

SNIFFEN & SPELLMAN, P.A.

123 NORTH MONROE STREET • TALLAHASSEE, FL • 32301

PHONE: 850.205.1996 • FAX: 850.205.3004

WWW.SNIFFENLAW.COM

November 2, 2020

VIA ELECTRONIC MAIL

Superintendent Elect Dr. Karen Barber
Santa Rosa District Schools
6032 Hwy. 90
Milton, Florida 32570-1703
barberk@santarosa.k12.fl.us

Re: Quarantine Requirements for Students with Close Contact to a COVID-19 Case

Dear Dr. Barber:

You have requested that our Firm review legal requirements related to quarantining students who have been identified as having close contact with a COVID-19 case. In preparing this letter, our Firm reviewed numerous resources and authorities including, without limitation, all Executive Orders issued by Governor Ron DeSantis, Florida Department of Health ("FL DOH") Declarations of Public Health Emergencies and Public Health Advisories, Emergency Orders issued by the Florida Department of Education ("FL DOE"), FL DOH guidance, CDC guidance, the Santa Rosa County School District's Innovative Reopening Plan, Superintendent Tim Wyrosdick's letter to the Director of Health in Santa Rosa County dated October 2, 2020, and various Florida laws and agency regulations. Fairly summarized, it is our opinion that the School Board's requirement that students who are in close contact with a COVID-19 case quarantine for 14 days from the date of last exposure is consistent with current legal requirements.

The following is a summary of the various resources and authorities reviewed:

Florida Department of Health

FL DOH is charged with the duties of, among other things, assessing the public health status and needs of Florida, administering and enforcing laws and rules related to controlling communicable diseases and the general health of individuals in Florida, and managing and coordinating emergency preparedness and disaster response functions to investigate and control the spread of disease. F.S. §381.0011(1), (2), and (7). Under Florida law, the Florida State Health Officer/State Surgeon General is responsible for declaring public health emergencies, issuing public health advisories, and ordering isolation or quarantines.¹ F.S. §381.00315.

¹ "'Quarantine' means the separation of an individual reasonably believed to have been exposed to a communicable disease, but who is not yet ill, from individuals who have not been so exposed, to prevent the possible spread of the disease." F.S. §381.00315(1)(d).

On March 1, 2020, the State Surgeon General issued a Declaration of a Public Health Emergency² due to the COVID-19 outbreak. Included within the Declaration was the following provision:

Section 6. In order to protect public health, the Florida Department of Health, at such time when necessary, may take actions to protect the public health, pursuant to the authority of section 381.00315, Florida Statutes, including quarantine, isolation and other interventions.

As a result of the Declaration of a Public Health Emergency, and consistent with F.S. §381.00315(1)(C)4., FL DOH was and is currently authorized to take actions that are necessary to protect the public health including, but not limited to, the following:

4. Ordering an individual to be examined, tested, vaccinated, treated, isolated, or quarantined for communicable diseases that have significant morbidity or mortality and present a severe danger to public health. Individuals who are unable or unwilling to be examined, tested, vaccinated, or treated for reasons of health, religion, or conscience may be subjected to isolation or quarantine.

a. Examination, testing, vaccination, or treatment may be performed by any qualified person authorized by the State Health Officer.

b. If the individual poses a danger to the public health, the State Health Officer may subject the individual to isolation or quarantine. If there is no practical method to isolate or quarantine the individual, the State Health Officer may use any means necessary to vaccinate or treat the individual.

Any order of the State Health Officer given to effectuate this paragraph shall be immediately enforceable by a law enforcement officer under s. 381.001.

Importantly, it is a second degree misdemeanor when “[a] person...violates any rule adopted under this section, any isolation or quarantine, or any requirement adopted by [FL DOH] pursuant to a declared public health emergency.” F.S. §381.00315(6). The statute further provides that all actions taken by FL DOH “pursuant to a declared public health emergency, isolation, or quarantine shall supersede all rules enacted by other state departments, boards or commissions, and ordinances and regulations enacted by political subdivisions of the state.” *Id.* Essentially, if a person violates a FL DOH quarantine order, FL DOH has significant authority to enforce compliance.

² The Public Health Emergency was renewed on April 30, 2020, June 29, 2020, August 28, 2020, and October 23, 2020.

Under the aforementioned legal authority, on August 24, 2020, FL DOH issued two guidance documents applicable to K-12 schools.³ These documents are titled, “Responding to COVID-19 in Schools (K-12)” and “Conducting Contact Tracing in K-12 Schools.” Pertinent to quarantining students who are close contacts to a COVID-19 case, these documents provide, *in pertinent part*, as follows (emphasis added):

“Responding to COVID-19 in Schools (K-12)”

Exclusion from School

Schools should immediately exclude anyone from campus who is symptomatic, who has tested positive for COVID-19, or who is a close contact to a case of COVID-19. It is recommended that students and staff with symptoms of COVID-19 should be evaluated by a medical provider and tested. Cases of COVID-19 should be allowed to return according to the criteria described in the section below. If the symptomatic student or staff member is evaluated by a medical provider and tests negative by a PCR for COVID-19, he/she may return 24 hours after resolution of fever and other symptoms. If the symptomatic individual is not evaluated by a medical provider or tested while there is community-wide transmission, the criteria to return for COVID-19 cases should be used. Close contacts to a COVID-19 case should not return to school until 14 days have passed since the last exposure to the case.

