



# SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

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## LEGAL UPDATE

March 17, 2022

**To:** Superintendents, Member School Districts (K-12)  
**From:** Jennifer Henry, Associate General Counsel *J.H.*  
**Subject:** CDPH Revises its K-12 Schools Masking Requirements  
Memo No. 10-2022

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Effective March 12, 2022, the California Department of Public Health (“CDPH”) requirement for universal masking indoors in K-12 and Childcare settings has been changed to a strong recommendation for all persons to continue indoor masking, regardless of vaccination status (CDPH Guidance for the Use of Face Masks 2/28/22<sup>1</sup>). The following addresses some “Frequently Asked Questions” about the recent changes:

K-12 and Childcare Settings:

Effective March 12, 2022, the universal masking requirement for K-12 and Childcare settings changed to a strong recommendation that individuals in these settings continue to mask indoors. (CDPH Face Coverings Q&A 3/11/22)

School Bus:

Masking and ventilation (open windows) are strongly recommended. (CDPH K-12 Schools Guidance Q&A 3/12/22)

School Extracurricular Activities:

Indoor sports practice or competition, indoor musical or other performance: masking indoors is still strongly recommended even during heavy exertion, if practicable. Indoor wind instruments should use bell coverings and be distanced at 3 feet. When masks cannot be used, testing once a week is strongly recommended. (CDPH Face Coverings Q&A 3/11/22)

Field trips: The strong recommendation for indoor masking applies. (CDPH K-12 Schools Guidance Q&A 3/12/22)

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<sup>1</sup> Links are at the end.



### K-12 and Childcare Personnel:

In workplaces, employers are subject to the Cal/OSHA COVID-19 Emergency Temporary Standards (“ETS”), which require employers to provide any employee with a mask upon request, among other things. However, the requirement that unvaccinated workers remain masked while indoors has been changed to a strong recommendation that all workers remain masked indoors regardless of vaccination status. (Governor Executive Order N-5-22, 2/28/22; Q1 “Face Coverings” Cal/OSHA ETS FAQ 3/2/22)

**\*\*Also check your local county’s public health orders. For example, in Sonoma County, all workers including K-12 volunteers who have not documented being up to date on their vaccination must remain masked indoors and test once a week. (3/7/22 Amendment #3 to Sonoma County Order C19-32)**

### School Board Meetings:

Masks are strongly recommended for all persons, regardless of vaccine status, in indoor public settings including local board meetings, and state and local government offices serving the public. (CDPH Face Coverings Q&A 3/11/22)

### Non-School Settings:

Effective March 1, 2022, the requirement that unvaccinated individuals mask in indoor public settings changed to a strong recommendation that all persons, regardless of vaccination status, continue indoor masking. (CDPH Guidance for the Use of Face Masks 2/28/22; CDPH Face Coverings Q&A 3/11/22)

Indoor masking is still required in: public transit (not including LEA operated school buses), healthcare settings, correctional facilities, homeless shelters, and long term care settings. (CDPH Face Coverings Q&A 3/11/22)

Non-school settings such as businesses may require all patrons or unvaccinated patrons to wear a mask by posting a sign at the entrance or point of ticket sale to notify patrons of any masking requirements such venue hosts impose. (CDPH Guidance for the Use of Face Masks 2/28/22; CDPH Face Coverings Q&A 3/11/22)

### What Types of Masks are Recommended?

Respirators (e.g., N95s, KN95s, KF94s) or surgical masks with good fit are highly recommended. (CDPH Face Coverings Q&A 3/11/22; CDPH Mask for Kids 1/14/22)

### Can LEAs Continue To Require Masking?

Yes. Public health officials, local educational agencies, and/or other authorities may issue additional masking guidance and requirements. (CDPH Guidance for the Use of Face Masks 2/28/22; CDPH Face Coverings Q&A 3/11/22)

