



SCHOOL BOARD OF BREVARD COUNTY, FLORIDA
School Board Policy Executive Summary
 Form D

Policy Number:	8420.02
Title of Policy:	Emergency Policy Requiring Face Coverings
Cabinet Member:	Robin Novelli, Chief Operating Officer, District Operations
Purpose of Revisions:	The purpose of the proposed revisions to the policy is to ensure compliance with all applicable federal and state laws, Florida State Board of Education Rules, Board policies, administrative rules, procedures, and guidelines. In addition, the proposed revisions promote transparency and accountability.
Tentative Schedule:	<ul style="list-style-type: none"> • Cabinet – 9/8/20 via Email • Work Session – 9/10/20 • Rule Development Workshop – 9/22/10 • School Board Meeting Information – 9/22/10 • School Board Meeting Approval – 10/6/20 • Effective Date – upon approval
Summary of Proposed Policy Revisions:	<ul style="list-style-type: none"> • This policy was adopted by the School Board on August 11, 2020 as an emergency Board Policy due to the current Coronavirus (COVID-19) pandemic and that the Superintendent found that there is an imminent danger and a need to protect public health, safety and/or welfare posed by COVID-19. The emergency policy as adopted governs the conduct of staff, students, visitors and vendors in district facilities. • The emergency policy became effective on August 11, 2020 and will remain in effect for ninety (90) days unless extended pursuant to Section 120.54(4), Florida Statutes. • This policy is being revised so that the policy can remain in effect after its initial ninety (90) days have expired and to be in compliance with applicable Florida law.
Specific Authority:	§§1001.41(1), 1001.41(2), 1001.42(4), 1001.42 (8), 1003.31, 1012.23; F.S.
Next Steps:	<ul style="list-style-type: none"> • Revisions to internal procedures • Training for BPS employees regarding revisions to policy and revised procedures

**Current
Version**

Title: Emergency Policy Requiring Face Coverings.

Preamble.

The State of Florida has been under a declared state of emergency because of the COVID-19 pandemic since March 9, 2020. Based on the available scientific evidence, the Centers for Disease Control and Prevention (“CDC”), Florida Department of Health and local health department recommend wearing cloth face coverings in public settings where other social distancing measures are difficult to maintain in order to slow the spread of the virus and help prevent people who may have the virus from transmitting it to others.

It is well settled law that the School Board has the authority to impose reasonable restrictions on students, employees and visitors related to their health, safety and welfare. One hundred and fifteen years ago the United States Supreme Court unequivocally held:

[T]he liberty secured by the Constitution of the United States to every person within its jurisdiction does not import an absolute right in each person to be, at all times and in all circumstances, wholly freed from restraint. There are manifold restraints to which every person is necessarily subject for the common good. On any other basis, organized society could not exist with safety to its members. Society based on the rule that each one is a law unto himself would soon be confronted with disorder and anarchy. Real liberty for all could not exist under the operation of a principle which recognizes the right of each individual person to [do what he wishes] ..., regardless of the injury that may be done to others.

This court has more than once recognized it as a fundamental principle that persons and property are subjected to all kinds of restraints and burdens, in order to secure the general comfort, health, and prosperity of the State... The possession and enjoyment of all rights are subject to such reasonable conditions as may be deemed by the governing authority of the country essential to the safety, health, peace, good order and morals of the community. Even liberty itself, the greatest of all rights, is not unrestricted license to act according to one's own will. It is only freedom from restraint under conditions essential to the equal enjoyment of the same right by others. It is then liberty regulated by law.

Jacobson v. Massachusetts, 197 U.S. 11 (1905).

Section 1. Required Face Coverings

Subject to the exceptions set forth below, each student, employee, visitor, vendor or other person is required to wear a face covering at all times, when social distancing cannot be adhered to, while on school district property. This includes, but is not limited to, on any grounds or facility or inside any building or bus owned, leased, or operated by the school district. All students, employees, visitors, and vendors shall have a face covering with them at all times while on school district property even if they are temporarily allowed to not wear a face covering pursuant to one of the

exceptions set forth below. An infant younger than two (2) years old and a person with a medical certification are not required to carry a face covering.

Section 2. Exceptions to Required Face Coverings.

While maintaining social distancing (six (6) feet minimum) as much as feasible, a face covering is not required in the following instances:

Infants - A face covering shall not be required for persons younger than two (2) years old.

Pre-K through Grade 2 – While a face covering is strongly recommended for students in Pre-K through Grade 2, it shall not be required.

