

Every District For Itself:
Restart and Recovery Plan for New Jersey Schools

On June 26, 2020, the New Jersey Department of Education (“NJDOE”) issued a 104-page “Restart and Recovery Plan” (“the Plan”) that provides “anticipated minimum standards” and “considerations” for the reopening of our public schools.¹ The Plan is divided into four (4) key subject areas: (1) Conditions for Learning; (2) Leadership and Planning; (3) Policy and Funding; and (4) Continuity of Learning. While it is not possible to briefly summarize all of the guidance set forth in the Plan, this alert is intended to serve as an overview of the mandates that school districts will be required to follow when reopening in Fall 2020.

Schools Must Re-Open In Person for the 2020-2021 School Year

Absent a shift in the public health data, and in accordance with the Plan, school districts “must re-open for modified in-person instruction and operations at the beginning of the 2020-2021 school year.” The Plan recognizes that many districts will need to operate their buildings at reduced capacity, which may necessitate “hybrid” environments that include both in-person and remote instruction and services. Local circumstances in each district will impact the planning of schedules and other areas of operation in order to meet local needs and comply with the Plan. However, the NJDOE advises that districts “should strive to share their scheduling plans with staff, families, and students *at least four weeks before the start of the school year* in order to allow families to plan child care and work arrangements.” Districts must have a reopening plan, but “be prepared to pivot to remote instruction” at any time, and must establish a Restart Committee to coordinate the overall reopening plan, as well as school-based Pandemic Response Teams to centralize, expedite, and implement decision-making related to COVID-19.

While not addressed within the Plan, ensuring compliance will require school districts to conduct a review of their current collective bargaining agreements in effect and/or any ongoing union negotiations. In addition, districts may need to attempt to negotiate with unions regarding the impact of and mandated changes that affect terms and conditions of employment.

The estimated cost of the Plan per student has been calculated to amount to four hundred ninety dollars (\$490.00). From a liability perspective, it is highly recommended that all decisions pertaining to reopening should be documented with a reference to any specific budgetary considerations that may have impacted the decision, particularly where such considerations relate

¹ “Anticipated minimum standards” are items that districts “should incorporate into their reopening plans as definite components related to health, safety, and operations,” while “considerations” are non-mandatory components that districts should “incorporate into their thinking,” as they may help with “strategizing ways to adhere to the anticipated minimum reopening standards.”

REPLY TO

387 PARK AVENUE S
5TH FLOOR
NY, NY 10016
212 278 0058

450 MAIN STREET
METUCHEN, NJ 08840
732 243 9588
FAX: 732 243 9590

309 FELLOWSHIP RD
STE 200
MT LAUREL, NJ 08054
863 350 1030

to the allocation of finite school district resources. Districts should also consult with their risk management advisors regarding any enhanced insurance requirements.

All districts should be aware that in order to comply with the Plan and its anticipated minimum standards, and reopen their schools according to currently adopted calendars, they have approximately one month to convene the two committees (the Restart Committee and school-based Pandemic Response Teams), gather input from teachers, students, parents, and the community, develop a reopening plan, and determine how the reopening plan will be funded.

I. Conditions for Learning: “Critical Areas of Operation”

The “Conditions for Learning” section of the Plan provides that each district’s reopening plan must address the following ten (10) Critical Areas of Operation:

1. General Health and Safety Guidelines:

- Comply with CDC, State, and local guidelines.
- Provide accommodations for staff and students at higher risk for severe illness.
- Promote social distancing, frequent hand washing, and the use of face coverings.

2. Classrooms, Testing, and Therapy Rooms:

- Allow for social distancing to the maximum extent possible. When it is difficult or impossible, face coverings are required.
- Face coverings are mandatory for visitors and staff, unless it will inhibit the individual’s health.
- Minimize use of shared objects.
- Ensure indoor facilities have adequate ventilation.
- Maintain hand sanitizing stations and ensure students wash hands frequently.

3. Transportation:

- Maintain social distancing on buses to the maximum extent practicable; if not possible, all students who are able must wear face coverings while on busses.
- Adopt best practices for cleaning and disinfecting vehicles.

4. Student Flow, Entry, Exit, and Common Areas:

- Establish a process and location for health screenings, with physical guides, such as tape on floors and signs on walls, to help maintain six (6) feet of distance between each person. When distancing cannot be maintained, face coverings are required.
5. Screening, PPE, and Response to Students and Staff Presenting Symptoms:
- Adopt a policy for “safely and respectfully” screening students and staff for symptoms of and history of exposure to COVID-19. Students and staff with COVID-19 symptoms must be “safely and respectfully” isolated from others.
 - If the district becomes aware that an individual who has spent time in a district facility tests positive for COVID-19, immediately notify the local health department (“LHD”), staff, and families while maintaining confidentiality.
6. Contact Tracing:
- Provide administrators, school safety specialists, counselors, and any other staff designated by the district with information regarding contact tracing.
 - Collaborate with the LHD and engage school nurses to develop contact tracing policies, and educate the broader school community about contact tracing.
7. Facilities Cleaning Practices:
- Adhere to existing cleaning procedures and any new LHD mandates as they arise.
 - Develop a schedule for increased routine cleaning and disinfecting. Sanitize bathrooms daily and between use as much as possible.
8. Meals:
- Stagger eating times for any cafeterias or group dining areas to allow for social distancing and disinfecting between groups. Discontinue family-style, self-service, and buffet-style dining and maintain social distancing.
 - Cafeteria staff must wash hands immediately after removing gloves and after directly handling used food service items.
9. Recess/Physical Education:
- Complete an inventory of outdoor spaces and mark off areas to ensure separation between students. Recess must be staggered by groups and shared equipment must be disinfected between uses.

