

IN THE CIRCUIT COURT OF LONOKE COUNTY, ARKANSAS  
CIVIL DIVISION

MELISSA BOSCH, WALTER MCNEIL,  
LAURA MCNEIL, CYNTHIA MCCLURE,  
MEAGEN HAYNES, JOHN O'BRIEN,  
JENNIFER O'BRIEN, and JORDAN BAKER

PETITIONERS

V. Case No. \_\_\_\_\_

CABOT PUBLIC SCHOOLS;  
TONY THURMAN, Superintendent, in his official capacity;  
JOE TRUSTY, School Board President, in his official capacity;  
PAM CLEM, board member, in her official capacity;  
DR. JAMES HERTZOG, board member, in his official capacity;  
MARVIN JONES, board member, in his official capacity;  
SARAH OWEN, board member, in her official capacity;  
KEVIN TIPTON, board member, in his official capacity; and  
COREY WILLIAMS, board member, in his official capacity.

RESPONDENTS

PETITION FOR DECLARATORY JUDGMENT

COMES NOW, the Petitioners, and in support of their Petition for Declaratory Judgment pursuant to A.C.A. § 16-111-101 et seq., states and alleges as follows:

1. Petitioners, individually, are residents of Lonoke County, Arkansas, who are the natural parents of school-age children attending Cabot Public Schools and subject to the provisions of the Cabot 30-day face covering policy dated August 13, 2021.
2. Respondents are the local school district with its offices located at 602 North Lincoln, Cabot, Arkansas 72023, the Superintendent of Schools, and individual members of the Cabot School Board, each named in their official capacities.
3. Jurisdiction and venue are proper in this Court pursuant to A.C.A. § 16-111-101 that states "Courts of record within their respective jurisdictions shall have the power to declare rights, status, and other legal relations whether or not further relief is or could be claimed."

4. It is the opinion of the Arkansas Supreme Court that “[a] parent's right to the care and control of his or her child is a fundamental liberty . . . .” *Tuck v. Arkansas Dep't of Hum. Servs.*, 103 Ark. App. 263, 266, 288 S.W.3d 665, 668 (2008).

5. Moreover, “a parent has a liberty interest . . . in shaping a child’s education.” *Linder v. Linder*, 348 Ark. 322, 72 S.W.3d 841, 852 (2002).

6. On April 26, 2018, consistent with the power conferred to it by the Arkansas General Assembly appearing in A.C.A. § 20-7-109, and as “general measures for the control of communicable diseases,” the Arkansas State Board of Health adopted Rules and Regulations Pertaining to Reportable Disease, property promulgated under the Arkansas Administrative Procedures Act, approved by the Arkansas legislature and made effective January 1, 2019 (the “2019 Rules”), and states as its purpose, “to provide for the prevention and control or communicable diseases and to protect the public health, welfare and safety of the citizens of Arkansas,” said 2019 Rules are attached hereto as **Exhibit A** and incorporated herein by reference.

7. Assuming, for the sake of argument, that the 2019 Rules apply to COVID-19 or any of its numerous variants without the specific enumeration of that particular family of viruses included within Section V of the Rules, an arguable point not conceded here by Plaintiff, the Rules authorize the Director of the Arkansas Department of Health (“the ADH”) in Section X, to “impose such quarantine restrictions and regulations upon commerce and travel by railway, common carriers, or any other means, and upon all individuals as in his judgment may be necessary to prohibit the introduction of communicable disease into the State, or from one place to another within the State.”

8. Section I of the 2019 Rules provides definitions of the terms “quarantine” and “isolation” for the powers delegated to ADH exclusively. The term “quarantine” is bifurcated between “complete quarantine,” defined as “the limitation of freedom of movement of such well persons . . . as have been exposed to a communicable disease, for a period of time not longer than the longest incubation of the disease, in such manner as to prevent effective contact with those not so exposed,” and “modified quarantine,” meaning “a selective, partial limitation of freedom of movement or persons . . . commonly on the basis of known or presumed differences in susceptibility, but sometimes because of danger of disease transmission.”

9. The term “isolation,” as it appears in Section IX of the 2019 Rules, is “the duty of the attending physician, immediately upon discovering a disease requiring isolation, to cause the patient to be isolated pending official action by the Director.”

10. In short, the terms isolation and quarantine apply only to persons who have contracted one of the list of reportable diseases from Section V, those who have been exposed to a communicable disease, or selectively otherwise based on susceptibility. In no instances do the rules account for indiscriminate, arbitrary or capricious quarantine or isolation measures, including, but not limited to, mask mandates, applicable to otherwise healthy people, i.e., those who have not contracted, been exposed to, or who have been deemed particularly susceptible to COVID-19 proposed by the ADH, and certainly not by a local school board.

11. Nevertheless, Section X of the 2019 Rules holds the authority delegated to the ADH Director, and to him alone, by the Arkansas legislature to impose such quarantine restrictions upon individuals as in his judgment may be necessary to prevent the introduction of communicable diseases into the State, or from one place to another within the State.

12. No school board within the State of Arkansas has been delegated, directly or indirectly, with isolation or quarantine authority by the Arkansas legislature, the Governor under his emergency authority, or the ADH under the 2019 Rules.

13. On August 13, 2021, Cabot Public Schools issued its “30 Day Face Covering Policy,” said policy attached hereto as **Exhibit B** and incorporated herein by reference.

14. The Cabot Public Schools 30-day Face Covering Policy provides as the only source as the authority to issue said policy the “COVID-19 Guidelines from the Arkansas Department of Education, said guidelines attached hereto as **Exhibit C** and incorporated herein by reference.

15. There are only two (2) references to the responsibilities of public schools contained in the 2019 Rules, neither of which endow those schools with the authority to isolate or quarantine students.

16. Section III of the 2019 Rules, entitled “Responsibility for Reporting,” provides that it is “the duty of every superintendent of a public school district of such person(s) he designates, to report immediately to the Department on the Toll Free Disease Reporting System any outbreak of three (3) or more cases of any of the conditions declared notifiable.”

17. Likewise, Section XIV of the 2019 Rules states that “[i]t shall be the duty of the principal or other person in charge of any public or private schools, or child care facilities, at the direction of the Department, to exclude therefrom any child, teacher or employee affected with a communicable disease until the individual is certified free of disease, by written notice from a physician, school nurse, public health nurse or the Department.”

18. On July 16, 2020, Governor Hutchinson, by Executive Order 20-43, based on ADH recommendations, ordered the Secretary of the Department of Health to issue a directive “requiring every person in Arkansas to wear a face covering over the mouth and nose in all

indoor environments where they are exposed to non-household members and distancing of six (6) feet or more cannot be assured . . . ,” a directive that exempted persons younger than 10 years of age.

19. The Governor’s mask mandate expired on May 30, 2021 and has not been renewed, nor has another similar executive order or ADH directive been issued, so there is currently no mask mandate existing in the State of Arkansas other than the *ultra vires* acts of school districts like Respondents.

20. On August 6, 2021, the Circuit Court of Pulaski County entered an Order for Declaratory Relief in Case No. 60CV-21-4763 in which it declared unconstitutional Act 1002 that prohibited mask mandates passed by the Arkansas legislature earlier this year, and in doing so found that Act 1002 violated the separation of powers doctrine by infringing on the power of county judges, the state Supreme Court, and the emergency authority of the Governor, without mention of infringement of the rights of local school boards. The Court did suggest Act 1002 discriminated between private and public school children, but private schools are not state actors, and, regardless, parents send their minor children to private schools voluntarily and, therefore, consent to the conditions attendant to private school enrollment, said Order is attached hereto as **Exhibit D** and incorporated herein by reference.

21. Therefore, Cabot Public Schools, acting of its own volition and without the express authority of the Arkansas legislature, the Governor, or the Arkansas Department of Health, by issuing the August 13, 2021 30-day Face Covering Policy, as it affects Petitioners and their children, arbitrarily and illegally issued said face covering policy which mandates that

“[a]ll staff and students in grades K-12 shall wear a face covering effective Monday, August 16th. Face coverings will be required while inside any school building or facility when social distancing guidelines cannot be maintained and on school transportation.”

22. Fundamentally, the police power of the state resides in the state legislature, not in the Governor or the Arkansas Department of Health unless authority has been delegated expressly to one or the other, and certainly not with any local school board.

