

# GOVERNOR CUOMO MAKES SIGNIFICANT CHANGES TO TESTING REQUIREMENTS FOR ORANGE AND RED ZONE SCHOOLS

*Hodgson Russ Education Alert*  
December 1, 2020

New York State has substantially relaxed testing requirements in conjunction with the reopening of schools to in-person instruction in orange and red zones. Previously, Governor Cuomo released guidelines for yellow zone restrictions as well as for schools to reopen in red and orange micro-cluster zones in an effort to keep schools open to in-person instruction. Those guidelines required schools in yellow zones to test 20% of in-person students, teachers and staff over the two-week period immediately following the announcement of their yellow zone designation and, provided the positivity rate remained below a certain threshold, such schools were allowed to remain open. Once designated in an orange or red zone, schools were required to close to in-person instruction for at least four (4) calendar days and then, if they wished to reopen, were required to “test out” of such zone by testing 25% of their in-person school community weekly. Notably, no one was allowed to be on-site without first receiving a negative COVID-19 test.

Yesterday, presumably in recognition of the importance of keeping schools open to children and also the complexities surrounding obtaining a negative test result from **all** individuals prior to reopening, Governor Cuomo made significant changes to the above testing requirements for schools in orange and red cluster zones. Principally, schools in orange zones **can remain open** but must test 20% of all students and staff throughout the month. This is a marked change from requiring all in-person students, staff and teachers to first test negative for COVID-19. Next, schools in red zones **can remain open** but must test 30% of all students and staff throughout the month. School districts that are unable to facilitate required testing, or otherwise wish to voluntarily close, may do so even when their numbers are below the state mandate provided they adhere to continuity of learning standards for all students.

We continue to await further written guidance from the Governor’s Office relative to these significant changes. Our school law attorneys have been, and continue to be, following these developments closely and assisting our school district clients with facilitating their testing programs. We recognize the significant challenges you are facing and remain willing and available to assist you.

## Attorneys

John Alessi  
Luisa Bostick  
Peter Bradley  
Andrew Drilling  
Ryan Everhart  
Michael Flanagan  
Andrew Freedman  
John Godwin  
Elizabeth Holden  
Richard Kaiser  
Michael Maxwell  
Elizabeth McPhail  
Lindsay Menasco  
Paul Meosky  
Kinsey O'Brien  
A. Joseph Scott III  
Jeffrey Stone  
Jeffrey Swiatek  
Marla Waiss  
Sujata Yalamanchili

## Practices & Industries

Education

GOVERNOR CUOMO MAKES SIGNIFICANT CHANGES TO TESTING REQUIREMENTS FOR ORANGE AND RED ZONE SCHOOLS

If you have any questions about the testing requirements described in this alert, please contact Jeffrey Swiatek (716.848.1449) or Lindsay Menasco (716.848.1214) in Hodgson Russ's Education Practice.

Please check our Coronavirus Resource Center and our CARES Act page to access information related to both of these rapidly evolving topics.

If you received this alert from a third party or from visiting our website, and would like to be added to our Renewable Energy alert mailing list or any other of our mailing lists, please visit us **HERE**.

