



SETTING A NEW COURSE

A Legal Guide to
Operating Schools in
the Pandemic Era

ADDENDUM



Appendix 1

Returning to the Classroom: FAQs for School Leaders on Policy & Legal Implications of the February 2021 Federal Guidance on Reopening Schools

Last year, as school leaders faced school building closures and shifted to online and hybrid models of instruction, NSBA issued its guide entitled, *Setting a New Course: A Legal Guide to Operating Schools in the Pandemic Era*, to help schools navigate salient issues surrounding the pandemic. Nearly one year later, this appendix to the publication is intended to build on that guide by helping school leaders understand the latest federal guidance from the Centers for Disease Control and Prevention (CDC) and the U.S. Department of Education (ED).

On Feb. 12, 2021, less than one month into a new presidential administration, two federal agencies released guidance developed to assist schools in reopening safely during the COVID-19 pandemic:

- CDC’s [Operation Strategy for K-12 Schools through Phased Mitigation](#) (Strategy); and
- ED’s [COVID-19 Handbook Volume 1: Strategy for Safely Reopening Elementary and Secondary Schools](#) (Handbook).

CDC’s approach focuses on assisting school districts in reopening schools and helping them stay open “through the consistent use of mitigation strategies, especially the correct use of masks and physical distancing.”¹ ED’s resource supplements with specific considerations for schools as their leaders implement CDC’s recommendations.²

In some communities, public schools have been open for in-person instruction, at least partially, for several months. In others (albeit few), no schools have yet opened in-person. Regardless of where schools may be in the reopening process, school leaders are raising questions about the federal guidance documents and what the guidance means for school operation plans amid the pandemic. This appendix to our guide offers responses to those questions based on the new federal guidance to inform current operation plans and adjustments going forward. School leaders also are encouraged to confer with their state school board associations for information or requirements specific to their jurisdictions.

1. Are school districts legally required to follow the strategies outlined in these documents?

No. These resources provide guidance and recommendations, which school districts are not legally required to follow. ED states that “this volume does not have the force and effect of law and it is not

binding in any way (except where statutory or regulatory requirements are referenced).”³ CDC explains that it “presents recommendations based upon the best-available evidence at the time of release.”⁴

2. What will happen if a school district decides not to follow the strategies outlined in these documents?

School districts are not legally required to follow the strategies outlined in the *Strategy or Handbook* because those publications do not have the force or effect of law. However, school districts need to be careful about ignoring the federal agencies’ recommendations. The agencies provide best practices developed by scientists and specialists on an urgent public concern: how to reopen schools safely and mitigate the spread of the Coronavirus (the virus). School districts that fail to follow the advice provided by these agencies may risk legal liability if their failure to follow the advice leads to the spread of the virus in their buildings.

While the federal guidance documents are not legally binding on school districts, many state and local rules are. Schools must follow state laws, state department of education regulations, state and local health department regulations, and any applicable collective bargaining agreement language as they safely reopen schools and work to contain the spread of the virus once schools are reopened. School districts can face liability for violating such state and local rules.

As part of the school reopening process, and to keep students safe and reduce the risk of liability, school districts should include state and local health and legal officials in reopening planning. School leaders also should consult with their state school board associations and NSBA Council of School Attorneys members for assistance in determining whether or how to implement the recommendations in the *Strategy and Handbook* and to review applicable state laws, regulations, and contracts to make certain that their practices are consistent with applicable legal requirements.

3. What are the essential elements of CDC’s recommended strategies for the safe return to in-person instruction?

CDC identifies a package of recommended mitigation strategies that schools can use to protect students, staff, and teachers from the virus. When these strategies are consistently implemented, CDC says, school districts have been able to safely open K-12 schools for in-person instruction and to keep them open. The three essential elements of this “package” of strategies are:

- Consistent implementation of mitigation strategies to reduce transmission in schools.
- Attention to indicators of community transmission that reflect levels of community risk.
- Phased mitigation and learning modes based on the level of community transmission.⁵

CDC also recommends testing to identify individuals with the virus to limit outbreak and vaccinations for teachers, staff, and community as soon as supplies are available.⁶

4. What are the specific mitigation strategies that CDC suggests schools use to reduce the transmission of the virus and safely return to in-person learning?