Medical Certification - A face covering shall not be required for persons who present school district staff with a certification from a licensed health care provider that the person has a medical, physical, or psychological contraindication that prevents the person from being able to safely wear a face covering.

IEP/504 – A face covering shall not be required for persons who have documented through an IEP or 504 plan that the person has a medical, physical, or psychological contraindication that prevents the person from being able to safely wear a face covering.

Students with Supervisor’s Approval - A face covering shall not be required for a student if the school district staff supervising the student authorizes the student to remove their face covering during that activity provided that the student maintains social distancing (six (6) feet minimum) from other persons when not wearing a face covering.

Employees - A face covering shall not be required for a school district employee provided that the employee maintains social distancing (six (6) feet minimum) from other persons when not wearing a face covering.

Eating and Drinking - A face covering shall not be required for any person inside or outside a school district facility while such person is stationary and eating or drinking during a planned mealtime and/or snack time. A face covering also shall not be required while any person is drinking while inside or outside of a school district facility.

Strenuous Physical Activity - A face covering shall not be required for any person inside or outside of any school district facility while such person is engaged in strenuous physical activity.

During Receipt of Health Care - A face covering may be removed when removal of the face covering is necessary for such person to receive health care or to undergo a health care examination from authorized health care personnel.

Exigent Circumstances - A face covering shall not be required if a person is experiencing acute trouble breathing, is unconscious or incapacitated, is personally unable to remove the

face covering without assistance or it is deemed by school district staff to be necessary to remove the face covering.

Section 3. Types of Face Coverings.

All students, employees, visitors and vendors are encouraged to wear their own face covering, however, disposable face coverings will be available at all sites. Acceptable face covering include:

Commercially Produced Face Coverings – Commercially produced surgical masks or respirators are acceptable for compliance with this policy, but are not mandated.

Cloth Face Coverings – Commercially produced or home-made cloth face coverings are acceptable for compliance with this policy provided the face covering covers both the mouth and nose and fits snugly against the sides of the person’s face with little to no gaps.

All student face coverings shall comply with the school’s dress code for shirts.

Section 4. Face Shield Use

Face shields may be used by persons to comply with this policy. Faculty are allowed to use a face shield, in lieu of a mask, when the instruction requires the students to be able to see a teacher’s face.

Section 5. Student Compliance

Students who do not wear a face covering will first be offered one. If refused, the student will be referred to administration for a Level 1 offense. If the behavior escalates in response to the intervention, a student may be considered for a higher-level offense. Students who persistently violate this policy may be referred to eLearning after a parent conference to discuss the concerns.

Section 6. Staff Compliance

Employees who refuse to wear a face covering may be disciplined according to Board Policy and the applicable Collective Bargaining Agreement.

Section 7. Visitor and Vendor Compliance

Authorized visitors and Vendors who refuse to wear a face covering will not be permitted on District property.

Section 8. This Emergency Policy takes effect on August 11, 2020, and will remain in effect for 90 days unless extended pursuant to Section 120.54(4), Florida Statutes.

Specific Authority: Section 1001.41(1) and (2), Florida Statutes.

Law Implemented: Sections 1001.42(4) and (8); 1003.31; 1012.23, Florida Statutes.

Policy Adopted: 8/11/20

Neola Template

Book: Florida Policies for Update

Section: Vol. 21, No. 1

Title: NEW POLICY - VOL. 21, NO. 1 - PROTECTIVE FACIAL COVERINGS DURING PANDEMIC/EPIDEMIC EVENTS

Number: po8450.01

NEW POLICY - VOL. 21, NO. 1

8450.01 - PROTECTIVE FACIAL COVERINGS DURING PANDEMIC/EPIDEMIC EVENTS

During times of elevated communicable disease community spread (pandemic or epidemic), the Superintendent will issue periodic guidance through School Board plans/resolution(s) in alignment with public health officials and/or in accordance with government edicts and including any Pandemic Plan developed by the District's Pandemic Response Team.

School settings can be a source of community spread. Wearing face masks/coverings is especially important during these times and can help mitigate the risk of exposure from person to person.

As such, during times of elevated communicable disease community spread, the Superintendent may activate this policy by notifying the school community, requiring all school staff, volunteers and visitors (including vendors) to wear appropriate face masks/coverings on school grounds unless it is unsafe to do so or where doing so would significantly interfere with the Districts educational or operational processes.

Face masks/shields will be provided by the District to employees. Alternatively, employees may elect to wear their own face coverings if they meet the requirements of this policy as well as any requirements issued by State or local health departments.