If an LEA’s local county health order does not require indoor masking, factors an LEA should look at when deciding whether to continue requiring masking indoors include: (1) community level indicators of COVID-19 and their trajectory; (2) COVID-19 vaccination coverage in the



community and among students, teachers, and staff; (3) local COVID-19 outbreaks or transmission patterns; (4) indoor air quality at relevant facilities; (5) availability and accessibility of resources, including masks and tests; (6) ability to provide therapeutics in a timely and equitable manner as they become available; (7) equity considerations, including populations disproportionately impacted by and exposed to COVID-19; (8) local demographics, including serving specialized populations of individuals at high risk of severe disease and immunocompromised populations; and (9) community input, including from students, families, and staff (CDPH COVID-19 Public Health Guidance for K-12 Schools, 3/12/22; CDPH Local Considerations for Maintaining Universal Indoor Masking in K-12 3/7/22). We also advise checking with your insurer as to whether such a change would impact coverage in any way.

#### Have Masking Exemptions Changed?

No. The following masking exemptions still apply: children under two years old, persons with a medical condition that prevents wearing a mask, persons who are actively eating or drinking, persons who are working alone in a closed office (CDPH Face Coverings Q&A 3/11/22). Persons exempted from wearing a covering where required should wear an alternative such as a face shield and drape, if feasible. (CDPH COVID-19 Public Health Guidance for K-12 Schools, 3/12/22)

#### People Who Test Positive:

People who test positive should stay at home for at least five days, regardless of vaccination or symptom status, and wear a mask when indoors around others for 10 days. (CDPH Face Coverings Q&A 3/11/22)

#### People Who Are Exposed To COVID-19:

When students are exposed in a K-12 school setting, the CDPH now recommends following the “Group Tracing” notification and having students tested within 3-5 days of exposure. Students may continue to attend school including sports and extra-curricular activities, unless they develop symptoms (CDPH Group Tracing Approach, updated 3/12/22; CDPH COVID-19 Public Health Guidance for K-12 Schools, 3/12/22). At home tests may be used and relied upon for a post-exposure student testing (Q9, CDPH K-12 Schools Guidance Q&A 3/12/22). Non-students who are exposed should wear a mask when indoors around others for 10 days, regardless of vaccination status. If symptoms develop, get tested. (CDPH Face Coverings Q&A 3/11/22)

#### Is the “Vaccine or Test” Mandate for K-12 Still in Effect?

Yes. The State Public Health Officer Order of August 11, 2021, requiring all K-12 personnel including volunteers to document being fully vaccinated or to undergo weekly testing, remains in effect. (CDPH Vaccine Verification for Workers in Schools 8/11/21)

#### Next Steps:

Assess any MOU with labor partners that has not expired that may still require masking.  
Update your COVID-19 safety plan (CSP or IISPP) every six months.



Links:

CDPH Vaccine Verification for Workers in Schools 8/11/21:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Vaccine-Verification-for-Workers-in-Schools.aspx>

CDPH Mask for Kids 1/14/22:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Masks-for-Kids-Tips-and-Resources.aspx>

CDPH Guidance for the Use of Face Masks 2/28/22:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>

Governor Executive Order N-5-22, 2/28/22:

<https://www.gov.ca.gov/wp-content/uploads/2022/02/2.28.22-ETS-EO.pdf>

Cal/OSHA ETS FAQ 3/2/22: <https://www.dir.ca.gov/dosh/coronavirus/covid19faqs.html>

CDPH Local Considerations for Maintaining Universal Indoor Masking in K-12 3/7/22:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Local-Considerations-K-12-Universal-Masking-Requirements.aspx>

3/7/22 Amendment #3 to Sonoma County Order C19-32:

<https://socoemergency.org/amendment-no-3-to-order-of-the-health-officer-of-the-county-of-sonoma-c19-32/>

CDPH Face Coverings Q&A 3/11/22:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Face-Coverings-QA.aspx>

CDPH K-12 Schools Guidance Q&A 3/12/22:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Schools-FAQ.aspx>

CDPH Group Tracing Approach, updated 3/12/22:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Group-Tracing-Approach-to-Students-Exposed-to-COVID-19.aspx>

Please contact our office with questions regarding this Legal Update or any other legal matter.

*The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.*

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