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Interim Advisory for In-Person Special Education Services and Instruction During the COVID-19 Public Health Emergency

Background

Amid the ongoing COVID-19 pandemic, the New York State Department of Health (NYSDOH) continues to monitor the public health situation to inform the State's response activities and reopening approach. NYSDOH, in consultation with the New York State Education Department (NYSED), has regularly provided guidance and updates to local health departments, school districts, and schools on the latest policies, protocols, and precautions to reduce transmission of COVID-19 among New Yorkers, including students, faculty, and staff.

Purpose

On May 1, 2020, Governor Andrew M. Cuomo [announced](#) that all K-12 schools statewide will remain closed for the rest of the academic year and continue to provide distance learning during that time. On June 5, 2020, Governor Cuomo [issued](#) Executive Order 202.37, which provided that "[n]otwithstanding any prior Executive Order to the contrary, special education services and instruction required under Federal, state or local laws, rules, or regulations, may be provided in person for the summer term in school districts. Any district providing such services in person must follow State and Federal guidance."

Special education services may be provided at locations not operated by a school district (e.g., 853 schools, 4201 schools, 4410 schools), herein referenced as "independent schools".

Services may be provided at independent schools under the following circumstances:

- a school district may request a student receive special education services at an independent school;
- an independent school that receives a request from a school district to serve a special education student pursuant to Executive Order 202.37 or its successor may provide such services; and
- if an independent school chooses to provide such special education services at the request of a school district, such independent school must adhere to all safety guidelines herein applicable to the school district.

This interim advisory is provided to inform in-person special education services and instruction while helping to protect against the spread of COVID-19 as in-person education has been authorized for this specific purpose. The guidance referenced in this advisory represents minimum requirements and any district or school may provide additional precautions or increased restrictions. This guidance is based on the best-known public health information and practices at the time of publication, and the documentation, data, and evidence upon which this guidance is based can and does frequently change. NYSDOH will revise and reissue this advisory as necessary.

School districts and school administrators are responsible for meeting these minimum requirements, as well as applicable federal and state standards, including but not limited to Individuals with Disabilities Education Act (IDEA), Americans with Disabilities Act (ADA), Centers for Disease Control and Prevention (CDC), United States Department of Labor's (DOL) Occupational Safety and Health Administration (OSHA), NYSDOH, and NYSED.

Guidance, adapted from NYSDOH and CDC

Before Opening

- Establish and maintain communication with parents/guardians and local health authorities about the scale and scope of in-person special education services and instruction being offered within the school district and/or school.
- Protect and support staff and students who are at [higher risk for severe illness](#) by considering remote options for telework and virtual learning, if in-person is not feasible at a given time (e.g. staff member is ill, facility is temporarily closed for cleaning and disinfection following a positive COVID-19 case, student's parent or guardian requests remote instruction due to COVID-19 susceptibility); provided, however, that students receiving special education services and instruction are entitled to the opportunity to receive in-person instruction.
- Consult the most recent federal [guidance for school programs](#), including ongoing mitigation strategies, as well as prevention, support, and communication resources.
- Ensure that appropriate social distancing, personal protective equipment (PPE), hygiene, and cleaning/disinfection protocols are in place.
- Post [signs](#) on how to stop the spread of COVID-19, properly wash hands, promote everyday protective measures, and properly wear a face covering.
- Train all faculty and staff ("employees") on the below precautions either remotely or in-person, using appropriate social distancing and requiring face coverings for all participants.

While Operating

- Adopt healthy hygiene practices.
 - Ensure acceptable face coverings are worn by all staff whenever they are within six feet of students or other staff.
 - School districts/schools must provide employees with an acceptable face covering at no-cost to the employee and have an adequate supply of coverings in case of replacement.
 - Employees must wear a face covering unless they are unable to medically tolerate such covering.
 - School districts/schools and employees may use alternate PPE (i.e., face shields or coverings that are transparent at or around the mouth) for therapies or interventions that require visualization of the movement of the lips and/or mouths (e.g. speech therapy). These alternate coverings may also be used for certain students (e.g. hearing impaired) that benefit from being able to see more of the employee's face.
 - Encourage, but do not require students to wear acceptable face coverings. Face coverings should not be used by children under the age of 2, or for anyone who is unable to medically tolerate such covering, including students where such covering would impair their health or mental health, or where such covering