23. The Cabot Schools board, therefore, had no authority to issue a face coverings mandate for children that infringes upon the individual liberties guaranteed to citizens of the State of Arkansas and in particular to Petitioners as parents of school age children, in the care, custody and management of their children recognized by the Arkansas Supreme Court under the Arkansas Constitution.

24. Moreover, the mask mandate is not based on any authority of the Arkansas Department of Health and are, therefore, unconstitutional as applied to Petitioners and their children, as well as being arbitrary and capricious in general as made generally applicable to all students in Cabot schools.

25. The mask mandate issued by Respondent is, therefore, illegal and unenforceable by the schools as are any disciplinary measures taken by the schools in enforcement thereof.

26. Petitioners have the constitutional right to refuse to place face coverings on their children in their absolute discretion, and enforcement of the face coverings mandate as contained in the Cabot Public Schools 30-day Face Coverings dated August 13, 2021 is unconstitutional and should be permanently enjoined.

27. It is incumbent upon this Court in determining the rights of Petitioners pursuant to Arkansas’ Declaratory Judgment statutes, A.C.A. § 16-111-101 et seq., to declare that the

fundamental liberty interests of parents for the care, custody and management of their children, and the right of the child(ren) to a free public education shall not be infringed by the Cabot Schools Board in the form of the 30-day face coverings mandate issued without legal authority and that said mandate should be enjoined.

28. A.C.A. § 16-111-110 provides that the Court may make such award of costs as may seem equitable and just.

WHEREFORE, Plaintiff prays for the judgment of this Court that it is the fundamental right of Petitioners as recognized under by the Arkansas Supreme Court under the Arkansas Constitution in the care, custody and management of their children, and that, therefore, the face coverings mandate contained in the Cabot Public Schools 30 Day Face Covering Policy is void and unenforceable as having been issued without legal authority, for a permanent injunction of said mask mandate, for an award of costs including reasonable attorneys’ fees as set forth in A.C.A. § 16-111-110, and for such other and further relief the Court deems just and proper.

Respectfully submitted,

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*[Verification to follow.]*







ARKANSAS STATE BOARD OF HEALTH  
RULES AND REGULATIONS  
PERTAINING TO REPORTABLE DISEASE



Promulgated Under the Authority of  
Act 96 of 1913, As Amended  
Ark. Code Ann. §§ 20-7-101 et seq.

Effective January 1, 2019

By the Arkansas State Board of Health

Arkansas Department of Health  
Little Rock, Arkansas  
Nathaniel Smith, MD, MPH  
Director and State Health Officer

**RULES AND REGULATIONS PERTAINING TO REPORTABLE DISEASE**  
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## AUTHORITY

These Rules and Regulations Pertaining to Reportable Disease Control are duly adopted and promulgated by the Arkansas State Board of Health pursuant to the authority expressly conferred by the Laws of the State of Arkansas including, without limitation, Act 96 of 1913 (Ark. Code Ann. § 207-101 et seq.).

## PURPOSE

The purpose of the Rules and Regulations Pertaining to the Control of Reportable Diseases is to provide for the prevention and control of communicable diseases and to protect the public health, welfare and safety of the citizens of Arkansas.

## SECTION I. DEFINITIONS:

- A. **Board** means the Arkansas State Board of Health.
- B. **Complete quarantine** means the limitation of freedom of movement of such well persons or domestic animals as have been exposed to a communicable disease, for a period of time not longer than the longest usual incubation period of the disease, in such manner as to prevent effective contact with those not so exposed.
- C. **Director** means the Director of the Arkansas Department of Health.
- D. **Department** means the Arkansas Department of Health.
- E. **Emergency response employee** means firefighters, law enforcement officers, emergency medical technicians, first responders, and other individuals including employees of volunteer organizations without regard to whether such employees receive compensation who, in the performance of professional duties, respond to emergencies in the State of Arkansas.
- F. **Medical provider** means any hospital, physician, nurse, hospital employee, nursing home, nursing home employee, or other health care provider.
- G. **Modified quarantine** means a selective, partial limitation of freedom of movement of persons or domestic animals, commonly on the basis of known or presumed differences in susceptibility, but sometimes because of danger of disease transmission. It may be designed to meet particular situations. Examples are exclusion of children from school; exemption of immune persons from provisions required of susceptible persons (e.g., contacts acting as food handlers); restriction of military populations to the post or quarters.
- H. **Personal surveillance** means the practice of close medical or other supervision of contacts in order to promote prompt recognition of infection or illness, but without restricting their movements.
- I. **Segregation** means the separation for special consideration, control or observation of some part of a group of persons or domestic animals from the others to facilitate control of a communicable

disease (e.g., removal of susceptible children to homes of immune persons, or establishments of a sanitary boundary to protect uninfected from infected portions of a population.)

## SECTION II. GENERAL MEASURES FOR THE CONTROL OF COMMUNICABLE DISEASES.

The current edition of "Control of Communicable Disease in Man," published by the American Public Health Association, will generally be accepted for applying control measures for communicable diseases.

## SECTION III. RESPONSIBILITY FOR REPORTING.

A. It shall be the duty of every physician, practitioner, nurse; every superintendent or manager of a dispensary, hospital, clinic, nursing or extended care home; any clinical or private laboratory; any person in attendance on a case of any of the diseases or conditions declared notifiable; or the local health department to report the disease or condition to the Department utilizing the Toll Free Disease Reporting System (1-800-482-8888) within twenty-four (24) hours.

B. Any person who determines by laboratory examination that a specimen derived from the human body yields evidence suggestive of a reportable disease shall report, within twenty-four (24) hours, to the Department on the Toll Free Disease Reporting System microscopical, cultural or other evidence of the presence of any of the diseases declared notifiable.

C. It shall be the duty of every superintendent of a public school district or such person(s) he designates, to report immediately to the Department on the Toll Free Disease Reporting System any outbreak of three (3) or more cases of any of the conditions declared notifiable.

## SECTION IV. NOTIFIABLE DISEASES AND CONDITIONS

A. Notifiable diseases and conditions are to be reported to the Department utilizing the Toll Free Disease Reporting System (1-800-482-8888) within 24 hours of diagnosis. Reports should include:

1. The reporter's name, location and phone number.
2. The name of the disease reported and the onset date.
3. The patient's name, address, phone number, age, sex and race. (PLEASE spell the patient's name.)
4. The attending physician's name, location and phone number.
5. Any treatment information, if known.
6. Any pertinent laboratory or other information used in the diagnosis.

B. Additional disease-specific information may be requested. Any person desiring to further discuss reportable diseases may phone the Division of Epidemiology at (501) 537-8969 during normal business hours or 1-800-554-5738 after hours, holidays and weekends.

SECTION V. DISEASES AND CONDITIONS  
A. NOTIFIABLE DISEASES AND CONDITIONS

*Anaplasma phagocytophila*

Anthrax\*\*

Arboviral neuroinvasive and non-neuroinvasive diseases

Babesiosis

*Bacillus cereus* or *Bacillus* species that cannot be ruled out as *B. anthracis* or *B. cereus* by *anthracis*

Blastomycosis

Botulism\*\* (foodborne, infant, wound, other)

Brucellosis

CD4+ T-Lymphocyte Count

Campylobacteriosis (includes all isolates, not just those outbreak-related or on request)

*Candida Auris (Candida haemulonii)*

Carbapenem-resistant Enterobacteriaceae (CRE)

Chagas Disease

Chancroid

Chikungunya

Chlamydial infections

Cholera

*Coccidioides immitis*

Creutzfeld-Jakob Disease

Cryptosporidiosis

Cyclosporiasis

Dengue (Dengue Fever, Dengue Hemorrhagic Fever, Dengue Shock Syndrome)

Diphtheria

Ehrlichiosis

Emerging threat agents

Encephalitis caused by: California serogroup virus, Eastern equine encephalitis virus, Powassan virus, St. Louis encephalitis virus, West Nile virus, Western equine encephalitis virus

