March 12, 2020, I declare that a state of emergency exists in the Commonwealth of Virginia to continue to prepare and coordinate our response to the potential spread of COVID-19, a communicable disease of public health threat. The anticipated effects of COVID-19 constitute a disaster as described in § 44-146.16 of the Code of Virginia (Code). By virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia, by §§ 44-146.17 and 44-75.1 of the Code of Virginia, as Governor and Director of Emergency Management and Commander-in-Chief of the Commonwealth's armed forces, I proclaim a state of emergency. Accordingly, I direct state and local governments to render appropriate assistance to prepare for this event, to alleviate any conditions resulting from the situation, and to implement recovery and mitigation operations and activities so as to return

36 Va. Regs. Reg. 2114

impacted areas to prevent conditions as much as possible. Emergency services shall be conducted in accordance with § 44-146.13 et seq. of the Code.

In order to marshal all public resources and appropriate preparedness, response, and recovery measures, I order the following actions:

- A. Implementation by state agencies of the Commonwealth of Virginia Emergency Operations Plan, as amended, along with other appropriate state plans.
- B. Activation of the Virginia Emergency Operations Center and the Virginia Emergency Support Team, as directed by the State Coordinator of Emergency Management, to coordinate the provision of assistance to state, local, and tribal governments and to facilitate emergency services assignments to other agencies.
- C. Authorization for the heads of executive branch agencies, on behalf of their regulatory boards as appropriate, and with the concurrence of their Cabinet Secretary, to waive any state requirement or regulation, and enter into contracts without regard to normal procedures or formalities, and without regard to application or permit fees or royalties. All waivers issued by agencies shall be posted on their websites.
- D. Activation of § 59.1-525 et seq. of the Code related to price gouging.
- E. Activation of the Virginia National Guard to State Active Duty.
- F. Authorization of a maximum of \$ 10,000,000 in state sum sufficient funds for state and local government mission assignments and state response and recovery operations authorized and coordinated through the Virginia Department of Emergency Management allowable by The Stafford Act, *42 USC § 5121 et seq.* Included in this authorization is \$ 1,000,000 for the Department of Military Affairs, if it is called to State Active Duty.

Effective Date of this Executive Order

This Executive Order shall be effective March 12, 2020, and shall remain in full force and in effect until June 10, 2020, unless sooner amended or rescinded by further executive order.

Termination of this Executive Order is not intended to terminate any federal type benefits granted or to be granted due to injury or death as a result of service under this Executive Order.

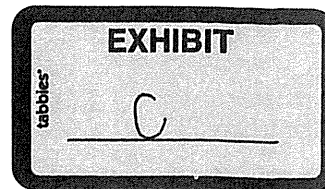
Given under my hand and under the Seal of the Commonwealth of Virginia, this 12th day of March, 2020.

/s/ Ralph S. Northam

Governor

VIRGINIA REGISTER OF REGULATIONS

EXHIBIT C



36 Va. Regs. Reg. 2115

Volume 36, Issue 17, April 13, 2020

EXECUTIVE ORDER

Reporter

36 Va. Regs. Reg. 2115 *

VA - Virginia Register of Regulations > 2020 > April > April 13, 2020 > EXECUTIVE ORDER > GOVERNOR

Agency

GOVERNOR

Text

EXECUTIVE ORDER NUMBER FIFTY-THREE (2020)

Temporary Restrictions on Restaurants, Recreational, Entertainment, Gatherings, Non-Essential Retail Businesses, and Closure of K-12 Schools due to Novel Coronavirus (COVID-19)

Importance of the Issue

The Commonwealth of Virginia continues to respond to the novel coronavirus (COVID-19) pandemic. On March 13, 2020, I ordered all K-12 schools in the Commonwealth closed for two weeks. On March 17, 2020, I, along with the Virginia State Health Commissioner, issued an Order of the Governor and State Health Commissioner Declaration of Public Health Emergency (later amended) limiting the number of patrons in restaurants, fitness centers, and theaters to no more than 10 per establishment. Despite these measures, COVID-19 presents an ongoing threat to our communities. Information from the Virginia Department of Health reveals occurrences of the virus in every region of the Commonwealth. Indeed, the data suggests that in several regions there may be community spread of the virus.

Now, we must take additional long term action to mitigate the impacts of this virus on our Commonwealth. Guidance on School Closures from the Centers for Disease Control and Prevention indicates that medium term closures (8-20 weeks) have greater impact on minimizing the spread of COVID-19 than shorter term closures (2-8 weeks). This guidance is consistent with the expertise of public health officials and their models of continuing spread of COVID-19 throughout the Commonwealth and the nation. Unnecessary person-to-person contact increases the risk of

transmission and community spread. Consequently, we must limit such interactions to those necessary to access food and essential materials. Protecting the health and ensuring the safety of every Virginian is my highest priority.

Directive

Therefore, by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia, by § 44-146.17 of the Code of Virginia and in furtherance of Executive Order 51, I order the following:

1. Effective 11:59 p.m., Tuesday, March 24, 2020 until 11:59 p.m., Thursday, April 23, 2020, all public and private in person gatherings of 10 or more individuals are prohibited.
2. Cessation of all in-person instruction at K-12 schools, public and private, for the remainder of the 2019-2020 school year. Facilities providing child care services may remain open. On March 18, 2020, the Commissioner of the Virginia Department of Social Services, Duke Storen, issued a letter with guidance for daycare providers operating in the Commonwealth, including group size limits of 10 and stringent public health guidelines to prevent the spread of COVID-19. That guidance remains effective and I urge all Virginians with school-age children to review it. In addition, I urge child care providers to prioritize services for children of essential personnel, while asking all families with the ability to keep their children home, to do so. To that end, the Virginia Department of Social Services and the Virginia Department of Education will issue guidance to communities about operationalizing emergency child care services for essential personnel.
3. Closure of all dining and congregation areas in restaurants, dining establishments, food courts, breweries, microbreweries, distilleries, wineries, tasting rooms, and farmers markets effective 11:59 p.m., Tuesday, March 24, 2020 until 11:59 p.m., Thursday, April 23, 2020. Restaurants, dining establishments, food courts, breweries, microbreweries, distilleries, wineries, tasting rooms, and [*2116] farmers markets may continue to offer delivery and take-out services.
4. Closure of all public access to recreational and entertainment businesses, effective 11:59 p.m., Tuesday, March 24, 2020 until 11:59 p.m., Thursday, April 23, 2020 as set forth below:
 - Theaters, performing arts centers, concert venues, museums, and other indoor entertainment centers;
 - Fitness centers, gymnasiums, recreation centers, indoor sports facilities, and indoor exercise facilities;
 - Beauty salons, barbershops, spas, massage parlors, tanning salons, tattoo shops, and any other location where personal care or personal grooming services are performed that would not allow compliance with social distancing guidelines to remain six feet apart;
 - Racetracks and historic horse racing facilities; and
 - Bowling alleys, skating rinks, arcades, amusement parks, trampoline parks, fairs, arts and craft facilities, aquariums, zoos, escape rooms, indoor shooting ranges, public and private social clubs, and all other places of indoor public amusement.
5. Essential retail businesses may remain open during their normal business hours. Such businesses are:

- Grocery stores, pharmacies, and other retailers that sell food and beverage products or pharmacy products, including dollar stores, and department stores with grocery or pharmacy operations;
- Medical, laboratory, and vision supply retailers;
- Electronic retailers that sell or service cell phones, computers, tablets, and other communications technology;
- Automotive parts, accessories, and tire retailers as well as automotive repair facilities;
- Home improvement, hardware, building material, and building supply retailers;
- Lawn and garden equipment retailers;
- Beer, wine, and liquor stores;
- Retail functions of gas stations and convenience stores;
- Retail located within healthcare facilities;
- Banks and other financial institutions with retail functions;
- Pet and feed stores;
- Printing and office supply stores; and
- Laundromats and dry cleaners.

6. Effective 11:59 p.m., Tuesday, March 24, 2020 until 11:59 p.m., Thursday, April 23, 2020, any brick and mortar retail business not listed in paragraph 5 may continue to operate but must limit all in-person shopping to no more than 10 patrons per establishment. If any such business cannot adhere to the 10 patron limit with proper social distancing requirements, it must close.

7. All businesses shall, to the extent possible, adhere to social distancing recommendations, enhanced sanitizing practices on common surfaces, and other appropriate workplace guidance from state and federal authorities while in operation.

8. Although business operations offering professional rather than retail services may remain open, they should utilize teleworking as much as possible. Where telework is not feasible, such business must adhere to social distancing recommendations, enhanced sanitizing practices on common surfaces, and apply the relevant workplace guidance from state and federal authorities.

9. Nothing in the Order shall limit: (a) the provision of health care or medical services; (b) access to essential services for low-income residents, such as food banks; (c) the operations of the media; (d) law enforcement agencies; or (e) the operation of government.

Violation of paragraphs 1, 3, 4, and 6 of this Order shall be a Class 1 misdemeanor pursuant to § 44-146.17 of the Code of Virginia.

Effective Date of this Executive Order

This Executive Order shall be effective March 23, 2020, amends Amended Order of the Governor and State Health Commissioner Declaration of Public Health Emergency, Order of Public Health Emergency One, and shall remain in full force and in effect until amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 23rd day of March, 2020.

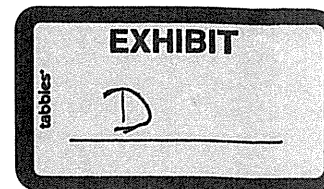
/s/ Ralph S. Northam

Governor

VIRGINIA REGISTER OF REGULATIONS

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EXHIBIT D



36 Va. Regs. Reg. 2117

Volume 36, Issue 17, April 13, 2020

EXECUTIVE ORDER

Reporter

36 Va. Regs. Reg. 2117 *

VA - Virginia Register of Regulations > 2020 > April > April 13, 2020 > EXECUTIVE ORDER > GOVERNOR

Agency

GOVERNOR

Text

EXECUTIVE ORDER NUMBER FIFTY-FIVE (2020)

Temporary Stay at Home Order due to Novel Coronavirus (COVID-19)

To reinforce the Commonwealth's response to COVID-19 and in furtherance of Executive Orders 51 (March 12, 2020) and 53 (March 23, 2020) and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia, by § 44-146.17 of the Code of Virginia, I order the following:

1. All individuals in Virginia shall remain at their place of residence, except as provided below by this Order and Executive Order 53. To the extent individuals use shared or outdoor spaces, whether on land or on water, they must at all times maintain social distancing of at least six feet from any other person, with the exception of family or household members or caretakers. Individuals may leave their residences for the purpose of:
 - a. Obtaining food, beverages, goods, or services as permitted in Executive Order 53;
 - b. Seeking medical attention, essential social services, governmental services, assistance from law enforcement, or emergency services;
 - c. Taking care of other individuals, animals, or visiting the home of a family member;
 - d. Traveling required by court order or to facilitate child custody, visitation, or child care;
 - e. Engaging in outdoor activity, including exercise, provided individuals comply with social distancing requirements;
 - f. Traveling to and from one's residence, place of worship, or work;
 - g. Traveling to and from an educational institution;

- h. Volunteering with organizations that provide charitable or social services; and
 - i. Leaving one's residence due to a reasonable fear for health or safety, at the direction of law enforcement, or at the direction of another government agency.
2. All public and private in-person gatherings of more than ten individuals are prohibited. This includes parties, celebrations, religious, or other social events, whether they occur indoor or outdoor. This restriction does not apply:
- a. To the operation of businesses not required to close to the public under Executive Order 53; or
 - b. To the gathering of family members living in the same residence.
3. Institutions of higher education shall cease all in-person classes and instruction, and cancel all gatherings of more than ten individuals. For purposes of facilitating remote learning, performing critical research, or performing essential functions, institutions of higher education may continue to operate, provided that social distancing requirements are maintained.
4. Effective April 1, 2020, at 11:59 p.m., cessation of all reservations for overnight stays of less than 14 nights at all privately-owned campgrounds, as defined in § 35.1-1 of the Code of Virginia.
5. Closure of all public beaches as defined in § 10.1-705 of the Code of Virginia for all activity, except exercising and fishing. Social distancing requirements must be followed.
6. All relevant state agencies shall continue to work with all housing partners to execute strategies to protect the health, safety, and well-being of Virginians experiencing homelessness during this pandemic and to assist Virginians in avoiding evictions or foreclosures.
7. As provided in Executive Order 53, nothing in this Order shall limit: (a) the provision of health care or medical services; (b) access to essential services for low-income [*2118] residents, such as food banks; (c) the operations of the media; (d) law enforcement agencies; or (e) the operation of government.

Violation of paragraphs 2, 3, 4, and 5 of this Order shall be a Class 1 misdemeanor pursuant to § 44-146.17 of the Code of Virginia.

Effective Date of this Executive Order

This Executive Order shall be effective March 30, 2020, amends Amended Order of the Governor and State Health Commissioner Declaration of Public Health Emergency, Order of Public Health Emergency One and Executive Order 53, and shall remain in full force and in effect until June 10, 2020, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 30th day of March, 2020.

/s/ Ralph S. Northam

Governor

Amended Order of the Governor and State Health Commissioner Declaration of Public Health Emergency

Order of Public Health Emergency One

WHEREAS, the State Health Commissioner declared COVID-19 a disease of public health threat on February 7, 2020; and

WHEREAS, Virginia Governor Ralph S. Northam declared a state of emergency due to COVID-19 on March 12, 2020 in Executive Order No. 51 by virtue of the authority vested in the Governor by Article V, Section 7 of the Constitution of Virginia and by §§ 44-146.17 and 44-75.1 of the Code of Virginia; and

WHEREAS, COVID-19 spreads from person-to-person, transmitted via respiratory droplets, and can be spread from an infected person who does not have symptoms to another person; and

WHEREAS, no current vaccine or known treatment options exist at this time; and

WHEREAS, the Commonwealth of Virginia, seeks to contain, control, and prevent additional COVID-19 infections and unnecessary risk to citizens; and

WHEREAS, on March 17, 2020, Virginia Governor Ralph S. Northam announced new measures to combat COVID-19 and support impacted Virginians; and

WHEREAS, in an effort to increase social distancing to inhibit spread of the virus, Virginia Governor Ralph S. Northam included in that announcement that all restaurants, fitness centers, and theaters are mandated to significantly reduce capacity to 10 patrons, or close; while encouraged to continue carry-out and takeaway options; and

WHEREAS, the State Health Commissioner desires to protect the public health of all Virginians by increasing social distancing in restaurants, fitness centers, and theaters; and

WHEREAS, pursuant to § 32.1-13 of the Code of Virginia, the State Health Commissioner, acting for the State Board of Health (Board) when it is not in session pursuant to § 32.1-20 of the Code of Virginia, is vested with authority to make separate orders to meet any emergency not provided for by general regulations, for the purpose of suppressing conditions dangerous to the public health and communicable, contagious, and infectious diseases; and

WHEREAS, pursuant to § 35.1-10 of the Code of Virginia, the State Health Commissioner may take whatever action he deems necessary, to include ordering immediate closure of a restaurant, to control the spread of a preventable disease.

NOW THEREFORE, the Governor and State Health Commissioner hereby issue this Order declaring a public health emergency resulting from the spread of COVID-19 virus affecting the health and safety of Virginians, and restrict the number of patrons allowed in restaurants, as defined in § 35.1-1 of the Code of Virginia, fitness centers, and theaters, as defined in § 15.2-2820 of the Code of Virginia, to 10 patrons or less in any such establishment in order to inhibit spread of the virus. Any willful violation or refusal, failure, or neglect to comply with this Order, issued

pursuant to § 32.1-13 of the Code of Virginia, is punishable as a Class 1 misdemeanor pursuant to § 32.1-27 of the Code of Virginia.

In addition, the observation of 11 or more patrons in a restaurant may result in immediate operation permit suspension per the Food Regulations at 12VAC5-421-3770 (Summary Suspension of a Permit) by a district health director as authorized by the State Health Commissioner.

The State Health Commissioner may also seek injunctive relief in circuit court for violation of this Order pursuant to § 32.1-27 of the Code of Virginia.

WHEREAS, this Order hereby amends the Order dated March 17, 2020, shall be effective as of March 16, 2020, and shall remain in full force and effect until amended or rescinded. Citation of this Order shall be Commonwealth of Virginia Amended Order of Public Health Emergency One.

Given under my hand and under the Seal of the Office of the State Health Commissioner of the Commonwealth of Virginia this 20th Day of March 2020.

/s/ Ralph S. Northam

Governor

/s/ M. Norman Oliver, MD, MA

State Health Commissioner [*2119]

Order of the Governor and State Health Commissioner

Order of Public Health Emergency Two

WHEREAS, the State Health Commissioner declared COVID-19 a disease of public health threat on February 7, 2020; and

WHEREAS, Virginia Governor Ralph S. Northam declared a state of emergency due to COVID-19 on March 12, 2020 in Executive Order No. 51 by virtue of the authority vested in the Governor by Article V, Section 7 of the Constitution of Virginia and by §§ 44-146.17 and 44-75.1 of the Code of Virginia; and

WHEREAS, the Governor and State Health Commissioner issued Order of Public Health Emergency One on March 17, 2020, as amended on March 20, 2020, declaring a public health emergency; and

WHEREAS, COVID-19 spreads from person-to-person, transmitted via respiratory droplets, and can be spread from an infected person who does not have symptoms to another person; and

WHEREAS, no current vaccine or known treatment options exist at this time; and

WHEREAS, the supply chain in the Commonwealth for health care personal protective equipment (PPE), to include gowns, masks, face shields and respirators, has been severely disrupted by the significant increased use of such

equipment worldwide in response to COVID-19, such that there are now critical shortages of this equipment for health care workers; and

WHEREAS, it is anticipated that due to the continuing spread of COVID-19, a critical shortage of needed hospital beds will result; and

WHEREAS, the Commonwealth of Virginia seeks to curtail the spread of the COVID-19 pandemic in the Commonwealth, protect our health care workers, and ensure sufficient hospital beds necessary to serve Virginians' medical needs; and

WHEREAS, pursuant to § 32.1-13 of the Code of Virginia, the State Health Commissioner, acting for the State Board of Health when it is not in session pursuant to § 32.1-20 of the Code of Virginia, is vested with authority to make separate orders to meet any emergency not provided for by general regulations, for the purpose of suppressing conditions dangerous to the public health and communicable, contagious, and infectious diseases.

NOW THEREFORE, the Governor and State Health Commissioner hereby issue this Order prohibiting all inpatient and outpatient surgical hospitals licensed under 12VAC5-410, free-standing endoscopy centers, physicians' offices, and dental, orthodontic, and endodontic offices in the Commonwealth from providing procedures and surgeries that require PPE, which if delayed, are not anticipated to cause harm to the patient by negatively affecting the patient's health outcomes, or leading to disability or death. This does not include outpatient visits delivered in hospital-based clinics.

This Order does not apply to the full suite of family planning services and procedures nor to treatment for patients with emergency or urgent needs. Inpatient and outpatient surgical hospitals licensed under 12VAC5-410, free-standing endoscopy centers, physicians' offices, and dental, orthodontic, and endodontic offices may perform any procedure or surgery that if delayed or canceled would result in the patient's condition worsening. Outpatient surgical hospitals are encouraged to work with their local inpatient hospitals to assist with surge capacity needs.

Any willful violation or refusal, failure, or neglect to comply with this Order, issued pursuant to § 32.1-13 of the Code of Virginia, is punishable as a Class 1 misdemeanor pursuant to § 32.1-27 of the Code of Virginia. The State Health Commissioner may also seek injunctive relief in circuit court for violation of this Order pursuant to § 32.1-27 of the Code of Virginia.

WHEREAS, this Order shall remain in full force and effect until April 24, 2020. Citation of this Order shall be Commonwealth of Virginia Order of Public Health Emergency Two.

