

Emergency Order #89  
Question and Answer  
April 7, 2021

**1. What if we can't meet 3 feet between desks in classrooms?**

- Three feet of social distancing between desks in classrooms is a goal to lower the risk of transmission in our school environment. However, the benefit of full time in person education to the mental health and overall whole health of the child far outweighs the risk of being within three feet of space during certain times of day.

**2. Transportation guidelines say one student per seat unless they are siblings.**

- New Hampshire K-12 Back to School Guidance recommends maximizing space between riders, facing forwards and not getting up from their seat or exchange seats and modifying the loading and unloading procedures to minimize contact. If possible, consider assigned seating on buses.

**3. What if we don't have the staff due to illness after vaccinations?**

- If there are not enough staff to safely conduct school operations, that may warrant a pivot to temporary remote learning or, perhaps a missed instructional day that would need to be made up. The flexibility is there for school districts to do this for up to 48 hours.

**4. It's not a money issue - it's a staffing issue. I have vacancies already I can't fill; no way I'll be able to hire more to continue to support remote.**

- Schools retain the *option* to offer full time distance learning or hybrid instruction should the parent or student request it. A school must however, offer it to students with a medical condition requiring them to remain at home.

**5. If our teachers are out on ADA and their doctors have said they cannot return until two weeks after second shot -our substitute list is already maxed out...suggestions?**

- As would be the case pre-pandemic, follow your typical protocols to cover classroom instructional vacancies in order to safely operate school. The CDC and State Public Health have both indicated that vaccines are not necessary to safely return to in person learning.

**6. Will we be required to offer remote instructional options next year as well?**

- Schools retain the *option* to offer full time distance learning or hybrid instruction should the parent or student request it. A school must however, offer it to students with a medical condition requiring them to remain at home.

**7. What if a school board decides on a week of remote after vacation because parents have said they are going on vacation and will not be letting the district know thus no quarantine? (Our highest numbers have been after vacations.)**

- There is no longer a quarantine requirement for domestic travel.

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- 8. Is remote 'MUST' or 'MAY' for districts?**
- Schools retain the *option* to offer full time distance learning or hybrid instruction should the parent or student request it. A school must however, offer it to students with a medical condition requiring them to remain at home.
- 9. If we already had a plan to return May 3rd, four days a week (to be able to continue remote support), could we have a waiver or exception?**
- The State announced this path last week (2.5 weeks ahead) to ensure that there would be more than enough time to pivot to this instructional model. There would need to be extenuating circumstances that risk the health and safety of teachers or students to warrant a waiver.
- 10. Timeline is not attainable. We have a plan in place to have kids back by after vacation. This has halted our process for our taskforce of over 70 people who have worked tirelessly to get a successful full reopening- any wiggle room for timeline**
- The State announced this path last week (2.5 weeks ahead) to ensure that there would be more than enough time to pivot to this instructional model. There would need to be extenuating circumstances that risk the health and safety of teachers or students to warrant a waiver.
- 11. All of our teachers will be two weeks out after second shot to fully open on May 3-our boards have each set that start date for full return-how is this local control decision made by elected officials being considered?**
- Ensuring a free and appropriate education is a shared responsibility between the state and local municipalities. The CDC and State Public Health have both indicated that vaccines are not necessary to safely return to in person learning.
- 12. We were also using May 3rd as our return date**
- The State announced this path last week (2.5 weeks ahead) to ensure that there would be more than enough time to pivot to this instructional model. There would need to be extenuating circumstances that risk the health and safety of teachers or students to warrant a waiver.
- 13. Has Public Health developed the capacity to take greater responsibility for contact tracing in schools? We will require much more support than we have received to date.**
- Public health contact tracing has always been a collaborative effort between schools and public health. If a school is aware of a person with COVID-19 who has been in school (student, staff, visitor, etc.), they should contact public health immediately for assistance with contact tracing and recommendations. Public health will continue to rely on schools to help identify who qualifies as a "close contact" and needs to be excluded from school and quarantined. Many schools have been following this path

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since the start of the school year, operating in full 5 days a week instructional models.

