



**ORDER OF THE MEDICAL HEALTH OFFICER
(Pursuant to Sections 30, 31, 32, 39(3) and 54(1) *Public Health Act*, S.B.C. 2008)**

**CLASS ORDER RE: COVID-19
(FACE COVERINGS IN SURREY SCHOOLS)**

The *Public Health Act*, S.B.C. 2008, c. 28 and the regulations issued thereunder are available at:
<http://www.bclaws.ca/civix/content/complete/statreg/1922970521/08028/?xsl=/templates/browse.xsl>

TO: The Board of Education - School District #36 (Surrey), the Superintendent – School District #36 (Surrey), the Conseil Scolaire Francophone de la Colombie-Britannique and all principals (the “Administrators”) at all Kindergarten to Grade 12 schools, including all public, independent and francophone schools, located within the School District #36 (Surrey) boundaries, (each a “Surrey School” and collectively, the “Surrey Schools”)

WHEREAS:

- A. On March 17, 2020, the Provincial Health Officer, Dr. Bonnie Henry, provided notice under section 52 (2) of the *Public Health Act* that the transmission of the infectious agent SARS-CoV-2, which has caused cases and outbreaks of a serious communicable disease known as COVID-19 among the population of the Province of British Columbia, constitutes a regional event as defined in section 51 of the *Public Health Act*;
- B. The SARS-CoV-2 virus, an infectious agent, can cause outbreaks of COVID-19;
- C. A person infected with SARS-CoV-2 can infect other people with whom the infected person is in direct contact through droplets in the air, or from fluid containing SARS-CoV-2 left on surfaces;
- D. Close contact between people is associated with significant increases in the transmission of SARS-CoV-2, and increases in the number of people who develop COVID-19 and become seriously ill;
- E. Virus variants of concern are now present in Canada and the province, and have heightened the risk to the population;
- F. Percent positivity and case counts of COVID-19 are increasing in the Surrey region, which increases the risk of exposure to and transmission of SARS-CoV-2 within the Surrey Schools;
- G. Students at schools are not yet generally eligible for COVID-19 vaccinations;
- H. Face coverings, when used in addition to other protective measures, are an additional layer of protection to help to prevent the transmission of COVID-19 in the Surrey Schools;
- I. It is not possible for some persons to wear face coverings and I have taken that into consideration in this Order; and

- J. I have reason to believe and do believe that:
- a. the increasing trend in community incidence of COVID-19 in the Surrey region and the corresponding likelihood of an increasing trend in number of COVID-19 cases in the Surrey Schools constitutes a health hazard under the *Public Health Act*;
 - b. there is a need for focussed action to reduce the risk of the transmission of COVID-19 in Surrey Schools; and
 - c. it is in the public interest for me to exercise the powers in sections 30, 31, 32, 39 (3) and 54(1) of the *Public Health Act* to make the following Order:

THIS ORDER REPEALS AND REPLACES MY ORDER OF MARCH 26, 2021 WITH RESPECT TO FACE COVERINGS IN SURREY SCHOOLS

I HEREBY ORDER THAT EFFECTIVE IMMEDIATELY UPON RECEIPT OF THIS ORDER:

The Administrators of each Surrey School must:

1. require all staff, volunteers and visitors;
2. require all Grade 4 to Grade 12 students; and
3. strongly recommend and encourage all Kindergarten to Grade 3 students,

to wear a medical or non-medical mask or tightly woven fabric that covers the nose and mouth (a “face covering”) at all times when inside a Surrey School, subject to the exceptions noted below.

Exceptions:

The requirements above do not apply as follows:

- A. to a person who is unable to wear a face covering because of:
 - (i) a psychological, behavioral or health condition; or
 - (ii) a physical, cognitive or mental impairment;
- B. to a person who is unable to put on or remove a face covering without the assistance of another person;
- C. if the face covering is removed temporarily:
 - (i) for the purpose of identifying the person wearing it; or
 - (ii) to engage in an educational activity that cannot be performed while wearing a face covering (such as actively playing a wind instrument);
- D. to a teacher if the face covering is removed while providing direct instruction at a distance of more than two metres from others;
- E. while consuming food or beverage; or
- F. while communicating with a person who has a hearing impairment.

This Order will remain in effect until terminated or varied by a Fraser Health Medical Health Officer.

You are required under section 42 of the *Public Health Act* to comply with this Order. Failure to comply with this Order is an offence under section 99 of the *Public Health Act*. If you fail to comply with this Order, I have the authority to take enforcement action against you under Part 4, Division 6 of the *Public Health Act*.

Under section 43 of the *Public Health Act*, you may request me to reconsider this Order if you:

1. Have additional relevant information that was not reasonably available to me when this Order was issued;
2. Have a proposal that was not presented to me when this Order was issued but, if implemented, would:
 - (a) meet the objective of this Order; and
 - (b) be suitable as the basis of a written agreement under section 38 [may make written agreements]; or
3. Require more time to comply with this Order.