Given under my hand and under the Seal of the Office of the State Health Commissioner of the Commonwealth of Virginia this 25th Day of March, 2020.

/s/ Ralph S. Northam

Governor

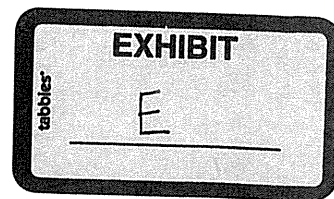
/s/ M. Norman Oliver, MD, MA

State Health Commissioner

VIRGINIA REGISTER OF REGULATIONS

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EXHIBIT E



36 Va. Regs. Reg. 2320

Volume 36, Issue 21, June 8, 2020

EXECUTIVE ORDER

Reporter

36 Va. Regs. Reg. 2320 *

VA - Virginia Register of Regulations > 2020 > June > June 8, 2020 > EXECUTIVE ORDER > GOVERNOR

Agency

GOVERNOR

Text

EXECUTIVE ORDER NUMBER SIXTY-THREE (2020) AND ORDER OF PUBLIC HEALTH EMERGENCY FIVE

Requirement to Wear Face Covering While Inside Buildings

Importance of the Issue

The Commonwealth of Virginia continues to respond to the novel coronavirus (COVID-19) pandemic. Measures undertaken over the last ten weeks have slowed the spread of the virus; however, its transmission continues to threaten our communities. We must remain vigilant. In fact, as we reopen Virginia, it is critical that we become even more vigilant. Studies of the virus show that a substantial number of individuals with coronavirus are asymptomatic. In addition, individuals who contract the virus may still transmit the virus to others before ever showing symptoms. Therefore, a person with no symptoms of the virus could spread it by speaking, coughing, or sneezing. As more people venture back to businesses, employees are put in a vulnerable position when patrons come in without a face covering. We must make sure workers are safe as they interact with customers. Science shows us that face coverings can help stop the spread of the virus. That is why the Centers for Disease Control and Prevention (CDC) recommends wearing cloth face coverings, even those made from household items or common materials in public settings. I strongly urge all Virginians to wear face coverings when leaving their homes. But as to indoor settings to which the public has access, mere encouragement is not enough to protect the health and safety of Virginians.

Directive

Therefore, by virtue of the authority vested in me by Article V of the Constitution of Virginia, by § 44-146.17 of the Code of Virginia, by any other applicable law, and in furtherance of Amended Executive Order 51, 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, the following is ordered:

A. Face Coverings Required-Patrons

All patrons in the Commonwealth aged ten and over shall when entering, exiting, traveling through, and spending time inside the settings listed below cover their mouth and nose with a face covering, as described and recommended by the CDC:

1. Personal care and personal grooming businesses, including but not limited to, beauty salons, barbershops, [*2321] spas, massage centers, tanning salons, tattoo shops, and any other location where personal care or personal grooming services are provided.
2. All brick and mortar retail businesses, including both essential and non-essential brick and mortar retail businesses, as delineated in Amended Executive Order 61 and Amended Order of Public Health Emergency Three (2020).
3. Food and beverage establishments, including but not limited to, restaurants, dining establishments, food courts, breweries, microbreweries, distilleries, wineries, tasting rooms, and farmers markets, when permitted to reopen for indoor dining.
4. Entertainment or recreation businesses, including but not limited to, racetracks, historic horse racing facilities, theaters, performing arts centers, concert venues, museums, and other indoor entertainment centers, bowling alleys, skating rinks, arcades, amusement parks, trampoline parks, fairs, arts and craft facilities, aquariums, zoos, escape rooms, public and private social clubs, and all other places of indoor public amusement, once permitted to reopen to the public. Face coverings shall also be required when patrons are outdoors at these businesses if a distance of six feet from every other person cannot be maintained.
5. Train stations, bus stations, and intrastate public transportation, including buses, rideshares, trains, taxis, and cars for hire, as well as any waiting or congregating areas associated with boarding public transportation. This requirement shall not apply in any area under federal jurisdiction or control.
6. Any other indoor place shared by groups of people who are in close proximity to each other. This restriction does not apply to persons while inside their residence or the personal residence of another. Face coverings may be removed to participate in a religious ritual.
7. State or local government buildings when accessed for the purpose of securing public services, with the exception of students in daycare centers or participating in-person classes in K-12 education or institutions of higher education.

B. Face Coverings Required-Employees of Essential Retail Businesses

All employees of essential retail businesses as listed in Amended Executive Order 61 and Amended Order of Public Health Emergency Three (2020), section C, paragraph 1 shall wear a face covering whenever working in customer

facing areas. Amended Executive Order 61 and Amended Order of Public Health Emergency Three (2020) is so further amended.

C. Enforcement

The Virginia Department of Health shall have authority to enforce this Order. Any willful violation or refusal, failure, or neglect to comply with this Order, issued pursuant to § 32.1-13 of the Code of Virginia, is punishable as a Class 1 misdemeanor pursuant to § 32.1-27 of the Code of Virginia. The State Health Commissioner may also seek injunctive relief in circuit court for violation of this Order, pursuant to § 32.1-27 of the Code of Virginia. No minor shall be subject to criminal penalty for failure to wear a face covering. Adults accompanying minors should use the adult's best judgment with respect to placing face coverings on a minor between the ages of two through nine while inside the public areas noted above. Adults accompanying minors age 10 through 18 shall use reasonable efforts to prompt the minor to wear face coverings while inside the public areas noted above.

Medical-grade masks and personal protective equipment should be reserved for medical personnel. The use of cloth face coverings does not replace the need to maintain six feet of physical social distancing, clean and disinfect frequently touched surfaces routinely in all public settings, stay home when sick, and practice frequent handwashing.

D. Exceptions

The requirement to wear a face covering does not apply to following:

1. While eating or drinking;
2. Individuals exercising or using exercise equipment;
3. Any person who has trouble breathing, or is unconscious, incapacitated, or otherwise unable to remove the face covering without assistance;
4. Any person seeking to communicate with the hearing impaired and for which the mouth needs to be visible;
5. When temporary removal of the face covering is necessary to secure government or medical services; and
6. Persons with health conditions that prohibit wearing a face covering. Nothing in this Order shall require the use of a face covering by any person for whom doing so would be contrary to his or her health or safety because of a medical condition.

Any person who declines to wear a face covering because of a medical condition shall not be required to produce or carry medical documentation verifying the stated condition nor shall the person be required to identify the precise underlying medical condition.

E. Department of Labor and Industry

Except for paragraph B above, this Order does not apply to employees, employers, subcontractors, or other independent contractors in the workplace. The Commissioner of the Virginia Department of Labor and Industry shall promulgate [*2322] emergency regulations and standards to control, prevent, and mitigate the spread of COVID-19 in the workplace. The regulations and standards adopted in accordance with §§ 40.1-22(6a) or 2.2-4011 of the Code of Virginia shall apply to every employer, employee, and place of employment within the jurisdiction of the Virginia Occupational Safety and Health program as described in 16 Va. Admin. Code § 25-60-20 and Va. Admin. Code § 25-60-30. These regulations and standards must address personal protective equipment, respiratory protective equipment, and sanitation, access to employee exposure and medical records and hazard communication. Further, these regulations and standards may not conflict with requirements and guidelines applicable to businesses set out and incorporated into Amended Executive Order 61 and Amended Order of Public Health Emergency Three.

Effective Date of this Executive Order

This Order is in furtherance of Amended Executive Order 51 (2020) and Amended Executive Order 61 and Amended Order of Public Health Emergency Three (2020). Further, this Order shall be effective 12:00 a.m., Friday, May 29, 2020, 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 and the Seal of the Office of the State Health Commissioner of the Commonwealth of Virginia, this 26th day of May, 2020.

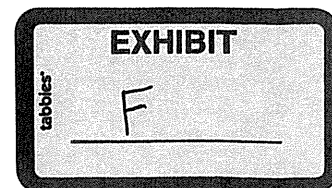
/s/ Ralph S. Northam

Governor

VIRGINIA REGISTER OF REGULATIONS

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EXHIBIT F



36 Va. Regs. Reg. 2580

Volume 36, Issue 24, July 20, 2020

EXECUTIVE ORDER

Reporter

36 Va. Regs. Reg. 2580 *

VA - Virginia Register of Regulations > 2020 > July > July 20, 2020 > EXECUTIVE ORDER > GOVERNOR

Agency

GOVERNOR

Text

EXECUTIVE ORDER NUMBER SIXTY-SEVEN (2020) AND ORDER OF PUBLIC HEALTH EMERGENCY SEVEN
Phase Three Easing of Certain Temporary Restrictions Due to Novel Coronavirus (COVID-19)

Importance of the Issue

On June 2, 2020, Executive Order 65 and Order of Public Health Emergency Six implemented Phase Two, continuing to ease business, gathering, and traveling restrictions originally imposed by Executive Order 53 and Executive Order 55 issued in March of 2020. During the weeks following, the public health metrics have continued to show positive trends. Our testing is increasing, our supply of personal protective equipment is steady, our hospital bed capacity remains steady, our hospitalizations statewide have a downward trend, and the percentage of positive tests continue to trend downward. Virginia continues to make significant progress.

As outlined below, we will move forward into Phase Three. In doing so, we must remember that the virus is still in our communities. We must remain cautious--continue teleworking whenever possible, wash our hands frequently, do not touch our faces, and wear face coverings. Through these efforts, we will continue to protect ourselves, our families, and our fellow Virginians as we respond to this emergency.

Directive

Therefore, by virtue of the authority vested in me by Article V of the Constitution of Virginia, by § 44-146.17 of the Code of Virginia, by any other applicable law, and in furtherance of Amended Executive Order 51 (2020), 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, the following is ordered:

A. EASING OF BUSINESS RESTRICTIONS

1. All Businesses

Any businesses, not listed in this section, should adhere to the Guidelines for All Business Sectors expressly incorporated by reference herein as best practices. This guidance is located [here](#).

2. Restaurants, Dining Establishments, Food Courts, Breweries, Microbreweries, Distilleries, Wineries, and Tasting Rooms

Restaurants, dining establishments, food courts, breweries, microbreweries, distilleries, wineries, and tasting rooms may continue to operate delivery, take-out, and indoor and outdoor service, provided such businesses comply with the Guidelines for All Business Sectors, and sector-specific guidance for restaurant and beverage services incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. All parties must be separated by at least six feet, including in the bar area. Tables at which dining parties are seated must be positioned six feet apart from other tables. If tables are not movable, parties must be seated at least six feet apart, including in the bar area.
- b. Customers may be provided with self-service options. Facilities must provide hand sanitizer at food lines and require the use of barriers (e.g., gloves or deli paper) when employees or patrons touch common utensils. Food lines must be monitored by trained staff at all times of operation, and serving utensils must be changed hourly.
- c. Employees working in customer-facing areas must wear face coverings over their nose and mouth at all times.
- d. A thorough cleaning and disinfection of frequently-contacted surfaces must be conducted every 60 minutes during operation. Tabletops, chairs, and credit card/bill folders must be cleaned in between patrons.
- e. Bar seats and congregating areas of restaurants must be closed to patrons except for through-traffic. Non-bar seating in the bar area (i.e., tables or counter seats that do not line up to a bar or food service area) may be used for customer seating as long as a minimum of six feet is provided between parties at tables.
- f. If any such business cannot adhere to these requirements, it must close.

3. Farmers Markets

Farmers markets may continue to operate, provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidelines for farmers markets incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. Employees and patrons must maintain at least six feet of physical distancing between individuals who are not Family members, as defined below, at all times. Configure operations to avoid congestion or congregation points.
- b. Employees and vendors in customer-facing areas must wear face coverings over their nose and mouth at all times.

- c. Vendors must supply hand sanitizer stations or hand washing stations for patrons and employees.
- d. A thorough cleaning and disinfection of frequently-contacted surfaces must be conducted.
- e. If any such business cannot adhere to these requirements, it must close.

4. Brick and Mortar Retail Businesses Not Listed in Section C, Paragraph 1 (Non-Essential Retail) **[*2581]** Any brick and mortar retail business not listed in section C, paragraph 1 below may continue to operate, provided such business complies with the Guidelines for All Business Sectors and the sector-specific guidance for brick and mortar retail expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. Employees and patrons must maintain at least six feet of physical distancing between individuals who are not Family members at all times.
- b. Employees working in customer-facing areas must wear face coverings over their nose and mouth at all times.
- c. If any such business cannot adhere to these requirements, it must close.

5. Fitness and Exercise Facilities

Fitness centers, gymnasiums, recreation centers, sports facilities, and exercise facilities may continue to operate indoor and outdoor activities, provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidelines for fitness and exercise facilities expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. Patrons, members, and guests who are not Family members must remain at least ten feet apart during all activities except where necessary for the physical safety of an individual.
- b. Instructors and all participants of group exercise and fitness classes who are not Family members must maintain at least ten feet of physical distancing between each other at all times, with the exception of swimming lessons, where parents or guardians may support a participant during class, and instructors may have contact with swimmers when necessary.
- c. Occupancy must be limited to no more than 75% of the lowest occupancy load on the certificate of occupancy.
- d. Hot tubs, spas, splash pads, spray pools, and interactive play features must be closed.
- e. Outdoor and indoor swimming pools may be open, provided occupancy is limited to no more than 75% of the lowest occupancy load on the certificate of occupancy and all swimmers maintain at least ten feet of physical distance from others who are not Family members.
- f. Employees working in customer-facing areas must wear face coverings over their nose and mouth at all times. Lifeguards responding to distressed swimmers are exempt from this requirement.

- g. Employers must ensure cleaning and disinfection of shared equipment after each use.
- h. Facilities must prohibit the use of any equipment that cannot be thoroughly disinfected between uses (e.g., climbing rope, exercise bands, etc.).
- i. Businesses must supply hand sanitizer stations or hand washing stations for patrons, members, and guests.
- j. If any such business cannot adhere to these requirements, it must close.

6. Personal Care and Personal Grooming Services Beauty salons, barbershops, spas, massage centers, tanning salons, tattoo shops, and any other location where personal care or personal grooming services are performed may continue to operate, provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidelines for personal care and personal grooming services expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. Service providers must maintain at least six feet of physical distancing between work stations.
- b. Service providers and employees working in customer-facing areas must wear face coverings over their nose and mouth at all times.
- c. Provide face coverings for clients or ask that clients bring a face covering with them, which they must wear during the service. Limit services to only those that can be completed without clients removing their face covering.
- d. A thorough cleaning and disinfection of frequently-contacted surfaces must be conducted every 60 minutes of operation, while cleaning and disinfecting all personal care and personal grooming tools after each use. If that is not possible, such items must be discarded.
- e. If any such business cannot adhere to these requirements, it must close.

7. Campgrounds

Privately-owned campgrounds as defined in § 35.1-1 of the Code of Virginia may continue to operate, provided they comply with the Guidelines for All Business Sectors and the sector-specific guidelines for campgrounds, which are expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. Employees working in public-facing areas must wear face coverings over their nose and mouth at all times.
- b. Businesses must supply hand sanitizer stations or hand washing stations for patrons, members, and guests.
- c. If any such business cannot adhere to these requirements, it must close.

8. Indoor Shooting Ranges [*2582]

Indoor shooting ranges may continue to operate, provided they comply with the following requirements:

- a. Employees and patrons must maintain at least six feet of physical distancing between individuals who are not Family members at all times.
- b. Employees working in customer-facing areas are required to wear face coverings over their nose and mouth at all times.
- c. Perform thorough cleaning and disinfection of frequently-contacted surfaces every 60 minutes of operation, while disinfecting all equipment between each customer use and prohibiting the use of equipment that cannot be thoroughly disinfected.
- d. Either thoroughly clean shared or borrowed equipment in between uses, or only allow the use of personal equipment at the range.
- e. If any such indoor shooting range cannot adhere to these requirements, it must close.

9. Public Beaches

All public beaches as defined in § 10.1-705 of the Code of Virginia may remain open to individual and family recreational activity. All such public beaches, must comply with the requirements below.

- a. Require beachgoers to practice physical distancing of at least six feet between each person unless they are with Family members.
- b. Prohibit gatherings of more than 250 people.
- c. Implement and adhere to a cleaning schedule for all high-touch surfaces made of plastic or metal such as benches and railings that includes cleaning at least every two hours between the hours of 9 a.m. and 6 p.m.
- d. Establish, train, and deploy a team to educate and promote compliance with beach rules and refer cases of noncompliance to public safety personnel, if appropriate.
- e. Establish procedures for temporary beach closure or access limitations in the event of overcrowding.
- f. Ensure adequate personal protective equipment for all lifeguards.
- g. Perform a disinfectant-level cleaning of all public restrooms every two hours with an EPA-approved disinfectant by staff or volunteers trained to follow Centers for Disease Control and Prevention (CDC) guidance on cleaning and disinfecting.
- h. For chair and umbrella rental companies, require vendors to set up chairs and umbrellas for customers, maintaining at least six feet of distance between groups, and to clean equipment between rentals following Environmental Protection Agency and CDC guidelines on cleaning and disinfecting.

- i. Post signage at all public access points to the beaches and other "cluster prone" areas providing health reminders regarding physical distancing, gathering prohibitions, options for high risk individuals, and staying home if sick. Messaging must be specific to location.
- j. Locality shall provide daily metrics to its local health department to include beach closures, complaint incidents, police reports of violence related to enforcement, and number of reports of noncompliance to be submitted each Monday.
- k. All employees and contract workers must wear a cloth face covering when not able to practice physical distancing following CDC Use of Face Cloth Coverings guidance.
- l. Employees and contract workers must have access to soap and water or hand sanitizer containing at least 60% alcohol, and locality should provide best hygiene practices to employees on a regular basis, including washing hands often with soap and water for at least 20 seconds and practicing respiratory etiquette protocols.
- m. Locality shall require all employees and contract workers to take their temperature before reporting to work and direct such employees not to report to work if they have a fever of over 100.4 degrees, have experienced chills, or have been feverish in the last 72 hours.
- n. Follow enhanced workplace safety best practices outlined in the Guidelines for All Business Sectors.

10. Racetracks and Speedways

Outdoor racetracks may remain open for racing events, provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidelines for racetracks expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. The event must be held at locations with the ability to restrict access (i.e. barriers and gating).
- b. All individuals must maintain at least six feet of physical distancing between themselves and other participants who are not Family members.
- c. Food services must adhere to the sector-specific guidance for restaurant and beverage services and camping areas must adhere to the sector-specific guidance for campgrounds.
- d. The total number of attendees (including both participants and spectators) cannot exceed the lesser of 50% of the lowest occupancy load on the certificate of occupancy, if applicable, or 1000 persons.

11. Entertainment and Amusement Businesses **[*2583]**

Performing arts venues, concert venues, sports venues, movie theaters, museums, aquariums, zoos, fairs, carnivals, amusement parks, public and private social clubs, botanical gardens, entertainment centers, historic horse racing facilities, bowling alleys, skating rinks, arcades, trampoline parks, arts and craft facilities, escape rooms, and other places of indoor public amusement may open provided such businesses comply with the

Guidelines for All Business Sectors and the sector-specific guidelines, which are expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. The total number of attendees (including both participants and spectators) cannot exceed the lesser of 50% of the lowest occupancy load on the certificate of occupancy, if applicable, or 1,000 persons.
- b. All private bookings must comply with section B, paragraph 1.
- c. Install visible markers for queue lines that separate people by six feet of physical distance.
- d. Create a guest flow plan of modified queue lines into and within the facility. Determine areas likely to become bottlenecks or pinch points and adjust guest flow accordingly.
- e. Ten feet of physical distancing is required between parties at all establishments with physical activity, singing, or cheering; six feet of physical distancing is required in other venues.
- f. Perform thorough cleaning and disinfection of frequently-contacted surfaces including digital ordering devices, check presenters, self-service areas, tabletops, bathroom surfaces, games, shared equipment, and other common touch areas every 60 minutes during operation.
- g. Where possible, install plexiglass barriers in front of commonly used point-of-sale or guest service stations.
- h. Employees working in customer-facing areas are required to wear face coverings over their nose and mouth at all times.
- i. Provide hand washing or sanitizing stations for attendees and employees.
- j. If any such business cannot adhere to these requirements, it must close.

