

Title: Emergency K-12 Face Covering Requirement

Preamble

Judge John C. Cooper, Florida Circuit Court for the Second Circuit of Florida, found that the Centers for Disease Control (“CDC”) is the pre-eminent authority in the United States for infectious diseases and control. Moreover, Section 252.36(1)(c), Fla. Stat., states:

“The Legislature intends that, during an extended public health emergency, such as the COVID-19 pandemic, there should be a presumption that K-12 public schools, to the greatest extent possible, should remain open so long as the health and safety of students and school personnel can be maintained by specific public health mitigation strategies recommended by federal or state health agencies for educational settings.”

The CDC qualifies as a federal health agency as specified in Florida Statute. Moreover, CDC guidelines explicitly recommend all individuals, students as well as staff, wear face coverings while inside whether they have been vaccinated or not, until the spread of COVID-19 is better controlled.

As the Florida Legislature has explicitly authorized the use of mitigation measures recommended by federal health agencies in order to maintain open schools, the School Board of Brevard County, finds that during this time of extreme spread of COVID-19, additional mitigation measures are needed.

Therefore, the School Board of Brevard County, Florida, implements this emergency policy:

Section 1. Required Face Coverings

Subject to the exceptions set forth below, each student (Pre-K-12), employee, visitor, vendor, or other person is required to wear a face covering at all times, while indoors 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:

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.

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 consists of multiple layers of cloth resulting in the blocking of light when held up to a light, 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 dress code language prohibiting messages that are crude; vulgar/profane; violent/death-oriented; gang related; sexually suggestive; and/or promoting alcohol, drugs, or tobacco.

Section 4. Visitor and Vendor Compliance

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

Section 5. This Emergency Policy becomes effective immediately upon approval and will remain in effect for up to 90 days. A five-day grace period may be extended to those who need to obtain exemption documentation. The School Board will review the Emergency Policy every 30 days and authorizes the Superintendent to end the face covering requirement if levels of community transmission drop to moderate transmission as defined by the CDC to be less than 50 new cases per 100,000 people in the previous seven days.