Under section 43 (6), an Order is not suspended during the period of reconsideration unless the health officer agrees, in writing, to suspend it.

You may contact me at:

Elizabeth Brodtkin, MD, FRCPC
Chief Medical Health Officer, Fraser Health Authority
400 - 13450 - 102nd Avenue
Surrey, BC V3T 0H1

EFFECTIVE DATE: March 29, 2021



SIGNED:

Elizabeth Brodtkin, MD, FRCPC
Chief Medical Health Officer
Fraser Health Authority

DELIVERED BY email to the Superintendent – School District #36 (Surrey) for distribution to the Board of Education - School District #36 (Surrey) and all Administrators of public Surrey Schools, email to the Conseil Scolaire Francophone de la Colombie-Britannique for distribution to all Administrators of francophone Surrey Schools, email to the Federation of Independent Schools Association for distribution to all Administrators of independent Surrey Schools, and posting on the Fraser Health website.

Enclosure: Excerpts of *Public Health Act* and Regulations

Excerpts of the PUBLIC HEALTH ACT and Regulations

Definitions

1 In this Act:

"health hazard" means

- (a) a condition, a thing or an activity that
 - (i) endangers, or is likely to endanger, public health, or
 - (ii) interferes, or is likely to interfere, with the suppression of infectious agents or hazardous agents, or
- (b) a prescribed condition, thing or activity, including a prescribed condition, thing or activity that
 - (i) is associated with injury or illness, or
 - (ii) fails to meet a prescribed standard in relation to health, injury or illness;

Division 4 — Orders Respecting Health Hazards and Contraventions

When orders respecting health hazards and contraventions may be made

30 (1) A health officer may issue an order under this Division only if the health officer reasonably believes that

- (a) a health hazard exists,
- (b) a condition, a thing or an activity presents a significant risk of causing a health hazard,
- (c) a person has contravened a provision of the Act or a regulation made under it, or
- (d) a person has contravened a term or condition of a licence or permit held by the person under this Act.

(2) For greater certainty, subsection (1) (a) to (c) applies even if the person subject to the order is complying with all terms and conditions of a licence, a permit, an approval or another authorization issued under this or any other enactment.

General powers respecting health hazards and contraventions

31 (1) If the circumstances described in section 30 [*when orders respecting health hazards and contraventions may be made*] apply, a health officer may order a person to do anything that the health officer reasonably believes is necessary for any of the following purposes:

- (a) to determine whether a health hazard exists;
- (b) to prevent or stop a health hazard, or mitigate the harm or prevent further harm from a health hazard;
- (c) to bring the person into compliance with the Act or a regulation made under it;

(d) to bring the person into compliance with a term or condition of a licence or permit held by that person under this Act.

(2) A health officer may issue an order under subsection (1) to any of the following persons:

(a) a person whose action or omission

(i) is causing or has caused a health hazard, or

(ii) is not in compliance with the Act or a regulation made under it, or a term or condition of the person's licence or permit;

(b) a person who has custody or control of a thing, or control of a condition, that

(i) is a health hazard or is causing or has caused a health hazard, or

(ii) is not in compliance with the Act or a regulation made under it, or a term or condition of the person's licence or permit;

(c) the owner or occupier of a place where

(i) a health hazard is located, or

(ii) an activity is occurring that is not in compliance with the Act or a regulation made under it, or a term or condition of the licence or permit of the person doing the activity.

Specific powers respecting health hazards and contraventions

32 (1) An order may be made under this section only

(a) if the circumstances described in section 30 [*when orders respecting health hazards and contraventions may be made*] apply, and

(b) for the purposes set out in section 31 (1) [*general powers respecting health hazards and contraventions*].

(2) Without limiting section 31, a health officer may order a person to do one or more of the following:

(a) have a thing examined, disinfected, decontaminated, altered or destroyed, including

(i) by a specified person, or under the supervision or instructions of a specified person,

(ii) moving the thing to a specified place, and

(iii) taking samples of the thing, or permitting samples of the thing to be taken;

(b) in respect of a place,

(i) leave the place,

(ii) not enter the place,

(iii) do specific work, including removing or altering things found in the place, and altering or locking the place to restrict or prevent entry to the place,

(iv) neither deal with a thing in or on the place nor dispose of a thing from the place, or deal with or dispose of the thing only in accordance with a specified procedure, and

(v) if the person has control of the place, assist in evacuating the place or examining persons found in the place, or taking preventive measures in respect of the place or persons found in the place;