12. Recreational Sports

Indoor and outdoor recreational sports activities are permitted, provided participants and organizers of recreational sports activities comply with the Guidelines for All Business Sectors and the sector-specific guidelines for recreational sports expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. Ten feet of physical distance should be maintained by all instructors, participants, and spectators, where practicable.
- b. The total number of attendees (including both participants and spectators) of recreational sports cannot exceed the lesser of 50% of the occupancy load of the certificate of occupancy for the venue, if applicable, or 250 persons. For sports played on a field, attendees are limited to 250 persons per field.

13. Enforcement

Guidelines for All Business Sectors and the sector-specific guidelines appear here. The Virginia Department of Health shall have authority to enforce section A of this Order. Any willful violation or refusal, failure, or neglect to comply with this Order, issued pursuant to § 32.1-13 of the Code of Virginia, is punishable as a Class 1 misdemeanor pursuant to § 32.1-27 of the Code of Virginia. The State Health Commissioner may also seek injunctive relief in circuit court for violation of this Order, pursuant to § 32.1-27 of the Code of Virginia. In addition, any agency with regulatory authority over a business listed in section A may enforce this Order as to that business to the extent permitted by law.

B. CONTINUED RESTRICTIONS

1. All Public and Private In-Person Gatherings

All public and private in-person gatherings of more than 250 individuals are prohibited. The presence of more than 250 individuals performing functions of their employment is not a "gathering." A "gathering" includes, but is not limited to, parties, celebrations, or other social events, whether they occur indoors or outdoors.

Individuals may attend religious services subject to the following requirements:

- a. Individuals attending religious services must be at least six feet apart when seated and must practice proper physical distancing at all times. Family members, as defined below, may be seated together.
- b. Mark seating and common areas where attendees may congregate in six-foot increments to maintain physical distancing between persons who are not Family members.
- c. Any items used to distribute food or beverages must be disposable, used only once and discarded.
- d. A thorough cleaning and disinfection of frequently-contacted surfaces must be conducted prior to and following any religious service.
 - e. Post signage at the entrance that states that no one with a fever or symptoms of COVID-19 is permitted to participate in the religious service. **[*2584]**
- f. Post signage to provide public health reminders regarding physical distancing, gatherings, options for high risk individuals, and staying home if sick.
- g. If religious services cannot be conducted in compliance with the above requirements, they must not be held in-person.

Further, any social gathering held in connection with a religious service is subject to the public and private in-person gatherings restriction in section B, paragraph 1. Additional suggested guidance can be found here.

2. Institutions of Higher Education

Institutions of higher education shall comply with all applicable requirements under the Phased Guidance of Virginia Forward and the "Guidelines for All Business Sectors." Any postsecondary provider offering vocational training in a

profession regulated by a Virginia state agency/board must also comply with any sector-specific guidelines relevant to that profession to the extent possible under the regulatory training requirements. Such professions may include, but are not necessarily limited to: aesthetician, barber, cosmetologist, massage therapist, nail technician, and practical nurse.

3. Overnight Summer Camps

Overnight services of summer camps, as defined in § 35.1-1 of the Code of Virginia, must remain closed.

4. Enforcement

Violations of section B paragraphs 1, 2, and 3 of this Order shall be a Class 1 misdemeanor pursuant to § 44-146.17 of the Code of Virginia.

C. CONTINUED GUIDANCE AND DIRECTION

1. Essential Retail Businesses

Essential retail businesses as set out below may continue to remain open during their normal business hours. They should comply with the Guidelines for All Business Sectors expressly incorporated by reference and linked here, as best practices. Employers are required to provide face coverings to employees.

- a. Grocery stores, pharmacies, and other retailers that sell food and beverage products or pharmacy products, including dollar stores, and department stores with grocery or pharmacy operations;
- b. Medical, laboratory, and vision supply retailers;
- c. Electronic retailers that sell or service cell phones, computers, tablets, and other communications technology;
- d. Automotive parts, accessories, and tire retailers as well as automotive repair facilities;
- e. Home improvement, hardware, building material, and building supply retailers;
- f. Lawn and garden equipment retailers;
- g. Beer, wine, and liquor stores;
- h. Retail functions of gas stations and convenience stores;
- i. Retail located within healthcare facilities;
- j. Banks and other financial institutions with retail functions;
- k. Pet and feed stores;
- l. Printing and office supply stores; and

m. Laundromats and dry cleaners.

2. State Agencies

All relevant state agencies shall continue to work with all housing partners to execute strategies to protect the health, safety, and well-being of Virginians experiencing homelessness during this pandemic and to assist Virginians in avoiding evictions or foreclosures.

3. Face Coverings

The waiver of § 18.2-422 of the Code of Virginia is continued, so as to allow the wearing of a medical mask, respirator, or any other protective face covering for the purpose of facilitating the protection of one's personal health in response to the COVID-19 public health emergency declared by the State Health Commissioner on February 7, 2020, and reflected in Amended Executive Order 51 (2020) declaring a state of emergency in the Commonwealth. Amended Executive Order 51 (2020) remains so amended. This waiver is effective as of March 12, 2020 and will remain in effect until 11:59 p.m. on September 8, 2020 unless amended or rescinded by further executive order.

Further, where a mandatory business sector requirement in this Order conflicts with a requirement to wear a face covering in Executive Order 63 and Order of Public Health Emergency Five (2020), the business sector-specific requirement governs.

4. Family Members

"Family members" means blood relations, adopted, step, and foster relations, as well as all individuals residing in the same household. Family members are not required to maintain physical distancing while in their homes.

5. Exceptions

Nothing in the Order shall limit: (a) the provision of health care or medical services; (b) access to essential services for low-income residents, such as food banks; (c) the operations of the media; (d) law enforcement agencies; or (e) the operation of government. **[*2585]**

6. Expiration of Order

Amended Executive Order 65 and Amended Order of Public Health Emergency Six shall expire on Tuesday, June 30, 2020, at 11:59 p.m..

Effective Date of the Executive Order

This Order shall be effective 12:00 a.m., Wednesday, July 1, 2020. This Executive Order 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 and the Seal of the Office of the State Health Commissioner of the Commonwealth of Virginia, this 30th day of June, 2020.

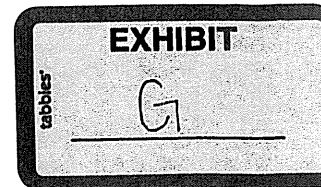
/s/ Ralph S. Northam

Governor

VIRGINIA REGISTER OF REGULATIONS

End of Document

EXHIBIT G



37 Va. Regs. Reg. 1045

Volume 37, Issue 10, January 4, 2021

EXECUTIVE ORDER

Reporter

37 Va. Regs. Reg. 1045 *

*VA - Virginia Register of Regulations > 2021 > January > January 4, 2021 > EXECUTIVE ORDER
> GOVERNOR*

Agency

GOVERNOR

Text

EXECUTIVE ORDER NUMBER SEVENTY-TWO (2020)

and Order of Public Health Emergency Nine Commonsense Surge Restrictions

Certain Temporary Restrictions Due to Novel Coronavirus (COVID-19)

Importance of the Issue

In November, as case counts and positivity rates began to rise, we took additional measures to stem the spread of the virus throughout the Commonwealth. In general, Virginians cooperated with those measures. Unfortunately, the surge that began many weeks ago is continuing across the Commonwealth. All five health regions are experiencing increases in new COVID-19 cases, positive tests, and hospitalizations. Virginia is averaging more than 4,000 new COVID-19 cases per day, up from a statewide peak of approximately 1,200 in May. Virginia's PCR percent test positivity rate is at 11.1 percent, an increase from 6.5 percent approximately one month ago. As of December 10, 2020, all but one health region reported a PCR test positivity rate at or above ten percent. Hospitalizations have increased by approximately 83 percent in the last four weeks. COVID-19 ICU hospitalizations have been increasing for 33 days and the statewide rate (4.4 per 100,000 persons) has exceeded the threshold of concern (3.5 per 100,000 persons) for the rate of confirmed COVID-19 hospitalizations. Since this pandemic began in March, we have learned that socialization with persons outside of your household and sustained activities in indoor settings contribute significantly to the transmission of the virus. Virginians must continue to practice the measures that we know work to stem the spread of the virus: wash your hands, avoid touching your face, avoid gatherings, and wear face coverings both indoors and outdoors. Therefore, additional measures are necessary to protect public health and stem the spread of COVID-19.

Directive

Therefore, by virtue of the authority vested in me by Article V of the Constitution of Virginia, by § 44-146.17 of the Code of Virginia, by any other applicable law, and in furtherance of Amended *Executive Order 51* (2020), 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, the following is ordered:

I. MODIFIED STAY AT HOME ORDER

All individuals in Virginia should remain at their place of residence between the hours of 12:00 a.m. and 5:00 a.m. Individuals may leave their residences for the purposes of:

- a. Obtaining food, beverages, goods, or services as permitted in this Order;
- b. Seeking medical attention, essential social services, governmental services, assistance from law enforcement, or emergency services;
- c. Taking care of other individuals or animals;
- d. Traveling required by court order or to facilitate child custody, visitation, or child care;
- e. Engaging in exercise, provided individuals comply with social distancing requirements;
- f. Traveling to and from one's residence, place of worship, or work;
- g. Traveling to and from an educational institution;
- h. Volunteering with organizations that provide charitable or social services; or
- i. Leaving one's residence due to a reasonable fear for health or safety, at the direction of law enforcement, or at the direction of another government agency.

II. RESTRICTIONS

A. BUSINESS RESTRICTIONS

1. All Businesses

Any business not listed in Section II, subsections A or C below must adhere to the Guidelines for All Business Sectors expressly incorporated by reference herein as best practices. This guidance is located [here](#).

2. Restaurants, Dining Establishments, Food Courts, Breweries, Microbreweries, Distilleries, Wineries, and Tasting Rooms

Restaurants, dining establishments, food courts, breweries, microbreweries, distilleries, wineries, and tasting rooms may continue to operate delivery, take-out, and indoor and outdoor service, provided such businesses comply with the Guidelines for All Business Sectors, and sector-specific guidance for restaurant and beverage services incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

a. No alcoholic beverage shall be sold, consumed, or possessed on premises after 10:00 p.m. in any restaurant, dining establishment, food court, brewery, microbrewery, distillery, winery, or tasting room. Alcoholic beverages may continue to be sold via delivery or take-out after 10:00 p.m., as permitted by existing regulations promulgated by the Virginia Alcoholic Beverage Control Authority.

b. Closure of all dining and congregation areas in restaurants, dining establishments, food courts, breweries, microbreweries, distilleries, wineries, and tasting rooms between the hours of 12:00 a.m. and 5:00 a.m. Restaurants, dining establishments, food courts, breweries, microbreweries, distilleries, wineries, and tasting rooms may continue to offer delivery and take-out services between the hours of 12:00 a.m. and 5:00 a.m. **[*1046]**

c. All parties must be separated by at least six feet, including in the bar area. Tables at which dining parties are seated must be positioned six feet apart from other tables. If tables are not movable, parties must be seated at least six feet apart, including in the bar area.

d. Customers may be provided with self-service options. Facilities must provide hand sanitizer at food lines and require the use of barriers (e.g., gloves or deli paper) when employees or patrons touch common utensils. Food lines must be monitored by trained staff at all times of operation, and serving utensils must be changed hourly.

e. Employees must wear face coverings over their nose and mouth while working at their place of employment.

f. Patrons must wear face coverings, except while eating or drinking.

g. Routine cleaning and disinfection of frequently-contacted surfaces must be conducted every 60 minutes during operation. Tabletops must be cleaned in between patrons.

h. Bar seats and congregating areas of restaurants must be closed to patrons except for through-traffic. Non-bar seating in the bar area (i.e., tables or counter seats that do not line up to a bar or food service area) may be used for customer seating as long as a minimum of six feet is provided between parties at tables.

i. If any such business cannot adhere to these requirements, it must close.

3. Farmers' Markets

Farmers' markets may continue to operate, provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidelines for farmers' markets incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

a. Employees and patrons must maintain at least six feet of physical distancing between individuals who are not Family members, as defined below in section II, subsection D, paragraph 2, at all times. Employees and vendors must, where possible, configure operations to avoid congestion or congregation points.

b. Employees and vendors must wear face coverings over their nose and mouth while working at their place of employment.

- c. Employees and vendors must routinely clean and disinfect frequently-contacted surfaces during operation.
- d. Patrons must wear face coverings over their nose and mouth according to Section III.
- e. Farmers' markets must promote frequent and thorough hand washing, including by providing employees, customers, visitors, the general public, and other persons entering into the place of employment with a place to wash their hands. If soap and running water are not immediately available, provide hand sanitizers.
- f. If any such business cannot adhere to these requirements, it must close.

4. Brick and Mortar Retail Businesses Not Listed in Section II, Subsection C, Paragraph 1 (Non-Essential Retail)

Any brick and mortar retail business not listed in section II, subsection C, paragraph 1 below may continue to operate, provided such business complies with the Guidelines for All Business Sectors and the sector-specific guidance for brick and mortar retail expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. Employees and patrons must maintain at least six feet of physical distancing between individuals who are not Family members, as defined below in section II, subsection D, paragraph 2, at all times.
- b. Employees must wear face coverings over their nose and mouth while working at their place of employment.
- c. Patrons must wear face coverings over their nose and mouth according to Section III.
- d. If any such business cannot adhere to these requirements, it must close.

5. Fitness and Exercise Facilities

Fitness centers, gymnasiums, recreation centers, sports facilities, and exercise facilities may continue to operate indoor and outdoor activities, provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidelines for fitness and exercise facilities expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. Patrons, members, and guests who are not Family members as defined below must remain at least ten feet apart during all activities except where necessary for the physical safety of an individual.
- b. Instructors and all participants of group exercise and fitness classes who are not Family members as defined below must maintain at least ten feet of physical distancing between each other at all times, with the exception of swimming lessons, where parents or guardians may support a participant during class, and instructors may have contact with swimmers when necessary.
- c. Occupancy must be limited to 75 percent of the lowest occupancy load on the certificate of occupancy.

d. The total number of attendees (including both participants and instructors) in all group exercise and fitness classes cannot exceed the lesser of 75 percent of the minimum occupancy load on the certificate of occupancy or 10 persons.

e. Hot tubs, spas, splash pads, spray pools, and interactive play features, except water slides, must be closed.
[*1047]

f. Outdoor and indoor swimming pools may be open, provided occupancy is limited to no more than 75 percent of the lowest occupancy load on the certificate of occupancy and all swimmers maintain at least ten feet of physical distance from others who are not Family members as defined below in section II, subsection D, paragraph 2.

g. Employees working must wear face coverings over their nose and mouth while working at their place of employment. Lifeguards responding to distressed swimmers are exempt from this requirement.

h. Patrons must wear face coverings over their nose and mouth according to Section III.

i. Employers must ensure cleaning and disinfection of shared exercise equipment after each use.

j. Businesses must promote frequent and thorough hand washing, including by providing employees, customers, visitors, the general public, and other persons entering into the place of employment with a place to wash their hands. If soap and running water are not immediately available, provide hand sanitizers.

k. If any such business cannot adhere to these requirements, it must close.

6. Personal Care and Personal Grooming Services Beauty salons, barbershops, spas, massage centers, tanning salons, tattoo shops, and any other location where personal care or personal grooming services are performed may continue to operate, provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidelines for personal care and personal grooming services expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

a. Service providers must maintain at least six feet of physical distancing between work stations.

b. Service providers and employees must wear face coverings over their nose and mouth while working at their place of employment.

c. Provide face coverings for clients or ask that clients bring a face covering with them, which they must wear during the service, except when treating the areas of the nose and mouth.

d. Routine cleaning and disinfection of frequently contacted surfaces must be conducted every 60 minutes of operation. All personal care and personal grooming tools should be cleaned and disinfected after each use. If that is not possible, such items must be discarded.

e. If any such business cannot adhere to these requirements, it must close.

7. Campgrounds

Privately-owned campgrounds as defined in § 35.1-1 of the Code of Virginia may continue to operate provided they comply with the Guidelines for All Business Sectors and the sector-specific guidelines for campgrounds, which are expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. Employees must wear face coverings over their nose and mouth while working at their place of employment.
- b. Patrons must wear face coverings over their nose and mouth in accordance with Section III.
- c. Businesses must promote frequent and thorough hand washing, including by providing employees, customers, visitors, the general public, and other persons entering into the place of employment with a place to wash their hands. If soap and running water are not immediately available, provide hand sanitizers.
- d. If any such business cannot adhere to these requirements, it must close.

8. Indoor Shooting Ranges

Indoor shooting ranges may continue to operate, provided they comply with the following requirements:

- a. Employees and patrons must maintain at least six feet of physical distancing between individuals who are not Family members as defined below in section II, subsection D, paragraph 2 at all times.
- b. Employees must wear face coverings over their nose and mouth while working in their place of employment.
- c. Perform thorough cleaning and disinfection of frequently-contacted surfaces every 60 minutes of operation, while disinfecting all equipment between each customer use and prohibiting the use of equipment that cannot be thoroughly disinfected.
- d. Patrons must wear face coverings over their nose and mouth according to Section III.
- e. If any such indoor shooting range cannot adhere to these requirements, it must close.

9. Public Beaches

All public beaches as defined in § 10.1-705 of the Code of Virginia may remain open to individual and family recreational activity. All such public beaches, must comply with the requirements below.

- a. Require beachgoers to practice physical distancing of at least six feet between each person unless they are with Family members as defined in section II, subsection D, paragraph 2.
- b. Prohibit gatherings of more than 10 people in accordance with section II, subsection B.
- c. Implement and adhere to a cleaning schedule for all high-touch surfaces made of plastic or metal such as benches and railings that includes cleaning at least every two hours between the hours of 9 a.m. and 6 p.m.

[*1048]

- d. Establish, train, and deploy a team to educate and promote compliance with beach rules and refer cases of noncompliance to public safety personnel, if appropriate.
- e. Establish procedures for temporary beach closure or access limitations in the event of overcrowding.
- f. Ensure adequate personal protective equipment for all lifeguards.
- g. Perform a disinfectant-level cleaning of all public restrooms every two hours with an EPA-approved disinfectant by staff or volunteers trained to follow Centers for Disease Control and Prevention (CDC) guidance on cleaning and disinfecting.
- h. For chair and umbrella rental companies, require vendors to set up chairs and umbrellas for customers, maintain at least six feet of distance between groups, and clean equipment between rentals following Environmental Protection Agency and CDC guidelines on cleaning and disinfecting.
- i. Post signage at all public access points to the beaches and other "cluster prone" areas providing health reminders regarding physical distancing, gathering prohibitions, options for high risk individuals, and staying home if sick. Messaging must be specific to location.
- j. Each locality shall provide daily metrics to its local health department to include beach closures, complaint incidents, police reports of violence related to enforcement, and number of reports of noncompliance to be submitted each Monday.
- k. All employees and contract workers must wear a cloth face covering when not able to practice physical distancing following CDC Use of Face Cloth Coverings guidance.
- l. All employees and contract workers must have access to soap and water or hand sanitizer containing at least 60 percent alcohol, and locality should provide best hygiene practices to employees on a regular basis, including washing hands often with soap and water for at least 20 seconds and practicing respiratory etiquette protocols.
- m. Each locality shall require all employees and contract workers to take their temperature before reporting to work and direct such employees not to report to work if they have a fever of over 100.4 degrees, have experienced chills, or have been feverish in the last 72 hours.
- n. Individuals must wear face coverings over their nose and mouth in accordance with Section III.
- o. Follow enhanced workplace safety best practices outlined in the Guidelines for All Business Sectors.