According to CDC, five key strategies are essential to the safe return to in-person teaching:

- Universal and correct use of masks.⁷
- Physical distancing.⁸
- Handwashing and respiratory etiquette.⁹
- Cleaning and maintaining healthy facilities.¹⁰
- Contact tracing in combination with isolation and quarantine.¹¹

CDC emphasizes that universal mask-wearing and physical distancing are the most important components of this strategy. It advises school districts to make certain that students and staff universally and correctly wear masks and that physical distancing is at least six feet. It provides specific detailed guidance on how to properly perform each of these essential strategies. (See CDC guidance documents linked in endnotes 7-11.)

5. How should school districts take community transmission into account in developing their strategies for safe in-person learning, according to the CDC Strategy?

According to CDC, the first step in determining when and how safe it is to reopen schools is to assess the level of community transmission, because “preventing COVID-19 in schools begins with and is connected to preventing transmission in the community.” A school community then “must implement a layered approach that adheres to multiple mitigation strategies and adjust them as needed to reduce COVID-19 risk for students, teachers, school staff, families and the community.”¹²

CDC recommends that school administrators work with local public health officials to assess the level of risk in the community, the likelihood of a case arising in a school facility, and the likelihood that such a case would lead to an outbreak.¹³ It suggests school districts use two measures to determine the risk of community transmission:

- The total number of new cases per 100,000 persons in the past seven days.
- The percentage of nucleic acid amplification tests that are positive during the last seven days.

CDC provides tables to guide schools in determining appropriate strategies to accompany each level of community transmission. Determining the level of transmission in the community as a precursor to reopening schools safely is a technical exercise that should be coordinated with the local health officials.¹⁴

Recommended Implementation of Mitigation Strategies and K-12 School Learning Modes by Level of Community Transmission¹⁵

Low Transmission Blue	Moderate Transmission Yellow	Substantial Transmission Orange	High Transmission Red
All schools: Universal and correct use of masks is required; implementing other key mitigation strategies: handwashing and respiratory etiquette; cleaning and maintaining healthy facilities; contact tracing and diagnostic testing in combination with quarantine and isolation.			
K-12 schools open for full in-person instruction Physical distancing of 6 feet or more to the greatest extent possible		Elementary schools in hybrid mode; physical distancing of 6 feet or more required	
		Middle and high schools in hybrid learning mode or reduced attendance Physical distancing of 6 feet or more is required	Middle and high schools in virtual only instruction unless they can strictly implement all mitigation strategies, and have few cases; schools that are already open for in-person instruction can remain open, but only if they strictly implement mitigation strategies and have few cases
Sports and extracurricular activities with masks required; physical distancing of 6 feet or more to the greatest extent possible	Sports and extracurricular activities with masks and physical distancing of 6 feet or more required	Sports and extracurricular activities occur only if they can be held outdoors, with masks and physical distancing of 6 feet or more required	Sports and extracurricular activities virtual only

6. What does CDC mean by “phased mitigation”? Does this approach consider different learning modes and testing options?

“Phased mitigation” is the term CDC uses to describe its approach to school reopening. According to CDC, school districts can provide in-person instruction safely through strict adherence to layered mitigation strategies that include universal mask use. It recommends tying learning modes (in-person, hybrid, or virtual) to the level of community transmission and maintaining strict adherence to mitigation.

Schools may decide to intensify mitigation strategies when there is an uptick in community transmission. A strategy to deal with the increase in community transmission might involve imposing restrictions on extracurricular activities, explains CDC. Under phased mitigation, a school’s operational plan also will be affected by whether and how a school implements testing.¹⁶

CDC's phased mitigation approach emphasizes the following key recommendations:

- K-12 schools should be prioritized for reopening and remaining open for in-person instruction over all nonessential businesses and activities.
- In-person instruction should be prioritized over extracurricular activities, including sports and after-school events, to minimize the risk of transmission in schools.
- Families of students who are at increased risk for severe illness or who live with people who are at risk for severe illness should be given the option of virtual instruction without regard to the learning mode being offered.
- Schools are encouraged to use cohorting and podding of students to facilitate testing and contact tracing and minimize transmission across pods.
- Schools that serve populations at risk for learning loss during virtual instruction should be prioritized for reopening and provided with resources to implement mitigation.
- When implementing phased mitigation in hybrid learning modes, schools should consider prioritizing in-person instruction for students with disabilities, who may require special education or related services directly provided in school environments, as well as other students who may benefit from receiving instruction in a school setting.