Encephalitis, all types

*E. coli* (Shiga toxin producing)  
Food Poisoning, all types  
Giardiasis  
Gonorrhea  
Haemophilus influenzae Invasive Disease  
Hansens Disease (Leprosy)  
Hantavirus Pulmonary Syndrome  
Hemolytic-Uremic Syndrome  
Hepatitis (Type A, B, C, or E)  
Histoplasmosis  
HIV (Human Immunodeficiency Virus)\* (Qualitative, Quantitative, and Genotyping tests included even if no virus is detected)  
Influenza (Indicate viral type if known) all fatal cases regardless of age and hospitalizations  
Legionellosis  
Listeriosis  
Lyme Disease  
Malaria  
Measles (Rubeola)  
Melioidosis  
Meningitis, all types  
Meningococcal Infections\*\*  
Mumps  
Novel Coronavirus (Middle Eastern Respiratory Syndrome or Severe Acute Respiratory Syndrome virus)\*\*  
Novel Influenza A Virus Infections\*\*  
Pertussis (Whooping Cough)  
Plague\*\*  
Poliomyelitis\*\*  
Psittacosis  
Q Fever\*\*  
Rabies, Human and animal

Spotted Fever Rickettsiosis  
Rubella, including congenital infection  
SARS\*\*  
Salmonellosis (Including Typhoid)  
Shigellosis (includes all isolates, not just those outbreak-related or on request)  
Streptococcal Disease, Invasive Group A  
*Streptococcus pneumoniae*, Invasive disease, include antibiotic resistance profile if performed  
Syphilis\*, including congenital infection  
Tetanus  
Toxic Shock Syndrome  
Toxoplasmosis  
Trichinellosis (Trichinosis)  
Tuberculosis  
Tularemia\*\*  
Typhus\*\*  
Vancomycin-intermediate *Staphylococcus aureus* and Vancomycin-resistant *Staphylococcus aureus*  
Varicella (Chickenpox)\_disease or death  
Variola\*\* (Smallpox)  
*Vibrios* – non cholera sp.  
Viral Hemorrhagic Fevers\*\* (Crimean-Congo, Ebola, Lassa, Lujo, Marburg, New World Arnavirus, Guanarito, Junin, Machupo, Sabia)  
West Nile Virus  
Yellow Fever  
*Yersinia enterocolitica*  
Zika

\* Any woman infected with AIDS, HIV or Syphilis, who is pregnant, must be so reported indicating the trimester of pregnancy. This applies each time the woman becomes pregnant.

\*\* These diseases (suspected or confirmed) must be reported immediately to the Arkansas Department of Health. These diseases are of special importance or may indicate a bioterrorism event. If it is a local call or you are in Pulaski County, report to (501) 537-8969 between the hours of 8:00 AM – 4:30 PM. All other suspected or confirmed cases must be reported to (800) 554-5738. This line



is available twenty-four hours a day. Further, any isolates from these organisms must be submitted to the Arkansas Department of Health Laboratory.

Note: "Certain Healthcare Associated Infections (HAIs) are required to be reported to the ADH via the National Healthcare Safety Network. Their omission above should not be interpreted as a release from this reporting requirement."

B. REPORTABLE OCCUPATIONAL DISEASES AND OTHER ENVIRONMENTAL EXPOSURES

Asbestosis

Blood Heavy Metal Levels\*

Blood Lead Levels\*\*

Byssinosis

Chemical Exposures, All Types \*\*\*

Clinical Radiation Adverse Event

Pesticide Exposures

Pneumoconiosis (Coal Workers)

Mesothelioma

Silicosis

Suspected Unintentional Radiation Exposure

\* Any elevated blood level of mercury, arsenic, cadmium or other heavy metal

\*\* Blood lead levels over 5 µg/dl for patients 72 months old or younger, and levels over 10 µg/dl for patients ≥ 73 months of age

\*\*\* Includes chemical agents of terrorism

C. REPORT ANY UNUSUAL DISEASES OR OUTBREAKS THAT MAY REQUIRE PUBLIC HEALTH ASSISTANCE. Any unusual disease or outbreak must be reported immediately to the Department. If it is a local call or you are in Pulaski County, report to (501) 537-8969 between the hours of 8:00 AM – 4:30 PM. All other suspected or confirmed cases must be reported to (800) 5545738. This line is available twenty-four hours a day.

D. Clinical samples or isolates containing the disease agents listed in this section must be submitted to the Department laboratory for further identification testing. This may include viral or bacterial isolates or human tissue or blood samples containing the agent. In the case of stool testing, if no isolate containing the live pathogen is available, then the raw stool should be submitted.

*Bacillus cereus* *by anthracis* or *Bacillus* species that cannot be ruled out as *B. anthracis* or *B. cereus by anthracis*)

Brucellosis

*Campylobacter* sp.

*Candida Auris* (*Candida haemulonii*)

Chemical agents of terrorism

Emerging threat agents

Glanders (*Burkholderia mallei*)

*Haemophilus influenzae*, invasive isolates

*Listeria* sp.

Melioidosis (*Burkholderia pseudomallei*)

*Neisseria meningitidis*

*Salmonella* sp.

Shiga toxin producing *E. coli*;

*Shigella* sp.

Vancomycin resistant *Staphylococcus aureus*

*Vibrio cholerae*

*V. parahaemolyticus*

*V. vulnificus*

#### SECTION VI. OTHER DISEASES.

All outbreaks of diseases on the list (or other emerging diseases not specifically mentioned on the list) should be reported immediately (within 4 hours) via phone to the ADH.

All unusually drug resistant infections should be reported within 24 hours to the ADH.

Other diseases not named in these lists may at any time be declared notifiable as the necessity and public health demand, and these regulations shall apply when so ordered by the Director.

#### SECTION VII. RESPONSIBILITY OF THE DIRECTOR.

When the Director has knowledge, or is informed of the existence of a suspected case or outbreak of a communicable disease:

A. The Director shall take whatever steps necessary for the investigation and control of the disease.

B. If the Director finds that the nature of the disease and the circumstances of the case or outbreak warrant such action, the Director shall make, or cause to be made, an examination of the patient in

order to verify the diagnosis, make an investigation to determine the source of the infection, and take appropriate steps to prevent or control spread of the disease.

#### SECTION VIII. CEASE AND DESIST ORDERS.

If the Director has reasonable cause to suspect that any person who is HIV positive is intentionally engaging in conduct that is likely to cause the transmission of the virus, the Director may issue an order to said person to cease and desist such conduct. Failure to comply immediately shall constitute a violation of these rules and regulations. Such violation shall be promptly reported to the prosecuting attorney in the county where the person resides for appropriate action.

#### SECTION IX. ISOLATION.

It shall be the duty of the attending physician, immediately upon discovering a disease requiring isolation, to cause the patient to be isolated pending official action by the Director. Such physician also shall advise other members of the household regarding precautions to be taken to prevent further spread of the disease, and shall inform them as to appropriate, specific, preventive measures. He shall, in addition, furnish the patient's attendant with such detailed instructions regarding the disinfection and disposal of infective secretions and excretions as may be prescribed by the Director of the Arkansas Department of Health.

#### SECTION X. STATE AND LOCAL QUARANTINE

A. The Director shall impose such quarantine restrictions and regulations upon commerce and travel by railway, common carriers, or any other means, and upon all individuals as in his judgment may be necessary to prevent the introduction of communicable disease into the State, or from one place to another within the State.

B. No quarantine regulations of commerce or travel shall be instituted or operated by any place, city, town or county against another place or county in this or in any other State except by authority of the Director.

C. No person shall interfere with any health authority having jurisdiction, or carry or remove from one building to another, or from one locality to another within or without the State, any patient affected with a communicable disease dangerous to the public health except as provided under the rules governing the transportation of same.

#### SECTION XI. TERMINAL DISINFECTION.

Each person released from quarantine or isolation shall take such measures as are required by the Department for that particular disease. The area of isolation shall be disinfected according to the instructions of the Department.

## SECTION XII. IDENTIFICATION OF THE BODY OF A DECEASED PERSON WHO HAS BEEN INFECTED BY A COMMUNICABLE DISEASE

Any physician or any other person who has reason to believe that a deceased person may have been infected by Creutzfeldt-Jakob Disease (CJD) shall immediately after death attach to the large digit of the right foot, a red indicator measuring no less than 3 inches by 5 inches, which clearly states that the patient may have been infected with Creutzfeldt-Jakob Disease (CJD). If the body is wrapped in plastic sheets or other covering material and the toe tag is not visible, a duplicate clearly visible tag shall be applied to the outside covering material.

