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LEGAL ALERT

Emergency Rules Requiring Schools to Follow Face Coverings, Gathering Size Limits and Enforcement

The Illinois Department of Public Health (“IDPH”) has adopted the following emergency rules, related to face coverings, gatherings, investigations and enforcement, applicable to schools, effective for the next 150 days (“Section 690.50 Pandemic or Epidemic Respiratory Disease – Emergency Provisions” 77 Ill.Adm.Code Section 690.50)

FACE COVERINGS AND GATHERING LIMITATIONS

- K-12 schools, public and nonpublic schools, and preschools, must require face coverings (for those who can “medically tolerate” them).
 - Exceptions: while eating/drinking, if outdoors and a 6 foot social distance is being maintained, when playing a musical instrument (if necessary), for staff, while using a face shield when necessary to allow for facial visualization during instruction and communication.
- K-12 public and nonpublic schools must limit the number of people in one space to fifty or less.

ENFORCEMENT

- The “enforcing authorities” can enforce the above rules in schools by giving a written notice of non-compliance and a reasonable opportunity to cure to a school that fails to comply with the above face covering and gathering limit requirements.
 - The “enforcing authorities” are *all local boards of health, health authorities and officers, police officers, sheriffs, and all other officers and employees of the State or any locality*, including the Department and certified local health departments under 20 ILCS 2310/15
 - A “reasonable opportunity” should be no less than the next business day.
 - The enforcing entity shall notify the following entities after issuing a written notice of non-compliance to the school:

* The certified local health department,

For any questions or comments you might have regarding this newsletter, please feel free to contact:

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* The local board of health or health authorities (if enforcing entity is other than the local board of health or health authorities),

* For public schools, the local school district, and the Illinois State Board of Education.

- Upon receipt of a notice of non-compliance, a school must notify parents in writing that a notice of non-compliance was issued and disclose its plan to comply.

- The local board of health, local health authorities or certified local health department shall take action to ensure a school complies with the emergency rule.

* IDPH may take necessary measures to ensure compliance with the face covering and social distancing requirements if the certified local health department, local board of health or local health authorities neglect or refuse to promptly do so.

* IDPH or a certified local health department may order the closure of a school.

* For purposes of a school, the occurrence of an outbreak of COVID-19 among students or staff may constitute an emergency consistent with public health regulations (77 Ill.Adm.Code Sec. 690.30), and closure should result in shifting to remote instruction as opposed to in-person instruction.

AUTHORITY TO INVESTIGATE SCHOOLS

- IDPH and local health authorities may investigate the occurrence of cases, suspect cases or carriers of COVID-19 in a public or private place for the purposes of verifying the existence of the disease, locating and evaluating contacts of cases, identifying those at risk of disease, and determining necessary control measures.

- When two or more suspected cases of COVID-19 occur in any school, the principal or Superintendent shall cooperate with public health authorities in the investigation of cases, suspect cases, outbreaks and suspect outbreaks.

- Such investigations may include entering a place of employment for purposes of conducting investigations of those conditions within the place of employment that are relevant, pertinent and necessary to the investigation.

“Section 690.50 Pandemic or Epidemic Respiratory Disease – Emergency Provisions” 77 Ill.Adm.Code Section 690.50

The full emergency IDPH regulation is available at:

https://www.dph.illinois.gov/sites/default/files/COVID19/77-690RG-E_o.pdf