



## Connecticut's Higher Education Subcommittee Releases Recommendations for Phased Reopening of Colleges and Universities

On May 6, 2020, the Higher Education Subcommittee released a report (the “Report”) detailing recommendations for the reopening of Connecticut’s colleges, universities and boarding schools (together “Schools”). The Report intends to provide recommendations to Governor Lamont that his administration can use to issue formal guidelines for the reopening of colleges and universities. A full copy of the Report can be accessed at <https://portal.ct.gov/-/media/Office-of-the-Governor/News/20200506-Recommendations-to-Governor-Lamont-for-a-phased-reopening-of-colleges-and-universities.pdf?la=en>.

UKS has identified several potential issues discussed in the Report. A summary of the Report follows a discussion of these potential issues.

### Considerations for each higher education landscape

Research institutions, commuter schools, and graduate programs face lesser health risks because they lack the residential character of a traditional School operation. Therefore non-residential Schools may be able to adhere to the standards applied to general business operations and workplaces as each sector reopens. This may also include libraries and administrative offices, as well as certain specialized course work such as low density labs, studios, and clinical programs. A potential reopening timeline is set out in Appendix I of the Report.

Schools that are predominately residential face greater health risks and unique challenges. Possible solutions include limiting those that return to campus to avoid overcrowding in dormitories, cafeterias, and bathrooms. It should be noted, however, that the Report is skeptical as to whether “undergraduates and boarding school students can be relied upon” to practice physical distancing measures.

Accordingly, each School faces distinct and complex challenges. Each School must develop a unique plan that suits the character of its community. A “one-size-fits-all” approach is simply unrealistic and the Governor is unlikely to issue guidelines to that effect. However, each School must develop a Reopening Plan and meet Gating Conditions consistent with the components set forth in the Report.

## **POTENTIAL ISSUES IN REOPENING SCHOOLS AND UNIVERSITIES**

Schools should pay close attention to these potential obstacles.

### 1. Risk of Liability

If Schools reopen, some students may contract COVID-19. This exposes Schools to potential lawsuits from students, their parents, or even donors. The Report proposes that, by Executive Order or Legislation, the State provides immunity to Schools that reopen. Immunity would be contingent on submittal of a compliant Reopening Plan consistent with the standards set forth in the Report. The Report includes proposed language for the “safe harbor” provision.

### 2. Adequate Testing and Contact Tracing Capabilities

Schools must have sufficient supplies of viral diagnostic tests and sufficient funding to administer and process such tests. The Report notes that each student should be tested and, if the results are not immediately available, quarantine the student for 7-14 days. Subsequent testing may be required to account for false negative test results, and interval testing of students, faculty, and student-facing staff throughout the academic period should be expected. The Report believes that this will require 200,000-300,000 available tests. The Report recommends that the State “identify funding to pay for these tests” because the financial burden on Schools may be too great. Schools should consider their capacity to quarantine these students as they return.

In addition, Schools must prepare to train staff to conduct thorough contact tracing in the event that a student tests positive for COVID-19. The Report acknowledges that online training courses will be available soon.

### 3. Adequate PPE and Facemasks

In addition to providing the tests and funding for the testing of students, faculty and staff, the State will also have to ensure that it can provide appropriate quantities of PPE and facemasks to colleges and universities. Given the current depletion of supplies in the State, this condition will also provide a large obstacle to reopening.

### 4. Adequate Surge Capacity at Health Care Facilities and Hospitals

Schools must coordinate with State health officials, local hospitals, and on-campus healthcare professionals to determine whether these facilities could accommodate a surge of positive cases from a School outbreak. The location of the School is likely critical, and the question may be easier to answer for metropolitan Schools compared to rural ones.

Another aspect of this is where a School would house infected students. Potential options are hotels, segregated dormitories, and off campus housing. Schools must also consider how to provide food and other necessary care to such students. This consideration should be made based on the available housing capacity both off and on campus.

