

In Brief

ISBE AND IDPH RELEASE UPDATED COVID-19 GUIDANCE DOCUMENTS FOR THE 2022-2023 SCHOOL YEAR

Without much fanfare, on June 30, 2022, three documents were issued to provide guidance to districts for the upcoming school year: (1) [IDPH & ISBE Joint Summary of CDC's Operational Guidance for Covid-19 Prevention in Schools](#) (Joint Summary); (2) [Interim Guidance on Testing in Schools](#) (Interim Guidance); and (3) an updated [Decision Tree](#). A brief summary of the key provisions of each document are set forth below, including the July 15 deadline to sign-up for free SHIELD testing.

The Joint Summary

The Joint Summary supersedes all previously issued guidance and provides that “[s]chools and Local Health Departments (LHDs) should exercise their longstanding authority, including as described in the Communicable Disease Code and according to schools’ infectious disease policies, to address all infectious disease cases among students and staff.” The Joint Summary states that schools are ***strongly encouraged*** to follow the CDC’s operational guidance and the recommendations of their LHD on quarantine and isolation. Schools are also ***encouraged*** to follow the CDC’s best practices for all infectious diseases to keep students home if ill, use testing to confirm or rule out COVID-19, and use Test to Stay with masking and diagnostic testing to keep asymptomatic close contacts and those linked to an outbreak in school. The Joint Summary makes clear that schools are ***required*** to provide remote learning to any student subject to isolation or quarantine for COVID-19. The current CDC guidance for schools can be found at [the CDC website](#).

In addition, the Joint Guidance states that Executive Order 2021-22, ***requiring*** school personnel to vaccinate or test weekly, remains in effect. Many schools suspended the weekly testing protocol for unvaccinated individuals in consideration of the outcome of the school TRO litigation, as well as the fact that an extension of emergency rulemaking on this subject was rejected by JCAR. At this time, the proposed rules by ISBE related to vaccinate or test have not advanced or been finalized with JCAR, and no action has been taken by the legislature.

The Interim Guidance

The Interim Guidance aligns with CDC guidance and updates the Test to Stay protocols to allow home testing and unobserved testing. It lists the five reasons to test: (1) symptomatic individual; (2) close contact; (3) possible exposure in outbreak settings; (3) screening as a strategy to identify asymptomatic positives; and (5) required testing for unvaccinated staff.

The Interim Guidance redefines an outbreak as 10% of students, teachers, or staff within a specified group OR at least three cases within a specified core group (e.g., class, sports team, club, etc.) for a probable or confirmed school-associated COVID-19 case with symptom onset or a positive test within 14 days of one another. In an outbreak, the Interim Guidance states that schools **must** conduct twice weekly testing of staff who are linked to an outbreak and who are not fully vaccinated. It also provides that Schools **should** conduct twice weekly testing of students linked to the specified core group and **should not** allow students identified as part of the outbreak to participate in extracurriculars unless they are participating in outbreak testing. Subject to availability, SHIELD may be deployed as part of an outbreak response.

The Interim Guidance announces that Illinois will continue to make testing available to students in all schools free of charge through SHIELD throughout the 2022-23 school year. **Schools are instructed to sign up by July 15, 2022 if they would like to have access to free SHIELD testing.** Note that while a district is not required to obtain a CLIA waiver if the district is using SHIELD or another provider, a CLIA waiver is required if the district is directly administering diagnostic or screening tests.

The Decision Tree

While testing is strongly recommended for all individuals with COVID-19 symptoms regardless of vaccination status, the Decision Tree provides for isolation in the following scenarios:

- 1. Positive Case OR Probable Case**
- 2. Symptomatic with Negative Test**
- 3. Symptomatic, No Test and No Known Exposure to Confirmed Case**
- 4. Asymptomatic Who is Close Contact to Confirmed or Probable Case**

In light of the outcome of the school TRO litigation, as well as the fact that the IDPH emergency rules for isolation and quarantine expired, enforcement of isolation or quarantine requirements for asymptomatic individuals (e.g., close contacts) could expose a district to lawsuits similar to those previously filed and won by students/parents. Additionally, enforcement of any masking requirement for specific individuals (e.g., requiring a mask for days 6-10 after a positive test) could similarly expose a district to lawsuits. Most districts previously revised their isolation and quarantine practices following the school TRO litigation and lapse of IDPH emergency rules.

The updated guidance is not accompanied by any new administrative rules, leaving districts in the same position as they were during the last few months of the 2021-22 school year. Schools considering any changes to their practices should consult with legal counsel to ensure legal compliance.