## SECTION XIII. PROTECTION OF EMERGENCY RESPONSE EMPLOYEES

A. Any emergency response employee who fears that he or she has been exposed to a communicable disease may notify the Department. Upon notification, the Department shall determine if the exposure requires additional investigation. In the event that it is determined that the exposure is one which should not create the risk of transmission of a communicable disease, the emergency response employee shall be so notified. If requested, he or she will be instructed as to additional steps that may be taken to confirm that no exposure to actual disease has occurred. If the Department determines that the exposure was one that could have caused the transmission of a communicable disease, the Department shall immediately contact the treating physician to determine if the patient was infected with a communicable disease. If it is determined that the individual was infected with a communicable disease, the emergency response employee shall be contacted immediately by the Department and counseled concerning the recommended course of action.

B. Any medical provider who has knowledge that an emergency response employee has been exposed to a communicable disease shall notify the Department immediately. The Department shall contact the emergency response employee immediately and provide appropriate counseling concerning the appropriate course of action.

C. Any medical provider who has knowledge that a patient with a communicable disease is being transferred, transported or treated by an emergency response employee shall, prior to said transfer, transportation or treatment notify the emergency response employee of the patient's communicable condition.

## SECTION XIV. EXCLUSION AND READMISSION TO SCHOOL OR CHILD CARE FACILITIES.

It shall be the duty of the principal or other person in charge of any public or private schools, or child care facilities, at the direction of the Department, to exclude therefrom any child, teacher or employee affected with a communicable disease until the individual is certified free of disease, by written notice from a physician, school nurse, public health nurse or the Department.

## SECTION XV. TUBERCULOSIS.

Refer to the Amendment to the Rules and Regulations Pertaining to the Control of Communicable Diseases, Arkansas State Board of Health, filed with the Secretary of State March 10, 1994.

## SECTION XVI. PUBLIC FOOD HANDLERS

No person known to be infected with a communicable disease, or suspected of being infected with a communicable disease, or who has been found to be a carrier of disease-producing organisms, shall engage in the commercial handling of food, or be employed on a dairy or on premises handling milk or milk products, until he is determined by the Department to be free of such disease, or incapable of transmitting the infection.

## SECTION XVII. COMMUNICABLE DISEASES IN DAIRIES

A. When the Department has good cause to believe that a milk supply is suspected to be the source of infection for any one of the communicable diseases known to be transmitted through milk, the Department shall prohibit the use, sale, or disposal of such milk except by a method approved by the Director until such time as he deems it to be safe for human consumption.

B. When a case of Typhoid Fever, Salmonella infection, Brucellosis, Shigellosis, Respiratory Streptococcal infection, Diphtheria, or any other disease capable of being transmitted through milk is confined on the premises where a dairy is maintained, the Department shall prohibit the use, sale or disposal of such milk except by a method approved by the Director until he is satisfied that such is safe for human consumption.

## SECTION XVIII. LABORATORY TESTS FOR THE RELEASE OF CASES OR CARRIERS OF COMMUNICABLE DISEASES

When laboratory tests are required for the release of cases, or carriers, the tests shall be performed by the Public Health Laboratory or by another laboratory approved by the State Epidemiologist. A specimen may be sent to a laboratory not so approved, provided that it is divided and a portion of the specimen is sent to an approved laboratory. Release shall be considered on the basis of the report of the approved laboratory only.

## SECTION XIX. DIPHTHERIA LABORATORY SPECIMENS FOR DIAGNOSIS AND RELEASE

A. Cultures should be obtained separately from the nose and throat by means of sterile swab and test tube as provided by the Department for aid in diagnosis.

B. A case or carrier of Diphtheria shall not be released until two cultures from the throat and two from the nose, taken not less than twenty-four (24) hours apart, fail to show the presence of Diphtheria bacilli. The first of such cultures shall be taken not less than one week from the day of the onset of the disease. A virulence test should be made in any case where positive cultures are reported

three weeks or longer after the onset of the disease or discovery of a carrier. If the organisms are non-virulent, the patient may be released.

## SECTION XX. TYPHOID FEVER

### A. Laboratory Specimens for Diagnosis of Cases and Release

1. Samples of feces and whole blood submitted to the Public Health Laboratory for culture within the first week of the suspected case of Typhoid Fever give the greatest probability of obtaining a positive result insofar as the culture is concerned. Such cultures when positive are the only proof of diagnosis of Typhoid Fever.
2. All patients testing positive for Typhoid Fever should undergo additional testing to determine if they are a carrier. Carrier testing involves submission of successive stool samples at least one month apart until three negative samples are obtained.
3. Patients who have been determined to have Typhoid Fever shall be isolated or excluded for such period as required, and shall be released from isolation and from supervision only by the health authority. If the person is continent and does not work in foodhandling then they do not have to be excluded. If the person is incontinent or a foodhandler then they will be required to be excluded from job duties and followed by the department until they have three negative stool samples at least one month apart and are cleared through the Arkansas Department of Health.

### B. Typhoid Carriers

1. Any person who has recovered from Typhoid Fever and in whose feces or urine Typhoid bacilli are present one year or longer after such recovery shall be declared to be a chronic carrier. Any person who has recently recovered from Typhoid Fever and from whose feces or urine Typhoid organisms are cultured by the Public Health Laboratory during the first year from such recovery shall be considered a convalescent, or temporary carrier, and shall conform to all the Regulations regarding the control of Typhoid carriers. Any person found in the investigation of a case or cases of Typhoid Fever from whose feces or urine Typhoid bacilli are cultured by the Public Health Laboratory shall be declared to be a chronic carrier except that such person be one who has recently recovered from Typhoid Fever.
2. Control of Typhoid Carriers
  - a) The urine and feces of a Typhoid carrier shall be disposed of in such a manner that they will not endanger any public or private water supply, or be accessible to flies.
  - b) No Typhoid carrier shall prepare or handle any food or drink to be consumed by persons other than members of the household with whom he resides.
  - c) No Typhoid carrier shall conduct or be employed in any restaurant, hotel or boarding house, or conduct a lodging house in which, prior to taking lodgers, a separate toilet and bathroom have not been installed for the use solely of the Typhoid

carrier. Said toilet shall be located in a part of the house separate from any part that may be occupied by a lodger.

d) Any person determined to be a Typhoid carrier as defined in these Regulations shall sign an AGREEMENT, to be witnessed by at least two persons. Said AGREEMENT shall read as follows:

#### TYPHOID CARRIER AGREEMENT

*In view of the fact that I have been proven to be a Typhoid carrier, I do solemnly swear to abide by the following regulations as long as I remain a Typhoid carrier, which I understand will probably be for the remainder of my life:*

- 1. Under no circumstances will I handle milk or milk products such as cream, ice cream, butter or cheese, nor any other foodstuffs, nor will I do any cooking of food except for my own individual consumption and for those members of my immediate family who have been immunized against typhoid fever within the past three years.*
- 2. Following each visit to the toilet I will wash my hands thoroughly with soap and water.*
- 3. I will inform the Arkansas Department of Health, Outbreak Response Section, 4815 West Markham Street, Little Rock, Arkansas 72205-3867, in advance of any change in address from that listed below.*

*Signature of Carrier*

*Complete Address of Carrier*

*Signatures and addresses of two witnesses*

*Name Address*

*Name Address*

*Date of Signing*

#### 3. Release of Chronic Typhoid Carriers from Control Restrictions

a) A chronic Typhoid carrier may be released from restrictions only on approval of the Director and only after submitting proof of a minimum of six (6) consecutive negative feces cultures (for urinary carriers, urine cultures) taken at least one (1) month apart and at least ten (10) days after taking any antibiotic, and performed by the Division of Laboratories of the Department. At least two (2) of the specimens must be liquid stools obtained after administration of a cathartic such as magnesium sulfate. At least two (2) of the specimens must be validated by collection under close supervision as having come from the carrier. For fecal carriers, the identity of the specimen may be confirmed by oral administration of a suitable marker material under supervision and finding this material in a specimen. Cultures of duodenal fluid may be substituted for stool cultures, if desired.

- b) A released chronic carrier who wishes to work in a food handling or other occupation from which carriers are excluded must present evidence from a Local Health Department that he has received instruction in methods of food handling and personal hygiene. While employed in such a restricted occupation he must submit evidence of a negative stool (or urine if appropriate) culture and additional food handling instruction every year.