“Conducting Contact Tracing in K-12 Schools”

When a confirmed or probable case of COVID-19 is identified in a student, teacher, or staff member in a school setting, the case investigator should gather information to help determine close contacts and exclusion recommendations. Additionally, the investigator will need to work with the school to conduct a thorough investigation and ensure the appropriate follow-up occurs. The following definitions are important to understand when conducting case investigation and contact tracing.

Quarantine – Applies to those who are potentially exposed and involves staying home from work, school, and/or activities when a person is a close contact to someone with COVID-19. Quarantine lasts for 14 days from the date of last exposure to the case (unless a person becomes a case themselves, in which case they must follow release from isolation guidance instead). Negative testing does not release a person from quarantine.

³ <http://www.floridahealth.gov/programs-and-services/childrens-health/school-health/reports-information.html>

Importantly, on October 27, 2020, the Public Information Office for FL DOH (Santa Rosa County) affirmed its expectation that quarantine for students “is 14 days from date of last contact with a case of COVID-19.” The Public Information Office further affirmed, “[q]uarantine is enforceable by law when ordered by the Florida Department of Health, whether by the State Surgeon General or his delegated authority (DOH Santa Rosa Health Officer) under 381.0011 and 381.00315, Florida Statutes and Rule 64D-3.041, Florida Administrative Code.” Florida law also mandates that it is a “duty of every state and county attorney, sheriff, police officer, and other appropriate city and county officials upon request to assist the department or any of its agents in enforcing the state health laws, rules, and orders adopted under this chapter.” F.S. §381.0012(5).

Florida Department of Education and the School Board’s Innovative Reopening Plan

On July 6, 2020, the Florida Department of Education issued an Emergency Order to address the impact of the COVID-19 pandemic. The Emergency Order provides, among other things, that all school boards “must open brick and mortar schools at least five days per week for all students, subject to advice and orders of the Florida Department of Health, local departments of health, Executive Order 20-149 and subsequent executive orders.” The Emergency Order also states that school openings “must be consistent with safety precautions as defined by the Florida Department of Health.”

Subsequent to the issuance of FL DOE’s Emergency Order, on July 31, 2020, the School Board submitted its Innovative Reopening Plan for the Fall 2020 school semester. On page 8 of the approved plan, the School Board provided assurances that upon reopening in August, “all brick and mortar schools would be open at least five days per week for all students subject to advice and orders of the Florida Department of Health, local departments of health, Executive Order 20-149, and subsequent executive orders.”

Governor Ron DeSantis

As referenced at the beginning of this letter, Governor Ron DeSantis has issued a number of Executive Orders to address COVID-19 and its impact on the State of Florida. As of the date of this letter, I am unaware of any provisions contained within any of the existing Executive Orders that are contrary to the current Declaration of Public Health Emergency issued by FL DOH or the guidance of FL DOH as it pertains to quarantining students in K-12 public schools who are in close contact with a COVID-19 case. It is my understanding that some individuals have raised a concern that Section 2 of Executive Order 20-139 (issued June 5, 2020) serves to override FL DOH’s quarantine requirements. However, Section 2 merely states that law enforcement authorities in Florida and political subdivisions of the state are not permitted to enforce CDC and OSHA protocols pursuant through the authority granted in F.S. §252.47. Section 2 does not, however, appear to impact FL DOH’s current quarantine requirements or the provisions of the Declaration of Public Health Emergency.

Conclusion

While the School Board has numerous broad and wide-ranging powers granted to it by the Florida Legislature,⁴ it is my opinion that based on the advice and guidance of FL DOH (including the local health department), the provisions of FL DOE's Emergency Order, and the terms of the School Board's Reopening Plan, the School Board should continue to require that students quarantine for 14 days from the date of last exposure to a COVID-19 case. I am also concerned with the potential legal ramifications if District personnel knowingly permit a student to attend school prior to the expiration of the 14-day quarantine when FL DOH has ordered otherwise. I completely understand that the quarantine requirement has impacted several families and students in the School District and is of a continued concern to you and the School Board. In this regard, I will certainly notify you immediately upon learning of any further agency actions that lessen the quarantine requirements.

If you have any questions regarding the opinions expressed herein, please do not hesitate to contact me.

Sincerely,

/s/ Terry J. Harmon

Terry J. Harmon

signed electronically to avoid delay

cc: Linda Sanborn (SanbornLT@santarosa.k12.fl.us)
Buddy Hinote (HinoteC@santarosa.k12.fl.us)
Carol Boston (BostonCN@santarosa.k12.fl.us)
Jennifer Granse (GranseJG@santarosa.k12.fl.us)
Wei Ueberschaer (UeberschaerWL@santarosa.k12.fl.us)
Tim Wyrosdick (WyrosdickT@santarosa.k12.fl.us)

⁴ For example: F.S. §§1001.32; 1001.41; 1001.42; 1001.43; and Art. IX, Sec. 4, Fla. Const.