



K-12 Staff as Essential Workers

The K-12 Smart Restart Guidance and the Healthy Return to Learning Smart School Response Guidance assume that schools will comply with federal, state and local public health recommendations and guidance when making decisions relating to staff and students who test positive or are exposed to a positive case of COVID-19. Currently, CDC and ND DOH guidance recommends that individuals who have been in close contact with a positive case of COVID-19 quarantine away from school and work for a period of 14 days from date of last contact. School districts incorporated such guidance into their health and safety plans as required by the Restart Guidance. In anticipation of the likelihood of staff having to quarantine away from work for several days through the school year, district employers are making efforts to make sure they have adequate staffing (e.g., substitute teachers) to cover for quarantined staff. Despite these efforts, district employers are becoming increasingly concerned whether they will have adequate staff to continue with operations which are already stressed during the pandemic. One potential option available to district employers is to permit staff members who are under quarantine as close contacts of positive cases, but who are asymptomatic, to return to the workplace assuming certain protocols are followed.

This guidance is intended to provide more information about this option and to provide general factors and recommendations district employers should consider when approaching these staffing decisions.

What is the Essential Critical Infrastructure Worker option?

- On April 10, 2020, the ND State Health Officer issued Order 2020-06 addressing the issue of household contact with a positive case and ordered that individuals who have household contact with a positive case must immediately quarantine in their home or residence for a period of 14 days since last contact with the contagious person.





- Household contacts are individuals who have been or may have been exposed to a positive case based on residence in the same household or residential premises. Public health officials believe household contacts pose a substantial risk in terms of transmission because of the close and frequent contact with the positive case in the household.
- Non-household close contacts are not subject to a similar order; however, federal, state and local public health officials strongly recommend that such individuals similarly undergo a 14-day quarantine. Again, the Restart Guidance assumes that schools will comply with this recommendation in terms of staff and students who have been identified as close contacts by public health officials.
- State Health Officer Order 2020-06 provides an exemption to the quarantine requirement for household contacts that qualify as essential critical infrastructure workers so long as such individuals remain asymptomatic and additional precautions, as recommended by the CDC, are implemented to protect the worker and the community.
- This option is also likely available for non-household contacts close contacts as well as the 14-day quarantine is a recommendation, rather than a mandate.

What K-12 staff are considered Essential Critical Infrastructure Workers?

- State Health Officer Order 2020-06 incorporates the list of Essential Critical Infrastructure Workers from the U.S. Department of Homeland Security. Such workers include those who support the education of preschool, K-12, college, university, career and technical education, and adult education students, including teachers, teacher aides, special education and special needs teachers, ESOL teachers, para-educators, and specialists.
- In addition, the list includes as essential workers:
 - 1) Workers who provide services necessary to support educators and students, including, but not limited to, administrators, administrative staff, IT specialists, media specialists, librarians, guidance counselors, school psychologists and other mental





health professions, school nurse and other health professionals, and school safety personnel;

- 2) Workers who support the transportation and operational needs of schools, including bus drivers, crossing guards, cafeteria workers, cleaning and maintenance workers, bus depot and maintenance workers, and those that deliver food and supplies to school facilities;
 - 3) Workers who support the administration of school systems including, school superintendents and their management and operational staff; and,
 - 4) Educators and operational staff facilitating and supporting distance learning.
- In short, the list incorporates all preschool and K-12 staff. This means that district employers have the option to return to work district staff who are close contacts of a positive case, but remain asymptomatic and follow delineated protocols.

How should district employers approach these decisions regarding Essential Workers?

- Although the option exists, it may not be appropriate in a given circumstance to return a worker to the school environment.
- In making these decisions, NDSBA generally recommends the district employer make these decisions **on a case-by-case basis** and in doing so, consider several factors. Such factors include but are not limited to:
 - 1) Whether the individual is part of a population more vulnerable to COVID-19 (e.g., adult over 65 or has an underlying health condition);
 - 2) Whether the district can fill the position with or assign duties to other available staff;
 - 3) Whether the individual's positions requires the individual to work indoors or outdoors;



- 4) Whether the individual's position requires the individual to have close contact with others in the workplace, including those who are more vulnerable (students or other staff) and how frequent are these interactions occurring and how long do these interactions last;
 - 5) Whether the individual's position requires the individuals to touch shared surfaces and common items;
 - 6) Whether the individual's position allows for the option to telework from home;
 - 7) The ability of the district to put in place the required safety and screening protocols as recommended by the CDC; and
 - 8) Whether the individual is willing and able to return to the workplace.
- These may not be the only factors to consider in a given situation and some factors may carry more weight than others.
 - It is further recommended that district employers consult with local public health officials and district legal counsel in making these decisions.
 - District employers should also document their decision-making process and communications with local public health officials in such situations in the event the district must defend its decisions at a later date.

What are the safety protocols recommended by the CDC when returning essential workers to the workplace?

- The CDC recommends that critical infrastructure workers who have had exposure to a positive case of COVID-19 but remain asymptomatic, adhere to certain practices prior to and during their work shift.
- These practices are outlined on the CDC's website at the following link: <https://www.cdc.gov/coronavirus/2019->





[ncov/community/critical-workers/implementing-safety-practices.html](https://www.ndsba.org/ncov/community/critical-workers/implementing-safety-practices.html).

- There is also a link to this guidance on the Resources page of NDSBA's website (www.ndsba.org).

Does the school board need to take board action to designate staff as essential workers?

- The issue of which K-12 staff the district considers essential should be addressed in the district's health and safety plan required by the K-12 Restart Guidance. The school board is required to approve the district's health and safety plan in consultation with local public health officials. Thus, separate action to designate K-12 staff (or certain categories of K-12 staff) in your district should not be necessary.
- If a district's health and safety plan does not address the issue of essential workers, NDSBA recommends that the board either amend the health and safety plan to address this issue or take board action at a properly noticed meeting to designate appropriate staff as essential.
- NDSBA recommends that decisions to return individual K-12 staff members who have been determined to be close contacts to the school environment (assuming the staff member is asymptomatic and able to comply with the delineated safety protocols) should be made on a case-by-case basis considering the factors outlined above.
- These situational, case-by-case decisions should be made at the administrative level, rather than at the board level, in order to protect the privacy of staff member(s) involved and to avoid the board having to schedule multiple meetings to address these decisions as they arise.

We expect that additional questions and concerns will arise as school districts move forward with this process. NDSBA will continue to update this guidance as needed. In the meantime, NDSBA encourages school boards to contact local public health officials and district legal counsel for direct guidance when making these decisions. For other guidance on school district operations during the COVID-19 pandemic, please visit the Resources page on NDSBA's website (www.ndsba.org).