- Consider closing locker rooms and encouraging students to attend school wearing clothing that permits participation in physical education without needing to change.

10. Extracurricular Activities and Use of Facilities Outside of School Hours:

- Extracurricular activities must comply with applicable social distancing requirements and hygiene protocol.
- External organizations that use school facilities must follow district protocols.

The NJDOE further advises in the “Conditions for Learning” section of the Plan that school districts should include the following elements in their reopening plans to address the impact of social isolation on both educators and students:

- Social Emotional Learning (SEL) and School Climate and Culture;
- Multi-Tiered Systems of Support (MTSS);
- Wraparound Supports;
- Food Service and Distribution; and
- Quality Child Care.

II. Leadership and Planning

- Create a Restart Committee “to coordinate the overall reopening plan” and “school-based Pandemic Response Teams to centralize, expedite, and implement COVID-19-related decision-making.” Again, the NJDOE has directed that districts “should strive to share their scheduling plans with staff, families, and students at least four weeks before the start of the school year in order to allow families to plan child care and work arrangements.”
 - Within that same time frame (at least four weeks before the start of the school year), school leaders also must evaluate their policies and protocols to ensure support of students’ social-emotional needs, including collaboration and partnerships with outside entities for mental health and trauma support of adults and students, and needed professional development for staff.
- Restart Committees should work closely with Pandemic Response Teams, the LHD, and others in municipal and county government to develop plans that address the ten (10) Critical Areas of Operation, as well as: (1) Scheduling; (2) Staffing; and (3) Athletics.

III. Policy and Funding

In view of the “fiscal challenges related to the delivery of instruction and related services to students” caused by the pandemic, policy and funding considerations will include the following:

- Purchasing – The Plan indicates that districts should “collaborate to create new arrangements that will allow them to purchase items at a lower cost by either purchasing through an established State contract or through a cooperative purchasing consortium.”
- Use of Reserve Accounts, Transfers, and Cashflow – “To the greatest extent possible, districts should consider making expenditures from various accounts or overbudgeted line items to meet unanticipated costs and to manage their cash flow.” However, “districts should be mindful that certain budget actions require the Commissioner’s approval . . . and districts should not presume that such approval will be automatic.”
- Costs and Contracting – The Plan strongly encourages districts to participate in the federal E-rate program, which provides schools and libraries with funding support for high-speed broadband connectivity and internal connections equipment, and to use cooperative contracts available from the State, New Jersey School Boards Association, county cooperative contracts, and county educational services commissions to procure technology and connectivity services.

The following resources are also available to school districts:

- (1) The Elementary and Secondary School Emergency Relief Fund (ESSER) under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act;
- (2) The Public Assistance program administered by the Federal Emergency Management Agency (FEMA); and
- (3) State School Aid.

IV. Continuity of Learning

All school districts must focus on the following areas related to the continuity of learning when developing their reopening plans:

1. Delivery of Special Education and Related Services to Students with Disabilities
 - Continue to meet obligations to students with disabilities to the greatest extent possible.
 - Specific strategies and considerations for students with disabilities must be critical points of discussion for every return-to-school scenario.
2. Technology and Connectivity

- Strive to ensure that every student has access to a device and internet connectivity.
 - Address technology needs in the reopening plan, and prioritize the provision of technology or in-person instruction to students otherwise without access.
3. Curriculum, Instruction, and Assessments
- Focus on building staff capacity to deliver highly effective instruction in hybrid environments.
 - Prepare staff to address any learning gaps that might prevent students from meeting grade-level New Jersey Student Learning Standards.
4. Professional Learning
- Provide staff training to address the learning loss for vulnerable populations (students with disabilities, English language learners, students without proper technology or internet access, etc.), and preparing and supporting educators in meeting the social emotional, health, and academic needs of all students.
5. Career Technical Education (CTE)
- The Plan recognizes that maintaining CTE opportunities is vital for students, families, communities, and the State, and indicates that the Office of Career Readiness “has established guiding principles to help administrators and educators make informed decisions about how, when, and to what extent career and technical education can be safely offered.”

Conclusion

In view of the constantly changing nature of State-issued guidelines in response to the COVID-19 pandemic and the relevant public health data, school districts should be aware that the above information is subject to modification at any time if the NJDOE or the State adopts new guidance or rules regarding the restart and reopening of New Jersey’s public schools.

The Busch Law Group will continue to provide legal updates on this and other significant COVID-19 related issues as necessary. Should you have any questions or concerns, our attorneys are always available to assist you.

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