7. How does CDC recommend that schools use testing as a mitigation strategy for reopening schools?

CDC states that schools that follow the outlined mitigation strategies can reduce their risk of transmission of the virus even further by providing testing to detect new cases, thereby preventing outbreaks and the further rise of transmission. Its *Strategy* document addresses two kinds of testing: diagnostic and screening.

According to CDC, schools should offer referrals for diagnostic testing to any student, teacher, or staff member who exhibits symptoms of the virus at school. Schools should advise the person to stay home and refer for testing. Diagnostic testing also should be performed on asymptomatic individuals who have been exposed to someone with a confirmed or suspected case of COVID-19. Screening tests, which are intended to identify infected individuals who have not exhibited symptoms, are given to those who may be contagious so that measures can be taken to prevent further transmission.

8. Does CDC provide guidance on school-based-testing for staff and students?

CDC outlines procedures for testing and when that testing should be done. But there are ethical, legal, and practical matters that school districts should consider before deciding to test staff or students or refer them for testing. Developing and administering a testing program will be expensive and require that schools have trained staff and the appropriate testing apparatus in place. School-based testing also may require multiple federal and state certifications. And schools will need to figure out how to properly dispose of hazardous material and maintain and store private biomedical information.¹⁷

In administering testing programs, school districts should consider their limitations. These include the incidence of false-positives or false-negatives associated with a particular test. Accurate testing only reveals if the virus is currently present. A negative test does not mean the person will not acquire the virus later. Keep in mind, also, that these are medical exams that must be confidential, and the results need to be maintained in a separate medical file. Further, personal protective equipment (PPE) should be provided to employees administering the test with training on how to properly use the PPE. For those exposed to bodily fluids as part of their job, schools will need to provide proper training on bloodborne pathogens.¹⁸ Since conducting safe and effective testing may require schools to expend a great deal of money and subject them to a fair amount of liability, they will want to be careful before deciding to implement an in-house testing program. Testing might be safer, more accurate, and more cost-effective if schools arrange to have testing done by a credible outside source.

Ethical and privacy issues should be considered when schools seek to test students or staff. To test students, schools must have the permission of their parents, as it is unethical and illegal in some instances to administer tests to a minor student without it. Additionally, schools should never test a student or staff member unless testing is done voluntarily, as it is unethical and possibly illegal to test someone who objects to being tested.

Testing employees will raise additional legal questions. According to the EEOC's Technical Assistance Questions and Answers,¹⁹ a school may choose to administer testing to employees before they enter the workplace to determine if they have the virus. However, the American with Disabilities Act of 1990 (ADA) requires that any mandatory medical test of employees be "job-related and consistent with business necessity." Applying this standard to the current COVID-19 pandemic, schools could argue that by testing, they are legally taking steps to determine if employees entering campus have the virus because an individual with the virus poses a direct threat to the health of others.²⁰ If schools seek to do this, they will need to make certain they meet all the requirements of the ADA to justify the testing.

Consistent with ADA standards, schools would need to ensure that any tests they administer are accurate and reliable. They may need to review guidance from the U.S. Food and Drug Administration about what may or may not be considered safe and accurate testing, as well as guidance from CDC or other public health authorities. They also will need to check regularly for updates as this is a rapidly developing field.²¹

Finally, testing staff and students will involve privacy laws such as the Health Insurance Portability and Accountability Act (HIPPA) and the Family Educational Rights and Privacy Act (FERPA).²² State privacy laws may also be implicated in decisions to test. Schools will need to be aware of such laws as they are making decisions to test students and staff.

