



Vermont
Superintendents
Association



VSBA, VSA, VPA Information on Return to School COVID-19 Prevention Measures

August 12, 2021

Dear School Board Members, Superintendents and Principals,

We are providing this information for education leaders because the dynamics for responding to COVID-19, as they relate to Vermont's public schools and school communities, have changed and may continue to change.

Because Governor Scott's Declaration of a State of Emergency ended in June, decision making responsibility for COVID-19 school operations has shifted back to local school districts.

16 V.S.A. Section 834(a) states "Each school district and its employees owe its students a duty of ordinary care to prevent the students from being exposed to unreasonable risk, from which it is foreseeable that injury is likely to occur."

The scope of the legal duty of ordinary care is determined by the foreseeability of the consequences of an individual's acts or omissions. *Edson v. Barre Supervisory Union # 61*, 182 Vt. 157 (2007). If a district's actions do not meet the standard of care, causing foreseeable injury, then the district may be subject to legal action.

In exercising the duty of care, local school officials have the authority and responsibility to assess current conditions and consult the guidance of public health experts and doctors.

On August 5, Education Secretary Dan French and Health Commissioner Dr. Mark Levine issued an [Advisory Memorandum on COVID-19 Prevention Measures for Fall 2021](#). Because the State of Emergency ended in June, the memo does not have the same force of law as the formal guidance issued previously under authority of the Governor's emergency order. Again, it is important to understand this context because it shifts the decision making responsibility back to local school districts, but does not preclude districts from implementing stronger mitigation strategies than the memorandum referenced above outlines.

On August 10, the Vermont Chapter of the American Academy of Pediatrics (AAPVT) issued [Guidance on Masking and Return to School](#). Local pediatricians have generously offered to collaborate with school officials to keep children in school and safe in the year to come.

Additionally, the key Centers for Disease Control documents for school officials are [Guidance for COVID-19 Prevention in K-12 Schools](#), which was updated August 4 and the [Interim Public Health Recommendations for Fully Vaccinated People](#), which was issued on July 28.

Please note that with regard to masking, the Scott Administration, the Vermont Chapter of the American Academy of Pediatrics and the CDC all recommend universal masking at the start of the school year. However, recommendations diverge with the AAPVT and CDC recommending continued masking (AAPVT advises masking until epidemiologic data indicates it is safe to remove them). The Scott Administration recommends that schools not require masks when certain benchmarks are achieved. Irrespective of our summary below, we urge you to review all of the recommendations in their entirety:

- The Scott Administration recommends universal masking for all students and staff when indoors for the first 10 instructional days of the school year. Following the first 10 instructional days of the school year, the Scott Administration recommends that masks should no longer be required for all those eligible for vaccination when the vaccination rate (two doses of a two-dose vaccine) among students is equal to or greater than 80% of the school's current vaccination eligible population.
- The Vermont Chapter of the American Academy of Pediatrics recommends that universal masking for all students and staff (regardless of vaccination status) should continue until those under 12 years of age have had the opportunity to be vaccinated and epidemiologic data indicates it is safe to remove them.
- The CDC recommends universal indoor masking for all students, staff, and visitors to K-12 schools, regardless of vaccination status.

VSBA, VSA and VPA will do all we can to support local school officials as you work to determine the best ways to ensure that students are safe in school despite the continuing threat of the coronavirus and its variants.

Sincerely,



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