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LEGAL UPDATE

March 2, 2021

To: Superintendents, Member School Districts (K-12)
From: Jennifer Henry, Associate General Counsel *J.H.*
Carl D. Corbin, General Counsel *CDC*
Subject: CDPH Issues Updated Youth Sports Guidance
Memo No. 07-2021 REVISED

On February 19, 2021, the California Department of Public Health (“CDPH”) released updated “Outdoor and Indoor Youth and Recreational Adult Sports” Guidance (“Guidance”).¹ The Guidance applies to all organized youth sports and recreation, including K-12 schools, community, and privately-organized programs and leagues, and adult recreational sports. It does not apply to college-level sports or community events such as marathons. Sports activities are permitted as shown in the below chart beginning today February 26, 2021.

General Requirements for all Sports Categories (mandatory):

- Face coverings for players, support staff, and coaches;
- No sharing of drinks or equipment;
- Indoor team activities such as dinner are prohibited;
- No out-of-state games/tournaments;
- Observers: masks, immediate household members only, total number limited to ensure 6 feet distancing and reduce crowding, consider video streaming;
- Competitions/Tournaments: only with teams of same or adjacent county, local health department must be notified for adjacent county competition, only one competition per day; and
- Anyone with symptoms must notify their coach and is not permitted to practice or compete.

Other Guidance (strongly recommended to the fullest extent possible):

- Physical conditioning, practice, and training can be done outdoors, 6 feet apart, within stable cohorts regardless of case rate, for any sport;
- Wear face coverings at all times as much as possible, regardless of exertion;
- 6 feet apart as much as possible;
- Testing once a week and before competitions for all sports;²

¹ <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/outdoor-indoor-recreational-sports.aspx>

² Generally, LEAs can make participation in athletics contingent on a student's participation in certain testing programs. (*Vernonia School District v. Acton* (515 U.S. 646 (1995).)



- Wash hands with soap and water or sanitizer before play, during breaks, and after play, especially when a ball or other equipment is shared;
- Limit mixing of stable groups during practice;
- Travel limits: only one household per private car, bus/van must have masks, distancing, and open windows; avoid overnight stays; and
- Vaccinate when eligible.

The Guidance discusses the sports allowed and additional precautions based on Tier placement. The Guidance chart (and the simpler chart below) provide a non-exhaustive list of sports distinguished by the level of contact:

- **Low-Contact** – individual or small group sports where contact within six feet of participants can be avoided. Some of these sports have relatively low exertion rates that allow for consistent wearing of face coverings when within six feet of other people.
- **Moderate-Contact** – team sports that can be played with only incidental or intermittent close contact between participants.
- **High-Contact** – team sports with frequent or sustained close contact (and in many case, face-to-face contact) between participants and high probability that respiratory particles will be transmitted between participants.

Examples of Youth and Adult Recreational Sports Permitted by Tier

	Widespread Tier Purple	Substantial Tier Red	Moderate Tier Orange	Minimal Tier Yellow
Type of Sports	<u>Outdoor</u> Low-Contact (Can also play outdoor High-Contact if case rates are equal to or less than 14 per 100,000 with the below additional requirements)	<u>Outdoor</u> Moderate-Contact (Can also play outdoor High-Contact if case rates are equal to or less than 14 per 100,000 with the below additional requirements)	<u>Outdoor</u> High-Contact <u>Indoor</u> Low-Contact	<u>Indoor</u> Moderate-Contact <u>Indoor</u> High-Contact
Non-exhaustive Sports Examples	<ul style="list-style-type: none"> • Cross Country/Track/Running • Biking • Group classes (yoga, Zumba, etc.) • Swimming • Martial arts (no contact) 	<ul style="list-style-type: none"> • Baseball/Softball • Cheerleading • Tennis (doubles) • Volleyball 	<u>Outdoor High-Contact:</u> <ul style="list-style-type: none"> • Basketball • Football • Soccer <u>Indoor Low-Contact:</u> <ul style="list-style-type: none"> • Physical Training • Swimming • Tennis (singles) 	<u>Indoor Moderate-Contact:</u> <ul style="list-style-type: none"> • Cheerleading • Dance • Tennis (doubles) • Volleyball <u>Indoor High-Contact:</u> <ul style="list-style-type: none"> • Basketball • Martial Arts • Soccer • Wrestling



