

NEW YORK STATE WILL NOT BE ISSUING GUIDANCE GOVERNING SCHOOLS FOR THE UPCOMING 2021-2022 SCHOOL YEAR RELATING TO COVID-19: IMPLICATIONS FOR LOCAL SCHOOL DISTRICTS

Hodgson Russ Education Alert
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As the start of the 2021-2022 school year approaches, school districts continue to grapple with how to safely reopen to students and staff. Currently, schools are individually navigating – without clear or detailed law, regulation or guidance – the implementation of health and safety protocols to mitigate the spread of COVID-19, including whether employees must report their vaccination status; wearing facemasks and maintaining social distancing; whether to regularly test and/or screen students and staff and whether, or to what extent, schools should continue to offer a remote learning option.

We understand that schools have recently been informed by the Governor's Office that they should not expect any forthcoming guidance or mandates on these topics to assist them in their planning for the coming school year. Thus, each school is left to reopen and operate safely as it believes appropriate in conjunction with feedback from their school leadership, reopening committee members, and other critical stakeholders, including the local county department of health and/or Commissioner of Health. These individuals and agencies are in a unique position to assist school leaders in developing protocols which take into account the complexities of operating a school environment.

While the State currently recommends that school districts follow the Centers for Disease Control and Prevention (CDC) guidance when planning for reopening, we also underscore the importance of a school district recognizing the implications of any orders that may be issued by their local department of health. In this regard, local departments of health have authority, pursuant to New York State Public Health Law Section 308, to issue legally binding orders as it may deem necessary upon school districts for the preservation of life and health. And violations of such orders, which generally have the force and effect of law, may subject a school district to penalty and/or liability.

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Our [Education Practice](#) stands ready to assist our school clients as they continue planning for a safe reopening, including maneuvering complex personnel and student-facing issues. If you have any questions relating to this alert, please contact [Jeffrey Swiatek](#) (716.848.1449), [Lindsay Menasco](#) (716.848.1214), or any member of our practice.