



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK

Commissioner of Education
President of the University of the State of New York
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Albany, New York 12234

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August 5, 2021

Dr. Howard A. Zucker
Commissioner
New York State Department of Health
Corning Tower, Empire State Plaza
Albany, NY 12237

Dear Commissioner Zucker:

On behalf of schools throughout the state and the students and families they serve, we were troubled to hear from the Governor's Office yesterday that neither the Executive nor the New York State Department of Health (DOH) will issue guidance regarding health and safety measures for the orderly opening of schools next month.

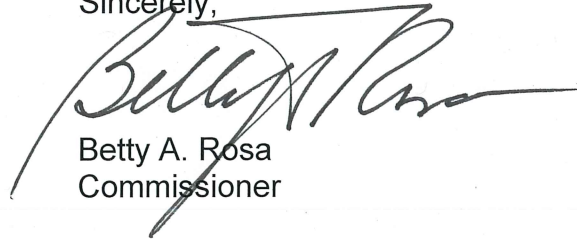
Notwithstanding the stated position of the Executive that his responsibility has ended with his rescission of the COVID-19 state of emergency, we hope and trust that DOH will fulfill the promises previously made by the Governor's office that DOH guidance would be forthcoming.

I appreciate that you are dealing with many complex and difficult issues. In order for our respective agencies to effectively serve the public, I ask that you consider DOH's responsibility under Public Health Law §§201 and 206 to exercise control over and supervise the abatement of nuisances affecting or likely to affect public health and, specifically, **to advise and supervise local units of government and local public health officials** within the State in the performance of their official duties. Surely there has never been a greater nuisance affecting public health in our recent experience than COVID-19. Nor has there been a greater need for timely advice and supervision flowing from the Department of Health to local officials.

The discontinuance of Executive Order 202 does not affect DOH's statutory responsibilities and the circumstances enveloping the Executive Chamber this week should not otherwise deter DOH from the proper execution of its responsibilities to protect the public health.

For your reference, enclosed is a copy of my July 29, 2021 memo to school leaders that outlines the State Education Department's greatest areas of concern. As part of the State Education Department's responsibility to manage and supervise the educational work of the state, we stand ready to assist you in any way possible.

Sincerely,

A handwritten signature in black ink, appearing to read "Betty A. Rosa", written over a horizontal line.

Betty A. Rosa
Commissioner

Enc.

Cc: Lester H. Young, Chancellor
Member of the NYS Board of Regents




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To: District Superintendents
Superintendents
Principals
Charter School Leaders
Non-Public School Leaders

From: Betty A. Rosa, Commissioner 

Re: CDC & AAP Guidance on School Opening 2021-22

Date: July 29, 2021

Like all of you, the New York State Education Department (Department) is anxious to receive health and safety guidance from the Governor's office and the New York State Department of Health (DOH) concerning schools for the 2021-2022 school year.

While the nature and extent of COVID-19 and its variants are still dynamic, it is essential that schools receive whatever guidance the Governor and the DOH intend to offer about the 2021-2022 school year as soon as possible to provide time for you to take necessary measures to safely welcome students in September.

The Governor's staff has informed the Department that guidance from DOH is in development and the latest guidelines from the Centers for Disease Control (CDC) will serve as its basis. Therefore, the best the Department can offer to schools when it comes to health-related preparations for September is that CDC guidelines should be the basis of preparing for the 2021-2022 school year until further information is issued by the Governor or DOH. The Department's Office of Student Support Services recommends that you use [the CDC's Guidance for COVID-19 Prevention in K-12 Schools](#) and the [American Academy of Pediatrics' COVID-19 Guidance for Safe Schools](#) as resources.

Many questions persist, including the extent to which remote instruction may be used (this also depends upon DOH health and safety measures such as physical distancing requirements). The Department's position on remote instruction is as follows:

- So long as allowed by public health officials, schools should be open for in-person teaching and learning, and students should be in school.
- In case of school closures due to a declared public health emergency, schools must be prepared to provide remote instruction.

- While the Department will not require schools that are open for full-time, in-person instruction to provide on-line or remote instruction, districts may work with students and families to offer remote options if it is deemed to be in the best educational interest of the student.
- Districts should consider the value of on-line capacity developed in response to the pandemic to expand programmatic offerings and to offer remote learning opportunities that are responsive to student needs. This can be done directly, through cooperative agreements with other school districts, or through Boards of Cooperative Educational Services. This can help where documented medical conditions prohibit the safe return for students to in-person instruction and where students who have otherwise struggled have excelled with remote learning.

The Department has worked with a diverse group of educational representatives to develop a series of issues and questions that have been submitted to the Governor's office for consideration as part of health and safety guidance for the operation of schools in the coming school year.

These issues include masking requirements, physical distancing, transportation, COVID-19 testing requirements, COVID-19 screenings, community transmission rates, and local health department responsibilities. The Department has suggested that Statewide guidance consider the complexity of operating school environments and be as simple as possible while consistent with best practices and, where appropriate, local discretion. For example:

- masking for all individuals, and for all indoor events in all schools, in lieu of screening and testing;
- use of mass transit masking rules for school-supplied transportation, with no physical distancing;
- physical distancing of 3 feet indoors, where possible with local discretion; and
- better coordination by local health departments when school districts have facilities in more than one county.

The urgency and frustration you are feeling as September approaches is palpable and is shared by the Department. The overall goal for the 2021-2022 school year is to maximize in-person teaching and learning, be responsive to student needs, and keep students and staff healthy and safe. Be assured the Department is engaged in continuing efforts to help develop and secure guidance to advance that goal.