**14. Our SAU has set up mental health programming etc. for the next weeks before full return for students, families, and staff-if we have to return 4/19 these plans will not have time to offer folks what they need before the May 3 date**

- The State announced this path last week (2.5 weeks ahead) to ensure that there would be more than enough time to pivot to this instructional model. There would need to be extenuating circumstances that risk the health and safety of teachers or students to warrant a waiver.

**15. It would be helpful for you to provide us with a rank order for the executive orders and DHHS guidance. It appears to us that the Governors order outweighs the DHHS guidance. So the three feet guidance is secondary to the 5 days for all students. Is that correct?**

- Since August, the State has consistently provided tools and guidance while offering flexibility for local school districts to manage in a way that fits their circumstances. The Emergency Order affirms that path.

**16. We didn't have access to vaccines here until March 19 so second doses start next week**

- The CDC and State Public Health have both indicated that vaccines are not necessary to safely return to in person learning. A recent survey affirms that it is already being done in a majority of districts around our state.

**17. Our 2nd vaccination set for April 19. We too were working toward May 3rd to allow us to meet the vaccine timeline. Like others we're planning on a 4-day school week with focused support for remote learners and struggling students on Re-learning Wednesdays.**

- The CDC and State Public Health have both indicated that vaccines are not necessary to safely return to in person learning. A recent survey affirms that it is already being done in a majority of districts around our state.
- The State announced this path last week (2.5 weeks ahead) to ensure that there would be more than enough time to pivot to this instructional model. There would need to be extenuating circumstances that risk the health and safety of teachers or students to request a waiver.

**18. If we need three feet distancing on buses, we will not be able to open. We do not have the capacity to do this and we don't have enough parents who can or will transport.**

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- New Hampshire K-12 Back to School Guidance recommends maximizing space between riders, facing forwards and not getting up from their seat or exchange seats and modifying the loading and unloading procedures to minimize contact. If possible, consider assigned seating on buses.

**19. This is also right in the middle of NH SAS. Could we please not do the assessments? It's so disruptive.**

- We will continue to require the NH SAS.

**20. Our families are asking not to go back in full at the high school level, this puts us in a no-win situation**

- Schools retain the *option* to offer full time distance learning or hybrid instruction should the parent or student request it. An overwhelming number of students and parents are in favor of full time in person instruction.

**21. What if a School Board votes to stick with their own plan (for example, to return May 3rd)?**

- The school district would be out of compliance. Ensuring a free and appropriate education is a shared responsibility between the state and local municipalities.

**22. Isn't there still the factor of "guidance" versus mandates?**

- School guidance can be found [here](#).

**23. Does the Emergency Order apply to non-public special education providers?**

- Yes.

**24. How do I request a waiver?**

- Districts requesting a waiver to EO #89 should submit their request to [Stephen.W.Berwick@doe.nh.gov](mailto:Stephen.W.Berwick@doe.nh.gov). The request should describe the nature of the instructional disruption (e.g., quarantine, teacher/staff shortage, etc.), the impact of the disruption (e.g., the number of students, classes disrupted and for how long), and the basis for requesting a waiver (e.g., student or teacher safety, etc.).

**25. When are we required to seek a waiver?**

- When a school is not able to offer in-person instruction to a specific class or cohort of students for more than 48 hours, the District should seek a waiver. A waiver is not required if less than a class or specific cohort is required to quarantine and cannot access in-person instruction.