School districts need to consider many legal and ethical matters if they are going to implement a testing program. We strongly recommend that they consult their local health departments and their COSA attorneys to determine what kind of testing program to implement and how to run such a program in a legal and ethical manner.

9. Does CDC recommend that vaccination be a requirement for teachers and staff to return to work?

No. CDC states that vaccines are an important tool to help stop the pandemic, and vaccination of school

district staff should be considered a mitigation strategy to protect staff and students. It does not suggest that vaccinations be required before teachers or other staff can return to school.

10. Does CDC address vaccination of students?

No. The CDC *Strategy* document does not address the vaccination of students.

11. Does CDC suggest that schools take health equity into account in developing policies and procedures for returning to in-person learning?

Yes. CDC does urge schools to consider health equity as they develop and implement reopening plans. Because of systemic health and social inequities, CDC notes, many racial and ethnic minorities are disproportionately affected by COVID-19. This includes children. In the absence of in-person education, many low-income students are disadvantaged because they do not have access to the technology needed to do their classwork and because they are more likely to need services such as food programs, special education services, after-school programs and other resources typically accessed through in-person schooling. To assist in slowing the spread of the virus and promoting a healthy environment for all students, CDC encourages school districts to partner with public health officials to safely open schools to alleviate this inequity where possible.²³

12. Is ED's *Handbook* consistent with the strategies outlined by CDC? If so, how does it assist schools in adopting CDC's recommended strategies?

ED's *Handbook* is designed to complement CDC's *Strategy* resource by providing schools with guidance and workable examples to implement CDC's recommended practices for in-person learning. The guidance in Volume I of the *Handbook* addresses physical distancing, masking, and stakeholder engagement.

13. How does ED recommend that school districts consider the specific needs of disabled students in developing their plans for reopening schools?

ED emphasizes that school districts must consider the specific needs of disabled students in developing their plans for reopening schools.²⁴ Public schools must provide a free appropriate public education (FAPE) as required by federal disability law²⁵ in both in-person and remote learning environments.

ED notes three areas of concern for students with disabilities that schools should consider.

Mask-wearing. Some students with disabilities cannot wear a mask safely due to their disability. Those students may still attend school if other mitigation strategies are able to be followed, including correct masking, additional facial protections, or physical distancing for others who work or learn with them. In addition, having staff and other students wear masks that include a clear panel (while still sealing to a wearer's face and distinct from a face shield) may be particularly helpful for students with speech disabilities.²⁶ ED urges schools to consider appropriate child-specific responses to students whose disability may impact their ability to wear a mask, thus ensuring that students with disabilities continue to receive FAPE. For example, "if a student's difficulty wearing a mask is related to an emotional disturbance or sensory disability, the school's response should be different from a response for a student without a disability."²⁷

Physical distancing. ED points out that physical distancing at school may be difficult for some students with disability related needs, including children who are blind and require sighted guides, children who are deaf and blind who require tactile interpreting, and some children with significant disabilities who have intensive needs.²⁸ Federal disability law requires schools to provide certain services to students with disabilities and to take an individualized approach to providing services. ED reminds schools to act in ways that are consistent with a student’s individualized education program (IEP) or plan developed under Section 504 of the Rehabilitation Act of 1973 (504 plan). School districts and administrators should collaborate to facilitate safe in-person learning for the greatest number of students with disabilities as much as is feasible, ED notes.

Transportation. Schools also should consider transportation matters for disabled students, ED points out. If a school system provides transportation for students with disabilities as part of their IEP or 504 plan, schools should consider the reservation of specific seats that would not be used for other students during the day. Alternatively, the student’s IEP or 504 team could discuss arranging for separate transportation for those students who require transportation to receive FAPE.

ED is expected to release additional volumes of the *Handbook* providing specific strategies to address the disruption created by the virus for historically underserved students and communities that preliminary data suggest have been hit hardest by the pandemic. Specifically, future volumes may include strategies for:

- Meeting the social, emotional, mental health, and academic needs of students.
- Ensuring equitable access to broadband and the devices needed to participate in remote learning.
- Providing school nutrition, regardless of the educational setting.
- Providing all students with access to a safe and inclusive learning environment.
- Addressing resource inequities to provide all students with the educational opportunities they need to succeed, including access to a well-rounded education (including advanced courses, music, and the arts), quality educators, and integrated student support services. **

14. Do ED and CDC ask school districts to consider unique challenges facing certain student populations as they develop plans for reopening schools? If so, what kind of steps might a district take to address equity issues in making the decision to reopen schools for in-school learning?

