

## MDHHS Order Temporarily Suspends High School In-Person Learning

By: James J. Fleming

On November 15, 2020, the Michigan Department of Health and Human Services “MDHHS” issued its Emergency Order under MCL 333.2253-Gatherings and Face Mask Order (the “Order”).

The Order is effective for three (3) weeks starting November 18, 2020 and is set to expire on December 9, 2020. This Order was issued due to Michigan's rising number of positive COVID-19 cases. While it aims to target indoor social gatherings and other group activities, it has a significant impact on all schools throughout Michigan.

All gatherings for all in-person learning, sports, and extracurricular activities for high schools (grades 9-12) are suspended, with the exception for in-person instruction of students who are English Language Learners or participants in special education services. “Gatherings” is defined as **“any occurrence, either indoor or outdoor, where two or more persons from more than one household are present in a shared space.”** This applies to public, nonpublic, and boarding schools throughout Michigan. According to Chief Medical Executive Dr. Joneigh Khaldun, more than half of COVID-19 outbreaks identified by the State were linked to high school students. Two-thirds of the cases in those outbreaks were among high school students.

In-person learning may continue for students in grades prekindergarten through 8 subject to local health department and individual school district decisions. However, like grades 9-12, gatherings for sports and extracurricular activities are suspended for grades prekindergarten through 8.

All schools may continue to gather in order to provide services to students in need, including food distribution, access to internet connectivity, physical and mental health care services, and child care.

Colleges and universities are also prohibited from holding in-person classes, extracurricular activities, or other events, but may continue to host outdoor gatherings, such as sporting events, so long as: (A) 25 or fewer persons are gathered at a venue without fixed seating, and attendance is limited to 20 persons per 1,000 square feet, including within any distinct area within the event space; or (B) 25 or fewer persons are gathered at a venue with fixed seating, and attendance is limited to 20% of seating capacity of the venue.

If you have any questions about this Order or its impact, please contact Jay Fleming or any member of Clark Hill’s Education Law Group.