**26. What is the definition of in-person instruction?**

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- In-person instruction occurs when a student is afforded the opportunity to engage their instruction and non-curricular activities in school facilities if that is their choice.
- 27. So, is it allowable to have hybrid instruction (2/3 days remote, 2/3 day in person) if a family requests this? I was under the understanding that all kids needed to be in school 5 days a week unless families opt for full remote.**
- Yes. EO #89 still allows schools the *option* of offering distance learning or hybrid instruction, but must provide in person instruction 5 days per week for students who elect such option.
- 28. Do we still have the option to quarantine individuals or groups without permission?**
- Individual and student quarantine should be determined in consultation with public health.
- 29. Many, many districts had planned for full return on May 3rd because educators will not have completed the vaccination process (including the waiting period for full protection). We view this as a safety issue (since we know we will not have 3' of spacing in many of our educational areas). Would this qualify for a waiver? (It's one week, since vacation week is in there as well).**
- The CDC and State Public Health have both indicated that vaccines are not necessary to safely return to in person learning. A recent survey affirms that it is already being done in a majority of districts around our state.
- 30. We are in person 5 days a week. However, one day is a hybrid day. Students here in the morning and continue learning at home in afternoon. Is this still allowed based on recent Exec. Order?**
- If you are able to meet your instructional hour's requirement using this model you would not need a waiver. Remote learning hours can no longer be included as meeting the instructional hour's requirement unless it is at the request of the students' parents.
- 31. May 3rd start date allows us to have the staffing for this type of return. This was already in place before the edict made last week. Will we get a waiver to start May 3rd? The May 3rd start date is based upon the 14 days after the second vaccination and federal designation plans that get staff back in person.**
- The State announced this path last week (2.5 weeks ahead) to ensure that there would be more than enough time to pivot to this instructional model. There would need to be extenuating circumstances that risk the health and safety of teachers or students to warrant a waiver.

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**32. We are expecting teachers to instruct in person, hybrid and all remote while students are in the building 5 days a week. Is there any ability to still retain 1 day a week as a flex day (no students physically in the building) but small group work, individual meetings etc.? Do we need to file a waiver?**

- For simplicity purposes, EO 89 references “5 days” however as you know, required instructional time can be measured in hours or days. Districts will be held to these standards. Remote learning hours can no longer be included as meeting the instructional hour’s requirement unless it is at the request of the students’ parents.

**33. Have you been given the authority to give waivers for safety reasons (3 feet spacing)?**

- Waivers will not be granted solely based on the inability to meet three feet of social distancing between desks in classrooms. Three feet of distancing between desks is a goal to lower the risk of transmission in our school environment, but not a requirement. The benefit of full time in person education to the mental health and overall whole health of the child far outweighs the risk of being within three feet of space during certain times of day.

**34. Do I understand the order correctly, in that we could implement part 4A of the order and offer in-person instruction 4 days per week, with one remote day, if that remote day was required due to covid issues? This would be a regular occurrence between now and the end of the school year.**

- For simplicity purposes, EO 89 references “5 days” however as you know, required instructional time can be measured in hours or days. Districts will be held to these standards. Remote learning hours can no longer be included as meeting the instructional hour’s requirement unless it is at the request of the students’ parents.

**35. Can you please clarify the new guidelines which state that students who are in a classroom with a student who has a positive case, are NOT required to quarantine as long as social distancing and face masks were part of that classroom protocol?**

- Guidance requires that students who are close contacts of an infected individual must quarantine. Close contact in the education setting is defined as within 3-feet in the classroom for 10 or more minutes cumulatively.

**36. It seems like the Governor’s Offices makes these decisions without consultation from the DOE; otherwise, SAU’s would have more notice than the general public. What can we do to help support you so that the corner office gives you information in advance?**

- The Governor has publically discussed the need for all schools to be prepared for 5-day in-person learning since February. This point was reiterated when the hybrid learning was enacted on March 8<sup>th</sup>. It has also been discussed publically during group calls with administrators for weeks. All efforts are focused on serving the

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needs of children. The Governor and all of us are concerned about the mental health and emotional wellness of New Hampshire's children.