SECTION XXI. SEXUALLY TRANSMITTED DISEASE (SYPHILIS, GONORRHEA, CHLAMYDIA, HIV{HUMAN IMMUNODEFICIENCY VIRUS},\_\_\_CHANCROID, LYMPHOGRANULOMA VENEREUM, GRANULOMA INGUINALE) AND OPHTHALMIA NEONATURUM (GONORRHEAL OPHTHALMIA)

A. Testing of pregnant women.

1. Every physician attending a pregnant woman shall take, or cause to be taken, a sample of venous blood at the time of first examination and during the third trimester, ideally at 28 to 32 weeks gestation, and submit such sample to an approved laboratory for a standard serologic test for Syphilis; a standard test for Human Immunodeficiency virus; and a standard test for Hepatitis B. Any person other than a physician permitted by law to attend pregnant women but not permitted by law to take blood samples, shall cause a specimen of blood to be taken by, or under the direction of a physician duly licensed to practice medicine and surgery, and have such specimen submitted to an approved laboratory for testing.
2. Any person reporting a birth or stillbirth shall state on the certificate whether a blood test for Syphilis had been made upon a specimen of blood taken from the woman who bore the child for which a birth or stillbirth certificate is filed and the approximate date when the specimen was taken.

B. Ophthalmia Neonatorum (Gonorrhoea Ophthalmia)

1. Ophthalmia Neonatorum is to be reported to the Epidemiology Program, Arkansas Department of Health, as soon as the disease is suspected.
2. It shall be the duty of the local health authority in whose jurisdiction the case occurs to investigate the case to confirm the diagnosis by bacteriological examination and, if of Gonococcal origin, to determine if the attendant at delivery used prophylactic medication in the eyes of the infant.
3. Due to the nature of the infection and its communicability, and inasmuch as Gonorrhoeal Ophthalmia is amenable to antimicrobial therapy; it shall be the duty of every physician to administer appropriate antimicrobial therapy at once (consistent with the current American Academy of Pediatrics' Report of the Committee on Infectious Diseases (i.e.: The Red Book). It shall be the duty of every midwife attending such cases, or suspected cases, to refer all such cases to a licensed physician for treatment.



- C. It shall be the duty of every physician to report, as soon as diagnosed, every case of sexually transmitted disease on the Confidential Case Report, as provided by the Department, or by utilizing the Toll Free Communicable Disease Reporting System, to the Sexually Transmitted Disease Program, Arkansas Department of Health. Physicians shall report the patient by name, address, age, sex, race and date of birth within twenty-four (24) hours of the diagnosis in case of primary, secondary and congenital Syphilis and Syphilis in pregnant women.
- D. Whenever the Director has reasonable grounds to believe that any person is suffering from Syphilis, Gonorrhea, Chancroid, Chlamydia, HIV (Human Immunodeficiency Virus), Lymphogranuloma Venereum or Granuloma Inguinale in a communicable state, he is authorized to cause such person to be apprehended and detained for the necessary tests and examination, including an approved blood serologic test and other approved laboratory tests, to ascertain the existence of said disease or diseases: provided, that any evidence so acquired shall not be used against such person in any criminal prosecution.
- E. The Director may, when in the exercise of his discretion he believes that the public health requires it, commit any commercial prostitute, or other persons apprehended and examined and found afflicted with said diseases, or either of them who refuses or fails to take treatment adequate for the protection of the public health, to a hospital or other place in the State of Arkansas for such treatment even over the objection of the person so diseased and treated provided the commitment can be done without endangering the life of the patient.
- F. It shall be the duty of a physician on the occasion of the first visit to or by a person suffering from Syphilis, Gonorrhea, Chancroid, Chlamydia, HIV (Human Immunodeficiency Virus), Lymphogranuloma Venereum or Granuloma Inguinale to instruct said person in the precautions to be taken to prevent communication of the disease to others, and to inform him of the necessity of continued uninterrupted treatment until such adequate treatment has been administered.
- G. It shall be the duty of every physician to administer appropriate and adequate treatment to any individual regardless of age, sex, or race whom he has reasonable grounds to believe is suffering from Syphilis, Gonorrhea, Chancroid, Chlamydia, HIV (Human Immunodeficiency Virus), Lymphogranuloma Venereum or Granuloma Inguinale in a communicable state, to render the disease non-communicable to others for the protection of the public health. Likewise, it shall be the duty of every physician to treat, prophylactically or therapeutically, any individual regardless of age, sex or race whom he has reasonable grounds to believe has been exposed to a communicable case of Syphilis, Gonorrhea, Chancroid, Chlamydia, HIV (Human Immunodeficiency Virus), Lymphogranuloma Venereum or Granuloma Inguinale for the protection of the public health. Consent to the provision of medical and surgical care or services by a physician licensed to practice medicine in this State, when executed by a minor who is or believes himself to be afflicted with a sexually transmitted disease, shall be valid and binding as if the minor had achieved his majority.

## SECTION XXII. RABIES CONTROL.

Refer to the Rules and Regulations Pertaining to Rabies Control, Arkansas State Board of Health, July 1975, and the Rabies Control Act, Act 11 of 1968 as amended by Act 725 of 1975.

### SEVERABILITY

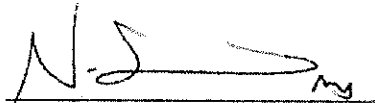
If any provision of these Rules and Regulations, or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of these Rules and Regulations which can give effect without the invalid provisions or applications, and to this end the provisions hereto are declared to be severable.

### REPEAL

All Rules and Regulations and any parts of Rules and Regulations in conflict herewith are hereby repealed.







### CERTIFICATION

This will certify that the foregoing Rules and Regulations Pertaining to Reportable Disease Control in Arkansas were adopted by the Arkansas State Board of Health at a regular session of the Board held in Little Rock, Arkansas, on the April 26, 2018, to be effective January 1, 2019.

A handwritten signature in black ink, appearing to read 'N. Smith', with a horizontal line underneath it.

Nathaniel Smith, MD, MPH  
Secretary  
Arkansas State Board of Health

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### Cabot Public Schools 30 Day Face Covering Policy

August 13, 2021



The Cabot Board of Directors is mindful of the evolving need for safety measures in response to the rising cases of COVID-19. On Tuesday, August 10th, the Cabot School District requested the feedback of our parent/guardians regarding the issue of face coverings.

3,457 households fully responded to the survey.

***\*63.1% support requiring face coverings for students and staff in all locations.***

***\*74.6% support establishing criteria based upon the number of positive cases and quarantines to mandate face coverings in certain locations for a certain amount of time.***

*\*Review Full Parent Survey Results*

**Quarantine Guidelines**



## Latest News

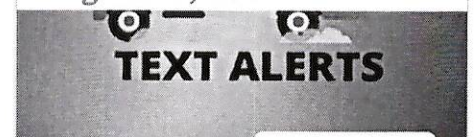
**Time & Location Update for August 24th School Board Meeting**

August 20, 2021

[Read More](#)

**Enrolling in School Bus Text Alerts**

August 19, 2021



According to the updated COVID-19 Guidelines from the Arkansas Department of Education:

- Students who are identified as close contacts with a COVID-positive individual are **NOT** required to quarantine as long as both individuals are properly wearing a face covering and are symptom free.
- Fully-vaccinated individuals will **NOT** be required to quarantine as long as they remain symptom free.

### 30 Day K-12 Face Covering Policy

All staff and students in grades K-12 shall wear a face covering effective Monday, August 16th. The Cabot School Board will closely monitor the data including daily positivity rates.

Face coverings will be required while inside any school building or facility when social distancing guidelines cannot be maintained and on school transportation. There is **NO** face covering requirement for outside spaces or after school activities.

Students shall wear face coverings at all times inside school buildings or facilities except for the following:

- Students may remove face coverings for eating or drinking;
- Students may remove face covering during outside recess and any other outside activities;
- Students may remove face coverings when appropriate social distancing measures are in place as determined by a teacher or school administrator;
- Students may be exempted from this policy by the school principal due to a documented medical condition of the student;
- Students may remove face coverings on a case-by-case basis for specific instructional needs and other activities, as determined by a teacher, in which case the teacher will utilize appropriate social distancing measures; or
- Students may be exempted from this policy due to special behavioral or individualized needs as determined by the Director of Special Services or the Assistant Superintendent.