In addition, the Board may require that

students in ___ grade and higher shall wear a face mask unless they are unable to do so for a health or developmental reason. Efforts will be made to reduce any social stigma for a student who, for medical or developmental reasons, cannot and should not wear a mask.

OR

() students shall wear a face mask unless they are unable to do so for a health or developmental reason. Efforts will be made to reduce any social stigma for a student who, for medical or developmental reasons, cannot and should not wear a mask.

If face masks/coverings are required, and no exception is applicable, students shall be subject to disciplinary action in accordance with the Student Code of Conduct/Student Discipline Code, and in accordance with policies of the Board

() and/or may be reassigned by the Superintendent to an online/virtual learning environment if the Superintendent determines that reassignment is necessary to protect the health and safety of the student or others. **[DRAFTING NOTE: Districts should consult with legal counsel before reassigning a student with a disability to a virtual learning format. This might constitute a change in placement in violation of state and federal law.]**

[] During times of elevated communicable disease community spread as determined by the Board in consultation with health professionals, all students are required to wear masks while being transported on District school buses or other modes of school transportation.

[DRAFTING NOTE: The majority opinion among medical experts appears to be that children kindergarten through 5th grade can wear masks as long as consideration is given for the age and developmental level of the child and the physical situation the child is in at that moment.]

Use of Mask/Face Covering

Face coverings/masks should:

fully cover the mouth, nose, and chin;

fit snugly against the side of the face so there are no gaps;

not create difficulty breathing while worn; and

be held securely through either a tie, elastic, etc. to prevent slipping.

Facial masks/coverings generally should not include surgical masks or respirators unless medically indicated (as those should be reserved for healthcare workers) or masks designed to be worn for costume purposes.

All employee facial masks/coverings shall meet the requirements of the appropriate dress/staff grooming policies (Policy 3216/4216). All student facial masks/coverings shall meet the requirements of the appropriate Student Code of Conduct/Student Discipline Code [] and Policy 5511 Dress and Grooming.

Any person may be required to temporarily remove a face mask or covering when instructed to do so for identification or security purposes. Failure to comply with such a request violates this policy and may lead to disciplinary or other action.

Exceptions to the use of masks/face coverings include when:

facial masks/coverings in the school setting are prohibited by law or regulation;

facial masks/coverings are in violation of documented industry standards;

facial masks/coverings are not advisable for health reasons;

facial masks/coverings are in violation of the school's documented safety policies;

facial masks/coverings are not required when the staff works alone in an assigned work area;

there is a functional (practical) reason for a staff member or volunteer not to wear a facial mask/covering in the workplace;

settings where face masks/coverings might present a safety hazard (i.e. science labs);

for individuals who have difficulty wearing a face mask/covering; or

to assist with communication for hearing impaired students.

The Board may be required to provide written justification to the local health officials upon request explaining why a staff member is not required to wear a facial covering in the school. Therefore, if any exceptions are made to the requirement for facial coverings, the request for such exception must be submitted in writing to the individual's supervisor with appropriate documentation provided. A decision on the request will be provided in writing.

Use of Face Shields

Face shields that wrap around the face and extend below the chin may be permitted as an alternative to face masks/coverings with permission of the Superintendent as the Board recognizes that face shields may be useful in some situations, including:

when interacting with students, such as those with disabilities, where communication could be impacted;

when interacting with English-language learners or when teaching a foreign language;

settings where face masks/coverings might present a safety hazard (i.e. science labs); or

for individuals who have difficulty wearing a face mask/covering.

If employees receive approval from the District administration after discussing their request not to wear a face mask/covering/shield due to a physical, mental or developmental health condition, and/or if wearing a mask/covering/shield would lead to a medical emergency or would introduce significant safety concerns, the District administration may also discuss other possible accommodations for the staff member. Such discussion shall follow Board policies and guidelines under the ADA.

School nurses or staff who care for individuals with symptoms consistent with those of a communicable disease must use appropriate personal protective equipment (PPE), provided by the school, in accordance with OSHA standards.

When facial masks/coverings are required by the Board, and no exception has been applied, staff members who violate this policy shall be subject to disciplinary action in accordance with policies of the Board.

**Redline
Draft**

~~Future Policies — 3126.01; 8453.02, 9150.01~~ **8420.02 –**
Title: ~~Emergency Policy Requiring Face~~ **PROTECTIVE FACIAL COVERINGS.** -
DURING A PANDEMIC/EPIDMIC EVENTS

Preamble.