- would present a challenge, distraction, or obstruction to education services and instruction.
- Provide information to staff and students on [proper use, removal, and washing](#) of cloth face coverings.
 - Reinforce proper hand hygiene and cough/sneeze covering among all students and staff.
 - Provide and maintain adequate supplies to support healthy hand and respiratory hygiene, including soap, hand sanitizer with at least 60 percent alcohol (for staff and older students who can safely use hand sanitizer), paper towels, tissues, and lined trash receptacles.
 - Increase cleaning, disinfecting, and ventilation.
 - Adhere to hygiene and cleaning and disinfection requirements from the CDC and NYSDOH and maintain logs on site that document date, time, and scope of cleaning and disinfection.
 - [Clean and disinfect](#) frequently touched surfaces within the school at least daily (e.g., equipment, door handles, sink handles, drinking fountains) and shared objects (e.g., games, art supplies) between uses.
 - Ensure safe and correct application of disinfectants [registered](#) by the New York State Department of Environmental Conservation (DEC) and keep products away from children.
 - Ensure ventilation systems operate properly and increase circulation of outdoor air as much as possible such as by opening windows and doors, unless they pose a safety or health risk (e.g., allowing pollens in or exacerbating asthma symptoms) to students using the facility.
 - Ensure that all water systems and features (e.g., drinking fountains, decorative fountains) are safe to use after a prolonged facility shutdown.
 - Adhere to appropriate social distancing.
 - Ensure at least six feet of distance between individuals, unless safety or core function of the activity (e.g., instruction) requires a shorter distance. However, any time that staff or faculty are less than six feet from one another or students, they must wear acceptable face coverings.
 - Ensure that student and staff groupings are as static as possible by having the same group of students stay with the same staff.
 - Restrict mixing between groups and limit maximum student group size to ten in any specific area (e.g. classroom) at any given time, as feasible.
 - Post social distancing markers using tape or signs that denote six feet of spacing in commonly used and other applicable areas.
 - Limit gatherings, events, and extracurricular activities to those that can maintain social distancing, support proper hand hygiene, and restrict group size to no more than ten students at any given time, as feasible.
 - Restrict nonessential visitors, volunteers, and activities involving other groups at the same time.
 - Space seating/desks to at least six feet apart.
 - Turn desks to face in the same direction (rather than facing each other), or have students sit on only one side of tables, spaced apart.
 - Close communal use spaces such as cafeterias and auditoriums, if possible; otherwise stagger use between student groups and clean and disinfect in between use.
 - If a cafeteria or group dining room is typically used, serve meals in classrooms instead. Serve individually plated meals to avoid sharing of

- food and beverages, and hold activities in separate classrooms and ensure the safety of children with food allergies.
 - Stagger arrival and drop-off times or locations, or put in place other protocols to limit close contact with parents or guardians and other individuals as much as possible.
- Limit sharing of personal items, objects, and equipment.
 - Keep each student's belongings separated from others' and in individually labeled containers or areas and ensure they are taken home and cleaned and disinfected regularly, as possible.
 - Ensure adequate supplies to minimize sharing of high-touch materials to the extent possible or limit use of supplies and equipment by one group of students at a time and clean and disinfect between use.
 - Avoid sharing electronic devices, books, and other games or learning aids.
- Identify signs and symptoms of COVID-19.
 - Instruct staff to stay home if they are sick and encourage parents to keep sick students home.
 - Be on the lookout for signs and symptoms of illness in staff and students.
 - Implement mandatory health screening assessment (e.g. questionnaire, temperature check) before employees begin work each day, asking about (1) COVID-19 [symptoms](#) in past 14 days, (2) positive diagnostic COVID-19 test in past 14 days, and/or (3) close contact with confirmed or suspected COVID-19 case in past 14 days. Screening is strongly recommended, but not required of students through their parent or guardian.
 - Perform screening remotely (e.g. by telephone or electronic survey), before the employee or student reports to the workplace, to the extent possible; or on site if necessary.
 - Require employees and parents/guardians – and encourage students – to immediately disclose if and when their or their student's responses to any of the aforementioned questions changes, such as if they begin to experience symptoms.
 - Protect personnel performing screening activities from exposure to potentially infectious employees entering the workplace through the use of PPE, such as a face covering, gloves, gown, and/or face shield.
 - Personnel performing screening activities should be employer-identified individuals who are familiar with CDC, NYSDOH, and OSHA protocols.
- Plan for when an employee or student becomes sick.
 - Prohibit any employee or student who screens positive for any of the above criteria (i.e., symptoms, test, or close contact) to enter the school and send them home with instructions to contact their health care provider for assessment and testing.
 - Refer to NYS DOH's "[Interim Guidance for Public and Private Employees Returning to Work Following COVID-19 Infection or Exposure](#)" regarding protocols and policies for individuals seeking to return after a suspected or confirmed case of COVID-19 or after close or proximate contact with a person with COVID-19.
 - Immediately notify state and local health departments if an employee or student tests positive for COVID-19.
 - Cooperate with contact tracing efforts, including notification of potential contacts, such as employees or students who had close contact with the individual, while maintaining confidentiality required by state and federal law and regulations.

- Maintain a continuous log of every person, including employees and students, who may have close contact with other individuals at the school; excluding deliveries that are performed with appropriate PPE or through contactless means.
 - Log should contain contact information, such that all contacts may be identified, traced and notified in the event an individual is diagnosed with COVID-19.
- Prepare and have ready a plan for cleaning, disinfection, and temporarily closing (e.g. 1-2 days) in the event of a positive COVID-19 case.
- Maintain operations that safeguard public health and safety.
 - Advise your staff and faculty about federal and state benefits and employee resources, including paid sick leave and reasonable accommodations.
 - Monitor staff absenteeism and have a roster of trained back-up staff.
 - Monitor health clinic traffic through school nurses and other health care providers who monitor the types of illnesses and symptoms among students.
 - Designate a staff person to be responsible for responding to COVID-19 concerns. Employees should know who this person is and how to contact them.
 - Create a communication system for staff and families for self-reporting of symptoms and notification of exposures and closures.
 - Assist staff and students with adopting [supportive coping and stress reduction practices](#).

Additional Resources:

- [NYS DOH COVID-19 Website](#)
- [NY Forward Safety Plan Template](#)
- [NYSED COVID-19 Website](#)
- [CDC COVID-19 Website](#)
 - [CDC Schools and Day Camps, May 30, 2020](#)
 - [CDC Activities and Initiatives Supporting the COVID-19 Response, May 26, 2020](#)
 - [CDC Cleaning and Disinfecting, May 21, 2020](#)
 - [CDC Considerations for Schools, May 19, 2020](#)
 - [CDC Considerations for Youth and Summer Camps, May 19, 2020](#)
 - [CDC Interim Guidance for Administrators of US K-12 Schools and Child Care Programs, March 19, 2020](#)