Yes. ED notes that historically underserved communities face unique challenges during the pandemic, including students from low-income families, students of color, English learners, students with disabilities, American Indian and Alaska Native students, students in foster care, and students experiencing homelessness. CDC suggests that school districts consider offering in-person learning for students without reliable access to broadband or technology devices, students with disabilities, children in foster care, children experiencing homelessness, children who rely on food programs, and others for whom remote learning is particularly challenging.

Schools also should consider students who may be at high risk for contracting the virus or developing COVID-19, according to ED. The *Handbook* cites CDC’s recommendation that “students who are at increased risk of severe illness (including those with special healthcare needs) or who

live with people at increased risk should be given the option of virtual instruction regardless of the mode of learning offered.”²⁹

15. Does ED say school districts can partner with local health departments to provide testing to students and staff without violating federal privacy laws?

Yes. According to ED, school districts can and should partner with local health departments if they are going to test staff or students for COVID-19. See the answer to question 8 for legal, ethical, and practical issues that school districts should consider if they plan to test students or staff.

16. What do CDC and ED recommend that schools consider in determining whether to bring back sports and other extracurricular activities?

According to CDC and ED, if schools conduct sports activities during the pandemic, they should do so with an eye toward reducing the risk of virus transmission to players, families, coaches, and communities. They urge schools to consider generally:

- Which sports can be safely played (if transmission rates are high in the community, CDC recommends that indoor sports be postponed or conducted virtually).
- Prioritizing outdoor sports or sports that involve the least physical contact.
- Mask-wearing.³⁰

ED reminds school districts that they must operate all athletic activities consistent with federal civil rights laws (Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act and Part B of the Individuals with Disabilities Education Act). ED notes that access to athletics may increase options for students for postsecondary education, so K-12 and higher education athletics leaders should try to preserve those opportunities, consistent with CDC guidance.

CDC recommends the following considerations as schools determine how to safely maintain student access to athletic programs while complying with nondiscrimination laws:

- Prioritizing sports that pose fewer risks. Consider:
 - Ability to play outdoors.
 - Ability to wear a mask during the activity.
 - Physical closeness of players during play.
 - Amount of necessary touching of shared equipment and gear.
 - Ability to engage in physical distancing while not actively engaged in play, such as when on the bench or sideline.
 - Players' ages and ability to comply with physical distancing and other protective actions.
 - Size of the team and field of play.

- Presence of nonessential visitors or volunteers during practices or games.
- Travel required outside of the local community.

CDC also recommends:

- Limiting cross-school transfer for special programs, especially beyond the community.
- Providing prepackaged boxes or bags if food or snacks are offered.
- Considering eliminating the use of locker rooms if they are small and poorly ventilated or do not allow for physical distancing.
- Limiting or prohibiting spectators and any nonessential visitors.
- Avoiding equipment sharing.
- Ensuring consistent wearing of masks.
- Using a microphone and speaker and any other needed accommodation for students with IEPs or 504 plans when coaches or instructors deliver instructions.
- Encouraging physical distancing during times when players are not actively participating in practice or competition.

Example: State-Level Athletics Policy

The Illinois Department of Commerce and Economic Opportunity (DCEO), along with the Illinois Department of Public Health (IDPH) and the Illinois State Board of Education (ISBE), issued comprehensive guidance on sports safety. Sports are categorized as Higher, Moderate, and Lower Risk, and four levels of play are contemplated:

- Level 1 – No contact practices and trainings only.
- Level 2 – Intra-team scrimmages allowed, with parental consent for minors, no competitive play.
- Level 3 – Intra-conference or Intra-EMS region or intra-league plays/meets only; state or league-championship game/meet allowed for low-risk sports only.
- Level 4 – Tournaments, out-of-conference/league play allowed; championship games allowed.

