



# COVID-19 in Schools: Legal Authority and Requirements<sup>1</sup> (October 5, 2021)

## Introduction

Schools are an important part of the infrastructure of communities. They provide safe and supportive learning environments for students that support social and emotional development, provide access to critical services, and improve life outcomes. Protection against exposure to COVID-19 is essential to ensure that schools can continue to provide these functions that support children’s healthy development and learning, and that the risk to students, staff and visitors is as low as possible in school settings. Schools are required to work with state and local public health officials to prevent the spread of COVID-19. This document sets out these legal requirements.

## Legal Requirements

### Principal’s Duty to Report:

The law requires that school principals report to the local health department anyone within in a school who they have reason to suspect has a reportable communicable disease. COVID-19 is a reportable communicable disease.<sup>2</sup> For schools, this means that if a student or staff member tests positive for COVID-19, or is suspected to be positive for COVID-19, the principal of the school must notify the local health director or designee. ([NCGS 130A-136](#))

### Health Department to Investigate; School to Provide Records:

Once notified of a reportable communicable disease, the local health director or designee is charged under law with investigating cases of communicable diseases. ([NCGS 130A-144\(a\)](#); [10A NCAC .0103\(a\)](#)). This investigation is commonly referred to as “case investigation.” As part of the case investigation, the local health director (or State Health Director) or their designee may request medical or other records determined to pertain to the diagnosis, treatment, or prevention of COVID-19 or the investigation of a known or suspected outbreak of COVID-19 ([NCGS 130A-144\(b\)](#)). Schools have the critical information

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<sup>1</sup> Disclaimer: This document is not intended to provide legal advice

<sup>2</sup> 10A NCAC 41A .0101 (novel coronavirus); 10A NCAC 41A .0107

and records necessary to identify cases and close contacts and implement additional control measures as quickly as possible in order to protect students, staff, and the public from the spread of COVID-19. Therefore, schools must promptly provide to the designated State and local public health authorities any and all records or information requested. ( NCGS 130A-144(b)). This information can include, but is not limited to, people who were within 6 feet of the case for 15 minutes or more cumulatively in a 24-hour period, class rosters, contact information for staff, students, and parents, spatially accurate seating charts, attendance records, sports teams and extracurricular activity rosters and locker assignments.

Contact tracing is a control measure that is part of case investigation. The local health department and school need to communicate, exchange information and collaborate to effectively identify individuals who have been exposed to COVID-19. Contact tracing, and the role of schools in contact tracing, is described in more detail below.

### Control Measures; School Required to Comply:

**What are Control Measures.** A control measure is something which can reasonably be expected to decrease the risk of transmission of a communicable disease and which is consistent with recent scientific and public health information. [10 NCAC 41A .0201\(b\)\(1\)](#). Control measures are long-standing and well-established public health practices to prevent the transmission and spread of serious communicable diseases, such as measles, pandemic influenza, Ebola, varicella, Severe Acute Respiratory Syndrome (SARS), and COVID-19.

**Required Control Measures.** By law, all persons<sup>3</sup> – including schools and local school boards of education – shall comply with control measures ([NCGS 130A-144\(f\)](#)) prescribed by the Commission for Public Health in rule, as set out at [NCGS 130A-144\(g\)](#). The Commission for Public Health has prescribed required control measures at 10A NCAC 41A Section .0200. For COVID-19, a specific control measure rule has not been adopted, and therefore, the general control measure rule, [10 NCAC 41A .0201](#), applies. This rule aligns required control measures in North Carolina with the guidelines and recommendations published by the Centers for Disease Control (CDC).<sup>4</sup> For COVID-19, these include, but are not limited to, isolation for positive and suspected cases of COVID-19, quarantine for close contacts of COVID-19 cases, exclusion from school for confirmed and suspected cases and close contacts of COVID-19 cases, and contact tracing to identify and monitor individuals who have been exposed.

The below chart provides additional information for specific control measures relevant to school settings, and these and other control measures, as well as preventive measures such as masks, vaccinations and social distancing, are adopted in the StrongSchoolsNC Toolkit.<sup>5</sup>

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<sup>3</sup> "Person" means an individual, corporation, company, association, partnership, unit of local government or other legal entity. N.C. Gen. Stat. § 130A-2(7)

<sup>4</sup> Pursuant to 10A NCAC 41A .0201 (b)(1), the State Health Director has authority to interpret and implement control measures and may also devise control measures which have not been prescribed under .0201(a) and which can reasonably be expected to decrease the risk of transmission and which are consistent with recent scientific and public health information.

<sup>5</sup> The [StrongSchoolsNC Toolkit](#) was first published in June 2020, and most recently updated in August 2021.

**Contact Tracing.** Contact tracing is a core communicable disease control measure used to systematically identify and monitor individuals who have been exposed to a person with a communicable disease. When someone in the school is diagnosed with COVID-19, schools must promptly work with local public health officials so that local health officials can quickly identify individuals exposed to COVID-19 in accordance with [CDC Guidance](#). In addition to providing required records, as described above, contact tracing also requires schools to participate in interviews and other information exchange with local public health officials as part of the case investigation to track exposures and identify close contacts. The timely and thorough contact tracing efforts in North Carolina have played a critical role in decreasing the spread of COVID-19 by interrupting the chain of disease transmission and preventing outbreaks. CDC guidance on [contact tracing in schools](#) makes it clear that schools must participate in contact tracing with local health officials.