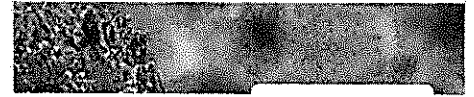
### 30 Day PK Face Covering Policy

PK students shall be required to wear a face covering when riding in school-provided transportation or transitioning in the hallway. PK staff

[Read More](#)

## Updated COVID-19 Communication & Dashboard

August 18, 2021



[Read More](#)

[More News](#)

will be required to wear a face covering.

The Superintendent and Board will reassess the face covering requirement to determine if it will be necessary to extend it or if it will be modified to apply only to specific schools that have a positivity percentage above a predetermined threshold.

*We would like to thank our families for providing feedback. Our board members welcome any additional thoughts or comments you would like to share. Contact information can be found on our district website, [www.cabotschools.org](http://www.cabotschools.org).*

**Watch Dr. Thurman's message on the 30 Day Face Covering Policy**

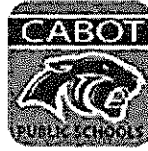
Cabot Public Schools 30 Day Face Covering Pol...







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## 2021-2022 COVID-19 Guidance for Schools

Despite hardships for the 2020-21 school year, Arkansas's students, educators, and communities finished the year strong and were successful at maximizing on-site instruction in Arkansas even when many other states remained virtual. The success came as a result of strategic planning and ongoing communication between school districts, the Division of Elementary and Secondary Education (DESE), and the Arkansas Department of Health (ADH). Last summer, school districts, in collaboration with their communities, developed and implemented "Ready for Learning" plans that put into action multiple mitigation strategies to minimize risks to students and staff. These plans served as each LEAs Safe Return to In-Person learning, and the results from last year leave us more confident in the proven mitigation strategies and more aware of what to expect.

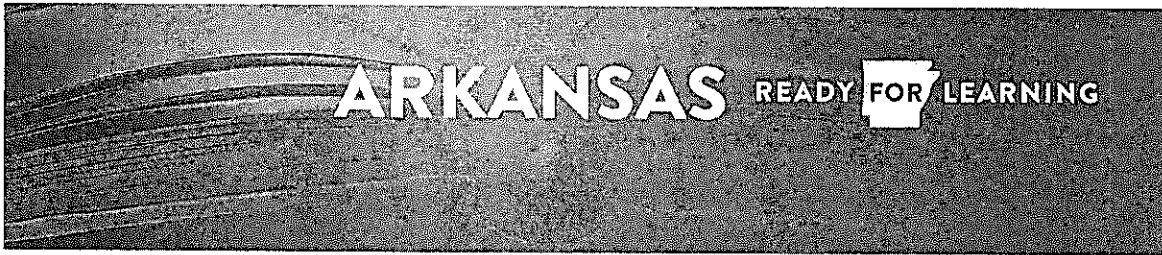
Last spring, during the period of the American Rescue Plan (ARP) ESSER award, schools were required to update their Safe Return to In-Person Instruction procedures to describe plans for Continuity of Services for the remainder of the school year and during the summer. Plans were required to be posted by April 15, 2021, on school district websites. These plans must be reviewed regularly, but no less frequently than every six months, and be revised when appropriate. While the next regularly-scheduled update is October 15, 2021, school districts should re-engage their communities to review plans and make updates to reflect the district's strategies for a Safe Return and Continuity of Service for the upcoming school year. Updates should be posted on each school district's website.

To assist schools with developing procedures for all school operations, including remaining summer activities, DESE is updating guidance regarding the best practices that will continue to ensure the safety of both students and educators while supporting a strong in-person learning environment.

Because many schools serve children under the age of 12 who are not eligible for vaccination at this time or are not yet fully vaccinated, this guidance emphasizes implementing layered prevention strategies to protect people who are not fully vaccinated, including students, teachers, staff, and other members of their households, especially in areas where community transmission is elevated. School districts are advised to continue practicing preventative measures such as appropriate masking, physical distancing, screening, testing, ventilation, handwashing and respiratory etiquette, staying home when sick and getting tested, contact tracing in combination with quarantine and isolation, and cleaning and disinfection to the extent practical. School districts have access to additional federal funding that is specifically designed to **prevent, prepare for, and respond** to COVID-19 and are encouraged to monitor planned







uses of funds to ensure that sufficient PPE and other safety measures are considered when expending funds.

## **Continued Practices to Mitigate the Likelihood of COVID-19 Spread Inside the School**

### ***Vaccinations***

COVID-19 vaccines are the most effective strategy to protect people from getting sick and to reduce the risk of people spreading COVID-19. Students who are ages 12 and older are now eligible to receive the Pfizer vaccination. Schools are encouraged to help students ages 12 and older, their families, and all school staff with getting vaccinated. Actions districts can take include initiating vaccination campaigns, hosting informational sessions with local medical professionals, partnering with local community-based programs, including childcare facilities, and sponsoring vaccination clinics at local school sites. **Fully-vaccinated students or staff do not need to quarantine if deemed close contacts, unless they have/develop symptoms.**

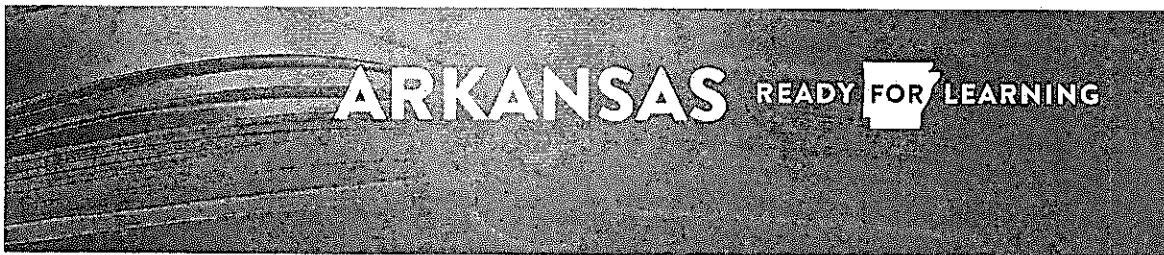
### ***Masks/Face Coverings***

As updated on July 9, 2021, CDC guidance states, "consistent and correct mask use by people who are not fully vaccinated is especially important indoors and in crowded settings." Although masks or other face coverings can no longer be mandated in Arkansas public schools, as prohibited by Act 1002 of 2021, the CDC currently recommends the following regarding the wearing of masks in school settings:

- **Indoors.** Mask use is recommended for people who are not fully vaccinated including students, teachers, and staff. Children under 2 years of age should not wear a mask.
- **Outdoors.** In general, people do not need to wear masks when outdoors. However, particularly in areas of substantial to high transmission, the CDC recommends that people who are not fully vaccinated wear a mask in crowded outdoor settings or during activities that involve sustained close contact with other people who are not fully vaccinated.

**Individuals exposed to a confirmed case of COVID-19 will not need to be quarantined if they have no symptoms and both the infected and exposed individual consistently and correctly were wearing a mask.**

Because children under the age of 12 cannot be vaccinated against COVID-19 at this time, consistent and correct mask usage is recommended while indoors in all school settings with children under age 12. In addition, consistent mask usage should be strongly considered in any classroom setting where the vaccination status of students of any age cannot be confirmed.



### ***Physical Distancing***

In order to facilitate in-person learning 5 days a week for Arkansas students, each district should **continue** to implement practices that promote physical distancing between individuals and groups of individuals. Although 6 feet is the standard, the inability or impracticality to have physical distance does not prevent a school from having in-person learning. Based on studies from the 2020-2021 school year, the CDC recommends schools maintain:

- at least 3 feet of physical distance between students within classrooms, and
- at least 6 feet between students and adults, and between adults who are not fully vaccinated.

It is suggested that both of these recommendations be combined with indoor mask wearing by people who are not fully vaccinated to reduce transmission risk. Mask use by people who are not fully vaccinated is particularly important when physical distance cannot be maintained.

### ***Hand Washing/Cleaning***

Schools should continue to have hand sanitizer and/or hand washing stations with soap and water at entrances. They should also attempt to provide hand sanitizer and/or hand washing stations with soap and water in every classroom. Students, teachers, staff, and campus visitors should be encouraged to sanitize and/or wash hands frequently.