In addition to mandating wearing a mask covering the nose and mouth throughout the activity, the guidance provides mitigation efforts that can lower the risk of transmitting the virus in specific sports, such as:

- Baseball – Maintain at least 6-feet of distance in dugout areas or if players are seated in bleachers behind dugout.
- Cross county – Limit the number of teams and follow physical workspace guidelines.
- Volleyball – Maintain a distance of at least 6 feet between players on each side of net and on the bench.³¹

- Not holding indoor practices for outdoor sports, and, where feasible, holding practices outdoors for indoor sports.
- Limiting or avoiding team meetings or social activities or holding such activities virtually.
- Avoiding travel to and from areas with high levels of community transmission.

17. If schools can only remain partially open, what should they consider in prioritizing in-person instruction?

If schools can only remain partially open, they should first make certain that they are following the fundamental aspects of the CDC’s mitigation strategy, which includes requiring the universal and correct wearing of masks, physical distancing, handwashing, clean facilities, contact tracing, and diagnostic testing.

In addition to following other elements of the mitigation strategy, the *Handbook* indicates that schools can also support physical distancing by practicing “cohorting” or “podding.” A cohort or pod is a small group with a fixed membership that stays together for all courses and activities. This allows them to avoid contact with others outside the cohort/pods. The *Handbook* notes “cohorting/podding” may be more difficult at the middle (junior high) and high school levels because they do not stay grouped together throughout the school day.

Finally, the *Handbook* warns that “cohorts/pods” should avoid creating the perception of impermissible segregation of students. The *Handbook* states that “it is important to ensure any use of cohorting/podding for learning is designed to support inclusion for English learners, students with disabilities consistent with their IEPs or 504 plans, and other historically underserved students, and is consistent with applicable civil rights and related requirements.”³²

18. What does ED recommend school districts consider in transporting students safely?

In its *Handbook*, ED suggests that schools focus on physical distancing of students during transport to and from school. Districts should concentrate on providing increased ventilation on school buses and pay particular attention to the transportation needs of students with IEPs or 504 plans.

The *Handbook* indicates that physically distancing students can be a particular challenge on school buses and other vehicles that transport students. However, it provides several options for schools to consider that can promote safety and increase the distance among students and between students and the school bus driver. These options include:

- Opening windows, weather permitting, to increase circulation of outdoor air.
- Maintaining mandatory consistent, correct use of masks by adults and children while on a school bus and at arrival/departure points.
- Seating one student per row, alternating window and aisle seating, and skipping rows when possible.
- Seating members of the same household next to each other.
- Providing a partial plexiglass partition between driver and passenger sections.

The American School Bus Council has issued a report recommending:

- **DRIVER TESTING**—Drivers may be monitored for symptoms and asked to stay home if necessary or if they have been in contact with a person who has COVID-19 or a person who has been exposed to the virus.
- **MASKS AND HAND SANITIZING**—Drivers, aides, and staff may wear a mask in accordance with state and local guidelines and sanitize their hands throughout the day.
- **INCREASED AND ONGOING CLEANINGS**—More emphasis will be placed on routine and ongoing cleaning and sanitization of high-touch surfaces such as the interior of the bus, handrails, and seats. Increased deep cleaning will be considered in the event of COVID-19 exposure.

- Assigning each bus rider to a designated seat.
- Using seat assignments that load the bus from the rear forward (and unload from the front backward) to help reduce student contact.
- If a school district provides transportation for students with disabilities as part of their IEP or 504 plan, including medically fragile children, it should consider the reservation of specific seats that would not be used for other students during the day and would be subject to special cleaning precautions. Alternatively, the student's IEP or 504 team could discuss arranging for separate transportation for those students who require this type of transportation to receive a FAPE.
- Installing signage with visual cues.
- Encouraging families to drive or walk their children to school.³³