10. Racetracks and Speedways

Outdoor racetracks may remain open for racing events, provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidelines for racetracks expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

- a. The event must be held at locations with the ability to restrict access (i.e., barriers and gating).

- b. All individuals must maintain at least six feet of physical distancing between themselves and other participants who are not Family members as defined below.
- c. Food services must adhere to the sector-specific guidance for restaurant and beverage services and camping areas must adhere to the sector-specific guidance for campgrounds.
- d. The total number of patrons cannot exceed the lesser of 30 percent of the lowest occupancy load on the certificate of occupancy, if applicable, or 250 persons.
- e. Employees must wear face coverings while working in their place of employment.
- f. Patrons must wear face coverings over their nose and mouth in accordance with Section III.
- g. Prohibit gatherings of more than 10 people in accordance with section II, subsection B.

11. Large Outdoor Amusement Parks and Zoos

Large Outdoor Amusement Parks and Zoos are outdoor amusement parks and zoos comprised of at least 25 acres of land that contain one or more permanent amusement exhibits or rides and that host at least 500,000 visitors annually.

- a. Total occupancy for the venue must not exceed 50 percent the combined occupancy load on the certificates of occupancy for all areas of the venue.
- b. Install visible markers for queue lines that separate people by six feet of physical distance.
- c. Create a guest flow plan of modified queue lines into and within the facility. Determine areas likely to become bottlenecks or pinch points and adjust guest flow accordingly.
- d. Patrons must wear face coverings over their nose and mouth in accordance with Section III.
- e. Employees must wear face coverings over their nose and mouth while working at their place of employment.
- f. Venues must promote frequent and thorough hand washing, including by providing employees, customers, visitors, the general public, and other persons with a place to wash their hands. If soap and running water are not immediately available, provide hand sanitizers.
- g. Venues should screen patrons for COVID-19 symptoms prior to admission to the venue. Patrons should be asked if they are currently experiencing fever (100.4 degrees Fahrenheit or higher) or a sense of having a fever, a new cough that cannot be attributed to another health condition, new shortness of breath that cannot be attributed to another health condition, new chills that cannot be attributed to another health condition, a new sore throat that cannot be attributed to another health condition, or new muscle aches that cannot be attributed to another health condition or specific activity (such as physical exercise). Anyone experiencing symptoms should not be permitted in the facility. Screenings should be conducted in accordance with applicable privacy and confidentiality laws and regulations.

h. Any ride, attraction, or theatre at an amusement park that is located indoors, or has queue lines indoors, must remain closed. The amusement park may open indoor restaurants, concessions, gifts shops or retail spaces, and restrooms. On site retail, recreation and fitness, cabins, and food establishments must follow the requirements and guidelines specific to those establishments.

i. All private bookings are limited to 10 people and must comply with Section II, subsection B, paragraph 1.

j. If any such venue cannot adhere to these requirements, it must close.

12. Entertainment and Amusement Businesses

Performing arts venues, concert venues, sports venues, convention centers, expos, movie theaters, museums, aquariums, fairs, carnivals, public and private social clubs, botanical gardens, entertainment centers, historic horse racing facilities, bowling alleys, skating rinks, arcades, trampoline parks, arts and craft facilities, escape rooms, amusement parks and zoos not covered in paragraph 11, and other places of indoor public amusement may open provided such businesses comply with the Guidelines for All Business Sectors and the sector-specific guidelines, which are expressly incorporated by reference herein. Such guidance includes, but is not limited to, the following requirements:

a. The total number of spectators cannot exceed the lesser of 30 percent of the lowest occupancy load on the certificate of occupancy, if applicable, or 250 persons.

b. All private bookings are limited to 10 people and must comply with Section II, subsection B, paragraph 1.

c. No alcoholic beverage shall be sold, consumed, or possessed on premises after 10:00 p.m. Alcoholic beverages may continue to be sold via delivery or take-out after 10:00 p.m., as permitted by existing regulations promulgated by the Virginia Alcoholic Beverage Control Authority.

d. Install visible markers for queue lines that separate people by six feet of physical distance.

e. Create a guest flow plan of modified queue lines into and within the facility. Determine areas likely to become bottlenecks or pinch points and adjust guest flow accordingly.

f. Require ten feet of physical distancing between parties at all establishments with physical activity, singing, or cheering; six feet of physical distancing is required in other venues.

g. If interactive exhibits are in service, post signage to discourage congregating and encourage the use of hand sanitizer. Provide hand sanitizer stations around any interactive exhibits. Discontinue any interactive exhibits that pose a risk for children to place items in their mouths.

h. Practice routine cleaning and disinfection of high contact areas and hard surfaces, including check out stations and payment pads, store entrance push/pull pads, door knobs/handles, dining tables/chairs, light switches, handrails, restrooms, guest lockers, floors, and equipment.

- i. Where possible, install plexiglass barriers in front of commonly used point-of-sale or guest service stations.
- j. Employees are required to wear face coverings over their nose and mouth while working at their place of employment.
- k. Patrons must wear face coverings over their nose and mouth in accordance with Section III.
- l. Businesses must promote frequent and thorough hand washing, including by providing employees, customers, visitors, the general public, and other persons to the entering into place of employment with a place to wash their hands. If soap and running water are not immediately available, provide hand sanitizers.
- m. If any such business cannot adhere to these requirements, it must close.

13. Recreational Sports

Indoor and outdoor recreational sports activities are permitted, provided participants and organizers of recreational sports activities comply with the following requirements:

- a. For sports played indoors, spectators must be limited to 25 persons per field. For sports played outdoors, spectators are limited to two guests per player. The total number of spectators cannot exceed 30 percent of the occupancy load of the certificate of occupancy for the venue.
- b. Races or marathons may have up to 250 participants, provided staggered starts separate runners into groups of 25 or less.
- c. Conduct screening of coaches, officials, staff, and players for COVID-19 symptoms prior to admission to the venue/facility.
- d. Employees must wear face coverings while working in their place of employment.
- e. Spectators must wear face coverings over their nose and mouth at all times.

For more information on how to reduce the risk of COVID-19 exposure and spread associated with indoor and outdoor recreational sports activities, consult the Virginia Department of Health's "Considerations for Recreational Sports" webpage, which can be found here. **[*1050]**

14. Enforcement - Business Restrictions

- a. Guidelines for All Business Sectors and the sector-specific guidelines appear here.
- b. The Virginia Department of Health and the Virginia Alcoholic Beverage Control Authority shall have authority to enforce section II, subsection A of this Order. Any willful violation or refusal, failure, or neglect to comply with this Order, issued pursuant to § 32.1-13 of the Code of Virginia, is punishable as a Class 1 misdemeanor pursuant to § 32.1-27 of the Code of Virginia. The State Health Commissioner may also seek injunctive relief in circuit court for violation of this Order, pursuant to § 32.1-27 of the Code of Virginia.

c. In addition, any agency with regulatory authority over a business listed in section II, subsection A, including but not limited to the Virginia Department of Labor and Industry, pursuant to § 40.1-51.1 of the Code of Virginia, the Department of Professional and Occupational Regulation, pursuant to 18 Va. Admin Code § 41-20-280, and the Virginia Department of Agriculture and Consumer Services, pursuant to § 3.2-5106 of the Code of Virginia, or any other law applicable to these agencies, may enforce this Order as to that business.

B. OTHER RESTRICTIONS

1. All Public and Private In-Person Gatherings

All public and private in-person gatherings of more than 10 individuals who do not live in the same residence are prohibited. A "gathering" includes, but is not limited to, parties, celebrations, or other social events, whether they occur indoors or outdoors. The presence of more than 10 individuals performing functions of their employment or assembled in an educational instructional setting is not a "gathering." The presence of more than 10 individuals in a particular location, such as a park, or retail business is not a "gathering" as long as individuals do not congregate. This restriction does not apply to the gathering of Family members, as defined in section II, subsection D, paragraph 2 living in the same residence.

Subject to the following requirements, this restriction shall not bar individuals from attending religious services or assembling for educational instruction with more than 10 people provided:

- a. Individuals assembled for educational instruction adhere to the applicable physical distancing and sanitization plan and guidelines of the relevant governing body or educational institution;
- b. Individuals attending religious services:
 - i. Practice proper physical distancing at all times.
 - ii. Mark seating and common areas where attendees may congregate in six-foot increments to maintain physical distancing.
 - iii. Ensure that any items used to distribute food or beverages either should be disposable or washed or cleaned between uses between individuals who are not Family members.
 - iv. Conduct routine cleaning and disinfection of frequently-contacted surfaces prior to and following any religious service.
 - v. Post signage at the entrance that states that no one with a fever or symptoms of COVID-19 is permitted to participate in the religious service.
 - vi. Post signage to provide public health reminders regarding physical distancing, gatherings, options for high risk individuals, and staying home if sick.
 - vii. Individuals attending religious services must wear face coverings in accordance with Section III below.

viii. If religious services cannot be conducted in compliance with the above requirements, they must not be held in-person.

Further, any social gathering held in connection with a religious service is subject to the public and private in-person gatherings restriction in Section II, subsection B, paragraph 1. Additional suggested guidance can be found here.

2. Institutions of Higher Education

Institutions of higher education shall comply with all applicable requirements under the Phased Guidance of Virginia Forward and the "Guidelines for All Business Sectors." Any postsecondary provider offering vocational training in a profession regulated by a Virginia state agency/board must also comply with any sector-specific guidelines relevant to that profession to the extent possible under the regulatory training requirements. Such professions may include, but are not necessarily limited to: aesthetician, barber, cosmetologist, massage therapist, nail technician, and practical nurse.

3. Overnight Summer Camps

Overnight services of summer camps, as defined in § 35.1-1 of the Code of Virginia, must remain closed.

4. Enforcement - Other Restrictions

Violations of section II, subsection B, paragraphs 1 and 3 of this Order shall be a Class 1 misdemeanor pursuant to § 44-146.17 of the Code of Virginia. Any law enforcement officer as defined in § 9.1-101 of the Code of Virginia including the Virginia Department of State Police may enforce these restrictions.

C. REQUIREMENTS FOR ESSENTIAL RETAIL BUSINESSES

1. Essential Retail Businesses

Essential retail businesses as set out below may continue to remain open during their normal business hours.

[*1051]

- a. Grocery stores, pharmacies, and other retailers that sell food and beverage products or pharmacy products, including dollar stores, and department stores with grocery or pharmacy operations;
- b. Medical, laboratory, and vision supply retailers;
- c. Electronic retailers that sell or service cell phones, computers, tablets, and other communications technology;
- d. Automotive parts, accessories, and tire retailers as well as automotive repair facilities;
- e. Home improvement, hardware, building material, and building supply retailers;
- f. Lawn and garden equipment retailers;
- g. Beer, wine, and liquor stores;

- h. Retail functions of gas stations and convenience stores;
- i. Retail located within healthcare facilities;
- j. Banks and other financial institutions with retail functions;
- k. Pet and feed stores;
- l. Printing and office supply stores; and
- m. Laundromats and dry cleaners. Essential Retail Businesses must comply with the Guidelines for All Business Sectors expressly incorporated by reference and linked here. Employers are required to provide face coverings to employees. If any such business cannot adhere to these requirements, it must close.

2. Enforcement -- Essential Retail

- a. Guidelines for All Business Sectors and the sector-specific guidelines appear here.
- b. The Virginia Department of Health and the Virginia Alcoholic Beverage Control Authority shall have authority to enforce section II, subsection C of this Order. Any willful violation or refusal, failure, or neglect to comply with this Order, issued pursuant to § 32.1-13 of the Code of Virginia, is punishable as a Class 1 misdemeanor pursuant to § 32.1-27 of the Code of Virginia. The State Health Commissioner may also seek injunctive relief in circuit court for violation of this Order, pursuant to § 32.1-27 of the Code of Virginia.
- c. In addition, any agency with regulatory authority over a business listed in section II, subsection C, including but not limited to the Virginia Department of Labor and Industry, pursuant to § 40.1-51.1 of the Code of Virginia, the Department of Professional and Occupational Regulation, pursuant to 18 Va. Admin Code § 41-20-280, and the Virginia Department of Agriculture and Consumer Services, pursuant to § 3.2-5106 of the Code of Virginia or any other law applicable to these agencies, shall have authority to enforce section II, subsection C of this Order as to that business.

D. CONTINUED GUIDANCE AND DIRECTION

1. State Agencies

All relevant state agencies shall continue to work with all housing partners to execute strategies to protect the health, safety, and well-being of Virginians experiencing homelessness during this pandemic and to assist Virginians in avoiding evictions or foreclosures.

2. Family Members

"Family members" include blood relations, adopted, step, and foster relations, as well as all individuals residing in the same household or visiting such household pursuant to a child custody arrangement or order. Family members are not required to maintain physical distancing while in their homes.

3. Exceptions

With the exception of Section III below, nothing in the Order shall limit:

- a. The provision of health care or medical services;
- b. Access to essential services for low-income residents, such as food banks;
- c. The operations of the media;
- d. Law enforcement agencies; or
- e. The operation of government.

III. REQUIREMENT TO WEAR FACE COVERING

A. Face Coverings Required - Indoors

1. All individuals in the Commonwealth aged five and older must cover their mouth and nose with a face covering, as described and recommended by the CDC, if they are in an indoor setting shared by others. This requirement applies to state and local government settings, train stations, bus stations, and intrastate public transportation, including buses, rideshares, trains, taxis, and cars for hire, as well as any waiting or congregating areas associated with boarding public transportation. This requirement shall not apply in any area under federal jurisdiction or control.
2. This restriction does not apply to persons inside their personal residence.
3. Individuals may remove face coverings to participate in a religious ritual.

B. Face Coverings Required - Outdoors

All individuals in the Commonwealth aged five and older must cover their mouth and nose with a face covering, as described and recommended by the CDC, when outdoors and unable to maintain at least six feet of physical distance from other individuals who are not Family members.

[*1052]

C. Face Coverings Required - Employees

All employees of all businesses listed in section II, subsections A and C shall wear a face covering while working at their place of employment.

D. Face Coverings - Enforcement

1. The Virginia Department of Health shall have authority to enforce section III of this Order. The State Health Commissioner may also seek injunctive relief in circuit court for violation of this Order, pursuant to § 32.1-27 of the Code of Virginia. Any willful violation or refusal, failure, or neglect to comply with this Order, issued pursuant to §

32.1-13 of the Code of Virginia, is punishable as a Class 1 misdemeanor pursuant to § 32.1-27 of the Code of Virginia.

2. In addition, any agency with regulatory authority over a business listed in section III, including but not limited to the Virginia Department of Labor and Industry, pursuant to § 40.1-51.1 of the Code of Virginia, the Department of Professional and Occupational Regulation, pursuant to 18 Va. Admin Code § 41-20-280, the Virginia Department of Agriculture and Consumer Services, pursuant to § 3.2-5106 of the Code of Virginia or any other law applicable to these agencies, shall have authority to enforce section III of this Order as to that business.

3. Violations of section III, subsection A of this Order shall be a Class 1 misdemeanor pursuant to § 44-146.17 of the Code of Virginia and enforceable by the Virginia Alcoholic Beverage Control Authority.

4. No minor shall be subject to criminal penalty for failure to wear a face covering. Adults accompanying minors should use the adult's best judgment with respect to placing face coverings on a minor between the ages of two through four while inside the public areas noted above. Adults accompanying minors age five through 18 shall use reasonable efforts to prompt the minor to wear face coverings while inside the public areas noted above.

5. Medical-grade masks and personal protective equipment should be reserved for medical personnel. The use of cloth face coverings does not replace the need to maintain six feet of physical social distancing, clean and disinfect frequently touched surfaces routinely in all public settings, stay home when sick, and practice frequent handwashing.

E. Face Covering - Exceptions

The requirement to wear a face covering does not apply to the following:

1. While eating or drinking;
2. Individuals exercising or using exercise equipment;
3. Any person who is playing a musical instrument when wearing a mask or face covering would inhibit the playing of the instrument (e.g. wind instrument) so long as at least 10 feet of physical distancing can be maintained from other persons, whether the rehearsal or performance is indoors or outdoors;
4. Any person who has trouble breathing, or is unconscious, incapacitated, or otherwise unable to remove the face covering without assistance;
5. Any person seeking to communicate with the hearing impaired and for which the mouth needs to be visible;
6. When temporary removal of the face covering is necessary to secure government or medical services;
7. Persons with health conditions or disabilities that prohibit wearing a face covering. Nothing in this Order shall require the use of a face covering by any person for whom doing so would be contrary to his or her health or safety because of a medical condition. Adaptations and alternatives for individuals with health conditions or disabilities should be considered whenever possible to increase the feasibility of wearing a mask or to reduce the risk of COVID-19 spreading if it is not possible to wear one.

Any person who declines to wear a face covering because of a medical condition shall not be required to produce or carry medical documentation verifying the stated condition nor shall the person be required to identify the precise underlying medical condition.

F. Face Coverings - Waiver

The waiver of § 18.2-422 of the Code of Virginia is continued, so as to allow the wearing of a medical mask, respirator, or any other protective face covering for the purpose of facilitating the protection of one's personal health in response to the COVID-19 public health emergency declared by the State Health Commissioner on February 7, 2020, and reflected in Amended Executive Order 51 (2020) declaring a state of emergency in the Commonwealth. Amended Executive Order 51 (2020) remains so amended. This waiver is effective as of March 12, 2020 and will remain in effect until 11:59 p.m. on March 12, 2021, unless amended or rescinded by further executive order.

IV. ADDITIONAL PROVISIONS

A. Construction with the Emergency Temporary Standard "Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19"

Where the Emergency Temporary Standard "Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19" adopted by the Safety and Health Codes Board of the Virginia Department of Labor and Industry pursuant to 16 Va. Admin. Code §§ 25-60-20 and 25-60-30 conflicts with requirements and guidelines applicable to businesses in this Order, this Order shall govern.

B. Expiration of Executive Orders

First Amended Executive Order 63, Order of Public Health Emergency Five (2020) and Sixth Amended Executive Order [*1053] 67, Order of Public Health Emergency Seven (2020) will expire at 11:59 p.m., Sunday, December 13, 2020.

Effective Date of this Executive Order

This Order is in furtherance of Amended Executive Order 51 (2020). Further, this Order shall be effective 12:01 a.m., Monday, December 14, 2020, and shall remain in full force and effect until 11:59 p.m., January 31, 2021.

Given under my hand and under the Seal of the Commonwealth of Virginia and the Seal of the Office of the State Health Commissioner of the Commonwealth of Virginia, this 10th day of December, 2020.

/s/ Ralph S. Northam

Governor

VIRGINIA REGISTER OF REGULATIONS

EXHIBIT H



VIRGINIA: IN THE CIRCUIT COURT FOR THE COUNTY OF ARLINGTON

| | | |
|--|---|-----------------|
| ALEXANDRIA CITY SCHOOL BOARD, |) | |
| <i>et al.</i> , |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | Case No. 22-224 |
| |) | |
| GLENN A. YOUNGKIN, Governor of Virginia, |) | |
| |) | |
| Defendant. |) | |

AFFIDAVIT OF COLIN M. GREENE, MD, MPH
ACTING STATE HEALTH COMMISSIONER
FOR THE COMMONWEALTH OF VIRGINIA

I, Dr. Colin M. Greene, declare under penalty of perjury that the following is true and correct, to the best of my knowledge and belief.

1. I currently serve as Acting State Health Commissioner for the Commonwealth of Virginia. I have been in that role since January 15, 2022. Before my appointment as Acting State Health Commissioner, I served as Health Director of the Loud Fairfax Health District. Prior to 2017, I served 30 years on active duty in the US Army, with assignments including Interim Commander of the Walter Reed Army Institute of Research in Silver Spring, Maryland, and numerous clinical, administrative, academic, and public health-related assignments, including deputy commander of the 28th Combat Support Hospital in Iraq. I am a board-certified family physician with 35 years' experience and hold a Master of Public Health from the University of Washington.