	Widespread Tier Purple	Substantial Tier Red	Moderate Tier Orange	Minimal Tier Yellow
Additional Specific Requirements Beyond General Requirements for All Sports	Outdoor High-Contact additional requirements: <u>Required:</u> <ul style="list-style-type: none"> • Informed Consent Form • Testing once a week and before competitions³ <u>Strongly Encouraged:</u> <ul style="list-style-type: none"> • Face coverings • Distancing • Testing • Hygiene • Limits on mixing • Travel limits 	<u>Moderate-Contact</u> <ul style="list-style-type: none"> • Informed Consent Form Outdoor High-Contact additional requirements: <u>Required:</u> <ul style="list-style-type: none"> • Informed Consent Form • Testing once a week and before competitions⁴ <u>Strongly Encouraged:</u> <ul style="list-style-type: none"> • Face coverings • Distancing • Testing • Hygiene • Limits on mixing • Travel limits 	<u>High-Contact</u> <ul style="list-style-type: none"> • Informed Consent Form 	Indoor activities must comply with CDPH capacity limits ⁵ Maximize indoor ventilation

Other Information:

On February 19, 2021, the California Interscholastic Federation applied this CDPH Guidance to its sports.⁶

A sample Informed Consent Form is attached.

Please contact our office with questions regarding this Legal Update or any other legal matter.

Encl.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

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³ Mandatory testing requirements apply to: 1. Football, rugby, and water polo; 2. When case rates are over 7 per 100,000; OR 3. Participants are over 13 years old.

⁴ Mandatory testing requirements apply to: 1. Football, rugby, and water polo; 2. When case rates are over 7 per 100,000; OR 3. Participants are over 13 years old.

⁵ <https://files.covid19.ca.gov/pdf/guidance-fitness--en.pdf>

⁶ https://cifstate.org/covid-19/CIF_CV-19_Guidelines.pdf

**CDPH INFORMED CONSENT SPORTS
COVID-19 ASSUMPTION OF RISK/WAIVER OF LIABILITY/INDEMNIFICATION
AGREEMENT**

Student's Name: _____ ("Student")

Parent/Legal Guardian's Name (if Student under 18): _____

Activity: _____

I understand and agree as set forth below.

1. In consideration of the District permitting Student to participate in any and all interscholastic sports, I hereby waive any claim I may have against the District, its governing board, officers, agents, employees, volunteers, and representatives ("Released Parties") for any injury or loss incurred by Student as a result of his or her participation in competition associated with the Activity, including practice or training sessions of the Activity. In addition, I hereby agree to pay, defend, indemnify, and hold harmless the Released Parties from and against any claim or liability, including claims that may arise because of injuries or loss incurred by Student, in any way relating to Student's participation in the Activity, including practice or training sessions.

2. Participation in Activity includes possible exposure to, illness, and death from infectious diseases including, but not limited to, methicillin-resistant Staphylococcus aureus (MRSA), influenza, and COVID-19. While particular rules and personal discipline may reduce this risk, the risk of serious illness and death does exist.

3. To the fullest extent allowed by law, on behalf of Student and myself, I voluntarily assume all known and unknown risks of injury or illness, howsoever caused, even if caused, in whole or in part, by the action or inaction of the Released Parties, and assume full responsibility for Student's participation.

4. I willingly agree to comply with the stated and customary terms and conditions for participation as they relate to protection against infectious diseases. I have reviewed the most recent directives from the Centers for Disease Control ("CDC"), the California Department of Public Health ("CDPH") and _____ County Health Services, along with District policy and protocols, if any, regarding the risks associated with COVID-19 exposure and safe practices to follow, which have been provided to me by the District. I have informed and discussed the dangers of participation in the Activity and the required rules and regulations to allow participation in Activity with my child.

5. To the fullest extent permitted by law, I, for myself, and on behalf of my child, heirs, assigns, and representatives hereby release and hold harmless the Released Parties with respect to any and all illness, injury, disability, death, of my child related to or arising out of preparing for and/or participating in the Activity.

6. I have reviewed the most recent CDPH Guidance on Youth Sports and I understand and acknowledge the increased risk of transmission of COVID-19 in moderate-contact and high-contact-sports. (<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/outdoor-indoor-recreational-sports.aspx>)

7. I agree to Student's weekly COVID-19 testing and also testing before competitions as required or recommended by any state or local regulation or guidance that the District adopts.

I HAVE READ THIS WAIVER OF LIABILITY AND ASSUMPTION OF RISK AGREEMENT. I FULLY UNDERSTAND ITS TERMS, UNDERSTAND THAT I HAVE GIVEN UP SUBSTANTIAL RIGHTS BY SIGNING IT, AND SIGN IT FREELY AND VOLUNTARILY.

Signature: Parent/Guardian _____ -OR- Student if over 18:

Date signed: _____