**37. We are in person 5 days a week. However, one day is a hybrid day. Students here in the morning and continue learning at home in afternoon. Is this still allowed based on recent Exec. Order?**

- If you are able to meet your instructional hour's requirement using this model you would not need a waiver. Remote learning hours can no longer be included as meeting the instructional hour's requirement unless it is at the request of the students' parents.

**38. The 3 foot physical distancing is for youngsters. Isn't it still a 6 foot recommendation for adults from children and from other adults?**

- Three feet of social distancing is considered safe for the school instructional environment, including staff members interacting with children. Classrooms should be arranged to minimize close contact—six feet apart is preferred but may not be achievable given classroom size and layout. All distancing guidelines are recommendations not requirements.

**39. If by having everyone in the building 5 days a week eliminates our ability to maintain "Cohorts" does that mean it is ok to drop cohorting? This seems to go against the safety 1st approach.**

- Cohorting is one of a number of mitigation strategies. If return to 5 days of instruction means that cohorts can no longer be effectively maintained, then other mitigation strategies should be considered.

**40. I believe the order requires the in-person learning beginning April 19, 2021. If we need to go remote for a period of more than 48 hours between now and then, do we still need a waiver?**

- Only if you will not be able to meet the two days per week of in-person instruction required by EO #85.

**41. If you are in a town/city with substantial transmission (Nashua), the health guidance is not to be fully in person. Do we need to obtain a waiver as this rises to safety? If the 3 feet cannot be lifted, then again, is this considered a safety issue and we need to obtain a waiver to operate on a hybrid schedule?**

- Waivers will not be granted solely based on the inability to meet three feet of social distancing between desks in classrooms. Three feet of distancing between desks is a goal to lower the risk of transmission in our school environment, but not a requirement. The benefit of full time in person education to the mental health and

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overall whole health of the child far outweighs the risk of being within three feet of space during certain times of day.

**42. So will the state be disregarding the maps they created about community transmission in relation to schools?**

- The transition phase guidance was created prior to the vaccination of our most vulnerable populations. By April 19<sup>th</sup>, the state's most vulnerable population will have had the opportunity to be vaccinated. The maps will always be made available for informational.

**43. Related to the wavier needed for longer than 48 hours - what constitutes "a segment of students"?**

- A segment of students as referenced in the EO is a classroom, cohort or larger group.

**44. Current DHHS guidelines recommend 6' distancing during lunch, when students have their masks off. What if this cannot be achieved?**

- Six feet of social distancing during lunch is only a recommendation not a state mandate. If a District is not able to maintain 6 feet of distancing during lunch, consideration should be given to other mitigation strategies.

**45. If we choose to offer a full-time remote option to families, is a waiver required to implement this? As it is more than 48 hours? Or is the waiver only required if we are removing the in-person option, and only offering remote instruction? Along the same lines, if a student tests positive, and is required to quarantine for 14 days, is a waiver required for this? Or is this allowable as the rest of the school would remain open?**

- No, a waiver does not need to be sought for a parent requesting remote instruction for their child.
- Offering remote only instruction is only allowed if requested by the student's parent.
- No waiver is required when quarantine or isolation is directed by Public Health.

**46. Will DHHS help with contact tracing?**

- Public health contact tracing has always been a collaborative effort between schools and public health. If a school is aware of a person with COVID-19 who has been in school (student, staff, visitor, etc.), they should contact public health immediately for assistance with contact tracing and recommendations. Public health will continue to rely on schools to help identify who qualifies as a "close contact" and needs to be excluded from school and quarantined. Many schools have been following this path since the start of the school year, operating in full 5 days a week instructional models.



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**47. I just want to confirm: Nothing in this Executive Order prevents us as Superintendents from requiring specific students to self-isolate (if positive or a designated close contact) and stay out of the school environment if needed for a period of time.**

**Correct?**

- That is correct, in consultation with Public Health.

**48. Can a student be taught at school by a remote teacher if we need to for a short time?**

- If an educator is not able to be in the classroom, it is possible to provide instruction through a remote teacher.

