

Public Health & Schools Authority Issues and Concepts

Executive Summary

This document provides a brief overview of important concepts related to public health emergency authorities in schools. Additional details on these and other concepts are contained in other fact sheets and issue briefs in the [ASTHO Public Health & Schools Toolkit](#).

Public Health Emergency Authorities in Schools

Federal guidance on school closures during the 2009 H1N1 influenza pandemic demonstrated how important school closure is as a public health tool to interrupt the spread of contagious diseases. Closing schools is just one type of social distancing practice that public health officials may turn to during infectious disease outbreaks. The 2009 guidance also illustrated the challenges of implementing such a measure broadly where rates of infection, legal authorities, and social and economic factors can vary greatly by state and community. State laws vary as to which agency or agencies have the authority to initiate school closure and other public health measures in schools, the conditions under which the authority may be exercised, and the scope of authorities permitted.

Conditions of Authority—The authority of a public health official to institute public health measures in schools and the types of authorities permitted can depend on whether or not an emergency has been declared.

- **Existing Authorities Without an Emergency Declaration**—State officials generally have existing broad powers to address emergency situations by virtue of the statutory authorities granted to their position without having to formally declare a state of emergency. The determination to declare an emergency or not has implications either way for the legal authorities and operational resources available to respond to an event.
- **Emergency Authorities**—State emergency declarations activate emergency authorities designed to facilitate response and recovery activities such as activation of state emergency response plans and mutual aid agreements; activation of state incident command systems and emergency operation centers; authority to deploy personnel, equipment, supplies, and stockpiles; activation of statutory immunities and liability protections; and suspension or waiver of statutes, regulations, and administrative procedures.

Agencies Authorized to Act—Depending on the state or locality, several agencies—health, education, and emergency management—can have exclusive or shared authority to institute varying public health measures in schools. The agency authorized to act can change depending on whether or not an emergency has been declared. State or local public health agencies are generally vested with broad authority to protect the public's health and to control communicable disease; this authority could be used as the basis to institute public health measures in a school absent a public health emergency. During emergencies, public health officials typically gain additional authorities, including potentially the ability to close schools and enforce other social distancing measures.

Scope of Authority—Legal authorities that support public health measures in schools include but are not limited to: (1) protecting public health and safety; (2) controlling and preventing the spread of communicable diseases; (3) instituting quarantine and isolation measures; (4) canceling school and other community activities; (5) closing schools and other public facilities; and (6) using additional powers activated by an emergency declaration.

Implications of School Closures—Implications of closures, including social and economic factors, must be considered because they determine the effectiveness of the intervention. It is important to understand whether using the legal authority contemplated will have the intended impact or will have undesirable secondary impacts. Schools' role in providing school breakfast, lunch, and snack programs and after-school child care programs must be evaluated as part of the closure decision. School budgets based on attendance and federal reimbursements can suffer with prolonged closures. Working parents may be unable to find child care alternatives if schools are closed for long periods. Out-of-school students may gather at public places like malls or families may take vacations to other places, thereby potentially spreading the infection more widely.

While state and local health officials may have the exclusive (or shared) legal authority to close schools or otherwise enforce public health laws in the school setting, in practice the use of these authorities has to be exercised and implemented in cooperation with school personnel and state or local education officials.

This document was compiled from June–December 2011 and reflects the laws and programs current then. It reflects only portions of the laws relevant to public health emergencies and is not intended to be exhaustive of all relevant legal authority. This resource is for informational purposes only and is not intended as a substitute for professional legal or other advice. The document was funded by CDC Award No. 1U38HM000454 to the Association of State and Territorial Health Officials; Subcontractor PI Elliott, Logan Circle Policy Group LLC.