ENDNOTES

- ¹ Centers for Disease Control, *Operational Strategy for K-12 Schools through Phased Mitigation*, <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/operation-strategy.html>. (“CDC Strategy”)
- ² United States Department of Education, *COVID-19 Handbook Volume 1: Strategies for Safely Reopening Elementary and Secondary Schools*, <https://www2.ed.gov/documents/coronavirus/reopening.pdf>. (“ED Handbook”)
- ³ ED Handbook.
- ⁴ CDC Strategy.
- ⁵ CDC Strategy.
- ⁶ CDC Strategy.
- ⁷ Centers for Disease Control and Prevention, Guidance for Wearing Masks, https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover-guidance.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fcommunity%2Fschoools-childcare%2Fcloth-face-cover.html.
- ⁸ Centers for Disease Control and Prevention, Social Distancing, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/social-distancing.html>.
- ⁹ Centers for Disease Control, Handwashing: Clean Hands Save Lives, <https://www.cdc.gov/handwashing/when-how-handwashing.html>.
- ¹⁰ Centers for Disease Control and Prevention, Cleaning, Disinfecting and Ventilation, Guidance for Cleaning and Disinfection, <https://www.cdc.gov/coronavirus/2019-ncov/community/clean-disinfect/index.html>.
- ¹¹ Centers for Disease Control and Prevention, Contact Tracing Resources for Health Departments, https://www.cdc.gov/coronavirus/2019-ncov/php/contact-tracing/contact-tracing-resources.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fphp%2Fopen-america%2Fcontact-tracing-resources.html.
- ¹² CDC Strategy.
- ¹³ CDC Strategy.
- ¹⁴ CDC Strategy.
- ¹⁵ Centers for Disease Control, Operational Strategy for K-12 Schools through Phased Mitigation (overview) <https://www.cdc.gov/coronavirus/2019-ncov/downloads/community/schools-childcare/K-12-Operational-Strategy-02142021.pdf>.
- ¹⁶ CDC Strategy.
- ¹⁷ *Back-To-School FAQs For Educational Institutions During The COVID-19 Era*, Fisher Phillips (May 22, 2020), [Back-To-School FAQs For Educational Institutions During The COVID-19 Era \(fisherphillips.com\)](https://www.fisherphillips.com/back-to-school-faqs-for-educational-institutions-during-the-covid-19-era).
- ¹⁸ *Id.*
- ¹⁹ U. S. Equal Opportunity Commission, What You Should Know About COVID-19 and the ADA, The Rehabilitation Act, and Other EEO Laws, <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>.
- ²⁰ *Back-To-School FAQs For Educational Institutions During The COVID-19 Era*, Fisher Phillips (May 22, 2020), [Back-To-School FAQs For Educational Institutions During The COVID-19 Era \(fisherphillips.com\)](https://www.fisherphillips.com/back-to-school-faqs-for-educational-institutions-during-the-covid-19-era); Americans With Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 328 (1990).
- ²¹ *Id.*

²² Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191; Family Educational Rights and Privacy Act 20 U.S.C § 1232g; 34 CFR Part 99.

²³ Centers for Disease Control, Health Equity: Promoting Fair Access to Health, <https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/index.html>.

²⁴ If a student typically works with a Direct Service Provider (DSP), school administrators should review the DSP guidance and ensure that DSPs who enter the school building are aware of and follow the school's reopening plan.

²⁵ 34 CFR § 300.101.

²⁶ *ED Handbook*.

²⁷ *ED Handbook*.

²⁸ *ED Handbook*.

²⁹ *ED Handbook*.

³⁰ ED lists detailed considerations for safely maintaining access to athletics programs at pages 19-20 of the *Handbook*, <https://www2.ed.gov/documents/coronavirus/reopening.pdf>.

³¹ *All Sports Policy*, Illinois Department of Commerce and Economic Opportunity, Illinois Department of Public Health (IDPH), and Illinois State Board of Education (Updated Feb. 5, 2021) [Sports Safety Guidance | IDPH \(illinois.gov\)](#).

³² *ED Handbook* at *13-14.

³³ *ED Handbook* at *15-16; *Steps we're taking to keep students safe on the school bus during the pandemic*, American School Bus Council (2020), [covid-19 - American School Bus Council](#)



1680 Duke Street, 2nd Floor, Alexandria, Virginia 22314-3493
nsba.org