## 5. Classroom, dormitory, cafeteria and other high density uses

Each School must consider how it will implement physical distancing guidelines, which should be a primary aspect of any Reopening Plan. Execution of such Plan, however, may be more difficult. Potential solutions include limiting residential student populations, limiting classroom sizes, expanded online learning, and even a six or seven day school week that truncates the learning schedule so that students end the Fall semester at Thanksgiving break; this final solution will limit travel and cross exposure. The Report contemplates many potential options that School officials have considered over the past several weeks. Appendix II of the Report identifies specific guidance for each potential on-campus scenario.

Some Schools may not be able to host 100+ person lectures due to physical distancing requirements and lack of available space. The Report acknowledges that physical distancing measures may be easier to implement for Schools with smaller class sizes. Those with larger class sizes may look to break up the class into multiple sections or conduct the class remotely. Staffing considerations are also crucial. Vulnerable faculty may prefer to teach remotely.

## 6. Learning accessibility issues

Schools should consider the demographic groups they serve, as well as potential accessibility issues that come with remote learning. More affluent students may have easier access to the internet and online materials. As such, proper consideration and accommodations should be made to students that require assistance.

## 7. Accreditation of certain students

Schools should consider the possibility of relaxing accreditation requirements for healthcare science student that require clinical trainings. For example, nurses may be unable to complete clinical requirements but are desperately needed in the workplace. Similar considerations should be made for other students that require field experience, such as student teaching and internships.

These issues are just a sampling of the major potential obstacles Schools will have to face, particularly those that must accommodate residential students. The Report Summary, below, and the Report itself are great resources to learn more.

## **REPORT SUMMARY**

### Gating Conditions

The Report recommends that Schools evaluate seven “Gating Conditions” prior to reopening, which are quoted below. If these Gating Conditions are satisfied, the Schools may reopen. The Report offers additional commentary for each Gating Condition, which shall be summarized below each Condition.

- 1. The prevalence of the disease must be low enough to safely resume campus operations. For nonresidential campuses, as well as science labs, libraries, and many graduate programs, the gating criterion for business and commercial operations should apply. For residential undergraduate programs, public health experts recommend a sustained low and non-increasing rate of new hospitalizations in the state and in the community surrounding each college; this standard should be clearly articulated by the State.**

The Report recommends that the State evaluate prevalence based on a “sustained low and non-increasing number of new hospitalizations in the state and community surrounding each institution.” The Report notes that the State should clearly communicate this metric.

- 2. The State must ensure that colleges and universities have adequate supplies of viral diagnostic tests and adequate financial support to obtain, administer, and process them. Nonresidential institutions must test symptomatic students, faculty, and staff; residential institutions must also test students upon arrival, and at appropriate intervals thereafter in accordance with prevailing public health guidance. The allocation of tests to colleges and universities by the State is an essential pre-requisite for reopening.**

This condition is critical and is a threshold for reopening. The Report recommends testing students, staff, and teachers as soon as they reach the residential campus and, if the results are not immediately available, quarantine students until results are available. Testing may include a second round to weed out any potential false negative tests. In addition, re-testing throughout the year is recommended, although the frequency will be dependent on the current infection rate.

The Report estimates that, if all residential Schools open in the fall, the State requires 200,000 to 300,000 tests. The Report recommends that, after healthcare professionals and nursing homes, tests be distributed to Schools.

- 3. The State should enable institutions to have adequate capacity for contact tracing.**

Schools should prepare to develop the capacity for contact tracing. The Report notes that online courses will soon be available to train staff for such purposes.

- 4. The State should provide specific public health guidelines for colleges and universities, covering the wearing of facemasks, physical distancing, and the density of dormitories, dining halls, and classrooms.**

Public health guidelines for Schools are available in Appendix II of the Report, but Schools may implement stricter measures. Density limits for classrooms and cafeterias are included, but rely on the six-foot distancing standard.

- 5. The State should ensure that adequate supplies of PPE and facemasks will be available to colleges and universities.**

The Report acknowledges that the State will need to help to replenish the supply of PPE for many Schools because they donated PPE after Schools closed in March.