2. In my capacity as Acting State Health Commissioner, I advise the Governor, the Virginia Department of Health, and the Virginia Department of Education on the Commonwealth's effort to combat the novel coronavirus known as COVID-19.

3. On January 30, 2020, the World Health Organization declared the outbreak a “public health emergency of international concern.” On January 31, United States Health and Human Services Secretary declared a public health emergency. On February 7, the prior State Health Commissioner declared COVID-19 a Communicable Disease of Public Health Threat for Virginia. On March 12, Governor Northam declared a State of Emergency in the Commonwealth in response to the spread of COVID-19.

4. In 2020, there was no proven treatment or cure for COVID-19 and no vaccine to address COVID-19. As a result, the Governor and the prior Commissioner of Health issued several orders to mitigate the spread of COVID-19 in the Commonwealth.

- On March 13, 2020, the Governor temporarily closed K-12 schools and limited the number of patrons in restaurants, fitness centers, and theaters to no more than 10 per establishment.
- On March 20, the Governor issued Order of Public Health Emergency 1, which amended the Declaration of Public Health Emergency previously issued and made clear that willful violation of the 10-patron limit on restaurants, fitness centers, and gymnasiums was punishable as a class-1 misdemeanor and/or license suspension, and was enforceable by the Health Commissioner in a civil action.
- On March 24, 2020, the Governor issued Executive Order 53, which extended school closures for the remainder of the school year, temporarily prohibited private and public gatherings of 10 or more individuals, and directed certain businesses (such as entertainment venues) to close their doors to the public. Other businesses (for example, restaurants) were required to close all dining and congregation areas but were permitted to engage in takeout and delivery services. Most retail businesses

were also required to adhere to the 10-person limit. Certain essential businesses (such as grocery stores) were permitted to exceed the 10-person limit, but were required to adhere to social distancing recommendations, enhanced sanitizing practices on common surfaces, and other appropriate workplace guidance from state and federal authorities while in operation.

- On March 31, 2020, the Governor issued Executive Order 55, which imposed additional restrictions and extended the duration of the temporary gatherings restriction announced in Executive Order 53. Executive Order 55 directed all Virginians to stay at home except as needed to perform essential tasks.

5. Much has changed since 2020, but many health authorities have not updated their guidance accordingly. For example, effective vaccines are widely available for COVID-19, even for children as young as five years old. Medical providers have identified numerous effective treatments for COVID-19. How COVID-19 spreads and therefore effective mitigation efforts are better understood.

6. A number of variants of the COVID-19 virus have emerged, each with varying levels of contagion and virulence. The most recent variant, Omicron, has in many ways behaved quite differently from previous variants. First, it appeared to spread extremely rapidly in numerous diverse foreign countries and states, showing a relatively consistent pattern of a rapid rise, peak, and fall of cases.¹ Second, in Virginia, Omicron's impact coincided with an up to 20-fold increase in average daily case counts between November 1, 2021 and January 11, 2022, with the highest rates of increase, and highest case rates per capita, in the urban and suburban regions,

¹ <https://www.worldometers.info/coronavirus/>, last accessed January 25, 2022.

with somewhat lower rates of rise in rural areas.² This pattern was striking insofar as the urban and suburban regions in Virginia typically have relatively higher vaccination rates than rural areas³ as well as greater adherence to mitigation techniques, including masking. Finally, despite the rapid and typically all-time record case rates occurring during the Omicron phase, death rate rises have been proportionately much lower when compared with previous variants.^{5,6} These outcomes are consistent with literature describing Omicron as a highly contagious variant that tends to cause less severe disease.⁴ These findings together may be taken to suggest that (1) previously applicable mitigation strategies, including universal masking, may be less effective against Omicron than previous variants, and (2) that the risk of severe disease from Omicron is significantly less than with Delta and its predecessors. It is apparent that the Omicron variant behaves differently from previous variants of COVID-19, and that assumptions tied to those prior variants, including the benefits of universal masking, may need to be re-examined.

7. Children are at very low risk of severe illness due to COVID-19. In Virginia, as of January 27, 2022, there have been recorded 16,088 deaths associated with the disease. Of those, eight were in children aged 0-9, and 10 in persons aged 10-19, so persons under age 20 accounted for 0.1% of total COVID deaths.⁵ Viewed another way, there are approximately 2,134,000 persons in Virginia under age 20,⁶ yielding a 2-year risk of death from COVID-19 for

² <https://www.vdh.virginia.gov/coronavirus/see-the-numbers/covid-19-in-virginia/covid-19-in-virginia-locality/>, last accessed January 11, 2022.

³ <https://www.vdh.virginia.gov/coronavirus/see-the-numbers/covid-19-in-virginia/covid-19-vaccine-summary/>, last accessed January 25, 2022.

⁴ Ulloa et al, Early estimates of SARS-CoV-2 Omicron variant severity based on a matched cohort study, Ontario, Canada, <https://www.medrxiv.org/content/medrxiv/early/2022/01/02/2021.12.24.21268382.full.pdf>, last accessed January 25, 2022.

⁵ <https://www.vdh.virginia.gov/coronavirus/see-the-numbers/covid-19-in-virginia/covid-19-in-virginia-demographics/>, last accessed January 25, 2022.

⁶ <https://censusreporter.org/profiles/04000US51-virginia/>, last accessed January 25, 2022.

that age group of 0.0008%, or about 1/125,000. It is apparent that the risk of death from COVID-19 in children, while not zero, is extremely low.

8. K-12 mask mandates impose strict mitigation measures of questionable effectiveness on the portion of the population that bears the lowest risk from COVID-19.

9. It is true that the virus that causes COVID-19 is extremely contagious. It spreads through close person-to-person contact or by contact with the respiratory droplets produced when an infected person coughs, sneezes or talks. As a result, the CDC has said that universal and correct masking helps mitigate the spread of COVID-19. However, as discussed above, it is not clear that this guidance remains applicable during the Omicron period.

10. There are benefits and costs to mask wearing in the school environment. The benefits may include reduced transmission of the virus. However, masks made of plain cloth, masks that are soiled or poorly fitting, and masks that are not worn properly provide reduced or no benefit. These types of masks are often observed in the school environment.

11. The CDC presently recommends the use of N95 or KN95 masks as the best practice to reduce COVID transmission, but such masks are very tight and uncomfortable, and may be poorly tolerated by children. Most children and most adults are not using N95 or KN95 masks.

12. Masks of any kind may cause discomfort, skin irritation, anxiety, and otherwise impact a child's emotional state. There is concern that children may have difficulty hearing, talking, perceiving emotion, or otherwise communicating, and making social connections when wearing masks.

13. Children with asthma may have trouble breathing in masks. Children with glasses may have trouble seeing as masks fog their glasses.

14. As noted above, during the Omicron outbreak, urban regions in Virginia with more restrictive masking policies and practices have shown similar or greater rates of transmission as rural regions with less restrictive mask policies and practices.

15. There is presently disagreement among health experts regarding the costs and benefits of mask-wearing for children in school. Some countries, such as the United Kingdom, are moving away from mask mandates for children and adults.⁷

16. Notwithstanding the above, there are certain circumstances where VDH recommends masking. First, when a child is at increased risk of severe illness from COVID-19 or lives with individuals at higher risk for severe illness, parents should discuss with their medical providers whether to mask. Second, when a child is returning from isolation due to COVID or was subject to a close contact exposure, VDH guidelines permit return to school but recommend that such children wear a mask on days 6-10. This approach uses masking on a more targeted basis, rather than requiring all students to mask all the time regardless of the circumstances.

17. It should be noted that even under strict masking requirements, children typically do not wear masks in school while eating meals, playing sports, and engaging in other activities where masking is not feasible. They do not wear goggles or face shields to protect their eyes from virus particles. And, of course, children are not required to wear masks outside of school or at home. Additionally, their parents and most other adults are not required to mask while engaging in their daily activities and are thus not masking consistently. For these reasons too, strict masking in school imposes hardship while providing only questionable benefit toward reducing the transmission of COVID-19.

⁷ <https://www.bbc.com/news/uk-60047438>, last accessed January 25, 2022.

18. As to the risk to teachers, they can protect themselves through vaccination, proper masking, good hygiene, such as frequent hand washing, requirements that sick children stay home, and targeted masking requirements for children discussed above. This is true for COVID-19, the flu, or any contagious respiratory disease.

19. It is apparent that, as described above, the Omicron variant appears more contagious, yet less likely to cause severe disease, than previous variants of COVID-19. It spread extremely rapidly through urban populations in Virginia where strict mitigation such as masking is more prevalent. These observations suggest that it is time to re-evaluate the prior assumptions about universal masking that have been previously held.

I, Dr. Colin M. Greene, hereby certify that the foregoing information is true and accurate to the best of my knowledge and belief.

Colin M. Greene
Colin M. Greene, MD, MPH.
Acting State Health Commissioner

COMMONWEALTH OF VIRGINIA
COUNTY/CITY OF Richmond, to-wit:

Subscribed and sworn to before me this 21st day of January, 2022.
My commission expires: 2-28-2022

MaryAnne Wollman
Notary Public / Deputy Clerk
Notary Registration Number: 7372482



EXHIBIT I

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

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.

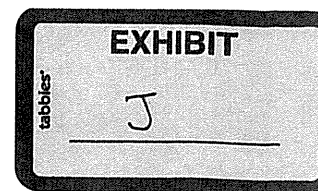
§ 4. The Department of Education shall establish benchmarks for successful virtual learning and guidelines for providing interventions to students who fail to meet such benchmarks and for transitioning such students back to in-person instruction.

§ 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.

EXHIBIT J



37 Va. Regs. Reg. 3373

Volume 37, Issue 21, June 7, 2021

EXECUTIVE ORDER

Reporter

37 Va. Regs. Reg. 3373 *

VA - Virginia Register of Regulations > 2021 > June > June 7, 2021 > EXECUTIVE ORDER > GOVERNOR

Agency

GOVERNOR

Text

EXECUTIVE ORDER NUMBER SEVENTY-EIGHT (2021)

Declaration of a State of Emergency Due to the Shutdown of the Colonial Pipeline

Importance of the Issue

On this date, May 11, 2021, I declare that a state of emergency exists in the Commonwealth of Virginia to prepare and coordinate our response to the voluntary shutdown of the Colonial Pipeline due to a cyber-attack on its business systems' informational technology infrastructure on May 7, 2021. If prolonged, the pipeline closure will result in gasoline supply disruptions to various retailers throughout the Commonwealth, since the pipeline is the primary source of gasoline to many Virginia retailers. While current gasoline reserves in the Commonwealth are sufficient to address immediate supply concerns, a long-term disruption in the pipelines will require transportation of fuel and other oil-derivatives via interstate and state roadways. The anticipated effects of this situation constitute a disaster as described in § 44-146.16 of the Code of Virginia (Code). Therefore, by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia, by §§ 44-146.17 and 44-75.1 of the Code, as Governor and Director of Emergency Management, I proclaim a state of emergency. Accordingly, I direct state and local governments to render appropriate assistance to alleviate any conditions resulting from the situation and to implement recovery and mitigation operations and activities so as to return impacted areas to pre-event conditions as much as possible. Emergency services shall be conducted in accordance with § 44-146.13 et seq. of the Code.

In order to marshal all public resources and appropriate preparedness, response, and recovery measures, I order the following actions:

A. Implementation by state agencies of the Commonwealth of Virginia Emergency Operations Plan, as amended, along with other appropriate state plans.

B. Activation of the Virginia Emergency Operations Center and the Virginia Emergency Support Team, as directed by the State Coordinator of Emergency Management, to coordinate the provision of assistance to state, local, and tribal governments and to facilitate emergency services assignments to other agencies.

C. Authorization for the heads of executive branch agencies, on behalf of their regulatory boards as appropriate, and with the concurrence of their Cabinet Secretary, to waive any state requirement or regulation, and enter into contracts without regard to normal procedures or formalities, and without regard to application or permit fees or royalties. All waivers issued by agencies shall be posted on their websites.

D. Activation of § 59.1-525 et seq. of the Code related to price gouging.

Effective Date of this Executive Order

This Executive Order shall be effective May 11, 2021, and shall remain in full force and in effect until June 10, 2021, unless sooner amended, terminated, or rescinded by further executive order. Termination of this Executive Order is not intended to terminate any federal type benefits granted or to be granted due to injury or death as a result of service under this Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 11th day of May, 2021.

/s/ Ralph S. Northam, Governor

EXECUTIVE ORDER NUMBER SEVENTY-NINE (2021) and Order of Public Health Emergency Ten

Ending of Commonsense Public Health Restrictions Due to Novel Coronavirus (COVID-19)

Importance of the Issue

Since March 2020, Virginians have fought against the spread of COVID-19. We have witnessed service and sacrifice across the Commonwealth from our frontline workers, our students and teachers, our business owners, essential employees, and our families and neighbors. We have lost an astounding number of Virginians to this pandemic, and everyone has lost something. Commonsense public health restrictions have kept many Virginians safe during the last year, and with vaccines now widely available -- over three million Virginians are fully vaccinated and safe from serious illness or death caused by COVID-19 -- it is time to begin our new normal. COVID-19 remains a serious risk to unvaccinated people, and I encourage all Virginians to get their shot as soon as possible. Masks are a critical tool in protecting yourself and others until you are fully vaccinated.

Directive

Therefore, by virtue of the authority vested in me by Article V of the Constitution of Virginia, by § 44-146.17 of the Code of Virginia, by any other applicable law, and in furtherance of Amended Executive Order 51 (2020), 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, the following is ordered:

CONTINUED GUIDANCE ON MASK WEARING

A. Masks -- Indoors and Outdoors

All individuals in the Commonwealth aged five and older should cover their mouth and nose with a mask in accordance with the Center for Disease Control and Protection guidance linked here. If there is a conflict between the sector-specific guidelines and this section, the sector-specific guidelines governs. [*3374]

B. Masks -- Enforcement

1. The Virginia Department of Health shall have authority to enforce this Order. The State Health Commissioner may also seek injunctive relief in circuit court for violation of this Order, pursuant to § 32.1-27 of the Code of Virginia.
2. The Virginia Department of Labor and Industry, pursuant to § 40.1-51.1 of the Code of Virginia, the Department of Professional and Occupational Regulation, pursuant to 18 Va. Admin. Code § 41-20-280, the Virginia Department of Agriculture and Consumer Services, pursuant to § 3.2-5106 of the Code of Virginia or any other law applicable to these agencies, shall have authority to enforce section I of this Order.
3. Medical-grade masks and personal protective equipment should be reserved for medical personnel. The use of cloth masks does not replace the need to maintain the appropriate physical distancing, clean and disinfect frequently touched surfaces routinely in all public settings, stay home when sick, and practice frequent handwashing.

C. Masks -- Exceptions

1. Where required to wear a mask, the requirement does not apply to the following:
 - a. While eating or drinking;
 - b. Individuals exercising or using exercise equipment;
 - c. Any person who is playing a musical instrument when wearing a mask would inhibit the playing of the instrument (e.g. wind or brass instrument) so long as at least ten feet of physical distance can be maintained from other persons, whether the rehearsal or performance is indoors or outdoors;
 - d. Any person who has trouble breathing, or is unconscious, incapacitated, or otherwise unable to remove the mask without assistance;
 - e. Any person seeking to communicate with people who are deaf or hard of hearing and for which the mouth needs to be visible;

f. When temporary removal of the mask is necessary to secure government or medical services;

g. When necessary to participate in a religious ritual; and

h. Persons with health conditions or disabilities that prohibit wearing a mask. Nothing in this Order shall require the use of a mask by any person for whom doing so would be contrary to his or her health or safety because of a medical condition. Adaptations and alternatives for individuals with health conditions or disabilities should be considered whenever possible to increase the feasibility of wearing a mask to reduce the risk of COVID-19 spreading if it is not possible to wear one.

2. Any person who declines to wear a mask because of a medical condition shall not be required to produce or carry medical documentation verifying the stated condition nor shall the person be required to identify the precise underlying medical condition.

D. Masks -- Public and Private K-12 Schools

All students, teachers, staff, and visitors must wear a mask over their nose and mouth while on school property subject to section C.

E. Masks -- Waiver

The waiver of § 18.2-422 of the Code of Virginia is continued, so as to allow the wearing of a medical mask, respirator, or any other protective face covering for the purpose of facilitating the protection of one's personal health in response to the COVID-19 public health emergency declared by the State Health Commissioner on February 7, 2020, and reflected in Amended Executive Order 51 (2020) declaring a state of emergency in the Commonwealth. Amended Executive Order 51 (2020) remains so amended. This waiver is effective as of March 12, 2020 and will remain in effect until 11:59 p.m. on June 30, 2021, unless amended or rescinded by further executive order.

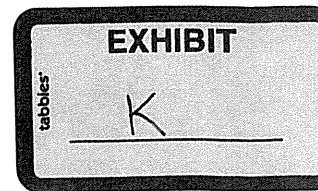
Effective Date of this Executive Order

This Order is in furtherance of Amended Executive Order 51 (2020). Further, this Order terminates Seventh Amended Number Seventy-Two (2021) and Order of Public Health Emergency Nine, shall be effective midnight on May 28, 2021, 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 and the Seal of the Office of the State Health Commissioner of the Commonwealth of Virginia, this 14th day of May, 2021.

/s/ Ralph S. Northam, Governor

EXHIBIT K



2021-22 Return to School Planning

Updated: January 26, 2022

This week there has been a lot of emotion within our school community about mask-wearing. At Tuesday's School Board meeting, I reminded the community that neither those supporting or opposing mask mandates in school wish to harm students and that civility should be observed when advocating on this issue. Loudoun County Public Schools' goal remains the same as when it resumed in-person instruction last April 20 - to keep children learning in-person. The vast majority of our students and families are adhering to the practices set out in the [2021-2022 Mask and Mitigation Plan](#). We will keep you updated each Wednesday as further guidance about mask-wearing evolves.

The communication that went out on Sunday evening reminded the community of several factors that would change if there were not a mask mandate. In that note, we reminded our community that "students who do not wear masks will be quarantined for 10 days if they are deemed a close contact." To clarify this statement, if a student meets the criteria to return to school after the first 5 days of isolation or quarantine, they would do so wearing a well-fitting mask for days 6 through 10. Those who do not wear masks would not be able to return for days 6-10 (for a total of 10 days.) This information aligns with [CDC guidance](#) and was shared as a reminder of why masks are an important strategy for keeping our schools open for in-person learning.

At this time masks are not optional. Mask-wearing helps potential close contacts return to school sooner and remain in-person for learning. Should there be a time when masks become optional, and if the CDC and [VDH](#) guidance remains as currently written, the number of close contacts will likely increase, which may increase the likelihood of an increased number of whole-class quarantines, or the possibility of whole-school transition to distance learning.

LCPS consistently monitors transmission within schools and student and staff absence rates. By shifting central office staff to serve as substitute teachers, we have dedicated as many

people as possible to our students in their classrooms. Currently, LCPS staff capacity is at a critical level as LCPS experiences higher than normal staff absences due to COVID-19.

Finally, a reminder that **mask-wearing on buses is required** by a federal Order, which governs public conveyances including school buses.

The 2021-2022 Mask and Mitigation Plan is available on the website. We will continue to keep our families and community informed of any future changes.

Scott A. Ziegler, Ed.D.
Superintendent

Updated: Wednesday, January 19, 2022

Dear School Community,

The Loudoun County School Board voted Tuesday night to support the superintendent's recommendation to continue the current mitigation efforts, including the mask mandate within LCPS.