~~The State of Florida has been under a declared state of emergency because of the COVID-19 pandemic since March 9, 2020. Based on the available scientific evidence, the Centers for Disease Control and Prevention (“CDC”), Florida Department of Health and local health department recommend wearing cloth face coverings in public settings where other social distancing measures are difficult to maintain in order to slow the spread of the virus and help prevent people who may have the virus from transmitting it to others.~~

~~It is well settled law that the School Board has the authority to impose reasonable restrictions on students, employees and visitors related to their health, safety and welfare. One hundred and fifteen years ago the United States Supreme Court unequivocally held:~~

~~[T]he liberty secured by the Constitution of the United States to every person within its jurisdiction does not import an absolute right in each person to be, at all times and in all circumstances, wholly freed from restraint. There are manifold restraints to which every person is necessarily subject for the common good. On any other basis, organized society could not exist with safety to its members. Society based on the rule that each one is a law unto himself would soon be confronted with disorder and anarchy. Real liberty for all could not exist under the operation of a principle which recognizes the right of each individual person to [do what he wishes]...., regardless of the injury that may be done to others.~~

~~This court has more than once recognized it as a fundamental principle that persons and property are subjected to all kinds of restraints and burdens, in order to secure the general comfort, health, and prosperity of the State, The possession and enjoyment of all rights are subject to such reasonable conditions as may be deemed by the governing authority of the country essential to the safety, health, peace, good order and morals of the community. Even liberty itself, the greatest of all rights, is not unrestricted license to act according to one's own will. It is only freedom from restraint under conditions essential to the equal enjoyment of the same right by others. It is then liberty regulated by law.~~

~~*Jacobson v. Massachusetts*, 197 U.S. 11 (1905).~~

- ~~A. During times of elevated communicable disease community spread (pandemic or epidemic), the Superintendent will issue periodic guidance through School Board plans/resolution(s) in alignment with public health officials and/or in accordance with government edicts and including any Pandemic Plan developed by the District's Pandemic Response Team.~~
- ~~B. School settings can be a source of community spread. Wearing face coverings is especially important during these times and can help mitigate the risk of exposure from person to person.~~
- ~~C. As such, during times of elevated communicable disease community spread, the Superintendent, working with the DOH, may activate this policy by notifying the school community of the implementation of the policy. The Superintendent will then place the measure on the next available Board agenda for Board approval of implementation.~~

~~D. Section 1. Required Face Coverings~~

~~Subject to the exceptions set forth below, each student, employee, visitor, vendor or other person is required to wear a face covering at all times, when social distancing cannot be adhered to, while on school district property. This includes, but is not limited to, on any grounds or facility or inside any~~

building or bus owned, leased, or operated by the school district. All students, employees, visitors, and vendors shall have a face covering with them at all times while on school district property even if they are temporarily allowed to not wear a face covering pursuant to one of the exceptions set forth below. An infant younger than two (2) years old and a person with a medical certification are not required to carry a face covering.

E. Section 2-Exceptions to Required Face Coverings-

1. While maintaining social distancing (six (6) feet minimum) as much as feasible, a face covering is not required in the following instances:
 - a. Infants - A face covering shall not be required for persons younger than two (2) years old.
 - b. Pre-K through Grade 2 – While a face covering is strongly recommended for students in Pre-K through Grade 2, it shall not be required.
 - c. Medical Certification - A face covering shall not be required for persons who present school district staff with a certification from a licensed health care provider that the person has a medical, physical, or psychological contraindication that prevents the person from being able to safely wear a face covering.
 - d. IEP/504 – A face covering shall not be required for persons who have documented through an IEP or 504 plan that the person has a medical, physical, or psychological contraindication that prevents the person from being able to safely wear a face covering.
 - e. Students with Supervisor’s Approval - A face covering shall not be required for a student if the school district staff supervising the student authorizes the student to remove their face covering during that activity provided that the student maintains social distancing (six (6) feet minimum) from other persons when not wearing a face covering.
 - f. ~~Employees with Supervisor’s Approval~~ - A face covering shall not be required for a school district employee provided that ~~(a) the employee’s supervisor authorizes the employee to remove their face covering and (b) the employee maintains social distancing (six (6) feet minimum) from other persons when not wearing a face covering.~~
 - g. Eating and Drinking - A face covering shall not be required for any person inside or outside a school district facility while such person is stationary and eating or drinking during a planned mealtime and/or snack time. A face covering also shall not be required while any person is drinking while inside or outside of a school district facility.
 - h. Strenuous Physical Activity - A face covering shall not be required for any person inside or outside of any school district facility while such person is engaged in strenuous physical activity.
 - i. During Receipt of Health Care - A face covering may be removed when removal of the face covering is necessary for such person to receive health care or to undergo a health care examination from authorized health care personnel.
 - j. Exigent Circumstances - A face covering shall not be required if a person is experiencing acute trouble breathing, is unconscious or incapacitated, is personally unable to remove the face covering without assistance or it is deemed by school district staff to be necessary to remove the face covering.