- 6. Adequate surge capacity must be available in nearby health care facilities and hospitals.**

Schools should work with State health officials and local health care facilities to determine whether surge capacity exists in their area.

**7. The State should provide a safe harbor from liability for those institutions that undertake the planning efforts we outline in this report.**

The Report acknowledges that, by Legislation or Executive Order, Schools should be granted immunity from litigation so long as they develop a Reopening Plan (discussed below) and file it with the CT Department of Public Health.

Reopening Plans

The Report also asks that Schools develop their own Reopening Plans with four components, which are quoted below. We include a sample of items that each component should include.

**1. A plan for *repopulation* of the campus (Residential Institutions)**

- a. Initial testing of all students, faculty, and student-facing staff on arrival and isolate those testing positive for 14 days;
- b. Follow-up testing 7-14 days after arrival;
- c. Ensure adequate space on campus and provisions for isolated people testing positive and quarantined close contacts;
- d. Consider repopulating campus in stages;
- e. Determine whether classroom capacity and number of residential rooms can accommodate physical distancing or whether student population must be decreased accordingly;
- f. Determine which subsets of students to bring back to campus if the on-campus population must be limited;
- g. Consider online capabilities for offering classes to those who cannot return to campus in the fall (i.e. certain subsets of students, including international students, student with pre-existing conditions, and students opting to stay home);
- h. Consider opening graduate and professional programs before undergraduate programs due to smaller number of students, likelihood that they live off-campus, and maturity to abide by physical distancing;
- i. At-risk faculty might be asked to, or might want to, teach remotely;
- j. Consider suspending extracurricular programs where physical distancing cannot be met;
- k. Consider adopting physical distancing measures even if no longer mandated at the state level, such as closing campus to outside visitors, limiting the ability of students to go off-campus, and implementing meal plans and other school services that support physical distancing;
- l. Maintain public health compliant standards for the cleaning of all areas of campus, including classrooms, residences, dining halls, and bathrooms.

**2. A plan for *monitoring* health conditions to detect infection**

- a. Residential campuses should test students at appropriate intervals throughout the school year and implement isolation/quarantine procedures consistently;
- b. Consider periodic testing of faculty and staff with high exposure to students;
- c. If and when antibody tests are deemed reliable, institutions should test students to determine which are immune and exempt them from some of the policies pertaining to vulnerable students;

- d. Appoint a COVID-19 Coordinator at every college and university to manage and update information on a common “dashboard”, such as new positive cases, hospitalizations, and discharges.

**3. A plan for *containment* to prevent spread of the disease when detected**

- a. When infection is detected, isolate infected student for 14 days, perform contact tracing, quarantine roommates/suitemates, and consider quarantining others with close contact;
- b. Ensure adequate space and meal service for those who need to isolate;
- c. Create plan to provide medical care to infected and isolated students, and monitor health of infected students through daily video calls/updates;
- d. Implement protocols for restricting social contact and mobility in response to infection incident (i.e. yellow flag and red flag days).

**4. A plan for *shutdown* in the event it becomes necessary**

- a. Consider circumstances that necessitate a shutdown and have a plan in place.

Reopening plans should remain flexible for several outcomes including, but not limited to, a new wave of infections after reopening, a new shutdown is ordered, or hospital capacity becomes strained.

For further information on the implications of COVID-19 on employment or education law related questions, please contact Christopher L. Brigham, at (203) 786-8310 or [cbrigham@uks.com](mailto:cbrigham@uks.com), Andrew Houlding at (203) 786-8315 or [ahoulding@uks.com](mailto:ahoulding@uks.com), Robert M. DeCrescenzo at (860) 548-2685 or [rdecrescenzo@uks.com](mailto:rdecrescenzo@uks.com), or Valerie M. Ferdon at (860) 548-2607 or [vferdon@uks.com](mailto:vferdon@uks.com).

For further information and specific advice on the implications of COVID-19 or the application of the Report or for environmental compliance for educational institutions, please contact David J. Monz, at (203) 786-8303 or [dmonz@uks.com](mailto:dmonz@uks.com).

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