LCPS students and staff wear masks as part of a layered strategy to help prevent COVID-19 transmission. The General Assembly adopted Chapter 456 (often referred to as SB1303) on March 30, 2021, directing school boards to offer and prioritize in-person instruction. It also requires school boards to adhere to mitigation procedures, like mask-wearing, to the extent practicable as recommended by the Centers for Disease Control (CDC). In order to comply with this legislation, masks must be worn by students, staff and visitors in LCPS facilities. Federal law requires the use of masks while on school buses.

We acknowledge that these ongoing mitigation measures are not ideal or easy, and we will keep monitoring transmission data, advice from the Virginia Department of Health (VDH), and continue consultation with the local Loudoun County Health Department.

Update on Student-Athlete Vaccine and Testing Requirements

LCPS has removed the student-athlete testing requirement for the remainder of the 2021-2022 school year. LCPS continues to recommend all eligible students, including student-athletes, receive the COVID-19 vaccine and recommended boosters.

Update on Staff Vaccine and Testing Requirements

At this time, LCPS will indefinitely suspend staff testing and vaccine mandates. LCPS employees who are not fully vaccinated will no longer be required to submit weekly COVID-19 test results. LCPS continues to recommend all eligible staff receive the COVID-19 vaccine and recommended boosters.

LCPS reminds anyone who has not received their vaccination that they can make an appointment to be vaccinated. Boosters are now recommended for everyone 12 and older. This is especially important with the spread of the Omicron variant. For additional information about COVID-19 vaccination, visit Loudoun County's [COVID-19 Vaccine page](#).

Masks Available for LCPS Staff

In addition to cloth and disposable face coverings, N95 masks are available to all staff through the Environmental Health and Safety Office. More information will be provided to staff.

The [Frequently Asked Questions](#) document posted on the LCPS website has been updated to reflect these updates.

Thank you for your continued support and patience.

Scott A. Ziegler, Ed.D.
Superintendent

*Updated: Thursday, January 13, 2022
(in **bold** below)*

Dear Loudoun County Community,

We began 2022 with rapidly changing guidance on how to best manage a pandemic that we wish would just go away. I realize these changes create confusion at a time when we need hope and comfort. LCPS will continue to work closely with the Loudoun County Health Department to interpret updates from the Centers for Disease Control and Prevention (CDC) and Virginia Department of Health (VDH) in an effort to keep our school community safe.

At last night's School Board meeting, I announced that LCPS will communicate any COVID-related information on Wednesdays with necessary adjustments implemented on the following Monday. While I do not anticipate sending news every Wednesday, our intention is to monitor and analyze any updated guidance from the CDC and VDH, develop a plan for implementation and communicate any changes on Wednesdays.

Many have asked why our schools remain open for in-person instruction when the community spread rate in Loudoun County is so high. The Virginia General Assembly passed Chapter 456 on March 30, 2021. This legislation requires school divisions across the Commonwealth to deliver five days of in-person instruction during the 2021-2022 school year. While the law allows for LCPS, in consultation with the Loudoun County Health Department, to pause in-person instruction due to COVID-19, these pauses must be temporary and limited.

Since school started in September, LCPS has paused in-person instruction at the classroom level in limited instances to help stop the spread of COVID-19. Fortunately, adherence to our layered mitigation approach has helped the vast majority of our students remain in their classrooms with their fellow students.

The CDC and VDH have instituted new guidelines on quarantine and isolation. LCPS Frequently Asked Questions (FAQs) addressing inquiries about masks, returning to school after isolating, and mitigation measures being implemented throughout our school have been posted on the [LCPS website](#).

LCPS has also developed [new charts](#) to help families understand information for quarantine or isolation. Families and staff are encouraged to refer to these charts to help determine when it is appropriate to return to school or work. For more detailed information [visit the VDH](#).

LCPS wants to remind anyone who has not received their vaccination that they can make an appointment to be vaccinated. **Boosters are now also recommended for everyone 12 and older.**

This is especially important with the spread of the Omicron variant. For additional information about COVID-19 vaccination, visit Loudoun County's [COVID-19 Vaccine page](#).

Thank you to our entire community as we continue to work together to keep our students and staff safe in the New Year.

Best wishes,
Scott A. Ziegler, Ed.D.
Superintendent

Update: Monday, January 3, 2022

Dear Loudoun County Community,

I want to provide you with an update on the school division's response to the updated Centers for Disease Control and Prevention (CDC) guidance and the impact of COVID-19 on our community.

Effective immediately, LCPS will adopt the CDC and Virginia Department of Health (VDH) recommendations to shorten the required isolation and quarantine periods. The updated guidance also updates the definition of close contact requiring at home quarantine to include fully vaccinated individuals who are eligible for a vaccine booster but have not yet received one. The CDC guidelines are the result of new scientific evidence that most COVID-19 transmission generally occurs one to two days before the onset of symptoms and two to three days after ([CDC Media Statement](#), 27 December 2021).

The new CDC guidance requires people who test positive for COVID-19 to isolate for at least five days. They may return to school or work after five days if they are asymptomatic or have not had a fever in 24 hours without fever-reducing medication. Individuals must wear a well-fitting mask for the five days following isolation to minimize the risk of infecting others. Individuals experiencing symptoms of COVID-19 must isolate for at least 5 days from the onset of

symptoms or following a positive test result and until symptoms subside. Following the isolation period, individuals must wear a well-fitting mask for five days.

LCPS will institute a five-day quarantine for **all individuals** identified as close contacts, regardless of vaccination status. Individuals identified as close contacts who are asymptomatic and submit proof of one of the following may be readmitted to school or work immediately:

- A vaccine booster,
- Two shots of the Pfizer or Moderna vaccine within the last six months, or
- One shot of the Johnson & Johnson vaccine within the last two months.

LCPS has created [this flowchart](#) to illustrate the quarantine and isolation procedures for students and staff.

Masks are still required. Anyone who enters an LCPS school building, regardless of vaccination status, must wear a face covering until further notice while students are present. Visit [LCPS FAQ about Masks and Mitigations in School](#).

LCPS wants to remind anyone who has not received their vaccination to make an appointment to be vaccinated. This is especially important with the spread of the Omicron variant. LCPS will host several walk-in [COVID-19 vaccine events](#) in coordination with the Loudoun County Health Department and Giant Pharmacy. First and second Pfizer doses are available for anyone age five and older. Only Pfizer boosters will be available for those who are 16 and older.

According to [the CDC](#), current vaccines are expected to protect against severe illness, hospitalizations and deaths due to infection with the Omicron variant. Boosters are now also recommended for everyone 16 and older. For additional information about COVID-19 vaccination, visit Loudoun County's [COVID-19 Vaccine page](#).

We hope this updated guidance will support families and staff as we return to school. We wish everyone a safe and healthy new year.

Best wishes,

Scott A. Ziegler, Ed.D.
Superintendent

Update: Thursday, December 30, 2021

Dear LCPS Community and Staff,

Loudoun County Public Schools wants you to know what we'll be doing to keep students and staff safe as we return to in-person learning on Monday, January 3, 2022. We understand that these times can feel uncertain, but by working together, we can continue to provide a safe learning and work environment.

LCPS is committed to in-person learning. There are no plans to extend winter break or switch to online instruction. As our practice has been for the entire year, we make decisions related to virtual learning primarily on classroom and school data. This data can change rapidly and families must be prepared in the event that their child's class or school moves temporarily to virtual learning. Thus far, the mitigation protocols have served the division well in keeping transmission to a minimum.

LCPS has multiple layers of protection to mitigate COVID-19 transmission in schools, including universal masking, enhanced cleaning and disinfecting, physical distancing (to the extent possible), contact tracing and requiring that students and staff stay home when sick.

Children have far less risk from COVID-19 infection than adults, but there is still risk to some children, especially those with underlying medical conditions. With the uncertainty of long-term effects of infection with COVID-19, the advent of the Delta and Omicron variants and the potential for other variants to arise in the future, it is necessary to have mitigation strategies in place.

Quarantine Guidance

LCPS is aware of the most-recent Centers for Disease Control (CDC) guidance that modifies the recommended quarantine and isolation guidance from 10 to five days. LCPS will continue to work with the Loudoun County Health Department to monitor any changes in the guidance. LCPS will continue to follow our [existing guidelines](#) regarding returning to school or work after being identified as a close contact. Keeping current practices in place will allow us to monitor

and react to any surge in cases following the winter break. If the data remains favorable, LCPS will implement the new guidance, but not before January 17, 2022.

Fully vaccinated students and staff do not need to quarantine unless they are symptomatic or test positive.

Vaccines Recommended for Ages 5+ and Boosters for 16 and Older

LCPS wants to remind anyone who has not received their vaccination to make an appointment to be vaccinated. This is especially important with the spread of the Omicron variant. LCPS will host several walk-in COVID-19 vaccine events in coordination with the Loudoun County Health Department and Giant Pharmacy. First and second Pfizer doses are available for anyone age five and older. Pfizer boosters will be available for those who are 16 and older. The Moderna or Janssen vaccine will not be available at this event.

According to the CDC, current vaccines are expected to protect against severe illness, hospitalizations and deaths due to infection with the Omicron variant. Boosters are now also recommended for everyone 16 and older. For additional information about COVID-19 vaccination, visit Loudoun County's COVID-19 Vaccine page.

Test-to-Stay

LCPS is closely monitoring the Virginia Department of Health's test-to-stay pilot program. If this program proves to be effective, LCPS will implement the program, but not before January 17, 2022. This date will give LCPS time to evaluate the expected surge in COVID-19 cases associated with winter break and its impact on the school division's operations.

LCPS is part of the Virginia School Screening Testing for Assurance (ViSSTA) program administered through a partnership between the Commonwealth and LCPS. The LCPS divisions of Human Resources and Talent Development and Business and Financial Services continue to work with our partners in state government to get the program up and running. We anticipate COVID tests will be available to students and staff at designated school testing sites throughout the county beginning in mid-January.

LCPS anticipates full implementation of the ViSSTA program no later than February 1, 2022.

Activities Beyond School

Many of the cases of COVID-19 that have affected LCPS students and staff have their origin in out-of-school activities, such as travel sports, travel and social gatherings. When participating in activities outside of school, LCPS requests students, staff, and their families observe as many of the COVID-19 protocols – masking, social distancing, frequent hand washing, and isolating when sick – as are practically possible. We ask families to help ensure a healthy, safe return to learn by being vigilant beyond the school environment and taking precautions that protect against the transmission of COVID.

Visit the [website to see our mitigation measures](#).

Sincerely,

Scott A. Ziegler, Ed.D.
Superintendent

Update: November 3, 2021

Dear LCPS Community and Staff,

Below find important information on the temporary suspension of screening testing requirements for student-athletes and staff; an update on the reduction in the length of quarantines; updates on vaccination approval and appointments for ages 5 - 11; and, vaccine reminders.

UPDATE ON STUDENT-ATHLETE AND STAFF VACCINES

LCPS announces the suspension of screening testing requirements for non-vaccinated student-athletes and staff indefinitely while we continue to work with the state's Virginia School Screening Testing for Assurance (ViSSTA) program for testing services. We had previously announced the extension of the deadline to later this month.

We have enrolled in the state's Virginia School Screening Testing for Assurance (ViSSTA) program and been paired with a testing vendor, which prioritizes diagnostic take-home tests, staffing and processing over screening tests. While we are providing diagnostic tests on demand for students that are symptomatic or identified as close contacts through this program, the rollout for screening tests is incomplete, largely due to ViSSTA program's high demand for staffing.

We will continue to monitor the progress of the ViSSTA and other screening testing programs, and keep the community informed of any updates for testing requirements for non-vaccinated student-athletes and staff.

QUARANTINE REDUCED TO 7 DAYS WITH NEGATIVE TEST

LCPS announces that beginning on Monday, November 8, 2021, students and staff that are identified as close contacts of someone diagnosed with COVID-19 may return to school **after 7 days** if they provide a **negative COVID-19 test performed on or after day 5** following exposure and do not have any symptoms. Those who can provide documentation of having COVID-19 in the past three months or have been fully vaccinated for COVID-19 are not required to quarantine as long as they do not have symptoms. Close contacts should still monitor for symptoms through day 14 and seek testing immediately if they develop any symptoms. Day 0 is the last day of exposure to the person with COVID-19. Antigen, PCR, or verifiable, proctored home tests are all acceptable.

If a student or staff member lives with someone with COVID-19 and is not fully vaccinated or recently recovered, they should begin quarantine after the last sick member of their household ends their 10 day isolation.

If household members are able to be completely separate from the sick person, they should begin quarantine after their last contact with the sick person. Complete separation means having no contact, spending no time together in shared spaces, staying in a separate bedroom, and using a separate bathroom.

LCPS has take-home diagnostic COVID-19 tests available to students and staff that are symptomatic at school or identified as a close contact at school. Test kits are available from the school health office as supplies last. Families and staff may also provide test results from an outside medical provider. Take-home tests are provided through the Virginia School Screening

Testing for Assurance (ViSSTA) program and are proctored through the ViSSTA vendor. Unproctored tests will not be accepted.

For more information on quarantine: <https://www.vdh.virginia.gov/coronavirus/protect-yourself/local-exposure>

VACCINE NOW RECOMMENDED FOR AGES 5 - 11

CDC and VDH Approval for Children 5-11. This week, the Centers for Disease Control and Prevention (CDC) recommended Pfizer COVID-19 vaccination for all children 5 to 11 years of age. This vaccine contains the same active ingredients as the Pfizer vaccine already administered to millions of Americans, but at a lower dose. In addition, the Virginia Department of Health (VDH) has announced that local health districts may begin offering vaccination appointments to parents and guardians of children ages 5 to 11 years old this week.

Schedule an Appointment Early. On Thursday, November 4, at 9:00 a.m., those interested in having their children vaccinated at the County's Dulles Town Center site can begin scheduling appointments online at: <https://guest.vams.cdc.gov/?jurisdiction=LD>.

The first available appointments for this age group will be between 9:30 a.m. and 4:00 p.m. on November 5. When scheduling your 5 to 11-year-old child, you must select the clinic named: "Ages 5-11 COVID-19 Vaccinations – Loudoun." Please note that appointments made in the 12-and-up clinic will not be honored for the younger age group.

In addition to the initial appointments for 5 to 11-year-olds on Friday, more appointments will become available on Saturday, November 6 between 9:30 a.m. and 4:00 p.m., and during the weeks that follow on the days that the Dulles Town Center site is open for vaccination.

The Health Department also expects that many local pharmacies and medical offices will begin offering COVID-19 vaccine for children ages 5 to 11 years in the coming week. You may check with your pediatrician's office or visit www.vaccines.gov to find other vaccine providers in the community.

As with other medical visits, vaccine appointments are an excused absence.

Demand Expected to be High. The Virginia Department of Health encourages parents to get their children vaccinated as soon as possible. Demand for vaccinations of this age group is expected to be high and vaccine supplies may be limited initially. As a result, appointments may be taken quickly. Keep checking the online appointment system as more appointments will be added to the system as vaccine supplies increase throughout November.

Have a Question? For additional information about COVID-19 vaccination, visit www.loudoun.gov/covid19vaccine. Anyone with questions may call the Health Department's information line at 703-737-8300, or send an email to health@loudoun.gov.

REMINDER OF COVID VACCINES

Reminder: While many of our 12-17 year-olds have received COVID-19 vaccinations, with cold weather coming and indoor sports starting, we want to remind anyone who has not received a vaccination yet to make their appointment. Our transmission and rates of COVID-19 remain low and we want to help them stay low. For additional information about COVID-19 vaccination, visit <https://www.loudoun.gov/5485/COVID-19-Vaccine>.

Thank you for your attention to this.

Scott A. Ziegler, Ed.D.
Superintendent

Update: September 17, 2021

LCPS Quarantine Period Lowered to 10 Days

Loudoun County Public Schools (LCPS) Superintendent Dr. Scott A. Ziegler announced on Friday, September 17, that the quarantine period for unvaccinated or partially vaccinated students exposed to COVID-19 in school will be lowered from 14 to 10 days.

Since the 2021-22 school year began on August 26, there have been 59 student COVID-19 cases reported out of a student population of 81,569. This translates to a rate of .0072, or .07% of

students. A total of 259 students or .32% (a rate of .0032) have been quarantined as a close contact to an individual confirmed to have COVID-19.*

“Based on the extremely low number of student cases, we will continue to follow the Virginia Department of Health guidance, which allows for shorter quarantine durations as acceptable alternatives in K12 schools to allow prioritization of school attendance,” said Ziegler. “For a lot of children and their families, quarantining for 14 days is a hardship, economically and in regard to their mental health. This is especially true in grades kindergarten through six, where students are not yet eligible to be vaccinated.” At Tuesday’s meeting of the Loudoun County School Board, Ziegler said the school division could eventually move to seven days of quarantine with proof of a negative test after day five if the data supports this shift.

With the change announced Friday, students who are currently quarantined for 14 days may return on the 11th day if they have no symptoms and have not tested positive.

Students who are fully vaccinated and have no COVID-19 symptoms will not need to quarantine. However, unvaccinated and partially vaccinated students who are identified as a close contact of a person infected with COVID-19 will need to quarantine for 10 days. LCPS will continue to work closely with the Loudoun County Health Department and follow guidelines from the Centers for Disease Control (CDC) and Virginia Department of Health (VDH) as they are provided. LCPS will continue to review transmission data to consider additional guidance regarding reduced quarantine periods with negative COVID-19 tests.

For more information about who needs to quarantine or isolate, view the [Quarantine Isolate Flow Chart](#).

*Data as of September 16, 2021

Update: August 12, 2021

Last week, I sent you information about masking expectations that will be in place for students as they return to school on Thursday, August 26. You can view a short [video](#) that summarizes its

key points.

Today, the State health Commissioner issued an Order of Public Health Emergency with a statewide requirement to wear masks in K-12 Schools. The State Health Commissioner, pursuant to §§ 32.1-13 and 32.1-20 of the Code of Virginia, issued this Order finding that a public health emergency due to COVID-19 continues to exist, and requiring all individuals aged two and older to wear masks when indoors at public and private K-12 schools in order to inhibit spread of the virus, as recommended and described by the CDC.

Today, I also wanted to respond to many of your questions about specific details surrounding face-coverings in schools.

First, masks will be required for students who are waiting in line or participating in direct physical education instruction, but they will not be required when students are participating in physical education activity. Physical Education teachers will prioritize activities that allow for physical distancing when PE is held indoors.

Secondly, students are permitted to remove masks for eating and drinking in our cafeterias. They will, however, be expected to wear masks while entering and exiting the cafeteria, waiting in lines or socializing.

We have had many questions about masks for meetings, visitors and staff in our administrative facilities. Face coverings are required in all LCPS facilities when shared in areas of the buildings, including but not limited to break rooms, kitchens, restrooms, hallways, stairwells, lobbies and meeting rooms. They are also required while in personal work spaces, except when in a room, office, or cubicle with walls 7' or higher, with the door closed.

All students, staff, and visitors are expected to comply with LCPS mask requirements, including those who are participating in non-LCPS activities conducted in school buildings. Examples include and are not limited to after-school childcare activities and community youth recreation events hosted during evenings/weekends as well as church, civic group or other community events or meetings.

Please know that we continue to monitor the ongoing changes in guidance from the State and the CDC and will be collecting data (student-to-student transmission, student-to-staff

transmission, staff-to-staff transmission, quarantines, student absences and staff sick days) to report to the community and inform future decisions about mitigation measures. Additionally, we will reinstate our use of thermal cameras at schools where they are installed.

Superintendent's Update on Masks for Start of 2021-22 School Year

FROM LCPS-TV

02:09



Introduction

UPDATE: August 2, 2021, Loudoun County Public Schools (LCPS) will require students and staff to wear masks for indoor activities at the beginning of the 2021-22 school year.

School starts on Thursday, August 26.