F. Section 3-Types of Face Coverings-

1. All students, employees, visitors and vendors are encouraged to wear their own face covering, however, disposable face coverings will be available at all sites. Acceptable face covering include:

- a. Commercially Produced Face Coverings – Commercially produced surgical masks or respirators are acceptable for compliance with this policy, but are not mandated.
- b. Cloth Face Coverings – Commercially produced or home-made cloth face coverings are acceptable for compliance with this policy provided the face covering covers both the mouth and nose and fits snugly against the sides of the person's face with little to no gaps.
- c. All student face coverings shall comply with the school's dress code for shirts.

G. Section 4. Face Shield Use

Face shields may be used by persons to comply with this policy. Faculty and students are encouraged allowed to use a face shield, in lieu of a mask, when the instruction supports the ability to see the face of the student and/or the teacher requires the students to be able to see a teacher's face.

H. Section 5. Student Compliance

Students who do not wear a face covering will ~~will~~ first be offered one. If refused, the student will be referred to administration for a Level 1 offense. If the behavior escalates in response to the intervention, a student may be considered for a higher-level offense. Students who persistently violate this policy may be referred to eLearning after a parent conference to discuss the concerns.

I. Section 6. Staff Compliance

Employees who refuse to wear a face covering may be disciplined according to Board Policy and the applicable Collective Bargaining Agreement.

Section 7.J. Visitor and Vendor Compliance

Authorized visitors and Vendors who refuse to wear a face covering will not be permitted on District property.

~~Section 8.K. – This Emergency Policy takes effect on August 11, 2020, and will remain in effect for 90 days unless extended pursuant to Section 120.54(4), Florida Statutes. Miscellaneous~~

Any person may be required to temporarily remove a face mask or covering when instructed to do so for identification or security purposes. Failure to comply with such a request violates this policy and may lead to disciplinary or other action.

~~Section 9.L. – Termination of Face Covering Requirements.~~

The School Board grants the Superintendent the authority to terminate the use of face coverings under this policy when the emergency is declared over, or in working with the DOH or local health experts, it is determined that it is safe for schools to operate without these measures in place. The Superintendent always has the option to bring a recommendation to end the implementation of this policy to the next available Board meeting for the Board's consideration.

~~Specific Authority: Section 1001.41(1) and (2), Florida Statutes.~~

~~Law Implemented: Sections 1001.42(4) and (8); 1003.31; 1012.23, Florida Statutes.~~

~~Policy Adopted: 8/11/20~~

~~Adopted (Emergency) 8/11/20~~

~~Adopted (Rulemaking)~~

Legal

F.S. 1001.41(1)

F.S. 1001.41(2)

F.S. 1001.42(4)

F.S. 1001.42 (8)

F.S. 1003.31

F.S. 1012.23

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**Clean
Version**

8420.02 – PROTECTIVE FACIAL COVERINGS DURING A PANDEMIC/EPIDMIC EVENTS

- A. During times of elevated communicable disease community spread (pandemic or epidemic), the Superintendent will issue periodic guidance through School Board plans/resolution(s) in alignment with public health officials and/or in accordance with government edicts and including any Pandemic Plan developed by the District's Pandemic Response Team.
- B. School settings can be a source of community spread. Wearing face coverings is especially important during these times and can help mitigate the risk of exposure from person to person.
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K. Miscellaneous

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L. Termination of Face Covering Requirements

The School Board grants the Superintendent the authority to terminate the use of face coverings under this policy when the emergency is declared over, or in working with the DOH or local health experts, it is determined that it is safe for schools to operate without these measures in place. The Superintendent always has the option to bring a recommendation to end the implementation of this policy to the next available Board meeting for the Board's consideration.

Adopted (Emergency) 8/10/20

Adopted (Rulemaking) _____

Legal

F.S. 1001.41(1)

F.S. 1001.41(2)

F.S. 1001.42(4)

F.S. 1001.42 (8)

F.S. 1003.31

F.S. 1012.23

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