



## At-School COVID-19 Testing Recommendations

With the coronavirus (COVID-19) pandemic spiking again across the country in late 2020, states have once again increased restrictions to help stop the spread of the virus. One of the areas that is impacted by this is schools, where some states are requiring daily testing for students and staff in order to remain open for in-person instruction.

It's important to keep in mind that if your school has any doubts about your ability to meet ALL requirements for students and staff testing, then our recommendation is to postpone in-person learning and switch to a virtual model.

Regarding issues with potential liability claims, in the event the school does not adhere to health/safety guidelines, there is not a clear answer to this. An exclusion exists in the policy, with respect to losses that are expected or intended. Accordingly, to the extent a school ignores the Center for Disease Control and Prevention's (CDC) guidelines and it's expected or intended that students will contract COVID-19, then the exclusion will apply.

If it's a situation where the school was negligent in the application of CDC guidelines, then coverage may be triggered. For liability and coverage purposes, a school should seek to comply with all federal, state, and local guidelines. If the school decides to go forward with a testing program, here are some valuable tips:

- Only trained medical professionals should administer tests, as federal immunity statutes only apply to "physicians and other healthcare professionals."
- Follow all Department of Health/CDC guidelines – as noted above, the potential for liability exists when requirements are not met.
  - Follow all of the manufacturer's instructions for performing the test in the exact order specified.
  - Do not reuse used test devices, reagent tubes, solutions, or swabs.
  - Discard tests and test components that have exceeded the expiration date or show signs of damage or discoloration.
  - Change gloves between specimen collection and after adding specimens to the testing device.

For the full list, please visit: <https://www.cdc.gov/coronavirus/2019-ncov/lab/point-of-care-testing.html>

The bottom line is, it's not possible to give an iron-clad answer on potential coverage or liability because we know that every circumstance is different. Yet, the policyholders that know Utica National and have had coverage with us for a period of time, understand that if a school acts in good faith to follow the guidelines established by the CDC, state, and local governmental policies and a claim is made, we will step up to assist them.

For schools considering becoming a testing center for the community or general public, please be aware your policy contains an exclusion which may apply for this type of activity. We recommend you contact your independent agent for more information.

For additional information, please contact your Utica National independent agent or Educational Institutions Segment Specialist **Mike Centrone** at [michael.centrone@uticanational.com](mailto:michael.centrone@uticanational.com).

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