

**ORDER OF THE COMMISSIONER  
OF HEALTH AND MENTAL HYGIENE**

**WHEREAS**, on March 7, 2020, New York State Governor Andrew Cuomo issued Executive Order No. 202, declaring a State disaster emergency for the entire State of New York to address the threat that COVID-19 poses to the health and welfare of New York residents and visitors, and such order remains in effect; and

**WHEREAS**, on March 12, 2020, Mayor Bill de Blasio issued Emergency Executive Order No. 98 declaring a state of emergency in the City to address the threat posed by COVID-19 to the health and welfare of City residents; and such Emergency Executive Order directed the heads of all agencies, including the Department of Health and Mental Hygiene (the “Department”), to take all appropriate and necessary steps to preserve public safety and to render all required and available assistance to protect the security, well-being and health of the residents of the City, and such order remains in effect; and

**WHEREAS**, on March 25, 2020, pursuant to Section 3.01 of the New York City Health Code (“Health Code”), the existence of a public health emergency within the City as a result of COVID-19, for which certain orders and actions are necessary to protect the health and safety of the City of New York and its residents, was declared; and

**WHEREAS**, on September 4, 2020, Governor Cuomo issued Executive Order No. 202.60, authorizing schools to be open for instruction subject to adherence to New York State Department of Health guidance and directives, and the State Department of Health published guidance on August 26, 2020, setting forth health and safety requirements that public and private schools must meet in order to reopen during the COVID-19 pandemic, and requiring all schools to develop, in consultation with local health departments, a plan for reopening and operating during the COVID-19 pandemic, including a plan for the closure of school facilities and in-person instruction, if necessitated by widespread virus transmission; and

**WHEREAS**, pursuant to Section 558 of the New York City Charter (the “Charter”), the Board may embrace in the New York City Health Code (“Health Code”) all matters and subjects to which the power and authority of the Department extends, and pursuant to Section 556 of the Charter and Section 3.01 of the Health Code, the Department is authorized to supervise the control of communicable diseases and conditions hazardous to life and health and take such actions as may be necessary to assure the maintenance of the protection of public health; and

**WHEREAS**, pursuant to Section 556 of the Charter, the Department is also authorized to promote or provide health services for school children in the City; and

**WHEREAS**, in the areas of the City described in this Order, COVID-19 incidence is increasing, despite efforts to combat the spread of COVID-19, such as diagnostic testing, case investigation, contact tracing, isolation, and quarantine; and

**WHEREAS**, at least 5 outbreaks have occurred in non-public schools in the areas of the City described in this Order between September 7, 2020 and September 22, 2020; and

**WHEREAS**, I find that the outbreaks of COVID-19 in these schools create an unnecessary and avoidable risk of illness and endangers the health of those attending and associated with such schools and is therefore a nuisance, as defined in New York City Administrative Code §17-142; and

**WHEREAS**, pursuant to Health Code Section 3.07, no person “shall do or assist in any act which is or may be detrimental to the public health or to the life or health of any individual . . . or . . . shall fail to do any reasonable act or take any necessary precaution to protect human life and health;” and

**WHEREAS**, pursuant to Health Code Section 3.09, no person shall allow a nuisance to exist or to be created in respect to any matter, thing, chattel or premises which he or she owns or controls; and

**WHEREAS**, pursuant to Section 2.6 of the New York State Sanitary Code and Section 11.03(e) of the Health Code, the Department is required conduct an investigation to determine the sources of outbreaks of infectious diseases such as COVID-19, and takes steps necessary to prevent further infection and spread; and

**WHEREAS**, pursuant to Section 3.01 of the Health Code, I am authorized to issue orders and take actions that I deem necessary for the health and safety of the City and its residents when urgent public health action is necessary to protect the public health against an existing threat and a public health emergency has been declared pursuant to such section; and

**WHEREAS**, Article 49 of the Health Code governs health and safety standards for public and non-public schools in New York City; and

**WHEREAS**, in-person instruction has been permitted to recommence by the State of New York after September 1, 2020 by Executive Order 202.60, provided that there is adherence to the [K-12 re-opening guidance](#) promulgated jointly by the State Department of Health and State Education Department; and

**WHEREAS**, such [re-opening guidelines](#) provide that (p.21 Part C) Responsible Parties identify clearly defined measures that will serve as warning signs that the level of COVID-19 transmission may be increasing in the school setting beyond an acceptable level, and in such zip codes set forth below such metrics have been met;

**NOW THEREFORE** I, Dave A. Chokshi, MD, MSc, Commissioner of Health and Mental Hygiene, finding that a public health emergency within New York City continues, and that it is necessary for the health and safety of the City and its residents, do hereby exercise the power of the Board of Health to prevent, mitigate, control and abate the current emergency, and, consistent with the re-opening guidelines of the State Department of Health, hereby order that schools in the following zip codes shall comply with the provisions of this Order: 11204, 11210, 11219, 11223, 11229, 11230, 11415, and 11691. Furthermore, I may, upon determining that outbreaks have occurred in additional neighborhoods, designate in writing additional zip codes subject to this Order, and shall make a list of such affected zip codes publicly available on the website of the Department. Such list may be updated from time to time.

All non-public schools in the affected zip codes must comply with the following additional requirements:

- All individuals on the school premises must remain at least 6 feet apart at all times, except: in emergencies or when doing so would create a safety hazard; or when physical barriers are put in place between individuals in accordance with New York State guidance for in-person instruction at pre-k to Grade 12 schools during the COVID-19 public health emergency; and
- Face coverings are required in school buildings at all times, except for individuals who cannot wear a face covering because of developmental, medical or age reasons;
- Coordinating with the Department and the Test + Trace Corps to identify, isolate and prevent the spread of COVID-19; and
- Following the protocols established by the Department for opening and closing of classrooms and schools if a student or staff is confirmed with COVID-19, and excluding students and staff who have symptoms of or are confirmed with COVID-19 or have been identified as a close contact to someone with COVID-19.

Students, teachers and staff having close contact with confirmed cases of COVID-19 must quarantine for 14 days from such contact, in accordance with the New York State Department of Health’s guidelines for precautionary quarantine.

This Order shall be effective immediately and remain in effect through the end of the 2020-2021 school year, including any summer school sessions during 2021, or such earlier time as I may indicate, subject to the authority of the Board of Health to continue or rescind, alter or modify this Order pursuant to Section 3.01 of the Health Code.

**Failure to comply with an Order of the Commissioner is a violation of the Health Code and a misdemeanor for which you may be subject to civil and criminal penalties, including fines, forfeitures and imprisonment.**

If you have any questions about how to comply with this Order, please telephone the Department at 718-483-0970.

If you wish to object to this Order, please write, fax or email the Office of the General Counsel, New York City Department of Health and Mental Hygiene, 42-09 28th Street, Long Island City, NY 11101-4132; [OGC@health.nyc.gov](mailto:OGC@health.nyc.gov); fax 347-396-6087, providing a statement of the reasons for your objection to the Order.

Dated: 9/28/20



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Dave A. Chokshi, M.D., MSc  
Commissioner