

# *In Brief*

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April 6, 2020

## **Recommendations for Higher Education Institutions Responding to a Report That a Student or Employee Has Tested Positive for COVID-19**

As COVID-19 cases rise throughout Illinois, higher education institutions should continue to take appropriate measures in response to reports that a member of the campus community has been exposed to or tested positive for the virus. We have prepared the following guidance to assist institutions when responding to these reports and determining what information should be shared with the community.

### **1. Contact the Local Public Health Department**

Any institution that receives a report that a student or employee has tested positive for COVID-19 should contact its local public health department to report the positive test result and seek guidance on recommended follow-up activities. While the scope of follow-up activities will vary depending on the circumstances, the public health department may recommend that the institution take responsive measures such as:

- Issuing an alert to students and/or employees with whom the infected individual may have come into close contact in the 14 days prior to the positive test and notifying such individuals that they should self-isolate and monitor themselves for symptoms.
- For an infected employee, cleaning and disinfecting the employee's work area to ensure eradication of any potential contamination.
- For an infected employee who is considered "essential" and would otherwise be working on campus, informing the employee that they must remain at home and may not return to campus for a designated period of time, as determined by current CDC and IDPH guidelines. Additional leave considerations under the *Families First Coronavirus Response Act* may apply as well.

### **2. Consider Whether a Campus-Wide Alert is Necessary**

Absent a contrary directive from the local health department, an institution need not issue a campus-wide notification concerning a positive COVID-19 test result. Recent [guidance](#) issued by the U.S. Department of Education clarifies the applicability of the *Clery Act's* emergency notification requirements to positive cases of COVID-19. According to the guidance, the Department of Education does not interpret the *Clery Act's* statutory language as requiring institutions to proactively identify positive COVID-19 cases within the campus community, nor does it interpret the statutory language to apply to positive COVID-19 cases among individuals who are not attending classes, working, or residing on campus or to require notifications to such individuals. Rather, the Department of Education advises that institutions may satisfy the *Clery Act's* emergency notification requirements by:

- Providing students and employees a single notification through the regular means of communicating emergency notifications, informing them about COVID-19 and necessary health and safety precautions, as well as encouraging them to obtain information from health care providers, state health authorities, and the CDC's COVID-19 website; or
- Creating a banner at the top of the institution's homepage containing that same information, including a statement about the global pandemic and a link to the CDC's website.

If an institution learns that an employee has been exposed to or tested positive to the virus, we recommend working with the local public health department to determine whether the institution should alert members of the campus community. The recommended response will likely depend on whether the employee has been working on campus or remotely. The local public health department can evaluate these factors to assess what information should be shared with the community, such as the employee's most-recent presence on campus and contact with others.

### **3. Maintain Student and Employee Confidentiality**

When responding to COVID-19 concerns, institutions should be sure to maintain student and employee confidentiality as required by the *Americans with Disabilities Act* and the *Family Educational Rights and Privacy Act*. Institutions should not disclose the identity of an infected student or employee to the community. Additionally, institutions should inform employees that if they learn that another employee or a student has been exposed to or tested positive for COVID-19, they should immediately report that information to the appropriate administrative department but otherwise keep the information confidential.

### **4. Provide Make-Up Opportunities to Infected Students**

Finally, faculty should work with students who are unable to participate in virtual classes and/or complete course assignments due to COVID-19 illness and ensure that such students are afforded an opportunity to make up missed coursework once they recover.

If you have any questions about these recommendations, please contact a Robbins Schwartz attorney.