While this action conforms with Chapter 456 of the Code of Virginia (formerly Senate Bill 1303), which requires schools to open for in-person instruction this fall, maximizing the opportunity for students to continue to learn in a safe, consistent in-person learning environment is an LCPS priority for the 2021-2022 school year. Chapter 456 passed during a special session of the Virginia General Assembly on March 30, 2021 directing that Virginia's school divisions open for

in-person instruction and adhere to federal Centers for Disease Control and Prevention (CDC) guidance related to COVID-19.

“We know students and families have been waiting for news on mask-wearing and other mitigation measures in LCPS schools this fall,” stated Dr. Scott A. Ziegler, superintendent. “We have been closely monitoring information from the CDC, the Virginia Department of Health, and our own county’s transmission rates to make the most informed decision possible. With the mandate of 456 (formerly SB1303) to maximize in-person learning and to follow CDC guidance it was important to have the most updated information possible to inform our return to school this fall.”

On July 27, the CDC recommended that everyone in K through 12 schools wear a mask indoors, including teachers, staff, students and visitors, regardless of their vaccination status. Read more about [CDC guidance](#).

“We realize that our desire for in-person learning is currently being challenged by rising community risk in Loudoun County and the potential impact of the Delta variant on students and our community and we will continue to monitor developing conditions and data,” Ziegler stated. “Mask wearing will minimize the need for quarantining, helping us keep students in the classroom.”

What this means for LCPS students and staff is:

- All students and staff will be required to wear face coverings at the start of the 2021-22 school year, regardless of their vaccination status. This decision aligns with recommendations by the CDC, the American Academy of Pediatrics and the Loudoun County Health Department. According to the Loudoun County Health Department, 239,955 Loudoun residents (58 percent) are vaccinated. During the past month, the number of new cases of COVID-19 have increased significantly in Loudoun County, Virginia and throughout the United States, fueled by the coronavirus Delta variant. The Loudoun County Health Department strongly recommends that everyone aged 12 years and older get a COVID-19 vaccine as soon as possible. Vaccines are free for everyone and widely available. Visit [this site](#) to schedule a vaccination.
- Masks will be provided to LCPS students and staff who do not have them.

- If a student with COVID-19 is within 3 to 6 feet of other students, the other students will not be considered “close contacts” if all the students are wearing masks. This will help reduce the need for quarantine and keep students in school.
- Students will be required to wear masks on school buses. This follows LCPS’ practice for students participating in summer school and the CDC’s requirements for public transportation.
- Students will not be required to wear masks during recess, PE or other outdoor recreational/extra-curricular activities
- For indoor team practices and games, participants will wear masks while on the sidelines, but may remove them during play.
- Schools will be open at 100 percent capacity for five-day-a-week learning for all students on August 26.

The safety and health of students and staff is a primary focus of Loudoun County Public Schools. Masking regulations could change if directives from local, state and national health agencies make it advisable.

Visit [ReturnToSchool2021](#).

Last Modified on Wednesday at 4:50 PM

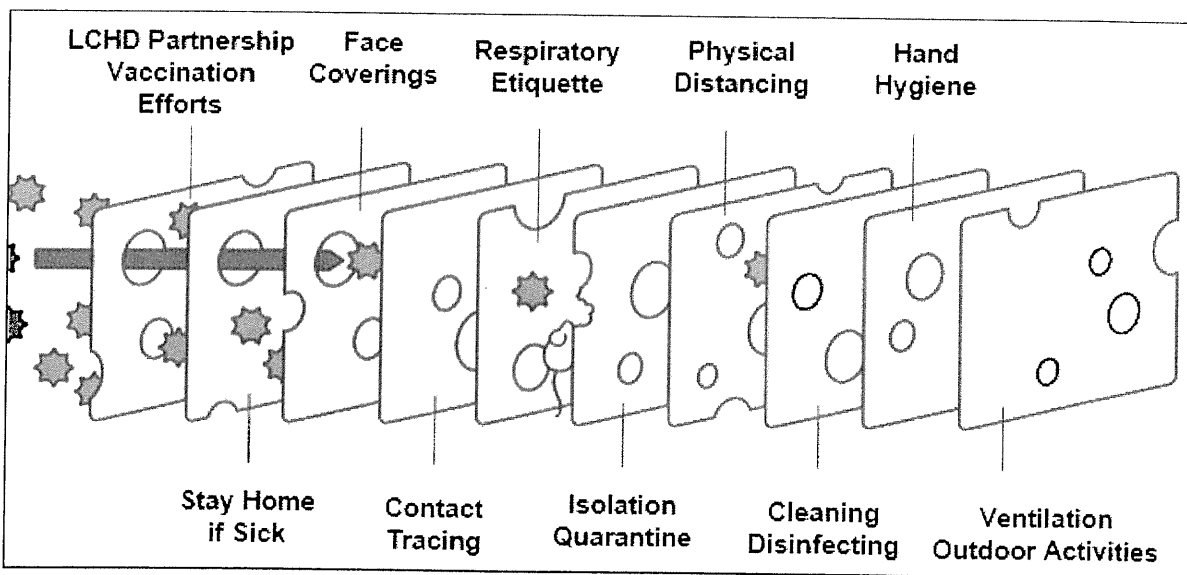
EXHIBIT L

2021-22 LCPS Multiple Layers to Mitigate COVID-19 Transmission in Schools

LCPS will follow the State Health Commissioner Order of Public Health Emergency Statewide Requirement to Wear Masks in K-12 Schools, issued August 12, 2021. LCPS continues to monitor and follow guidance for COVID-19 prevention as provided by the Centers for Disease Control and Prevention (CDC), the Virginia Department of Health (VDH), the Loudoun County Health Department (LCHD), the Virginia Department of Education (VDOE), related Orders and legislation such as Chapter 456. Chapter 456 passed during a special session of the Virginia General Assembly on March 30, 2021. This state mandate directs Virginia’s school divisions open for in-person instruction and to adhere to CDC guidance related to COVID-19.

Given new evidence on the Delta variant, the CDC has updated the guidance for fully vaccinated people. CDC recommends universal indoor masking for all teachers, staff, students, and visitors in K-12 schools regardless of vaccination status.

As illustrated below, multiple layers of protection are used to mitigate the spread of COVID-19 within our schools and offices. The swiss cheese metaphor is used to illustrate that no single strategy is perfect, and when the holes align like slices of swiss cheese, the risk of infection increases. LCPS will continue to work closely with the LCHD and implement strategies such as promoting LCHD vaccination events, promoting staying home if sick, respiratory etiquette, hand hygiene, physical distancing to the extent possible, mask use, enhanced cleaning and disinfecting, contact tracing, and isolation and quarantine to significantly reduce the risk of COVID-19 transmission.



The New York Times - Photo Credit

FACE COVERINGS (MASKS)

Regardless of vaccination status, all employees, visitors, volunteers, parents/guardians, and students older than 2 years of age are required to wear a mask at all times, except as referenced

below in the “Periodic Breaks” and “Exceptions” sections. This includes while in the LCPS school buildings, at school activities, and while entering, exiting, and riding the school bus.

Students and staff must wear masks while inside LCPS schools at all times even if three feet of separation is maintained. According to the CDC, COVID-19 can be spread by people who do not have symptoms and do not know that they are infected. Wearing a mask in addition to physical distancing and other mitigation strategies illustrated above helps reduce the risk of transmission.

Facilities and Administrative Spaces

Face coverings are required in all LCPS facilities when shared in areas of the buildings, including but not limited to break rooms, kitchens, restrooms, hallways, stairwells, lobbies and meeting rooms. They are also required while in personal work spaces, except when in a room, office, or cubicle with walls 7’ or higher, with the door closed. Face coverings may be removed while actively eating or drinking.

Community Use/Activities in LCPS Facilities

All students, staff, and visitors are expected to comply with LCPS mask requirements, including those who are participating in non-LCPS activities conducted in school buildings. Examples include and are not limited to after-school childcare activities and community youth recreation events hosted during evenings/weekends as well as church, civic group or other community events or meetings.

Periodic Mask Breaks

Students at all grade levels may remove their masks when outside, eating, or participating in physical education as listed below in the “Exceptions” section. School teams will coordinate times when a “mask break” can be safely implemented while maintaining at least 3 feet of physical separation between students when possible.

Exceptions

Exceptions to this requirement will be made in accordance with the CDC and the [VDH](#) recommendations regarding masks. Students and staff will not be required to wear a mask in the following circumstances:

- while eating or drinking,
 - Students may remove masks only while eating or drinking. Students will wear a mask while entering and exiting the cafeteria, waiting in lines, socializing or otherwise not eating or drinking.
- during recess, physical education (PE), or other outdoor extra-curricular activities
 - Students must wear a mask while in indoor PE classes, but may remove them while participating in physical education activity. In PE, masks will be worn while waiting in line, participating in direct instruction or otherwise not engaged in physical activity.
 - PE teachers will prioritize activities that allow for physical distancing indoors to the greatest extent possible.
 - For team practices and games indoors, participants will wear masks while on the sidelines but may remove them during play.
- when receiving medical attention,

- while communicating with people who are hearing impaired for which the mouth needs to be visible.

IEP teams may not require documentation from a medical professional for students with disabilities who are known to need support related to sensory processing disorders as these students may have challenges wearing a mask.

Proper Wear

Disposable or cloth face coverings are to be worn properly to comply with this requirement. The mask must cover the nose and mouth and be secured under the chin. It should fit snugly against the sides of the face with little to no gaps. Masks with clear panels are permitted provided they cover both the nose and mouth and fit snugly against the sides of the face with little to no gaps. The CDC does not recommend the use of masks or cloth masks for source control if they have an exhalation valve or vent. Masks with one-way valves or vents allow exhaled air to be expelled out through holes in the material. This can allow exhaled respiratory droplets to reach others and potentially spread the COVID-19 virus. Face coverings with an exhalation valve or vent should not be worn as the CDC does not recommend using this type. If gaiters are worn, they should have two layers of fabric or be folded to make two layers.

LCPS Issued Masks

Students are expected to supply their own mask to comply with this expectation. LCPS has purchased masks for students who may not have one due to financial difficulties or other concerns. School staff (health office staff or school administration) will provide a mask to any student that does not have one. Parents/guardians are asked to ensure their student wears a mask to, from and during school as recommended by the CDC and VDH as required by LCPS. Emblems, words, or pictures on the face covering must comply with the Student Code of Conduct and Policy 8270 Student Dress Code.

Enforcement

Students who are not wearing a mask will be directed to comply with the requirement and the Order of Public Health Emergency Statewide Requirement to Wear Masks in K-12 Schools. If they do not have a mask, one will be provided to them. If a student refuses to comply, staff will meet with the student and contact the parent/guardian to discuss and identify the reason the student refuses to comply. If non-compliance is related to medical or financial need, the school-based team will develop a plan of action to support the student's compliance with the requirement. If the student continues to not wear a mask after the school-based team has met to support the student's compliance, disciplinary consequences may be given and the student may be removed from participation in classroom activities.

Parents/guardians, vendors, and visitors to LCPS buildings are expected to demonstrate a high level of community concern for self and others to prevent the spread of COVID-19.

Parents/guardians, vendors, and visitors will be reminded that masks are required while inside a school or administration building and asked to put on a mask in accordance with the CDC recommendations and Chapter 456.

Evaluation of Mask-Wearing

Ongoing evaluation including monitoring and review of CDC Guidance and Virginia Code

Chapter 456; student-to-student, student-to-staff, and staff-to-staff transmissions; number of student and/or staff quarantines; number of sick leave days (staff) and student absences in schools due to sickness; and, any other data will inform the mask and mitigation strategy. We will also consider Loudoun County community transmission and percent positivity rates.

LCPS staff will report on this data evaluation to the school board and community every six weeks and provide any changes to mask wearing and mitigation procedures in accordance with the [Order of Public Health Emergency](#) Statewide Requirement to Wear Masks in K-12 Schools.

OTHER MITIGATION MEASURES IN PLACE

Physical Distancing

Physical distancing will be enforced, where possible, throughout all LCPS buildings. Per the VDH guidelines, in indoor K-12 settings, a student who is within 3-6 feet of an infected student is not considered a close contact as long as both students are wearing masks and the school has prevention strategies in place.

Enhanced Cleaning

Custodial staff will continue to execute the enhanced cleaning protocols outside the classroom in schools that include cleaning and disinfection of high touch surfaces three times per day during the school day.

Passive Temperature Screening

Where installed, passive temperature screening using the thermal cameras will be reinstated.

CLOSE CONTACTS and 14-DAY QUARANTINE

In general, VDH uses proximity of within 6 feet for a total of 15 minutes or more within 24 hours to determine the need for quarantining persons who have had close contact exposure to someone with suspected or confirmed COVID-19.

In K-12 settings, students wearing a mask may not need to quarantine. A student who is within 3 to 6 feet of an infected student is not considered a close contact as long as both students are wearing masks and the school has other prevention strategies in place.

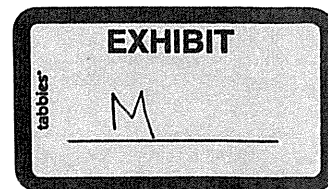
Students who have been fully vaccinated for COVID-19 will not be required to quarantine after having close contact with someone with COVID-19 as long as the student remains asymptomatic.

Students identified as close contacts to an infected person must quarantine for 14 days.

Students who must isolate (suspected or confirmed COVID-19) or quarantine will have an opportunity to make up missed assignments through Schoology and/or arrangements with their teacher. The table below further clarifies the process that will be followed.

| Individual/Group | Status | Action |
|--------------------------|--|--|
| Individual Student | Isolated (COVID positive and/or symptomatic) | The student stays home and may access content through Schoology if they feel well enough to do so. The student is considered excused absent and will work with teachers to make up work upon return to school. |
| Individual Student(s) | Quarantined (Asymptomatic) | The student is considered present and stays home and may participate asynchronously through Schoology. Schools will identify an adult to check in on quarantined students (school counselor, advisory teacher, teacher assistant, student engagement coordinator, etc.) and collaborate with teachers for support as needed. |
| Entire class of students | Quarantined | Students quarantined and well enough to participate in school will participate in distance learning. Sick (isolated) students will be considered absent and will work with teachers to make up work upon return to school. |
| Teacher | Isolated (COVID positive and/or symptomatic) | Teacher will take sick leave. A substitute teacher will be put in place until the teacher is well enough to return and isolation is over. |
| Teacher | Quarantined (asymptomatic) | Teacher will quarantine at home and teach remotely from home. A substitute teacher will be placed in the classroom to support learning in the classroom while the teacher is quarantined. |

EXHIBIT M



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 remain 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.



A handwritten signature in black ink, appearing to read "Glenn Youngkin".

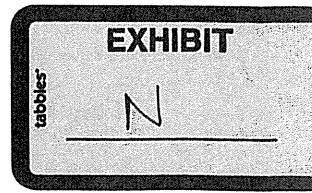
Glenn Youngkin, Governor

Attest:

A handwritten signature in cursive script that reads "Kelly Thomasson". The signature is written in black ink and includes a long horizontal flourish at the end.

Kelly Thomasson, Secretary of the Commonwealth

EXHIBIT N



Return To Headlines ⊕

LOUDOUN SCHOOL BOARD VOTES TO CONTINUE MASK MANDATE

The Loudoun County School Board approved a motion to support the superintendent’s recommendation to continue the school division’s current mask mandate on Tuesday, January 18, 2022. Loudoun County Public Schools (LCPS) Superintendent Dr. Scott Ziegler will detail what the board’s action means for students and staff in a COVID-19 communication on Wednesday, January 19.

Published January 18, 2022

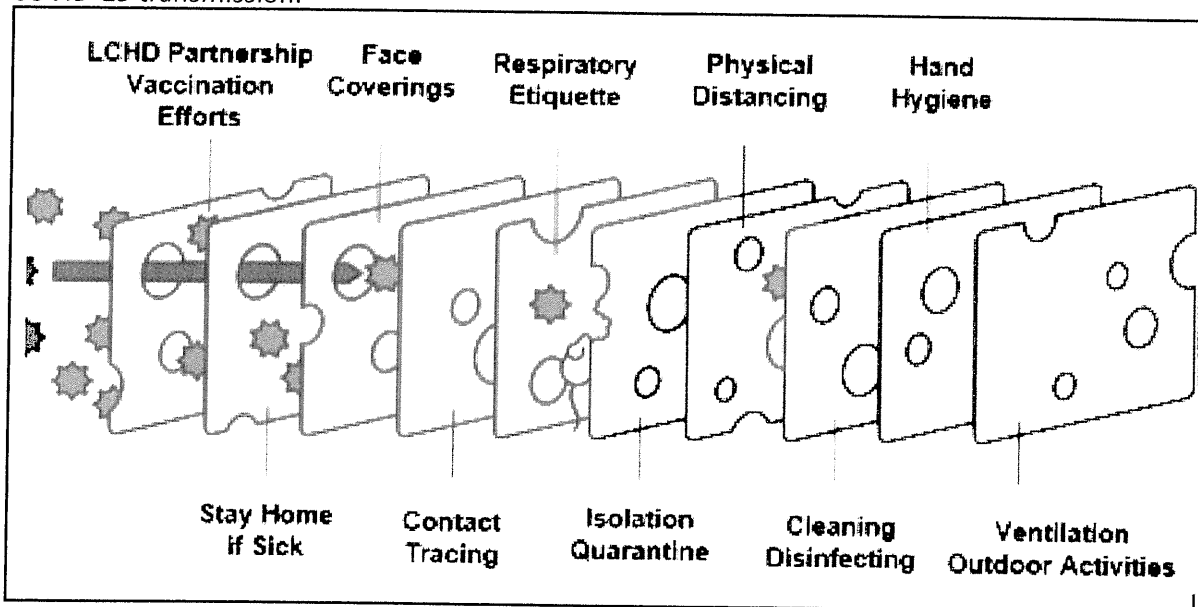
EXHIBIT O

2021-22 LCPS Multiple Layers to Mitigate COVID-19 Transmission in Schools

LCPS continues to monitor and follow guidance for COVID-19 prevention as provided by the Centers for Disease Control and Prevention (CDC), the Virginia Department of Health (VDH), the Loudoun County Health Department (LCHD) and legislation such as [Chapter 456](#). Chapter 456 passed during a special session of the Virginia General Assembly on March 30, 2021. This state mandate directs Virginia's school divisions open for in-person instruction and to adhere to CDC guidance related to COVID-19.

Given new evidence on the Omicron variant, the CDC has updated the [guidance for fully vaccinated](#) people. CDC still recommends universal indoor masking for all teachers, staff, students, and visitors in K-12 schools regardless of vaccination status.

As illustrated below, multiple layers of protection are used to mitigate the spread of COVID-19 within our schools and offices. The swiss cheese metaphor is used to illustrate that no single strategy is perfect, and when the holes align like slices of swiss cheese, the risk of infection increases. LCPS will continue to work closely with the LCHD and implement strategies such as promoting LCHD vaccination events, promoting staying home if sick, respiratory etiquette, hand hygiene, physical distancing to the extent possible, mask use, enhanced cleaning and disinfecting, contact tracing, and isolation and quarantine to significantly reduce the risk of COVID-19 transmission.



The New York Times - Photo Credit

FACE COVERINGS (MASKS)

Regardless of vaccination status, all employees, visitors, volunteers, parents/guardians, and students older than 2 years of age are required to wear a well-fitting mask at all times, except as referenced below in the "Periodic Breaks" and "Exceptions" sections. This includes while in the LCPS school buildings, at school activities, and while entering, exiting, and riding the school bus.

Students and staff must wear well-fitting masks while inside LCPS schools at all times even if

three feet of separation is maintained. According to the CDC, COVID-19 can be spread by people who do not have symptoms and do not know that they are infected. Wearing a well-fitting mask in addition to physical distancing and other mitigation strategies illustrated above helps reduce the risk of transmission.