### ***Ventilation/Air Circulation***

Evidence suggests that improved air circulation is beneficial in reducing the spread of COVID-19. Whenever possible, schools should open windows or otherwise work to improve air flow by allowing outside air to circulate in the building, and thereby lower the concentration of viral particles. The CDC has provided guidance on increasing ventilation to prevent COVID-19 spread. ESSER funds can be utilized to upgrade ventilation or purchase devices for classrooms that help with ventilation and air quality.

### ***Screening***

Districts should continue to screen individuals who enter facilities. Districts are still encouraged to continue following their screening plan for each campus and event using screening questions approved by the ADH. The value of screening is that it keeps students and staff with symptoms out of school and limits exposure. Screening usually consists of making sure a person doesn't have a fever, as well as having him or her answer questions about symptoms and exposures. For example, some asked screening questions and used thermometers to check the temperature of all upon entry, while others had parents do the screenings at home. We recommend using whichever screening method districts prefer as long as it is effective at



ensuring individuals with symptoms of COVID-19, and those needing to be excluded, do not enter the facility.

### ***Food Service and School Meals***

Given the very low risk of transmission from surfaces and shared objects, there is no need to limit food service approaches to single use items and packaged meals. Schools should still establish procedures that maximize physical distance as much as possible when students are moving through the food service line and while eating (especially indoors). Using additional spaces outside of the cafeteria for mealtime seating, such as classrooms, the gymnasium, or outdoor seating, can help facilitate distance.

### ***Busing***

While on buses, open or crack windows if doing so does not pose a safety risk. Keeping windows open, even a few inches, improves air circulation. ADH and ADE also recommend maintaining as much physical distance as possible between riders on the bus. In addition, keeping siblings/household members seated together is also a helpful strategy. Masks are recommended due to the close nature of a bus environment.

### ***School-Related Activities***

Districts should be mindful of activities associated with regular school operations that could create a higher risk for COVID-19 transmission and review ADH guidance for specific activity or event protocols. These may include, but are not limited to:

- Vocal and Instrumental music programs
- Theater Performances
- Athletic programs and activities
- Back to school orientation and registrations
- School dances
- Club events or co-curricular activities

Schools are encouraged to consider guidance for each event and to follow established guidelines and communicate to students and families procedures that promote safety and continuity of operations. Various school-related guidelines can be accessed at COVID-19 Arkansas Department of Health.

- [Large Outdoor Venues](#)
- [Large Indoor Venues](#)
- [Community and School Sponsored Team Sports](#)
- [Community and School Sponsored Music and Theater Events](#)



## Responding to Positive COVID-19 Cases in a School

### ***Point of Contact and Reporting of Positive Cases***

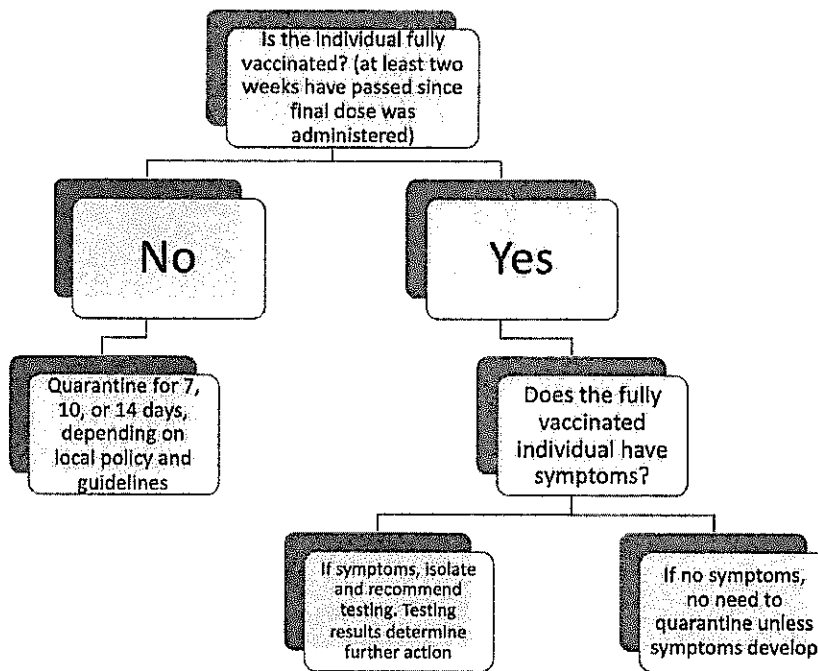
To promote the continuation of last year's successful communication strategy, all districts will continue to identify a Point of Contact (POC) who will initiate the contact tracing process when positive cases are reported at school and notify the ADH of positive cases as they occur. POCs must be identified and registered by **Friday August 6, 2021**. Superintendents will be sent a link to register the district POC.

If an individual who has been in a school has tested positive for COVID-19, districts are still required to continue to follow the established ADH reporting processes and requirements for isolation and quarantine. There are some conditions that could exempt an exposed individual / close contact to the quarantine/isolation requirements that are discussed below. School nurses can help verify the status of a potential close contact to help POCs and school officials determine responses.

### ***Close Contact Determination and Responses***

The CDC defines a close contact as an individual confirmed to have been within six feet for 15 cumulative minutes or longer within a 24-hour period during the infectious period of a person who has tested positive for COVID-19.

1. Individuals who have previously tested positive for COVID-19 and recovered and who are subsequently exposed to someone with COVID-19 within three months of their original diagnosis do not have to stay at home or get tested again, as long as they do not develop new symptoms. Individuals who develop symptoms again within three months of their first instance of COVID-19 should see their physician as they may need to be tested again if there is no other cause identified for their symptoms.
2. Individuals exposed to a confirmed case of COVID-19 will not need to be quarantined **if they have no symptoms and both the infected and exposed individual consistently and correctly were wearing a mask.**
3. Individuals who are fully vaccinated may not have to quarantine. To help determine whether a **fully vaccinated individual** should quarantine, refer to the following chart:



School officials should review with POCs the local process for identifying close contacts and the process for communicating with parents, staff, and students whether an individual will need to stay home and/or be tested.

***Quarantine of those exposed to someone with COVID-19***

As of December 2, 2020, the CDC amended its guidance to allow two shorter options for the quarantine period. Based on current CDC guidance, the quarantine period can end for individuals experiencing no symptoms according to the following guidelines:

1. After 10 full 24-hour periods since close contact exposure without testing, or
2. After seven full 24-hour periods since close contact exposure and after receiving a negative test result (sample taken no earlier than five 24-hour periods after exposure).

If individuals return to school from these shorter quarantine windows, they should regularly monitor themselves for symptoms to ensure they remain symptom-free and take appropriate precautions (e.g., consistent mask usage) for the duration of the 14-day incubation period.



### ***Isolation of those with COVID-19***

The person who tests positive for COVID-19 is still required to isolate at home for 10 days from the onset of symptoms or, if asymptomatic, 10 days from the positive test date. A person who is immunosuppressed or was hospitalized may need a longer isolation period of 20 days.

### ***Educational Options***

Based on increasing numbers of positive cases, schools should expect interruptions to the school year and plan for contingencies. DESE and ADH will work closely with districts to monitor local situations and to assist if prolonged school closures or prolonged remote learning becomes necessary.

Students and staff should stay home when sick. Districts should review attendance policies to be sure that COVID-19 isolation and quarantine requirements are taken into consideration when dealing with student and staff absences, as well as state and federal requirements for staff and students with disabilities. Flexible attendance policies will be needed for individual students and staff in order to continue teaching and learning options while unable to be at school due to COVID-19 impacts. Policies should be communicated with parents and staff. Students and families should feel confident that students can remain connected to their school even when they are not able to attend in person due to COVID-19 isolation or quarantine requirements.

### ***AMI Pivots for school-wide or district-wide COVID closures***

Responses to positive COVID-19 isolation and quarantines should be as strategic and targeted as possible. In cases where a classroom or grade level pivots to remote learning, the district should ensure the necessary tools for ***blended learning*** are in place to facilitate the continuation of teaching and learning for small groups of students and staff.

In the event that an entire school or district must modify on-site instruction and pivot to ***remote learning***, the school or district will follow the district's approved Alternate Method of Instruction (AMI) plan. If positive cases have evolved to the point that an AMI day is necessary, the superintendent ***shall*** take the following steps:

- Notify the designated DESE POC - the list and contact information will be sent to each superintendent; and,
- Report the AMI day in the *LEA Insights* portal, which is the same process that was in place last school year; The AMI day for the school or district will also be reported in eSchool; and,
- Participate in consultations with the DESE and ADH.