**49. Looking for a clear answer for distance between students during lunch (or unmasked times).**

- Six feet of social distancing during lunch is only a recommendation not a state mandate. If a District is not able to maintain 6 feet of distancing during lunch, consideration should be given to other mitigation strategies.

**50. Does this apply to nonpublic, in general - not non-public special education providers?**

- Yes.

**51. What is the consequence for not being "in compliance" with the executive order (e.g. if a local district decides to execute a different model than five days per week beginning on the date the governor specified)?**

- Per EO #29, Exhibit P, if a school is found to be out of compliance with holding in person instruction for 5 days a week or meeting the prescribed hours of instructional time, the DOE will consult with the State Board of Education and the Attorney General's Office on further action.

**52. How do we access the waiver form?**

- Districts requesting a waiver to EO #89 should submit their request to [Stephen.W.Berwick@doe.nh.gov](mailto:Stephen.W.Berwick@doe.nh.gov). The request should describe the nature of the instructional disruption (e.g., quarantine, teacher/staff shortage, etc.), the impact of the disruption (e.g., the number of students, classes disrupted and for how long), and the basis for requesting a waiver (e.g., student or teacher safety, etc.).

**53. Does this order apply to Private Schools of Special Education? We have consistently offered in person academics and all therapies five days a week in two half days sessions since September. Students can access remote services in the opposite session they are not attending onsite. Many of our students do not wear masks, so safe spacing is a major issue for us as each student has a one-on-one which places a number of bodies in any classroom at any one time. Lunch time is particularly**

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**concerning. We are working on a plan to return to full time with a proposed implementation date of summer.**

- EO #89 applies to public and nonpublic schools, including special education private providers.

**54. If there is an outbreak and students need to quarantine due to exposure for 10 days, do they need a waiver for remote learning during this time of exposure-related quarantine?**

- No waiver is required when quarantine or isolation is directed by Public Health.

**55. Does in-person mean just physically being in the building? Can students remote into a classroom from alternative rooms in the school if their classroom doesn't have physical space?**

- Yes. That might be a creative way to navigate space limitations while ensuring students can be learning in person.

**56. We have been in-person 4 days a week since September 10th. Under normal circumstances, Wednesday is early release day but we transitioned to remote for that day to allow for cleaning, and to be able to meet with remote students. We are very short staffed. I am short 6/7 teachers, 3/4 assistants and 2/4 specials teacher. My classroom teachers are often working through their planning period. We are burning out. Wednesday still allows teachers to work with remote students but also is giving back some of their planning time. Can we still continue with this practice? I do not feel that continuing to push the staff at my small school promotes safety and well-being for them or our students.**

- The Emergency Order is for 5-days of in-person instruction starting on April 19, 2021. There would need to be circumstances beyond the current plan date of May 3 to warrant a waiver from the Order.

**57. Some school districts have a TA'd Memorandum of Agreement with the NEA to return on May 3 after all staff are fully vaccinated. I didn't see this mentioned in the waiver process or earlier list of questions. Should the waiver process be followed for this?**

- The CDC and State Public Health have both indicated that vaccines are not necessary to safely return to in person learning.

**58. Please clarify if a waiver is needed for individual quarantines (either student or staff quarantines)? For example, if the DHHS protocol requires 7 or 10 days, do I need to request a waiver to quarantine that individual?**

- No.

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**59. When creating the waiver form, I know our nurses will appropriately share the concern of providing confidential student or staff information. DHHS will be provided that information. We are experiencing a positive case or numerous positive cases per day including the weekends. Please take this into consider when creating the form and turnaround time. Perhaps if it is a DHHS recommendation, schools would not need to seek a waiver from the DOE. Thank you.**

- Requests for a waiver will NOT include any personally identifiable information.

**60. What will the turnaround time be for the waiver process?**

- Waivers will be turned around as quickly as possible.