**Quarantine.** Quarantine is a control measure used to separate someone who has been exposed to a communicable disease from other people to prevent the spread of that disease. The length of quarantine is based on the time period in which someone may become sick or infectious to others after the exposure (incubation period). For COVID-19, the incubation period is up to 14 days. Quarantine breaks the chain of transmission because the exposed person is at risk of becoming sick or infectious during the incubation period and then spreading the infection to others. Pursuant to [CDC Guidance](#) and as part of the written and required control measures in North Carolina, persons exposed to COVID-19 are directed to self-quarantine. If an individual fails to adhere to this requirement, then a local health director or designee may issue a formal quarantine order pursuant to NCGS § 130A-145. Formal quarantine orders are not necessary to create a legal requirement to comply with control measures. Schools are required to exclude students, teachers, and staff who meet the criteria to quarantine regardless of whether an order has been issued.<sup>6</sup>

**Isolation.** Isolation is a control measure used to separate people who have been infected with a communicable disease from others who are not infected. To prevent the spread of disease to others, the separation lasts until the person who is infected is no longer contagious. This control measure breaks the chain of transmission from someone known to be infected to someone not infected. Pursuant to [CDC Guidance](#) and as part of the written and required control measures in North Carolina, persons who are infected with COVID-19 are directed to self-isolate. If an individual fails to adhere to this requirement, then a local health director or designee may issue a formal Isolation order pursuant to NCGS § 130A-145. Formal isolation orders are not necessary to create a legal requirement to comply with control measures. Schools are required to exclude students, teachers, and staff who meet the criteria to isolate regardless of whether an order has been issued.<sup>7</sup>

**Exclusion.** Exclusion is a control measure to ensure individuals who have been infected with a communicable disease or have been exposed to a communicable disease do not spread the disease to others. For COVID-19, the school must exclude students, teachers,

<sup>6</sup> For more detailed information on Isolation, Quarantine and Exclusion please see this [Guidance](#) published on September 20, 2021.

<sup>7</sup> For more detailed information on Isolation, Quarantine and Exclusion please see this [Guidance](#) published on September 20, 2021.

and staff who meet the criteria to isolate or quarantine. **The requirement for schools to exclude individuals who have tested positive or been exposed to COVID-19 is a separate and distinct control measure from isolation and quarantine. Schools are required to exclude individuals regardless of whether the individual has been notified by the local health department of isolation and quarantine requirements.**

**Local Health Director to Give Control Measures.** The local health director or designee is responsible for ensuring that proper control measures have been given and are being complied with. [NCGS 130A-144\(e\); 10A NCAC .0103\(a\)](#). Control measures are given by informing people subject to control measures about what is required. This information may be conveyed verbally or in writing.

*For individuals*, isolation and quarantine are the required control measures. If an individual is notified that he or she must isolate or quarantine, a formal order is not required.

*For schools*, exclusion is a required control measure. This means that when a school is notified about an individual who has tested positive, the school has a legal obligation to exclude that individual and anyone else who has been exposed to COVID-19. Additionally, it is critical that the local health department and the school work together to contact trace and identify students, teachers, and staff subject to isolation or quarantine and exclusion control measures.

The local health director, or designee, will provide guidance to the school about the applicable quarantine period, if a shortened quarantine period is to be used.

## Masks

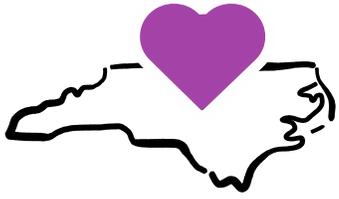
Mask wearing is one of the preventive measures that schools can implement to slow the spread of COVID-19. It is strongly recommended that schools adopt a mask policy requiring all children and staff to wear a mask indoors. However, below are the legal requirements related to masks that schools are required to comply with:

**Mask policy required.** Part X of Session Law 2021-130 requires that all public school units (a public school) adopt a policy regarding the use of face coverings by employees and students. The governing body of the public school unit shall vote at least once a month on whether the face covering policy should be modified. The current recommendation from the CDC and NCDHHS is that schools should require all children and staff in schools K-12th grade to wear face coverings consistently when indoors, regardless of vaccination status.

**Schools transportation.** Schools are required to ensure masks are worn on school transportation. An Order<sup>8</sup> issued by the CDC applies to all public transportation conveyances, including school buses. Regardless of the mask policy at school, all passengers and drivers must wear a mask on school buses, including on buses operated by school systems, subject to the exclusions and exemptions in CDC's Order.

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<sup>8</sup> Available at [https://www.cdc.gov/quarantine/pdf/Mask-Order-CDC\\_GMTF\\_01-29-21-p.pdf](https://www.cdc.gov/quarantine/pdf/Mask-Order-CDC_GMTF_01-29-21-p.pdf)



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Protect your family and neighbors.**

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