Facilities and Administrative Spaces

Face coverings are required in all LCPS facilities when in shared in areas of the buildings, including but not limited to break rooms, kitchens, restrooms, hallways, stairwells, lobbies and meeting rooms. They are also required while in personal work spaces, except when in a room, office, or cubicle with walls 7' or higher, with the door closed. Face coverings may be removed while actively eating or drinking.

Community Use/Activities in LCPS Facilities

All students, staff, and visitors are expected to comply with LCPS mask requirements, including those who are participating in non-LCPS activities conducted in school buildings. Examples include and are not limited to after-school childcare activities and community youth recreation events hosted during evenings/weekends as well as church, civic group or other community events or meetings.

Periodic Mask Breaks

Students at all grade levels may remove their masks when outside, eating, or participating in physical education as listed below in the "Exceptions" section. School teams will coordinate times when a "mask break" can be safely implemented while maintaining at least 3 feet of physical separation between students when possible.

Exceptions

Exceptions to this requirement will be made in accordance with the CDC and the VDH recommendations regarding masks. Students and staff will not be required to wear a mask in the following circumstances:

- while eating or drinking,
 - Students may remove masks only while eating or drinking. Students will wear a mask while entering and exiting the cafeteria, waiting in lines, socializing or otherwise not eating or drinking.
- during recess, physical education (PE), or other outdoor extra-curricular activities
 - Students must wear a mask while in indoor PE classes, but may remove them while participating in physical education activity. In PE, masks will be worn while waiting in line, participating in direct instruction or otherwise not engaged in physical activity.
 - PE teachers will prioritize activities that allow for physical distancing indoors to the greatest extent possible.
 - For team practices and games indoors, participants will wear masks while on the sidelines but may remove them during play.
- when receiving medical attention,
- while communicating with people who are hearing impaired for which the mouth needs to be visible.

IEP teams may not require documentation from a medical professional for students with

disabilities who are known to need support related to sensory processing disorders as these students may have challenges wearing a mask.

Proper Wear

LCPS uses [CDC guidelines](#) to determine what is a “well-fitting mask.” A well-fitting mask is one that fits snugly over your nose, mouth, and chin without gaps. Students/parents/staff should:

- Choose a mask with a nose wire
- Use a mask fitter or brace
- Add a layer of material
- Use a cloth mask with two or more layers of washable, breathable fabric
- Wear a disposable mask under a cloth mask
- Knot and tuck ear loops of a 3-ply mask

Masks with clear panels are permitted provided they cover both the nose and mouth and fit snugly against the sides of the face with little to no gaps.

The CDC does not recommend the use of masks or cloth masks for source control if they have an exhalation valve or vent. Masks with one-way valves or vents allow exhaled air to be expelled out through holes in the material. This can allow exhaled respiratory droplets to reach others and potentially spread the COVID-19 virus. Face coverings with an exhalation valve or vent should not be worn as the CDC does not recommend using this type.

LCPS Issued Masks

Students are expected to supply their own mask to comply with this expectation. LCPS has purchased masks for students who may not have one due to financial difficulties or other concerns. School staff (health office staff or school administration) will provide a mask to any student that does not have one. Parents/guardians are asked to ensure their student wears a mask to, from and during school as recommended by the CDC and VDH as required by LCPS. Emblems, words, or pictures on the face covering must comply with the Student Code of Conduct and [Policy 8270 Student Dress Code](#).

Enforcement

Students who are not wearing a mask will be directed to comply with the requirement. If they do not have a mask, one will be provided to them. If a student refuses to comply, staff will meet with the student and contact the parent/guardian to discuss and identify the reason the student refuses to comply. If non-compliance is related to medical or financial need, the school-based team will develop a plan of action to support the student’s compliance with the requirement.

Parents/guardians, vendors, and visitors to LCPS buildings are expected to demonstrate a high level of community concern for self and others to prevent the spread of COVID-19. Parents/guardians, vendors, and visitors will be reminded that masks are required while inside a school or administration building and asked to put on a mask in accordance with the CDC recommendations and Chapter 456.

Evaluation of Mask-Wearing

Ongoing evaluation including monitoring and review of CDC Guidance and Virginia Code Chapter 456; student-to-student, student-to-staff, and staff-to-staff transmissions; number of

student and/or staff quarantines; number of sick leave days (staff) and student absences in schools due to sickness; and, any other data will inform the mask and mitigation strategy. We will also consider Loudoun County community transmission and percent positivity rates.

LCPS will continue to evaluate factors and environment necessary to remove the mask mandate and will brief the school board at each general board meeting.

OTHER MITIGATION MEASURES IN PLACE

Physical Distancing

Physical distancing will be in place, where possible, throughout all LCPS buildings. Per the VDH guidelines, in indoor K-12 settings, a student who is within 3-6 feet of an infected student is not considered a close contact as long as both students are wearing masks and the school has prevention strategies in place.

Enhanced Cleaning

Custodial staff will continue to execute the enhanced cleaning protocols outside the classroom in schools that include cleaning and disinfection of high touch surfaces three times per day during the school day.

CLOSE CONTACTS and QUARANTINE

Effective immediately, LCPS has adopted the CDC and Virginia Department of Health (VDH) recommendations to shorten the required isolation and quarantine periods. The updated guidance also updates the definition of close contact requiring at-home quarantine to include fully vaccinated individuals who are eligible for a vaccine booster but have not yet received one. The CDC guidelines are the result of new scientific evidence that most COVID-19 transmission generally occurs one to two days before the onset of symptoms and two to three days after ([CDC Media Statement, 27 December 2021](#)).

LCPS will institute a five-day quarantine for all individuals identified as close contacts, regardless of vaccination status. Individuals identified as close contacts who are asymptomatic and submit proof of one of the following may be readmitted to school or work immediately:

- Are ages 18 or older and have received all recommended vaccine doses, including boosters.
- Are ages 5-17 years old and completed the primary series of vaccines.
- Had COVID-19 within the last 90 days (tested positive using a viral test).

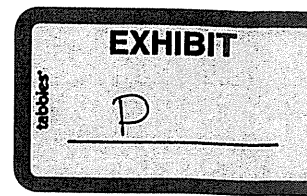
ISOLATION (for those that have COVID-19)

The [new CDC guidance](#) requires people who test positive for COVID-19 to isolate for at least five days. They may return to school or work after five days if they are asymptomatic or have not had a fever in 24 hours without fever-reducing medication. Individuals must wear a well-fitting mask for the five days following isolation to minimize the risk of infecting others. Individuals experiencing symptoms of COVID-19 must isolate for at least 5 days from the onset of symptoms or following a positive test result and until symptoms subside. Following the isolation period, individuals must wear a well-fitting mask for five days.

LCPS has created a [Quarantine/Isolation Flow chart](#) to illustrate the quarantine and isolation procedures for students and staff.

| Individual/Group | Status | Action |
|--------------------------|--|--|
| Individual Student | Isolated (COVID positive and/or symptomatic) | The student stays home and may access content through Schoology if they feel well enough to do so. The student is considered excused absent and will work with teachers to make up work upon return to school. |
| Individual Student(s) | Quarantined (Asymptomatic) | The student is considered present and stays home and may participate asynchronously through Schoology. Schools will identify an adult to check in on quarantined students (school counselor, advisory teacher, teacher assistant, student engagement coordinator, etc.) and collaborate with teachers for support as needed. |
| Entire class of students | Quarantined | Students quarantined and well enough to participate in school will participate in distance learning. Sick (isolated) students will be considered excused absent and will work with teachers to make up work upon return to school. |
| Teacher | Isolated (COVID positive and/or symptomatic) | Teacher will take sick leave. A substitute teacher will be put in place until the teacher is well enough to return and isolation is over. |
| Teacher | Quarantined (asymptomatic) | Teacher will quarantine at home and teach remotely from home. A substitute teacher will be placed in the classroom to support learning in the classroom while the teacher is quarantined. |

EXHIBIT P



Return To Headlines (+)

MASK STATEMENT FOR MONDAY JANUARY 24, 2022

The Loudoun County Public Schools' 2021-2022 Mask and Mitigation Plan, updated January 19, 2022, remains in place.

Please know that LCPS does not take this decision lightly. The guidance the school division has received indicates that it may continue to require masks as their locally elected school board sees fit.

On January 18, the School Board voted to support the superintendent's recommendation to continue the current mitigation efforts, including the mask mandate within LCPS.

Our school community will be expected to follow the mask requirements posted in the full COVID-19 Mitigation Plan.

LCPS is aware that some parents, students, and staff plan to disregard the mandate to wear masks in school. We want to remind our school community that:

- Students who do not wear masks will quarantine for 10 days if they are deemed a close contact.
- Students who do not wear masks and are closer than six feet apart will be considered a close contact.
- Students who wear masks and are three or more feet apart are not considered close contacts.
- Without masks, the number of close contacts will likely increase, as will the likelihood of an increase in the number of whole-class quarantines and the possibility of whole-school transition to distance learning.

Mask-wearing helps potential close contacts return to the classroom sooner and remain in-person for learning.

Students who are not wearing a mask will be asked to wear one. If they do not have a mask, one will be provided to them. If a student refuses to wear a mask, staff will meet with the student and contact their parent/guardian to discuss and identify the reason the student will not comply. If non-compliance is related to a medical or financial need, the school-based team will develop a plan of action to support the student in following the requirement.

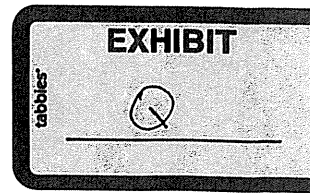
The mask requirement is part of a layered strategy to keep students and staff learning in schools, in-person, at a time when community transmission of COVID-19 remains high. LCPS acknowledges that these ongoing mitigation measures are not ideal or easy, and we will keep monitoring transmission data, advice from the Virginia Department of Health (VDH), and continue consultation with the local Loudoun County Health Department.

Please note that LCPS may opt to adjust its mask policy in the future. We will keep our families and community informed if any changes occur.

Scott A. Ziegler, Ed.D.
Superintendent

Published January 24, 2022

EXHIBIT Q



Community Frequently Asked Questions (FAQs)

Student FAQs - Updated 1/19/22

Will students, staff and visitors still need to wear masks?

Yes, LCPS will continue to require masks for students, staff and visitors in LCPS facilities and on LCPS buses.

Do student-athletes still need to submit proof of COVID-19 vaccines?

No, student-athletes do not need to submit proof of their COVID-19 vaccines. LCPS has removed the student-athlete testing requirement for the remainder of the 2021-2022 school year. LCPS continues to recommend all eligible students, including student-athletes, receive the COVID-19 vaccine. The current mask requirements for student-athletes will remain in place.

Do all close contacts have to quarantine for 5 days regardless of vaccination/booster status?

In an effort to streamline the contact tracing process, any student that is identified as a close contact will initially be asked to quarantine. If parents provide evidence of completion of the primary series vaccination (ages 5-17), booster (18 and older), or proof that the student had COVID within the last 90 days per [CDC \(1.6.22\) guidelines](#), [VDH Guidelines \(1.14.22\)](#), and [LCPS guidelines](#), the student may remain in school.

Proof can be provided to your school's registrar, health office staff, or other designated front office staff.

What is a "well-fitting mask"?

LCPS uses CDC guidelines: a [well-fitting mask](#) that fits snugly over your nose, mouth, and chin without gaps. Students/parents/staff should:

- Choose a mask with a nose wire
- Use a mask fitter or brace
- Add a layer of material
- Use a cloth mask with two or more layers of washable, breathable fabric

- Wear a disposable mask under a cloth mask
- Knot and tuck ear loops of a 3-ply mask

How does mask wearing for the 5 days post quarantine work during lunch period and physical education where the students are not wearing masks?

When students or staff return following five days of quarantine or isolation, school administrators and staff are encouraged to seek creative ways to ensure these students and staff maintain 6 feet or more of distance from others when masks cannot be worn.

- While at lunch, school options to help physical distancing may include dividing the class during lunch and having part of the class eat in the classroom, or spread out across the lunchroom where space is available.
- Students who return from the 5-day quarantine or isolation are encouraged to wear their mask during PE or other physical activity for the additional 5 days. Physical educators are encouraged to utilize stations, plan lower intensity activities and maintain distancing between students.

Can you explain how the COVID-19 Dashboard is updated?

The LCPS [COVID-19 Case Data - Daily Snapshot](#) reflects updates on COVID-19 cases at the elementary, middle and high school levels. School cases and close contacts are reflected. LCPS does not contact trace community exposure and may not reflect that data on the LCPS COVID-19 Data - Daily Snapshot. Contact tracing for community cases will be completed by the Loudoun County Health Department.

The Virginia Department of Health publishes a dashboard of outbreaks of COVID-19 in various exposure settings, including K-12 schools. The dashboard is available on the [VDH website](#).

LCPS contact tracing is ongoing and, when complete, numbers are updated the following business day.

Data reported on the dashboard is NOT reported in real time. The dashboard is updated once daily, Monday through Friday, by 10 a.m. with the information that is reported at that time. Data from holidays and weather-related closures may affect the timing of updates as students and staff are not in school.

How does the required mask wearing for 5 days post-quarantine affect athletics?

Student-athletes may attend practice or competition wearing a well-fitted mask, but they may not participate in the practice or competition until after day 10.

Does my child, who tested positive, need a doctor's note to return to school?

A doctor's note is not required. Students must follow attendance procedures when absent, per [Policy 8420 \(updated 11.30.21\)](#) and [Regulation 8420 \(updated 12.15.21\)](#). After isolating for at least 5 days, the student may return per the [LCPS guidelines](#).

Staff FAQs - Updated 1/19/22**Do I still need to wear a mask if my work site is not a school?**

Yes, face coverings are still required in all LCPS facilities when in shared areas of the buildings. For a comprehensive list of spaces that require a mask, view the [2021-2022 Mask and Mitigation Plan](#).

I have a concern about health mitigation strategies. Who can I contact?

Staff are encouraged to contact their supervisors with any concerns. The [Health Mitigation Strategy Observation Form](#) is available for staff if they would like to submit information anonymously.

How can I get a new mask from LCPS?

Adult and child-sized cloth and disposable masks are available upon request. Please work with your supervisor to order more for your work site.

If staff are interested in an N95 mask, they may request to be added to the program by letting their supervisor know. Staff will then receive an email from the Environmental Health and Safety Office containing instructions to complete a Google Form and will have access to respiratory protection training through SafeSchools. Once completed, staff will be placed on an approved list and may access N95s available at all locations.

Do I still need to submit proof of my COVID-19 vaccines?

No, at this time employee testing and vaccine mandates have been indefinitely suspended.

I tested positive for COVID. Do I need a doctor's note to return to work?

A doctor's note is not required. Employees should confirm that they have isolated for 5 days, have not had a fever for 24 hours without using fever reducing medication and that their symptoms are improving. Employees will be required to continue wearing a well-fitting mask upon their return.

Someone in my home has COVID. When can I return to work?

Count the last close contact date as Day zero (0). Employees may use sick leave if they are caring for the family member.

*****Per VDH guidelines, you do not need to quarantine if you:**

- Are ages 18 or older and have received all recommended vaccine doses, including boosters and additional primary shots for some people with weakened immune systems.
- Are ages 5-17 years and completed the primary series of COVID-19 vaccines.
- Had COVID-19 within the last 90 days (you tested positive using a viral test).
Documentation for staff will be required to be presented to Leave & Disability Programs if not previously provided

Per VDH guidelines, you need to quarantine after close contact if you:

- Are ages 18 or older and completed the primary series of recommended vaccines, but have not received a recommended booster shot when eligible.
- Received the single-dose Johnson & Johnson vaccine (completing the primary series) over 2 months ago and have not received recommended booster shot.
- Are not vaccinated or have not completed a primary vaccine series.
- Have not had COVID-19 within the last 90 days.

Return to work immediately means that you can return to work with evidence of your vaccination and booster or proof of COVID positive within the past 90 days, status per the VDH guidelines.

Who is eligible for COVID Additional Leave?

COVID Additional Leave, as approved by the School Board, is available to all individuals who are positive for COVID-19. The application for COVID Additional Leave (also known as Public Health Emergency Leave) is available at <https://lcps1portal.loudoun.gov/Forms/FY22-COVID-Additional-Leave-Request>.

What is a “well-fitting mask”?

LCPS uses CDC guidelines: a well-fitting mask fits snugly over your nose, mouth, and chin without gaps. Students/parents/staff should:

- Choose a mask with a nose wire
- Use a mask fitter or brace
- Add a layer of material
- Use a cloth mask with two or more layers of washable, breathable fabric
- Wear a disposable mask under a cloth mask
- Knot and tuck ear loops of a 3-ply mask

What if students refuse to wear masks?

Students who refuse to wear a mask and do not have a medical accommodation should be addressed and told to wear a mask. Make your administrators aware of any situations that arise. Students who continue to be noncompliant will be sent home. Refer to existing LCPS Mask and Mitigation Plan protocol.

Is working from home an option for school-based personnel if you are not a classroom teacher?

School-based personnel do not have the option to work remotely when students are present. Principals have discretion to allow remote work on non-student days.

Are classroom teachers able to teach remotely over the next few days?

Remote instruction is permitted only if the teacher is quarantining at home and well enough to teach. A proctor may be assigned to their classroom. There is no other remote instruction at this time.

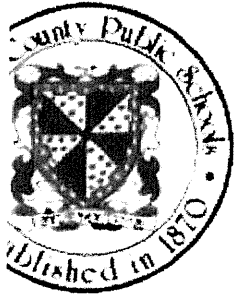
How do employees submit COVID Additional Leave Requests? Is this still only for COVID caught at school or does it cover all leave attributed to COVID?

Additional leave requests can be submitted [here](#). Expanded to include outside of the workplace, as long as other requirements are met. Any individual with questions about applying for Additional Leave should contact Leave & Disability Programs (lcpsleavedisability@lcps.org).

Updated January 19, 2022

Last Modified on January 19, 2022

EXHIBIT R



LOUDOUN COUNTY PUBLIC SCHOOLS

EXHIBIT

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Per our Superintendent's message delivered to the LCPS community on **Wednesday, January 26, 2022**, at this time, masks are not optional for any individual who enters an LCPS school campus building. Information regarding our current 2021-2022 Mask and Mitigation Plan is available on the LCPS website.

According to **Policy 8210: Introduction to Student Discipline**, rules for behavior are provided at each school, as well as in the Student's Rights and Responsibilities (SR&R) Handbook. Students should conduct themselves within the rules.

Policy 8210 also states that Loudoun County Public Schools is committed to utilizing Multi-Tiered Systems of Support and intervention strategies to promote positive and safe student behavior.

As part of these intervention strategies, the **Sunday, January 23, 2022** newsletter from our Superintendent explained the following steps to be taken when students arrive on campus and enter the school building without a mask:

Students who are not wearing a mask will be asked to wear one. If they do not have a mask, one will be provided to them. If a student refuses to wear a mask, staff will meet with the student and contact their parent/guardian to discuss and identify the reason the student will not comply. If non-compliance is related to a medical or financial need, the school-based team will develop a plan of action to support the student in following the requirement.

Beginning on Wednesday, February 2, 2022, students who willfully continue to refuse to follow COVID mitigation measures as required by Loudoun County Public Schools will be suspended from school in relation to Violation of School Board Policy 8210, Introduction to Student Discipline, Section F. 2. Willful or continued disobedience of school rules and regulations or school personnel; 3. Defiance of the authority of any teacher, principal, or other person having authority in the school.

State law requires that each parent/guardian of a public school student assist the school in improving the student's behavior as detailed in the "Student Rights and Responsibilities" booklet, found at <https://www.lcps.org/students>.

A student who is suspended because of non-compliance with COVID-mitigation measures may return to school only when they agree to follow COVID-mitigation measures throughout the entire school day and at all indoor school-related events. Suspension will continue if COVID-mitigation measures are not followed.

We hope to welcome each and every student to our school on Wednesday, February 2, 2022 for in-person learning in compliance with our LCPS COVID-19 mitigation measures and all LCPS policies.