Superintendents will be sent the link and instructions for logging in to the *Insights* portal. This process will help the DESE and the ADH better understand the magnitude of the COVID-19



impact in local areas throughout the state. **Districts are reminded that AMI days are counted as student contact days; therefore, AMI plans should include meaningful and engaging learning activities that can be completed remotely by every student.** If a district (or a school within a district) exceeds the 10 approved AMI days as a result of closures due to COVID-19, weather, power outages, contagious outbreaks, or other extenuating circumstances, the district will consult with DESE.

### ***Digital Learning Plans***

Digital learning plans were submitted by 128 school districts utilizing the Act 1240 waiver process. Each application went through a rigorous vetting process at the Division of Elementary and Secondary Education (DESE) before being recommended to the State Board of Education (SBE). Approval by the SBE allowed necessary waivers for the district to operate a remote or blended learning programming option for students in addition to their required in-person instructional option. Students enrolled in an approved digital program will be coded and recognized as a virtual student and may have different requirements than traditional students.

The deadline for districts to submit a plan for a digital program was May 1, 2021; however, many districts in the state opted to not offer a digital option, due to Covid-19 cases declining in the spring. Due to changing conditions, these districts are now faced with the demand of parents wanting an option other than in-person for their children. In response to the growing demand and concern, the division is going to reopen the digital learning application to districts that did not apply prior to May 1st to allow for a contingency plan option until a full review can be completed. Information regarding this option for districts to apply is in Commissioner Memo COM-22-017. The DESE and SBE will follow the same rigorous vetting process for this group of digital applications to ensure quality options for students. Parents should consult with their districts about instructional options.

### **Public Health Considerations**

The COVID-19 Delta variant is now the predominant COVID-19 strain in Arkansas. The Delta variant is two-to-three times more transmissible, which means that an infected person can spread COVID-19 to twice as many people as observed earlier in the pandemic. The COVID-19 Delta variant appears to cause more severe disease and a greater likelihood of hospitalization in unvaccinated young people than we observed earlier in the pandemic. While adolescents over 12 years of age and adults can be protected from the Delta variant by the COVID-19 vaccines, children under 12 remain at high risk. Children represent an increasing proportion of new COVID-19 cases, including hospitalizations and severe disease. In light of the spread of this more transmissible variant (and potential future strains), ADH and ADE urge



schools to maintain as many mitigation measures as possible, or risk increased spread within the school setting.

This document addresses updates to the public health guidance and is based on the public health situation with COVID-19 as it is understood today. Guidance will be updated as needed if additional or new guidance is made available by the CDC. DESE and the ADH will continue to monitor conditions and work with districts to respond accordingly. School officials, parents and community members are encouraged to work together to plan and to implement as many strategies as possible to make the return to school and continued in-person learning opportunities successful again this year.



IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS  
SIXTH DIVISION

VERONICA MCCLANE, *ET AL*

PLAINTIFFS

v.

60CV-21-4692 ✓

STATE OF ARKANSAS, *ET AL*

DEFENDANTS

LITTLE ROCK SCHOOL DISTRICT, *ET AL*

PLAINTIFFS

v.

60CV-21-4763

HONORABLE ASA HUTCHINSON,  
in his Official Capacity as Governor of  
the State of Arkansas, *ET AL*

DEFENDANTS

**ORDER FOR DECLARATORY RELIEF  
AND PRELIMINARY INJUNCTION**

On the 6<sup>th</sup> day of August 2021, came on for hearing all pending motions by the parties in the captioned cases, and from the pleadings filed herein and the argument of counsel, the court doth find as follows:

1. Plaintiffs' *Motion for Consolidation Pursuant to Rule 42(a) of the Arkansas Rules of Civil Procedure*, filed on August 5, 2021, in *Little Rock School District and Marion School District v. Honorable Asa Hutchinson*, 60CV21-4763 is granted. Both cases shall hereafter be styled as 60CV-21-4692, which is the earlier case number of the two previously separate cases.

2. The *Motion to Intervene* of Barry Hyde, in his Official Capacity as the County Judge for Pulaski County and Eric Higgins, in his Official Capacity as Pulaski County Sheriff, filed on August 5, 2021, is granted.



3. All of the moving parties allege that Act 1002 of 2021 is unconstitutional in one or more respects and have requested relief pursuant to Rule 65 of the Arkansas Rules of Civil Procedure.

4. The parties requested that the court issue a *Temporary Restraining Order*. TROs are customarily issued without notice to any of the defendants and are viable only for a short period of time until a hearing can be arranged. Given the parties, the constitutional issues involved, and the fact that the court was able to expedite the matter on its calendar, the court chose not to issue a TRO. As a hearing was held, the procedural posture shifted to being one of a request for issuance of a preliminary and/or permanent injunction.

5. There are no allegations that the language of Act 1002 is ambiguous or reasonably susceptible to more than one interpretation. In cases challenging the constitutionality of “plain language” legislative enactments, it is the obligation of the courts to give the wording of such enactments their “usual and customary meaning.”

6. In cases challenging the constitutionality of legislative enactments, if there is offending language or punctuation that can be stricken and leave a constitutional remainder, it is the obligation of the courts to strike through the offending language or punctuation and salvage the remainder of the legislative enactment. The courts are, however, prohibited from rewriting or adding language to legislative enactments to make such legislative enactments constitutional.

7. Article 4, §2 of the Arkansas Constitution provides for the constitutional separation of powers doctrine on state-related causes of action.

8. Each of the state’s seventy-five counties is a “political subdivision of the state,” which are included within the language of Act 1002 of 2021.

9. Amendment 55, §3 to the Arkansas Constitution, states:

The County Judge, in addition to other powers and duties provided for by the Constitution and by law, shall preside over the Quorum Court without a vote but with the power of veto; authorize and approve disbursement of appropriated county funds; operate the system of county roads; administer ordinances enacted by the Quorum Court; **have custody of county property**; hire county employees, except those persons employed by other elected officials of the county. (emphasis added)

10. Amendment 80, §4 to the Arkansas Constitution, states, in part, “The Supreme Court shall exercise **general superintending control** over all courts of the state...” (emphasis added)

11. A.C.A. §12-75-107, as amended by Act 403 of 2021, legislatively delegates emergency declaration and emergency action authority to the Governor, as the chief executive officer of the state.

12. Act 1002 of 2021, as enacted, facially violates the separation of powers clause in that it attempts to usurp the constitutional authority granted to county judges over county buildings and property.

13. Act 1002 of 2021, as enacted, facially violates the separation of powers doctrine in that it attempts to usurp the exclusive superintending authority concerning the procedure and conduct in the courts of the state that is granted to the Arkansas Supreme Court.

14. Act 1002 of 2021, facially violates the separation of powers doctrine as it usurps the authority specifically granted to the Governor with respect to declarations of emergency as set forth in A.C.A. §12-75-107 (as modified by Act 403 of 2021.)

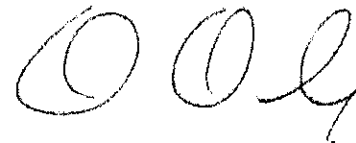
15. Act 1002 of 2021, as enacted, facially violates the equal protection provisions of Article 2 of the Arkansas Constitution, in that it discriminates, without a rational basis, between minors in public schools and minors in private schools.

16. All other causes of action alleging Act 1002 to be unconstitutional, by any party, for any reason, not specifically addressed herein, are denied without prejudice. The court has determined that resolution of such additional causes of action will require the introduction of testimony and evidence and/or stipulation of facts by and between the parties.

17. Because there is no method by which the court can cure the unconstitutionality of Act 1002 of 2021 without substantially rewriting such legislative enactment, it is the obligation of the court to preliminarily declare that Act 1002 of 2021, in its entirety, is unconstitutional under both the separation of powers clause and the equal protection clause of the Arkansas Constitution.

18. Pending further order of this court, or of a court of superintending jurisdiction, Act 1002 of 2021 is declared unconstitutional and its application, in any manner, is hereby preliminarily enjoined.

IT IS SO ORDERED AND ADJUDGED.



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TIMOTHY DAVIS FOX  
CIRCUIT JUDGE

8/6/21  
DATE