- (c) stop operating, or not operate, a thing;
- (d) keep a thing in a specified place or in accordance with a specified procedure;
- (e) prevent persons from accessing a thing;
- (f) not dispose of, alter or destroy a thing, or dispose of, alter or destroy a thing only in accordance with a specified procedure;
- (g) provide to the health officer or a specified person information, records, samples or other matters relevant to a thing's possible infection with an infectious agent or contamination with a hazardous agent, including information respecting persons who may have been exposed to an infectious agent or hazardous agent by the thing;
- (h) wear a type of clothing or personal protective equipment, or change, remove or alter clothing or personal protective equipment, to protect the health and safety of persons;
- (i) use a type of equipment or implement a process, or remove equipment or alter equipment or processes, to protect the health and safety of persons;
- (j) provide evidence of complying with the order, including
 - (i) getting a certificate of compliance from a medical practitioner, nurse practitioner or specified person, and
 - (ii) providing to a health officer any relevant record;
- (k) take a prescribed action.

(3) If a health officer orders a thing to be destroyed, the health officer must give the person having custody or control of the thing reasonable time to request reconsideration and review of the order under sections 43 and 44 unless

- (a) the person consents in writing to the destruction of the thing, or
- (b) Part 5 [*Emergency Powers*] applies.

Contents of orders

39 (3) An order may be made in respect of a class of persons.

Duty to comply with orders

42 (1) A person named or described in an order made under this Part must comply with the order.

(2) Subsection (1) applies regardless of whether the person leaves the geographic area for which the health officer who made the order is designated.

Part 5 — Emergency Powers

Division 1 — Application of this Part

Definitions for this Part

51 In this Part:

"emergency" means a localized event or regional event that meets the conditions set out in section 52 (1) or (2) [*conditions to be met before this Part applies*], respectively;

"localized event" means an immediate and significant risk to public health in a localized area;

"regional event" means an immediate and significant risk to public health throughout a region or the province.

Conditions to be met before this Part applies

52 (1) A person must not exercise powers under this Part in respect of a localized event unless the person reasonably believes that

- (a) the action is immediately necessary to protect public health from significant harm, and
- (b) compliance with this Act, other than this Part, or a regulation made under this Act would hinder that person from acting in a manner that would avoid or mitigate an immediate and significant risk to public health.

(2) Subject to subsection (3), a person must not exercise powers under this Part in respect of a regional event unless the provincial health officer provides notice that the provincial health officer reasonably believes that at least 2 of the following criteria exist:

- (a) the regional event could have a serious impact on public health;
- (b) the regional event is unusual or unexpected;
- (c) there is a significant risk of the spread of an infectious agent or a hazardous agent;
- (d) there is a significant risk of travel or trade restrictions as a result of the regional event.

(3) If the provincial health officer is not immediately available to give notice under subsection (2), a person may exercise powers under this Part until the provincial health officer becomes available.

Part applies despite other enactments

53 During an emergency, this Part applies despite any provision of this or any other enactment, including

- (a) in respect of the collection, use or disclosure of personal information, the *Freedom of Information and Protection of Privacy Act* and the *Personal Information Protection Act*, and
- (b) a provision that would impose a specific duty, limit or procedural requirement in respect of a specific person or thing,

to the extent there is any inconsistency or conflict with the provision or other enactment.

Division 2 — Emergency Powers

General emergency powers

- 54** (1) A health officer may, in an emergency, do one or more of the following:
- (a) act in a shorter or longer time period than is otherwise required;
 - (b) not provide a notice that is otherwise required;
 - (c) do orally what must otherwise be done in writing;
 - (d) in respect of a licence or permit over which the health officer has authority under section 55 [*acting outside designated terms during emergencies*] or the regulations, suspend or vary the licence or permit without providing an opportunity to dispute the action;
 - (e) specify in an order a facility, place, person or procedure other than as required under section 63 [*power to establish directives and standards*], unless an order under that section specifies that the order applies in an emergency;
 - (f) omit from an order things that are otherwise required;
 - (g) serve an order in any manner;
 - (h) not reconsider an order under section 43 [*reconsideration of orders*], not review an order under section 44 [*review of orders*] or not reassess an order under section 45 [*mandatory reassessment of orders*];
 - (i) exempt an examiner from providing examination results to an examined person;
 - (j) conduct an inspection at any time, with or without a warrant, including of a private dwelling;
 - (k) collect, use or disclose information, including personal information,
 - (i) that could not otherwise be collected, used or disclosed, or
 - (ii) in a form or manner other than the form or manner required.
- (2) An order that may be made under this Part may be made in respect of a class of persons or things, and may make different requirements for different persons or things or classes of persons or things or for different geographic areas.

Offences

- 99** (1) A person who contravenes any of the following provisions commits an offence:
- (k) section 42 [*failure to comply with an order of a health officer*], except in respect of an order made under section 29 (2) (e) to (g) [*orders respecting examinations, diagnostic examinations or preventive measures*];